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ANNEXURE 1
PROPOSED AMENDMENTS IN RELATION TO THE
PROPOSED FRAMEWORK FOR DISCRETIONARY TRADING

RULES AND DIRECTIVES OF BURSA MALAYSIA SECURITIES BERHAD (“BMS RULES AND DIRECTIVES”)

PROPOSED AMENDMENTS TO THE BMS RULES AND DIRECTIVES
IN RELATION TO THE PROPOSED FRAMEWORK FOR DISCRETIONARY TRADING

AMENDMENTS TO THE BMS RULES				
RULE	EXISTING PROVISIONS	RULE	AMENDED PROVISIONS	RATIONALE
1.01	New provision	1.01	Definition <u>Discretionary Account</u> <u>An account for trades executed by a Participating Organisation on behalf of a Client pursuant to an arrangement where the Client authorises the Participating Organisation to trade on the Client’s behalf on a discretionary basis.</u>	To set out the definition of “Discretionary Account” for clarity and consequential to the prescription of the framework for discretionary trading.
1.01	Definition Fund Management Same meaning as in the Capital Markets and Services Act.	1.01	Definition Fund Management Same meaning as in the Capital Markets and Services Act. [Deleted]	Propose to delete the definition of Fund Management as it is redundant in view that the definition is not used in the Rules.
1.01	Definition	1.01	Definition	Propose to delete the definition of Fund Manager’s Representative as it is redundant in view that the definition is not used in the Rules.

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	Fund Manager's Representative A holder of a Capital Markets Services Representative's Licence for Fund Management.		Fund Manager's Representative A holder of a Capital Markets Services Representative's Licence for Fund Management. [Deleted]	
1.01	New provision	1.01	Definition <u>Guidelines on Market Conduct and Business Practices for Stockbroking Companies and Licensed Representatives</u>	To set out the definition of "Guidelines on Market Conduct and Business Practices for Stockbroking Companies and Licensed Representatives" for clarity and consequential to the prescription of the framework for discretionary trading.
5.16A	New provision	5.16A	<u>Discretionary Account</u> <u>A Participating Organisation or a Dealer's Representative when operating a Discretionary Account on behalf of a Client must comply with the following:</u> <u>(a) Guidelines on Market Conduct and Business Practices for Stockbroking Companies and Licensed Representatives; and</u>	Propose to insert new provision on discretionary account to allow for the prescription of the framework for discretionary trading and to set out the requirements to be fulfilled by the Participating Organisation and Dealer's Representative in PO Directives No. 2.01(2)-006 (Directive on Readiness Audit – Self Assessment

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			<p><u>(b) the requirements the Exchange prescribes in respect of Discretionary Accounts.</u></p> <p><u>[Refer to Directives No. 2.01(2)-006, 3.36-001 and 5-001]</u></p>	<p>Approach, Declaratory Approach and Green Lane), 3.36-001 (Directive for Head of Compliance) and 5-001 (Directive on Conduct of Business).</p>

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Directive on Readiness Audit – Self Assessment Approach, Declaratory Approach and Green Lane (No. 2.01(2)-006)				
2(2)	<p>Circumstances in which a readiness audit is required to be undertaken by a Participating Organisation</p> <p>An applicant wishing to commence new activities requiring the Exchange's approval only must also first undertake a readiness audit in accordance with these Directives. These activities are:</p> <p>(a) [Deleted]</p> <p>(b) the relocation or change of business address of its Principal Office);</p> <p>(c) [Deleted]</p> <p>(d) [Deleted]</p> <p>(e) [Deleted]</p> <p>(f) the offering of Margin Financing facilities; and</p> <p>(g) the commencement of proprietary trading.</p>	2(2)	<p>Circumstances in which a readiness audit is required to be undertaken by a Participating Organisation</p> <p>An applicant wishing to commence new activities requiring the Exchange's approval only must also first undertake a readiness audit in accordance with these Directives. These activities are:</p> <p>(a) [Deleted]</p> <p>(b) the relocation or change of business address of its Principal Office);</p> <p>(c) [Deleted]</p> <p>(d) [Deleted]</p> <p>(e) [Deleted]</p> <p>(f) the offering of Margin Financing facilities;and</p> <p>(g) the commencement of proprietary trading; <u>and</u></p>	Propose to amend this paragraph in view of the prescription of the proposed framework for discretionary trading and to streamline requirements for discretionary trading for both BMS Rules and Directives and BMD Rules and Directives.

