



MALAYSIAN INSTITUTE  
OF ACCOUNTANTS

3 September 2021

Regulatory Policy & Advisory  
Bursa Malaysia Securities Berhad  
9<sup>th</sup> Floor Exchange Square  
Bukit Kewangan  
50200 Kuala Lumpur

Dear Sir/Madam,

**FEEDBACK ON BURSA MALAYSIA'S CONSULTATION PAPER NO. 1/2021 PROPOSED AMENDMENTS TO THE MAIN MARKET AND ACE MARKET LISTING REQUIREMENTS IN RELATION TO DIRECTOR APPOINTMENT AND INDEPENDENCE**

The Malaysian Institute of Accountants ("MIA") is pleased to provide comments on the Consultation Paper by Bursa Malaysia Berhad ("Bursa Malaysia") on Proposed Amendments to the Main Market and ACE Market Listing Requirements in Relation to Director Appointment and Independence as attached in Appendix 1 to this letter.

We hope our comments would contribute to Bursa Malaysia's deliberation in finalising the matter. If you have any queries or require clarification on this submission, please contact Simon Tay Pit Eu, Executive Director of Professional Practices and Technical Division by email at [simontaypiteu@mia.org.my](mailto:simontaypiteu@mia.org.my).

Yours sincerely,

**MALAYSIAN INSTITUTE OF ACCOUNTANTS**

**DR NURMAZILAH DATO' MAHZAN**  
Chief Executive Officer

ATTACHMENT  
TABLE OF COMMENTS

COMMENTS TO ISSUES RAISED IN CONSULTATION PAPER NO. 1/2021

PROPOSED AMENDMENTS TO THE MAIN MARKET AND ACE MARKET LISTING REQUIREMENTS  
IN RELATION TO DIRECTOR APPOINTMENT AND INDEPENDENCE

Regulatory Policy & Advisory  
Bursa Malaysia Berhad  
9<sup>th</sup> Floor, Exchange Square  
Bukit Kewangan  
50200 Kuala Lumpur  
Electronic mail: [rpa@bursamalaysia.com](mailto:rpa@bursamalaysia.com)  
Facsimile: +603-2732 0065

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NAME OF RESPONDENT	:	DR NURMAZILAH DATO' MAHZAN
NAME OF COMPANY	:	MALAYSIAN INSTITUTE OF ACCOUNTANTS
CONTACT PERSON & CONTACT NUMBER	:	SIMON TAY PIT EU, +603 2722 9271
EMAIL ADDRESS	:	simontaypiteu@mia.org.my

ISSUES		COMMENTS
1.	<p>Do you agree that the computation of 12 years should take into account the service as an independent director (“ID”) in the related corporations of an applicant/listed issuer?</p> <p>Please state the reasons for your views.</p>	<p><input checked="" type="checkbox"/> Agree    <input type="checkbox"/> Disagree    <input type="checkbox"/> No comment</p> <p><u>Reasons:</u></p> <div style="border: 1px solid black; padding: 5px;"> <p>The close relationship with the Board and management by long serving independent directors (IDs) may give rise to such IDs being too sympathetic to management’s interests or too accepting of management’s work, thus compromising the check and balance ability and function of such IDs to the detriment of corporations.</p> </div>
2.	<p>Do you agree that a cooling off period of 3 years is appropriate for a long-serving ID before such person can be re-appointed as an ID? If not, what is your recommended cooling-off period?</p> <p>Please state the reasons for your views.</p>	<p><input type="checkbox"/> Agree    <input type="checkbox"/> Disagree    <input type="checkbox"/> No comment</p> <p><u>Reasons and/or suggestions:</u></p> <div style="border: 1px solid black; padding: 5px;"> <p>Partially agreed. Entrenchment is not necessarily cured or overcome with cooling-off periods. However, in the absence of any other mechanism, this could be an acceptable measure, albeit a temporary one. There is an urgent need for regulators such as Bursa Malaysia and the Securities Commission Malaysia (SC) and market participants to embark on a capacity building exercise to create a big enough pool of competent independent directors in the next 5 to 10 years. Once there is the necessary capacity, there may not be a need to have the re-appointment of long-serving IDs.</p> </div>

