

# **EQUITY GUIDELINES**

Issued: 8 May 2009  
Effective: 3 August 2009  
Updated: 18 December 2013



# CONTENTS

	Page
<b>PART I: GENERAL</b>	
Chapter 1 <b>INTRODUCTION</b>	1-1
Chapter 2 <b>DEFINITIONS AND INTERPRETATION</b>	2-1
Chapter 3 <b>CORPORATE GOVERNANCE</b>	3-1
Chapter 4 <b>CONFLICT OF INTEREST</b>	4-1
<b>PART II: POLICY GUIDELINES</b>	
Chapter 5 <b>EQUITY OFFERINGS AND LISTINGS</b>	5-1
Chapter 6 <b>SPECIAL PURPOSE ACQUISITION COMPANY</b>	6-1
Chapter 7 <b>BACK-DOOR LISTINGS AND REVERSE TAKE-OVERS</b>	7-1
Chapter 8 <b>TRANSFER OF LISTING</b>	8-1
<b>PART III: SUBMISSION AND IMPLEMENTATION</b>	
Chapter 9 <b>SUBMISSION OF PROPOSALS</b>	9-1
Chapter 10 <b>IMPLEMENTATION OF PROPOSALS</b>	10-1
<b>PART IV: APPENDICES</b>	
Appendix 1 <b>CONTENT OF APPLICATION FOR EQUITY OFFERINGS AND LISTINGS</b>	App1-1
Appendix 2 <b>CONTENT OF APPLICATION FOR BACK-DOOR LISTINGS AND REVERSE TAKE-OVERS</b>	App2-1

Appendix 3  
**CONTENT OF APPLICATION FOR TRANSFER OF LISTING**

App3-1

**PART V: SCHEDULES**

Schedule 1  
**DECLARATION BY THE APPLICANT**

S1-1

Schedule 2  
**DECLARATION BY A DIRECTOR OF THE APPLICANT**

S2-1

**PART VI: PRACTICE NOTES**

Practice Note 1  
**SUITABILITY FOR LISTING**

PN1-1

Practice Note 2  
**CORE BUSINESS**

PN2-1

Practice Note 3  
**COMPUTATION OF PERCENTAGE RATIOS**

PN3-1

Practice Note 4  
**PLACEMENT OF SECURITIES**

PN4-1

Practice Note 5  
**SUSTAINABILITY OF LISTING**

PN5-1

Practice Note 6  
**SPECIAL PURPOSE ACQUISITION COMPANY**

PN6-1

**PART I**  
**GENERAL**



## Chapter 1

### INTRODUCTION

#### Purpose of guidelines

- 1.01 The *Equity Guidelines*, which supersedes the *Guidelines on the Offering of Equity and Equity-linked Securities* issued on 1 February 2008 by the Securities Commission Malaysia (SC), is issued under section 377 of the *Capital Markets and Services Act 2007* (CMSA) and applied by the SC in considering the following proposals under section 212 of the CMSA:
- (a) Issues and offerings of equity securities;
  - (b) Listings of corporations and quotations of securities on the main market of Bursa Malaysia Securities Bhd (Bursa Securities) (Main Market); and
  - (c) Proposals which result in a significant change in the business direction or policy of corporations listed on the Main Market.
- 1.02 These guidelines are generally applicable to body corporates whether they are incorporated in Malaysia or outside Malaysia.
- 1.03 These guidelines, however, do not apply to proposals undertaken by corporations seeking listing or listed on the alternative market of Bursa Securities (ACE Market) (except for a proposed transfer of listing from the ACE Market to the Main Market). Proposals undertaken by these corporations are governed by the *Bursa Securities ACE Market Listing Requirements*.
- 1.04 Any proposal under paragraph 1.01 which involves–
- (a) bonus issue, rights issue, issuance of preference shares, warrants, options, debt securities and convertible securities must comply with the *Bursa Securities Main Market Listing Requirements*, as applicable;
  - (b) price stabilisation mechanism must comply with the *Capital Markets and Services (Price Stabilization Mechanism) Regulations 2008*;
  - (c) issuance of listing prospectus or introductory document must comply with the *Prospectus Guidelines* issued separately by the SC;
  - (d) valuation of real estate, plant, machinery and equipment must comply with the *Asset Valuation Guidelines* issued separately by the SC; and
  - (e) issuance of debt securities and Islamic securities must comply with the *Guidelines on the Offering of Private Debt Securities*, *Guidelines on the Offering of Islamic Securities* and *Guidelines on the Offering of Asset-backed Securities* issued separately by the SC, as applicable.

## General principles

- 1.05 These guidelines are formulated to ensure a fair and consistent application of policies. The requirements set out in these guidelines represent the minimum standards that have to be met by applicants embarking on proposals. Accordingly, applicants must observe the spirit and the wording of these guidelines.
- 1.06 The principles on which these guidelines are based embrace the interests of listed corporations, the provision of investor protection and maintenance of investor confidence, as well as the need to protect the reputation and integrity of the capital market. The principles include the following:
- (a) Issuers must be suitable for listing and have minimum standards of quality, size, operations, and management experience and expertise;
  - (b) Issuers and their advisers must make timely disclosure of material information and ensure the accuracy and completeness of such information to enable investors to make an informed assessment of the issuer, the proposals and the securities being offered;
  - (c) Issuers and their directors, officers and advisers must maintain the highest standards of corporate governance, integrity, accountability and responsibility;
  - (d) Directors of an issuer must act in the interests of shareholders as a whole, particularly where a related party has material interest in a transaction entered into by the issuer;
  - (e) All holders of securities must be treated fairly and equitably and must be consulted on matters of significance; and
  - (f) Proposals undertaken by issuers must not undermine public interests.
- 1.07 In circumstances not explicitly covered, in making its decision, the SC will have regard to the general principles outlined in paragraph 1.06 where applicable for specific proposals submitted for the SC's consideration.
- 1.08 Corporations and advisers are encouraged to consult and seek guidance from the SC for the application of these guidelines.

## Consideration of proposals

- 1.09 In assessing a proposal, the SC will take into consideration the applicant's compliance with all the applicable requirements and the general principles outlined in paragraph 1.06.
- 1.10 The SC may exempt or, upon application, grant waivers from compliance with any requirement of these guidelines.



- 1.11 The SC may approve proposals with revisions and/or subject to terms and conditions as it deems fit. If the approval of the SC is conditional, the applicant and the relevant parties involved in the proposals must comply with the conditions.
- 1.12 The SC may revoke or revise an approval, or impose further terms and conditions on an approved proposal.
- 1.13 The SC may return applications which are deemed unsatisfactory or reject proposals which do not comply with the requirements of the SC.

### **Practice notes and amendments to guidelines**

- 1.14 The SC may, from time to time, issue practice notes to further clarify any provision in these guidelines or provide administrative or operational procedures. The practice notes must be observed in the same manner as these guidelines.
- 1.15 These guidelines (including the practice notes and any other accompanying documents) may be reviewed as and when necessary.

### **Compliance with guidelines**

- 1.16 The SC may take action against persons who fail to comply with or observe any of the provisions in these guidelines, as is permitted under section 354 and other relevant provisions of the CMSA.

## Chapter 2

### DEFINITIONS AND INTERPRETATION

#### Definitions

2.01 In these guidelines, unless the context otherwise requires–

adviser	has the meaning given in the <i>Guidelines on Due Diligence Conduct for Corporate Proposals</i> issued by the SC.
ACE Market	means the alternative market of Bursa Securities.
acquisition	includes an acquisition of assets by a subsidiary company of a listed corporation but exclude acquisitions of a revenue nature in the ordinary course of business of the listed corporation.
after-tax profit	means profit after taxation and after– <ul style="list-style-type: none"> <li>(a) adjusting for profits or losses attributable to minority interests; and</li> <li>(b) excluding profits or losses generated from non-recurring items or by activities or events outside the ordinary and usual course of business.</li> </ul>
applicant	has the meaning given in subsection 212(1) of the CMSA.
assets	means all types of assets including securities and business undertakings.
associated companies	has the meaning given to associate under the accounting standards issued or adopted by the Malaysian Accounting Standards Board.
Bursa Securities	means Bursa Malaysia Securities Bhd.
change in the board of directors of the listed corporation	means a change within a 12-month period from the date of the acquisition in– <ul style="list-style-type: none"> <li>(a) at least one-half of the membership of the board of directors of the listed corporation; or</li> <li>(b) at least one-third of the membership of the board of directors of the listed corporation, including the chief executive.</li> </ul>
chief executive	has the meaning given in subsection 2(1) of the CMSA.

CMSA	means the <i>Capital Markets and Services Act 2007</i> .
collective investment schemes	has the meaning given in the <i>Guidelines on Unit Trust Funds</i> issued by the SC.
company	has the meaning given in section 5 of the <i>Companies Act 1965</i> .
controlling shareholder	means any person who is or a group of persons who together are entitled to exercise or control the exercise of at least 33% of the voting shares in a company (or such other percentage as may be prescribed in the <i>Malaysian Code On Take-Overs and Mergers 1998</i> as being the level for triggering a mandatory general offer) or who is or are in a position to control the composition of a majority of the board of directors of such company.
convertible securities	means securities which are convertible by their terms of issue into shares.
core business	means the business which provides the principal source of operating revenue or after-tax profit to a corporation and which comprises the principal activities of the corporation and its subsidiary companies.
corporation	has the meaning given in subsection 2(1) of the CMSA.
debt securities	means debentures, loan stocks or other similar instruments representing or evidencing indebtedness, whether secured or unsecured, and whether convertible or not.
director	has the meaning given in subsection 2(1) of the CMSA.
employee share option scheme	means a share scheme involving a new issue of shares to employees.
expert	has the meaning given in subsection 212(1) of the CMSA.
foreign corporation	means an entity that is incorporated outside Malaysia.
holding company	has the meaning given in section 5 of the <i>Companies Act 1965</i> .
independent director	has the meaning given in the <i>Main Market Listing Requirements</i> .

infrastructure project	means a project which creates the basic physical structures or foundations for the delivery of essential public goods and services that are necessary for the economic development of a state, territory or country, such as the construction and operation of roads, bridges, tunnels, railways, mass transit systems, seaports, airports, water and sewage systems, sewerage systems, power plants, gas supply systems and telecommunication systems.
infrastructure project corporation	means a corporation whose core business is building and operating an infrastructure project.
interested persons	includes directors, major shareholders and chief executive.
investment properties	means landed properties or strata properties in the commercial, residential, industrial or agricultural sectors.
issuer	has the meaning given in section 2 of the CMSA.
listed corporation	has the meaning given in subsection 2(1) of the CMSA.
Main Market	means the main market of Bursa Securities.
Main Market Listing Requirements	means the <i>Bursa Securities Main Market Listing Requirements</i> .
major shareholder	has the meaning given in the <i>Main Market Listing Requirements</i> .
market day	means a day on which Bursa Securities is open for trading in securities.
offer for sale	means an invitation by, or on behalf of, an existing securities holder to purchase securities of the issuer already in issue or allotted.
offer for subscription	means an invitation by, or on behalf of, an issuer to subscribe for securities of the issuer not yet in issue or allotted.
percentage ratios	means the figures, expressed as a percentage, resulting from each of the following computations: <ul style="list-style-type: none"> <li>(a) The net assets value of the assets which are the subject of the acquisition divided by the net assets value of the listed corporation;</li> <li>(b) The revenue attributable to the assets which are the subject of the acquisition divided by the revenue of the listed corporation;</li> </ul>

- (c) The after-tax profits attributable to the assets which are the subject of the acquisition divided by the after-tax profits of the listed corporation;
- (d) The aggregate value of the consideration for the subject acquisition (including amounts to be assumed by the purchaser, such as the vendor's liabilities) divided by the aggregate market value of all the ordinary shares of the listed corporation; or
- (e) The number of new shares issued by the listed corporation as consideration for the acquisition divided by the number of shares in the listed corporation in issue prior to the acquisition.

person connected has the meaning given in the *Main Market Listing Requirements*.

predominantly foreign-based operations means a situation where—

- (a) the after-tax profits of an applicant derived from assets or operations held outside Malaysia are higher than the after-tax profits derived from assets or operations held within Malaysia; or
- (b) the majority of the infrastructure projects are located outside Malaysia.

predominantly Malaysian-based operations means a situation where—

- (a) the after-tax profits of an applicant derived from assets or operations held within Malaysia are higher than the after-tax profits derived from assets or operations held outside Malaysia; or
- (b) the majority of the infrastructure projects are located within Malaysia.

principal adviser has the meaning given in the *Principal Adviser Guidelines*.

promoters includes a controlling shareholder, a person connected to a controlling shareholder and an executive director who is a substantial shareholder of the issuer.

property assets means all rights, interests and benefits related to the ownership of real estate, plant, machinery and equipment.

property development corporation	<p>means a corporation whose core business is in–</p> <p>(a) development or redevelopment of real estates; or</p> <p>(b) real estates with development potential,</p> <p>and includes those rights to develop under a joint venture agreement, privatisation agreement or some other forms of joint arrangement.</p>
property investment corporation	<p>means a corporation whose core business is in–</p> <p>(a) the holding of investment properties for letting and retention as investments; or</p> <p>(b) the purchase of investment properties for subsequent sale.</p>
qualifying acquisition	<p>means the initial acquisition of business(es) by a SPAC which has an aggregate fair market value equal to at least 80% of the aggregate amount in the trust account and is in line with the business strategy disclosed in the listing prospectus issued in relation to the SPAC’s initial public offering.</p>
real estate	<p>means land and all things that are a natural part of the land as well as all things attached to the land both below and above the ground and includes rights, interests and benefits related to the ownership of the real estate.</p>
related party	<p>has the meaning given in the <i>Main Market Listing Requirements</i>.</p>
related-party transaction	<p>has the meaning given in the <i>Main Market Listing Requirements</i>.</p>
restricted offer for sale	<p>means an invitation to an identifiable group of investors by, or on behalf of, an existing securities holder to purchase securities of the issuer already in issue or allotted.</p>
restricted offer for subscription	<p>means an invitation to an identifiable group of investors by, or on behalf of, an issuer to subscribe for securities of the issuer not yet in issue or allotted.</p>
SC	<p>means the Securities Commission Malaysia.</p>
securities	<p>has the meaning given in subsection 2(1) of the CMSA.</p>

shareholding spread	has the meaning given in the <i>Main Market Listing Requirements</i> .
significant change in the business direction or policy of a listed corporation	means– <ul style="list-style-type: none"><li>(a) an acquisition of assets such that any one of the percentage ratios is equal to or exceeds 100%, except where the assets to be acquired are the same as those of the existing core business of the listed corporation;</li><li>(b) an acquisition of assets which results in a change in the controlling shareholder of the listed corporation;</li><li>(c) an acquisition of assets which results in a change in the board of directors of the listed corporation;</li><li>(d) an acquisition of assets by a corporation classified as a cash company by Bursa Securities under Chapter 8 of the <i>Main Market Listing Requirements</i> to regularise its condition; or</li><li>(e) a restructuring exercise involving the transfer of the listed corporation’s listing status and the introduction of new assets to the other corporation.</li></ul>
Special Purpose Acquisition Company or “SPAC”	means a corporation which has no operations or income generating business at the point of initial public offering and has yet to complete a qualifying acquisition with the proceeds of such offering.
subsidiary company	has the meaning given in section 5 of the <i>Companies Act 1965</i> .
substantial shareholder	has the meaning given in section 69D of the <i>Companies Act 1965</i> .