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			<u>(h) the offering of Discretionary Account trading facilities to Clients.</u>	
4.2	<p>Activities</p> <p>Subject to paragraph 4.3, the Exchange may apply the Green Lane Policy to the following types of activities:</p> <p>(a) [Deleted]</p> <p>(b) the relocation or change of business address of its Principal Office);</p> <p>(c) [Deleted]</p> <p>(d) [Deleted]</p> <p>(e) [Deleted]</p> <p>(f) the offering of Margin Financing facilities; and</p> <p>(g) the commencement of proprietary trading.</p>	4.2	<p>Activities</p> <p>Subject to paragraph 4.3, the Exchange may apply the Green Lane Policy to the following types of activities:</p> <p>(a) [Deleted]</p> <p>(b) the relocation or change of business address of its Principal Office);</p> <p>(c) [Deleted]</p> <p>(d) [Deleted]</p> <p>(e) [Deleted]</p> <p>(f) the offering of Margin Financing facilities;and</p> <p>(g) the commencement of proprietary trading; and</p> <p style="color: red;"><u>(h) the offering of Discretionary Account trading facilities to Clients.</u></p>	Propose to amend this paragraph in view of the prescription of the proposed framework for discretionary trading and to streamline requirements for discretionary trading for both BMS Rules and Directives and BMD Rules and Directives.

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Directive for Head of Compliance (No. 3.36-001)				
1(b) of Appendix 1 on Guidelines for Compliance Officers	<p><u>Discretionary Accounts</u></p> <p>In order for a Participating Organisation to exercise discretionary authority in a client's account, the following must be observed:</p> <ul style="list-style-type: none"> • Before any discretionary authority can be exercised, prior written authorisation from the client and written approval from the authorised person in charge must be obtained. Comprehensive records of such approval must be maintained. • Full and complete records of every transaction undertaken under any discretionary account must be documented and maintained. • There must be no conflict of interests arising from such transactions. 	1(b) of Appendix 1 on Guidelines for Compliance Officers	<p><u>Discretionary Accounts</u></p> <p>In order for a Participating Organisation to exercise discretionary authority in a client's account, the following must be observed:</p> <ul style="list-style-type: none"> • Before any discretionary authority can be exercised, prior written authorisation from the client and written approval from the authorised person in charge must be obtained. Comprehensive records of such approval must be maintained. • Full and complete records of every transaction undertaken under any discretionary account must be documented and maintained. • There must be no conflict of interests arising from such transactions. <p><i>[Deleted]</i></p>	<p>In view of streamlining the compliance obligations in operating a Discretionary Account for both BMS Rules and Directives and BMD Rules and Directives, we are proposing to enhance the Participating Organisation's ("PO") compliance obligations and to set out the PO's compliance obligations in Directive No. 5-001 on Conduct of Business instead.</p>

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5(III)(c) of Appendix 1 on Guidelines for Compliance Officers	<p>Monitoring</p> <p><i>Discretionary accounts</i></p> <ul style="list-style-type: none"> Review the acceptance of discretionary accounts and to ensure that prior written authorisation from the client and written approval from the authorised person in charge has been duly obtained. Review on a daily basis all trades done in a discretionary account. Review to ensure that in executing discretionary accounts, the client's interest must always be observed. In this regard, there must be a mechanism in place to prevent the churning of such accounts purely to generate commission. Review to ensure that all discretionary trades are executed within the proper discretionary authority granted to the Participating Organisation and that such trades are properly recorded. 	5(III)(c) of Appendix 1 on Guidelines for Compliance Officers	<p>Monitoring</p> <p><i>Discretionary aAccounts</i></p> <ul style="list-style-type: none"> <u>Ensure compliance with the Rules and Directives.</u> <u>Review the acceptance of eDiscretionary aAccounts and to ensure that prior written authorisation from the eClient and written approval from the authorised person in charge has been duly obtained.</u> <u>Review to ensure that the Participating Organisation has entered into a written agreement with the Client which sets out the terms and conditions for the operation of the Client's Discretionary Account, including adequate and accurate disclosure of the risks involved.</u> <u>Ensure each discretionary order must be identified as a discretionary order at the time of the entry.</u> 	<p>In view of streamlining the compliance obligations for discretionary trading for both BMS Rules and Directives and BMD Rules and Directives, we are proposing to enhance the compliance obligations for Head of Compliance by:</p> <ul style="list-style-type: none"> inserting the obligation to ensure compliance with BMS Rules and Directives; deleting the requirement of written approval from the authorised person in charge as this is no longer necessary in view of the insertion of readiness audit obligation in Directive

