

In the event of the death or bankruptcy of a CDS depositor, i.e. the individual depositor, or the winding up (dissolution) of a corporation, the following procedures stipulated in this chapter for the transmission of title of securities shall apply.

The procedures stipulated in this chapter shall apply to the following categories of persons:-

- a. The Personal Representative, i.e. executor/administrator (PR) of the Estate of the Deceased Pursuant to a Grant of Representation
- b. The Official Assignee rightfully claiming legal title to the deposited securities in the securities account of the depositor upon the bankruptcy of the said depositor
- c. The Official Receiver / Liquidator rightfully claiming legal title to the deposited securities in the securities account of the depositor, upon the winding-up of the company.

## **8.1 Transmission Of Title On Death Of An Individual**

### **8.1.1 CDS Account Held In The Name Of Deceased**

8.1.1.1 The PR is to notify Bursa Depository of the death of the deceased by completing the **Notification Of Death Of Depositor Form** (Appendix 80) as prescribed by Bursa Depository which can be obtained from Bursa Depository.

8.1.1.2 The PR is required to be **present in person** at Bursa Depository, (unless exempted by Bursa Depository) to notify the death of a depositor and submit the requisite fees and all original supporting documents as stipulated under procedure 8.1.1.3.

8.1.1.3 The original supporting documents required are:-

- a. The Grant of Probate (where there is a will), or
  - b. The Letter of Administration (where the deceased leaves no will), or
  - c. The distribution order, if the same has been extracted, and
  - d. The Death Certificate, and
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- e. The PR's NRIC.

**Note:** Kindly ensure that the CDS account number of the deceased is stated in the Grant of Representation which amongst others will include item (a) to item (c) as stated under item 8.1.1.3

- 8.1.1.4 Bursa Depository will authorise the request for transmission of title (transfer) after due verification that the notice and supporting documents are in order.

## **8.1.2 CDS Account Held In The Name Of Authorised Nominee For The Deceased**

- 8.1.2.1 Transmission of title of securities from an authorised nominee account for a deceased to the securities account of the PR, certified true copy of the following documents must be submitted to Bursa Depository by the authorised nominee for verification:-

- a. Grant of Representation
- b. Death Certificate, and
- c. NRIC / Identification documents of the PR.

**Note:** Kindly ensure that the CDS account number of the authorised nominee for the deceased is stated in the Grant of Representation which amongst others include Grant of Probate, Letter of Administration, Distribution Order and etc.

- 8.1.2.2 If securities held in the authorised nominee account are to be transferred directly to the securities account of the beneficiary, in addition to the submission of documents as stipulated under procedure 8.1.2.1, a letter (The Letter) from the PR to confirm that the securities are to be transferred to the securities account of the beneficiary must be submitted to Bursa Depository.

- 8.1.2.3 **The Letter** (Appendix 81) must be duly witnessed by any person stated in the List of Acceptable Witnesses in Chapter 9.

## **8.2 Transmission Of Title On Bankruptcy Of An Individual**

8.2.1 Pursuant to Section 24(4) of the Bankruptcy Act 1967 the assets of bankrupts vest with the Official Assignee (OA). As such all securities in the securities account of a bankrupt depositor legally belong to the OA. The OA is to notify Bursa Depository of the bankruptcy of the said depositor.

8.2.2 The OA has *two options*:-

- a. He may take over the operation of the securities account of the bankrupt depositor by applying to update the signatory(ies) of the bankrupt depositor's securities account, or
- b. He may apply to transfer out the securities in the securities account of the bankrupt depositor to the OA's securities account.

8.2.3 In the case of 8.2.2(a) above, the OA is required to submit the following documents to the ADA:-

- a. A copy of the Adjudication and Receiving Order, duly certified by a person stated in the List Of Acceptable Witnesses in Chapter 9, for a depositor who has been adjudicated bankrupt
- b. A letter signed by the OA specifying the following:-
  - i. That the depositor has been adjudged a bankrupt and that pursuant to the provisions in the Bankruptcy Act 1967 the shares in the securities account of the bankrupt depositor now vest with the OA who wishes to operate the securities account of the said depositor, and
  - ii. Designating the authorised signatory(ies) for the operation of the securities account. Kindly ensure that the mode and manner of execution by the authorised signatories are clearly defined
- c. Two (2) original or original certified true copy of the list of authorised signatory(ies) together with the specimen signatures(s).

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- d. A CDS Account Form to effect the following updates in accordance with Section 4.4 Updating Of Depositor's Particulars:
- i. To amend the name field to reflect "OA of xxxxx, bankrupt" where xxxxx is the name of the bankrupt depositor
  - ii. Change of correspondence address of the depositor to that of the OA's official address (optional).
- 8.2.4 The ADA's records of specimen signature(s) must be updated with the new authorised signatories in accordance with Section 4.3 of Updating Of Signature / Signatories.
- 8.2.5 In the case of 8.2.2(b) above, the OA or the OA's appointed signatory is required to be **present in person** at Bursa Depository, except when exempted by Bursa Depository on such terms and conditions as it may require, to complete a **Notification Of Bankruptcy Of Depositor Form** (Appendix 82) as prescribed by Bursa Depository.
- 8.2.6 The duly completed Notification Of Bankruptcy Of Depositor Form must be accompanied by the following supporting documents:-
- a. The original letter from OA appointing his signatory and the OA's signatory's NRIC
  - b. A copy of the Adjudication and Receiving Order, duly certified by a person stated in the List Of Acceptable Witnesses in Chapter 9, for a depositor who has been adjudicated bankrupt.
- 8.2.7 The OA must submit the completed Notification Of Bankruptcy Of Depositor Form, supporting documents and the requisite fees to Bursa Depository for the execution of the request.
- 8.2.8 Bursa Depository will authorise the request for transmission of title (transfer) after due verification that the notice and supporting documents are in order.

