
**QUESTIONS AND ANSWERS IN RELATION TO
BURSA MALAYSIA SECURITIES BERHAD ACE MARKET LISTING REQUIREMENTS
(As at 13 August 2020)**

CHAPTER 9 – CONTINUING DISCLOSURE

General

9.1 Does the ACE LR impose an obligation on listed corporations to make an announcement on financial estimate, forecast or projection?

The ACE LR does not impose an obligation on listed corporations to announce its financial estimate, forecast or projection.

However, if the listed corporations choose to announce their financial estimate, forecast or projection, the listed corporations must, amongst others, comply with the following:

- the requirements on the standard of disclosure prescribed for contents of announcement as set out in Rule 9.35 of the ACE LR and in particular, the preparation and the announcement of the financial estimate, forecast or projection must comply with Chapters 9 and 10 in Division 1, Part II of the SC's Prospectus Guidelines in relation to future financial information ("**SC FFI Standards**") as required under Rule 9.35(2) of the ACE LR. This includes the obligation to ensure that the underlying accounting policies and assumptions of the financial estimate, forecast or projection are reviewed by the external auditors or reporting accountants, as the case may be, in accordance with the SC FFI Standards;
- the requirements as set out in Rule 9.19(37) of the ACE LR and Notes 3(b) and 4 of Appendix 9B of the ACE LR; and
- the disclosure must adhere to the Corporate Disclosure Policy prescribed under the ACE LR including the requirement that there should not be selective disclosure of the financial estimate, forecast or projection to the investors, press, analysts or any other parties prior to the release or simultaneous release, of the financial estimate, forecast or projection through Bursa Link.

9.2 If a listed corporation chooses to announce its internal targets that are set as part of its business plan, is it required to comply with the SC FFI Standards in respect of such announcement?

No. The listed corporation need not comply with the SC FFI Standards. However, the listed corporation must comply with the following obligations instead when it announces its internal targets:

- the requirements on the contents of announcement as set out in Rule 9.35 of the ACE LR and in particular the announcement on its internal target must explain the nature of the internal targets in accordance with Rule 9.35(1)(f) of the ACE LR;
- the immediate and periodic disclosures must comply with Rule 9.19(37) of the ACE LR and Notes 3(b) and 4 of Appendix 9B of the ACE LR; and

- the disclosure must adhere to the Corporate Disclosure Policy prescribed under the ACE LR including the requirement that there should not be selective disclosure of the internal targets to the investors, press, analysts or any other parties prior to the release or simultaneous release, of the internal targets through Bursa Link.

9.3 [Deleted]

Immediate disclosure of material information

9.4 **Is a listed corporation required to make immediate disclosure of a notice of demand issued pursuant to section 466(1)(a) of the Companies Act 2016 (“S. 466 Notice”)?**

There is usually no requirement for an immediate announcement to be made by a listed corporation of a S.466 Notice as this is merely a letter of demand. However, where a S.466 Notice is considered to be material pursuant to Rule 9.03 of the ACE LR based on the facts and circumstances of a particular listed corporation, the listed corporation must make an immediate announcement of the same.

9.5 ***Mr. P was required to despatch certain private and confidential documents pertaining to a material corporate proposal of X Bhd which has yet to be announced. Mr. P subsequently discovered that the documents were missing under suspicious circumstances and hence, was unable to despatch the same. Mr. P immediately reported the matter to X Bhd. Is X Bhd required to make an immediate disclosure of the corporate proposal?***

X Bhd would be required to make an assessment of the circumstances and must make an immediate announcement pursuant to the Rule 9.06(3) of the ACE LR if the suspicious circumstances aforesaid would reasonably lead to the belief that the material information has been inadvertently disclosed. It is to be noted that the illustration provided above is not exhaustive and the circumstances which may cause a listed corporation to believe that material information may have been inadvertently disclosed are varied and subjective on a case to case basis. It may include situations where a listed corporation is of the view that the necessary degree of confidentiality cannot be maintained or suspicious ‘leak’ of the information by party(ies) privy to the material information have occurred. In such circumstances, the listed corporation would have to make an immediate announcement notwithstanding that there is no unusual market activity or insider trading in the listed corporation’s securities or rumours / reports concerning the information.

9.5A **What are some of the examples where a listed corporation cannot rely on the exceptional circumstance of “prejudicing the ability of a listed corporation to pursue its corporate objectives” to delay disclosure of material information?**

The following are some examples where the listed corporation **cannot** rely on this exceptional circumstance to delay disclosure of material information:

- (a) when there is a material default in a loan by a listed corporation and it is in the process of negotiating with the bank;
- (b) when a listed corporation is involved in a material litigation which adversely impacts the listed corporation; or
- (c) when there is a termination of a material contract and the listed corporation is renegotiating with the counter party.

