

## CHAPTER 2 ADMINISTRATION

### RULE 201 POWERS OF BMIS

#### RULE 201.1 GENERAL POWERS

- (1) BMIS may exercise the following powers in operating and administering the Market:
  - (a) amend, suspend, vary, waive, add or repeal any of these Rules;
  - (b) require Participants to provide reports, information or documents to BMIS;
  - (c) release information in BMIS' possession concerning a Participant and all activities of the Participant on the BCH System to persons authorised in law to request for such information;
  - (d) impose, vary or waive any fees or charges payable and subject to such terms and conditions as specified by BMIS;
  - (e) exercise all such powers for the purpose of operating and administering the BCH System;
  - (f) issue guidelines, directives, notices, circulars and operational procedures from time to time;
  - (g) publish all trading information derived from the BCH System;
  - (h) interpret conclusively any provision of these Rules in the event of a dispute over such Rules; and
  - (i) exercise all such other powers as may be necessary for purposes of ensuring compliance with and enforcement of these Rules.

#### RULE 201.2 SHARIAH AUDIT

- (1) BMIS may conduct Shariah Audit for the purposes set out under Rule 201.2(2) on any transaction involving a CTP or CSP under these Rules.
- (2) The purpose of the Shariah Audit is, among others, to ascertain that the Approved Commodity is:
  - (a) a Shariah-compliant asset (as determined by the Shariah committee of BMIS);
  - (b) an Unencumbered Approved Commodity; and
  - (c) deliverable at all times during the validity period of the e-Certificate.
- (3) Notwithstanding Rule 201.2(2), the Shariah Audit conducted by BMIS may include other areas to ensure compliance with Shariah principles.
- (4) BMIS may appoint any other party to conduct the Shariah Audit.
- (5) Where a CTP wishes to conduct Shariah Audit on a CSP, such Shariah Audit may only be conducted at most twice in a financial year of BMIS on any of its transactions with a CSP and both the CTP and CSP must comply with the procedures as may be specified by BMIS in respect of the Shariah Audit.

- (6) A CSP must, for the purposes of the Shariah Audit, allow the following parties access to the relevant premises, databases and documents and provide the assistance necessary to these parties:
- (a) BMIS;
  - (b) a CTP; and
  - (c) any other party appointed by BMIS or the CTP to perform the Shariah Audit.

**RULE 201.3 APPOINTMENT OF COMMITTEES AND DELEGATION**

- (1) BMIS may appoint committees, sub-committees or officers of BMIS or of Bursa Malaysia to discharge any of BMIS' or Bursa Malaysia's functions or to exercise any of BMIS' or Bursa Malaysia's powers under these Rules.
- (2) BMIS may delegate to any of the persons referred to in Rule 201.3(1) or to any other person, any function, including but not limited to the admission of Participants.

## **RULE 202 BURSA MALAYSIA AS HOLDING COMPANY**

### **RULE 202.1 POWERS OF BURSA MALAYSIA AS HOLDING COMPANY**

- (1) Where these Rules confer a right or power on BMIS to do an act or thing, such provision is also taken to confer the right or power on Bursa Malaysia to do such act or thing on behalf of BMIS.
- (2) A Participant to whom these Rules are directed must comply with and give effect to any action or direction of Bursa Malaysia pursuant to Rule 202.1(1).

## **RULE 203 PROHIBITION OR UNENFORCEABILITY**

### **RULE 203.1 PROHIBITION OR UNENFORCEABILITY OF PROVISION**

- (1) Any provision of these Rules which is prohibited or unenforceable in any jurisdiction will be ineffective as to that jurisdiction to the extent of the prohibition or unenforceability. However, such unenforceability will not invalidate the remaining provisions of these Rules nor affect the validity or enforceability of that provision in any other jurisdiction.

## **RULE 204 LIABILITY**

### **RULE 204.1 LIABILITY OF BMIS AND BURSA MALAYSIA**

- (1) Without prejudice to any immunity or defence available to the following persons by statute or in law, none of such persons are liable to any Participant or any other person in respect of any act or omission done in good faith in connection with the discharge, exercise or performance of any duty, power or function under these Rules or any other applicable law:
  - (a) BMIS or Bursa Malaysia;
  - (b) any member of the board of BMIS or Bursa Malaysia or any member of any committee of BMIS or Bursa Malaysia;
  - (c) any officer of BMIS or Bursa Malaysia; or
  - (d) any agent of, or any person acting under the direction of, BMIS or Bursa Malaysia.
- (2) A Participant must indemnify any or all of such persons referred to in Rule 204.1(1)(a)-(d), for the full costs (including legal fees on a solicitors and client basis), expenses, losses, claims, damages or liability incurred by them as a result of any legal proceedings brought by or against them in relation to a violation of any laws or these Rules by such Participant.