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	<ul style="list-style-type: none"> Review to ensure that the maintenance of full and complete documentation of every transaction undertaken under any discretionary account. 		<ul style="list-style-type: none"> Review on a daily basis all the trades done in a dDiscretionary aAccount <u>regularly</u>. <u>Review to ensure that in executing operating a dDiscretionary aAccounts, the <u>Participating Organisation must at all times act in the best interest of the Client</u>client's interest must always be observed. In this regard, <u>the review must include the assurance that</u> there must be is a mechanism in place to prevent the churning of such accounts purely to generate commission.</u> Review to ensure that all discretionary trades are executed within the proper discretionary authority granted to the Participating Organisation and that such trades are properly recorded. Review to ensure that the maintenance of full and complete documentation of every transaction undertaken under any dDiscretionary aAccount. 	<p>No. 2.01(2)-006 above;</p> <ul style="list-style-type: none"> inserting the obligation to ensure that the Participating Organisation must enter into a written agreement and such agreement must set out the terms and conditions for the operation of the Client's Discretionary Account, including adequate and accurate disclosure of the risks; inserting the obligation to ensure that each discretionary order must be identified as a discretionary order at the time of the entry;

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			<ul style="list-style-type: none"> • <u>Review of Discretionary Account transactions to ensure there is no conflict of interest in the execution of Client trades and proprietary trades.</u> 	<ul style="list-style-type: none"> • amending the frequency of review of the trades done in a Discretionary Account in view of ensuring rules are more principle-based and less prescriptive, and a daily review might not be operationally efficient; and • inserting the obligation to ensure that there is no conflict of interests in the execution of Client trades and proprietary trades.

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Directive on Conduct of Business (No. 5-001)				
11.1	<p>Arrangement with Clients</p> <p>A Participating Organisation, Head of Dealing and Dealer's Representative must not:</p> <p>(a) accept a share in the profits of a Client's accounts or have any arrangement with a Client to share in the profits of the Client's account;</p> <p>(b) have any arrangement with a third party to allocate profits or losses in a Client's account; or</p> <p>(c) lead a Client to believe that the Client will not suffer loss as a result of opening an account or dealing in securities.</p>	11.1	<p>Arrangement with Clients</p> <p>A Participating Organisation, Head of Dealing and Dealer's Representative must not:</p> <p>(a) accept a share in the profits of a Client's accounts or have any arrangement with a Client to share in the profits of the Client's account <u>unless it is in accordance with the provisions on operating a Discretionary Account under Rule 5.16A</u>;</p> <p>(b) have any arrangement with a third party to allocate profits or losses in a Client's account; or</p> <p>(c) lead a Client to believe that the Client will not suffer loss as a result of opening an account or dealing in securities.</p>	<p>Since a PO, Head of Dealing ("HOD") and Dealer's Representative ("DR") are generally not allowed to accept a share in the profits of a client's accounts and have any arrangement with a Client to share in the profits of the Client's account under paragraph 11.1 of Directive No. 5-001, a carve out in the provision is inserted to permit PO, HOD and DR to have an arrangement with clients for the share of profits in relation to discretionary trading.</p>

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14A	New provision	14A	<p><u>Rule 5.16A</u></p> <p><u>(1) Rule 5.16A provides that a Participating Organisation or a Dealer's Representative when operating a Discretionary Account on behalf of a Client must comply with the Guidelines on Market Conduct and Business Practices for Stockbroking Companies and Licensed Representatives and the requirements the Exchange prescribes in respect of Discretionary Accounts.</u></p> <p><u>(2) In discharging the obligations under the said Rule, a Participating Organisation or a Dealer's Representative must, amongst others, comply with the requirements set out below.</u></p>	Insertion of new provision on Discretionary Account to set out the requirements that a PO or a DR is required to comply with in executing a Discretionary Account on behalf of a client.
14A.1	New provision	14A.1	<p><u>Eligibility criteria for Dealer's Representative</u></p> <p><u>A Participating Organisation must ensure that a Dealer's Representative operating a Discretionary Account on behalf of a Client must have:</u></p>	<p>Insertion of requirements to be fulfilled by a DR to operate a Discretionary Account as follows:</p> <p>(a) minimum of 5 years' experience in</p>

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			<p><u>(a) a minimum of 5 years' experience in dealing in securities; or</u></p> <p><u>(b) a minimum of 5 years' direct experience in fund management; and</u></p> <p><u>(c) no adverse findings or enforcement proceedings or actions commenced or taken against the Dealer's Representative under the Rules and Directives or the Securities Laws.</u></p>	<p>dealing in securities;</p> <p>(b) minimum of 5 years' direct experience in fund management; and</p> <p>(c) no adverse findings or enforcement proceedings or actions commenced or taken against Dealer's Representative under the Rules and Directives or the Securities Laws.</p>
14A.2	New provision	14A.2	<p><u>Obligations of a Participating Organisation with respect to Discretionary Accounts</u></p> <p><u>In order for a Participating Organisation to exercise discretionary authority in a Client's Discretionary Account, the Participating Organisation must ensure</u></p>	<p>In view of streamlining the compliance obligations in operating a Discretionary Account for both BMS Rules and Directives and BMD Rules and Directives, we are proposing to enhance the PO compliance</p>