In the above examples, while disclosure of the information may have an unfavourable impact to the listed corporation, such information is critical for investors to make informed investment decision. In such instances, non-disclosure of the material information is prejudicial to the interest of investors. Hence, announcement of the default, litigation or termination of contract must be made immediately.

9.5B Rule 9.05(2) of the ACE LR stipulates that disclosure of material information may be temporarily withheld if the facts are in a state of flux and a more appropriate moment for disclosure is imminent. In this regard, what constitutes facts that are in a state of flux?

This refers to information that, although material, is subject to rapid change. If the situation is about to stabilise or resolve itself in the near future, it may be proper to withhold public announcement until a firm announcement may be made, since successive public announcements concerning the same subject but based on changing facts may confuse or mislead the public rather than enlighten it.

As an illustration, a listed corporation is in negotiations for the acquisition of another corporation. In the course of the successful negotiation, the only information known to each party at the outset may be the willingness of the other to hold discussions. Shortly after that, it may become apparent to the parties that it is likely an agreement can be reached. Finally, an agreement in principle is reached on specific terms.

In such circumstances, the listed corporation need not issue a public announcement at each stage of the negotiations to describe the current state of constantly changing facts, but may wait until agreement in principle is reached on specific terms. If, on the other hand, progress in the negotiations should stabilise at some other point, disclosure should then be made if the information is material.

9.5C Can a listed corporation withhold immediate disclosure of material information -

- **due to confidentiality obligations pursuant to the terms of negotiations or agreements; or**
- **where consent is required from the counter party for the disclosure of the terms of the agreements?**

No. A listed corporation must avoid putting itself in a position where it is bound by confidentiality obligations or requirement on consent from the counter party that may defeat its obligation to disclose material information on an immediate basis.

Clarification, confirmation or denial of rumours or reports

- 9.5D** Rule 9.10(1)(a) of the ACE LR requires a listed corporation to immediately announce a denial or clarification of erroneous rumour or report and take reasonable effort to bring the announcement to the attention of the party that initially distributed such rumour or report. How does the listed corporation comply with taking “reasonable effort to bring the announcement to the attention of the party that initially distributed the erroneous rumour or report”?

The listed corporation may do so by sending a copy of the announcement to such party, e.g. the newspaper’s editor (in the case of an erroneous newspaper article), or the broker responsible for the erroneous market report.

Thorough public dissemination

- 9.6** Is selective disclosure of material information allowed under the ACE LR?

Pursuant to Rule 9.08(2) of the ACE LR, listed corporations must ensure that under no circumstances disclosure of material information is made on an individual or selective basis to analysts, shareholders, journalists or other persons unless such information has previously been fully disclosed and disseminated to the public.

However, pursuant to Rule 9.08(3) of the ACE LR, under limited circumstances, selective disclosure to such persons where it is necessary towards achieving certain corporate objectives is permitted subject to the requirements in the said Rule. Hence, disclosure of unpublished material information to solicitors and advisers in undertaking a corporate or due diligence exercise is permitted provided that the strictest confidentiality is imposed and maintained, and the market activity of the listed corporation is closely monitored.

Preparation of announcements – content of press or public announcement

- 9.7** [Deleted]

- 9.8** [Deleted]

Prescribed events which require immediate announcement

- 9.9** *A Bhd* does not have a chief financial officer. Financial matters fall under the responsibility of its general manager, *Mr. X*. These matters include signing cheques, monitoring cash flow, financial planning and preparing the financial statements. *Mr. X* is also responsible for signing the statutory declaration in relation to the accounts of *A Bhd*. *Mr. X* has recently resigned from *A Bhd*. Must *A Bhd* announce *Mr. X*’s resignation and provide reasons for the resignation in accordance with Rule 9.19(14A)(b) of the ACE LR?

Under Rule 9.19(14A) of the ACE LR, *A Bhd* is required to announce the cessation of office of its chief financial officer and to include the reasons for such cessation. Rule 1.01 of the ACE LR further defines “**chief financial officer**” to mean the person primarily responsible for the management of the financial affairs of the corporation (such as record keeping, financial planning and financial reporting) by whatever name called. As *Mr. X* is primarily responsible for the management of *A Bhd*’s financial affairs, *Mr. X* would fall within the definition of “**chief financial officer**”. Hence, *A Bhd* is required to make the relevant announcement under Rule 9.19(14A)(b) of the ACE LR in relation to the resignation of *Mr. X*.

