



**Suruhanjaya Sekuriti**  
Securities Commission  
Malaysia

# GUIDELINES ON THE OFFERING OF EQUITY AND EQUITY-LINKED SECURITIES FOR THE MESDAQ MARKET

# **GUIDELINES ON THE OFFERING OF EQUITY AND EQUITY-LINKED SECURITIES FOR THE MESDAQ MARKET**

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**PART I  
GENERAL**

## Chapter 1

### INTRODUCTION

#### Purpose of Guidelines

- 1.01 In line with the national aspiration to promote a science and technology base for Malaysia, the MESDAQ Market was established to provide a platform for technology-based and high-growth companies that may not have an established profit track record to raise funds from the capital market. The MESDAQ Market facilitates the intermediation of capital for such companies to fund their business development and realise their business plans.
- 1.02 The Securities Commission (SC) has formulated the *Guidelines on the Offering of Equity and Equity-linked Securities for the MESDAQ Market* under section 377 of the *Capital Markets and Services Act 2007* (CMSA), setting out the requirements for the following proposals under section 212 of the CMSA:
  - (a) Listings of companies and quotations of securities on the MESDAQ Market;
  - (b) Issues and offerings of equity and equity-linked securities of companies seeking listing or listed on the MESDAQ Market; and
  - (c) Acquisitions or disposals of assets which result in a significant change in the business direction or policy of companies listed on the MESDAQ Market.
- 1.03 Any proposal falling under paragraph 1.02 which also involves the issuance of debentures must comply with the *Guidelines on the Offering of Private Debt Securities* and/or the *Guidelines on the Offering of Asset-backed Securities* issued separately by the SC, as applicable.

#### General Principles

- 1.04 The principles on which these guidelines are based embrace the interests of listed companies, the provision of investor protection and maintenance of investor confidence, as well as the need to protect the



reputation and integrity of the 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 all such information in which security holders, investors and the SC have legitimate interest and which they would reasonably require for the purpose of making an informed assessment of the issuer, the proposals and the securities being offered;
- (c) Issuers and their advisers should ensure that information disclosed is accurate and complete and, where appropriate, allows for ready comparison with similar information;
- (d) Issuers and their directors, officers and advisers must maintain the highest standards of corporate governance, integrity, accountability and responsibility;
- (e) Directors of an issuer must act in the interests of shareholders as a whole, particularly where a related party has a material interest in a transaction entered into by the issuer;
- (f) All holders of securities should be treated fairly and equitably, and must be consulted on matters of significance; and
- (g) Proposals undertaken by issuers should not undermine national interests.

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. In circumstances not explicitly covered, in making its decision, the SC will have regard for the general principles outlined in paragraph 1.04 where applicable for specific proposals submitted for the SC's consideration.

## Consideration of Proposals

- 1.06 The SC may approve proposals with revisions and/or subject to terms and conditions as it deems fit, or may reject proposals. If the approval of the SC is conditional, the applicant and the relevant parties involved in the proposals must comply with the conditions. This includes compliance with the *Listing Requirements of Bursa Malaysia Securities Berhad for the MESDAQ Market*.
- 1.07 The SC may revoke or revise an approval, or impose further terms and conditions on an approved proposal.
- 1.08 The SC may exempt or, upon application, grant waivers from compliance with any requirement of these guidelines.

## Practice Notes and Amendments to Guidelines

- 1.09 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.
- 1.10 These guidelines (including the practice notes and any other accompanying documents) may be reviewed as and when necessary.

## Compliance with and Enforcement of Guidelines

- 1.11 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

In these guidelines, unless the context otherwise requires,–

adviser	means a person who provides advice to an applicant in connection with a proposal submitted to the SC under these guidelines.
after-tax profits	means profits after taxation and after–  (a) adjusting for profits or losses attributable to minority interest; and  (b) excluding profits or losses generated from non-recurring items or by activities or events outside the ordinary and usual course of business.
applicant	refers to a company whose securities or proposals are the subject of an application under these guidelines.
assets	means all types of assets, including securities and business undertakings.
Bursa Securities	means Bursa Malaysia Securities Bhd.
chief executive officer	has the meaning given in the MESDAQ Market Listing Requirements.
CMSA	means <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 4 of the <i>Companies Act 1965</i> .

controlling shareholder	means any person who is or a group of persons who are together entitled to exercise or control the exercise of at least 30% (or such other amount as may be prescribed in the <i>Malaysian Code on Take-Overs and Mergers</i> as being the level for triggering a mandatory general offer) of the voting shares in a company or who is or are in a position to control the composition of a majority of the board of directors of the company.
core business	means the business which provides the principal source of operating revenue and profits to a company on a sustainable basis as a going concern, and which comprises the principal activities of the company.
debenture	has the meaning given in section 2 of the CMSA.
director	has the meaning given in section 2 of the CMSA.
distressed listed company	means a listed company referred to as an "Affected Listed Company" under paragraph 8.16 and Guidance Note 3/2006 of the MESDAQ Market Listing Requirements.
early-stage companies	in relation to investee companies of a technology incubator, means unlisted companies from the seed stage up to pre-initial public offering stage of development.
expert	has the meaning given in subsection 212(1) of the CMSA.
forecast	means any forecast of profits/losses or cash flow, and includes any statement which quantifies the anticipated level of future profits/losses or cash flow, and also includes profits/losses or cash flow for a financial period which has expired but for which the results have yet to be audited.

general public	means the general public within 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 MESDAQ Market Listing Requirements.
interested persons	includes directors, major shareholders and chief executive officer.
investee companies	means companies under the investments of a technology incubator.
investment	in relation to a technology incubator, means an investment of not less than 5% of the issued and paid-up capital of an investee company.
issuer	has the meaning given in section 2 of the CMSA.
listed company	means a company listed on the MESDAQ Market.
major shareholder	has the meaning given in the MESDAQ Market Listing Requirements.
market day	means a day on which the MESDAQ Market is open for trading in securities.
MESDAQ Market	means the MESDAQ Market of Bursa Securities.
MESDAQ Market Listing Requirements	means the <i>Listing Requirements of Bursa Malaysia Securities Berhad for the MESDAQ Market</i> .
NDP	means the National Development Policy.
offer for sale	means an invitation by, or on behalf of, an existing holder to purchase securities of the issuer already in issue or allotted.

person	has the meaning given in the MESDAQ Market Listing Requirements.
persons acting in concert	has the meaning given in subsections 216(2) and (3) of the CMSA.
person connected	has the meaning given in the MESDAQ Market Listing Requirements.
predominantly foreign-based operations	<p>means a situation where an issuer–</p> <ul style="list-style-type: none"><li>(a) has more than 50% of its total tangible assets situated outside Malaysia; or</li><li>(b) derives more than 50% of its after-tax profits from assets and/or operations held outside Malaysia,</li></ul> <p>based on audited financial statements for the latest financial year.</p>
principal adviser	means the adviser responsible for making submissions to the SC for proposals under these guidelines.
promoters	means controlling shareholders, person connected to controlling shareholders and executive directors who are substantial shareholders of the issuer.
property assets	means all rights, interests and benefits related to the ownership of real estate, plant, machinery, equipment and intangible assets.
public	has the meaning given in the MESDAQ Market Listing Requirements.
real estate	means land and all things which are a natural part of the land as well as all things attached to the land both below and above the ground.

related party	has the meaning given in the MESDAQ Market Listing Requirements.
related-party transaction	has the meaning given in the MESDAQ Market Listing Requirements.
restricted offer for subscription	means an invitation to an identifiable group or pool of investors by, or on behalf of, an issuer to subscribe for securities of the issuer not yet in issue or allotted.
RM	means ringgit Malaysia.
SC	means the Securities Commission.
shareholding spread	has the meaning given in the MESDAQ Market Listing Requirements.
significant change in the business direction or policy of a listed company	has the meaning given in Chapter 6.
sponsor	has the meaning given in the MESDAQ Market Listing Requirements.
subsidiary company	has the same meaning as subsidiary 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> .
technology incubator	means a company which is engaged primarily in the business of—  (a) investing in early-stage companies; and  (b) providing value-added services to the said companies.
transaction	has the meaning given in the MESDAQ Market Listing Requirements.

valuation report	means any report on the value of any asset.
value-added services	<p>in relation to a technology incubator, means the services provided by the technology incubator that contribute to the development and growth of its investee companies. Such services may include the provision of–</p> <ul style="list-style-type: none"><li>(a) physical operating space;</li><li>(b) shared support services and equipment;</li><li>(c) hands-on management assistance (e.g. financial, legal, advertising, marketing, etc.); and/or</li><li>(d) other services that may be deemed to be adding value to the investee companies.</li></ul>



## Chapter 3

### CORPORATE GOVERNANCE

- 3.01 An applicant submitting proposals to the SC is expected to have good corporate governance practices.
- 3.02 The SC, in considering whether or not to approve a proposal, would take into account the applicant's corporate governance record, including whether or not there have been previous actions taken against the applicant for any breach of relevant laws, these guidelines or any other guidelines or rules issued by the SC and/or Bursa Securities, or for failure to comply with any written notice or condition imposed by the SC.
- 3.03 An applicant is required to declare to the SC, in the form stipulated in Schedule 1, as to whether it has been—
- (a) convicted or charged in a court of law with any offence under the securities laws, corporations laws or any other law involving fraud or dishonesty, for the last 10 years prior to the submission to the SC; and
  - (b) subject to any action by Bursa Securities for any breach of the listing requirements or rules issued by Bursa Securities, during the last five years prior to the submission to the SC.
- 3.04 Directors of public companies 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 directors. Hence, 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 a director, in the form stipulated in Schedule 2.
- 3.05 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) The 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.
- 3.06 For proposals on initial public offering or acquisition, the applicant is required to disclose all material terms and conditions imposed by 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 if there is non-compliance with these terms and conditions.
- 3.07 For proposals on initial public offering or acquisition which results in a significant change in the business direction or policy of a listed company, the applicant must provide in the submission to the SC a confirmation on compliance with the relevant laws, regulations and rules governing the applicant and its subsidiary companies. For taxation, up-to-date submissions of tax returns and settlement of tax liabilities with the tax authorities are required for the following:
- (a) The applicant;
  - (b) The applicant's subsidiary companies and proposed subsidiary companies; and
  - (c) The applicant's directors and proposed directors.

For all other proposals, the applicant is required to disclose in the submission to the SC whether or not submission of tax returns and settlement of tax liabilities have been made for the applicant and its subsidiary companies and proposed subsidiary companies.

# **PART II POLICY GUIDELINES**

## Chapter 4

### INITIAL PUBLIC OFFERINGS AND LISTINGS

4.01 This chapter sets out the requirements for initial public offerings and listings on the MESDAQ Market. In assessing the suitability of an applicant for listing on the MESDAQ Market, the SC will take into consideration the applicant's level of compliance with all applicable requirements set out in these guidelines, and other relevant qualitative aspects of the applicant.

#### Business Activity

4.02 An applicant must have an identifiable and focused core business of which it has majority ownership and management control. Where there are multiple business activities, such business activities must be substantially related and complementary to each other. In particular, an applicant must be involved in–

- (a) technology-based business activities;
- (b) the business of a technology incubator; or
- (c) other high-growth business activities which are suitable for listing on the MESDAQ Market.

4.03 The SC will give priority to an applicant which is involved in technology-based business activities. In every case, the SC will determine if an applicant is involved in technology-based business activities.

4.04 An applicant which is a technology incubator should–

- (a) have investments in companies which are involved in technology-based business activities;
- (b) have clear investment strategies and focus;
- (c) have at least 50% of its total investment in early-stage companies at point of submission; and
- (d) emphasise on the provision of value-added services (in addition to the provision of physical operating space) to its investee companies.

- 4.05 Property development companies, property investment companies, construction companies, financial services companies, trading/retailing companies, shipping/transportation companies and infrastructure project companies which are allowed to seek listing only on the Main Board of Bursa Securities under subparagraph 5.46(a) of Chapter 5 of the *Guidelines on the Offering of Equity and Equity-linked Securities* are not eligible to seek listing on the MESDAQ Market.

### **Issued and Paid-up Capital**

- 4.06 Save for the requirement in paragraph 4.07, an applicant must have an issued and paid-up share capital of at least RM2 million upon listing on the MESDAQ Market.
- 4.07 An applicant which is a technology incubator must have an issued and paid-up share capital of at least RM20 million upon listing on the MESDAQ Market.
- 4.08 The issued and paid-up capital of the applicant must not include shares issued by way of the capitalisation of surplus arising from the revaluation of plant, machinery and equipment of the applicant or its group.

### **Preference Shares, Warrants, Options and Convertible Securities**

- 4.09 An applicant is allowed to issue and list any securities as part of its listing scheme, including preference shares, warrants, options, convertible securities and debt securities. For issues of warrants and convertible securities, the applicant must comply with the requirements set out in paragraphs 5.16 to 5.22 of Chapter 5.
- 4.10 The exercise/conversion price of warrants, options or convertible securities issued prior to or as part of the listing scheme must not be lower than the price of the ordinary shares of the applicant offered to the public under the initial public offering.

### **Operating History**

- 4.11 An applicant involved in technology-based business activities must have commenced operations and have commercialised the principal products and/or services under its core business.

- 4.12 An applicant which is a technology incubator must have commenced its business operations for at least twelve months, and have its financial statements for the said twelve months audited, prior to submitting its listing application to the SC.
- 4.13 All other applicants must have been in operations and have generated operating revenues from their core businesses for at least three full financial years based on audited financial statements, prior to submitting their listing applications to the SC.

### **Foreign-based Operations**

- 4.14 An applicant with predominantly foreign-based operations is allowed to seek listing on the MESDAQ Market if it is able to demonstrate the benefits accruing to Malaysia from its listing.

### **Management Continuity and Capability**

- 4.15 An applicant should have had continuity of substantially the same management at the level of executive directors and senior management for three full financial years prior to submitting its listing application to the SC or since the commencement of its core business (if less than three full financial years).
- 4.16 In addition, the applicant must demonstrate the expertise and experience of its directors and management in ensuring the effective operation of its business. Thus, the principal adviser must provide an opinion on whether–
- (a) the applicant has established procedures, systems and controls (including accounting and management systems) which are adequate and comply with these guidelines and other relevant legal and regulatory requirement, and which are sufficient for the applicant's directors to make a proper assessment of the financial position and prospects of the applicant and its subsidiary companies, both before and after listing; and
  - (b) the directors of the applicant collectively have the experience, qualifications and competence to manage the applicant's business and comply with these guidelines, and individually have the experience, qualifications and competence to perform their individual roles, including an understanding of the nature

of their obligations and those of the applicant under these guidelines and other legal or regulatory requirements relevant to their roles.

## **Financial Position and Liquidity**

- 4.17 An applicant must be in a healthy financial position, with positive cash flow from operating activities and sufficient working capital at the point of listing.

## **Valuation of Assets**

- 4.18 Where the listing proposal involves an acquisition of assets, the valuation of the assets and purchase consideration for the acquisition must be appropriately justified and adequately substantiated.
- 4.19 The SC reserves the right to seek a second-opinion valuation if it considers the valuation submitted to be unreasonable or not well-supported. Where a second-opinion valuation is obtained, the applicant–
- (a) must adopt the lower of the two valuations to be used as the basis for the purchase consideration for the acquisition;
  - (b) must not make up the difference in the two valuations with internally-generated funds or borrowings; and
  - (c) must disclose both valuations in the prospectus.

## **Business Model, Business Plan and Prospects**

- 4.20 The core business of the applicant must be viable and must have healthy growth prospects. The applicant should demonstrate a clear business model, a feasible three-year business development plan and the necessary resources to implement and achieve the business plan.
- 4.21 The growth prospects of the applicant should be derived from the same core business that supports its operating record.

## **Independence of Business**

- 4.22 The core business of the applicant should not be the holding of investments in other listed companies.

## **Chain Listing**

- 4.23 Chain listing is a term used to describe a situation where a subsidiary or a holding company of a company already listed on the Main Board, Second Board or MESDAQ Market of Bursa Securities is seeking listing on its own. In such a situation, the following requirements must be met by the applicant, except in the case where the applicant is seeking listing as a technology incubator:
- (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 companies within the holding company's group must not give rise to intra-group competition or conflict-of-interest situations;
  - (c) The applicant should demonstrate that it is independent from the already-listed company and other companies within the group in terms of its operations, including purchases and sales of goods, management, management policies and finance;
  - (d) The already-listed company 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 company 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.

## **Conflict of Interest**

- 4.24 Prior to listing, an applicant must resolve, eliminate or mitigate all situations of conflict of interest between the applicant and its interested persons. The SC may regard an applicant as unsuitable for listing if



there are conflict-of-interest situations which are not satisfactorily addressed.

- 4.25 In this regard, an applicant is required to–
- (a) assess all aspects of its business to determine whether there are conflict-of-interest situations; and
  - (b) declare the nature and extent of the conflicts of interest (if any) and submit a proposal to resolve, eliminate or mitigate such conflicts to the SC.
- 4.26 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.

## **Transactions with Related Parties**

- 4.27 Transactions prior to listing between an applicant (or any of its subsidiary companies) and related parties must be based on terms and conditions which are not unfavourable to the applicant. The presence of related party transactions with terms and conditions unfavourable to the applicant may cause the SC to regard the applicant as unsuitable for listing.

## **Methods of Offering of Securities**

### ***General***

- 4.28 Any public offering of securities for purposes of seeking listing on the MESDAQ Market should only be through an issue of new securities. An offer for sale of securities is not allowed.
- 4.29 An applicant may distribute its securities either as a public offer, placement or book building, or a combination of these methods. The methods of offering chosen should enable the applicant to have a broad base of shareholders and comply with the shareholding spread requirement of Bursa Securities. The SC reserves the discretion to vary the methods of offering chosen by the applicant, in the interests of the securities market and public investors.

## ***Placement of Securities***

- 4.30 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.
- 4.31 Neither the principal adviser nor any other placement agent may retain any securities being placed for its own account, except under the following circumstances:
- (a) Where such securities are taken up following 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 public shareholders to meet the shareholding spread requirement of Bursa Securities. 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.
- 4.32 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 contributors or investors who are members of the public; or
    - (ii) entities established as collective investment schemes which are considered to represent public investors;or
  - (b) Where the placement is made under 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 and obtain the applicant'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 the bid amounts which they have put in for their own/proprietary account and/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 which has been communicated to and agreed by the applicant, including the amount of securities to be allocated to a single party.
- 4.33 The aggregate amount of securities placed with persons connected to the placement agent under paragraph 4.32 must not be more than 25% of the total amount of securities made available for placement by the placement agent.
- 4.34 Placement of securities may not be made to—
  - (a) directors or existing shareholders of the applicant or persons connected to them, except under restricted offers for subscription stated in paragraph 4.38; and
  - (b) nominee companies unless the names of the ultimate beneficiaries are disclosed.
- 4.35 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 companies 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 in these guidelines.
- 4.36 The information on the ultimate beneficiaries of the securities as required in subparagraph 4.35(a) need not be submitted for the following types of placees:
- (a) Statutory institutions managing funds belonging to contributors or investors who are members of the 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.
- 4.37 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 for Subscription***

- 4.38 Restricted offers for subscription which are undertaken as part of a listing scheme may only be made to the following groups of persons:
- (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. If the persons who have contributed to the success of the

applicant are business entities, the applicant must ensure that the securities are allocated to those business entities rather than to their officers or employees, except where the business entities are sole proprietorships or partnerships (in which case the securities may be allocated to the sole proprietor or partners); and

- (d) The shareholders of the holding company of the applicant, if the holding company is listed.

4.39 The aggregate amount of securities which may be offered to the groups of persons under subparagraphs 4.38(a), (b) and (c) should not be more than 10% of the enlarged issued and paid-up capital of the applicant upon listing or 25% of the securities offered, whichever is the lower.

### **Allocation to Bumiputera Investors**

4.40 Where there is sufficient demand from Bumiputera investors, an applicant should allocate at least 30% of the securities offered under the following circumstances to Bumiputera investors (over and above the securities issued to/reserved for Bumiputera investors to comply with the NDP requirements, where applicable):

- (a) Under an offering to the general public; and
- (b) Under a placement exercise (excluding placement exercises to fulfil the NDP requirements).

### **Pricing of Securities**

4.41 The issue price of equity securities (other than warrants and convertible securities) offered for subscription, for which a listing is sought, must be at least RM0.50 each.

4.42 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 public.

## Underwriting

- 4.43 Underwriting arrangements must be in place before the offering of securities is made, except for those securities for which–
- (a) allocations have been made to Bumiputera investors to comply with the NDP requirements;
  - (b) certain shareholders or investors have given written irrevocable undertakings to subscribe; or
  - (c) the offering is made via a book-building exercise.
- 4.44 Underwriting may be arranged on a minimum level of subscription basis as determined by an applicant based on factors, such as the level of funding required by the applicant and the extent of the shareholding spread needed.
- 4.45 The minimum level of subscription together with the basis for its determination must be disclosed in the submission to the SC and in the prospectus issued on the initial public offering.
- 4.46 The principal adviser must be the lead underwriter for the securities offered under the initial public offering and must submit the full list of underwriters, together with their respective underwriting commitments, to the SC prior to the issuance of the prospectus.

## Moratorium on Disposal of Shares

- 4.47 A moratorium should be imposed on the disposal of the promoters' shareholdings in an applicant, where the promoters will not be allowed to sell, transfer or assign their shareholdings amounting to 45% of the nominal issued and paid-up ordinary share capital of the applicant at the date of admission for one year from the date of admission of the applicant to the MESDAQ Market.
- 4.48 Thereafter, the promoters are allowed to sell, transfer or assign up to a maximum of one-third per annum (on a straight-line basis) of their respective shareholdings under moratorium.
- 4.49 Where the promoter is an unlisted company, all direct and indirect shareholders of the unlisted company (if they are individuals or other unlisted companies) up to the ultimate individual shareholders must

give undertakings that they will not sell, transfer or assign their shareholdings in the related unlisted companies for the period as stipulated above.

- 4.50 Where the promoters also own securities which 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 ordinary share capital of the applicant assuming full conversion or exercise of such securities owned by the promoters.

## Chapter 5

### ISSUES OF SECURITIES BY LISTED COMPANIES

5.01 This chapter sets out the requirements for issues and listings of equity and equity-linked securities by listed companies.

#### Issues of Securities for Cash (Other Than Rights Issues)

5.02 Where the shareholders of the issuer have, via a resolution in general meeting, given a general mandate to the directors of the issuer to issue securities, any issue of shares, warrants or other convertible securities under such general mandate must comply with the following requirements:

- (a) The nominal value of shares or convertible securities to be issued, when aggregated with the nominal value of such shares or convertible securities issued during the preceding 12 months, must not exceed 10% of the nominal value of the issued and paid-up capital of the issuer;
- (b) Shares must not be priced at more than 10% discount to the weighted average market price of the shares for the five market days immediately prior to the price-fixing date;
- (c) For issue of warrants or other convertible securities,—
  - (i) if the exercise/conversion price is fixed, such price must not be more than 10% discount to the weighted average market price of the underlying shares for the five market days immediately prior to the price-fixing date; and
  - (ii) if the exercise/conversion price is based on a formula, any discount in the price-fixing formula must not be more than 10% of the weighted average market price of the underlying shares for the five market days immediately prior to exercise/conversion;
- (d) The principal adviser must act as the placement agent for placements of securities; and



- (e) Securities must not be placed to–
    - (i) interested persons of the issuer or of the holding company of the issuer, whether in their own names or through nominees;
    - (ii) persons connected to the interested persons mentioned in sub-paragraph (i) above; or
    - (iii) nominee companies, unless the names of the ultimate beneficiaries are disclosed.
- 5.03 Where an issue of shares, warrants or other convertible securities departs from any of the applicable requirements stipulated in paragraph 5.02, the following requirements must be complied with:
- (a) The issuer must obtain the prior approval of its shareholders in a general meeting for the precise terms and conditions of the issue, in particular on–
    - (i) the persons (or class of persons in the case of a special issue of securities to Bumiputera investors to comply with the NDP requirements) to whom the securities will be issued (hereinafter referred to as “placees”);
    - (ii) the amount of securities to be placed to each placee (or class of placees in the case of a special issue of securities to Bumiputera investors to comply with the NDP requirements);
    - (iii) the issue/exercise/conversion prices of the securities or, in a situation where such prices are to be determined after the date of the shareholders’ approval, the basis or formula of determining such prices; and
    - (iv) the purposes of the issue and utilisation of proceeds;
  - (b) Where securities are issued to interested persons or persons connected to them as mentioned in subparagraphs 5.02(e)(i) and (ii), such persons must abstain from voting on the resolution approving the issue; and
  - (c) Where a placement agent is appointed for a placement of securities, the principal adviser must act as the placement agent.

