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## Bursa Malaysia enhances Main Market Listing Requirements and Corporate Governance Requirements

On 29 November 2017, Bursa Malaysia Securities Berhad (“[Bursa Malaysia](#)”) announced various revisions to the Main Market Listing Requirements (“[MMLR](#)”) as part of its ongoing efforts to ensure the continued relevance and effectiveness of its listing requirements, and to align the MMLR with the following developments:

- a revamped Companies Act 2016 (“[CA 2016](#)”) that came into effect on 31 January 2017
- changes relating to corporate governance requirements
- changes to the post-listing disclosure obligations for mineral, oil and gas listed companies and special purpose acquisition companies
- changes arising from the codification of certain disclosure requirements following the implementation of FRS 139.

The amendments are effective from [2 January 2018](#), though listed issuers are given a longer grace period to comply in certain instances, for example:

- listed issuers have until [31 December 2019](#) to implement changes in the MMLR made pursuant to the CA 2016, namely in relation to prescribed contents of a constitution
- changes in the MMLR made relating to corporate disclosure requirements are applicable to annual reports issued for the financial year ending on or after [31 December 2017](#).

This alert provides highlights of the revised MMLR pursuant to changes in the CA 2016 and corporate governance requirements.

### [MMLR amendments made pursuant to the CA 2016](#)

#### [1. Enhanced framework for bonus issue and subdivision of shares](#)

Par value was abolished pursuant to the CA 2016, and by extension, the concepts of share premium account, capital redemption reserve and authorised share capital were also removed. Previously, bonus issues were typically undertaken through the capitalisation of share premium and capital redemption reserves.

In line with this change, Bursa Malaysia has streamlined the framework for bonus issues and subdivision of shares. The revised MMLR now allows bonus issues to be undertaken with or without increasing the issued share capital of the listed issuer. A bonus issue undertaken without capitalisation is akin to a subdivision of shares.

Other enhancements include the following:

- A principal adviser is no longer required to be appointed for a straightforward bonus issue of equity securities which is not conditional on other corporate proposals
- A pricing condition is imposed where the adjusted share price following a bonus issue must not be less than RM0.50 based on the daily volume weighted average price of the listed issuer’s shares during the 3-month period before application. Such pricing condition does not apply to bonus issues of warrants

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- For bonus issues by way of capitalisation, the listed issuer must ensure that there are sufficient reserves to cover the capitalisation issue. Further, it will no longer be a requirement for reserves to be unimpaired by losses on a consolidated basis for such bonus issues
  - Circulars for bonus issues will be subject to limited review by Bursa Malaysia (subject to the [Green Lane Policy](#) recently introduced by Bursa Malaysia).

## 2. Enhanced framework for share buy-back

The share buy-back regime was refined under the CA 2016. The usage of treasury shares was expanded in the CA 2016 to include transferring such shares for the purpose of employee share schemes or as purchase consideration or otherwise for such purposes as the Minister may by order prescribe. The solvency test applicable to share buy-backs was also refined.

In line with the changes introduced by the CA 2016, the revised MMLR makes the following enhancements:

- References to the share premium account as a source of funds for share buy-backs have been removed
- Transfers of treasury shares require immediate announcement with prescribed details
- Transfers of treasury shares are subject to similar pricing requirements currently applicable to the resale of treasury shares
- As solvency requirements applicable to share buy-backs are entrenched under the CA 2016, the previous listing requirement relating to execution of a solvency declaration has been removed to avoid replication with the CA 2016
- Share buy-back statements are only required to be issued for purposes of seeking a new shareholder mandate or renewing an existing share buy-back mandate
- Prescribed minimum contents of the share buy-back statement have been refined.

## 3. Communications with securities holders via electronic means

To promote more efficient engagement and communication with securities holders, the revised MMLR now facilitates the issuance of documents required to be sent to such securities holders by electronic means.

A listed issuer wishing to use such means of communication are required to comply with certain conditions including:

- amending its constitution to permit the use of electronic means to issue documents
- if documents are published on the listed issuer's website, notifying its securities holders separately in writing about this, including the designated website link to download the documents
- ensuring there is proof of delivery for any document or notification sent via e-mail
- reserving the right of a securities holder to request for a hard copy of a document.

The requirement on issuance of annual report in electronic format (such as CD-ROM and thumb drive) has also been removed.

## 4. Enhanced contents of constitution

The revised MMLR maintains the requirement for a listed issuer to have a constitution, albeit with certain enhancements to address gaps or for clarity. In line with the CA 2016, all references to "articles of association" are replaced with "constitution". The revised MMLR also deletes certain prescribed contents of the constitution which have already been codified in the CA 2016, addressed as a continuing listing obligation or are redundant.



## 5. Other amendments

Other revisions and clarifications in the MMLR to address the CA 2016 changes include the following:

- The percentage threshold to determine “deemed interest” in the definition of “associate” and “person connected” has been increased from 15% to 20%
- While the CA 2016 allows certain issuances of new securities to be undertaken without shareholder approval such as pro-rata issuances, the revised MMLR substantially maintains its requirement that a listed issuer must still procure shareholder approval for such issuances of new securities
- Immediate announcement must be made upon presentation of a winding-up petition to a listed issuer, its subsidiary or major associated company, in addition to an announcement of a winding up order being made or commencement of a voluntary winding-up
- Flexibility is provided to a management company of an exchange-traded fund to submit an initial listing application and additional listing application to Bursa Malaysia without a financial advisor.

### MMLR amendments made pursuant to changes to corporate governance requirements

The Malaysian Code on Corporate Governance (“MCCG”) was issued by the Securities Commission in April 2017. Listed issuers are required to report their application of the MCCG’s corporate governance practices in their annual reports with effect from the financial year ending on or after 31 December 2017.

To align corporate governance disclosure requirements under the MMLR and the MCCG, the following key changes have been made to the MMLR:

- A listed issuer is required to provide an overview of the application of MCCG’s Principles in its annual report (“CG Overview Statement”)
- A listed issuer is required to disclose the application of each Practice set out in the MCCG during the financial year in a prescribed format (“CG Report”) and announce this to Bursa Malaysia together with its annual report
- Real estate investment trusts, closed-end funds and business trusts are only required to provide the CG Overview Statements in their annual reports
- Standards of corporate governance disclosures have been enhanced in the MMLR’s practice note relating to risk management and internal control, corporate governance and sustainability statement
- To promote transparency over directors’ remuneration, it is a requirement that such remuneration be disclosed on a named basis in the annual report
- The role of the audit committee in respect of its oversight over the internal audit function of a listed issuer has been enhanced.

On 14 December 2017, Bursa Malaysia released their 3<sup>rd</sup> edition of the Corporate Governance Guide (“CG Guide”) to provide guidance for listed issuers to improve their corporate governance practices and reporting in line with the new MCCG and the recently enhanced corporate governance disclosure requirements in the MMLR.

Listed issuers and their boards of directors are strongly encouraged to refer to the CG Guide when preparing their CG Overview Statement in the annual reports, as well as the CG Report.

If you have any questions or require any additional information, please contact [Gilbert Gan](#) of Zaid Ibrahim & Co (a member of ZICO Law) or the [ZICO Law](#) partner you usually deal with.

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