- 9.10 Listed corporations are required to immediately announce the reasons given for cessation of office of a director¹, chief executive² and chief financial officer³ including but not limited to any information relating to his disagreement with the board and a statement as to whether or not there are any matters that need to be brought to the attention of the shareholders. If the reasons for cessation are contentious in nature, for example, where the reasons are defamatory or where there is an existing dispute in relation to the cessation of office, how does a listed corporation ensure compliance with such requirement?**

Listed corporations must adhere to the standard of disclosure set out in Rule 9.35 under the ACE LR. Amongst others, the listed corporation must ensure that its announcement is factual, clear, unambiguous, accurate, succinct and contains sufficient information to enable securities holders and investors to make informed investment decisions. Further, the announcement must be balanced and fair, and does not contain any language which is inflammatory, defamatory or scandalous of another person.

In instances where the reasons for cessation of office are contentious in nature, the listed corporation should seek prior legal advice in the preparation of the announcement required.

- 9.11 A director resigns from a listed corporation and does not provide reasons for his resignation. Is the listed corporation still required to provide reasons for the resignation of the director in the announcement under Rule 9.19(12)(b) of the ACE LR?**

Under Rule 9.19(12)(b), the listed corporation is required to disclose the reasons for the cessation of office of its director. Hence, the listed corporation must engage with the relevant director for the reasons of his resignation.

- 9.12 If a listed corporation's shareholders requisition for the removal of a director or auditor of the listed corporation, is the listed corporation required to disclose the reasons for removal pursuant to the shareholders' requisition, under Rules 9.19(12)(b) or 9.19(15) of the ACE LR respectively?**

The listed corporation is expected to use its best endeavours to obtain the reasons for such removal from the shareholders making the requisition, and subsequently announce the reasons under Rules 9.19(12)(b) or 9.19(15) of the ACE LR, as the case may be.

¹ See Rule 9.19(12)(b) of the ACE LR.

² See Rule 9.19(14)(b) of the ACE LR.

³ See Rule 9.19(14A)(b) of the ACE LR.

- 9.13 A chief executive resigns and provides the official reasons for his resignation in his letter to the listed corporation. The listed corporation makes the announcement required under Rule 9.19(14)(b) of the ACE LR. Subsequently, the actual reasons for the resignation of the chief executive surfaced. Will there be any enforcement action taken against the listed corporation in this instance by Bursa Securities?**

In making an announcement, the listed corporation must ensure adherence to the requirements under the ACE LR including Rule 9.35(1) which requires the listed corporation to make, amongst others, clear, factual and accurate announcements. Where there are discrepancies in the said announcement, Bursa Securities will investigate to see whether the listed corporation has done all that is necessary to ensure factual and accurate disclosure of facts. Additionally, under Rule 9.35(5) of the ACE LR, the listed corporation is required to immediately notify Bursa Securities when it becomes aware that the announcement does not fulfill the requirements of Rule 9.35(1) of the ACE LR, and do the necessary to rectify the earlier announcement made. If, in the course of Bursa Securities' investigation, it is found that the listed corporation has not taken the necessary steps to ensure accurate and complete disclosure of information, Bursa Securities may take the necessary enforcement action.

- 9.14 Rule 9.19(14B) of the ACE LR requires a listed corporation to announce any appointment or change in the legal representative(s) with sole powers to represent, exercise rights or enter into binding obligations, on behalf of the listed corporation or its foreign principal subsidiary pursuant to any relevant law applicable to the listed corporation or its foreign principal subsidiary. Who is a legal representative for purposes of Rule 9.19(14B) of the ACE LR?**

As expressly stated in Rule 9.19A(14B) of the ACE LR, a legal representative is a person with sole powers to represent, exercise rights or enter into binding obligations, on behalf of the listed corporation or its foreign principal subsidiary. It is a requirement imposed under the law of the relevant country like China for example which permits the appointment of a legal person who has the sole power to manage and direct the corporation, holds the corporation's common seal and is authorized to perform all acts regarding the general administration of the corporation including executing powers of attorney and any legal transaction on the corporation's behalf. The legal representative however, is separate from the director or senior officers of the listed corporation or its foreign principal subsidiary.