- 5.04 Subject to compliance with the stated requirements, an issuer proposing to undertake an issue and placement of securities in stages over a period of time must state its intention to do so and the rationale/justification in the submission to the SC.
- 5.05 The allotment and issuance of securities must be effected as soon as possible after the price-fixing date. In any event, payment for the securities issued must be made by the placees to the issuer within five market days from the price-fixing date (except in the case of a special issue to Bumiputera investors to comply with the NDP requirements, where a longer payment period may be allowed). For issues of securities under paragraph 5.03, the price-fixing date will be taken as the date of the shareholders' approval, except in instances where the price is determined on a date subsequent to the shareholders' approval.
- 5.06 A company listed on the MESDAQ Market is prohibited from borrowing shares from its substantial shareholders to facilitate an issue of shares for cash through a back-to-back placement.
- 5.07 As soon as practicable after the issue and prior to the listing of the new securities arising from the issue, the principal adviser must submit to the SC the following:
- (a) The final list 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 issued (in the case where the placees are nominee companies or funds), and the amount and price of securities issued to each placee;
  - (b) For issues of shares, warrants or other convertible securities which depart from any of the applicable requirements stipulated in paragraph 5.02, a copy of the circular to shareholders; and
  - (c) 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 inquiries, the details set out in the final list of placees in subparagraph (a) above are accurate and the issue/placement exercise complies with the requirements as stated herein.

- 5.08 The information on the ultimate beneficiaries of the securities as required in subparagraph 5.07(a) need not be submitted for the following types of placees:
- (a) Statutory institutions managing funds belonging to contributors or investors who are members of the 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.
- 5.09 The SC reserves the discretion to require the submission of further information on the issue/placement exercise and the placees, if necessary, for the purpose of establishing the propriety of the exercise and independence of the placees.

## **Rights Issues of Securities**

- 5.10 Underwriting arrangements must be in place before the offering of securities is made to existing shareholders, other than those securities for which certain shareholders have given written irrevocable undertakings to subscribe.
- 5.11 Underwriting and/or undertakings to subscribe by the shareholders are allowed to be arranged on a minimum level of subscription basis.
- 5.12 The following requirements are applicable if certain shareholders wish to irrevocably undertake to subscribe for the securities offered under the rights issue:
- (a) The shareholders must confirm to the SC that they have sufficient financial resources to take up the securities. The confirmation must be verified by an acceptable independent party, preferably the principal adviser making the application to the SC for the rights issue; and

- (b) The shareholders must submit on how they will comply with the *Malaysian Code on Take-Overs and Mergers*, if applicable.
- 5.13 Where underwriting is arranged for the securities offered under the rights issue, the principal adviser making the application to the SC must be part of the syndicate of underwriters. The full list of underwriters, together with their respective commitments, must be submitted by the principal adviser to the SC for its records. The SC should be informed immediately if there are any subsequent changes.

### ***Two-call Rights Issues***

- 5.14 An issuer proposing to undertake a two-call rights issue of securities must ensure that the reserves required for capitalisation of the second call are unimpaired by losses at both the company level and on a consolidated basis, where applicable, based on the issuer's latest audited financial statements and latest quarterly report. The available reserves for capitalisation should be verified and confirmed by the external auditors/reporting accountants to the issuer, if the reserves are not based on the audited financial statements of the issuer.
- 5.15 An issuer undertaking a two-call rights issue by way of capitalising assets revaluation reserves for the second call must comply with the following requirements:
  - (a) Where the reserves arose from the revaluation of land and buildings, at least 20% of the valuation amount of the assets must be retained in the revaluation reserves account after the capitalisation; and
  - (b) Surplus arising from the revaluation of plant, machinery and equipment of the issuer or its subsidiary companies must not be capitalised.

### **Additional Requirements for Issues of Warrants and Convertible Securities**

- 5.16 The number of new shares which would arise from all outstanding warrants, when exercised, must not exceed 50% of the issued and paid-up capital of the issuer (before the exercise of the warrants) at all times.

- 5.17 Any step-up or step-down pricing mechanism to be incorporated in the exercise/conversion price must be determined and clearly disclosed upfront in the deed poll/trust deed and the prospectus/circular/any other offer document issued for the issue of warrants/convertible securities.
- 5.18 For warrants and listed convertible securities, the amount of step-up/step-down and the time frames for the exercise/conversion price adjustment must be determined upfront. The step-up/step-down pricing mechanisms must be set on a fixed basis, i.e. the step-up/step-down must be stated in absolute amounts/terms and must not be made conditional upon the occurrence of certain events.
- 5.19 For unlisted convertible securities, the conditions governing the step-up/step-down pricing mechanism and time frames for the conversion price adjustment must be determined upfront.
- 5.20 Deed polls and trust deeds must not include any provision for–
- (a) the extension or shortening of tenure of the warrants/convertible securities; and
  - (b) changes to the number of shares received for the exercise/conversion of each warrant/convertible security and changes to the pricing mechanism for the exercise/conversion price of the warrant/convertible security, except where these changes are adjustments following capitalisation issues, rights issue, consolidation or subdivision of shares or capital reduction exercises.
- 5.21 All provisions for changes in the terms of warrants/convertible securities during the tenure of the securities must be clearly determined and disclosed upfront in the deed poll/trust deed and the prospectus/circular/any other offer document issued for the securities.
- 5.22 Once determined, no alteration/adjustment can be made to the terms of the warrants/convertible securities during the tenure of the securities, except where such alteration/adjustment is provided upfront in the deed poll/trust deed governing the securities.

## **Issues of Securities Under Capital Reconstruction or Debt Restructuring/Settlement**

- 5.23 An issuer proposing to issue securities under a capital reconstruction or debt restructuring/settlement must justify and/or demonstrate how such a proposal would improve the business and financial conditions of the issuer.

## **Issues of Securities to Finance Acquisitions of Assets**

- 5.24 An issuer proposing to issue securities to finance a proposed acquisition of assets or refinance an acquisition of assets which was completed within one year prior to the submission to the SC must also comply with the relevant requirements set out in Chapter 6.

## Chapter 6

### ACQUISITIONS AND DISPOSALS OF ASSETS

6.01 This chapter sets out the requirements for the following:

- (a) Acquisitions of assets financed by a direct issuance of equity/equity-linked securities or by proceeds from the issuance of equity/equity-linked securities by a listed company; and
- (b) Acquisitions or disposals of assets (whether or not by way of issue of securities) which result in a significant change in the business direction or policy of a listed company.

6.02 In this chapter, unless the context otherwise requires—

acquisition or disposal includes an acquisition or a disposal of assets by a subsidiary of a listed company but exclude transactions of a revenue nature in the ordinary course of business of the listed company.

change in the board of directors of the listed company means a change within a 12-month period from the date of the transaction in—

- (a) at least one-half of the membership of the board of directors of the listed company; or
- (b) at least one-third of the membership of the board of directors of the listed company, including the chief executive officer.

percentage ratios means the figures, expressed as a percentage, resulting from each of the following computations:

- (a) The net assets value of the assets which are the subject of the transaction divided by the net assets value of the listed company;

- (b) The after-tax profits attributable to the assets which are the subject of the transaction divided by the after-tax profits of the listed company;
- (c) The aggregate value of the consideration for the subject transaction (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 company; or
- (d) For an acquisition, the number of new shares issued by the listed company as consideration for the acquisition divided by the number of shares in the listed company in issue prior to the transaction.

significant change in the business direction or policy of a listed company

means a situation where a listed company undertakes–

- (a) an acquisition of assets such that any one of the percentage ratios is equal to or exceeds 100%, except for an acquisition of current assets or property, plant, machinery and equipment which are used for the existing core business of the listed company;
- (b) a disposal of assets such that any one of the percentage ratios is equal to or exceeds 100%;
- (c) an acquisition or a disposal of assets which results in a change in the core business of the listed company within 12 months of the completion of the transaction;



- (d) an acquisition of assets which results in a change in the controlling shareholder of the listed company;
- (e) an acquisition of assets which results in a change in the board of directors of the listed company;
- (f) a restructuring exercise involving the acquisition of the listed company by another company together with the transfer of the listed company's listing status and the introduction of new assets to the other company; or
- (g) a restructuring exercise involving the disposal of assets and the transfer of listing status by the listed company to another company.

transaction means an acquisition or a disposal of assets.

6.03 In computing percentage ratios, transactions which 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 company with the same person or with persons connected with one another;
- (b) involve the acquisition or disposal of securities or interest in one particular company; or
- (c) together lead to substantial involvement in a business activity which did not previously form a part of the listed company's core business.

6.04 If the computation of any one of the percentage ratios produces an anomalous result, it should be disregarded.

## **PART A: ACQUISITIONS OF ASSETS FINANCED BY ISSUANCE OF SECURITIES**

- 6.05 An issuer proposing to issue equity or equity-linked securities to finance a proposed acquisition of assets or refinance an acquisition of assets which was completed within one year prior to the submission to the SC must comply with the following requirements:
- (a) Adequate justification of the benefits of the acquisition must be provided; and
  - (b) Valuation of the assets and purchase consideration for the acquisition must be appropriately justified and adequately substantiated.
- 6.06 The principal adviser must comment on the reasonableness of the terms and conditions of the acquisition, including the purchase consideration, in the submission to the SC.
- 6.07 The SC reserves the right to seek a second-opinion valuation if it considers the valuation submitted to be unreasonable or not well-supported. Where a second-opinion valuation is obtained, the issuer–
- (a) must adopt the lower of the two valuations to be used as the basis for the purchase consideration for the proposed acquisition (or as the basis for the refinancing of a completed acquisition);
  - (b) must not, in the case of a proposed acquisition, make up the difference in the two valuations through internally-generated funds or borrowings; and
  - (c) must disclose both valuations in the circular to shareholders or other offer documents issued on the proposal.
- 6.08 Where the assets are to be acquired from a related party,–
- (a) the principal adviser must confirm whether or not the acquisition complies with the applicable provisions pertaining to related-party transactions in the MESDAQ Market Listing Requirements; and
  - (b) a copy of the independent advice report prepared by the independent adviser appointed for the acquisition, as required under the MESDAQ Market Listing Requirements, must be included in the submission to the SC.

**PART B: ACQUISITIONS OF ASSETS RESULTING IN A SIGNIFICANT CHANGE IN THE BUSINESS DIRECTION OR POLICY OF A LISTED COMPANY**

- 6.09 An acquisition of assets (whether or not by way of issue of securities) which results in a significant change in the business direction or policy of a listed company is subject to the requirements of paragraphs 6.05, 6.06, 6.07 and 6.08, as well as the principles embodied in the requirements of paragraphs 4.22, 4.24, 4.25, 4.26 and 4.27 of Chapter 4.
- 6.10 In addition,–
- (a) where the acquisition results in a change in the core business of the listed company,–
    - (i) the new core business must be suitable for listing on the MESDAQ Market and comply with the principles embodied in the requirements of paragraphs 4.02, 4.04, 4.05, 4.11, 4.12, 4.13, 4.17, 4.20 and 4.21 of Chapter 4, where applicable; and
    - (ii) the listed company must justify that it has the expertise and resources to manage the new core business;
  - (b) where the acquisition results in a change in the controlling shareholder and/or the board of directors of the listed company, the applicant must justify to the SC that the directors and management have the experience, qualifications and competence to manage the listed company's business and perform their individual roles, including an understanding of the nature of their obligations and those of the listed company under these guidelines and other legal or regulatory requirements relevant to their roles; and
  - (c) where the subject of the acquisition is foreign-based assets, the applicant must be able to demonstrate to the SC the benefits accruing to Malaysia from the acquisition, in accordance with the principles embodied in the requirement of paragraph 4.14 of Chapter 4.

## **Placement of Shares to Meet Shareholding Spread**

- 6.11 Where shares are issued as consideration for the acquisition, the listed company must indicate whether or not it will comply with the shareholding spread requirements under the MESDAQ Market Listing Requirements on completion of the acquisition, as well as its plans to comply with such requirements if applicable.
- 6.12 Any placement of shares undertaken for the purpose of shareholding spread is subject to the following requirements:
- (a) The principal adviser must act as the placement agent (or joint placement agent, where applicable);
  - (b) Neither the principal adviser nor any other placement agent may retain any shares being placed for its own account, except for shares taken up following an underwriting agreement (in the event of an under subscription);
  - (c) Shares may not be placed with persons connected to the placement agent, except under the following circumstances:
    - (i) Where such persons connected to the placement agent are–
      - statutory institutions managing funds belonging to contributors or investors who are members of the public; or
      - entities established as collective investment schemes which are considered to represent public investors;or
    - (ii) Where the placement is made under a book-building exercise, in which case–
      - the placement agent/book-runner must establish internal arrangements to prevent the persons connected to it from accessing the book;
      - the placement agent/book-runner must fully inform the listed company and obtain the listed

company's consent before inviting persons connected to it to bid for the shares;

- the persons connected to the placement agent/book-runner must disclose to the placement agent/book-runner and the listed company the bid amounts which they have put in for their own/proprietary account and/or customer account, as applicable; and
  - the allocation to the persons connected to the placement agent/book-runner must be consistent with the allocation policy which has been communicated to and agreed by the listed company, including the amount of shares to be allocated to a single party;
- (d) The aggregate amount of shares placed with persons connected to the placement agent under subparagraph 6.12(c) must not be more than 25% of the total amount of shares made available for placement by the placement agent;
- (e) Shares may not be placed to–
- (i) interested persons of the listed company 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 company; and
  - (ii) nominee companies, unless the names of the ultimate beneficiaries are disclosed;
- and
- (f) As soon as practicable after the placement and prior to the listing of the shares, the principal adviser must submit to the SC the following:
- (i) 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 shares placed (in the case where the placees are nominee companies or funds), and the amount and price of shares placed with each placee; and

- (ii) 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 inquiries, the details set out in the final list of placees in subparagraph (i) above are accurate and the placement exercise complies with the requirements on placement as stated herein.

6.13 The information on the ultimate beneficiaries of the shares as required in subparagraph 6.12(f)(i) need not be submitted for the following types of placees:

- (a) Statutory institutions managing funds belonging to contributors or investors who are members of the 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.

6.14 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 on Disposal of Securities**

6.15 Where the acquisition of assets results in a change in the controlling shareholder or board of directors of the listed company, a moratorium is to be imposed on the disposal of the consideration securities received by the vendor of the assets, where the vendor will not be allowed to sell, transfer or assign 50% of the consideration securities for one year

from the date the securities are listed on Bursa Securities, or from the date of issue if the securities are unlisted.

- 6.16 Where the vendor of the assets is an unlisted company, all direct and indirect shareholders of the unlisted company (if they are individuals or other unlisted companies) up to the ultimate individual shareholders must give undertakings that they will not sell, transfer or assign their shareholdings in the related unlisted companies for the period stipulated above.

**PART C: DISPOSALS OF ASSETS RESULTING IN A SIGNIFICANT CHANGE IN THE BUSINESS DIRECTION OR POLICY OF A LISTED COMPANY**

- 6.17 A disposal of assets which results in a significant change in the business direction or policy of a listed company is subjected to the following requirements:

- (a) Adequate justification for the disposal must be provided;
- (b) The disposal must be done on terms and conditions which are fair to the listed company;
- (c) Valuation of the assets and disposal consideration must be appropriately justified and adequately substantiated;
- (d) The principal adviser must comment on the reasonableness of the terms and conditions of the disposal, including the disposal consideration, in the submission to the SC; and
- (e) The utilisation of proceeds raised from the disposal must be for purposes beneficial to the listed company and its shareholders and must be subjected to the prior approval of the SC.

- 6.18 The SC reserves the right to seek a second-opinion valuation if it considers the valuation submitted to be unreasonable or not well-supported. Where a second-opinion valuation is obtained, the issuer–

- (a) must adopt the higher of the two valuations to be used as the basis for the disposal consideration; and

- (b) must disclose both valuations in the circular to shareholders issued on the proposal.

6.19 Where the assets are to be disposed of to a related party,–

- (a) the principal adviser must confirm to the SC whether or not the disposal complies with the applicable provisions pertaining to related-party transactions in the MESDAQ Market Listing Requirements; and
- (b) a copy of the independent advice report prepared by the independent adviser appointed for the disposal, as required under the MESDAQ Market Listing Requirements, must be included in the submission to the SC.



## Chapter 7

### PROPOSALS BY DISTRESSED LISTED COMPANIES

- 7.01 In addition to complying with all the applicable requirements of these guidelines for the specific proposals being undertaken, all proposals by a distressed listed company must comply with the following requirements:
- (a) The proposal must be sufficiently comprehensive and capable of resolving all problems, financial or otherwise, faced by the listed company and must enable the company to regularise its condition such that it will cease to be classified as an "Affected Listed Company" under the MESDAQ Market Listing Requirements;
  - (b) The listed company must justify and demonstrate that the proposal is fair and reasonable to the company and its shareholders and will increase shareholder value; and
  - (c) Where assets are to be injected as part of a restructuring proposal, such assets must be able to provide immediate and sustainable contributions to the listed company's profit and cash flow.
- 7.02 Where a distressed listed company undertakes a revaluation of assets as part of a proposal or scheme to regularise its condition, the SC reserves the right to seek a second-opinion valuation on the assets if it considers the valuation submitted to be unreasonable or not well supported. Where a second-opinion valuation is obtained, the lower of the two valuations must be adopted for the purpose of the proposal or scheme to regularise the distressed listed company's condition.
- 7.03 In exceptional cases, the SC may allow an interim proposal by a distressed listed company which does not fulfil the requirements of subparagraph 7.01(a), such as a disposal of assets which falls within the ambit of Chapter 6. As the SC views such a proposal as being transitory in nature, the distressed listed company must declare to the SC the interim status of the proposal. In such cases, the SC may approve the proposal on the condition that the distressed listed company submits a comprehensive proposal which will fulfil the requirements of paragraph 7.01 within the time frame stipulated in the MESDAQ Market Listing Requirements. A distressed listed company may only undertake one such interim proposal.

**PART III**  
**SUBMISSION AND IMPLEMENTATION**  
**OF PROPOSALS**

## Chapter 8

### INFORMATION AND DOCUMENTS

#### Minimum Information and Documents Required by the SC

- 8.01 Applications for proposals submitted to the SC for approval should be accompanied by the relevant information and documents as specified in the appendices.
- 8.02 The applications should also include a declaration by the applicant, each of the directors of the applicant and the principal adviser in accordance with the form specified in Schedules 1 to 3.

#### Information on Operating and Financial Prospects

- 8.03 For initial public offerings, acquisitions resulting in a significant change in the business direction or policy of a listed company and proposals by a distressed listed company, 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 Managements' Discussion and Analysis of Financial Condition, Results of Operations and Prospects of Chapter 13 of the *Prospectus Guidelines – Public Offerings* issued by the SC. The discussion and analysis should also be included in the circular to shareholders or other offering documents issued in relation to the proposals, as applicable.
- 8.04 In addition, proposals by a distressed listed company (except for interim proposals as mentioned in paragraph 7.03 of Chapter 7) must be accompanied by profit and cash flow forecasts for such financial years as necessary to show that the proposals will turn the distressed listed company around.
- 8.05 Where profit and/or cash flow forecasts are included in the application document, the following requirements must be complied with:
  - (a) The forecasts must be presented in a clear and unambiguous manner, and the principal assumptions upon which they are based should be stated. The assumptions should provide useful

information to enable the SC and investors to form a view on the reasonableness and reliability of the forecasts. These assumptions should also include factors which could materially affect the achievement of the forecasts;

- (b) The forecasts for the current financial year (before and after the proposal) must be reported on by the reporting accountants in accordance with the prescribed format in Schedules 4 and 5, and the report by the reporting accountants must be submitted to the SC;
- (c) The applicant and the principal adviser must ensure that there is sufficient evidence to support the forecasts; and
- (d) The forecasts must be disclosed in the prospectus, circular to shareholders or other offering documents issued in relation to the proposals, as applicable.

## Valuation Reports

- 8.06 A valuation report is required to be submitted for all proposals which involve the acquisition (as part of a listing scheme or otherwise) or disposal (resulting in a significant change in a listed company's business direction or policy) of property assets or companies which own property assets, where the property assets are to be revalued or have been revalued in the past five years prior to the submission to the SC, and the revalued amount is used, whether wholly or partly, as the basis for the purchase/sale consideration in the acquisition/disposal.
- 8.07 Valuation of property assets must be carried out by a registered valuer or an expert whose valuation report must comply with the *Guidelines on Asset Valuation* issued separately by the SC, as applicable. For valuation of assets other than property assets, a valuation report prepared by an expert should be submitted where available. The material date of valuation should not be more than six months before the date of receipt by the SC of the valuation report.
- 8.08 The registered valuer or expert responsible for the valuation report must be appointed by the applicant. Where a second-opinion valuation is required, the second-opinion valuer should be appointed by the SC, at the cost of the applicant.

## Independent Adviser/Expert Reports

- 8.09 For initial public offerings (except for the listing of technology incubators) and acquisitions resulting in a change in the core business of a listed company, the applicant must provide the following expert reports in the submission to the SC:
- (a) An independent market research report on the applicant's existing core business (in the case of initial public offering) or proposed new core business (in the case of acquisition); and
  - (b) An independent technical feasibility report, in the case where the applicant is involved in a technology-based core business or is acquiring a new technology-based core business, and such business has generated operating revenue for less than 12 months based on audited financial statements.
- 8.10 For all other proposals submitted for the SC's approval, where an independent adviser or independent expert has been appointed, a copy of the report prepared by such adviser or expert must be included in the submission to the SC.

## Further Information and Documents Required by the SC

- 8.11 The SC may, at its discretion, request for additional information and documents other than those specified in these guidelines.
- 8.12 The SC should be immediately informed of any material change—
- (a) in circumstances that would affect the consideration of the SC; and
  - (b) or development in circumstances relating to a proposal occurring subsequent to the SC giving its approval.
- 8.13 Where the material change or development occurs prior to the issue of documents to shareholders or investors, it must be disclosed in those documents.

- 8.14 If certain circumstances are made known to the SC after the proposal has been considered, and such circumstances would have affected the decision made had the SC known of the circumstances prior to the decision, the SC may review the decision. For this purpose, an application with full justifications and effects (financial or otherwise) should be submitted for the SC's review.