## Interpretation

- 2.02 For the purposes of listings of foreign corporations and companies with predominantly foreign-based operations, references to ringgit Malaysia in these guidelines mean the Malaysian ringgit equivalent.
- 2.03 In general, the provisions in Chapters 5, 7 and 8 are not applicable to proposals by foreign corporations having a secondary listing on Bursa Securities.

## Chapter 3

### CORPORATE GOVERNANCE

- 3.01 An applicant submitting a proposal to the SC is expected to have good corporate governance practices.
- 3.02 The SC, in considering a proposal, would take into account the applicant's corporate governance record, including any previous actions taken against the applicant for any breach of relevant laws, guidelines or rules issued by the SC and Bursa Securities, or for failure to comply with any written notice or condition imposed by the SC.
- 3.03 Directors are required to act honestly and diligently in discharging their duties. The SC will not tolerate any compromise on the integrity and public accountability of the directors.
- 3.04 Where the SC is not satisfied with an applicant's corporate governance record or where the SC is concerned with the integrity of any of the applicant's directors, the SC may reject the proposal, or approve the proposal subject to appropriate conditions such as the following:
- (a) The applicant to take appropriate measures to improve its governance structure;
  - (b) Disclosure of the governance record of the applicant and/or the director in question in relevant public documents;
  - (c) The director in question to step down from the board of directors and the management of the applicant;
  - (d) Prohibition of the director in question from participating in the proposal; and/or
  - (e) Prohibition of, or imposition of a moratorium on, any trading or dealing in securities.
- 3.05 For proposals under these guidelines, the applicant is required to submit to the SC–
- (a) a confirmation on compliance with the relevant laws, regulations and rules governing the applicant and its subsidiary companies;
  - (b) a declaration on its corporate governance record in the form stipulated in Schedule 1;
  - (c) information on all material terms and conditions imposed by the relevant authorities on the applicant and/or the asset being acquired, and the extent to which these terms and conditions have been complied with. The SC may reject the proposals and/or impose appropriate conditions in the event of non-compliance with these terms and conditions; and



- (d) a confirmation that submissions of tax returns and settlement of tax liabilities with the tax authorities are up-to-date for the applicant, its subsidiary companies and proposed subsidiary companies.

3.06 For proposals under these guidelines, each of the directors and proposed directors of an applicant is required to submit, as part of the submission of proposals to the SC, a declaration that he is fit and proper to act as director, in the form stipulated in Schedule 2.

## Chapter 4

### CONFLICT OF INTEREST

- 4.01 An applicant is required to assess all aspects of its business to determine whether there are conflict-of-interest situations.
- 4.02 An applicant must resolve, eliminate or mitigate all conflict-of-interest situations. The SC may reject proposals submitted by the applicant if there are conflict-of-interest situations that are not satisfactorily addressed.
- 4.03 An applicant is required to declare the nature and extent of the conflict of interest, if any, and submit a proposal to the SC to resolve, eliminate or mitigate such conflict.
- 4.04 Situations that are likely to give rise to conflict of interest include circumstances where interested persons–
- (a) have an interest in a competing business with that of the applicant's or its subsidiary companies;
  - (b) conduct or have interest in business transactions involving goods or services, either directly or indirectly, with the applicant or its subsidiary companies;
  - (c) provide or receive financial assistance from the applicant or its subsidiary companies; and
  - (d) lease property to or from the applicant or its subsidiary companies.
- 4.05 An applicant should consider the following to determine if a conflict-of-interest situation arises:
- (a) Whether interested persons of the applicant or its subsidiary companies have personal pecuniary interests which are in conflict with those of the applicant or its subsidiary companies;
  - (b) Whether the relationship between a major shareholder and the applicant or its subsidiary companies could result in a conflict between the applicant's obligations towards that major shareholder and its duties to the general body of shareholders;
  - (c) Whether the professional judgment of interested persons to act in the best interests of the applicant or its subsidiary companies is compromised;
  - (d) Whether interested persons are otherwise engaged in an activity which detracts time and commitment from managing the applicant or its subsidiary companies; and
  - (e) Whether the conflict is significant in relation to the nature, scale and complexity of the businesses of the applicant or its subsidiary companies.

- 4.06 In situations where the conflict cannot be promptly resolved, such as where–
- (a) the arrangement is essential and favourable to the operations of the applicant or its subsidiary companies; or
  - (b) there are adequate measures in place to ensure that the arrangement and the ensuing terms are not detrimental to the applicant or its subsidiary companies,
- measures for minimising and managing the conflict must be disclosed in the listing prospectus, circular to shareholders or any other public document issued in relation to the proposal.
- 4.07 Full disclosure of all potential conflict-of-interest situations involving or affecting the applicant, the parties to the conflicts and the measures taken for such conflicts must also be made in the listing prospectus, circular to shareholders or any other public document issued in relation to the proposal.

**PART II**

**POLICY GUIDELINES**



## Chapter 5

### EQUITY OFFERINGS AND LISTINGS

5.01 This chapter sets out the requirements for the following proposals:

- (a) Equity offerings and primary listings of corporations on Bursa Securities;
- (b) Secondary listings of foreign corporations on Bursa Securities; and
- (c) Cross listings of Malaysian-incorporated listed companies on foreign stock markets.

#### **PART A: EQUITY OFFERINGS AND PRIMARY LISTINGS OF CORPORATIONS ON BURSA SECURITIES**

##### **Routes for listing**

5.02 An applicant whose core business is not that of infrastructure project must satisfy either the profit test or market capitalisation test. An applicant whose core business is that of infrastructure project must satisfy the infrastructure project corporation test.

##### **(a) Profit test**

###### *(i) Profit requirements*

The applicant (either at the corporation or group level) must have an uninterrupted profit of three to five full financial years based on audited financial statements prior to submission to the SC, with an aggregate after-tax profit of at least RM20 million and an after-tax profit for the most recent financial year of at least RM6 million.

In fulfilling the profit requirements, contributions from associated companies must not exceed those of subsidiary companies.

###### *(ii) Pro forma accounts*

Where a listing of a corporation is sought based on the strength of its group, at least one corporation (which is the qualifying corporation) within the group must be able to fulfil the profit requirements. If no single corporation is able to fulfil the profit requirements, listing based on the strength of the group's pro forma accounts may be considered provided that the corporations within the group which collectively fulfil the profit requirements—

- are involved in the same core business; and

- have common controlling shareholders,

over the profit track record period.

*(iii) Operating history*

The applicant or the qualifying corporation must have been incorporated and operating in the same core business over at least the profit track record period prior to submission to the SC.

Where listing is sought based on the strength of group pro forma accounts, the corporation which is the single largest contributor to the after-tax profits of the group on an average basis for the most recent three full financial years, must satisfy the operating history requirements.

**(b) Market capitalisation test**

*(i) Market capitalisation*

The applicant's ordinary shares must have a total market capitalisation of at least RM500 million based on the issue or offer price as stated in the listing prospectus and the enlarged issued and paid-up share capital upon listing.

*(ii) Pro forma accounts*

Where a group of corporations is seeking listing based on the strength of the group, the corporations within the group must have common controlling shareholders for at least one full financial year prior to submission to the SC.

*(iii) Operating history*

The applicant or the corporation within the group representing the core business must have been incorporated and generated operating revenue for at least one full financial year prior to submission to the SC.

**(c) Infrastructure Project Corporation Test**

- (i) The applicant, either directly or through its subsidiary company, must have the right to build and operate an infrastructure project, whether located in Malaysia or outside Malaysia–
- with project costs of not less than RM500 million; and
  - for which a concession or licence has been awarded by a government or a state agency, in or outside of Malaysia, with a remaining concession or licence period of at least 15 years from the date of submission to the SC.

- (ii) The SC may consider the listing proposal by an applicant with a shorter remaining concession or licence period from the date of submission to the SC, if the applicant fulfils the profit requirements under the profit test.

### **Core business**

- 5.03 An applicant must have an identifiable core business of which it has majority ownership and management control.
- 5.04 The core business of the applicant must not be the holding of investment in other listed corporations.

### **Management continuity and capability**

- 5.05 An applicant must have had continuity of substantially the same management for at least three full financial years prior to submission to the SC or, in the case of an applicant seeking listing under the market capitalisation test or the infrastructure project corporation test, since the commencement of its operations (if less than three full financial years).
- 5.06 In complying with the requirement on continuity of substantially the same management, the applicant must demonstrate that, throughout the relevant period–
  - (a) the current executive directors of the applicant have had direct management responsibilities for, and played a significant role in, the applicant's business; and
  - (b) the senior management of the applicant has not changed materially.
- 5.07 Where the requirements of paragraph 5.06 are not met, the applicant must demonstrate to the SC the expertise and capability of its management in ensuring that its operations are managed effectively.

### **Financial position and liquidity**

- 5.08 An applicant must have a healthy financial position, with–
  - (a) sufficient level of working capital for at least 12 months from the date of the listing prospectus;
  - (b) positive cash flow from operating activities, if listing is sought under the profit test and market capitalisation test; and
  - (c) no accumulated losses based on its latest audited balance sheet at the time of submission to the SC, if listing is sought under the profit test.



## Chain listing

- 5.09 Chain listing is a term used to describe a situation where a subsidiary or a holding company of a corporation already listed on the Main Market or the ACE Market is seeking listing on its own. In such a situation, the following requirements must be met:
- (a) The applicant must be involved in a distinct and viable business of its own;
  - (b) The relationship between the applicant and all the other corporations within the holding company's group must not give rise to intra-group competition or conflict-of-interest situations;
  - (c) The applicant must demonstrate that it is independent from the already-listed corporation and other corporations within the group in terms of its operations, including purchases and sales of goods, management, management policies and finance;
  - (d) The already-listed corporation must have a separate autonomous business of its own, and will be able to sustain its listing in the future; and
  - (e) Where a holding company of an already-listed corporation is seeking listing, the applicant must meet the requirements for listing without taking into account the contributions, in terms of revenue, profit or otherwise, from its already-listed subsidiary companies.

## Transactions with related parties

- 5.10 Transactions entered into between an applicant (or any of its subsidiary companies) and related parties prior to listing must be based on terms and conditions which are not unfavourable to the applicant, otherwise, the SC may regard an applicant as unsuitable for listing.
- 5.11 All trade debts exceeding the normal credit period and all non-trade debts, owing by the interested persons to the applicant or its subsidiary companies, must be fully settled prior to the applicant's listing.

## Issue of securities under listing scheme including bonus issue, rights issue, issuance of preference shares, warrants, options, debt securities and convertible securities

- 5.12 Where issues of securities are undertaken as part of a listing scheme, the SC will assess and approve such issues together with the listing application as a whole.
- 5.13 The exercise price of warrants and options, and the conversion price of convertible securities that are issued prior to or as part of the listing scheme must not be lower than the price of the ordinary shares offered to the general public under the initial public offering.

## Methods of offering of securities

### General

- 5.14 The methods of offering of securities chosen by an applicant should enable the applicant to have a broad base of shareholders and comply with the shareholding spread requirement of Bursa Securities.
- 5.15 An applicant must, as part of its listing scheme, undertake an offering of securities to the general public and the allocation for such securities has to be made through a balloting process. The balloted portion must constitute the following:

<b>Enlarged issued and paid-up capital</b>	<b>Minimum offering to the general public</b>
Below RM200 million	At least 5% of the enlarged issued and paid-up capital or an aggregate of RM3 million in nominal value, whichever is the higher.
RM200 million and above	At least 2% of the enlarged issued and paid-up capital or an aggregate of RM10 million in nominal value, whichever is the higher.

- 5.16 Notwithstanding the provision of paragraph 5.15, an offering of securities to the general public is not required if listing of securities is sought under the following circumstances, where—
- (a) the securities for which listing is sought are already listed on the ACE Market; or
  - (b) a listed corporation intends to undertake a restricted offer for sale or distribute in specie to its shareholders the securities of its subsidiary company which is seeking listing.
- 5.17 An applicant seeking listing under the infrastructure project corporation test is not allowed to undertake an offer for sale and a restricted offer for sale of securities, unless the infrastructure project has generated two consecutive full financial years of operating revenue based on the audited financial statements prior to submission to the SC.
- 5.18 Expenses incurred relating to an offer for sale or restricted offer for sale of securities shall be borne by the offeror.