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			<p><u>compliance with the following requirements:</u></p> <p>(a) <u>before any discretionary authority can be exercised, prior written authorisation from the Client must be obtained. Comprehensive records of such authorisation must be maintained;</u></p> <p>(b) <u>the Participating Organisation must enter into a written agreement with the Client which sets out the terms and conditions for the operation of the Client's Discretionary Account, including adequate and accurate disclosure of the risks involved;</u></p> <p>(c) <u>full and complete records of every transaction undertaken under any Discretionary Account must be documented and maintained, including the details of the transaction, the date and time the transaction is effected and the name of the Dealer's Representative who executed the transaction;</u></p>	<p>obligations by proposing the following amendments:</p> <p>(a) the deletion of the requirement of written approval from the authorised person in charge as this is no longer necessary in view of the insertion of readiness audit obligation in Directive No. 2.01(2)-006 above. PO must obtain prior written authorisation before any discretionary authority can be exercised and such authorisation must be maintained;</p> <p>(b) the insertion of compliance obligations to ensure that:</p>

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			<p><u>(d) in operating a Discretionary Account, the Participating Organisation must at all times act in the best interest of the Client. In this regard, there must be a mechanism in place to prevent the churning of Discretionary Accounts purely to generate commission; and</u></p> <p><u>(e) there must be no conflict of interest arising from such transactions.</u></p>	<ul style="list-style-type: none"> • the Participating Organisation must enter into a written agreement and such agreement must set out the terms and conditions for the operation of the Client's Discretionary Account, including adequate and accurate disclosure of the risks; • the details of the transaction, the date and time the transaction is effected and the name of the Dealer's Representative executing the order is maintained; and

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				<ul style="list-style-type: none"> • there must be a mechanism in place to prevent the churning of Discretionary Accounts purely to generate commission.
14A.3	New provision	14A.3	<p><u>Requirements pertaining to trading in a Discretionary Account</u></p> <p><u>A Participating Organisation and a Dealer's Representative must comply with the following requirements in operating a Discretionary Account:</u></p> <p><u>(a) trading in a Discretionary Account must be confined to securities quoted on the Official List;</u></p> <p><u>(b) trading in a Discretionary Account must commence with a cash transfer from a Client instead of a transfer of securities or other types of collateral in lieu of cash;</u></p>	<p>Insertion of provision on requirements to set up a Discretionary Account as follows:</p> <p>(a) trading in a Discretionary account is limited to securities quoted and traded on Bursa Malaysia Securities Berhad;</p> <p>(b) trading in a Discretionary Account must commence with a cash transfer from a Client and not by</p>

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			<p><u>(c) trading in a Discretionary Account must be carried out separately from trades in a non-Discretionary Account and must be on a cash upfront basis; and</u></p> <p><u>(d) funds in a Client's Discretionary Account must be segregated from the funds in the Client's non-Discretionary Account.</u></p>	<p>transfer of securities or other types of collateral;</p> <p>(c) trading in a Discretionary Account must be carried out separately from trades in a non-Discretionary Account and must be on a cash upfront basis; and</p> <p>(d) funds in a Client's Discretionary Account must be segregated from the funds in the Client's non-Discretionary Account.</p>

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14A.4	New provision	14A.4	<p><u>Profit-sharing or fee arrangement</u></p> <p><u>(1) A Participating Organisation or a Dealer's Representative may charge a Client in the following manner for the service of operating a Discretionary Account on behalf of the Client:</u></p> <p><u>(a) a Participating Organisation or a Dealer's Representative may accept a share in the profits from a Client's Discretionary Account or have an arrangement with a Client to share in the profits from the Client's Discretionary Account; or</u></p> <p><u>(b) a Participating Organisation or a Dealer's Representative may charge a fee calculated based on a percentage of the total value of assets or portfolio managed under a Client's Discretionary Account.</u></p>	<p>Insertion of a new provision to set out the fee models applicable for trades executed under a Discretionary Account.</p> <p>A Participating Organisation or a Dealer's Representative is only permitted to charge a client either on the basis of profit-sharing or fee arrangement, not both.</p> <p>For avoidance of doubt, POs may continue to charge a commission for trades executed in a discretionary account, in addition to any fees or profit-sharing arrangement with a client.</p>

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			<u>(2) A Participating Organisation or a Dealer's Representative must not share in the profits under paragraph 14A.3(1)(a) and concurrently charge a fee under paragraph 14A.3(1)(b).</u>	

[End of Proposed Amendments to the BMS Rules and Directives]