## Chapter 9

### SUBMISSION OF PROPOSALS

#### Applications

- 9.01 Applications for proposals under these guidelines, including applications for revisions to the terms and conditions of approval given by the SC for the proposals, may only be submitted by principal advisers who are eligible and permitted under the *Guidelines on Principal Advisers for Corporate Proposals*. However, applications for the following proposals may be made directly by the affected securities holders themselves:
- (a) Lifting of moratorium on disposal of securities; and
  - (b) Pledging of securities under moratorium by the affected securities holders.
- 9.02 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 which are submitted to the SC in relation to a proposal should exercise due diligence and comply with the *Guidelines on Due Diligence Conduct for Corporate Proposals*. Applications which do not comply with the requirements of the SC or are deemed unsatisfactory may be rejected or returned to the applicant.
- 9.03 All applications for proposals requiring the approval of the SC should be submitted in three copies and addressed to the Chairman of the Securities Commission at the following address:
- Suruhanjaya Sekuriti  
3 Persiaran Bukit Kiara  
Bukit Kiara  
50490 Kuala Lumpur
- 9.04 The application letter submitted by the principal adviser must be signed by at least two authorised signatories.
- 9.05 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 will be final.

- 9.06 An application for a revision to the terms and conditions of an approval given by the SC should be supported by appropriate justifications.

### **Submission of Valuation Reports for Property Assets**

- 9.07 For purposes of expediency in considering proposals by the SC, two copies of the valuation reports for property assets should be submitted before submitting the application proper for the proposals. The submission of the application proper should be made after two weeks but not later than one month from the date of submission of the valuation reports.

### **Fees and Charges**

- 9.08 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* as amended by the *Securities Commission (Fees and Charges) (Amendment) Regulations 2004* and *Securities Commission (Fees and Charges) (Amendment) Regulations 2005*.
- 9.09 Charges for incidental expenses incurred in the processing of applications by the SC may also be payable.



## Chapter 10

### IMPLEMENTATION OF PROPOSALS

#### Deadline

- 10.01 Applicants should complete their proposals (excluding utilisation of proceeds) within the time stipulated below:

<b>Proposals</b>	<b>Total period (Months)</b>
Placements to Bumiputera investors to fulfil NDP requirements	12
Initial public offerings, issues of securities, acquisitions and others	6

- 10.02 For cases that involve court proceedings, the implementation period given is up to 12 months.
- 10.03 Failure to complete the proposals within the stated 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 implementation may be granted only in exceptional cases. The application for extension must be supported by a full explanation and must be made no later than 14 days before the approval expires. Such applications must be made through a principal adviser. However, all applicants are advised that, if there is a likelihood that they are unable to implement the proposal in the prescribed period, this should be stated in the submission.
- 10.05 All applications for extension of time for implementation must be accompanied by a confirmation letter by the directors of the applicant that, save as disclosed, there has been no material change/development in the circumstances and information relating to the proposal.

- 10.06 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 supported by a full explanation and must be made no later than 14 days before the expiry of the specified period.

## **Post-implementation Obligations**

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

## **Follow-up Questionnaire**

- 10.09 Where an applicant has obtained the SC's approval for and implemented—
- (a) an initial public offering; or
  - (b) any other proposal where the applicant has included financial forecasts in the submission to the SC,

such applicant must submit a follow-up questionnaire in the prescribed format in Schedule 6, duly completed and signed by an authorised officer of the applicant, together with two copies of the applicant's annual report, not later than 14 days after the annual general meeting. The completed questionnaire should be verified as correct by—

- (a) the principal adviser or sponsor; and
- (b) the reporting accountants (for the financial year/period where financial forecasts have been submitted and reported on by the reporting accountants).

- 10.10 The follow-up questionnaire is to be submitted annually until the expiry of the three-year business development plan period or the financial forecast period, whichever is applicable and longer.
- 10.11 If the questionnaire is not submitted, the SC will not hesitate to take appropriate action against the applicant, the principal adviser/sponsor and the reporting accountants, as applicable.

# **PART IV APPENDICES**

## APPENDIX 1

# CONTENT OF APPLICATION FOR INITIAL PUBLIC OFFERINGS AND LISTINGS

## Introduction

This appendix is issued to clarify the minimum information and documents required by the SC for applications under Chapter 4.

## Content of Application

### 1. Cover Letter

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

- (a) Particulars of the initial public offering (IPO) proposal and approval sought;
- (b) Particulars of other required approvals obtained/pending for the IPO proposal (if applicable);
- (c) Material terms and conditions imposed by other relevant authorities and status of compliance;
- (d) Details of any departure from these guidelines, together with the relevant justification and waiver/exemption sought for such departure. Where waiver/exemption has been obtained earlier, to provide details of such waiver/exemption;
- (e) Information on previous proposals submitted to the SC, if any, on the applicant and/or any company in the group;
- (f) Confirmation on compliance with relevant laws, regulations, rules and requirements governing the applicant and all companies in the group;

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

- (g) Declaration of conflict of interest, if any, by advisers/experts of the application. If a conflict of interest exists, to provide full disclosure of the nature of the conflict and steps taken to address such conflict;
- (h) An opinion from the principal adviser on whether—
  - (i) the applicant has established procedures, systems and controls (including accounting and management systems) which are adequate and comply with these guidelines and other relevant legal and regulatory requirement, and which are sufficient for the applicant's directors to make a proper assessment of the financial position and prospects of the applicant and its subsidiary companies, both before and after listing; and
  - (ii) the directors of the applicant collectively have the experience, qualifications and competence to manage the applicant's business and comply with these guidelines, and individually have the experience, qualifications and competence to perform their individual roles, including an understanding of the nature of their obligations and those of the applicant under these guidelines and other legal or regulatory requirements relevant to their roles.
- (i) A statement on whether the applicant is seeking a listing as:
  - (i) a technology-based company;
  - (ii) a technology incubator; or
  - (iii) a high-growth company which is suitable for listing on the MESDAQ Market.

In the case of a technology-based company, to state the approved technology area under which the company falls and to provide reasons therefore.

## 2. Draft Prospectus

The draft prospectus should be complete and fully comply with the disclosure requirements of the SC's *Prospectus Guidelines – Public Offerings*.

## 3. 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 company, the list of the directors and shareholders (including their shareholdings in the company and the ultimate beneficial ownership of shares held under nominees/corporations);
- (b) For the applicant and each of its existing/proposed subsidiary companies, changes in substantial shareholders and their shareholdings in the company 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, in addition to the information required to be disclosed in the prospectus, to provide the following:
  - (i) For individuals, their NRIC/passport numbers, ages and current addresses;
  - (ii) For corporations, their registration numbers and current addresses; and
  - (iii) Confirmation that–
    - they are not undischarged bankrupts nor are they subject to any proceeding under bankruptcy laws (applicable to individuals);
    - they have never been charged with, convicted for or compounded for any offence under securities laws, corporations laws or any other law involving fraud or dishonesty in a court of law;

- no action has been taken against them for any breach of the listing requirements or rules issued by the stock exchange for the past five years (or since the date of incorporation, if less than five years) prior to the submission of the application; and
  - to the best of their knowledge, they have not been subjected to any inquiry or investigation by any government or regulatory authority or body for the past five years (or since the date of incorporation, if less than five years) prior to the submission of the application;
- (d) For all existing and proposed directors, chief executive and key management of the applicant (company and its subsidiary companies), in addition to the information required to be disclosed in the prospectus, to provide their NRIC/passport numbers, addresses and nationalities;
- (e) For all interested persons of the applicant and/or its subsidiary companies, to disclose–
- (i) current interests in businesses, directorships and/or shareholdings in all other companies/businesses, and the principal activities of those other companies or nature of those other businesses; and
  - (ii) any existing and potential conflict of interest, the nature and extent of the conflicts together with a proposal to resolve, eliminate or mitigate such conflicts, taking into consideration Practice Note 5;
- (f) Confirmation that the submission of tax returns and settlement of tax liabilities with the Inland Revenue Board is up-to-date is required for the following:
- (i) Applicant;
  - (ii) Directors and proposed directors of the applicant; and
  - (iii) Subsidiary companies and proposed subsidiary companies of the applicant;



- (g) For the applicant and its existing/proposed subsidiary companies, confirmation that the employees provident fund contribution is up-to-date;
- (h) For the existing/proposed Bumiputera shareholders of the applicant, their background and existing/proposed shareholdings in the applicant;
- (i) To provide other relevant information, which is not already included in the prospectus pertaining to the applicant's business. This, among others, should include a detailed discussion on business dynamics, competition dynamics and industry dynamics, such as–
  - (i) suppliers (the product/services supplied, length of business relationship and percentage of contribution to the company's total purchases);
  - (ii) customers (the product/services sold, length of business relationship, and percentage of contribution to the company's total sales);
  - (iii) substitute product/services (description of product/services, comparative costs, relative advantages and market acceptance);
  - (iv) competition and barriers to entry;
  - (v) demand and supply, and competitive advantages;
  - (vi) diversification capability;
  - (vii) contractual arrangements; and
  - (viii) existing and proposed markets (entry dates, resource requirements and funding, preliminary studies and findings, rationale for new market entry, means of penetration, distribution strategy and marketing support);and
- (j) To provide a tentative time table for the implementation of the proposal.

#### 4. Long Form Accountants' Report

The long form accountants' report is to be addressed to the board of directors of the applicant and should contain the following information:\*

**(a) Historical track record of each company in the existing/proposed group and on a consolidated/proforma consolidated basis**

- (i) Tabulation of the following performance indicators for the past three financial years (or since the year of commencement of the core business if less than three financial years):
- Paid-up capital;
  - Shareholders' funds;
  - Net assets (NA);
  - NA per share;
  - Turnover;
  - Gross profit;
  - Profit before tax but after minority interest;
  - Profit after tax and minority interest;
  - Gross earnings per share (EPS);
  - Net EPS;
  - Effective tax rate;
  - Gross margin;

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\* Note: Any reliance on the representation made by the applicant's management in preparing of the long form accountants' report should be highlighted. Information provided in the long form accountants' report should cover a period of three financial years unless the applicant is involved in technology-based business activities or is a technology incubator.

- Pre-tax profit margin;
  - Current ratio;
  - Total borrowings (all interest-bearing debts);
  - Gearing ratio (all interest-bearing debts over shareholders' funds);
  - Interest expense;
  - Interest coverage ratio;
  - Gross dividend rate; and
  - After-tax return on shareholders' funds;
- (ii) Breakdown and analysis of turnover and profits (including amount and %) by–
- activity;
  - product/service;
  - division;
  - export and local; and
  - company, in the case of a group (to show the net effect after adjusting for inter company transactions, if any);
- and
- (iii) Commentary on past performance, which should include analysis and/or discussion of–
- significant and specific factors contributing to exceptional performance in any of the financial years under review and significant changes in the financial performance on a year-to-year basis, whether favourable or adverse;

- accounting policies adopted which are peculiar to the company because of the nature of the company's business or the industry it is involved in, as well as the effects of such policies on the determination of the company's income or financial positions;
- revenue trend within each of the financial year under review and on a year-to-year basis;
- gross profit and pre-tax profit margin;
- any material difference between the effective tax rate and the statutory tax rate; and
- any audit qualification of the financial statements in any of the financial years under review;

**(b) Trade debtors**

- (i) Tabulation of information on trade debtors, as follows:

	As at financial year end		
	Year 1	Year 2	Year 3
Trade debtors			
Less: Provision for doubtful debts			
% of trade debtors to turnover			
Trade debtors' turnover period (months)			

(ii) Ageing analysis of trade debtors, in the following sample format:

		As at the latest audited financial year end						
		Within credit period*			Exceeding credit period*			
Credit period		0-30 days	31-60 days	61-90 days etc.	< 6 months	6-12 months	> 12 months	Total
Trade debtors								
% of total trade debtors								

\* Note: Depending on the company's credit period.

(iii) Commentary on–

- trade debtors position, whether excessive or unusually low, when compared with prior years, industry norm and/or nearest competitors (if available) and the company's own credit policy; and
- balances exceeding the normal credit period, giving specific details of the overdue debtors, and whether these debtors have since been collected or are collectible;

(Note: If any of the above is inapplicable, to provide a negative statement to that effect.)

**(c) Other debtors**

(i) Tabulation of other debtors by category, as follows:

Category of other debtors	As at financial year end		
	Year 1	Year 2	Year 3

and

- (ii) Commentary on material balances and nature of other debtors, and whether these debtors have since been collected or are collectible;

(Note: If any of the above is inapplicable, to provide a negative statement to that effect.)

**(d) Trade creditors**

- (i) Tabulation of information on trade creditors, as follows:

	As at financial year end		
	Year 1	Year 2	Year 3
Trade creditors			
Trade creditors' turnover period (months)			

- (ii) Ageing analysis of trade creditors, in the following sample format:

		As at the latest audited financial year end						
		0-30 days	31-60 days	61-90 days	3-6 months	6-12 months	>12 months	Total
Trade creditors								
% of total trade creditors								

- (iii) Breakdown of total trade creditors by amount within credit period and amount exceeding credit period;
- (iv) Commentary on the trade creditors position, whether excessive or unusually low, when compared with prior years, industry norm and/or nearest competitors (if available) and the normal credit period extended by the trade creditors; and

- (v) Details of any legal or other actions taken by the trade creditors to recover the amount owed;

(Note: If any of the above is inapplicable, to provide a negative statement to that effect.)

**(e) Other creditors** (including advances from directors, shareholders, etc.)

- (i) Tabulation of other creditors by category, as follows:

	As at financial year end		
	Year 1	Year 2	Year 3

Category of other creditors

and

- (ii) Commentary on material balances and nature of other creditors, whether any amount is in default and whether any legal or other action has been taken by the creditors to recover the amount owed.

(Note: If any of the above is inapplicable, to provide a negative statement to that effect.)

**(f) Inventories**

- (i) Tabulation of information on inventories, as follows:

	As at financial year end		
	Year 1	Year 2	Year 3

Inventories (to provide  
breakdown)

% of inventories to cost  
of goods sold

Inventories turnover period  
(months)

- (ii) Comparison of inventories turnover period with industry norm/nearest competitors, if available;

(iii) Breakdown of slow-moving inventories and obsolete inventories; and

(iv) Commentary on saleability of slow-moving inventories and on inventories obsolescence, if applicable, and material inventories movements vis-à-vis past trends;

(Note: If the above is inapplicable, to provide a negative statement to that effect.)

**(g) Bank borrowings**

(i) Analysis of bank borrowings, including details of credit facilities and utilisation; and

(ii) Information on whether any borrowing is in default and any legal or other action taken by the lenders to recover the amount owed;

(Note: If any of the above is inapplicable, to provide a negative statement to that effect.)

**(h) Taxation**

Commentary on–

(i) adequacy of provisions for taxation;

(ii) whether the submission of tax returns and settlement of tax liabilities are up-to-date;

(iii) any tax amount in dispute and/or any investigation carried out by the Inland Revenue Board (IRB) and/or any overseas tax authority;

(iv) any tax penalty imposed or additional tax amount assessed by the IRB and/or any overseas tax authority, and status of settlement of such penalty or additional tax amount;

(v) tax losses and allowances available for carry forward, tax reliefs and their effects on deferred tax liability;

(vi) any special allowance being claimed; and



(vii) any other material information relating to taxation;

(Note: If any of the above is inapplicable, to provide a negative statement to that effect.)

and

**(i) Other income**

Analysis of other income, if applicable.

**5. Compliance with Guidelines**

This checklist is not exhaustive. Reference should also be made to other relevant chapters of these guidelines, practice notes and any subsequent amendment/revision.

Paragraph	Summary of Guidelines Requirement	Applicant's Position (to comment whether requirement is met, not met or inapplicable and to provide detailed illustration/explanation/justification)
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**Business Activity**

*(Note: In complying with the requirements of paragraph 4.02, due regard must also be given to Practice Notes 2 and 3)*

4.02	Requirement to have an identifiable, focused core business. Applicants must be involved in–  (a) technology-based business activities;  (b) the business of a technology incubator; or  (c) other high-growth business activities.	
4.04	Requirements on business activities of technology incubators:  (a) Applicants must have investments in companies which are involved in technology-based business activities;	

Paragraph	Summary of Guidelines Requirement	Applicant's Position (to comment whether requirement is met, not met or inapplicable and to provide detailed illustration/explanation/justification)
(b)	Applicants must have clear investment strategies and focus;	
(c)	Applicants must have at least 50% of its total investment in early-stage companies at the point of submission; and	
(d)	Applicants must emphasise on the provision of value-added services to its investee companies.	
4.05	Restriction on companies which are allowed to seek listing only on the Main Board of Bursa Securities under subparagraph 5.46(a) of Chapter 5 of the SC's <i>Guidelines on the Offering of Equity and Equity-linked Securities</i> from seeking a listing on the MESDAQ Market.	
<b>Issued and Paid-up Capital</b>		
4.06	Requirement for applicants to have an issued and paid-up share capital of at least RM2 million upon listing.	
4.07	Requirement for applicants who are technology incubators to have an issued and paid-up share capital of at least RM20 million upon listing.	
4.08	Restriction on source of reserves for capitalisation of shares of applicant.	
<b>Preference Shares, Warrants, Options and Convertible Securities</b>		
4.09	Requirement on compliance with paragraphs 5.16 to 5.22 of Chapter 5.	

- 4.10 Requirement on minimum exercise/  
conversion price of warrants, options and  
convertible securities issued prior to or as  
part of listing scheme.

### **Operating History**

- 4.11 Requirements relating to applicants  
involved in technology-based business  
activities.
- 4.12 Requirements relating to a technology  
incubator.
- 4.13 Requirements relating to all other  
applicants.

### **Foreign-based Operations**

*(Note: In complying with the  
requirements of this paragraph, due  
regard must also be given to Practice  
Note 4.)*

- 4.14 Requirement pertaining to applicants  
with predominantly foreign-based  
operations

### **Management Continuity and Capability**

- 4.15 Requirements pertaining to management  
continuity and capability.
- 4.16 Requirement for applicant to  
demonstrate to the SC the expertise and  
experience of its directors and  
management in ensuring the effective  
operation of its business.

### **Financial Position and Liquidity**

- 4.17 Requirement pertaining to financial  
position and liquidity.

### **Valuation of Assets**

- 4.18 Requirement for valuation of assets and  
purchase consideration to be justified  
and substantiated.

Paragraph	Summary of Guidelines Requirement	Applicant's Position
		(to comment whether requirement is met, not met or inapplicable and to provide detailed illustration/ explanation/ justification)
4.19	<p>Requirements pertaining to second-opinion valuations, i.e. where such a valuation is obtained, the applicant–</p> <p>(a) must adopt the lower of the two valuations to be used as the basis for the purchase consideration for the acquisition;</p> <p>(b) must not make up the difference in the two valuations with internally-generated funds or borrowings; and</p> <p>(c) must disclose both valuations in the prospectus.</p>	
	<p><b>Business Model, Business Plan and Prospects</b></p>	
4.20	<p>Requirement on viability of core business and healthy growth prospects. The applicant should demonstrate a clear business model, a feasible three-year business development plan and the necessary resources to implement and achieve the business plan.</p>	
4.21	<p>Requirement that growth prospects be derived from the same core business supporting its operating record.</p>	
	<p><b>Independence of Business</b></p>	
4.22	<p>Requirement on independence of business.</p>	

Paragraph	Summary of Guidelines Requirement	Applicant's Position (to comment whether requirement is met, not met or inapplicable and to provide detailed illustration/explanation/justification)
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**Chain Listing**

4.23

Requirements for chain listing:

- (a) Applicant must be involved in a distinct and viable business of its own;
- (b) Relationship between applicant and all the other companies within the holding company's group must not give rise to intra-group competition or conflict-of-interest situations;
- (c) Applicant should demonstrate that it is independent from the already-listed company and other companies within the group;
- (d) The already-listed company must have a separate autonomous business and able to sustain its listing; and
- (e) Where a holding company of an already-listed company is seeking listing, the applicant must meet the requirements for listing without taking into account the contributions from its already-listed subsidiary companies.

Paragraph	Summary of Guidelines Requirement	Applicant's Position
		(to comment whether requirement is met, not met or inapplicable and to provide detailed illustration/ explanation/ justification)
	<p><b>Conflict of Interest</b>  <i>(Note: In complying with the requirements of this paragraph, due regard must also be given to Practice Note 5.)</i></p>	
4.24	Requirement to resolve, eliminate or mitigate all situations of conflict of interest by applicants prior to listing.	
4.25	Requirement to assess business for conflict-of-interest situations and to make requisite declarations.	
4.26	Requirement on settlement of debts prior to listing.	
	<p><b>Transactions with Related Parties</b></p>	
4.27	Requirement relating to transactions with related parties.	
	<p><b>Methods of Offering of Securities</b></p>	
4.28	Requirement on public offerings of new securities.	
4.29	Requirement on mode of distribution of securities.	
	<p><b>Placement of Securities</b></p>	
4.30	Requirement relating to principal adviser.	
4.31	General prohibition on retention of securities by principal adviser or any other placement agent, except:	

Paragraph	Summary of Guidelines Requirement	Applicant's Position (to comment whether requirement is met, not met or inapplicable and to provide detailed illustration/explanation/justification)
	<ul style="list-style-type: none"><li data-bbox="339 395 706 475">(a) Where such securities are taken up under an underwriting agreement; or</li><li data-bbox="339 504 706 847">(b) Where such securities being retained are over and above the total number of securities required to be in the hands of public shareholders to meet the shareholding spread requirement of Bursa Securities. The retention of securities 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.</li></ul>	
4.32	<p data-bbox="333 879 706 959">Prohibition on placement of securities to persons connected to the placement agent, except:</p> <ul style="list-style-type: none"><li data-bbox="339 987 706 1198">(a) Where such persons connected to the placement agent are–<ul style="list-style-type: none"><li data-bbox="389 1067 661 1098">(i) statutory institutions; or</li><li data-bbox="389 1126 639 1198">(ii) entities established as collective investment schemes;</li></ul></li><li data-bbox="389 1230 412 1254">or</li><li data-bbox="339 1283 706 1342">(b) Where the placement is made under a book-building exercise.</li></ul>	
4.33	<p data-bbox="333 1358 706 1437">Restriction on quantum of securities allowed for placements to persons connected to the placement agent.</p>	

Paragraph	Summary of Guidelines Requirement	Applicant's Position
		(to comment whether requirement is met, not met or inapplicable and to provide detailed illustration/ explanation/ justification)
4.34	Prohibitions on placements to–  (a) directors or existing shareholders of the applicant or persons connected to them, except for restricted offers for subscription; and  (b) nominee companies unless the names of the ultimate beneficiaries are disclosed.	
4.35	Obligation of principal adviser to submit the final list of placees and requisite confirmation.	
<b><i>Restricted Offers for Subscription</i></b>		
4.38	Requirements on eligibility for participation in restricted offers for subscription.	
4.39	Requirement on quantum of securities offered to persons under paragraphs 4.38 (a), (b) and (c).	
<b><i>Allocation to Bumiputera Investors</i></b>		
4.40	Requirement on minimum allocation to Bumiputera investors where there is sufficient demand.	
<b><i>Pricing of Securities</i></b>		
4.41	Requirement on minimum issue price.	
4.42	Requirement on issue price of securities offered to related parties.	