### **Placement of securities**

- 5.19 The principal adviser must act as the placement agent (or joint placement agent, where applicable) for any placement of securities under an initial public offering and ensure that the placement fully complies with Practice Note 4.
- 5.20 The SC reserves the discretion to require submission of such further information on the placement exercise and the placees as the SC may consider necessary for the purpose of establishing the propriety of the exercise or the independence of the placees.

### **Restricted offers**

- 5.21 Restricted offers for sale and restricted offers for subscription which are undertaken as part of a listing scheme may only be made to the following groups:
- (a) The directors and employees of the applicant;
  - (b) The directors and employees of the subsidiary companies and holding company of the applicant;
  - (c) Other persons who have contributed to the success of the applicant, such as suppliers, distributors, dealers and customers; and
  - (d) The shareholders of the holding company of the applicant, if the holding company is listed.
- 5.22 The aggregate amount of securities that may be offered to the groups in subparagraphs 5.21(a), (b) and (c) must not be more than 10% of the enlarged number of issued and paid-up share capital of the applicant upon listing or 25% of the securities offered, in nominal value, whichever is lower.

### **Pricing of securities**

- 5.23 The issue price of equity securities (other than warrants and convertible securities) offered for subscription or sale, for which a listing is sought, must be at least RM0.50 each.
- 5.24 Where securities are offered to related parties in conjunction with the initial public offering, the price of the securities offered to such related parties must be set at least at the issue price to the general public.

### **Underwriting**

- 5.25 Underwriting arrangements in relation to an offering of securities are at the discretion of the applicant and its principal adviser.
- 5.26 The principal adviser must be part of the syndicate of underwriters for the securities offered under the initial public offering if there is an underwriting arrangement.

- 5.27 An applicant seeking listing on Bursa Securities must disclose in its listing prospectus—
- (a) the minimum level of subscription and the basis for determining the minimum level based on factors, such as the level of funding required by the applicant and the extent of the shareholding spread needed; and
  - (b) the level of underwriting that has been arranged, together with justifications for the level arranged.
- 5.28 Where the minimum level of subscription is not achieved, the offering of securities must be terminated and all consideration received must be immediately returned to all subscribers.

### **Moratorium**

- 5.29 A moratorium will be imposed on the shares held by the promoters of all applicants, as follows:
- (a) For listing under the profit test or market capitalisation test, the promoters are not allowed to sell, transfer or assign their entire shareholdings in the applicant as at the date of listing, for six months from the date of listing on Bursa Securities; and
  - (b) For listing under the infrastructure project corporation test, the promoters are not allowed to sell, transfer or assign their entire shareholdings in the applicant as at the date of listing on Bursa Securities, for six months from the date of listing.

The moratorium will be lifted immediately at the end of the six months if the infrastructure project has generated one full financial year of audited operating revenue. For infrastructure project corporation which has yet to generate one full financial year of audited operating revenue, the promoters must retain their shareholdings amounting to 45% of the issued and paid-up share capital of the applicant. Upon achieving one full financial year of audited operating revenue, the moratorium on the 45% shareholding will be lifted.

- 5.30 Where the promoters are corporations which are not listed, all direct and indirect shareholders of these corporations (if they are individuals or other corporations which are not listed) up to the ultimate individual shareholders must give an undertaking to the SC that they will not sell, transfer or assign any of their securities in the corporations which are not listed for the period as stipulated in subparagraphs 5.29(a) or (b), as applicable.
- 5.31 For purposes of paragraph 5.29(a), the promoters' shareholdings to be placed under moratorium should include all shares in the applicant issued to the promoters during the moratorium period arising from the conversion or exercise of any convertible securities or warrants held by the promoters at the date of listing of the applicant on Bursa Securities.

- 5.32 For purposes of paragraph 5.29(b), where the promoters also own securities that are convertible or exercisable into ordinary shares of the applicant, the promoters' shareholdings to be placed under moratorium should amount to 45% of the enlarged issued and paid-up share capital of the applicant assuming full conversion or exercise of such securities owned by the promoters.
- 5.33 Where a price stabilisation mechanism under the *Capital Markets and Services (Price Stabilization Mechanism) Regulations 2008* is included in the listing proposal, the promoters are allowed to transfer their moratorium securities to a designated account held by the stabilising manager to facilitate this purpose.

## Valuation

- 5.34 A valuation is required to be conducted for an acquisition of property assets or corporations which own property assets, where the revalued amount of the property assets is used, whether wholly or partly, as the basis for the consideration. The revalued amount of the property assets in this context refers to property assets which are to be revalued or have been revalued in the past prior to the submission to the SC.
- 5.35 Notwithstanding paragraph 5.34, a property investment or property development corporation seeking listing on Bursa Securities must appoint an independent valuer to conduct a valuation of its material real estate.
- 5.36 The SC, whenever it deems appropriate, may also require an applicant to conduct a valuation on any asset other than those referred to in paragraphs 5.34 and 5.35.
- 5.37 The SC may obtain a second opinion on the valuation report submitted by the applicant. Where a second opinion valuation is required, the valuer conducting the valuation has to be appointed by the SC, at the cost of the applicant and the lower of the two valuations must be adopted as the basis for the purchase consideration.

## Additional requirements for the listing of foreign corporations

### *Standards of laws and regulations*

- 5.38 A foreign corporation seeking listing on Bursa Securities must be incorporated in a jurisdiction that is subject to corporation laws and other laws and regulations where appropriate which have standards at least equivalent to those in Malaysia, particularly with respect to—
- (a) corporate governance;
  - (b) shareholders and minority interest protection; and
  - (c) regulation of take-overs and mergers.

- 5.39 Where the jurisdiction in which the applicant is incorporated does not provide standards of corporate governance, shareholders' and minority interest protection, and regulation of take-overs and mergers at least equivalent to those provided in Malaysia, but it is possible to provide those standards by means of varying the applicant's constituent documents, the SC may approve the listing of the applicant, subject to the applicant making such variations to its constituent documents. In relation to this, the applicant must submit a comparison of such standards of laws and regulations of the jurisdiction in which the applicant is incorporated and those provided in Malaysia, together with the proposed variations to its constituent documents to address any deficiency in such standards, in its listing applications to the SC and Bursa Securities.
- 5.40 The securities of the applicant must be validly issued in accordance with the constituent documents of the applicant and the relevant laws in force in the country of incorporation of the applicant.

#### ***Approval of regulatory authorities of foreign jurisdiction***

- 5.41 The applicant must obtain the approval of all relevant regulatory authorities of the jurisdiction in which it is incorporated and carries out its core business, as may be required, before issuing its listing prospectus.

#### ***Registration under Companies Act 1965***

- 5.42 The applicant must have been registered with the Registrar of Companies under Part XI Division 2 of the *Companies Act 1965*.

#### ***Accounting standards***

- 5.43 The applicant must prepare its financial statements and reports in accordance with the approved accounting standards as defined in the *Financial Reporting Act 1997*, which include International Accounting Standards. In this regard, a professional accountant qualified under the *Accountants Act 1967* and from an international accounting firm must confirm that the applicant's financial statements comply with the said approved accounting standards.

#### ***Auditing standards***

- 5.44 The financial statements of the applicant must be audited in accordance with approved auditing standards applied in Malaysia or International Standards on Auditing.

#### ***Translation of documents***

- 5.45 All documents furnished by the applicant to the SC, including financial statements, which are in a language other than Bahasa Malaysia or English, must be accompanied by a certified Bahasa Malaysia or English translation.

#### ***Currency denomination***

- 5.46 The applicant is to consult Bursa Securities and obtain the approval of the Controller of Foreign Exchange if it prefers its securities to be quoted in a currency other than ringgit Malaysia.

### **Approval of controller of foreign exchange**

- 5.47 The applicant and/or the offerors of the securities in the applicant must, where applicable, obtain the prior approval of the Controller of Foreign Exchange for the utilisation of proceeds from the offering of securities.

### **Resident directors**

- 5.48 An applicant whose operations are entirely or predominantly Malaysian-based must have a majority of directors whose principal or only place of residence is within Malaysia.
- 5.49 An applicant whose operations are entirely or predominantly foreign-based must have at least one director whose principal or only place of residence is within Malaysia.

## **PART B: SECONDARY LISTINGS OF FOREIGN CORPORATIONS ON BURSA SECURITIES**

- 5.50 In addition to complying with all the requirements for the listing of foreign corporations as set out in paragraphs 5.38 to 5.49, a foreign corporation seeking a secondary listing on Bursa Securities must comply with the following:
- (a) The applicant must already have a primary listing on the main market of a foreign stock market which is a member of the World Federation of Exchanges and be in full compliance with the listing rules of the said stock market; and
  - (b) The stock market where the applicant is primarily listed must have standards of disclosure rules at least equivalent to those of Bursa Securities.

## **PART C: CROSS LISTINGS OF MALAYSIAN-INCORPORATED LISTED COMPANIES ON FOREIGN STOCK MARKETS**

- 5.51 Malaysian-incorporated companies listed on the Main Market are allowed to seek cross listings on foreign stock markets.
- 5.52 In approving any proposal from a Malaysian-incorporated listed company to seek cross listing on a foreign stock market, the SC will have to be satisfied that the listing will benefit the company.
- 5.53 The foreign stock market where the cross listing is sought must be a member of the World Federation of Exchanges and must be based in a jurisdiction that is subject to corporation laws and other laws and regulations which have standards at least equivalent to those in Malaysia, particularly with respect to—
- (a) corporate governance;
  - (b) shareholders and minority interest protection;
  - (c) disclosure standards; and
  - (d) regulation of take-overs and mergers.

## Chapter 6

### SPECIAL PURPOSE ACQUISITION COMPANY

6.01 This chapter sets out the requirements for the following proposals:

- (a) Equity offerings and primary listings of SPACs on Bursa Securities;
- (b) Qualifying acquisitions by SPACs; and
- (c) Liquidation distributions upon failure by SPACs to meet time frame for a qualifying acquisition.

6.02 In this chapter, unless the context otherwise requires—

completion of qualifying acquisition	means the point of time whereupon all conditions precedent set out in the sale and purchase agreement governing the qualifying acquisition have been fulfilled.
management team	includes the executive directors and members of the senior management of the SPAC who are involved in making strategic decisions in the SPAC.
permitted investments	means investments in securities issued by the Malaysian government, money market instruments and AAA-rated papers.
permitted time frame	means no later than 36 months from the date of listing of the SPAC on Bursa Securities.
pre-IPO investors	means parties, other than members of the management team, who invest in the securities of the SPAC prior to the initial public offering.
trust account	means a trust account maintained with a licensed bank or merchant bank as defined in the <i>Financial Services Act 2013</i> by a custodian appointed by the SPAC to hold on its behalf, proceeds from an issuance of securities by the SPAC.
voting securities	means the securities issued by a SPAC which confer upon the holders voting rights.



## **PART A: EQUITY OFFERINGS AND PRIMARY LISTINGS OF SPACS ON BURSA SECURITIES**

### **Suitability for listing**

- 6.03 The SC will consider the suitability for listing of a SPAC on a case by case basis, and may take into account any factor it considers relevant in assessing the application. The SC may refuse to approve an application notwithstanding the requirements contained in these guidelines if the SC has reason to believe that the approval of the application would be detrimental to the interest of investors or contrary to public interest. In assessing the suitability for listing of a SPAC, the SC will take into consideration, among others, the following factors:
- (a) Experience and track record of the management team;
  - (b) **Nature and extent of the management team's compensation;**
  - (c) **Extent of the management team's ownership in the SPAC;**
  - (d) Amount of time permitted for completion of the qualifying acquisition prior to the mandatory dissolution of the SPAC;
  - (e) Percentage of amount held in the trust account that must be represented by the fair market value of the qualifying acquisition; and
  - (f) Percentage of proceeds from the initial public offering that is placed in the trust account.
- 6.04 A listing application by a SPAC must comply with the requirements on pricing of securities and underwriting set out in paragraphs 5.23 to 5.28 as well as the requirements set out in this chapter.

### **Jurisdiction of incorporation**

- 6.05 A SPAC seeking listing on Bursa Securities should be incorporated in Malaysia under the *Companies Act 1965*.

### **Methods of offering of securities**

- 6.06 The methods of offering of securities chosen by a SPAC should comply with the requirements set out in paragraph 5.14.
- 6.07 Any public offering of securities by a SPAC for purposes of seeking listing on Bursa Securities must only be made through an issue of new securities. An offer for sale of securities is not allowed.

### **Placement of securities**

6.08 In undertaking a placement of securities, the SPAC should comply with the requirements set out in paragraphs 5.19 and 5.20.

### **Minimum funds raised**

6.09 A SPAC must raise a minimum of RM150 million through its initial public offering.

### **Pricing of securities**

6.10 The minimum effective price of securities issued to the management team must be at least 10% of the price at which the securities are offered under the initial public offering.

6.11 The minimum effective price of securities issued to pre-IPO investors prior to the initial public offering must be at least 60% of the price at which the securities are offered under the initial public offering.

### **Issuance of warrants**

6.12 In addition to full compliance with the Main Market Listing Requirements, where **warrants are issued as part of the SPAC's listing scheme,—**

- (a) there should only be one class of warrants and the exercise price of warrants must not be lower than the price of the ordinary shares offered under the initial public offering;
- (b) the warrants must not be exercisable prior to the completion of the qualifying acquisition;
- (c) the warrants must expire on the earlier of either the maximum tenure under the terms of the issue or the time frame for completion of a qualifying acquisition, if no acquisition is completed; and
- (d) the warrants are not to have an entitlement to the funds held in the trust account upon liquidation of the SPAC.