- 9.15 A winding-up petition is served on the subsidiary of a listed corporation. However, the winding-up petition has no financial or operational impact on the listed corporation and the listed corporation forms the view that there is no merit to the winding-up petition. Is the listed corporation still required to make an immediate announcement of the winding-up petition?**

Yes. Pursuant to Rule 9.19(20) of the ACE LR, a listed corporation must make an immediate announcement of any presentation of winding up petition against the listed corporation or any of its subsidiaries or major associated companies irrespective of whether -

- the winding-up has financial or operational impact on the listed corporation;
- the listed corporation is contesting the winding-up petition or forms the view that there is no merit to the winding-up petition; or
- the listed corporation is in negotiation with the petitioner to arrive at a settlement arrangement.

- 9.16 Does a listed corporation need to inform Bursa Securities when a listed corporation wants to utilise the balance of its initial public offerings proceeds which have been allocated for a project as disclosed in the prospectus, for another project?**

Pursuant to Rule 9.19(33) of the ACE LR, a listed corporation is required to make an immediate announcement to Bursa Securities in respect of any change to the utilisation of proceeds raised from issuance of securities (including arising from initial public offerings) that deviates by 5% or more from the total proceeds raised.

- 9.17 *Z Bhd* has disclosed in its prospectus issued for the initial public offering of *Z Bhd* that it expects the gross proceeds from the public issue of approximately RM35million to be fully utilised as set out in column (i) of the table below. Subsequent to the listing of *Z Bhd*, *Z Bhd* decides that it would need to purchase additional equipment and thus, *Z Bhd* would need a total of RM8.15 million towards the purchase of equipment. *Z Bhd* further decides that the additional RM2.15 million would be from its working capital as follows:**

Details of proposed utilisation of proceeds	Proceeds (RM'000) (i)	Revisions to Utilisation (RM'000)	Balance Revised Utilisation (RM'000)
Acquisition of a new factory	5,000	-	5,000
Purchase of equipment	6,000	2,150	8,150
Repayment of bank borrowings	13,000	-	13,000
Working capital	10,000	(2,150)	7,850
Estimated listing expenses	1,000	-	1,000
Total	35,000	-	35,000

Is *Z Bhd* required to make an immediate announcement of these changes to its proposed utilisation of proceeds under Rule 9.19(33) of the ACE LR⁴?

Yes. As *Z Bhd* would now utilise RM8.15 million towards the purchase of equipment, *Z Bhd* would be required to make an immediate announcement of the changes including the deviation in the utilisation of the RM2.15 million which was originally proposed for working capital purposes pursuant to Rule 9.19(33) of the ACE LR. This is because the deviation amounts to more than 5% of the the total proceeds raised:

$$\text{RM2.15 million/RM35 million} \times 100 = 6.14\%.$$

- 9.18 Based on the same facts as in Question Error! Reference source not found. above, would *Z Bhd* be required to make an immediate announcement pursuant to Rule 9.19(33) of the ACE LR notwithstanding that *Z Bhd* has yet to proceed with the purchase of the additional equipment?**

Yes, *Z Bhd* would be required to make the immediate announcement pursuant to Rule 9.19(33) of the ACE LR notwithstanding that *Z Bhd* has yet to proceed with the purchase. For purposes of Rule 9.19(33) of the ACE LR, listed corporations would inherently be required to make the announcement once a decision has been made to change the proposed utilisation of proceeds which triggers the prescribed 5% threshold and not upon actual implementation of the change.

⁴ Rule 9.19(33) of the ACE LR requires a listed corporation to make immediate announcement on any change to the utilisation of proceeds raised by the listed corporation from the issuance of securities that deviates by 5% or more from the total proceeds raised.

9.19 Rule 9.19(37) of the ACE LR requires the listed corporation to make an immediate announcement of any circumstances or development which are likely to materially affect the results or outcome of any financial estimate, forecast, projection or internal targets of the listed corporation previously announced or disclosed in a public document. What is the extent of the variation to the results or outcome of the financial estimate, forecast, projection or internal targets that would be considered as “material”?

Bursa Securities does not prescribe a threshold where the variation would be considered “material” for purposes of making the requisite announcement under Rule 9.19(37) of the ACE LR. The variation would be considered material if the information of such variation is reasonably expected to have a material effect on –

- (a) the price, value or market activity of any of the listed corporation’s securities; or
- (b) the decision of a holder of securities of the listed corporation or an investor in determining his choice of action.

9.20 [Deleted]

9.21 [Deleted]

9.21A Under Rule 9.19(38) of the ACE LR, a listed corporation is required to make an immediate announcement of any modified opinion or material uncertainty related to going concern, as contained in the external auditor’s report of its annual audited financial statements. When must the listed corporation make the immediate announcement as required under Rule 9.19(38) of the ACE LR?