Paragraph	Summary of Guidelines Requirement	Applicant's Position (to comment whether requirement is met, not met or inapplicable and to provide detailed illustration/explanation/justification)
<b>Underwriting</b>		
4.43	Requirements on underwriting arrangements.	
4.45	Requirement on disclosure of minimum level of subscription and basis of determination.	
4.46	Obligations of principal adviser for underwriting.	
<b>Moratorium on Disposal of Shares</b>		
4.47	Restrictions imposed on disposal of promoters' shareholdings.	<i>(To disclose the names of securities holders subjected to moratorium and number and % of securities under moratorium)</i>
4.48	Requirement prescribing staggered lifting of moratorium.	
4.49	Requirement relating to a promoter which is an unlisted company.	
4.50	Requirement relating to promoters who also own securities which are convertible or exercisable into ordinary shares.	
<b>Information on Operating and Financial Prospects</b>		
8.03	Requirement to provide discussion and analysis of business, financial conditions and prospects.	

Paragraph	Summary of Guidelines Requirement	Applicant's Position
		(to comment whether requirement is met, not met or inapplicable and to provide detailed illustration/ explanation/ justification)
8.05	Requirements pertaining to profit and/or cash flow forecasts, where submitted.	
	<b>Valuation Reports</b>	
8.06	Requirement for valuation report to be submitted for proposals which involve the acquisition of property assets or companies which own property assets.	
8.07	Requirement for valuation of property assets to be carried out by a registered valuer or an expert. For valuation of assets other than property assets, a valuation report prepared by an expert should be submitted where available. The material date of valuation should not be more than six months from date of receipt by the SC of the valuation report.	
8.08	Requirement for registered valuer or expert to be appointed by the applicant, except where a second-opinion valuation is required.	
	<b>Independent Adviser/Expert Reports</b>	
8.09	<p>Requirement for applicants (except for the listing of technology incubators) to submit–</p> <p>(a) an independent market research report on the applicant's existing core business; and</p> <p>(b) an independent technical feasibility report, in the case where the applicant is involved in a technology-based core business or is acquiring a new technology-based core business, and such business has generated operating revenue for less than 12 months based on audited financial statements.</p>	

## 6. Comparative Performance

### (a) Comparison of financial performance with similar companies

A comparison of the financial performance of the applicant with the financial performance of other recently-listed companies involved in similar activities should be submitted, as follows:

(i) Tabulation of the following information (based on the information available immediately prior to listing):

- Principal activity;
- Date of listing;
- Share capital;
- Turnover;
- Gross profit;
- Pre-tax profit;
- After-tax profit;
- Gross earnings per share (EPS);
- Net EPS;
- Pre-tax profit margin;
- 3-year average after-tax profit;
- Forecast after-tax profit (where provided);
- Net assets (NA) per share;
- Gearing ratio; and
- Current ratio;

- (ii) Overall size of the market, and for each of the companies mentioned in (i) above, its market share and ranking (sources to be quoted), turnover, pre-tax profit and after-tax profit based on the latest audited results; and

(Note: Major non-listed competitors should also be included for comparison, if available.)

- (iii) Commentary on material differences in the financial performance of the company and its competitors;

and

**(b) Comparison of price-earnings (PE) multiple with market PE multiples**

The following information should be submitted on the public issue price of the securities of the applicant company:

- (i) Basis of determining the issue price and the justification thereof; and
- (ii) Comparison of the prospective PE multiple of the applicant company with the latest sectoral PE multiple and PE multiples of other listed companies involved in similar activities, together with the relevant commentary thereon.

**7. Effects of The IPO**

In tabular form, to show the effects before and after the IPO, on the following:

- (a) Share capital;
- (b) Substantial shareholders;
- (c) Bumiputera shareholders;
- (d) Shareholding structure (to provide breakdown by Bumiputera, other Malaysians and foreign shareholdings);

- (e) Net assets;
- (f) Pre-tax and after-tax profits, and earnings per share;
- (g) Cash flow; and
- (h) Gearing ratio (including effects on borrowings and interest savings).

## **8. Information to Be Included in the Three-year Business Development Plan**

There is no compulsory presentation format or structure for the three-year plan, but it must cover the areas stated below.

### **(a) Proposed business activities**

#### **(i) *Business intent***

- To provide a description of the current business, including the revenue model for current product/services and the direction in which the applicant proposes to develop it; and
- To describe in detail how the applicant intends to develop its business, which should include a discussion on, among others, the suppliers, customers, competition, competitive advantages, target market(s) and an analysis of strengths, weaknesses, opportunities and threats of the business development plan proposed;

#### **(ii) *Product development plan***

- To provide a detailed roadmap for the development of product(s)/service(s) which covers the business plan period, including milestones, resource and funding requirements, anticipated commercialisation date and revenue model;
- To outline the applicant's product/service development policy, particularly if its plans for introducing specific products and/or services are unclear;

- To provide research and development (R&D) plans, including R&D budget, percentage of R&D expenses to revenue and details on the R&D team; and
- To state proposed scope of activities:
  - Value of products and/or services, for example, whether it is a leading-edge technology or an innovative service; and
  - Value of activities, i.e. what the scope and extent is of high value-added activities, such as R&D, design, or headquarters functions;

**(iii) Location of operations**

Where the applicant currently has–

- its tangible assets, intangible assets and human resources, giving a breakdown of the values of its tangible assets and intangible assets as per its latest audited financial statements; or
- its operations, including R&D, production, marketing and distribution;

and

**(iv) Requirements for operating licences**

In general, applicants needing specialised operating licences will need to have secured them before they can be admitted to the MESDAQ Market. The applicant should state whether it has obtained such licences, or has applied, or intends to apply, for such licences, and the status of the application;

**(b) Employment**

- (i) Using a simple organisation chart, show the expected number of staff and their respective functions over the three-year business development plan period;

- (ii) To provide the estimated number of skilled employees and functions. To describe the jobs and education/experience requirements for those positions that the applicant considers to be skilled; and
- (iii) Human resource plan – in line with the applicant's three-year business development plan, to indicate roughly the expected increase in the total number of employees and the resulting demand for skilled employees;

**(c) Technology/knowledge transfer plan**

Where more than 50% of the applicant's issued and paid-up capital is or will be owned by foreign interests:

- (i) To explain thoroughly how the applicant will transfer technology and/or knowledge to Malaysia; and
- (ii) To state the applicant's objectives, which can be any of the following:
  - Technology transfer;
  - Development of Malaysian human resource; or
  - Value contribution to other companies,

then present specific plans for how the applicant will effect the transfer, development or contribution, demonstrating that the programme is practical. Include a brief action plan and a three-year timeline;

and

**(d) Investors' background**

For corporate shareholders which own or will own 15% or more of the applicant's issued and paid-up capital, to state the following:

- (i) Name;
- (ii) History;

- (iii) Business activities (scope of activities, types of products/ services offered and geographic markets served);
- (iv) Ownership structure;
- (v) Management structure;
- (vi) Financial history for the past three years;
- (vii) Whether the shareholder has any existing business activity in Malaysia, and if so, the names and main business activities of the existing companies; and
- (viii) If the shareholder or its holding company is listed on a stock exchange, specify which exchange.

For individual shareholders who own or will own 15% or more of the applicant's issued and paid-up capital, to state the following:

- (i) Name;
- (ii) Nationality;
- (iii) NRIC or passport number;
- (iv) Business interests of relevance, including ownership or directorship of companies;
- (v) Educational history; and
- (vi) Management history.

## **9. Supporting Documents**

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

- (a) Audited financial statements for the past three financial years and the latest interim audited financial statements of the current financial year, if any. In the case where the applicant or the longest established company in the group, as the case may be, was incorporated less than one year ago, the applicant should provide audited financial statements since such incorporation;



- (b) Latest management accounts;
- (c) Proforma balance sheets after incorporating the effects of the proposal;
- (d) Letters from reporting accountants on–
  - (i) profit forecast as per specimen provided in Schedule 4, if a profit forecast is furnished as part of the submission;
  - (ii) cash flow forecast as per specimen provided in Schedule 5, if a cash flow forecast is furnished as part of the submission; and
  - (iii) proforma balance sheets;
- (e) Declaration by–
  - (i) the applicant as per specimen provided in Schedule 1;
  - (ii) each of the directors and proposed directors of the applicant as per specimen provided in Schedule 2; and
  - (iii) the principal adviser as per specimen provided in Schedule 3;
- (f) Valuation reports (where applicable);
- (g) Legal opinions (where applicable);
- (h) Sale and purchase agreements and any other relevant agreements, in relation to the proposal;
- (i) Copies of all shareholder agreements, major agreements underlying the basis of the applicant's or the group's business, directors' service agreements and agreements between the applicant and its principal adviser;
- (j) Where the proposal involves a property (land and building), the certified document of title of the property, together with a declaration from the applicant that all relevant approvals from the authorities who have jurisdiction over matters on the use of the property have been obtained;

- (k) Any other supporting document (e.g. copies of licences, concessions and permits from relevant authorities);
- (l) Copies of all certificates, applications and agreements on the applicant's or its subsidiary company's technology, intellectual property rights and licences;
- (m) For all applicants, except for technology incubators, an independent market research report on the applicant's existing core business which should include the following:
  - (i) Background of expert;
  - (ii) Scope of report;
  - (iii) For technology-based companies, overview of the technology;
  - (iv) Appraisal of the applicant's or the group's business, including the products, services and processes; and
  - (v) Appraisal of the industry which addresses, among others–
    - description of the industry;
    - estimated market coverage, position and share of the applicant/group;
    - trend analysis including demand/supply conditions;
    - substitute products/services;
    - relevant laws and regulations governing the industry and peculiarities of the industry;
    - industry players, competition and barriers to entry;
    - success factors, growth drivers and market restraints; and
    - prospects and outlook of the industry;

and

- (vi) Commentary on the historical growth rate and growth prospects of the applicant's or group's business, products and services;

and

- (n) An independent technical feasibility report, in the case where the applicant is involved in a technology-based core business and such business has generated operating revenue for less than 12 months based on audited financial statements. The technical feasibility report may be prepared by the same independent expert undertaking the independent market research report, provided that the expert is appropriately qualified for both assignments. The technical feasibility report should include the following:
  - (i) Background of expert (where a different expert from that undertaking the independent market research report is appointed);
  - (ii) Scope of report;
  - (iii) Appraisal of the applicant's or the group's technology;
  - (iv) Appraisal of relevant agreements, contracts, licences and permits;
  - (v) Comments on R&D expenditure plan;
  - (vi) Comments on operation and performance to date (if applicable);
  - (vii) Comments on environmental impact (if applicable); and
  - (viii) Risk assessment on the applicant's or group's technology, products and services.

## 10. Future Financial Information (where provided)

### (a) Profit forecast and projections

The following information on profit forecast and projections should be submitted for the applicant on a consolidated basis, before and after the proposal:

- (i) Tabulation of the forecast/projected performance indicators, as follows:
  - Turnover;
  - Gross profit;
  - Profit before tax but after minority interest;
  - Profit after tax and minority interest;
  - Gross earnings per share (EPS);
  - Net EPS;
  - Gross margin; and
  - Pre-tax profit margin;
- (ii) Breakdown and analysis of turnover and profits (including amount and %) by–
  - activity;
  - product/service;
  - division;
  - export and local; and
  - company, in the case of a group (to show the net effect after adjusting for intercompany transactions, if any);

*[Presentation of the information to be consistent with Section 4(a)(ii) above.]*

- (iii) Commentary on future profit performance, which should include analysis and/or discussion of–
- significant and specific factors contributing to exceptional performance;
  - significant changes in the financial performance in comparison with the previous year;
  - the reasonableness and achievability of the forecast and projected profits vis-à-vis past trends and the bases and assumptions used. (Such bases and assumptions should draw attention to those uncertain factors which could materially affect the achievement of the forecast/ projected profits. The bases and assumptions used should be specific rather than general);
  - accounting policies adopted which are peculiar to the company because of the nature of the company's business or the industry it is involved in, as well as the effects of such policies on the determination of the company's income or financial position; and
  - specific factors giving rise to the difference between turnover/profits before and after the proposal;
- (iv) Tabulation of results based on the latest management accounts as per (a)(i) above together with reasons for any material variance between the annualised results and the forecast results; and
- (v) Worksheets to support the profit forecast and projections;

and

**(b) Cash flow forecast and projections**

The following information on cash flow forecast and projections should be submitted for the applicant on a consolidated basis, before and after the proposal:

- (i) Tabulation of the forecast and projected cash flows;
- (ii) Commentary on future cash flow performance, which should include analysis and discussion of–
  - significant and/or exceptional factors affecting cash flow;
  - the reasonableness and achievability of the forecast and projected cash flows vis-à-vis past trends and the bases and assumptions used. (Such bases and assumptions should draw attention to those uncertain factors which could materially affect the achievement of the forecast/ projected cash flows. The bases and assumptions used should be specific rather than general);
  - how cash flow deficits, if any, would be financed; and
  - whether any bank borrowing or amount owed to trade or other creditors has the potential of being defaulted;and
- (iii) Worksheets to support the cash flow forecast and projections.

***Note: The forecast for the current financial year (before and after the proposal) must be reported on by the reporting accountants in accordance with the prescribed format in Schedules 4 and 5, and the report by the reporting accountants must be submitted to the SC.***

## APPENDIX 2

# CONTENT OF APPLICATION FOR ISSUES OF SECURITIES BY LISTED COMPANIES

## Introduction

This appendix is issued to clarify the minimum information and documents required by the SC for applications under Chapter 5.

## Content of Application

### 1. Cover Letter

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

- (a) Particulars of the proposal on issuance of securities and approval sought. Such particulars should also include the following:
  - (i) For rights issue of securities:
    - Pricing methodology and its justification;
    - Minimum level of subscription and the basis of determining the minimum level of subscription (if applicable); and
    - Undertaking/underwriting arrangement;
  - (ii) For placement of securities:
    - Pricing methodology and its justification;
    - Categories of placees, i.e. whether they are public investors, Bumiputera investors for purposes of meeting the requirements of the NDP, directors/substantial shareholders of the applicant, etc.;

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

- Where the placement of securities is for the purpose of meeting the requirements of the NDP, details of the condition imposed by the relevant authority for the applicant to comply with such requirements;
- Where the placees have been identified, particulars of the placees (see paragraph 5.07(a)) and the amount and price of securities to be allocated to them; and
- Where the identified placees are nominee companies or funds, the names of the ultimate beneficiaries (see paragraph 5.07(a));

and

(iii) For issuance of convertible securities and/or warrants:

- Pricing methodology and its justification;
- Salient terms of the convertible securities and/or warrants; and
- Basis of determining the conversion/exercise price of the convertible securities/warrants;

- (b) Where the proposal on issuance of securities is submitted by a distressed listed company as an interim proposal before the submission of a comprehensive proposal to resolve its financial problems, declaration by the company of the interim status of the proposal on issuance of securities;
- (c) Rationale and benefits of the proposal;
- (d) Other required approvals obtained/pending (if applicable);
- (e) Material terms and conditions imposed by other relevant authorities and status of compliance;
- (f) Details of any departure from these guidelines, together with the relevant justification and waiver/exemption sought for such departure. Where waiver/exemption has been obtained, to provide details of such waivers/exemption;



- (g) Where securities are proposed to be issued to a related party, details regarding the nature of interest of the related party, including the direct and indirect shareholdings of the related parties in the applicant;
- (h) Where the proceeds from the proposal on issuance of securities are to be utilised for the acquisition of assets/businesses/ interest–
  - (i) confirmation on compliance with relevant laws, regulations, rules and requirements governing such acquiree assets/businesses/interests; and
  - (ii) previous proposals which have been submitted to the SC, if any, in relation to acquiree assets/businesses/ interests;
- (i) Outstanding proposals which have been announced by the applicant but pending implementation, if any; and
- (j) Declaration of conflict of interest, if any, by advisers/experts of 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.

## 2. Other Pertinent Information on the Applicant

The following information on the applicant should be submitted:

- (a) Name of company (and previous changes of name);
- (b) Date of incorporation and conversion to public company;
- (c) Date of listing;
- (d) Principal activities;
- (e) Share capital
  - (i) Authorised;
  - (ii) Issued and paid-up; and

- (iii) Changes since the date of incorporation;
- (f) Present shareholding structure (to provide break down by Bumiputera, other Malaysian and foreign shareholdings);
- (g) Particulars of substantial shareholders, as follows:
  - (i) Name;
  - (ii) Nationality/country of incorporation;
  - (iii) Direct and indirect shareholdings in the applicant;
  - (iv) Changes in substantial shareholders and their shareholdings in the applicant for the past three years; and
  - (v) Directorships and/or substantial shareholdings in all other public companies for the past three years;
- (h) Present Bumiputera shareholders and their shareholdings in the applicant;
- (i) Particulars of directors, proposed directors and chief executive officer, as follows:
  - (i) Name;
  - (ii) NRIC/passport number and nationality;
  - (iii) Address;
  - (iv) Designation;
  - (v) Direct and indirect shareholdings in the applicant company; and
  - (vi) Directorships and substantial shareholdings in all other public companies for the past three years;

- (j) Particulars of subsidiary and associated companies, as follows:
  - (i) Name;
  - (ii) Date and place of incorporation;
  - (iii) Effective equity interest; and
  - (iv) Principal activities;
- (k) Details of material litigations involving the applicant and/or its subsidiary companies which may affect their income from, title to, or possession of any of their assets and/or businesses;
- (l) Disclosure of whether or not the submission of tax returns and settlement of tax liabilities of the applicant, subsidiary companies and proposed subsidiary companies with the Inland Revenue Board is up-to-date; and
- (m) For the applicant and its existing subsidiary companies, confirmation that the employees provident fund contribution is up-to-date.

### **3. Historical Financial Information on the Applicant**

The following historical financial information on the applicant should be submitted:

- (a) Tabulation of the following performance indicators for the past three financial years:
  - (i) Paid-up capital;
  - (ii) Shareholders' funds;
  - (iii) Net assets (NA);
  - (iv) NA per share;
  - (v) Turnover;
  - (vi) Profit before tax but after minority interest;

- (vii) Profit after tax and minority interest;
  - (viii) Gross earnings per share (EPS);
  - (ix) Net EPS;
  - (x) Pre-tax profit margin;
  - (xi) Current ratio;
  - (xii) Total borrowings (all interest-bearing debts); and
  - (xiii) Gearing ratio (all interest-bearing debts over shareholders' funds);
- (b) Commentary on past performance, which should include analysis and/or discussion of–
- (i) 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;
  - (ii) accounting policies adopted which are peculiar to the company because of the nature of the company's business or the industry it is involved in, as well as the effects of such policies on the determination of the company's income or financial position; and
  - (iii) any audit qualification of the financial statements in any of the financial years under review;
- and
- (c) Full disclosure of material commitments and contingent liabilities incurred or known to be incurred by the company and their impact on the profits or the net asset value of the company upon becoming enforceable.

## 4. Compliance with Guidelines

This checklist is not exhaustive. Reference should also be made to other relevant chapters of these guidelines, practice notes and any subsequent amendment/revision.

Paragraph	Summary of Guidelines Requirement	Applicant's Position (to comment whether requirement is met, not met or inapplicable and to provide detailed illustration/explanation/justification)
<b>Issues of Securities for Cash (Other Than Rights Issues)</b>		
5.02	<p>Requirements for issuance of securities under a general mandate:</p> <ul style="list-style-type: none"> <li>(a) Size of issuance;</li> <li>(b) Issue price of shares;</li> <li>(c) Issue price of warrants/convertible securities;</li> <li>(d) Principal adviser to act as placement agent; and</li> <li>(e) Restriction on identity of placees.</li> </ul>	
5.03	<p>Requirements for issuance of securities departing from the requirements of paragraph 5.02:</p> <ul style="list-style-type: none"> <li>(a) Approval of shareholders for terms and conditions of issue, in particular on– <ul style="list-style-type: none"> <li>(i) identity/class of placees;</li> <li>(ii) quantum of securities placed to each placee or class of placees;</li> </ul> </li> </ul>	

Paragraph	Summary of Guidelines Requirement	Applicant's Position
		(to comment whether requirement is met, not met or inapplicable and to provide detailed illustration/ explanation/ justification)
	(iii) issue/exercise/conversion prices of the securities; and	
	(iv) purpose of issue and utilisation of proceeds;	
	(b) Abstention by interested persons or persons connected from voting on the resolution approving the issue; and	
	(c) Principal adviser to act as placement agent, where such agent is appointed.	
5.04	Requirement on issue and placement of securities in stages.	
5.05	Requirement on allotment, issuance and payment for securities.	
5.06	Prohibition on the borrowing of shares from substantial shareholders.	
5.07	Obligation of principal adviser to– (a) submit list of requisite details; (b) submit a copy of the circular for issuances which depart from paragraph 5.02; and (c) make the requisite confirmation to the SC.	
	<b>Rights Issues of Securities</b>	
5.10	Requirement for underwriting arrangements to be in place before the offering of securities is made to existing shareholders.	

Paragraph	Summary of Guidelines Requirement	Applicant's Position (to comment whether requirement is met, not met or inapplicable and to provide detailed illustration/ explanation/ justification)
5.12	<p>Requirements for irrevocable undertakings to subscribe for securities:</p> <p>(a) Confirmation on sufficiency of financial resources; and</p> <p>(b) Compliance with the Malaysian Code on Take-Overs and Mergers.</p>	
5.13	<p>Obligations of principal adviser on underwriting.</p>	
<b><i>Two-call Rights Issues</i></b>		
5.14	<p>Requirement that reserves–</p> <ul style="list-style-type: none"> <li>• required for capitalisation of the second call are unimpaired by losses; and</li> <li>• for capitalisation should be verified and confirmed by the external auditors/reporting accountants, if the reserves are not based on the audited financial statements of the issuer.</li> </ul>	
5.15	<p>Requirement on capitalisations from asset revaluation reserves as follows:</p> <p>(a) Where reserves arose from the revaluation of land and buildings, retention of at least 20% of the valuation amount; and</p>	

Paragraph	Summary of Guidelines Requirement	Applicant's Position
	(b) Surplus arising from the revaluation of plant, machinery and equipment of the issuer or its subsidiary companies must not be capitalised.	(to comment whether requirement is met, not met or inapplicable and to provide detailed illustration/ explanation/ justification)
	<b>Additional Requirements for Issues of Warrants and Convertible Securities</b>	
5.16	Limitation on number of new shares arising from an exercise of outstanding warrants.	
5.17	Requirement for step-up or step-down pricing mechanism to be determined and disclosed upfront.	
5.18	For warrants and listed convertible securities, requirement for the amount of step-up/step-down and the time frames for the exercise/conversion price adjustment to be determined upfront. Step-up/step-down pricing mechanisms must be set on a fixed basis.	
5.19	For unlisted convertible securities, requirement that the conditions governing the step-up/step-down pricing mechanism and time frames for the conversion price adjustment be determined upfront.	
5.20	Prohibitions on provisions of deed polls and trust deeds on–	
	(a) the extension or shortening of tenure of the warrants/convertible securities; and	



Paragraph	Summary of Guidelines Requirement	Applicant's Position (to comment whether requirement is met, not met or inapplicable and to provide detailed illustration/explanation/justification)
(b)	changes to the number of shares received for the exercise/conversion of each warrant/convertible security and changes to the pricing mechanism for the exercise/conversion price of the warrants/convertible securities, except where these changes are adjustments pursuant to capitalisation issues, rights issue, consolidation or subdivision of shares or capital reduction exercises.	
5.21	Requirement for provisions for changes in terms of warrants/convertible securities to be determined and disclosed upfront.	
5.22	Prohibition on alteration/adjustment to terms except where provided upfront.	
<b>Issues of Securities Under Capital Reconstruction or Debt Restructuring/Settlement</b>		
5.23	Requirement to justify and/or demonstrate how the proposal would improve the business and financial conditions of the issuer.	
<b>Issues of Securities to Finance Acquisitions of Assets</b>		
5.24	Requirement for compliance with relevant requirements of Chapter 6 for issuers proposing to issue securities to finance a proposed acquisition of assets or refinance an acquisition of assets which was completed within one year prior to submission.	