## **RULE 205 EMERGENCY**

### **RULE 205.1 ACTIONS IN EMERGENCY SITUATIONS**

- (1) BMIS, immediately upon the occurrence of any of the emergency situations stipulated in Rule 205.1(2), may take any one or more of the following actions, without notice and with immediate effect:
  - (a) suspend or restrict any facilities available on the BCH System;
  - (b) modify the Market Days or operating hours of the BCH System; or
  - (c) any other action as BMIS deems fit.
- (2) An emergency situation with regard to the BCH System is as follows:
  - (a) fire, power failure, natural disaster or any other event which is disruptive in nature;
  - (b) error, malfunction or breakdown in relation to the operations of the Market or of a substantial number of Participants;
  - (c) state of war or threatened hostilities;
  - (d) the breakdown or failure of any significant market infrastructure; or
  - (e) any other situation,which is likely to have an adverse effect upon the operations of the Market or of a substantial number of Participants.
- (3) Rules 207.2 and 207.3 shall not apply to this Rule 205.

## **RULE 206 FEES, CHARGES ETC.**

### **RULE 206.1 FEES PAYABLE BY APPLICANTS AND PARTICIPANTS**

- (1) An applicant must promptly pay such fees as may be imposed by BMIS in relation to the admission of the applicant as a Participant.
- (2) A Participant must promptly pay the trading fees, charges and any other fee imposed by BMIS in the manner specified by BMIS.
- (3) Where the Goods and Services Tax (“GST”) imposed by the government of Malaysia under the Malaysian Goods and Services Tax Act, 2014 [Act 762] is applicable to any supplies made by BMIS to the Participant under these Rules, BMIS is entitled to charge GST on the payment of the said supply and the GST shall be paid by the Participant in the manner and within the period that BMIS specifies.
- (4) All payments made to BMIS are non-refundable, unless otherwise permitted by BMIS. Where refund of the fees, charges, costs, expenses, deposits or any amount paid is not allowed under these Rules, no refund of the GST amount paid on such amount will be allowed.
- (5) Where any payment due to BMIS is not made on the date when the payment falls due and payable, the Participant or applicant (as the case may be) is liable to pay charges in the amount as may be specified by BMIS.

## **RULE 207 DISCIPLINARY RULES**

### **RULE 207.1 ACTIONS FOR BREACH**

- (1) Where a Participant commits any breach of these Rules, BMIS may take any one or more of the following actions against the Participant:
  - (a) direct any action to be taken to remedy the breach;
  - (b) caution;
  - (c) private reprimand;
  - (d) impose restrictions on any activities of the Participants;
  - (e) impose restrictions on, suspend or terminate access to the BSAS System;
  - (f) impose a fine;
  - (g) suspend or terminate participantship; or
  - (h) any other action as BMIS considers appropriate.

### **RULE 207.2 NOTIFICATION**

- (1) Prior to taking any action under Rule 207.1, BMIS will notify the Participant in writing of the breach alleged and provide the Participant with the opportunity to provide BMIS with a written explanation within the time frame as stated in the notice.
- (2) After consideration of the explanation given, where BMIS finds that a breach has been committed by the Participant, BMIS will notify the Participant in writing of the action to be taken against the Participant.
- (3) Any non-compliance by the Participant with the action taken under Rule 207.1 and with any terms imposed in the notice of decision will be treated as a breach of these Rules and further action may be taken against that Participant without any prior notice to the Participant.
- (4) If BMIS imposes a fine in accordance with this Rule 207, the Participant will remain liable to pay the fine and such fine or any portion remaining unpaid will constitute a debt owing to BMIS which will not be discharged until full payment of the fine.

### **RULE 207.3 RIGHT OF APPEAL**

- (1) A Participant may appeal against any action taken by BMIS against the Participant for the Participant's breach of these Rules, within 14 days from the Participant's receipt of the written notification issued under Rule 207.2(2).
- (2) The appeal will be considered by a committee established by BMIS to hear the appeal and the decision of such committee shall be final.
- (3) The written notice of appeal shall set out in writing the grounds of the appeal and shall contain a brief statement of all matters relied upon by the appellant. A written notice of appeal that fails to



specify the grounds for the appeal and the specific error or impropriety of the original decision shall be dismissed.

- (4) No individual at BMIS may sit on the committee considering an appeal if that individual was involved in the decision being appealed.
- (5) The committee considering an appeal will consist of individuals who possess sufficiently diverse interests so as to ensure fairness.
- (6) The committee considering an appeal shall not set aside, modify or amend the appealed decision unless it determines that the decision was:
  - (a) arbitrary, capricious, or an abuse of BMIS's discretion;
  - (b) in excess of BMIS's authority or jurisdiction; or
  - (c) based on a clearly erroneous application or interpretation of these Rules.
- (7) BMIS may suspend the implementation of any decision appealed against pending the conclusion of the appeal process set out in this Rule 207 if BMIS deems fit.