If the auditor’s report contains a modified opinion or material uncertainty related to going concern, the listed corporation must immediately announce such modified opinion or material uncertainty related to going concern, as soon as the annual audited financial statements have been approved by its board of directors. The listed corporation should not delay or defer the announcement until the issuance of its annual report.

As an illustration, the listed corporation has a financial year ending 31 December 2016. In the auditor’s report of its annual financial statements, the external auditors have highlighted a material uncertainty related to going concern. Pursuant to Rule 9.23(1) of the ACE LR, the listed corporation must issue its annual report that includes annual audited financial statements together with the auditors’ and directors’ reports, within 4 months from the close of the financial year of the listed corporation i.e. by 30 April 2017. On 17 April 2017, its board of directors approves the annual audited financial statements of the listed corporation. In this regard, the listed corporation must immediately make the announcement required under Rule 9.19(38) of the ACE LR on 17 April 2017, after the approval of its board of directors for the annual audited financial statements. The listed corporation must not wait until the issuance of its annual report which is targeted on 30 April 2017.

9.21B Under Rule 9.19(38) of the ACE LR, a listed corporation must immediately announce any modified opinion or material uncertainty related to going concern in an external auditors’ report. The announcement must set out the full details of such modified opinion or material uncertainty related to going concern and include the following:

- (a) all key audit matters disclosed in the external auditors’ report;

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- (b) steps taken or proposed to be taken to address those key audit matters that relate to the modified opinion or material uncertainty related to going concern; and
- (c) the timeline for the steps referred to in sub-Rule (b) above.

What is a listed corporation expected to disclose under Rules 9.19(38)(a) and (b) of the ACE LR respectively?

In announcing “*all key audit matters disclosed in the external auditors’ report*” pursuant to Rule 9.19(38)(a) of the ACE LR, the listed corporation must state -

- (i) those matters giving rise to a modified opinion in accordance with ISA 705 (Revised), or a material uncertainty related to events or conditions that may cast significant doubt on the listed corporation’s ability to continue as a going concern in accordance with ISA 570 (Revised), as described in the “**Basis for Qualified (Adverse) Opinion**” or the “**Material Uncertainty Related to Going Concern**” section of the external auditor’s report; and
- (ii) those matters that, in the auditor’s professional judgment, were of most significance in the audit of its financial statements for the reporting period, as described in the “**Key Audit Matters**” section of the external auditor’s report.

On the other hand, in the announcement pursuant to Rule 9.19(38)(b) of the ACE LR, the listed corporation will only be required to state the steps taken or proposed to be taken to address those matters set out in paragraph (i) above.

9.22 Rule 9.19(46) of the ACE LR requires an immediate announcement of any valuation which has been conducted on the non-current assets of the group, where the revaluation surplus or deficit will be incorporated in the financial statements of the listed corporation. Would this include valuation of the listed corporation’s investment in subsidiaries?

No. For purposes of Rule 9.19(46) of the ACE LR, the valuation is only in respect of the non-current assets of the group and thus, it would not include valuation of the listed corporation’s investment in subsidiaries.

9.23 Rule 9.19(47) of the ACE LR requires a listed corporation to make an immediate announcement of any material development to corporate proposals previously announced. What will be considered “corporate proposals” under Rule 9.19(47) of the ACE LR?

“**Corporate proposals**” for purposes of Rule 9.19(47) of the ACE LR refers to any proposals, transactions, arrangements or exercises by a listed corporation. Corporate proposals include but are not limited to capital raising exercises, transactions, rights issue, bonus issue, capital consolidation, scheme of arrangement, compromise, amalgamation capital reduction, capital repayment and employee share schemes.

Immediate disclosure requirements – dealings in quoted securities**9.24 For the purpose of Rule 9.20 of the ACE LR, is a listed corporation only required to aggregate the purchases or sales of the quoted securities of a particular corporation?**

No. Pursuant to Rule 9.20 of the ACE LR, a listed corporation is required to aggregate all purchases or sales of quoted securities respectively within the preceding 12 months excluding such purchases or sale which has been previously announced.

9.25 Website**(a) Under the ACE LR, Rule 9.21 mandates a listed corporation to have its own website. Is there a timeframe prescribed by Bursa Securities for the listed corporation to set up its website?**

A listed corporation must have its own website by 3 August 2009 when the ACE LR takes effect.

(b) Is a listed corporation required to comply with a prescribed minimum content in respect of its website?