Paragraph	Summary of Guidelines Requirement	Applicant's Position
		(to comment whether requirement is met, not met or inapplicable and to provide detailed illustration/ explanation/ justification)
	<b>PROPOSALS BY DISTRESSED LISTED COMPANIES</b>	
7.01	Requirements on proposals by distressed listed companies:	
	(a) Proposal must be comprehensive and capable of resolving all problems of the listed company, and enable the company to regularise its condition;	
	(b) Listed company must justify and demonstrate that the proposal is fair and reasonable to company and its shareholders and will increase shareholder value; and	
	(c) Assets injected must be able to provide immediate and sustainable contributions to the listed company's profit and cash flow.	
7.02	Requirement pertaining to second-opinion valuations and where obtained, the lower of the two valuations to be adopted.	
7.03	Requirements on interim proposals.	
	<b>Information on Operating and Financial Prospects</b>	
8.03	Requirement to provide discussion and analysis of business, financial conditions and prospects. (Applicable to proposals by distressed listed companies only).	

Paragraph	Summary of Guidelines Requirement	Applicant's Position (to comment whether requirement is met, not met or inapplicable and to provide detailed illustration/explanation/justification)
8.04	Requirement for proposals by a distressed listed company (except for interim proposals) to be accompanied by profit and cash flow forecasts.	
8.05	Requirements pertaining to profit and/or cash flow forecasts, where submitted.	

## 5. Utilisation of Proceeds

The following information should be submitted on the utilisation of proceeds from the proposal on issuance of securities:

- (a) Tabulation of the purposes of utilisation and the amount allocated for each purpose;
- (b) Brief description of each purpose of utilisation; and
- (c) Where the proceeds are utilised for acquisition of assets/businesses/interests, the relevant information on the acquisition as required under sections 3, 4, 6, 7, 8, 9, 10, 11 and 12 of Appendix 3 – Content of Application for Acquisition of Assets should be submitted.

## 6. Effects of the Proposal

In tabular form, to show the effects before and after the proposal, on the following:

- (a) Share capital (to show effect for each transaction);
- (b) Substantial shareholders;
- (c) Bumiputera shareholders;

- (d) Shareholding structure (to provide breakdown by Bumiputera, other Malaysians and foreign shareholdings);
- (e) Net assets (to show effect for each transaction);
- (f) Pre-tax and after-tax profits, and earnings per share (where applicable);
- (g) Cash flows (where applicable); and
- (h) Gearing ratio (including effects on borrowings and interest savings).

## **7. Other Supporting Information/Documents**

The application for the issue of securities should be accompanied by the following information/documents:

- (a) Audited financial statements of the applicant for the past three financial years;
- (b) Latest management accounts of the applicant;
- (c) Where the applicant is a distressed listed company, proforma balance sheets after incorporating the effects of the proposal and letter from the reporting accountants thereon;
- (d) Declaration by–
  - (i) the applicant as per specimen provided in Schedule 1;
  - (ii) each of the directors and proposed directors of the applicant as per specimen provided in Schedule 2; and
  - (iii) the principal adviser as per specimen provided in Schedule 3;
- (e) Legal opinions (where applicable);
- (f) Where the applicant is a distressed listed company and the proposal on issuance of securities submitted is not an interim proposal, the applicant must provide letters from the reporting accountants on–

- (i) profit forecast as per specimen provided in Schedule 4; and
- (ii) cash flow forecast as per specimen provided in Schedule 5;
- (g) Where an independent adviser/expert has been appointed, the report of the independent adviser/expert relating to the proposal;
- (h) Announcements relating to the proposal;
- (i) Details of expenses relating to the proposal; and
- (j) Tentative time-table for the implementation of the proposal.

**8. Future Financial Information (mandatory for proposal on issuance of securities by distressed listed companies, unless an interim proposal)**

**(a) Profit forecast and projections**

The following information on profit forecast and projections should be submitted for the applicant on a consolidated basis, before and after the proposal:

- (i) Tabulation of the forecast/projected performance indicators, as follows–
  - Turnover;
  - Gross profit;
  - Profit before tax but after minority interest;
  - Profit after tax and minority interest;
  - Gross earnings per share (EPS);
  - Net EPS;
  - Gross margin; and
  - Pre-tax profit margin;

- (ii) Breakdown and analysis of turnover and profits (including amount and %) by–
  - activity;
  - product/service;
  - division;
  - export and local; and
  - company, in the case of a group (to show the net effect after adjusting for inter company transactions, if any).
  
- (iii) Commentary on future profit performance, which should include analysis and/or discussion of–
  - significant and specific factors contributing to exceptional performance;
  - significant changes in the financial performance in comparison with the previous year;
  - the reasonableness and achievability of the forecast and projected profits vis-à-vis past trends and the bases and assumptions used. (Such bases and assumptions should draw attention to those uncertain factors which could materially affect the achievement of the forecast/projected profits. The bases and assumptions used should be specific rather than general);
  - accounting policies adopted which are peculiar to the company because of the nature of the company's business or the industry it is involved in, as well as the effects of such policies on the determination of the company's income or financial position; and
  - specific factors giving rise to the difference between turnover/profits before and after the proposal;

- (iv) Tabulation of results based on the latest management accounts as per (a)(i) above together with reasons for any material variances between the annualised results and the forecast results; and
- (v) Worksheets to support the profit forecast and projections.

**Notes:**

- (i) ***Where the applicant is a distressed listed company, profit forecast and projections must be submitted for such period of time until the company is projected to turn around. The information on the profit forecast and projections should be in accordance with paragraphs (a)(i) to (v) above.***
- (ii) ***The forecast for the current financial year (before and after the proposal) must be reported on by the reporting accountants in accordance with the prescribed format in Schedule 4 and the report by the reporting accountants must be submitted to the SC.***

and

**(b) Cash flow forecast and projections**

The following information on cash flow forecast and projections should be submitted for the applicant on a consolidated basis, before and after the proposal:

- (i) Tabulation of the forecast and projected cash flows;
- (ii) Commentary on future cash flow performance, which should include analysis and discussion of–
  - significant and/or exceptional factors affecting cash flow;
  - the reasonableness and achievability of the forecast and projected cash flows vis-à-vis past trends and the bases and assumptions used. (Such bases and assumptions should draw attention to

those uncertain factors which could materially affect the achievement of the forecast/projected cash flows. The bases and assumptions used should be specific rather than general);

- how cash flow deficits, if any, would be financed; and
- whether any bank borrowing or amount owed to trade or other creditors has the potential of being defaulted;

and

- (iii) Worksheets to support the cash flow forecast and projections.

**Notes:**

- (i) ***Where the applicant is a distressed listed company, cash flow forecast and projections must be submitted for such period of time until the company is projected to turn around. The information on the cash flow forecast and projections should be in accordance with paragraphs (b)(i) to (iii) above.***
- (ii) ***The forecast for the current financial year (before and after the proposal) must be reported on by the reporting accountants in accordance with the prescribed format in Schedule 5 and the report by the reporting accountants must be submitted to the SC.***



## APPENDIX 3

# CONTENT OF APPLICATION FOR ACQUISITIONS OF ASSETS

## Introduction

This appendix is issued to clarify the minimum information and documents required by the SC for applications on acquisitions of assets under Chapter 6.

## Content of Application

### 1. Cover Letter

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

- (a) Particulars of the proposal and approval sought. To state whether the proposal will result in a significant change in business direction or policy of the applicant and if so, to state how triggered (paragraph 6.02 defines the term significant change in business direction or policy of a listed company. It should be clearly stated how the significant change in business direction or policy of the applicant will occur i.e. through the triggering of either (a), (c), (d), (e) or (f) of the definition). The computation of the respective ratios in paragraph 6.02 should also be provided, where applicable;
- (b) Other required approvals obtained/pending (if applicable);
- (c) Material terms and conditions imposed by other relevant authorities and status of compliance;
- (d) Details of any departure from these 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;

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

- (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 on compliance with relevant laws, regulations, rules and requirements governing the assets/businesses/interests to be acquired;
- (g) Previous proposals submitted to the SC, if any, on the acquiree assets/businesses/interests;
- (h) Outstanding proposals which have been announced by the applicant but pending implementation, if any; and
- (i) Declaration of conflict of interest, if any, by advisers/experts of 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.

## **2. Other Pertinent Information on the Applicant**

The following information on the applicant should be submitted:

- (a) Name of company (and previous changes of name);
- (b) Date of incorporation and conversion to public company;
- (c) Date of listing;
- (d) Principal activities;
- (e) Share capital;
  - (i) Authorised;
  - (ii) Issued and paid-up; and
  - (iii) Changes since the date of incorporation;
- (f) Present shareholding structure (to provide break down by Bumiputera, other Malaysian and foreign shareholdings);

- (g) Particulars of substantial shareholders, as follows:
  - (i) Name;
  - (ii) Nationality/country of incorporation;
  - (iii) Direct and indirect shareholdings in the applicant;
  - (iv) Changes in substantial shareholders and their shareholdings in the applicant for the past three years; and
  - (v) Directorships and/or substantial shareholdings in all other public companies for the past three years;
- (h) Present Bumiputera shareholders and their shareholdings in the applicant;
- (i) Particulars of directors, proposed directors and chief executive officer, as follows:
  - (i) Name;
  - (ii) NRIC/passport number and nationality;
  - (iii) Address;
  - (iv) Designation;
  - (v) Direct and indirect shareholdings in the applicant; and
  - (vi) Directorships and substantial shareholdings in all other public companies for the past three years;
- (j) Particulars of subsidiary and associated companies, as follows:
  - (i) Name;
  - (ii) Date and place of incorporation;
  - (iii) Effective equity interest; and
  - (iv) Principal activities;

- (k) Details of material litigations involving the applicant and/or its subsidiary companies which may affect their income from, title to, or possession of any of their assets and/or businesses;
- (l) For acquisitions which result in a significant change in business direction or policy of the applicant, confirmation that the submission of tax returns and settlement of tax liabilities with the Inland Revenue Board (IRB) are up-to-date is required for the following:
  - (i) Applicant;
  - (ii) Directors and proposed directors of the applicant; and
  - (iii) Subsidiary companies and proposed subsidiary companies of the applicant;
- (m) For all other acquisitions, disclosure of whether or not the submission of tax returns and settlement of tax liabilities of the applicant, subsidiary companies and proposed subsidiary companies with the IRB is up-to-date; and
- (n) With respect to the applicant and its existing subsidiary companies, confirmation that the employees provident fund contribution is up-to-date.

**3. Background Information on the Acquiree Assets/Businesses/Interests**

**(a) For acquiree company**

Where the acquiree asset/business/interest is a company, the following information should be submitted:

- (i) Name and registration number of company (and previous changes of name);
- (ii) Date of incorporation and conversion to public company (if applicable);
- (iii) Date of listing and name of stock exchange (if applicable);
- (iv) Principal activities;

- (v) Date of commencement of operations/core business and detailed history of the business;
- (vi) Share capital
  - Authorised;
  - Issued and paid-up; and
  - Changes since the date of incorporation;
- (vii) Present shareholding structure (to provide break down by Bumiputera, other Malaysian and foreign shareholdings);
- (viii) Particulars of substantial shareholders, as follows:
  - Name;
  - Nationality/country of incorporation;
  - Direct and indirect shareholdings in the acquiree company; and
  - Changes in substantial shareholders and their shareholdings in the acquiree company for the past three years;
- (ix) Present Bumiputera shareholders and their shareholdings in the acquiree company;
- (x) Particulars of present directors, as follows:
  - Name and nationality;
  - Designation; and
  - Direct and indirect shareholdings in the acquiree company;
- (xi) Where the proposal results in a significant change in business direction, particulars of all interested persons of the acquiree company, as follows:

- Name, age, occupation and qualification;
  - Profile including designation, function and business and management experience;
  - Shareholdings in the acquiree company and/or its subsidiary and associated companies;
  - Directorships and/or substantial shareholdings in all other public companies for the past three years, and the principal activities/businesses of those other public companies;
  - Current interests, directorships and/or shareholdings in all other companies/businesses, and the principal activities of those other companies or nature of those other businesses; and
  - Any existing and potential conflict of interest, the nature and extent of the conflicts together with a proposal to resolve, eliminate or mitigate such conflicts, taking into consideration Practice Note 5;
- (xii) Where the proposal results in a significant change in business direction, confirmation that the directors of the acquiree company -
- are not undischarged bankrupts nor are they subjected to any proceeding under bankruptcy laws;
  - have never been charged with, convicted for or compounded for any offence under securities laws, corporations laws or any other law involving fraud or dishonesty in a court of law;
  - have never had any action taken against them 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; and

- to the best of their knowledge, have not been subjected to any inquiry or investigation by any government or regulatory authority or body for the past five years prior to the submission of the application;
- (xiii) Particulars of subsidiary and associated companies, as follows:
- Name;
  - Date and place of incorporation;
  - Issued and paid-up capital;
  - Effective equity interest and date of acquisition of such interest; and
  - Principal activities and date of commencement of operations/core business;
- (xiv) Encumbrances on the shares and/or assets of the acquiree company;
- (xv) Particulars of licences, permits, concessions and approvals for the business of the acquiree company, as follows:
- Issuing authority;
  - Date of issue and expiry;
  - Nature of licences, permits, concessions and approvals; and
  - Equity and other material terms and conditions imposed and status of compliance;
- (xvi) Details of material litigations involving the acquiree company which may affect its income from, title to, or possession of, any of its assets and/or businesses;
- (xvii) Details of material commitments and contingent liabilities incurred or known to be incurred by the

acquiree company and their impact on the profits or net asset value of the company upon becoming enforceable; and

- (xviii) Details of subsisting material contracts outside the ordinary course of business of the acquiree company;

**(b) For acquiree asset/business**

For acquisition of asset/business, the following information should be submitted:

- (i) Details of asset/business, including but not limited to the following (where applicable):
- Nature/description;
  - Date of commencement and detailed history;
  - Location;
  - Title;
  - Registered/beneficial owner;
  - Age;
  - Stage of completion;
  - Build-up area;
  - Land area;
  - Existing use;
  - Tenure/expiry date; and
  - Cost and date of acquisition;
- (ii) Encumbrances on the asset;
- (iii) Particulars of licences, permits, concessions and approvals for the asset/business, as follows:



- Issuing authority;
  - Date of issue and expiry;
  - Nature of licences, permits, concessions and approvals; and
  - Material terms and conditions imposed and status of compliance;
- (iv) Details of material litigations involving the asset/business, which may affect the income from, title to, or possession of, the asset/business;
- (v) Details of material commitments and contingent liabilities for the asset/business; and
- (vi) Details of subsisting material contracts relating to the asset/business.

#### **4. Background Information on the Vendors of the Acquiree Assets/Businesses/Interests**

##### **(a) For vendor which is a company**

Where the vendor is a company, the following information should be submitted:

- (i) Name, registration number and current address of the vendor company;
- (ii) Date and place of incorporation;
- (iii) Date of listing and name of stock exchange (if applicable);
- (iv) Principal activities;
- (v) Issued and paid-up share capital;
- (vi) Present shareholding structure (to provide break down by Bumiputera, other Malaysian and foreign shareholdings);

- (vii) Particulars of substantial shareholders of the vendor company, as follows:
- Name;
  - Nationality/country of incorporation; and
  - Direct and indirect shareholdings in the vendor company;
- (viii) Where the proposal results in a significant change in business direction:
- Particulars of the vendor company's interests and/or substantial shareholdings in all other companies/businesses for the past three years, and the principal activities of those other companies or nature of those other businesses;
  - Whether the vendor company's interests and/or substantial shareholdings in the other companies/businesses would give rise to a situation of conflict of interest with the acquiree company's business, and the mitigating factors; and
  - Confirmation that the vendor company–
    - has never been charged with, convicted for or compounded for any offence under securities laws, corporations laws or any other law involving fraud or dishonesty in a court of law;
    - has never had any action taken against it 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; and
    - to the best of its knowledge, has not been subject to any inquiry or investigation by any government or regulatory authority or body for the past five years prior to the submission of the application;

- (ix) Present Bumiputera shareholders and their shareholdings in the company;
- (x) Particulars of directors, as follows:
  - Name and NRIC/passport number;
  - Age;
  - Nationality;
  - Address;
  - Designation; and
  - Direct and indirect shareholdings in the company;and
- (xi) Particulars of subsidiary and associated companies, as follows:
  - Name of company;
  - Date and place of incorporation;
  - Issued and paid-up capital;
  - Effective equity interest; and
  - Principal activities and date of commencement of core business;

**(b) For vendor who is an individual**

Where the vendor is an individual, the following information should be submitted:

- (i) Name and NRIC/passport number;
- (ii) Age;
- (iii) Nationality;

- (iv) Address; and
- (v) Occupation;
- (vi) Where the proposal results in a significant change in business direction:
  - Particulars of the interests, directorships and/or substantial shareholdings of the vendor in all other companies/businesses for the past three years, and the principal activities of those other companies or nature of those businesses;
  - Any existing and potential conflict of interest with the acquiree company's business, the nature and extent of the conflicts together with a proposal to resolve, eliminate or mitigate such conflicts, taking into consideration Practice Note 4D; and
  - Qualification and experience of the vendor;

and

- (vii) Where the proposal results in a significant change in business direction, confirmation that the vendor–
  - is not an undischarged bankrupt nor is he/she subject to any proceeding under bankruptcy laws;
  - has never been charged with, convicted for or compounded for any offence under securities laws, corporations laws or any other law involving fraud or dishonesty in a court of law;
  - 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; and
  - to the best of his/her knowledge, has not been subjected to any inquiry or investigation by any government or regulatory authority or body for the past five years prior to the submission of the application.

## 5. Historical Financial Information on the Applicant

The following historical financial information on the applicant should be submitted:

- (a) Tabulation of the following performance indicators for the past three financial years:
  - (i) Paid-up capital;
  - (ii) Shareholders' funds;
  - (iii) Net assets (NA);
  - (iv) NA per share;
  - (v) Turnover;
  - (vi) Profit before tax but after minority interest;
  - (vii) Profit after tax and minority interest;
  - (viii) Gross earnings per share (EPS);
  - (ix) Net EPS;
  - (x) Pre-tax profit margin;
  - (xi) Current ratio;
  - (xii) Total borrowings (all interest-bearing debts); and
  - (xiii) Gearing ratio (all interest-bearing debts over shareholders' funds);
  
- (b) Commentary on past performance, which should include analysis and/or discussion of–
  - (i) 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;

- (ii) accounting policies adopted which are peculiar to the company because of the nature of the company's business or the industry it is involved in, as well as the effects of such policies on the determination of the company's income or financial position; and
  - (iii) any audit qualification of the financial statements in any of the financial years under review;
- and
- (c) Full disclosure of material commitments and contingent liabilities incurred or known to be incurred by the company and their impact on the profits or the net asset value of the company upon becoming enforceable.

**6. Long Form Accountants' Report on the Acquiree Companies/Businesses (addressed to the Board of Directors of the Applicant)**

The long form accountants' report is required for all acquisitions of companies/businesses. However,–

- (a) for an acquisition where all the percentage ratios as defined in paragraph 6.02 (read together with paragraph 6.03) are less than 25%;
- (b) for an acquisition of securities in a public-listed company; or
- (c) for an acquisition of an additional equity interest in a company which is already a subsidiary of the applicant company,

and where such acquisition does not result in a significant change in the business direction or policy of a listed company as defined in paragraph 6.02 and trigger the aggregation requirements of paragraph 6.03, the long form accountants' report is not required to be submitted. In such a situation, the historical financial information on the acquiree companies/businesses in accordance with section 7 of this appendix should be submitted.

The long form accountants' report should contain the following information:\*

**(a) Historical track record of each acquiree company/business**

(i) Tabulation of the following performance indicators for the past three financial years (or since the year of commencement of the core business if less than three financial years):

- Paid-up capital;
- Shareholders' funds;
- Net assets (NA);
- NA per share;
- Turnover;
- Gross profit;
- Profit before tax but after minority interest;
- Profit after tax and minority interest;
- Gross earnings per share (EPS);
- Net EPS;
- Effective tax rate;
- Gross margin;
- Pre-tax profit margin;
- Current ratio;
- Total borrowings (all interest-bearing debts);

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\* Note: Any reliance on the representation made by the applicant's management in preparing the long form accountants' report should be highlighted.

- Gearing ratio (all interest-bearing debts over shareholders' funds);
  - Interest expense;
  - Interest coverage ratio;
  - Gross dividend rate; and
  - After-tax return on shareholders' funds;
- (ii) Breakdown and analysis of turnover and profits (including amount and %) by–
- activity;
  - product/service;
  - division;
  - export and local; and
  - company, in the case of a group (to show the net effect after adjusting for inter-company transactions, if any);

and

- (iii) Commentary on past performance, which should include analysis and/or discussion of–
- significant and specific factors contributing to exceptional performance in any of the financial years under review and significant changes in the financial performance on a year-to-year basis, whether favourable or adverse;
  - accounting policies adopted which are peculiar to the company because of the nature of the company's business or the industry it is involved in, as well as the effects of such policies on the determination of the company's income or financial position;
  - revenue trend within each of the financial year under review and on a year-to-year basis;



- gross profit and pre-tax profit margin;
- any material difference between the effective tax rate and the statutory tax rate; and
- any audit qualification of the financial statements in any of the financial years under review;

**(b) Trade debtors**

(i) Tabulation of information on trade debtors, as follows:

		As at financial year end		
		Year 1	Year 2	Year 3
Trade debtors				
Less: Provision for doubtful debts				
<p style="text-align: center;">% of trade debtors to turnover</p> <p style="text-align: center;">Trade debtors' turnover period (months)</p>				

(ii) Ageing analysis of trade debtors, in the following sample format:

		As at the latest audited financial year end						
		Within credit period*			Exceeding credit period*			
Credit period		0-30 days	31-60 days	61-90 days etc.	< 6 months	6-12 months	> 12 months	Total
Trade debtors								
% of total trade debtors								

\* Note: Depending on the company's credit period.

and

- (iii) Commentary on–
- trade debtors position, whether excessive or unusually low, when compared with prior years, industry norm and/or nearest competitors (if available) and the company’s own credit policy; and
  - balances exceeding the normal credit period, giving specific details of the overdue debtors, and whether these debtors have since been collected or are collectible;

(Note: If any of the above is not applicable, to provide a negative statement to that effect.)

**(c) Other debtors**

- (i) Tabulation of other debtors by category, as follows:

Category of other debtors	As at financial year end		
	Year 1	Year 2	Year 3

; and

- (ii) Commentary on material balances and nature of other debtors, and whether these debtors have since been collected or are collectible;

(Note: If any of the above is inapplicable, to provide a negative statement to that effect.)

**(d) Trade creditors**

- (i) Tabulation of information on trade creditors, as follows:

Trade creditors	As at financial year end		
	Year 1	Year 2	Year 3

Trade creditors’ turnover  
period (months)

- (ii) Ageing analysis of trade creditors, in the following sample format:

		As at the latest audited financial year end						
		0-30 days	31-60 days	61-90 days	3-6 months	6-12 months	>12 months	Total
Trade creditors								
% of total trade creditors								

- (iii) Breakdown of total trade creditors by amount within credit period and amount exceeding credit period;
- (iv) Commentary on the trade creditors position, whether excessive or unusually low, when compared with prior years, industry norm and/or nearest competitors (if available) and the normal credit period extended by the trade creditors; and
- (v) Details of any legal or other action taken by the trade creditors to recover the amount owed;

(Note: If any of the above is inapplicable, to provide a negative statement to that effect.)