### **Management credibility**

6.13 The SPAC must demonstrate that the members of its management team have the experience, qualification and competence to—

- (a) **achieve the SPAC's business** objective and strategy as disclosed in the prospectus issued in relation to the initial public offering; and

- (b) perform their individual roles, including an understanding of the nature of their obligations and those of the SPAC under these guidelines and other legal or regulatory requirements relevant to their roles.

### **Interest of management team**

- 6.14 Members of the management team must, in aggregate, own at least 10% equity interest in the SPAC on the date of its listing on Bursa Securities.

### **Moratorium**

- 6.15 A moratorium must be imposed on the securities held by the management team of the SPAC and securities acquired by pre-IPO investors at a price lower than the price offered under the initial public offering.

### **Management team**

- 6.16 The SPAC must demonstrate that the moratorium on the securities held by **the management team is appropriate based on the SPAC's business strategy** as disclosed in the prospectus.
- 6.17 At the minimum, members of the management team are not allowed to sell, transfer or assign their entire interest in the securities of the SPAC as at the date of listing of the SPAC on Bursa Securities, from the date of listing until the completion of the qualifying acquisition. Upon completion of the qualifying acquisition, members of the management team are allowed to sell, transfer or assign up to a maximum of 50% per annum (on a straight-line basis) of their respective interest in the securities under moratorium.
- 6.18 Notwithstanding paragraph 6.17, a SPAC must also comply with the following, where applicable:
- (a) For a SPAC proposing to make a qualifying acquisition involving mineral or oil and gas exploration or extraction assets which are not yet in commercial production, members of the management team are not allowed to sell, transfer or assign their entire interest in the securities of the SPAC as at the date of listing of the SPAC on Bursa Securities, from the date of listing until the SPAC has commenced commercial production and generated one full financial year of audited operating revenue. Thereafter, members of the management team are allowed to sell, transfer or assign up to a maximum of 50% per annum (on a straight-line basis) of their respective interest in the securities under moratorium; and
  - (b) For a SPAC proposing to make a qualifying acquisition involving other assets which are not yet income generating, members of the management team are not allowed to sell, transfer or assign their entire interest in the securities of the SPAC as at the date of listing of the SPAC on Bursa Securities, from the date of listing until the assets have

generated one full financial year of audited operating profits and positive cash flow from operating activities. Thereafter, members of the management team are allowed to sell, transfer or assign up to a maximum of 50% per annum (on a straight-line basis) of their respective interest in the securities under moratorium.

- 6.19 The SPAC must make an application to the SC for the lifting of the moratorium on the securities held by the management team, demonstrating that the conditions for such lifting have been met.

### ***Pre-IPO investors***

- 6.20 Pre-IPO investors are not allowed to sell, transfer or assign their entire interest in securities held in the SPAC as at the date of listing of the SPAC on Bursa Securities, which were acquired at a price lower than the price offered under the initial public offering, from the date of listing until the completion of the qualifying acquisition.

### **Management of proceeds**

- 6.21 A SPAC must place at least 90% of the gross proceeds raised in its initial public offering in a trust account immediately upon receipt of all proceeds. The monies in the trust account may only be released by the custodian upon termination of the trust account.
- 6.22 The trust account may only be terminated—
- (a) following the completion of the qualifying acquisition within the permitted time frame; or
  - (b) upon liquidation of the SPAC.
- 6.23 The proceeds in the trust account may be invested in permitted investments. Any income generated by the funds held in the trust account, including interest/dividend income derived from the permitted investments, must accrue to the trust account.
- 6.24 The proceeds from the initial public offering that are not placed in the trust account may be utilised to defray expenses related to the initial public offering and operating costs, fund the search for a target business and complete the qualifying acquisition. Prior to the completion of the qualifying acquisition, the proceeds from the initial public offering that are not placed in the trust account must not be utilised for the payment of remuneration (including any remuneration-in-kind), directly or indirectly, to the members of the management team or their related parties.

## **Rights of holders of voting securities who vote against a qualifying acquisition**

- 6.25 Holders of voting securities (other than the members of the management team and persons connected to them) who vote against a qualifying acquisition at a meeting convened to consider the qualifying acquisition must be—
- (a) entitled to receive, in exchange for their securities, a sum equivalent to a pro rata portion of the amount then held in the trust account (net of any taxes payable and expenses related to the facilitation of the exchange), provided that such qualifying acquisition is approved and completed within the permitted time frame; and
  - (b) paid as soon as practicable upon completion of the qualifying acquisition should they elect to exchange their securities. The securities tendered in exchange for cash must be cancelled.
- 6.26 The basis of computation for the pro rata entitlement must be disclosed in the prospectus.

## **Additional financing prior to completion of qualifying acquisition**

- 6.27 A SPAC is prohibited from issuing any securities prior to the completion of the qualifying acquisition unless by way of a rights issue.
- 6.28 Where additional financing is sought by way of a rights issue, a SPAC must deposit at least 90% of the gross proceeds into a trust account immediately upon receipt and comply with the requirements of paragraphs 6.22, 6.23 and 6.24, and the relevant requirements under Chapter 6 of the *Main Market Listing Requirements*.
- 6.29 Where a SPAC proposes to obtain debt financing, the SPAC must ensure that—
- (a) any credit facility obtained prior to the completion of the qualifying acquisition may only be drawn down after the approval of the qualifying acquisition;
  - (b) the funds from the credit facility obtained must be applied towards the financing of the qualifying acquisition, defraying related costs or enhancing the business(es) acquired under the qualifying acquisition; and
  - (c) details of the credit facility and the proposed utilisation of funds from such facility are disclosed in the circular to the holders of voting securities issued in relation to the qualifying acquisition. Details of the credit facility must, amongst others, include the salient terms of the facility and details of any security provided. The monies in the trust account must not be used as collateral for the debt financing.

### **Prohibition on security-based compensation/incentive schemes**

- 6.30 Security-based compensation arrangements between the SPAC and members of the management team such as employee share option schemes are prohibited prior to completion of a qualifying acquisition.

## **PART B: QUALIFYING ACQUISITION**

- 6.31 Qualifying acquisition proposals by SPACs are considered as proposals which would result in a significant change in the business direction or policy of the SPAC and hence **require the SC's approval. In this regard, these proposals are** required to fully comply with the requirements set out in this part and not those of Chapter 7 except for the valuation requirements under paragraphs 7.11 to 7.14.

### **Majority ownership and management control**

- 6.32 A qualifying acquisition by a SPAC should result in the SPAC having an identifiable core business of which it has a majority ownership and management control.
- 6.33 The SC may consider a qualifying acquisition involving an acquisition of a non-majority stake if the SPAC can demonstrate that such non-majority stake is in line with the regulations of and/or practices within the industry and that it has management control.

### **Aggregate fair market value of qualifying acquisition**

- 6.34 The qualifying acquisition, which may comprise more than one acquisition, must have an aggregate fair market value equal to at least 80% of the aggregate amount in the trust account (net of any taxes payable).

### **Time frame for completion of qualifying acquisition**

- 6.35 A SPAC must complete a qualifying acquisition within the permitted time frame.
- 6.36 Where the qualifying acquisition comprises more than one acquisition, the sale and purchase agreements relating to each of the acquisitions must be inter-conditional and complete simultaneously within the permitted time frame.

### **Prohibition on change in board of directors and management team**

- 6.37 A qualifying acquisition must not result in a change in the board of directors or the key management team members of the SPAC.

### **Acquisitions from related parties**

6.38 Where the business forming the qualifying acquisition is to be acquired from a related party, the principal adviser must confirm to the SC whether the qualifying acquisition complies with the applicable provisions pertaining to related-party transactions in the *Main Market Listing Requirements*.

### **Approval for qualifying acquisition**

6.39 The resolution on the qualifying acquisition must be approved by a majority in number of the holders of voting securities representing at least 75% of the total value of securities held by all holders of voting securities present and voting either in person or by proxy at a general meeting duly called for that purpose. Where the qualifying acquisition comprises more than one acquisition, each acquisition must be approved by the holders of voting securities in the same manner.

6.40 Members of the management team and persons connected to them must not vote on a resolution approving a qualifying acquisition.

## **PART C: LIQUIDATION DISTRIBUTION UPON FAILURE TO MEET TIME FRAME FOR A QUALIFYING ACQUISITION**

6.41 A SPAC which fails to complete a qualifying acquisition within the permitted time frame must be liquidated. The amount then held in the trust account(s) (net of any taxes payable and direct expenses related to the liquidation distribution), must be distributed to the respective holders of voting securities on a pro rata basis as soon as practicable, as permissible by the relevant laws and regulations. Any income earned from permitted investments accruing in the trust account will form part of the liquidation distribution.

6.42 Members of the management team and persons connected to them shall not participate in the liquidation distribution, except in relation to securities purchased by them after the date of listing of the SPAC on Bursa Securities.

6.43 Pre-IPO investors shall not participate in the liquidation distribution, except in relation to any securities subscribed for by them as part of the initial public offering and securities purchased by them after the date of listing of the SPAC on Bursa Securities.

## **PART D: THE CUSTODIAN**

6.44 A SPAC must secure and maintain custodial arrangements at all times over the monies in the trust account until the termination of the trust account.

### **Eligibility requirements of custodian**

- 6.45 A custodian appointed by the SPAC must be independent of the advisers and the management team, and must be either—
- (a) a trust company registered under the *Trust Companies Act 1949* or incorporated under the *Public Trust Corporation Act 1995* and is in the *List of Registered Trustees in Relation to Unit Trust Funds* issued by the SC; or
  - (b) a licensed bank or merchant bank as defined in the *Financial Services Act 2013*.

### **Roles and responsibilities of a custodian**

- 6.46 A custodian must hold in trust, the proceeds from an issuance of securities by the SPAC, in accordance with the custodian agreement, these guidelines and applicable laws.
- 6.47 The custodian must take appropriate measures to ensure the safekeeping of the monies held in the trust account. In particular, a custodian must ensure that—
- (a) proper accounting records and other records as are necessary are kept in relation to the trust account; and
  - (b) custody and control of monies held in the trust account is in accordance with the provisions of the custodian agreement.
- 6.48 A custodian may be provided a mandate by the management team to invest the amounts held in the trust account in permitted investments.
- 6.49 A custodian may only distribute and/or liquidate the funds held in the trust account in accordance with the provisions in the custodian agreement.

### **Minimum content requirements for custodian agreement**

- 6.50 The custodian agreement should include the following:
- (a) A statement by the custodian that it is duly qualified to act as custodian under these guidelines;
  - (b) Provisions relating to the powers of the custodian such as—
    - (i) matters which are within the powers of the custodian to decide without reference to the management team;
    - (ii) fees to be paid to the custodian for the performance of its duties as custodian and any additional services it may provide;
    - (iii) any indemnity given by the SPAC to the custodian; and



- (iv) the circumstances under which the custodian may delegate its powers;
- (c) The obligation by the custodian to disclose any confidential or other information to the SC and Bursa Securities upon request;
- (d) General covenants by the SPAC to—
  - (i) comply with the provisions of the custodian agreement;
  - (ii) send to the custodian the annual audited financial statements of the SPAC as soon as available and any other financial statements, report, notice, statement or circular issued to holders of voting securities; and
  - (iii) provide the custodian any information which the custodian may require in order to discharge its duties and obligations as custodian under the custodian agreement;
- (e) Reporting covenants by the SPAC to immediately notify the custodian of any—
  - (i) circumstance that has occurred that would materially prejudice the SPAC;
  - (ii) change in the utilisation of proceeds from the initial public offering; and
  - (iii) other matter that may materially prejudice the interests of the holders of voting securities;
- (f) The obligation by the SPAC to maintain an interest bearing account and to state the holder and operator of the account;
- (g) Where the custodian is allowed to invest the monies in the trust account, the conditions under which it is permitted to do so and the types of permitted investment;
- (h) Provision on the termination of the trust account in relation to—
  - (i) the release of funds to the holders of voting securities who had voted against the qualifying acquisition and the remaining funds to the SPAC upon completion of the qualifying acquisition within the permitted time frame; and
  - (ii) the release of funds to the holders of voting securities upon liquidation of the SPAC;
- (i) A provision that states that no provision or covenant in the custodian agreement should be construed as relieving, exempting or indemnifying a custodian from liability for breach of trust or for failure to show a degree of care and diligence required of it as custodian;

- (j) That the governing law is Malaysian law; and
- (k) The conditions for the resignation and termination of the custodian.

6.51 The custodian agreement will terminate—

- (a) on the appointment of a new custodian following the resignation or termination of services of the existing custodian; or
- (b) following the termination of the trust account.

### **Resignation and termination of custodian**

6.52 Where a custodian resigns or ceases to act for a SPAC prior to the liquidation of the trust account:

- (a) **The custodian is required to give three months' notice in writing to the SPAC and the SC if it wishes to resign, stating its reasons for resignation;**
- (b) The SPAC is similarly required **to give three months' notice in writing to the custodian and the SC if it wishes to terminate the custodian's appointment, stating its reasons;**
- (c) The SPAC must find a replacement custodian within the notice period; and
- (d) The replacement custodian must immediately notify the SC in writing of its appointment.