No. However, a listed corporation must publish on its website all announcements made to Bursa Securities. Further, the listed corporation must ensure that the website is current, informative and contains all information which may be relevant to the listed corporation's shareholders including analyst's briefings.

(c) When is a listed corporation required to publish announcements on its website?

A listed corporation is required to publish announcements made to Bursa Securities on its website as soon as practicable after such announcements are released on Bursa Securities' website. The listed corporation must not publish any announcements on its website before the same is released by Bursa Securities.

(d) Rule 9.21(2) of the ACE LR requires every listed corporation to publish on its website all announcements made to the Exchange pursuant to the ACE LR. How long must a listed corporation maintain such announcements on its website?

The ACE LR does not prescribe the duration for such announcements to be maintained on a listed corporation's website. The listed corporation may exercise its discretion on how long it will maintain its announcements on its website. In any event, a listed corporation should ensure that its website is current, informative and contain all information which may be relevant to its shareholders, as provided under Rule 9.21(4) of the ACE LR.

- (e) **Rule 9.21(3) of the ACE LR requires a listed corporation to ensure that its website contains the email address, name(s) of designated person(s) and their contact numbers to enable the public to forward queries to the listed corporation. What are the queries envisaged by this requirement, and must the listed corporation answer all queries?**

This requirement is imposed to enable a listed corporation to improve its investor relations with its stakeholders, especially the shareholders. Hence, a shareholder may forward any query to its listed corporation. The listed corporation should use its best endeavours to respond to the queries.

- (f) **Can a listed corporation provide a link in its website that enables its announcements that are posted on Bursa Securities' website to be similarly made available on its website?**

Yes, a listed corporation may do so only if it has procures Bursa Malaysia's approval and enters into an agreement with Bursa Malaysia. This is to avoid any issue of copyright infringement by such listed corporation. Further, the listed corporation must ensure that the link will enable announcements to be viewed seamlessly as part of the listed corporation's web pages. The listed corporation may contact Bursa Securities' Information Services Division for further details on such arrangements.

- (g) **Can a group of corporations share one website?**

Yes, provided that each listed corporation within the group has its own distinctive and designated web pages and shareholders are able to retrieve the information on each of their listed corporations easily. In short, the listed corporations within the group must each ensure compliance of its web pages within the shared website with Rule 9.21(1) of the ACE LR.

Publication of certain information in annual reports on the listed corporation's website

- 9.26 What information set out in Appendix 9C which may be published on the listed corporation's website pursuant to Rule 9.25(1) of the ACE LR?**

Under Rule 9.25(1) of the ACE LR, a listed corporation may publish information set out in Appendix 9C which has been **previously announced or disclosed to shareholders pursuant to the ACE LR, or remains substantially unchanged from year to year ("said information")** provided that the listed corporation discloses in the annual report, the address of its website and the place on its website where the information can be accessed. The said information may include -

- (a) list of material properties;
- (b) profile of directors, chief executive and key senior management;
- (c) material contracts and loans involving the interest of directors, chief executive who is not a director and major shareholders; and
- (d) terms of references, policies and processes of board committees.

9.27 Is the listed corporation required to update the said information published on its website from time to time?

Yes, the listed corporation must update the said information as and when there is a material change to the information. The listed corporation must also ensure that it complies with following requirements of the ACE LR:

- (a) Rule 9.21 which, among others, provide that a listed corporation should ensure that its website is current, informative and contains all information relevant to the listed corporation's shareholders; and
- (b) Rule 2.18 which requires a listed corporation to ensure that any application, proposal, statement, information or document presented, submitted or disclosed pursuant to ACE LR is –
 - clear, unambiguous and accurate;
 - does not contain any material omission; and
 - is not false or misleading.

Publication of summary of key matters discussed at annual general meetings on the listed corporation's website**9.27A What should be covered under the summary of key matters discussed at the annual general meetings which a listed corporation must publish on its website pursuant to Rule 9.21(2)(b) of the ACE LR?**

The summary of the key matters discussed at the annual general meeting which must be published on the listed corporation's website should include a summary of the discussions or explanations on the matters set out in the agenda, substantial or pertinent comments or queries from shareholders relating to the agenda and responses from the board and management.

Issuance of annual report in electronic format

9.28 [Deleted]

Periodic disclosures – quarterly report**9.29 If a listed corporation changes its financial year end which results in a change to the periods to be covered by the quarterly report, how would the listed corporation determine such periods?**

Rule 9.22(3) of the ACE LR states that a listed corporation must consult Bursa Securities to determine the period to be covered by the quarterly reports if there is a change of financial year end.