- (e) **Other creditors** (including advances from directors, shareholders, etc.)

- (i) Tabulation of other creditors by category, as follows:

	As at financial year end		
	Year 1	Year 2	Year 3
Category of other creditors			

; and

- (ii) Commentary on material balances and nature of other creditors, whether any amount is in default and whether any legal or other action has been taken by the creditors to recover the amount owed;

(Note: If any of the above is inapplicable, to provide a negative statement to that effect.)

**(f) Inventories**

- (i) Tabulation of information on inventories, as follows:

	As at financial year end		
	Year 1	Year 2	Year 3
Inventories (to provide breakdown)			
% of inventories to cost of goods sold			
Inventories turnover period (months)			

- (ii) Comparison of inventories turnover period with industry norm/nearest competitors, if available;
- (iii) Breakdown of slow-moving inventories and obsolete inventories; and
- (iv) Commentary on saleability of slow-moving inventories and on inventories obsolescence, if applicable, and material inventories movements vis-à-vis past trends;

(Note: If the above is inapplicable, to provide a negative statement to that effect.)

**(g) Bank borrowings**

- (i) Analysis of bank borrowings, including details of credit facilities and utilisation; and
- (ii) Information on whether any borrowing is in default and any legal or other actions taken by the lenders to recover the amount owed;

(Note: If any of the above is inapplicable, to provide a negative statement to that effect.)

**(h) Taxation**

Commentary on–

- (i) adequacy of provisions for taxation;
- (ii) whether the submission of tax returns and settlement of tax liabilities are up-to-date;
- (iii) any tax amount in dispute and/or any investigation carried out by the IRB and/or any overseas tax authority;
- (iv) any tax penalty imposed or additional tax amount assessed by the IRB and/or any overseas tax authority, and status of settlement of such penalty or additional tax amount;
- (v) tax losses and allowances available for carry forward, tax reliefs and their effects on deferred tax liability;
- (vi) any special allowances being claimed; and
- (vii) any other material information relating to taxation;

(Note: If any of the above is inapplicable, to provide a negative statement to that effect.)

and

**(i) Other income**

Analysis of other income, if applicable.

**7. Historical Financial Information on the Acquiree Companies/  
Businesses**

In situations where the long form accountants' report is not required (see section 6 above), the following historical financial information should be submitted for each acquiree company/business:

- (a) Tabulation of the following performance indicators for the past three financial years (where applicable):
  - (i) Paid-up capital;
  - (ii) Shareholders' funds;
  - (iii) Net assets (NA);
  - (iv) NA per share;
  - (v) Turnover;
  - (vi) Profit before tax but after minority interest;
  - (vii) Profit after tax and minority interest;
  - (viii) Gross earnings per share (EPS);
  - (ix) Net EPS;
  - (x) Pre-tax profit margin;
  - (xi) Current ratio;
  - (xii) Total borrowings (all interest-bearing debts); and
  - (xiii) Gearing ratio (all interest-bearing debts over shareholders' funds);
  
- (b) Commentary on past performance, which should include analysis and/or discussion of–
  - (i) 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;
  
  - (ii) accounting policies adopted which are peculiar to the company/business because of the nature of the business or the industry it is involved in, as well as the effects of such policies on the determination of income or financial position; and

(iii) any audit qualification of the financial statements in any of the financial years under review;

and

(c) Full disclosure of material commitments and contingent liabilities incurred or known to be incurred by the company/business and their impact on the profits or the net asset value of the company/business upon becoming enforceable.

## 8. Qualitative Considerations

The following information should be submitted for each acquiree asset/business/interest (where applicable):

(a) Analysis of the quality of the acquiree asset/business/interest including, but not limited to, the following:

(i) Products, services and applications, including the most significant recent trends in demand and production, sales and inventory, costs and selling prices of products and services, and state of the order book since the most recent financial year;

(ii) Viability and vulnerability

- Product/services diversity and quality (and whether they are deemed a necessity or luxury);
- The level of gearing, liquidity and working-capital requirements;
- Market access;
- Market share/market ranking/reputation;
- Competitive advantage in terms of operations, technology, pricing, financing, etc.;
- Long-term contracts;
- Availability of resources;

- Capability to diversify;
  - Sensitivity to economic downturn;
  - Risks (business, operational, financial, investment, etc.);
- (iii) Customers
- Information on customer base (including number of customers); and
  - Name of major customers (i.e. those individually contributing to 10% or more of turnover), level of sales, length of relationship as well as whether there is a dependency on such major customers and the mitigating factors;
- (iv) Suppliers
- Information on supplier base (including number of suppliers); and
  - Name of major suppliers (i.e. those individually contributing to 10% or more of purchases), level of purchases, length of relationship as well as whether there is a dependency on such major suppliers and the mitigating factors;
- (v) Industry/sector
- Description of industry/sector (including size);
  - Past and present performance;
  - Growth prospects;
  - Industry players and competition;
  - Demand/supply conditions;
  - Level of market saturation in terms of players and/or products;



- Relevant laws and regulations governing the industry/sector;

and

- (vi) Comparison of the performance of the acquiree company with the performance of other companies involved in similar activities;
- (b) Rationale for the proposal;
  - (c) Benefits of the proposal to the applicant (for acquisitions of assets which result in a significant change in the business direction or policy of a listed company involving foreign assets, to also provide the expected time frame in which profits are to be repatriated to Malaysia);
  - (d) Risks associated with the proposal and the mitigating factors; and
  - (e) Future plans and strategies of the applicant for the acquiree asset/business/interest as well as the steps taken (including time frame) and resources required to be committed to realise the plans.

## **9. Pricing and Valuation Methodology**

### **(a) Valuation of acquiree assets/businesses/interests**

The following information should be submitted on the valuation of each acquiree asset/business/interest:

- (i) Basis/method of valuation and determination of purchase consideration;
- (ii) Justification and substantiation for the valuation and purchase consideration;
- (iii) Particulars of all liabilities to be assumed by the applicant; and
- (iv) Salient terms and conditions of the transaction/sale and purchase agreement;

**(b) Settlement of purchase consideration**

The following information should be submitted for the settlement of purchase consideration:

- (i) Mode of settlement of purchase consideration; and
- (ii) Where the purchase consideration is to be satisfied by full or partial issuance of securities:
  - Basis of valuation/pricing of securities; and
  - Justification and substantiation for the valuation/pricing of securities;

and

**(c) Comments by the principal adviser**

The principal adviser must provide comments on the reasonableness of the purchase consideration.

## 10. Compliance with Guidelines

The compliance checklist is to be prepared for each acquisition. This checklist is not exhaustive. Reference should also be made to other relevant chapters of these guidelines, practice notes and any subsequent amendment/revision.

Paragraph	Summary of Guidelines Requirement	Applicant's Position (to comment whether requirement is met, not met or inapplicable and to provide detailed illustration/explanation/justification)
<b>Additional Requirements for Issues of Warrants and Convertible Securities (where warrants and/or convertible securities are issued to finance the acquisition)</b>		
5.16	Limitation on number of new shares arising from an exercise of outstanding warrants.	
5.17	Requirement for step-up or step-down pricing mechanism to be determined and disclosed upfront.	
5.18	For warrants and listed convertible securities, requirement for the amount of step-up/step-down and the time frames for the exercise/conversion price adjustment to be determined upfront. Step-up/step-down pricing mechanisms must be set on a fixed basis.	
5.19	For unlisted convertible securities, requirement that the conditions governing the step-up/step-down pricing mechanism and time frames for the conversion price adjustment be determined upfront.	
5.20	Prohibitions on provisions of deed polls and trust deeds for–	
	(a) the extension or shortening of tenure of the warrants/convertible securities; and	

Paragraph	Summary of Guidelines Requirement	Applicant's Position
		(to comment whether requirement is met, not met or inapplicable and to provide detailed illustration/ explanation/ justification)
	(b) changes to the number of shares received for the exercise/conversion of each warrant/convertible security and changes to the pricing mechanism for the exercise/ conversion price of the warrant/convertible security, except where these changes are adjustments following capitalisation issues, rights issue, consolidation or subdivision of shares or capital reduction exercises.	
5.21	Requirement for provisions for changes in terms of warrants/convertible securities to be determined and disclosed upfront.	
5.22	Prohibition on alteration/adjustment to terms except where provided upfront.	
	<b>Issues of Securities Pursuant to Capital Reconstruction or Debt Restructuring/ Settlement</b>	
5.23	Requirement to justify and/or demonstrate how the proposal would improve the business and financial conditions of the issuer.	
	<b>Issues of Securities to Finance Acquisitions of Assets</b>	
5.24	Requirement for compliance with relevant requirements of Chapter 6 for issuers proposing to issue securities to finance a proposed acquisition of assets or refinance an acquisition of assets which was completed within one year prior to submission.	

Paragraph	Summary of Guidelines Requirement	Applicant's Position (to comment whether requirement is met, not met or inapplicable and to provide detailed illustration/explanation/justification)
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### **ACQUISITIONS AND DISPOSALS OF ASSETS**

6.03	Requirements on aggregation of transactions.	<i>(To state the applicable triggering factor, i.e. either (a), (b) or (c) of paragraph 6.03)</i>
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### **PART A Acquisitions of Assets Financed by Issuance of Securities**

6.05	Requirements for an issuer proposing to issue equity or equity-linked securities to finance or refinance an acquisition:  (a) Justification of benefits of the acquisition; and  (b) Justification and substantiation of valuation of assets and purchase consideration.	
6.06	Requirement for principal adviser to comment on reasonableness of terms and conditions.	
6.07	Requirements on second-opinion valuation–  (a) to adopt lower of two valuations;  (b) not make up difference via internally-generated funds or borrowings; and  (c) to disclose both valuations.	

Paragraph	Summary of Guidelines Requirement	Applicant's Position (to comment whether requirement is met, not met or inapplicable and to provide detailed illustration/ explanation/ justification)
6.08	<p>Requirement where assets are to be acquired from a related party,—</p> <p>(a) principal adviser to confirm compliance with applicable provisions on related-party transactions in the MESDAQ Market Listing Requirements; and</p> <p>(b) a copy of the independent advice report to be submitted to the SC.</p>	

**PART B**  
**Acquisitions of Assets Resulting in a Significant Change in the Business Direction or Policy of a Listed Company**

6.09	<p>General requirements on acquisition of assets which results in a significant change in the business direction or policy of a listed company.</p>	
6.10	<p>(a) Requirement where the acquisition results in a change in the core business of the listed company,—</p> <p>(i) the new core business must be suitable for listing on the MESDAQ Market and comply with the principles embodied in the requisite paragraphs of Chapter 4 as may be applicable; and</p> <p>(ii) the listed company must justify that it has the expertise and resources to manage the new core business;</p>	

Paragraph	Summary of Guidelines Requirement	Applicant's Position (to comment whether requirement is met, not met or inapplicable and to provide detailed illustration/explanation/justification)
	<p>(b) Requirement where the acquisition results in a change in the controlling shareholder and/or the board of directors of the listed company, the applicant must justify that the directors and management have the experience, qualifications and competence to manage the business and perform their individual roles;</p> <p>and</p>	
	<p>(c) Requirement where the subject of the acquisition is foreign-based assets, the applicant must be able to demonstrate to the SC the benefits accruing to Malaysia from the acquisition.</p>	

**Placement of Shares to Meet Shareholding Spread**

6.11	Requirement on compliance with shareholding spread requirements under the MESDAQ Market Listing Requirements.	
6.12	<p>Requirement for placement of shares undertaken to meet shareholding spread:</p> <p>(a) Principal adviser to act as placement agent;</p> <p>(b) Prohibition on retention of shares by a principal adviser or any placement agent;</p> <p>(c) Restriction on placements of shares to persons connected to the placement agent except under certain circumstances;</p> <p>(d) Restriction on quantum of securities allowed for placements to persons connected to the placement agent;</p>	

Paragraph	Summary of Guidelines Requirement	Applicant's Position
		(to comment whether requirement is met, not met or inapplicable and to provide detailed illustration/ explanation/ justification)
	(e) Restrictions on identities of placees; and  (f) Obligation of principal adviser to submit the final list of placees and requisite confirmation.	
	<b>Moratorium on disposal of securities</b>	
6.15	Restrictions imposed on disposal of the consideration securities received by the vendor of the assets.	<i>(To disclose the names of securities holders subject to moratorium, and the number and % of securities under moratorium)</i>
6.16	Requirement relating to a vendor which is an unlisted company.	
	<b>PROPOSALS BY DISTRESSED LISTED COMPANIES</b>	
7.01	Requirements on proposals by distressed listed companies:	
	(a) Proposal must be comprehensive and capable of resolving all problems of the listed company, and enable the company to regularise its condition;  (b) Listed company must justify and demonstrate that the proposal is fair and reasonable to the company and its shareholders and will increase shareholder value; and  (c) Assets injected must be able to provide immediate and sustainable contributions to the listed company's profit and cash flow.	
7.02	Requirement pertaining to second-opinion valuations and where obtained, the lower of the two valuations to be adopted.	



Paragraph	Summary of Guidelines Requirement	Applicant's Position (to comment whether requirement is met, not met or inapplicable and to provide detailed illustration/explanation/justification)
7.03	Requirements on interim proposal.	
	<b>Information on Operating and Financial Prospects</b>	
8.03	Requirement to provide discussion and analysis of business, financial conditions and prospects. (Applicable to proposals on acquisitions resulting in a significant change in the business direction or policy of a listed company and proposals by distressed listed companies).	
8.04	Requirement for proposals by a distressed listed company (except for interim proposals) to be accompanied by profit and cash flow forecasts.	
8.05	Requirements pertaining to profit and/or cash flow forecasts, where submitted.	
	<b>Valuation Reports</b>	
8.06	Requirement for valuation reports to be submitted for acquisition of property assets or companies which own property assets.	
8.07	Requirement for valuation of property assets to be carried out by a registered valuer or an expert. For valuation of assets other than property assets, a valuation report prepared by an expert should be submitted where available. The material date of valuation should not be more than six months from date of receipt by the SC of the valuation report.	
8.08	Requirement for registered valuer or expert to be appointed by the applicant, except where a second-opinion valuation is required.	

Paragraph	Summary of Guidelines Requirement	Applicant's Position (to comment whether requirement is met, not met or inapplicable and to provide detailed illustration/explanation/justification)
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### **Independent Adviser/Expert Reports**

- 8.09 Requirement for proposals on acquisitions resulting in a change in the core business of a listed company to include–
- (a) an independent market research report on the applicant's proposed new core business; and
  - (b) an independent technical feasibility report, if the applicant is acquiring a new technology-based core business, and such business has generated operating revenue for less than 12 months based on audited financial statements.
- 8.10 Requirement for submission of independent adviser/expert reports where such adviser/ expert has been appointed.

## **11. Effects of the Proposal**

In tabular form, to show the effects before and after the proposal, on the following:

- (a) Share capital (to show effect for each transaction);
- (b) Substantial shareholders;
- (c) Bumiputera shareholders;
- (d) Shareholding structure (to provide breakdown by Bumiputera, other Malaysians and foreign shareholdings);
- (e) Net assets (to show effect for each transaction);

- (f) Pre-tax and after-tax profits, and earnings per share;
- (g) Cash flows; and
- (h) Gearing ratio (including effects on borrowings and interest savings).

## **12. Other Supporting Information/Documents**

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

- (a) Audited financial statements of the applicant company for the past three financial years;
- (b) Audited financial statements of the acquiree companies for the past three financial years;
- (c) Latest management accounts of the applicant;
- (d) Latest management accounts of the acquiree companies;
- (e) Proforma balance sheets after incorporating the effects of the proposal and letter from the reporting accountants thereon;
- (f) Declaration by–
  - (i) the applicant as per specimen provided in Schedule 1;
  - (ii) each of the directors and proposed directors of the applicant as per specimen provided in Schedule 2; and
  - (iii) the principal adviser as per specimen provided in Schedule 3;
- (g) Valuation reports (where applicable);
- (h) Legal opinions (where applicable);
- (i) Sale and purchase agreements and any other relevant agreement, in relation to the proposal;

- (j) Where the proposal involves a property (land and building), the certified document of title of the property, together with a declaration from the applicant that all relevant approvals from the authorities who have jurisdiction over the use of the property have been obtained;
- (k) Any other supporting document (e.g. copies of licences, concessions and permits from relevant authorities);
- (l) For acquisitions of assets which result in a significant change in the business direction or policy of a listed company 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 counter-parties under the relevant laws of domicile, and other relevant legal matters;
- (m) Where an applicant is a distressed listed company, to also provide letters from the reporting accountants on–
  - (i) profit forecast as per specimen provided in Schedule 4; and
  - (ii) cash flow forecast as per specimen provided in Schedule 5;
- (n) For all applications relating to acquisitions resulting in a change in the core business of a listed company, an independent market research report on the applicant's proposed new core business which should include the following:
  - (i) Background of expert;
  - (ii) Scope of report;
  - (iii) For technology-based companies, overview of the technology;

- (iv) Appraisal of the applicant's or the group's business, including the products, services and processes; and
- (v) Appraisal of the industry which addresses, among others–
  - Description of the industry;
  - Estimated market coverage, position and share of the applicant/group;
  - Trend analysis including demand/supply conditions;
  - Substitute products/services;
  - Relevant laws and regulations governing the industry and peculiarities of the industry;
  - Industry players, competition and barriers to entry;
  - Success factors, growth drivers and market restraints; and
  - Prospects and outlook of the industry;and
- (vi) Commentary on the historical growth rate and growth prospects of the applicant's or group's business, products and services;
- (o) An independent technical feasibility report, in the case where the applicant is acquiring a new technology-based core business and such business has generated operating revenue for less than 12 months based on audited financial statements. The technical feasibility report may be prepared by the same independent expert undertaking the independent market research report, provided that the expert is appropriately qualified for both assignments. The technical feasibility report should include the following:
  - (i) Background of expert (where a different expert from that undertaking the independent market research report is appointed);

- (ii) Scope of report;
  - (iii) Appraisal of the applicant's or the group's technology;
  - (iv) Appraisal of relevant agreements, contracts, licences and permits;
  - (v) Comments on R&D expenditure plan;
  - (vi) Comments on operation and performance to date (if applicable);
  - (vii) Comments on environmental impact (if applicable); and
  - (viii) Risk assessment on the applicant's or group's technology, products and services;
- (p) Announcements relating to the proposal;
  - (q) Details of expenses relating to the proposal; and
  - (r) Tentative time table for the implementation of the proposal.

**13. Future Financial Information (mandatory for acquisitions by distressed listed companies, unless an interim proposal)**

**(a) Profit forecast and projections**

The following information in respect of profit forecast should be submitted for the applicant on a consolidated basis, before and after the proposal, and separately for each acquiree asset/business/interest:

- (i) Tabulation of the forecast/projected performance indicators, as follows:
  - Turnover;
  - Gross profit;
  - Profit before tax but after minority interest;

- Profit after tax and minority interest;
  - Gross earnings per share (EPS);
  - Net EPS;
  - Gross margin; and
  - Pre-tax profit margin;
- (ii) Breakdown and analysis of turnover and profits (including amount and %) by–
- activity;
  - product/service;
  - division;
  - export and local; and
  - company, in the case of a group (to show the net effect after adjusting for inter company transactions, if any).
- (iii) Commentary on future profit performance, which should include analysis and/or discussion of–
- significant and specific factors contributing to exceptional performance;
  - significant changes in the financial performance in comparison with the previous year;
  - the reasonableness and achievability of the forecast and projected profit vis-à-vis past trends and the bases and assumptions used. (Such bases and assumptions should draw attention to those uncertain factors which could materially affect the achievement of the forecast/projected profit. The bases and assumptions used should be specific rather than general);

- accounting policies adopted which are peculiar to the company because of the nature of the company's business or the industry it is involved in, as well as the effects of such policies on the determination of the company's income or financial position; and
  - specific factors giving rise to the difference between turnover/profits before and after the proposal;
- (iv) Tabulation of results based on the latest management accounts as per (a)(i) above together with reasons for any material variance between the annualised results and the forecast results; and
- (v) Worksheets to support the profit forecast and projections;

**Notes:**

- (i) ***Where the applicant is a distressed listed company, profit forecast and projections must be submitted for such period of time until the company is projected to turn around. The information on the profit forecast and projections should be in accordance with paragraphs (a)(i) to (v) above.***
- (ii) ***The forecast for the current financial year (before and after the proposal) must be reported on by the reporting accountants in accordance with the prescribed format in Schedule 4 and the report by the reporting accountants must be submitted to the SC.***

and

**(b) Cash flow forecast and projections**

The following information on cash flow forecast and projections should be submitted for the applicant on a consolidated basis, before and after the proposal:

- (i) Tabulation of the forecast and projected cash flows;



- (ii) Commentary on future cash flow performance, which should include analysis and discussion of–
- significant and/or exceptional factors affecting cash flow;
  - the reasonableness and achievability of the forecast and projected cash flow vis-à-vis past trends and the bases and assumptions used. (Such bases and assumptions should draw attention to those uncertain factors which could materially affect the achievement of the forecast/projected cash flow. The bases and assumptions used should be specific rather than general);
  - how cash flow deficits, if any, would be financed; and
  - whether any bank borrowing or amount owed to trade or other creditors has the potential of being defaulted;
- and
- (iii) Worksheets to support the cash flow forecast and projections.

**Notes:**

- (i) ***Where the applicant is a distressed listed company, cash flow forecast and projections must be submitted for such period of time until the company is projected to turn around. The information in respect of the cash flow forecast and projections should be in accordance with paragraphs (b)(i) to (iii) above.***
- (ii) ***The forecast for the current financial year (before and after the proposal) must be reported on by the reporting accountants in accordance with the prescribed format in Schedule 5 and the report by the reporting accountants must be submitted to the SC.***

## APPENDIX 4

# CONTENT OF APPLICATION FOR DISPOSALS OF ASSETS WHICH RESULTS IN A SIGNIFICANT CHANGE IN BUSINESS DIRECTION OR POLICY OF A LISTED COMPANY

## Introduction

This appendix is issued to clarify the minimum information and documents required by the SC for applications for disposals of assets which results in a significant change in business direction or policy of a listed company under Chapter 6.

## Content of Application

### 1. Cover Letter

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

- (a) Particulars of the disposal proposal and approval sought. To state how the disposal will result in a significant change in business direction or policy of the applicant (paragraph 6.02 defines the term significant change in business direction or policy of a listed company. It should be clearly stated how the significant change in business direction or policy of the applicant will occur i.e. through the triggering of either (b), (c) or (g) of the definition). The computation of the respective ratios in paragraph 6.02 should also be provided, where applicable;
- (b) Where the disposal proposal is submitted by a distressed listed company as an interim proposal before the submission of a comprehensive proposal to resolve its financial problems, declaration by the company of the interim status of the disposal proposal;
- (c) Rationale and benefits of the proposal;

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

- (d) Future plans of the applicant to acquire a new core business and the expected time frame to realise such plans (if available);
- (e) Other required approvals obtained/pending (if applicable);
- (f) Material terms and conditions imposed by other relevant authorities and status of compliance;
- (g) Details of any departure from these 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;
- (h) 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;
- (i) Where the proceeds from the disposal proposal are to be utilised for the acquisition of assets/businesses/interests,–
  - (i) confirmation on compliance with relevant laws, regulations, rules and requirements governing such acquiree assets/businesses/interests; and
  - (ii) previous proposals which have been submitted to the SC, if any, on acquiree assets/businesses/interests;
- (j) Previous proposals submitted to the SC, if any, on the assets/businesses/interests to be disposed of;
- (k) Outstanding proposals which have been announced by the applicant but pending implementation, if any; and
- (l) Declaration of conflict of interest, if any, by advisers/experts for 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.