## Chapter 7

### BACK-DOOR LISTINGS AND REVERSE TAKE-OVERS

- 7.01 This chapter sets out the requirements for proposals which would result in a significant change in the business direction or policy of a listed corporation, including back-door listings and reverse take-overs but excludes qualifying acquisition proposals undertaken by a SPAC.
- 7.02 The SC will treat a listed corporation undertaking such proposals as if it were a new listing applicant and such proposals have to comply with the requirements under either the profit test or the infrastructure project corporation test.
- 7.03 For an acquisition of assets other than infrastructure project assets, which results in a significant change in the business direction or policy of a listed corporation,—
- (a) the enlarged group or the assets must comply with the profit requirements in subparagraph 5.02(a)(i) except for the “uninterrupted” profit requirement; and
  - (b) the assets to be injected must comply with the pro forma and operating history requirements in subparagraphs 5.02(a)(ii) and (iii).
- 7.04 For an acquisition of infrastructure project assets which results in a significant change in the business direction or policy of a listed corporation, the assets must fulfil the requirements in subparagraph 5.02(c).
- 7.05 The assets to be injected must have a healthy financial position, with—
- (a) sufficient level of working capital for at least 12 months from the date of the circular to shareholders and listing prospectus (where offering of securities is made), as applicable; and
  - (b) positive cash flow from operating activities and without accumulated losses based on its latest audited balance sheet at the time of submission to the SC, if listing is sought under the profit test.
- 7.06 The listed corporation must disclose in the circular to shareholders that it has the expertise and resources to manage the assets to be injected, if the assets are different from those of the listed corporation’s existing core business.
- 7.07 Where there is a change in the controlling shareholder or board of directors of the listed corporation, the assets to be injected must have had continuity of substantially the same management for at least three full financial years prior to submission to the SC or, in the case of an infrastructure project corporation or asset, since the commencement of its operations (if less than three full financial years).

- 7.08 In complying with the requirement on continuity of substantially the same management, the applicant must demonstrate that, throughout the relevant period,–
- (a) the executive directors of the assets to be injected have had direct management responsibilities for, and played a significant role in the business; and
  - (b) the senior management of the assets to be injected has not changed materially.
- 7.09 Where the requirements of 7.08 are not met, the applicant must demonstrate to the SC and disclose in the circular to shareholders and listing prospectus, where applicable, the expertise and capability of the management in ensuring that the operations are managed effectively.
- 7.10 Where the assets are to be acquired from a related party, the principal adviser must confirm to the SC that the acquisition complies with the applicable provisions pertaining to related-party transactions in the *Main Market Listing Requirements*.

## Valuation

- 7.11 A valuation is required to be conducted for an acquisition of property assets or corporations which own property assets, where the revalued amount of the property assets is used, whether wholly or partly, as the basis for the consideration. The revalued amount of the property assets in this context refers to property assets which are to be revalued or have been revalued in the past prior to the submission to the SC.
- 7.12 Notwithstanding paragraph 7.11, where the asset acquired by the listed corporation is that of a property investment or property development corporation, an independent valuer has to be appointed by the listed corporation to conduct a valuation of the material real estate of the acquiree corporation.
- 7.13 The SC, whenever it deems appropriate, may also require an applicant to conduct a valuation on any asset other than those referred to in paragraphs 7.11 and 7.12.
- 7.14 The SC may obtain a second opinion on the valuation report submitted by the listed corporation. Where a second opinion valuation is required, the valuer conducting the valuation has to be appointed by the SC, at the cost of the listed corporation and the lower of the two valuations must be adopted as the basis for the purchase consideration.

## **Issue of securities under back-door listing and reverse take-over schemes including bonus issue, rights issue, issuance of preference shares, warrants, options, debt securities and convertible securities**

- 7.15 Where issues of securities are undertaken by a listed corporation as part of a back-door listing or a reverse take-over, the SC will assess and approve such issues together with the back-door listing or reverse take-over scheme as a whole.

## Placement of shares to meet shareholding spread

- 7.16 Where shares are issued as consideration for the acquisition, the listed corporation must state—
- (a) whether it will comply with the shareholding spread requirements under the *Main Market Listing Requirements* upon completion of the acquisition; and
  - (b) its plans to comply with such requirements, if there is non-compliance.
- 7.17 The principal adviser must act as the placement agent (or joint placement agent, where applicable) and ensure that the placement fully complies with Practice Note 4.
- 7.18 The SC reserves the discretion to require submission of such further information on the issue/placement exercise and the placees as the SC may consider necessary for the purpose of establishing the propriety of the exercise and independence of the placees.

## Moratorium

- 7.19 Where an acquisition of assets results in a change in the controlling shareholder or board of directors of the listed corporation, a moratorium will be imposed on the consideration securities received by the vendors of the assets, as follows:
- (a) For an acquisition of assets other than infrastructure project assets, the vendors will not be allowed to sell, transfer or assign their entire consideration securities for six months from the date the securities are listed on Bursa Securities or from the date of issue if the securities are not listed; and
  - (b) For an acquisition of infrastructure project assets, the vendors will not be allowed to sell, transfer or assign their entire consideration securities for six months from the date the securities are listed on Bursa Securities or from the date of issue if the securities are not listed. The moratorium will be lifted immediately at the end of the six months if the infrastructure project assets have generated one full financial year of audited operating revenue, otherwise, the consideration securities will continue to remain under moratorium until one full financial year of audited operating revenue is generated.
- 7.20 Where the vendors of the assets are corporations which are not listed, all direct and indirect shareholders of these corporations (if they are individuals or other corporations which are not listed) up to the ultimate individual shareholders must give undertakings to the SC that they will not sell, transfer or assign their shareholdings in the related corporations which are not listed for the period as stipulated in paragraph 7.19, as applicable.

## Chapter 8

### Transfer of Listing

- 8.01 A corporation which is listed on the ACE Market may seek a transfer of listing to the Main Market if it complies with any one of the following requirements:
- (a) Profit requirements under sub-paragraph 5.02(a)(i). In fulfilling this requirement,—
    - (i) **the applicant is not required to comply with the “uninterrupted”** profit requirement; and
    - (ii) where an applicant seeks a transfer of listing to the Main Market in conjunction with an acquisition of assets resulting in a significant change in the business direction or policy of the corporation, the assets must meet the pro forma and operating history requirements under sub-paragraphs 5.02(a)(ii) and (iii).
  - (b) Market capitalisation requirement under sub-paragraph 5.02(b)(i). In fulfilling this requirement, the daily market capitalisation (based on the daily volume-weighted average price) of the ordinary shares for the one-year period ending on the last business day of the calendar month immediately preceding the date of submission to the SC must be at least RM500 million; and
  - (c) Infrastructure project corporation test in subparagraph 5.02(c)(i).
- 8.02 The SC, in considering a transfer of listing proposal via the market capitalisation test, will take into account any past records of unusual market activities or other events which may have adversely affected the fair and orderly trading of the listed securities of the corporation, including any designation or trading restrictions imposed by Bursa Securities for the past one year prior to submission to the SC.
- 8.03 The applicant must comply with the healthy financial position requirements in paragraph 5.08.

### Lifting of moratorium

- 8.04 Where the moratorium **imposed on the promoters’ shareholdings** in conjunction with the listing of the corporation on the ACE Market is still subsisting, the affected promoters may apply for a lifting of the moratorium as part of the transfer of listing exercise.

## **PART III**

# **SUBMISSION AND IMPLEMENTATION**





## Chapter 9

### SUBMISSION OF PROPOSALS

#### Minimum information and documents

- 9.01 Applications for proposals must be accompanied by the relevant information and documents as specified in the appendices.
- 9.02 The applications must include a declaration by the applicant and each of the directors and proposed directors of the applicant in accordance with the form specified in Schedules 1 and 2 respectively.

#### Information on operating and financial prospects

- 9.03 For initial public offerings and proposals resulting in a significant change in the business direction or policy of a listed corporation, the applicant must provide a thorough discussion and analysis of its business, financial conditions and prospects and, where applicable, those of its group. Such discussion and analysis should contain, at the minimum, the information required under the section on Management's Discussion and Analysis of Financial Condition, Results of Operations and Prospects of Chapter 12 of the *Prospectus Guidelines - Equity and Debt* issued by the SC. The discussion and analysis must be included in the listing prospectus, circular to shareholders or other offering documents issued in relation to the proposals, as applicable.

#### Valuation reports

- 9.04 A valuation report is required to be submitted for an acquisition of property assets or corporations which own property assets, where the revalued amount of the property asset is used, whether wholly or partly, as the basis for the consideration. The revalued amount of the property asset in this context refers to property assets which are to be revalued or have been revalued in the past prior to the submission to the SC.
- 9.05 A valuation report on material real estate is also required to be submitted for the following proposals:
- (a) Initial listings by property investment corporations and property development corporations under Chapter 5;
  - (b) Qualifying acquisition by a SPAC where the asset acquired by the listed corporation is that of a property development or property investment corporation under Chapter 6; and
  - (c) Back-door listings and reverse take-overs where the asset acquired by the listed corporation is that of a property development or property investment corporation under Chapter 7.

- 9.06 A valuation report has to be submitted on asset other than property asset where–
- (a) the SC had required a valuation to be conducted; or
  - (b) a valuation report had been prepared by an expert.
- 9.07 Where a second opinion valuation is conducted, the valuer has to submit the valuation report to the SC.
- 9.08 For purposes of expediency in considering proposals by the SC, two hard copies of the valuation reports for property assets must be submitted to the Asset Valuation Audit Department of the SC before the submission of the application proper for the proposals. The submission of the application proper must be made after two weeks but not later than one month from the date of submission of the valuation reports.

### **Further information and documents required by the SC**

- 9.09 The SC may, at its discretion, request for additional information and documents other than those specified in these guidelines.
- 9.10 The SC must be immediately informed of–
- (a) any material change in circumstances that would affect the consideration of the SC; and
  - (b) any material change or development in circumstances relating to a proposal occurring subsequent to the SC giving its approval.
- 9.11 Where the material change or development occurs prior to the issue of documents to shareholders or investors, it must be disclosed in those documents.
- 9.12 If certain circumstances are made known to the SC after the proposal has been considered, and such circumstances would have affected the decision made, the SC may review the decision. For this purpose, an application with full justifications and effects (financial or otherwise) must be submitted for the SC's review.

### **Applications**

- 9.13 Applications for proposals under these guidelines, including applications for revisions to approved terms and conditions with full justifications, must only be submitted by principal advisers who are eligible and permitted under the *Principal Adviser Guidelines*. The application letter submitted by the principal adviser must be signed by at least two authorised persons.
- 9.14 Notwithstanding paragraph 9.13, applications in relation to lifting of moratorium securities or pledging of securities under moratorium may be made directly by the affected securities holders.

- 9.15 The applicant (including its directors), the principal adviser, advisers, experts and other persons accepting responsibility for all or any part of the information and documents submitted to the SC in relation to a proposal must exercise due diligence and comply with the *Guidelines on Due Diligence Conduct for Corporate Proposals*.
- 9.16 Any person who is aggrieved by the SC's decision may make an application for a review of the decision within 30 days after the aggrieved person is notified of such decision. The SC's decision following the review shall be final.
- 9.17 Applications must be submitted in three\* hard copies and one copy in an electronic storage medium, including but not limited to CD-ROM, and addressed to:

The Chairman  
Securities Commission Malaysia  
3 Persiaran Bukit Kiara  
Bukit Kiara  
50490 Kuala Lumpur

(Attention: Issues and Investments Division)

### **Fees and charges**

- 9.18 The details of fees payable to the SC for the various types of applications and proposals are provided in the *Securities Commission (Fees and Charges) Regulations 1993*.
- 9.19 In addition, charges may be payable to the SC for incidental expenses incurred in relation to the processing of applications.

---

\* Comprising two sets of the full application (one original and one duplicate) and the third being a copy of the prospectus, introductory document or circular to shareholders (whichever is applicable).

## Chapter 10

### IMPLEMENTATION OF PROPOSALS

#### Deadline

- 10.01 Applicants must complete their proposals within six months from the date of approval.
- 10.02 For cases that involve court proceedings, applicants must complete their proposals within 12 months.
- 10.03 Failure to complete the proposals within the said periods would render the approvals lapsed. However, where the applicant has submitted a request for a review of the SC's decision, the time period for implementation commences from the date on which the decision on the review is conveyed to the applicant.

#### Extension of time

- 10.04 An extension of time for the completion of proposals may be granted only in exceptional cases.
- 10.05 The application for extension of time must be fully justified and made through a principal adviser no later than 14 days before the approval expires.
- 10.06 All applications for extension of time for completion of the proposals must be accompanied by a confirmation letter by the directors of the applicant that, save as disclosed, there has been no material change or development in the circumstances and information relating to the proposals.
- 10.07 Where the approval of the SC is subject to certain conditions which must be fulfilled within a specified period of time, any application for extension of time to fulfil the conditions must be fully justified and be made no later than 14 days before the expiry of the said specified period.

#### Post-implementation obligations

- 10.08 The principal adviser and the applicant must submit to the SC the following:
  - (a) Dates of completion for all approved proposals;
  - (b) A written confirmation of the compliance with terms and conditions of the SC's approval once the proposals have been completed; and
  - (c) Where an indicative issue price and number of securities to be issued are provided in the application for the proposals, the actual figures, once determined.

10.09 Where the moratorium securities had been borrowed for the purpose of a price stabilisation mechanism as part of the listing scheme pursuant to the *Capital Markets and Services (Price Stabilisation Mechanism) Regulations 2008*, the stabilising manager and the issuer must submit a written confirmation that–

- (i) such securities are returned to the promoter and placed in the moratorium account; or
- (ii) the cash proceeds from the sale of such securities are returned to the promoter, within five market days after the –
  - (a) day on which the over-allotment option is exercised in full; or
  - (b) end of the stabilisation period of 30 calendar days commencing from the first day of trading on Bursa Securities,

whichever is the earlier.

In the event the cash proceeds from the sale of the moratorium securities are returned to the promoter, such securities would no longer be subject to the initial moratorium requirement as stipulated in subparagraphs 5.29(a) or (b), where applicable.

**PART IV**

**APPENDICES**



## Appendix 1

### CONTENT OF APPLICATION FOR EQUITY OFFERINGS AND LISTINGS

#### Introduction

This appendix sets out the minimum information and documents required by the SC for applications under Chapters 5 and 6.