### **8.3 Transmission Of Title On Winding-Up / Liquidation (Dissolution) Of A Company**

8.3.1 Pursuant to Section 483 of the Companies Act 2016 the assets of a corporate depositor which has been wound up vest with the Official Receiver (OR) / Liquidator. As such all securities in the securities account of a corporate depositor which has been wound up, legally belong to the OR / Liquidator. The OR / Liquidator is to notify Bursa Depository of the winding-up of the said corporate depositor.

8.3.2 The OR / Liquidator then has *two options*:-

- a. He may take over the operation of the securities account of the corporate depositor which has been wound up by applying to update the signatory(ies) of the said company's securities account, or
- b. He may apply to transfer out the securities in the securities account of the corporate depositor which has been wound up to the OR's securities account.

8.3.3 In the case of 8.3.2(a) above, the OR / Liquidator is required to submit the following documents to the ADA:-

- a. A copy of the notice of resolution in respect of voluntary winding-up by the company lodged with the Registrar designated under s20A(1) of the Companies Commission of Malaysia Act 2001 ("Registrar of Companies") or Winding-up Order in respect of winding-up by the Order of Court, duly certified by a person stated in the List Of Acceptable Witnesses in Chapter 9
- b. A copy of the notice of appointment and address of the liquidator lodged with the Registrar of Companies, duly certified by a person stated in the List Of Acceptable Witnesses in Chapter 9
- c. A letter signed by the OR / Liquidator specifying the following:-
  - i. That the corporate depositor has been wound up and pursuant to the provisions in the Companies Act 2016 the shares in the securities account of the said depositor now vest with the OR

/ Liquidator who wish to operate the securities account of the said corporate depositor, and

- ii. Designating the authorised signatory(ies) for the operation of the securities account. Kindly ensure that the mode and manner of execution by the authorised signatories are clearly defined
  - e. Two (2) original or certified true copy of the list of authorised signatory(ies) together with the specimen signatures(s).
  - d. A CDS Account Form to effect the following updates in accordance with Section 4.4 Updating Of Depositor's Particulars:-
    - i. Addition of "*In liquidation*" after the name of the corporate depositor
    - ii. Change of correspondence address of the corporate depositor to that of the OR / Liquidator's official address (optional).
- 8.3.4 The ADA's records of specimen signature(s) must be updated with the new authorised signatories in accordance with Section 4.3 Updating Of Signature / Signatories.
- 8.3.5 In case of 8.3.2(b) above, the OR / Liquidator is required to be **present in person** at Bursa Depository, except when exempted by Bursa Depository on such terms and conditions as it may require, to complete a **Notification Of Winding-Up Of Company Form** (Appendix 83) as prescribed by Bursa Depository.
- 8.3.6 The OR / Liquidator must submit the Notification Of Winding-Up Of Company Form, supporting documents and the requisite fees to Bursa Depository for the execution of the request.
- 8.3.6.1 For voluntary winding-up, the supporting documents required are:-
- a. The original OR / Liquidator's NRIC
  - b. Certified true copy of the notice of resolution in respect of voluntary winding-up by the company lodged with the Registrar of Companies
  - c. Certified true copy of the notice of appointment and address of the liquidator lodged with the Registrar of Companies

8.3.6.2 For winding-up by the Order of Court, the supporting documents required are:-

- a. The original OR / Liquidator's NRIC
- b. Certified true copy of the Winding up Order
- c. Certified true copy of the notice of appointment and address of liquidator lodged with the Registrar of Companies

**Note:** Both items b and c listed in 8.3.6.1. and 8.3.6.2 are to be duly certified by a person stated in the List Of Acceptable Witnesses in Chapter 9.

8.3.7 Bursa Depository will authorise the request for transmission of title (transfer) after due verification that the notice and supporting documents are in order.

<b>DD/DSD</b>	<b>CDS PROCEDURES MANUAL FOR ADA</b>	21/04/17
Chapter:	8	TRANSMISSION OF TITLE ON DEATH, BANKRUPTCY, WINDING-UP AND RECEIVERSHIP OF A COMPANY
Section:	8.3	Transmission Of Title On Winding-Up / Liquidation (Dissolution) Of A Company

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#### **8.4 Operations Of CDS Accounts By Receivers And Managers In Respect Of Company Under Receivership**

The following are procedures to be adhered to by the ADA, with respect to requests by appointed Receivers and Managers (R&M) to take over the operations of the securities accounts of companies which have been placed under its receivership.

8.4.1 The ADA must request that the R&M submits the following supporting documents in respect of the company which has been placed under its receivership (the Company):-

- a. A covering letter stating that the Company has been placed under its receivership and that the R&M wishes to operate the securities account of the Company
- b. A copy of the notice of appointment of receiver or receiver and manager lodged with the Registrar of Companies, duly certified by a person stated in the List Of Acceptable Witnesses in Chapter 9
- c. Two (2) original or certified true copy of the new list of authorised signatory(ies) together with the specimen signatures(s).
- d. With A CDS Account Form to effect the following updates in accordance Section 4.4 Updating Of Depositor's Particulars:-
  - i. Addition of "**In-Receivership**" after the name of the company
  - ii. Change of correspondence address of the Company to that of the appointed R&M's (optional).

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