## **2. Other Pertinent Information on the Applicant**

The following information on the applicant should be submitted:

- (a) Name of company (and previous changes of name);

- (b) Date of incorporation and conversion to public company;
- (c) Date of listing;
- (d) Principal activities;
- (e) Share capital
  - (i) Authorised;
  - (ii) Issued and paid-up; and
  - (iii) Changes since the date of incorporation;
- (f) Present shareholding structure (to provide break down by Bumiputera, other Malaysian and foreign shareholdings);
- (g) Particulars of substantial shareholders, as follows:
  - (i) Name;
  - (ii) Nationality/country of incorporation;
  - (iii) Direct and indirect shareholdings in the applicant;
  - (iv) Changes in substantial shareholders and their shareholdings in the applicant for the past three years; and
  - (v) Directorships and/or substantial shareholdings in all other public companies for the past three years;
- (h) Present Bumiputera shareholders and their shareholdings in the applicant;
- (i) Particulars of directors, proposed directors and chief executive officer, as follows:
  - (i) Name;
  - (ii) NRIC/passport number and nationality;
  - (iii) Address;

- (iv) Designation;
- (v) Direct and indirect shareholdings in the applicant; and
- (vi) Directorships and substantial shareholdings in all other public companies for the past three years;
- (j) Particulars of subsidiary and associated companies, as follows:
  - (i) Name;
  - (ii) Date and place of incorporation;
  - (iii) Effective equity interest; and
  - (iv) Principal activities;
- (k) Details of material litigations involving the applicant and/or its subsidiary companies which may affect their income from, title to, or possession of any of their assets and/or businesses;
- (l) Disclosure of whether or not the submission of tax returns and settlement of tax liabilities of the applicant, subsidiary companies and proposed subsidiary companies with the Inland Revenue Board are up-to-date; and
- (m) With respect to the applicant and its existing subsidiary companies, confirmation that the employees provident fund contribution is up-to-date.

### **3. Background Information on the Assets/Businesses/Interests to Be Disposed Of**

#### **(a) For company**

Where the asset/business/interest to be disposed is a company, the following information should be submitted:

- (i) Name and registration number of company (and previous changes of name);
- (ii) Date of incorporation and conversion to public company (if applicable);

- (iii) Date of listing and name of stock exchange (if applicable);
- (iv) Principal activities;
- (v) Description and history of business;
- (vi) Issued and paid-up share capital;
- (vii) Present shareholding structure (to provide break down by Bumiputera, other Malaysian and foreign shareholdings);
- (viii) Particulars of substantial shareholders, as follows:
  - Name;
  - Nationality/country of incorporation; and
  - Direct and indirect shareholdings in the company;
- (ix) Particulars of when and how the applicant acquired interest in the company to be disposed of;
- (x) Present Bumiputera shareholders and their shareholdings in the company;
- (xi) Particulars of present directors, as follows:
  - Name and nationality;
  - Designation; and
  - Direct and indirect shareholdings in the company;
- (xii) Particulars of subsidiary and associated companies, as follows:
  - Name;
  - Date and place of incorporation;
  - Issued and paid-up capital;

- Effective equity interest and date of acquisition of such interest;
  - Principal activities; and
  - Description and history of business;
- (xiii) Tabulation of the financial results of the company for the past three financial years;
- (xiv) Particulars of licences, permits and concessions relating to the business of the company, as follows:
- Issuing authority;
  - Date of issue and expiry;
  - Nature of licences, permits and concessions; and
  - Equity and other conditions imposed and status of compliance;
- (xv) Details of material litigations involving the company to be disposed of which may create contingent liabilities for or otherwise affect the applicant following the disposal; and
- (xvi) Details of material contracts, commitments and contingent liabilities incurred or known to be incurred by the company to be disposed of which may continue to affect the applicant following the disposal;

and

**(b) For asset/business**

For disposal of asset/business, the following information should be submitted:

- (i) Details of asset/business, including but not limited to the following (where applicable):
- Nature, description and history;

- Location;
  - Title;
  - Registered/beneficial owner;
  - Age;
  - Stage of completion;
  - Build-up area;
  - Land area;
  - Existing use;
  - Tenure/expiry date; and
  - Cost and date of acquisition;
- (ii) Particulars of licences/permits/approvals for the asset/business, as follows:
- Issuing authority;
  - Date of issue and expiry;
  - Nature of licences/permits/approvals; and
  - Conditions imposed and status of compliance;
- (iii) Details of material litigations involving the asset/business, which may create contingent liabilities for or otherwise affect the applicant following the disposal; and
- (iv) Details of material contracts, commitments and contingent liabilities of asset/business which may continue to affect the applicant following the disposal.



**4. Background Information on the Purchasers of the Assets/  
Businesses/Interests to Be Disposed Of**

**(i) For purchaser which is a company**

Where the purchaser is a company, the following information should be submitted:

- (a) Name and registration number of company;
- (b) Date and place of incorporation;
- (c) Date of listing and name of stock exchange (if applicable);
- (d) Principal activities;
- (e) Issued and paid-up share capital;
- (f) Particulars of substantial shareholders, as follows:
  - Name;
  - Nationality/country of incorporation; and
  - Direct and indirect shareholdings in the company;
- (g) Particulars of directors, as follows:
  - Name;
  - Nationality;
  - Designation; and
  - Direct and indirect shareholdings in the company;

and

**(ii) For purchaser who is an individual**

Where the purchaser is an individual, the following information should be submitted:

- (a) Name and NRIC/passport number;

- (b) Age;
- (c) Nationality;
- (d) Address; and
- (e) Occupation.

## 5. **Historical Financial Information on the Applicant**

The following historical financial information on the applicant should be submitted:

- (a) Tabulation of the following performance indicators for the past three financial years:
  - (i) Paid-up capital;
  - (ii) Shareholders' funds;
  - (iii) Net assets (NA);
  - (iv) NA per share;
  - (v) Turnover;
  - (vi) Profit before tax but after minority interest;
  - (vii) Profit after tax and minority interest;
  - (viii) Gross earnings per share (EPS);
  - (ix) Net EPS;
  - (x) Pre-tax profit margin;
  - (xi) Current ratio;
  - (xii) Total borrowings (all interest-bearing debts); and
  - (xiii) Gearing ratio (all interest-bearing debts over shareholders' funds);

- (b) Commentary on past performance, which should include analysis and/or discussion of–
  - (i) 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;
  - (ii) accounting policies adopted which are peculiar to the company because of the nature of the company's business or the industry it is involved in, as well as the effects of such policies on the determination of the company's income or financial position; and
  - (iii) any audit qualification of the financial statements in any of the financial years under review;and
- (c) Full disclosure of material commitments and contingent liabilities incurred or known to be incurred by the company and their impact on the profits or the net asset value of the company upon becoming enforceable.

## **6. Valuation Methodology**

### **(a) Valuation of assets/businesses/interests to be disposed of**

The following information should be submitted on the valuation of each asset/business/interest to be disposed of:

- (i) Current carrying cost/net book value of the asset/business/interest;
- (ii) Basis/method of valuation and determination of disposal consideration;
- (iii) Justification and substantiation for the valuation and disposal consideration;

- (iv) Particulars of all liabilities to be assumed by the applicant; and
- (v) Salient terms and conditions of the transaction/sale and purchase agreement;

and

**(b) Settlement of disposal consideration**

The following information should be submitted on the settlement of disposal consideration:

- (i) Mode of settlement of disposal consideration;
- (ii) Where the disposal consideration is to be satisfied by full or partial issuance of securities in the purchaser (where the purchaser is a company):
  - Basis of valuation/pricing of securities; and
  - Justification and substantiation for the valuation/pricing of securities.

**Note:**

***Where the disposal consideration is satisfied by full or partial issuance of securities in the purchaser, which effectively results in the acquisition of equity interest in the purchaser by the applicant, the relevant information on the acquisition as required under sections 3, 4, 6, 7, 8, 9, 10, 11, and 12 of Appendix 3 – Content of Application for Acquisition of Assets should be submitted.***

## 7. Compliance with Guidelines

The compliance checklist is to be prepared for each disposal. This checklist is not exhaustive. Reference should also be made to other relevant chapters of these guidelines, practice notes and any subsequent amendment/revision.

Paragraph	Summary of Guidelines Requirement	Applicant's Position (to comment whether requirement is met, not met or inapplicable and to provide detailed illustration/ explanation/ justification)
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**PART C**  
**Disposals of Assets Resulting in a Significant Change in the Business Direction or Policy of a Listed Company**

6.03	Requirements on aggregation of transactions.	<i>(To state the applicable triggering factor i.e. either (a), (b) or (c) of paragraph 6.03)</i>
6.17	Requirements for disposals resulting in a significant change in business direction or policy of a listed company:	
	<ul style="list-style-type: none"> <li>(a) Proposal must be adequately justified;</li> <li>(b) Terms and conditions of disposal are fair;</li> <li>(c) Justification and substantiation of valuation of the assets and disposal consideration;</li> <li>(d) Principal adviser to comment on reasonableness of terms and conditions, and disposal consideration; and</li> <li>(e) Proceeds raised must be utilised for benefit of the listed company and its shareholders and subject to prior approval of the SC.</li> </ul>	

Paragraph	Summary of Guidelines Requirement	Applicant's Position (to comment whether requirement is met, not met or inapplicable and to provide detailed illustration/explanation/justification)
6.18	Requirements on second-opinion valuation–  (a) to adopt higher of two valuation amounts; and  (b) to disclose both valuations.	
6.19	Requirement where assets are to be disposed of to a related party,–  (a) principal adviser to confirm compliance with applicable provisions on related-party transactions in the MESDAQ Market Listing Requirements; and  (b) a copy of the independent advice report must be submitted to the SC.	

**PROPOSALS BY DISTRESSED LISTED COMPANIES**

7.01	Requirements on proposals by distressed listed companies:  (a) Proposal must be comprehensive and capable of resolving all problems of the listed company, and enable the company to regularise its condition;  (b) Listed company must justify and demonstrate that the proposal is fair and reasonable to the company and its shareholders and will increase shareholder value; and  (c) Assets injected must be able to provide immediate and sustainable contributions to the listed company's profit and cash flow.	
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Paragraph	Summary of Guidelines Requirement	Applicant's Position (to comment whether requirement is met, not met or inapplicable and to provide detailed illustration/ explanation/ justification)
7.02	Requirement for second-opinion valuations and where obtained, the lower of the two valuations to be adopted.	
7.03	Requirements on interim proposal.	
<b>Information on Operating and Financial Prospects</b>		
8.03	Requirement to provide discussion and analysis of business, financial conditions and prospects. (Applicable to proposals by distressed listed companies only).	
8.04	Requirement for proposals by a distressed listed company (except for interim proposals) to be accompanied by profit and cash flow forecasts.	
8.05	Requirements for profit and/or cash flow forecasts, where submitted.	
<b>Valuation Reports</b>		
8.06	Requirement for valuation reports to be submitted for disposal of property assets or companies which own property assets which result in a significant change in a listed company's business direction or policy.	
8.07	Requirement for valuation of property assets to be carried out by a registered valuer or an expert. For valuation of assets other than property assets, a valuation report prepared by an expert should be submitted where available. The material date of valuation should not be more than six months from date of receipt by the SC of the valuation report.	

Paragraph	Summary of Guidelines Requirement	Applicant's Position (to comment whether requirement is met, not met or inapplicable and to provide detailed illustration/explanation/justification)
8.08	Requirement for registered valuer or expert to be appointed by the applicant, save where a second-opinion valuation is required.	
8.10	<p><b>Independent Adviser/Expert Reports</b></p> Requirement for submission of independent adviser/expert reports where such adviser/expert has been appointed.	

## 8. Utilisation of Proceeds

The following information should be submitted on the utilisation of proceeds from the disposal proposal:

- (a) Tabulation of the purposes of utilisation and the amount allocated for each purpose (where available);
- (b) Brief description of each purpose of utilisation; and
- (c) Where the proceeds are utilised for acquisition of assets/businesses/interests, the relevant information on the acquisition as required under sections 3, 4, 6, 7, 8, 9, 10, 11, and 12 of Appendix 3 – Content of Application for Acquisition of Assets should be submitted.

## 9. Effects of the Proposal

In tabular form, to show the effects before and after the proposal, on the following (where applicable):

- (a) Share capital (to show effect for each transaction);
- (b) Substantial shareholders;



- (c) Bumiputera shareholders;
- (d) Shareholding structure (to provide breakdown by Bumiputera, other Malaysians and foreign shareholdings);
- (e) Net assets (to show effect for each transaction);
- (f) Pre-tax and after-tax profits, and earnings per share;
- (g) Cash flows; and
- (h) Gearing ratio (including effects on borrowings and interest savings).

#### **10. Other Supporting Information/Documents**

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

- (a) Audited financial statements of the applicant for the past three financial years;
- (b) Audited financial statements of the companies to be disposed of for the past three financial years;
- (c) Latest management accounts of the applicant;
- (d) Latest management accounts of the companies to be disposed of;
- (e) Proforma balance sheets after incorporating the effects of the proposal and letter from the reporting accountants thereon;
- (f) Declaration by–
  - (i) the applicant as per specimen provided in Schedule 1;
  - (ii) each of the directors and proposed directors of the applicant as per specimen provided in Schedule 2; and
  - (iii) the principal adviser as per specimen provided in Schedule 3;

- (g) Valuation/experts' reports (where applicable);
- (h) Legal opinions (where applicable);
- (i) Sale and purchase agreements and any other relevant agreement, in relation to the proposal;
- (j) Any other relevant supporting document (e.g. copies of licences, concessions and permits from relevant authorities);
- (k) Where an applicant is a distressed listed company, to also provide letters from the reporting accountants on–
  - (i) profit forecast as per specimen provided in Schedule 4; and
  - (ii) cash flow forecast as per specimen provided in Schedule 5;
- (l) Where an independent adviser/expert has been appointed, the report of the independent adviser/expert relating to the proposal;
- (m) Announcements relating to the proposal;
- (n) Details of expenses relating to the proposal; and
- (o) Tentative time-table for the implementation of the proposal.

**11. Future Financial Information (mandatory for disposals by distressed listed companies, unless an interim proposal)**

**(a) Profit forecast and projections**

The following information on profit forecast and projections should be submitted for the applicant on a consolidated basis, before and after the proposal:

- (i) Tabulation of the forecast/projected performance indicators, as follows:
  - Turnover;
  - Gross profit;

- Profit before tax but after minority interest;
  - Profit after tax and minority interest;
  - Gross earnings per share (EPS);
  - Net EPS;
  - Gross margin; and
  - Pre-tax profit margin;
- (ii) Breakdown and analysis of turnover and profits (including amount and %) by–
- activity;
  - product/services;
  - division;
  - export and local; and
  - company, in the case of a group (to show the net effect after adjusting for inter-company transactions, if any);
- (iii) Commentary on future profit performance, which should include analysis and/or discussion of–
- significant and specific factors contributing to exceptional performance;
  - significant changes in the financial performance in comparison with the previous year;
  - the reasonableness and achievability of the forecast and projected profits vis-à-vis past trends and the bases and assumptions used. (Such bases and assumptions should draw attention to those uncertain factors which could materially affect the achievement of the forecast/projected profits. The bases and assumptions used should be specific rather than general);

- accounting policies adopted which are peculiar to the company because of the nature of the company's business or the industry it is involved in, as well as the effects of such policies on the determination of the company's income or financial position; and
  - specific factors giving rise to the difference between turnover/profits before and after the proposal;
- (iv) Tabulation of results based on the latest management accounts as per (a)(i) above together with reasons for any material variance between the annualised results and the forecast results;
- (v) Worksheets to support the profit forecast and projections;

**Notes:**

- (i) ***Where the applicant is a distressed listed company, profit forecast and projections must be submitted for such period of time until the company is projected to turn around. The information on the profit forecast and projections should be in accordance with paragraphs (a)(i) to (v) above.***
- (ii) ***The forecast for the current financial year (before and after the proposal) must be reported on by the reporting accountants in accordance with the prescribed format in Schedule 4 and the report by the reporting accountants must be submitted to the SC.***

and

**(b) Cash flow forecast and projections**

The following information on cash flow forecast and projections should be submitted for the applicant on a consolidated basis, before and after the proposal:

- (i) Tabulation of the forecast and projected cash flows;

- (ii) Commentary on future cash flow performance, which should include analysis and discussion of–
- significant and/or exceptional factors affecting cash flow;
  - the reasonableness and achievability of the forecast and projected cash flows vis-à-vis past trends and the bases and assumptions used. (Such bases and assumptions should draw attention to those uncertain factors which could materially affect the achievement of the forecast/projected cash flows. The bases and assumptions used should be specific rather than general);
  - how cash flow deficits, if any, would be financed; and
  - whether any bank borrowing or amount owed to trade or other creditors has the potential of being defaulted;
- and
- (iii) Worksheets to support the cash flow forecast and projections.

**Notes:**

- (i) ***Where the applicant is a distressed listed company, cash flow forecast and projections must be submitted for such period of time until the company is projected to turn around. The information on the cash flow forecast and projections should be in accordance with paragraphs (b)(i) to (iii) above.***
- (ii) ***The forecast for the current financial year (before and after the proposal) must be reported on by the reporting accountants in accordance with the prescribed format in Schedule 5 and the report by the reporting accountants must be submitted to the SC.***

## APPENDIX 5

# CONTENT OF SUBMISSION OF VALUATION REPORTS FOR PROPERTY ASSETS

## Introduction

This appendix is issued to clarify the minimum information and documents required by the SC, which must accompany valuation reports submitted under Chapter 9.

### 1. Cover Letter

The cover letter, signed by two authorised persons\* of the principal adviser, should contain and/or be accompanied by the following:

- (a) Brief particulars of the corporate proposals;
- (b) For related-party transactions, details of the nature of interest of the related parties, including direct and indirect shareholdings of the related parties in the applicant;
- (c) List/summary of the property assets involved in the valuation exercise, including identification, net book values and market values assessed by the valuer;
- (d) Disclosure of any breach of relevant laws, regulations, rules and requirements relating to the property assets;
- (e) Copies of relevant agreements relating to the property assets and/or transactions (where such agreements are not included in the valuation reports);
- (f) Two copies of the original valuation reports together with the valuation report checklist;
- (g) Two copies of the original valuation certificates;

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

- (h) Tentative date for the submission of application for the corporate proposals to the SC; and
- (i) Applications for waivers and exemptions from any provision on valuation of assets under these guidelines and/or the *Guidelines on Asset Valuations*, if any.

# PART V SCHEDULES



**Schedule 1**  
(Paragraphs 3.03 and 8.02)

**Declaration by the Applicant**

The Chairman  
Securities Commission

Dear Sir

**APPLICANT ... (Name of applicant) ...**

**Declaration Under Paragraphs 3.03 and 8.02 of the Guidelines on the Offering of Equity and Equity-linked Securities for the MESDAQ Market**

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

- (a) .....
- (b) .....
- (c) .....

(hereinafter referred to as " the Proposal " ).

- 2. We confirm that after having made all reasonable inquiries, and to the best of our knowledge and belief, there is no false or misleading statement contained in, or material omission from, the information which is provided to the advisers/experts or to the SC in relation to the Proposal and the *Guidelines on Due Diligence Conduct for Corporate Proposals* have been complied with.
- 3. We declare that we are satisfied, after having made all reasonable inquiries, that the Proposal is in full compliance with the following:
  - (a) The *Guidelines on the Offering of Equity and Equity-linked Securities for the MESDAQ Market*;<sup>1</sup>
  - (b) The *Guidelines on the Offering of Private Debt Securities*;<sup>\*</sup>
  - (c) The *Guidelines on the Offering of Asset-backed Securities* as may be applicable to the issuer during the tenor of the Proposal;<sup>\*</sup>

- (d) The requirements of the Controller of Foreign Exchange with respect to the Proposal;\* and
  - (e) Other requirements and regulations pursuant to the *Capital Markets and Services Act 2007* as may be applicable.
- 4. 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 law involving fraud or dishonesty in a court of law, for the last 10 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.
- 5. We declare the following:
  - (a) The Proposal results/does not result\* in a significant change in the business direction or policy of the listed company, as defined in Chapter 2 of the *Guidelines on the Offering of Equity and Equity-linked Securities for the MESDAQ Market*;
  - (b) The Proposal involves/does not involve\* an acquisition of foreign assets;
  - (c) ...(Name of applicant)... is/is not\* a distressed listed company as defined in Chapter 2 of the *Guidelines on the Offering of Equity and Equity-linked Securities for the MESDAQ Market*; and
  - (d) The Proposal involves/does not involve\* a related-party transaction as defined in Chapter 2 of the *Guidelines on the Offering of Equity and Equity-linked Securities for the MESDAQ Market*.
- 6. We declare that we will ensure continuous compliance with the requirements and conditions imposed by the SC on the Proposal.

7. We undertake to provide to the SC all such information as the SC may require for the Proposal.

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:

Notes:

1 Where exemptions are being sought, to insert the words "except paragraph(s) ... (refer to paragraph where exemption is being sought) ...where exemption(s) is/are being sought as part of the submission to the SC".

\* To delete if not applicable.

**Schedule 2**  
(Paragraphs 3.04 and 8.02)

**Declaration by a Director of the Applicant**

The Chairman  
Securities Commission

Dear Sir

**APPLICANT ... (Name of applicant) ...**

**Declaration Under Paragraphs 3.04 and 8.02 of the Guidelines on the Offering of Equity and Equity-linked Securities for the MESDAQ Market**

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

- (a) .....
- (b) .....
- (c) .....

(hereinafter referred to as " the Proposal").

2. I declare that, save as otherwise disclosed in the attachment accompanying this declaration,–

- (a) I am not an undischarged bankrupt nor am I presently subjected to any proceeding 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 law involving fraud or dishonesty in a court of law;
- (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 Proposal to the SC; and
- (d) to the best of my knowledge, I have not been subjected to any inquiry or investigation by any government or regulatory authority or body for the past five years prior to the submission of the 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:

**Schedule 3**  
(Paragraph 8.02)

**Declaration by the Principal Adviser**

The Chairman  
Securities Commission

Dear Sir

**APPLICANT ... (Name of applicant) ...**

**Declaration Under Paragraph 8.02 of the Guidelines on the Offering of Equity and Equity-linked Securities for the MESDAQ Market**

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

- (a) .....
- (b) .....
- (c) .....

(hereinafter referred to as " the Proposal " ).

We, ...(Name of Principal Adviser)..., are advising ...(Name of applicant)... on the Proposal.

