

MEMORANDUM
FOR YOUR INFORMATION



Ref No : 0015 of 2019/PO

Date : 19 March 2019

To : Executive Director/ Head of Dealing
Executive Director/ Head of Operations

From : The Secretariat, ASCM

By Email

No. of pages : As per attachment

RE : **Enquiries on whether the 1% fee of the buying-in contract value charged by Bursa to the defaulting PO is subject to SST**

Dear Members,

We have received enquiries from the members on whether the 1% fee of the buying-in contract value charged by Bursa to the defaulting PO is subject to SST.

The subject matter was deliberated by the ASCM Management Committee at its Second Management Committee Meeting of 2019. It was resolved that the 1% fee of the buying-in contract value charged by Bursa to the defaulting PO is not subject to SST as the 1% fee is clearly not brokerage. As per our Memo 0008 of 2019/PO, Royal Malaysian Customs Department stated that fees charged by regulators are not subject to SST.

The following rules apply to the 1% fee of the buying-in contract value charged by Bursa to the defaulting PO for your attention :-

- Rule 9.06 (9) of Bursa Securities Rules states that, *"A defaulting Participating Organisation against whom buying-in is carried out must not charge brokerage for the buying-in against the selling Client in the failed Contract."*
- Item no. 4.4 of Bursa's Directives No. 3-001 states that, *"The defaulting Participating Organisation in Rule 9.06 must pay to the Exchange a fee of 1% of the buying in contract value in the currency in which the securities are traded in. The defaulting Participating Organisation has the right to recover such fee from the defaulting client and is entitled to a rebate of 50% of that fee."*

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- Item no. 5.3 of Bursa Clearing's Procedure Manual states that, *"A levy of 1% of the buying-in contract value will be charged by the Exchange against the defaulting Trading Clearing Participants who are also the Participating Organisations of the Exchange and the Participating Organisation may recover such levy from the seller of the failed contract and shall be entitled to a rebate of 50% from the levy."*

Kindly be guided accordingly.

Thank you



Lim Boon Hang
Executive Director, ASCM Secretariat