#### Content of application

##### 1. Application term sheet

Proposal	:
Name of applicant/registration number	:
Principal activities/core business	:
Proposed sector classification <i>(based on the sector classification of Bursa Securities)</i>	:
Existing and proposed substantial shareholders <i>(name, nationality, country of incorporation and NRIC/passport/registration numbers)</i>	:
Directors* <i>(name, nationality, NRIC/passport numbers and date of appointment)</i>	:
Par value of ordinary shares (RM/other currency)	:
Number of shares under:	
• Public issue	:
• Offer for sale	:
• Other issues (e.g. rights issue)	:
Indicative issue/offer price (RM)	:
Indicative total proceeds to be raised (RM)	:

\* All directors must have been appointed at the time of submission to the SC.



Utilisation of proceeds (RM)	:
Proposed enlarged issued and paid-up capital	:
Indicative market capitalisation (RM)	:
Principal adviser	:
Auditors (applicant and proposed subsidiary companies)	:
Reporting accountants	:
Independent adviser/expert/market researcher	:
Lawyers/solicitors	:
Valuer	:
Date of submission of valuation report to the SC	:

## 2. Cover letter

The cover letter, signed by two authorised signatories\* of the principal adviser, should contain the following:

- (a) Particulars of the initial public offering (IPO proposal);
- (b) The following to be sought:
  - (i) Approval for the IPO proposal under section 212 of the CMSA; and
  - (ii) Approval-in-principle for the registration of the listing prospectus under section 233 of the CMSA; or
  - (iii) Clearance for the issuance of the introductory document.
- (c) Particulars of other required approvals obtained/pending in relation to the proposal (if applicable);

---

\* Any subsequent application and/or correspondence relating to the proposal should also be signed by two authorised signatories of the principal adviser.

- (d) Details of any departure from these guidelines and other relevant SC guidelines, together with the relevant justification and waiver/exemption sought for such departure. Where waiver/exemption has been obtained, to provide details of such waiver/exemption;
- (e) Information on previous proposals submitted to the SC, if any by the applicant and/or any corporation in the group;
- (f) Confirmation by the due diligence working group on compliance with the relevant laws, regulations, rules and requirements governing conduct of the business of the applicant and its group;
- (g) Confirmation by the due diligence working group on up-to-date submissions of tax returns and settlement of tax liabilities of the applicant, its subsidiary companies and proposed subsidiary companies, with the tax authorities;
- (h) A statement on whether the applicant is seeking a listing based on—
  - (i) profit test, stating the applicant's aggregate after-tax profit for the profit track record period and after-tax profit for its most recent financial year;
  - (ii) market capitalisation test, stating the applicant's market capitalisation based on the offer price as stated in the listing prospectus and the enlarged issued and paid-up share capital upon listing; or
  - (iii) infrastructure project corporation test.
- (i) Matters as required under subparagraph 1.10(a), Chapter 1 of Part III: Procedures for Registration in the *Prospectus Guidelines*. [A separate cover letter would not be necessary for compliance with the *Prospectus Guidelines* requirements under subparagraph 1.10(a)].

### 3. Registrable listing prospectus/introductory document

The registrable listing prospectus must be complete and fully comply with the disclosure and documentary requirements of *SC's Prospectus Guidelines – Equity and Debt* and *Prospectus Guidelines – Procedures for Registration*. Where the applicant does not need to issue a listing prospectus, it must issue an introductory document. The introductory document must fully comply with the disclosure and documentary requirements of *SC's Prospectus Guidelines – Equity and Debt* and *Prospectus Guidelines – Procedures for Registration*.

### 4. Other pertinent information on the applicant

The following information on the applicant should be submitted:

- (a) For the applicant and each of its existing/proposed subsidiary and associated companies, the list of the directors and shareholders (including their shareholdings in the corporation and the ultimate beneficial ownership of shares held under nominees/corporations);

*Appendix 1: Content of Application for Equity Offerings and Listings*

- (b) For the applicant and each of its existing/proposed subsidiary companies, changes in substantial shareholders and their shareholdings in the corporation over the past three years (or since the date of incorporation, if less than three years);
- (c) For all existing and proposed substantial shareholders of the applicant, to provide the following:
  - (i) For individuals, their NRIC/passport numbers, ages and current addresses; and
  - (ii) For corporations, their registration numbers and current addresses;
- (d) For all directors, chief executive and key management of the applicant (corporation and its subsidiary companies), to provide their NRIC/passport numbers, addresses and nationalities.

**5. Compliance with guidelines**

To provide a checklist of compliance with the relevant chapters of the guidelines and practice notes. The checklist should include commentary on whether the requirements are met, not met or not applicable, and provide detailed illustration, explanation and justification thereof.

**6. Supporting documents** (In addition to those required under the Prospectus Guidelines– Procedures for Registration)

The application for the IPO should be accompanied by the following documents:

- (a) Declaration by–
  - (i) the applicant as per the specimen provided in Schedule 1; and
  - (ii) each of the directors of the applicant as per the specimen provided in Schedule 2.
- (b) In the case of listing of foreign corporations, a comparison of the standards of laws and regulations of the jurisdiction in which the applicant is incorporated and those provided in Malaysia, together with the proposed variations to its constituent documents, in cases where the jurisdiction of incorporation does not have the requisite standards.

## Appendix 2

### CONTENT OF APPLICATION FOR BACK-DOOR LISTINGS AND REVERSE TAKE-OVERS

#### Introduction

This appendix sets out the minimum information and documents required by the SC for applications on proposals which would result in a significant change in the business direction or policy of a listed corporation, including back-door listings and reverse take-overs under Chapter 7.

#### Content of application

##### 1. Application term sheet

Proposal	:
Name of applicant/registration number	:
Principal activities/core business	:
Proposed sector classification <i>(based on the sector classification of Bursa Securities)</i>	:
Existing and proposed substantial shareholders <i>(name, nationality, country of incorporation and NRIC/passport/registration numbers)</i>	:
Existing and proposed directors <i>(name, nationality, NRIC/passport numbers and date of appointment)</i>	:
Par value of ordinary shares (RM)	:
Number of shares under:	
• Public issue	:
• Offer for sale	:
• Other issues (e.g. rights issue)	:
Indicative issue/offer price (RM)	:
Indicative total proceeds to be raised (RM)	:

Details of asset to be acquired	:
• Particulars of asset	:
• Nature of business	:
• Details of consideration	:
Principal adviser	:
Auditors (applicant and proposed subsidiary companies)	:
Reporting accountants	:
Independent adviser/expert/market researcher	:
Lawyers/solicitors	:
Valuer	:
Date of submission of valuation report to the SC	:

## 2. Cover letter

The cover letter, signed by two authorised signatories\* of the principal adviser, should contain the following:

- (a) Particulars of the proposal. To state whether the proposal will result in a significant change in the business direction or policy of the applicant (paragraph 2.01 defines the term significant change in business direction or policy of a listed corporation. It should be clearly stated how the significant change in the business direction or policy of the applicant will occur i.e. through the triggering of either (a), (b), (c), (d) or (e) of the definition);
- (b) Approval/clearance sought:
  - (i) Approval for proposed acquisition resulting in a significant change in business direction or policy under section 212 of the CMSA;
  - (ii) Clearance for the issuance of the circular to shareholders under Chapter 10 of the *Main Market Listing Requirements*; and
  - (iii) Approval-in-principle for registration of listing prospectus under section 233 of the CMSA, if applicable.

---

\* Any subsequent application and/or correspondence relating to the proposal should also be signed by two authorised signatories of the principal adviser.

- (c) Particulars of other required approvals obtained/pending in relation to the proposal (if applicable);
- (d) Details of any departure from these guidelines and other relevant SC guidelines, together with the relevant justification and waiver/exemption sought for such departure. Where waiver/exemption has been obtained, to provide details of the waiver/exemption;
- (e) For related-party transactions, details regarding the nature of interest of the related parties including the direct and indirect shareholdings of the related parties in the applicant;
- (f) Confirmation by the due diligence working group on compliance with the relevant laws, regulations, rules and requirements governing the assets/businesses/interests to be acquired;
- (g) Confirmation by the due diligence working group on up-to-date submissions of tax returns and settlement of tax liabilities of the applicant, its subsidiary companies and proposed subsidiary companies, with the tax authorities;
- (h) Information on previous proposals submitted to the SC, if any in relation to the acquiree assets/businesses/interests;
- (i) Declaration of conflict of interest, if any, by advisers/experts in relation to the application. If a conflict of interest exists, to provide full disclosure of the nature of the conflict and the steps taken to address such conflict.
- (j) A statement on whether the enlarged group or the assets to be acquired qualifies based on–
  - (i) profit test, stating the aggregate after-tax profit for profit track record period and after-tax profit for the most recent financial year of the enlarged group or the assets; or
  - (ii) infrastructure project corporation test.

### **3. Draft circular to shareholders**

The draft circular must be complete and fully comply with the *Main Market Listing Requirements*.

### **4. Registrable listing prospectus (if applicable)**

The registrable prospectus must be complete and fully comply with the disclosure and documentary requirements of *SC's Prospectus Guidelines – Equity and Debt and Prospectus Guidelines – Procedures for Registration*.

## 5. Compliance with guidelines

To provide a checklist of compliance with the relevant chapters of the guidelines and practice notes. The checklist should include commentary on whether the requirements are met, not met or not applicable, and provide detailed illustration, explanation and justification thereof.

## 6. Other supporting information/documents

The application should be accompanied by the following information/documents:

- (a) Declaration by–
  - (i) the applicant as per the specimen provided in Schedule 1; and
  - (ii) each of the directors and proposed directors of the applicant as per the specimen provided in Schedule 2.
- (b) Confirmation by–
  - (i) the directors of the acquiree corporation that they–
    - are not undischarged bankrupts nor are they subject to any proceedings under bankruptcy laws;
    - have never been charged with, convicted for or compounded for any offence under securities laws, corporations laws or any other laws involving fraud or dishonesty in a court of law; and
    - (in the case of a listed corporation) have never had any action taken against them for any breach of the listing requirements or rules issued by the stock exchange on which the corporation is listed for the past five years prior to the submission of the application.
  - (ii) the vendor corporation that it–
    - has never been charged with, convicted for or compounded for any offence under securities laws, corporations laws or any other laws involving fraud or dishonesty in a court of law; and
    - (in the case of a listed corporation) has never had any action taken against it for any breach of the listing requirements or rules issued by the stock exchange on which the corporation is listed for the past five years prior to the submission of the application.

- (iii) the vendor (in the case of an individual) that he/she—
  - is not an undischarged bankrupt nor is he/she subject to any proceedings under bankruptcy laws;
  - has never been charged with, convicted for or compounded for any offence under securities laws, corporations laws or any other laws involving fraud or dishonesty in a court of law; and
  - has never had any action taken against him/her for any breach of the listing requirements or rules issued by the stock exchange for the past five years prior to the submission of the application.
- (c) Experts' reports (where applicable);
- (d) For acquisitions of assets which result in a significant change in the business direction or policy of a listed corporation involving foreign assets, to provide the following additional documents:
  - (i) Expert's report pertaining to the policies on foreign investments and repatriation of profits of the host country; and
  - (ii) Legal opinion on the ownership/title of the foreign assets, enforceability of agreements, representations and undertakings by foreign counterparties under the relevant laws of domicile, and other relevant legal matters.
- (e) Audited financial statements of the acquiree companies for the track record years.



## Appendix 3

### CONTENT OF APPLICATION FOR TRANSFER OF LISTING

#### Introduction

This appendix sets out the minimum information and documents required by the SC for applications under Chapter 8.

#### Content of application

##### 1. Application term sheet

Proposal	:
Name of applicant/registration number	:
Principal activities/core business	:
Sector classification	:
(based on the sector classification of Bursa Securities)	
Substantial shareholders	:
(name, nationality, country of incorporation and NRIC/passport/registration numbers)	
Directors	:
(name, nationality, NRIC/passport numbers and date of appointment)	
Par value of ordinary shares (RM/other currency)	:
Number of shares under	
• <b>Public issue</b>	:
• <b>Offer for sale</b>	:
• <b>Other issues (e.g. rights issue)</b>	:
Indicative issue/offer price (RM)	:
Indicative total proceeds to be raised (RM)	:
Utilisation of proceeds (RM)	:
Proposed enlarged issued and paid-up capital	:
Indicative market capitalisation (RM)	:
Principal adviser	:
Sponsor	:
Auditors (applicant and subsidiary companies)	:
Reporting accountants	:
Independent adviser/expert/market	:

researcher	
Lawyers/solicitors	:
Valuer	:
Date of submission of valuation report	:
to the SC	

## 2. Cover letter

The cover letter, signed by two authorised signatories\* of the principal adviser, should contain the following:

- (a) Particulars of the proposal for transfer from the ACE Market to the Main Market of Bursa Securities;
- (b) The following to be sought:
  - (i) Proposed transfer of listing under section 212 of the CMSA; and
  - (ii) Approval-in-principle for the registration of the listing prospectus under section 233 of the CMSA (if applicable); or
  - (iii) Clearance for the issuance of the introductory document (if applicable)
- (c) Particulars of other required approvals obtained/pending in relation to the proposal (if applicable);
- (d) Details of any departure from these guidelines and other relevant SC guidelines, together with the relevant justification and waiver/exemption sought for such departure. Where waiver/exemption has been obtained, to provide details of such waiver/exemption;
- (e) Information on previous proposals submitted to the SC, if any, by the applicant and/or any corporation in the group;
- (f) Outstanding proposals which have been announced by the applicant but pending implementation, if any;
- (g) Confirmation by the due diligence working group on compliance with the relevant laws, regulations, rules and requirements governing the applicant and all companies in the group;
- (h) Confirmation by the due diligence working group on up-to-date submissions of tax returns and settlement of tax liabilities of the applicant, its subsidiary companies and proposed subsidiary companies, with the tax authorities;

---

\* Any subsequent application and/or correspondence relating to the proposal should also be signed by two authorised signatories of the principal adviser

- (i) A statement on whether the applicant is seeking transfer of listing based on—
  - (i) **profit test, stating the applicant's aggregate after-tax profit** for the profit track record period and after-tax profit for its most recent financial year;
  - (ii) **market capitalisation test, stating the applicant's market capitalisation** based on the daily volume-weighted average price of the ordinary shares for the one year period ending on the last business day of the calendar month immediately preceding the date of submission to the SC; or
  - (iii) infrastructure project corporation test.