- 9.30 Does a listed corporation have to provide the selected explanatory notes in the same sequence as provided in paragraph 16 of FRS 134 on Interim Financial Reporting in the quarterly report? How should the listed corporation disclose the additional information required under Appendix 9B of the ACE LR?**

The listed corporation is not required to disclose the selected explanatory notes in the same sequence as paragraph 16 of FRS 134. However, the listed corporation is encouraged to disclose information required under FRS 134 first and then followed by those required by Appendix 9B of the ACE LR.

- 9.31 If any one of the notes required under FRS 134 and/or Appendix 9B of the ACE LR is not applicable to the listed corporation, does the listed corporation have to state specifically that the particular note is not applicable?**

If a particular note is not applicable to the listed corporation, then the listed corporation is encouraged to state specifically that the particular note is not applicable.

- 9.32 Paragraph 1 in Appendix 9B of the ACE LR now requires a listed corporation to disclose a detailed analysis of the performance of all operating segments of the group setting out the material factors affecting the earnings and/or revenue of each segment for the current quarter and financial year-to-date. What is the extent of information required to be disclosed that would be considered as a “detailed analysis”?**

In making the disclosure of a detailed analysis, a listed corporation must comment on the performance of each of its business activity (as segmented in the annual report) and the factors that resulted in the revenue or profits improving or declining as compared to the corresponding period. In this regard, the listed corporation’s board of directors should discuss, among others, the following factors:

- (a) the market condition and demand for its goods and services;
- (b) the level of its operating activities;
- (c) the factors or circumstances affecting the changes to the revenue, costs and profit margin of each business activity or segment;
- (d) any unusual or one-off gains/losses affecting the revenue or profit; or
- (e) any other information which can provide a better understanding of the listed corporation’s performance.

A general statement that the revenue and profit for the period has increased or decreased by a certain percentage without any elaboration of the above factors is not acceptable.

9.33 To what extent must a listed corporation's board of directors comment on the listed corporation's prospects in the quarterly report pursuant to paragraph 3 of the Appendix 9B of the ACE LR⁵?

In commenting on the listed corporation's prospects under paragraph 3 of Appendix 9B of the ACE LR, the board of directors must discuss in detail the prospects on each segmented activities and the material factors that are likely to influence the listed corporation's prospects for the remaining period of the financial year. The commentary should include –

- (a) the prospects of each of the group's business segments, including contracts at hand, tender book value, competitive challenges, customers' trend and supply constraint;
- (b) significant changes in raw material costs and selling prices affecting demand and profit margins;
- (c) financial impact arising from currency fluctuation and steps taken to mitigate such fluctuation;
- (d) changes in product or service mix and their impact on profit margin;
- (e) financial impact from recently completed acquisition, disposal or merger;
- (f) new regulations or rules which may affect the group's operating activities; or
- (g) any changes in business direction or new development of the group which may have an impact on the prospects of any business segment.

A general statement such as the board is optimistic of achieving better performance for the financial year or the board expects the group's results for the remaining period to be profitable, without discussing the above matters is not acceptable.

9.34 Listed corporations are now required to disclose, on a quarterly basis, the details of major components on their operating, investing and financing activities in their statement of cash flows pursuant to paragraph 17 in Appendix 9B of the ACE LR. How should the listed corporations make the additional disclosures in their statement of cash flows?

In making the additional disclosures required under paragraph 17 in Appendix 9B of the ACE LR, listed corporations should provide the following details:

- (a) The details in respect of the operating activities may include –
 - receipts from customers
 - payments to suppliers, contractors and employees
 - interest paid
 - payment of income taxes

⁵ Paragraph 3 of Appendix 9B of the ACE LR, among others, requires a listed corporation to provide in its quarterly report, a commentary on the prospects, including the factors that are likely to influence the listed corporation's prospects for the remaining period to the end of the financial year or the next financial year if the reporting period is the last quarter.

Total Cash Flow from/(used in) operating activities

- (b) The details in respect of the investing activities may include –
- purchase of property, plant and equipment
 - disposal of property, plant and equipment
 - payment of intangible assets
 - acquisition of investments
 - disposal of investments
 - advances to associates/jointly controlled entities
 - repayment of advances from associates/jointly controlled entities
 - interest received

Total Cash Flow from/(used in) investing activities

- (c) The details in respect of the financing activities may include –
- dividend paid to equity holders
 - proceeds from borrowings
 - repayment of borrowings
 - proceeds from rights issue

Total Cash Flow from/(used in) financing activities**Timeframe for issuance of annual report**

9.35 Rule 9.23 of the ACE LR in relation to the timeframe for issuance of annual reports has been amended to be implemented in phases in the following manner:

- **annual reports for financial years ending on or after 31 December 2014 must be issued to Bursa Securities and shareholders within 5 months from the close of the financial year end (“Phase 1 Requirements”); and**
- **annual reports for financial years ending on or after 31 December 2015 must be issued to Bursa Securities and shareholders within 4 months from the close of the financial year end, and the separate announcement of the annual audited financial statements can be dispensed with (“Phase 2 Requirements”).**

ABC Berhad’s financial year end (“FYE”) falls on 31 December. Is ABC Berhad still required to announce its annual audited financial statements to Bursa Securities?