- 2. We confirm that after having made all reasonable inquiries, and to the best of our knowledge and belief, there is no false or misleading statement contained in, or material omission from, the information which is provided to the SC in relation to the Proposal and the *Guidelines on Due Diligence Conduct for Corporate Proposals* have been complied with.
- 3. We declare that we are satisfied after having made all reasonable inquiries that the Proposal is in full compliance with the following:
  - (a) The *Guidelines on the Offering of Equity and Equity-linked Securities for the MESDAQ Market*;<sup>1</sup>
  - (b) The *Guidelines on the Offering of Private Debt Securities* as may be applicable to the principal adviser;<sup>\*</sup>

- (c) The *Guidelines on the Offering of Asset-backed Securities* as may be applicable to the principal adviser;\*
  - (d) The requirements of the Controller of Foreign Exchange with respect to the Proposal;\* and
  - (e) Other requirements and regulations pursuant to the *Capital Markets and Services Act 2007* as may be applicable.
4. We declare the following:
- (a) The Proposal results/does not result\* in a significant change in the business direction or policy of the listed company, as defined in Chapter 2 of the *Guidelines on the Offering of Equity and Equity-linked Securities for the MESDAQ Market*;
  - (b) The Proposal involves/does not involve\* an acquisition of foreign assets;
  - (c) ...(Name of applicant)... is/is not\* a distressed listed company as defined in Chapter 2 of the *Guidelines on the Offering of Equity and Equity-linked Securities for the MESDAQ Market*; and
  - (d) The Proposal involves/does not involve\* a related-party transaction as defined in Chapter 2 of the *Guidelines on the Offering of Equity and Equity-linked Securities for the MESDAQ Market*.
5. We undertake to immediately inform the SC if it has come to our knowledge that ...(name of applicant)... has breached or failed to comply with such requirements, after submitting this declaration on the Proposal until the implementation of the Proposal.
6. We undertake to provide to the SC all such information as the SC may require for the Proposal.

Yours faithfully

.....[ Signature ].....

Name of signatory:

Name of Principal Adviser:

Date:

Notes:

1       Where exemptions are being sought, to insert the words "except paragraph(s) ..." (refer to paragraph where exemption is being sought) ...where exemption(s) is/are being sought as part of the submission to the SC" .

\*       To delete if not applicable.



**Schedule 4**  
(Paragraph 8.05)

**Acceptable Form of Reporting Accountants' Report on Profit Forecast**

The Board of Directors  
Model Company Bhd

Dear Sirs

**MODEL COMPANY BHD**

We have reviewed the consolidated profit forecast of Model Company Bhd Group for the year ending ..... as set out in the accompanying statement (which we have stamped for the purpose of identification) in accordance with the standard [ISA 810] applicable to the review of forecasts. The forecast has been prepared for submission to the Securities Commission in connection with ..... and should not be relied on for any other purpose.

Our review enabled us to form an opinion on whether the forecast, in all material respects, is properly prepared based on the assumptions made by the Directors and is presented on a basis consistent with the accounting policies adopted and disclosed by the Group in its audited financial statements for the year ended ..... The Directors of Model Company Bhd are solely responsible for the preparation and presentation of the forecast and the assumptions on which the forecast is based.

The forecast of Company S (e.g. a subsidiary or a proposed acquiree company), to contribute xx% to the profit after taxation after minority interests of the Group, was reviewed by Audit Firm and Co., another firm of accountants, whose report (see Appendix ..... ) has been furnished to us. Our opinion, insofar as it relates to the amount included for Company S, is based on the report of the other firm of accountants.

*[In this circumstance, a similar report on Company S etc. must also be made available to the SC.]*

Forecasts, in this context, means prospective financial information prepared based on the assumptions of future events which management expects to take place, and the actions which management expects to take as of the date the information is prepared (best-estimate assumptions). While information may

be available to support the assumptions on which the forecast is based, such information is generally future oriented and therefore uncertain. Thus, actual results are likely to be different from the forecast since anticipated events frequently do not occur as expected and the variation could be material.

*[Where relevant, insert an emphasis of matter paragraph to highlight a matter affecting the profit forecast.]*

Subject to the matters stated in the preceding paragraphs–

- (a) nothing has come to our attention which causes us to believe that the assumptions made by the Directors, as set out in the accompanying statement, do not provide a reasonable basis for the preparation of the profit forecast; and
- (b) in our opinion, the profit forecast, so far as the calculations are concerned, is properly prepared on the basis of the assumptions made by the Directors and is presented on a basis consistent with the accounting policies adopted and disclosed by the Group in its audited financial statements for the year ended ..... (except for the changes in accounting policies as disclosed in note .....).

Yours faithfully

(Name of Audit Firm)  
[AF:8888]  
Chartered Accountants

(Name of Partner)  
[9999/3/01(J/PH)]  
Partner

(Date)

**Schedule 5**  
(Paragraph 8.05)

**Acceptable Form of Reporting Accountants'  
Report on Cash Flow Forecast**

The Board of Directors  
Model Company Bhd

Dear Sirs

**MODEL COMPANY BHD**

We have reviewed the consolidated cash flow forecast of Model Company Bhd Group for the year ending ..... as set out in the accompanying statement (which we have stamped for the purpose of identification) in accordance with the standard [ISA 810] applicable to the review of forecasts. The forecast has been prepared for submission to the Securities Commission in connection with ..... and should not be relied on for any other purposes.

Our review enabled us to form an opinion as to whether the forecast, in all material respects, is properly prepared based on the assumptions made by the Directors and is presented on a basis consistent with the accounting policies adopted and disclosed by the Group in its audited financial statements for the year ended ..... The Directors of Model Company Bhd are solely responsible for the preparation and presentation of the forecast and the assumptions on which the forecast is based.

The forecast of Company S (e.g. a subsidiary or a proposed acquiree company), which is forecast to contribute xx% to the net increase in the cash flows of the Group, was reviewed by Audit Firm and Co., another firm of accountants, whose report (see Appendix ..... ) has been furnished to us. Our opinion, insofar as it relates to the amount included for Company S, is based on the report of the other firm of accountants.

*[In this circumstance, a similar report on Company S etc. must also be made available to the SC.]*

Forecasts, in this context, means prospective financial information prepared based on the assumptions of future events which management expects to take place, and the actions which management expects to take as of the date the information is prepared (best-estimate assumptions). While information may be available to support the assumptions on which forecast is based, such

information is generally future-oriented and therefore uncertain. Thus, actual results are likely to be different from the forecast since anticipated events frequently do not occur as expected and the variation could be material.

*[Where relevant, insert an emphasis of matter paragraph to highlight a matter affecting the cash flow forecast.]*

Subject to the matters stated in the preceding paragraphs–

- (a) nothing has come to our attention which causes us to believe that the assumptions made by the Directors, as set out in the accompanying statement, do not provide a reasonable basis for the preparation of the cash flow forecast; and
- (b) in our opinion, the cash flow forecast, so far as the calculations are concerned, is properly prepared on the basis of the assumptions made by the Directors.

Yours faithfully

(Name of Audit Firm)  
[AF:8888]  
Chartered Accountants

(Name of Partner)  
[9999/3/01(J/PH)]  
Partner

(Date)

**Schedule 6**  
(Paragraph 10.09)

**Follow-Up Questionnaire**

[To be completed and submitted, together with two copies of the annual report, not later than 14 days after every annual general meeting until the expiry of the three-year business development plan period or the financial forecast period, whichever is applicable and longer. Quarterly and research reports issued pursuant to the requirements of the MESDAQ Market Listing Requirements may be attached to support the responses to the questions listed below. The Follow-up Questionnaire shall be addressed to the Chairman, Securities Commission, 3 Persiaran Bukit Kiara, Bukit Kiara, 50490 Kuala Lumpur.]

**Name of Company:** \_\_\_\_\_

**Date of Annual General Meeting:** \_\_\_\_\_

**Listing Date:** \_\_\_\_\_

**Date of SC Approval:** \_\_\_\_\_

**Declaration**

This return is complete and correct to the best of my knowledge and belief.

Signature: \* \_\_\_\_\_

Name: \_\_\_\_\_  
(IN BLOCK LETTERS)

Designation: \_\_\_\_\_

Date: \_\_\_\_\_

\*To be signed by a Director or Chief Executive Officer duly authorised by the company.

**Person to Contact**

Please name a person who can be contacted if queries arise regarding this return.

Name: \_\_\_\_\_  
(IN BLOCK LETTERS)

Designation: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Tel No.: \_\_\_\_\_

**Confirmation by Reporting Accountants/Adviser**

We confirm that the information set out in this Follow-up Questionnaire is in accordance with the books and records of the company produced to us and the explanation provided to us by the company's management.

Name of Reporting Accountants: \_\_\_\_\_

Firm No.: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Name of Adviser/Sponsor: \_\_\_\_\_

Name of Signatory: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Question 1 CONSOLIDATED FINANCIAL PERFORMANCE FOR THE FINANCIAL YEAR/PERIOD  
(to state the year/period)**

	<b>Actual (Audited)</b>	<b>Forecast (if applicable)</b>	<b>Deviation (if applicable)</b>	
	<b>(RM'000)</b>	<b>(RM'000)</b>	<b>(RM'000)</b>	<b>(%)</b>
Turnover				
Gross profit				
Profit before taxation but after minority interest				
Profit after taxation and minority interest				

To provide the following:

- A commentary on the actual business and financial performance by comparing with the disclosure on the business and financial prospects made in the prospectus/circular to shareholders.
- Details of the reasons for the deviation from the forecast submitted to the SC and disclosed in the prospectus/circular to shareholders (if applicable).

**Question 2 UTILISATION OF FUNDS DURING THE FINANCIAL YEAR/PERIOD (to state the year/period)  
(applicable to initial public offerings)**

	<b>Proposed Utilisation</b>	<b>Actual Utilisation</b>	<b>Deviation*</b>	
	<b>(RM'000)</b>	<b>(RM'000)</b>	<b>(RM'000)</b>	<b>(%)</b>
# Funds Applied (Please attach documentary evidence, where applicable)				
(i)				
(ii)				
(iii)				
(iv)				
<b>TOTAL</b>				

Notes:

\* To provide details of the reasons for the deviation.

# In the case of refinancing of loans/borrowings, please complete the following:

	<b>Opening Balance (RM)</b>	<b>New Loans/Borrowings (RM)</b>	<b>Refinancing (RM)</b>	<b>Closing Balance (RM)</b>
Loan/Borrowings				

**Question 3 CHANGE IN PROMOTERS' SHAREHOLDINGS DURING THE FINANCIAL YEAR/PERIOD (to state the year/period) (applicable to initial public offerings)**

Name	Before		After		Date of Purchase/Disposal
	Nominal Value		Nominal Value		
	(RM'000)	(%)	(RM'000)	(%)	

**Question 4 UPDATE ON THREE-YEAR BUSINESS DEVELOPMENT PLAN (applicable to initial public offerings)**

1. To provide an update on the achievement of the business development plan submitted as part of the application for listing on the MESDAQ Market, which should include, but not be limited to, a commentary on the development milestones of the business development plan.
2. If there has been any material variation in the plans, or where the plans have not been met, to provide comprehensive reasons and to state how this is expected to affect future financial performance.



# **PART VI PRACTICES NOTES**

## **PRACTICE NOTE 1: CORE BUSINESS**

**Issued Under Chapter 2 (Definitions), Chapter 4 (Initial Public Offerings and Listings) and Chapter 6 (Acquisitions and Disposals of Assets) of the Guidelines on the Offering of Equity and Equity-linked Securities for the MESDAQ Market**

### **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 company may be determined and distinguished by considering the following factors:

- (a) The economic sector/sub-sector and industry the company 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 effort; and
- (g) Where applicable, the nature of the regulatory environment governing the business.

## **PRACTICE NOTE 2: TECHNOLOGY-BASED BUSINESS ACTIVITIES**

### **Issued Under Chapter 4 (Initial Public Offerings and Listings) of the Guidelines on the Offering of Equity and Equity-linked Securities for the MESDAQ Market**

#### **Introduction**

This practice note is issued to clarify subparagraph 4.02(a) in Chapter 4.

#### **Technology-based Business Activities**

1. For the purpose of complying with the requirement of subparagraph 4.02(a) in Chapter 4 on involvement in technology-based business activities, an applicant should be involved in design, development and manufacture/production/application in any of the areas under sections I to XII below. The SC may from time to time add to, vary or delete the areas specified below.

#### **I. Advanced electronics and information technology**

##### *Components*

- (a) Input/output technologies
- (b) Storage and batteries
- (c) Smart cards
- (d) Integrated circuits
- (e) Micro processors

##### *Systems and architectures*

- (a) Operating system environments
- (b) Software component architectures
- (c) Computing platforms
- (d) Micro processor-based products

- (e) Security
- (f) Neural networks
- (g) Fuzzy logic systems
- (h) Display systems
- (i) Pattern recognition system and image processing
- (j) Machine vision

*Software*

- (a) Fuzzy logic systems
- (b) Application development environments
- (c) Database management systems
- (d) Groupware, workflow, document and knowledge management
- (e) Systems and network management
- (f) Animation, graphics, visualisation, image solutions, computer aided design (CAD), shrink-wrap software

*Applications*

- (a) Electronic commerce
- (b) Data warehousing
- (c) Corporate applications

*Communications*

- (a) Transmission media
- (b) Networking systems and protocols
- (c) Internet and intranet

*Supporting products and services*

- (a) Uninterrupted power supply
- (b) Network equipment/modem, server, etc.

**II. Telecommunications**

- (a) Telecommunication network
- (b) Cellular/fixed lines services
- (c) International gateway facilities
- (d) Value-added interactive voice and data services
- (e) Value-added network data services
- (f) Radio paging
- (g) Satellite-based communications
- (h) Maritime and broadband communication
- (i) Equipment, components and parts

**III. Equipment/instrumentation, automation and flexible manufacturing systems**

- (a) Scientific, laboratory and medical equipment
- (b) Medical implants, devices and prostheses
- (c) Computer process control systems/equipment
- (d) Wireless technology and wireless processes
- (e) Process instrumentation
- (f) Robotics
- (g) Computer numerical control (CNC) machine tools
- (h) High precision cutting/measurement/calibration machines

- (i) Powder metallurgy
- (j) Advanced factory machine operations
- (k) Rapid tooling and prototyping

**IV. Life sciences and biotechnology**

- (a) Genetic engineering
- (b) Cell cultures
- (c) Biopolymers
- (d) Metabolytes
- (e) Food and food supplements
- (f) Fine chemicals
- (g) Diagnostics
- (h) Waste, waste minimisation and waste treatment
- (i) Waste optimisation/utilisation
- (j) Waste remediation
- (k) Bioconversion processes

**V. Healthcare**

- (a) Pharmaceuticals
- (b) Nutraceuticals
- (c) Medical products
- (d) Diagnostic and imaging
- (e) Telemedicine
- (f) Nanomedicine

**VI. Electro-optics, non-linear optics and optoelectronics**

- (a) Optical lenses
- (b) Laser application equipment and peripherals
- (c) Photonics, including fibre-optics communication equipment and peripherals
- (d) Optoelectronics systems components
- (e) Optical systems components
- (f) Photo-copiers
- (g) Semiconductor lasers

**VII. Advanced materials**

- (a) Polymers, biopolymers and other biomaterials
- (b) Superconductors
- (c) Fine ceramics and advanced ceramics
- (d) High strength composites
- (e) Specialty materials, rare earth elements, smart materials and new alloys
- (f) Magnetic and permanent magnetic materials
- (g) Nanomaterials

**VIII. Energy**

- (a) Fuel cells
- (b) Advanced batteries
- (c) Solar cells
- (d) Renewable energy

- (e) Hybrid energy technology
- (f) Energy efficiency methods

**IX. Aerospace**

- (a) Aircraft and aircraft equipment, components, accessories and parts
- (b) Aircraft modification, conversion and refurbishment
- (c) Equipment, components, accessories or parts for satellites and micro satellites
- (d) Equipment, components, accessories or parts for satellite earth observation and aerial surveillance applications

**X. Transportation**

- (a) Split engines
- (b) High performing engines
- (c) Micro engines
- (d) Transport navigation and tracking systems

**XI. Value-added services**

- (a) Education and training relating to application of smart technologies
- (b) Education and training of knowledge workers
- (c) System developers, system integrators, content or solution providers

**XII. Emerging technologies**

Emerging technologies as may be added from time to time or considered on a case-to-case basis.



2. In addition, in determining whether or not an applicant is involved in technology-based activities, the SC would take into consideration the relevant factors, such as the following:
  - (a) The applicant being a developer, innovator and/or significant enhancer, as opposed to a mere user, of technology;
  - (b) Ownership of technology, intellectual property rights, patents, trademarks, etc.;
  - (c) Research and development (R&D) capabilities and commitments in the past, present and future, including the nature of R&D activities undertaken, the size, skills and experience of the R&D staff force and the amount of R&D expenditure incurred relative to the applicant's business and industry;
  - (d) Growth potential and prospects predicated on own-developed technology and products/services; and
  - (e) Contribution to the development of science and technology base for Malaysia.
3. In all cases, an applicant seeking listing as a technology-based company must provide justifications on why its business activities should be deemed as technology-based business activities.

## **PRACTICE NOTE 3: SUITABILITY FOR LISTING**

### **Issued Under Chapter 4 (Initial Public Offerings and Listings) of the Guidelines on the Offering of Equity and Equity-linked Securities for the MESDAQ Market**

#### **Introduction**

This practice note is issued to clarify the requirements on the suitability of an applicant to obtain listing on the MESDAQ Market, in particular on the qualitative aspects of the applicant.

#### **Suitability for Listing**

1. In addition to complying with the requirements as set out in Chapter 4 and other applicable chapters, an applicant seeking listing on the MESDAQ Market is expected to demonstrate relevant qualitative attributes, such as the following:
  - (a) Involvement in a profitable and growth industry;
  - (b) Involvement in an industry which has high barriers to entry;
  - (c) A potentially large industry market size for the principal products/services;
  - (d) A healthy market share for the principal products/services;
  - (e) A reasonable range of products/services and/or niche products/services;
  - (f) Recognised quality and/or established brand name for products/services;
  - (g) Diversified markets with strong customer base and/or long-term business relationships/long-term contracts with customers;
  - (h) Contribution to export earnings of the country, where applicable;
  - (i) Adequate skilled workforce;

- (j) Healthy growth in revenue and profits since commencement of core business;
  - (k) Growth potential and prospects during the business development plan period predicated mainly on products/services which are already commercialised;
  - (l) Healthy margins on principal products/services; and
  - (m) Clear demonstration that the listing exercise and the utilisation of proceeds raised is for the purposes of building and expanding the core business.
2. Also, an applicant which is neither involved in technology-based business activities (as described in Practice Note 2) nor involved in the business of a technology incubator, is expected to demonstrate the following additional qualitative attributes:
- (a) Intensive application of technology in business processes, including the production of principal products and/or delivery of services;
  - (b) Principal products and/or services have been commercialised and well accepted by the market over the operating track record period; and
  - (c) Growth rate of applicant surpasses the average growth rate of the industry.
3. In all cases, an applicant is expected to provide detailed information and justifications to support its suitability for listing and the viability and growth prospects of its business.

## **PRACTICE NOTE 4: FOREIGN-BASED OPERATIONS**

### **Issued Under Chapter 4 (Initial Public Offerings and Listings) of the Guidelines on the Offering of Equity and Equity-linked Securities for the MESDAQ Market**

#### **Introduction**

This practice note is issued to clarify the requirements of paragraph 4.14 in Chapter 4 on the listing of companies with foreign-based operations.

#### **Demonstration of Benefits Accruing to the Country**

Where the criteria as set out in paragraph 4.14 on foreign-based operations are applicable to an applicant, the applicant must demonstrate to the SC the benefits accruing to the country from the listing of the applicant. In evaluating the benefits accruing to the country, the SC will consider such factors as, but not limited to, the following:

- (a) The extent of research and development activities undertaken or to be undertaken in Malaysia and the benefits which will accrue to Malaysia arising from such activities;
- (b) The extent of transfer of technology and know-how to Malaysia;
- (c) The appointment of Malaysians in key positions in the applicant;
- (d) The size of the shareholdings of Malaysian promoters;
- (e) Whether the foreign operations result in market access for Malaysian goods and services;
- (f) The extent of supply of inputs to Malaysian companies;
- (g) Whether the foreign operations assist in the formation of strategic alliances with Malaysian companies;
- (h) The extent of utilisation or development of Malaysian natural resources; and
- (i) Whether the foreign operations will result in a continuous stream of profits and dividend payouts.

## **PRACTICE NOTE 5: CONFLICT OF INTEREST**

### **Issued Under Chapter 4 (Initial Public Offerings) of the Guidelines on the Offering of Equity and Equity-linked Securities for the MESDAQ Market**

#### **Introduction**

This practice note is issued to clarify the requirements of paragraph 4.24 in Chapter 4 on conflict of interest.

#### **Conflict of Interest**

1. An applicant is required to assess all aspects of its business to determine whether there are conflict-of-interest situations. In making the assessment, factors to be considered include the following:
  - (a) Whether the interested person of the applicant and/or its subsidiary companies has personal pecuniary interests which are in conflict with those of the applicant and/or its subsidiary companies;
  - (b) Whether the relationship between a major shareholder and the applicant and/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 interested person's objective professional judgment to act in the best interests of the applicant and/or its subsidiary companies is compromised;
  - (d) Whether the interested person is otherwise engaged in an activity which detracts time and commitment from managing the applicant and/or its subsidiary companies; and
  - (e) The significance of the conflict in relation to the nature, scale and complexity of the businesses of the applicant and/or its subsidiary companies.

2. Situations which are likely to give rise to conflict of interest include the following:
  - (a) Where interested persons have an interest in a business, apart from that of the applicant's and/or its subsidiary company's, which competes or is likely to compete, either directly or indirectly, with the business of the applicant and/or its subsidiary companies;
  - (b) Where interested persons conduct or have interest in business transactions involving goods or services, either directly or indirectly, with the applicant and/or its subsidiary companies;
  - (c) Where interested persons provide or receive financial assistance from the applicant and/or its subsidiary companies; and
  - (d) Where interested persons lease property to or from the applicant and/or its subsidiary companies.
3. Generally, conflict-of-interest situations existing prior to listing should be resolved or eliminated. However, there may be situations where the conflict cannot be promptly terminated, such as where—
  - (a) the arrangement is essential and favourable to the operations of the applicant and/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 and/or its subsidiary companies,in which case, measures for minimising and managing the conflict should be disclosed to the SC.
4. In any event, full disclosure of all existing and potential conflicts of interest involving or affecting the applicant, the parties to the conflicts, and measures taken must be made in the submission to the SC.

## **PRACTICE NOTE 6: PERCENTAGE RATIOS**

### **Issued Under Chapter 6 (Acquisitions and Disposals of Assets) of the Guidelines on the Offering of Equity and Equity-linked Securities for the MESDAQ Market**

#### **Introduction**

This practice note is issued to clarify the provisions of paragraph 6.02 in Chapter 6 on percentage ratios.

#### **Computation of Percentage Ratios**

1. The listed company's net assets figure used in the computation of the ratios should be based on–
  - (a) the latest available published audited consolidated financial statements, if the transaction 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. The listed company's after-tax profits figure used in the computation of the ratios should 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 or disposed of is an interest in another listed company, the after-tax profits figure used in the numerator should 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 or disposed of is not an interest in another listed company, the after-tax profits figure used in the numerator should be based on the latest available published audited financial statements of the subject asset.

3. The net assets and after-tax profits figures used in the computation of the ratios may be adjusted to take into account subsequent completed transactions which have a highly significant impact on the financial position of the listed company. Such adjustments must be reviewed by a firm of chartered accountants.

### **Percentage Ratios for Disposals**

4. In the case of a disposal, the denominator for the assets or profits percentage ratios should exclude the net assets or the after-tax profits of the subject asset, respectively.

### **Consideration to Market Value Ratio**

5. The market value of the ordinary shares of the listed company should be determined based on the weighted average market price of the ordinary shares for the five market days prior to the date on which the terms of the transaction are agreed upon.



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