### **3. Prospectus/introductory document**

Where a prospectus is to be issued, the registrable prospectus submitted to the SC must be complete and fully comply with the disclosure and **documentary requirements in Division 1 of Part I and Part II of SC's Prospectus Guidelines.**

Where the applicant seeks a transfer of listing to the Main Market in conjunction with an acquisition of assets resulting in a significant change in the business direction or policy of the corporation and does not need to issue a prospectus, it must issue an introductory document. The introductory document must fully comply with the disclosure and documentary requirements in **Division 1 of Part I and Part II of SC's Prospectus Guidelines.**

### **4. Other pertinent information on the applicant**

The following information on the applicant should be submitted:

- (a) For the applicant and each of its existing subsidiary and associated companies, the list of the directors and substantial shareholders (including their shareholdings in the corporation and the ultimate beneficial ownership of shares held under nominees/corporations);
- (b) For the applicant and each of its existing subsidiary companies, changes in substantial shareholders and their shareholdings in the corporation over the past three years (or since the date of incorporation, if less than three years);
- (c) For all existing substantial shareholders of the applicant, to provide the following:
  - (i) For individuals, their NRIC/passport numbers, nationalities, ages and current addresses; and

- (ii) For corporations, their registration numbers, countries of incorporation, and current addresses;
- (d) For all directors of the applicant, the following information:
  - (i) Age, profession, qualification and profile including business and management experience; and
  - (ii) Designation/functions (including executive/non-executive and whether independent, and memberships in any board committees of the applicant).
- (e) For all directors, chief executive and key management of the applicant (company and its subsidiary companies), to provide their NRIC/passport numbers, addresses and nationalities.

## **5. Compliance with guidelines**

To provide a checklist of compliance with Chapter 8 of the Equity Guidelines, including commentary on whether the requirements are met, not met or not applicable, and to provide detailed illustration, explanation and justification thereof.

## **6. Supporting documents**

The application should be accompanied by the following information/documents:

- (a) A declaration by the applicant as per the specimen provided in Schedule 1; and
- (b) A declaration by each of the directors of the applicant as per the specimen provided in Schedule 2;
- (c) Where the applicant seeks a transfer of listing to the Main Market in conjunction with an acquisition of assets resulting in a significant change in the business direction or policy of the corporation, item 6(b) of Appendix 2 and the draft circular to shareholders;
- (d) Where issuance of a prospectus or an introductory document is not required, the following additional information/ documents:
  - (i) A copy of the draft announcement which complies with the requirements under subparagraph 2A.2 of Practice Note 22 of the Main Market Listing Requirement;
  - (ii) Commentary on the past performance of the applicant for the past three to five financial years (or such shorter period that the corporation/group has been in operation), which should include analysis and/or discussion of the following:

*Appendix 3: Content of Application for Transfer of Listing*

- A. Significant and specific factors contributing to exceptional performance in any of the financial years under review and significant changes in the financial performance on a year-to-year basis, whether favourable or adverse;
  - B. Any material change in the accounting policies adopted, including a summary of the material change, the reason of such change and quantitative impact of such change on the financial results of the corporation/group;
  - C. Revenue, gross profit, pre-tax profit, gross profit margins and pre-tax profit margin trends within each of the financial year under review and on a year-to-year basis;
  - D. Segmental analysis;
  - E. Profits or losses generated from non-recurring items or by activities or events outside the ordinary and usual course of business;
  - F. Any material difference between the effective tax rate and the statutory tax rate; and
  - G. Reasons for and details of any qualification, modification or disclaimer contained in the audited financial statements in any of the financial years under review;
- (iii) Analysis of total debt, including the following:
- A. The maturity profile of debt, currency and interest rate structure, based on the latest audited financial statements;
  - B. Information on any debt in default and any legal or other action taken by the lenders to recover the amount owed over the period under review up to the latest practicable date;
  - C. Gearing ratios for the period under review;
  - D. If the applicant or any other entity in the group is in breach of terms and conditions or covenants associated with credit arrangement or bank loan which can materially affect the applicant's financial position and results or business operations, or the investments by holders of securities in the applicant, provide-
    - a statement of that fact;

- details of the credit arrangement or bank loan; and
  - details of any action taken or to be taken by the applicant or other entity in the group, as the case may be, to rectify the situation (including status of any restructuring negotiations or agreement, if applicable);
- (iv) Analysis of relevant key financial ratios, including:
- A. Trade receivables turnover period, including information on:
- Normal credit period granted to customers;
  - Ageing analysis of trade receivables as at the end of the latest audited financial year, and commentaries where trade receivables have exceeded the normal credit period;
  - Amounts subsequently collected up to the latest practicable date; and
  - Policies with respect to provisioning and impairment of trade receivables;
- B. Trade payables turnover period, including information on:
- Normal credit period granted by suppliers;
  - Ageing analysis of trade payables as at the end of the latest audited financial year and commentaries where trade payables have exceeded the normal credit period;
  - Amounts subsequently paid up to the latest practicable date; and
  - Details of any legal or other action taken by trade creditors to recover the amount owed.
- C. Inventory turnover period, including information on:
- Policies with respect to provisioning and impairment of slow moving or obsolete inventories; and
  - Amount of inventories impaired and provided for over the track record period.

- D. Current ratio over the period under review
- (v) Other financial information
  - A. Commentary on material balances and nature of other debtors as at the end of the latest audited financial year, and whether these debts have since been collected or are collectible;
  - B. Commentary on material balances and nature of other creditors as at the end of the latest audited financial year, whether any amount is in default and whether any legal or other action has been taken by the creditors to recover the amount owed;
  - C. Commentary on any material balances and nature of intangible assets as at the end of the latest audited financial year, including whether there are indications of impairment as at the latest practicable date; and
  - D. Commentary on any other material balance sheet items as at the end of the latest audited financial year.
- (vi) Salient terms of all material contracts (including contracts not in writing), not being contracts entered into in the ordinary course of business entered into within two years preceding the date of the application, including:
  - A. Date;
  - B. Parties;
  - C. Subject matter; and
  - D. Current status.
- (vii) Salient terms of major agreements underlying the basis of the applicant's or the group's business;
- (viii) Salient terms of any contract/arrangement/document/other matter on which the corporation is highly dependent;
- (ix) The nature and extent of any transaction that is unusual in nature or conditions, involving goods, services, tangible or intangible assets, to which the applicant or subsidiaries was a party;
- (x) Details of any dependency on major customers (i.e. those individually contributing 10% or more of turnover) and/or

suppliers (i.e. those individually contributing 10% or more of purchases), over the period under review.

- (xi) Copies of the audited consolidated financial statements of the applicant for the last three to five financial years preceding the date of the announcement.
- (xii) A copy of the latest quarterly report of the applicant announced to Bursa Securities;
- (xiii) Related party transactions
  - A. For the three most recent financial years, and the subsequent period up to the date of this application the nature and extent of any related-party transaction or presently proposed related-party transactions that have been announced pursuant to the Main Market Listing Requirements; and
  - B. For the three most recent financial years and any subsequent financial periods based on quarterly reports announced by the applicant (as required under Bursa Securities ACE Market Listing Requirements), the amount of loans (including guarantees of any kind) made by the applicant or any of its subsidiaries to or for the benefit of the related party. The information given should include the following:
    - Classification into long term and short term;
    - The amount outstanding as of the latest practicable date;
    - The nature of the loan;
    - The transaction in which it was incurred;
    - The interest rate on the loan;
    - When the loan is intended or required to be repaid; and
    - Separate identification of all foreign currency denominated loans with the corresponding foreign currencies amount.

For each transaction mentioned above, whether it was carried out on an arm's length basis and the procedure undertaken or which will be undertaken to ensure that such a transaction will be carried out on an arm's length basis.



- (xiv) Conflicts of interest
- A. Details of the direct and indirect interests of directors and substantial shareholders in—
- Other businesses and corporations carrying on a similar trade as the applicant/group; and
  - Other businesses and corporations which are the customers or suppliers of the applicant/group.
- B. Whether their interests in these other businesses and corporations would give rise to a situation of conflict of **interest with the applicant/group's business and steps** taken to address such conflicts; and
- C. **Declaration of any expert's existing and potential** interests/ conflicts of interest in an advisory capacity (if any) vis-à-vis the applicant/group. If a conflict of interest exists, to provide information on the nature of the conflict and the steps taken to address such conflicts should be provided;
- (xv) Information on all pending or threatened material litigation and arbitration, and any fact likely to give rise to any proceeding which may materially affect the business/financial position of the applicant or any of its subsidiaries;
- (xvi) Information on any contingent liabilities as at the latest practicable date, including assessment and disclosure of specific impact on financial performance and position upon becoming enforceable;
- (xvii) Information on any material adverse change in the financial or trading position of the applicant/group since the date to which the last audited financial statements of the corporation have been made up; and
- (xviii) Schedule of compliance with the above information/documentary requirements.

All accompanying documents furnished which are in the language other than Bahasa Malaysia or English should be accompanied by an English translation confirmed by the applicant or the adviser as being an accurate translation of the original documents.

**PART V**  
**SCHEDULES**



## Schedule 1

### DECLARATION BY THE APPLICANT

The Chairman  
Securities Commission

Dear Sir

#### **APPLICANT ...(Name of applicant)...** **Declaration Under Paragraphs 3.05 and 9.02 of the Equity Guidelines**

We, ...(Name of applicant)...are proposing to undertake the following proposals:

.....  
.....  
.....

2. Save as otherwise disclosed in the attachment accompanying this declaration, ...(name of applicant)... has not been—
  - (a) convicted or charged with any offence under the securities laws, corporations laws or other laws involving fraud or dishonesty in a court of law, for the last ten years/since incorporation (if less than ten years) \* prior to the submission; and
  - (b) subjected to any action by the stock exchange for any breach of the listing requirements or rules issued by the stock exchange, for the past five years prior to the submission.
3. I make this declaration as ...(designation of director)... of ...(name of applicant)... under the authority granted to me by a resolution of the board of directors on ...(date of resolution)...

Yours faithfully,

... Signature )...  
Name of signatory:  
Name of applicant:  
Date:

---

\* To delete if not applicable.

**Schedule 2**

**DECLARATION BY A DIRECTOR OF THE APPLICANT**

The Chairman  
Securities Commission

Dear Sir

**APPLICANT ...(Name of applicant)...  
Declaration Under Paragraphs 3.06 and 9.02 of the Equity Guidelines**

...(Name of applicant).... is proposing to undertake the following proposals:

.....  
.....  
.....

(hereinafter referred to as "the Proposal").

- 2. Save as otherwise disclosed in the attachment accompanying this declaration, I declare that-
  - (a) I am not an undischarged bankrupt nor am I presently subject to any proceedings under bankruptcy laws;
  - (b) I have never been charged with, convicted for or compounded for any offence under securities laws, corporations laws or any other laws involving fraud or dishonesty in a court of law; and
  - (c) no action has ever been taken against me for any breach of the listing requirements or rules issued by the stock exchange for the past five years prior to the submission of the above Proposal to the SC.
  
- 3. I make this declaration as part of the application by ...(name of applicant)... to the SC for approval to implement or carry out the Proposal.

Yours faithfully

..... ( Signature ).....  
Name of director:  
NRIC No:  
Name of applicant:  
Date:

\* To delete if not applicable.

**PART VI**  
**PRACTICE NOTES**



## **PRACTICE NOTE 1**

Issued pursuant to Chapters 1, 5, 7 and 8

### **Introduction**

This Practice Note is issued to clarify the qualitative aspects relating to assessment by a principal adviser on the suitability of an applicant seeking listing on Bursa Securities.

### **Suitability for listing**

1. In assessing suitability for listing, the principal adviser must make all reasonable due diligence enquiries into all relevant aspects of the applicant.
2. For applicants other than SPACs, the principal adviser may take into consideration, amongst others, the following factors:
  - (a) **The applicant's corporate governance structure and record;**
  - (b) **The applicant's business attributes which may include—**
    - (i) **the applicant's involvement in a profitable and growth industry;**
    - (ii) the barriers to entry in the industry which the applicant operates;
    - (iii) **the market size for the applicant's principal products/services;**
    - (iv) the range of products/services of the applicant including any quality recognition and/or established brand name;
    - (v) **the applicant's presence in diversified markets with strong customer base and/or long-term business relationships/long-term contracts with customers;**
    - (vi) **the applicant's human resources and skilled workforce;**
    - (vii) the source of supply of materials/services **required in the applicant's** operations; and
    - (viii) the prospects for growth in revenue and profit generated by the core business.



## **PRACTICE NOTE 2**

Issued pursuant to Chapters 5, 6, 7 and 8

### **Introduction**

This Practice Note is issued to clarify the term core business referred to in these guidelines.

### **Core Business**

Generally, the core business of a corporation may be determined and distinguished by considering the following factors:

- (a) The economic sector/sub-sector and industry the corporation is mainly involved in;
- (b) The nature of its principal products and services;
- (c) The nature of its production processes;
- (d) The type or class of customers for the products and/or services;
- (e) The methods used to distribute the products or provide the services;
- (f) The allocation of resources including management time and efforts; and
- (g) Where applicable, the nature of the regulatory environment governing the business.

## **PRACTICE NOTE 3**

Issued pursuant to Chapter 7

### **Introduction**

This practice note is issued to clarify the provisions on percentage ratios.