ISSUES		COMMENTS
3.	<p>Do you agree that a grace period of 12 months is sufficient for a listed issuer to comply with the proposed enhancements as set out in paragraph 10 of this Consultation Paper? If not, what is your recommended grace period?</p> <p>Please state the reasons for your views.</p>	<p><input type="checkbox"/> Agree   <input type="checkbox"/> Disagree   <input type="checkbox"/> No comment</p> <p><u>Reasons and/or suggestions:</u></p> <div style="border: 1px solid black; padding: 5px;"> <p>Partially agreed. We are of the view that 12-18 months is an acceptable period. However, there may be a need to take into account the disruptive effect of COVID-19.</p> </div>
4.	<p>Do you agree with the proposal in paragraph 19 of this Consultation Paper which requires a listed issuer to do the following:</p> <p>(a) put in place a fit and proper policy for the appointment and re-appointment of directors of the listed issuer and its subsidiaries;</p> <p>(b) ensure the policy addresses board quality and integrity;</p> <p>(c) make available the policy on its website; and</p> <p>(d) disclose the application of the fit and proper policy in the Nominating Committee Statement?</p> <p>Please state the reasons for your views.</p>	<p><input type="checkbox"/> Agree   <input type="checkbox"/> Disagree   <input type="checkbox"/> No comment</p> <p><u>Reasons:</u></p> <div style="border: 1px solid black; padding: 5px;"> <p>(a) A fit and proper policy for the appointment and re-appointment of directors is most needed because of not only technical qualification but also integrity and morality are important considerations for directors to act especially as an ID. However, we are also of the view that a principles-based approach rather than specific criteria to be promulgated by Bursa Malaysia should be the way forward. However, flexibility may need to be accorded at the subsidiary level in terms of the implementation timeframe.</p> <p>(b) Yes, the policy must address quality and integrity.</p> <p>(c) Yes, it should be available at the PLC's website for transparency and information to the public.</p> </div>

ISSUES		COMMENTS
		(d) Yes, such application should be made known in its annual Nominating Committee Statement. Any deviation should be properly justified.
5.	Do you agree that a listed issuer should be given the flexibility to formulate the fit and proper policy, guided by the proposed aspects in paragraph 21 of this Consultation Paper which will be set out in the Corporate Governance Guide (“CG Guide”)?  Please state the reasons for your views.	<input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree <input type="checkbox"/> No comment  <u>Reasons:</u>  <div style="border: 1px solid black; padding: 5px;">             A listed issuer should be given the flexibility to formulate the fit and proper policy. However, Bursa Malaysia may need to set the parameters of the minimum qualifying rules to establish such a policy to avoid any window dressing by the listed issuers or compliance without substance.           </div>
6.	Do you agree with the proposed aspects of fit and properness of directors in paragraph 21 of this Consultation Paper which will be set out in the CG Guide? Do you have any other recommended aspects for fit and properness of directors?  Please state the reasons for your views.	<input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree <input type="checkbox"/> No comment  <u>Reasons and/or suggestions:</u>  <div style="border: 1px solid black; padding: 5px;">             These are important considerations as set out in Para 21 of the Consultative Paper. In addition, on the fit and proper criteria, these are further recommendations:           </div>

ISSUES	COMMENTS
	<ol style="list-style-type: none"><li data-bbox="1087 475 1885 607">1. The Board Chairman should not be a member of any other Board Committees. This ensures ultimate independent authority remains at the main Board led by an independent chairman.</li><li data-bbox="1087 651 1885 1101">2. There should be no active politicians as directors. The fit and proper criteria stated in the proposed amendments do not deter the appointment of politicians. A politician may have the pre-requisite “qualifications” to meet the fit and proper criteria as listed in the proposal. However, as a politician serving the public, there may be a conflict of interest between serving the public and serving the interest of the organization. If an active politician is appointed as a director, a statement needs to be made to justify the rationale for appointment and such an appointment is not in conflict with his/her duties as an active politician as well as a director of the company. This is to ensure the shareholders’ and public’s interests at large are protected.</li><li data-bbox="1087 1144 1885 1382">3. There must be a cooling-off period for a politician who ceased active politics from being appointed as a director of a listed entity. We suggest the same 3-year cooling-off period as applicable to independent directors. This is to ensure that any political activities that have been undertaken during the politician’s active tenure do not lead to a conflict of interest as soon as he is appointed as a director of the PLC.</li></ol>

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ISSUES		COMMENTS
		4. The above limitation should also apply to active senior civil servants. In the event of retirement, the cooling-off period of 3 years should equally apply to such senior civil servants.

[End of Attachment]