## **RULE 208 NOTICES OR COMMUNICATIONS ISSUED**

### **RULE 208.1 MODE OF ISSUANCE**

- (1) A notice or communication to be issued by BMIS or a Participant, whether or not pursuant to these Rules, may be issued electronically or otherwise unless a specific mode of issuance is stated in these Rules.

### **RULE 208.2 RECEIPT**

- (1) A notice or communication issued will be deemed to be received by the recipient, as follows:
  - (a) if sent by normal post within Peninsular Malaysia, on the 3<sup>rd</sup> Market Day after posting;
  - (b) if sent by air mail to Sabah, Sarawak or outside Malaysia, on the 5<sup>th</sup> Market Day after posting;
  - (c) if sent by courier, on the 2<sup>nd</sup> Market Day after dispatch;
  - (d) if sent by facsimile, immediately upon generation of a transmission report indicating that the transmission was successful; or
  - (e) if sent by electronic means other than facsimile, on the date and time of transmission.

## **RULE 209 DISPUTE RESOLUTION**

### **RULE 209.1 OBLIGATION TO RESOLVE DISPUTE**

- (1) If any claim, dispute or difference arises between a Participant and BMIS or between Participants under or in connection with these Rules (except for Rule 207 and except as otherwise stated in these Rules), whether in relation to the legal validity, enforceability or termination of the same, or otherwise, (a Dispute), a director or other senior representatives of the parties with authority to settle the Dispute must, within 10 Market Days of a written request from one party to the other, meet (whether in person or by telephone) in good faith to resolve the Dispute. No party may commence any arbitration under Rule 209.2 in relation to a Dispute until the earlier of the occurrence of such a meeting or the expiry of the 10 Market Days period herein specified.

### **RULE 209.2 ARBITRATION**

#### **(1) BASIS OF ARBITRATION AGREEMENT**

If the Dispute is not resolved pursuant to the procedure set out in Rule 209.1, the Dispute must be resolved by way of arbitration.

#### **(2) ARBITRATION INVOLVING A PARTICIPANT THAT IS NOT A DOMESTIC PERSON**

- (a) In the event that one or more parties to the Dispute is (or are) not a Domestic Person:
  - (i) The arbitration shall be in accordance with the Rules of the London Court of International Arbitration (the "LCIA" and the "LCIA Rules", respectively), which LCIA Rules are deemed to be incorporated by reference into this Rule.
  - (ii) The number of arbitrators shall be one, to be appointed by the LCIA in accordance with its Rules.
  - (iii) The seat or legal place of arbitration shall be England and the arbitration hearings shall take place in Malaysia.
  - (iv) The language to be used in the arbitration shall be English.
  - (v) The governing law of the Rules in relation to such a Dispute shall be the substantive law of England and Wales.

#### **(3) ARBITRATION INVOLVING ONLY DOMESTIC PERSONS**

- (a) In the event that all the parties to a Dispute are Domestic Persons, this Rule 209.2(3) forms the basis of an arbitration agreement that is made in accordance with the Malaysian Arbitration Act 2005 [Act 646] and is binding upon the Participants who are Domestic Persons and BMIS.
- (b) All Disputes under this Rule 209.2(3) will be referred to a single arbitrator as chosen by mutual agreement between the disputing parties.
- (c) If the disputing parties cannot agree on the choice of a single arbitrator, then each disputing party must appoint one arbitrator each, while the third arbitrator who will act as the presiding arbitrator, must be appointed by the two arbitrators if an agreement can be reached between those two arbitrators.

- (d) Where the two arbitrators cannot agree on the choice of the third arbitrator, the third arbitrator must be appointed in accordance with the Malaysian Arbitration Act 2005 [Act 646].
- (e) An award of the arbitrator or the majority of the arbitrators is final and binding upon the parties to such dispute.
- (f) The governing law of the Rules in relation to such a Dispute shall be the laws of Malaysia.

(4) **BMIS RIGHT OF ENFORCEMENT**

Nothing in this Rule 209 will be construed as enabling any Participant to prevent, obstruct or delay BMIS to exercise its right or power to enforce any provisions of these Rules upon such Participant.

## **RULE 210 PERSONAL DATA**

### **RULE 210.1 PERSONAL DATA NOTICE**

- (1) Any person who provides or has provided personal data to BMIS pursuant to or in connection with these Rules should read and be aware of the relevant notification in relation to the Malaysian Personal Data Protection Act, 2010 [Act 709] (“PDPA”) available at the Bursa Malaysia’s website at [www.bursamalaysia.com](http://www.bursamalaysia.com) (“Personal Data Notice”).
- (2) Where the personal data provided is of another individual (“data subject”), the person providing such data must have notified the data subject in writing of the Personal Data Notice before providing the personal data unless: (a) section 41 of the PDPA applies; or (b) the BMIS otherwise specifies in connection with the PDPA.
- (3) For the purposes of this Rule, ‘personal data’ shall have the same meaning given in section 4 of the PDPA.

**[End of Chapter 2]**