### **Computation of percentage ratios**

1. The listed corporation's net assets figure used in the computation of the ratios must be based on—
  - (a) the latest available published audited consolidated financial statements, if the acquisition is announced within the first six months after the audited financial statements are given to Bursa Securities for public release; and
  - (b) the latest available announced quarterly consolidated results, in all other cases.
2. Where the asset to be acquired is not an interest in another listed corporation, the net assets figure used in the numerator must be based on the latest available published audited financial statements of the subject asset.
3. The listed corporation's revenue and after-tax profit figures used in the computation of the ratios must be based on the latest available published audited consolidated financial statements, or the latest available announced 12-month quarterly consolidated results, whichever is more up to date. In addition—
  - (a) if the asset to be acquired is an interest in another listed corporation, the revenue and after-tax profit figures used in the numerator must be based on the latest available published audited consolidated financial statements, or the latest available announced 12-month quarterly consolidated results, whichever is more up to date; and
  - (b) if the asset to be acquired is not an interest in another listed corporation, the revenue and after-tax profit figures used in the numerator must be based on the latest available published audited financial statements of the subject asset.
4. The net assets, revenue and after-tax profit figures used in the computation of the ratios may be adjusted to take into account subsequent completed acquisitions which have a highly significant impact on the financial position of the listed corporation. Such adjustments must be reviewed by a firm of chartered accountants.
5. In computing the percentage ratios based on net assets, revenue and after-tax profits, the numerator of these ratios must be in proportion to the listed corporation's direct interest in the assets being acquired.

6. In computing the percentage ratios, acquisition transactions that are entered into during the 12 months prior to the date of the latest transaction must be aggregated with the latest transaction if they–
  - (a) are entered into by a listed corporation with the same person or with persons connected with one another;
  - (b) involve the acquisition of securities or interest in one particular corporation; or
  - (c) together lead to substantial involvement in a business activity which did not previously form a part of the listed corporation's core business.
7. Where any of the percentage ratios computed is a negative figure, Chapter 7 may still be applicable to the transaction at the discretion of the SC, and listed corporations are to consult the SC.

### **Consideration to revenue ratio**

8. For acquisition of assets through a non wholly-owned subsidiary company, the revenue attributable to the assets being acquired will form the numerator. For clarity, the revenue attributable to that asset must not be in proportion to the listed corporation's interest in the revenue.

### **Consideration to market value ratio**

9. The market value of the ordinary shares of the listed corporation must be determined based on the weighted average market price of the ordinary shares for five market days prior to the date on which the terms of the acquisition are agreed upon.

## **PRACTICE NOTE 4**

Issued pursuant to Chapters 5, 6 and 7

### **Introduction**

This practice note is issued to provide requirements on the administrative and procedural aspects of a placement exercise.

### **Placement of securities**

1. The principal adviser or any other placement agent must not retain any securities being placed for its own account, except under the following circumstances:
  - (a) Where such securities are taken up pursuant to an underwriting agreement (in the event of an under-subscription); or
  - (b) Where such securities being retained are over and above the total number of securities required to be in the hands of general public to meet the shareholding spread requirements of Bursa Securities at initial listing. The retention of securities for the purposes of this paragraph must not result in the principal adviser or placement agent holding, whether directly or indirectly, 5% or more of the enlarged issued and paid-up capital of the applicant.
  
2. Securities may not be placed with persons connected to the placement agent, except under the following circumstances:
  - (a) Where such persons connected to the placement agent are—
    - (i) statutory institutions managing funds belonging to general public; or
    - (ii) entities established as collective investment schemes that are considered to represent general public;or
  - (b) Where the placement is made pursuant to a book-building exercise, in which case—
    - (i) the placement agent/book-runner must establish internal arrangements to prevent the persons connected to it from accessing the book;
    - (ii) the placement agent/book-runner must fully inform the applicant/listed corporation and obtain the applicant's/listed corporation's consent before inviting persons connected to it to bid for the securities;
    - (iii) the persons connected to the placement agent/book-runner must disclose to the placement agent/book-runner and the applicant/listed corporation the bid amounts which they have put in for their own/proprietary account or customer account, as applicable; and

- (iv) the allocation to the persons connected to the placement agent/book-runner must be consistent with the allocation policy that has been communicated to and agreed upon by the applicant/listed corporation, including the amount of securities to be allocated to a single party.
3. The aggregate amount of securities placed with persons connected to the placement agent must not be more than 25% of the total amount of securities made available for placement by the placement agent.
4. Placement of securities by an applicant seeking listing may not be made to—
  - (a) directors, existing shareholders or chief executive of the applicant or persons connected to them (whether in their own names or through nominees), except for restricted offers under paragraph 5.21; and
  - (b) nominee corporations unless the names of the ultimate beneficiaries are disclosed.
5. For the purposes of meeting shareholding spread where shares are issued as consideration for a proposal which results in a significant change in the business direction or policy of a listed corporation, placement of shares may not be made to—
  - (a) interested persons of the listed corporation or persons connected to them (whether in their own names or through nominees), except under a restricted offer on a pro rata basis to all shareholders of the listed corporation; and
  - (b) nominee corporations unless the names of the ultimate beneficiaries are disclosed.
6. As soon as practicable after the placement and prior to the listing of the applicant, the principal adviser must submit to the SC the following:
  - (a) The final list (broken down by each placement agent) setting out the names, home/business addresses, identity card/passport/company registration numbers, occupations/principal activities and Central Depository System (CDS) account numbers of all the placees and the ultimate beneficial owners of the securities placed (in the case where the placees are nominee corporations or funds), and the amount and price of securities placed with each placee; and
  - (b) A confirmation from the principal adviser that to the best of its knowledge and belief, after having taken all reasonable steps and made all reasonable enquiries, the details set out in the final list of placees in subparagraph (a) above are accurate and the placement exercise complies with the requirements on placement as stated herein.
7. The information on the ultimate beneficiaries of the securities as required in paragraph 4(a) need not be submitted for the following types of placees:
  - (a) Statutory institutions managing funds belonging to general public;

- (b) Unit trust funds or prescribed investment schemes approved by the SC; and
- (c) Collective investment schemes which are authorised, approved or registered investment schemes incorporated, constituted or domiciled in a jurisdiction other than Malaysia and regulated by the relevant regulatory authority in that jurisdiction, subject to the principal adviser confirming to the SC that such schemes have been duly authorised, approved or registered.

## **PRACTICE NOTE 5**

Issued pursuant to Chapter 5 (Chain listing requirements)

### **Introduction**

This practice note is issued to clarify some of the factors that shall be taken into consideration by a principal adviser in assessing how an already-listed corporation will be able to sustain its listing in a chain listing situation pursuant to paragraph 5.09(d).

### **Sustainability of listing**

1. In assessing the sustainability of listing of an already-listed corporation in a chain listing situation, the principal adviser should take into consideration, among others, the following factors:
  - (a) The ability of the already-listed corporation to meet the profit test requirements, excluding its interest in the applicant, of an aggregate after-tax profit of at least RM20 million in the past three to five full financial years and an after-tax profit for the most recent financial year of at least RM6 million as set out in subparagraph 5.02(a)(i);
  - (b) Whether the already-listed corporation has a healthy financial position, excluding its interest in the applicant, with—
    - (i) sufficient level of working capital to fund its continuing operations for at least 12 months from the date of submission to the SC; and
    - (ii) positive cash flow from operating activities based on its latest audited statement of cash flows at the time of submission to the SC; and
  - (c) Continuity of substantially the same management for at least three full financial years prior to submission to the SC.
2. In addition to the above, the already-listed corporation should ensure that the following requirements are met:
  - (a) The chain listing will not detrimentally affect the interests of the shareholders of the already-listed corporation;
  - (b) A statement should be made by the board of directors of the already-listed corporation on the rationale for the chain listing exercise; and
  - (c) The shareholders of the already-listed corporation should be given an assured entitlement to any offering of existing or new shares in the applicant. The percentage of shares in the applicant to be allocated to the assured entitlement tranche should be determined by the directors of the already-listed corporation and all shareholders of the already-listed corporation should be treated equally.

## **PRACTICE NOTE 6**

Issued pursuant to Chapter 6

### **Introduction**

This practice note is issued to clarify certain factors that are to be taken into consideration in assessing the suitability for listing of a SPAC and certain provisions relating to the qualifying acquisition by a SPAC.

### **Pre-submission consultation**

1. Applicants and advisers for SPAC listing proposals should consult the SC prior to making any listing application.
2. The pre-submission consultation gives both applicants and advisers an opportunity to consult and seek guidance from the SC on the application of these guidelines and is not intended to replace careful consideration of the relevant requirements by applicants and advisers, or replace due diligence required of the parties.
3. The pre-submission consultation will not provide an indication as to whether the SC will approve the listing of the SPAC. The quality and completeness of the information provided to the SC is key in ensuring that such consultations are meaningful.

### **Suitability for listing**

4. In assessing suitability for listing, the principal adviser must make all reasonable due diligence enquiries into all relevant aspects of the applicant.
5. In demonstrating the suitability of a SPAC for listing under paragraph 6.03, the principal adviser must consider the SPAC proposal holistically and take into consideration that such factors are aligned to the following:
  - (a) The business objective and strategy of the SPAC; and
  - (b) The potential returns to investors.
6. A SPAC listing proposal must be structured in a manner that ensures that the interest of the management team is aligned with the interest of public investors.

### ***Experience and track record of the management team***

7. The SPAC management team, as a whole, must possess the appropriate experience and track record which demonstrate that it will be capable of



identifying and evaluating acquisition targets, completing the qualifying acquisition and managing the company sustainably based on the business strategy outlined in the prospectus. The principal adviser must demonstrate that the management team has the requisite collective experience and track record, which include having—

- (a) sufficient and relevant technical and commercial experience and expertise;
- (b) relevant experience as directors or key management of companies listed on a stock exchange with standards at least equivalent to those of Bursa Securities;
- (c) positive track record in companies within the same industry and business activity evidenced by **a management team member's** contribution to the growth and performance of such companies (including ability to deal with the relevant risks relating to the business operations);
- (d) ability to locate and develop appropriate acquisition opportunities for companies; and
- (e) positive corporate governance and regulatory compliance history.

***Nature and extent of management team's compensation, and management team's ownership in the SPAC***

8. The rewards to be enjoyed by the management team, both in terms of quantum and timing, must not be disproportionate to the expected shareholder value creation and the timing of such value creation.
9. Where SPAC securities are issued to the management team at an effective price which is at a discount to the price at which the securities are offered under the initial public offering, the applicant must demonstrate that the level of such discount is commensurate with the business strategy and/or expected returns of the SPAC.
10. There must be sufficient disclosure in the prospectus for investors to make an informed decision on whether the level of discount on the securities issued to the management team and the proposed timing of the realisation of their rewards through the sale of the discounted securities are appropriate, taking **into consideration the SPAC's business strategy and the management team's** contributions.

**Management of initial public offering proceeds**

11. The gross proceeds raised from the initial public offering must be sufficient to undertake a qualifying acquisition which will—

- (a) enable the SPAC to have a core business with sufficient size and scale relative to the industry in which the business operates; and
- (b) offer reasonable returns to investors based on the equity capital employed, relative to industry returns.

***Percentage of proceeds placed in trust***

12. Whilst paragraph 6.21 stipulates a minimum quantum of 90%, the applicant is to make every effort to place a higher quantum of the initial public offering proceeds in the trust account.

***Management of proceeds not held in trust***

13. For the amount of proceeds not placed in the trust account, the applicant must demonstrate why it requires such an amount for the permitted purposes under paragraph 6.24. This information must also be disclosed in the prospectus.
14. Remuneration for the management team and their related parties under paragraph 6.24, which must not be paid from the initial public offering proceeds, would include any of, but would not be limited to, the following:
- (a) Salaries;
  - (b) Consulting fees;
  - (c) **Management contract fees or directors' fees;**
  - (d) **Finder's fees;**
  - (e) Loans;
  - (f) Advances;
  - (g) Bonuses;
  - (h) Deposits and similar payments.
15. Generally, the following would be considered as part of operating costs, and costs relating to funding the search for a target business and completing the qualifying acquisition under paragraph 6.24:
- (a) Expenses related to identification and evaluation of the qualifying acquisition (including reasonable expenses for travel and accommodation);
  - (b) Expenses related to obtaining regulatory and shareholders approvals;
  - (c) Expenses related to compliance with regulatory requirements (such as audit and statutory fees); and
  - (d) Reasonable expenses for office overheads.

## **Moratorium**

16. In demonstrating the appropriateness of the moratorium under paragraph 6.16, the principal adviser must ensure that the timing of the realisation of **the management team's rewards dovetails with the** value creation by the management team for investors and/or the successful implementation of the **SPAC's** business strategy as disclosed in the prospectus.
17. The SC, in approving the qualifying acquisition, may impose a condition for an extended moratorium period on the sale of securities held by the management team.

## **Qualifying acquisition**

18. A SPAC proposing to undertake a qualifying acquisition of business(es) with a long gestation period or high levels of uncertainty must demonstrate that such proposal is not detrimental to the interest of investors and that the management team is committed to the company until such time that the business objective is achieved.

### ***Payment of monies to holders of voting securities who vote against a qualifying acquisition***

19. In complying with the requirement under paragraph 6.25(b), the SPAC must specify, in the circular to shareholders in relation to the qualifying acquisition, the timeframe for payment to holders of securities electing to exchange their securities. The SPAC must also demonstrate that this timeframe is reasonable, including providing details of all milestones/steps to be taken.

### ***Majority ownership and management control***

20. In complying with the management control requirement under paragraphs 6.32 and 6.33, the SPAC must demonstrate that it will have control over the following:
  - (a) The strategic and financial decisions of the business(es) to be acquired, whether joint or otherwise; and
  - (b) The operations of the business(es) to be acquired.

### ***Aggregate fair market value of qualifying acquisition***

21. The requirement for the aggregate fair market value of at least 80% of the aggregate amount on deposit in the trust account under paragraph 6.34 refers to the fair market value and the amount on deposit at the time the transaction was entered into.