ABC Berhad is still required to announce its annual audited financial statements for FYE 31 December 2014 by 30 April 2015 under the Phase 1 Requirements. However, it is not required to announce its annual audited financial statements for FYE 31 December 2015 and the subsequent financial years after 31 December 2015 when the Phase 2 Requirements become effective as its annual reports issued within 4 months for those financial years would already include its annual audited financial statements, directors’ and auditors’ reports.

9.35A *XYZ Bhd's* financial year end ("FYE") falls on 31 March 2016. Prior to 31 December 2015, *XYZ Bhd* has been –

- holding its annual general meeting within 6 months from the close of its financial year (i.e. in September); and
- including the notice convening the annual general meeting and proxy forms in its annual report, and forwarding them together to shareholders.

Pursuant to the Phase 2 Requirements, *XYZ Bhd* is required to issue its annual report that includes the annual audited financial statements together with the auditors' and directors' reports, to the Exchange and shareholders by July 2016 (i.e. 4 months from the close of its financial year end).

(a) Does this mean that *XYZ Bhd* is also required to convene its annual general meeting within the shorter timeframe?

The ACE LR does not prescribe when a listed corporation must convene its annual general meeting. Hence, it is up to *XYZ Bhd* to determine when it should convene its annual general meeting so long as it complies with the relevant requirements of the Companies Act 2016.

(b) Assuming that *XYZ Bhd* convenes its annual general meeting in September 2016, can *XYZ Bhd* send the notice convening the annual general meeting and the proxy forms separately from the annual report?

As the annual general meeting will only be held in September 2016, *XYZ Bhd* may send out the notice convening the annual general meeting and the proxy forms separately from the annual report so long as it complies with the relevant requirements of the Companies Act 2016.

Issuance of interim audited financial statements

9.35B Pursuant to Rule 9.23A of the ACE LR, what are the instances where Bursa Securities may not require the issuance of interim audited financial statements if a listed corporation extends its financial year end ("FYE") to beyond 18 months from the last financial year end?

Amongst the instances where Bursa Securities may not require a listed corporation to issue an interim audited financial statement are when the change in FYE is to –

- coincide with the financial year of the listed corporation's holding company pursuant to section 247 of the Companies Act 2016; or
- allow a listed corporation to undergo a corporate restructuring exercise involving merger or acquisition.

Periodic disclosures – annual report

- 9.36 Pursuant to Rule 9.25(1) of the ACE LR, a listed corporation must set out separately in its annual report, the items set out in Appendix 9C of the ACE LR (hereinafter referred as “Appendix 9C”). Does the listed corporation have to provide a negative statement if a particular item contained in Appendix 9C is not applicable to the listed corporation?**

No, the listed corporation does not have to provide a negative statement if a particular item in Appendix 9C is not applicable to the listed corporation except where it is expressly required under Appendix 9C, namely items (19)(b), (22) and (30) of Appendix 9C.

- 9.37 What is the definition of “family” relationship as stated in items (3)(f), (4)(f) and (4A)(e) of Appendix 9C?**

“Family” relationship shall have the same meaning as assigned to “family” under section Rule 1.01 of the ACE LR.

- 9.38 What is the definition of “conflict of interest” as stated in item (3)(g) of Appendix 9C?**

“Conflict of interest” for the purposes of item (3)(g) of Appendix 9C, refers to a situation where the director concerned has personal pecuniary interests which are in conflict with those of the listed corporation or its subsidiaries. It excludes transactions entered into by a listed corporation or its subsidiaries involving the interest of the director concerned which are regarded as related party transactions pursuant to Chapter 10 of the ACE LR.

The following are illustrations. A sale of property by the listed corporation to a corporation owned by the director would be a related party transaction which does not require disclosure pursuant to item (3)(g) of Appendix 9C. If the director is a major shareholder of another corporation which is the competitor of one of the subsidiaries of the listed corporation, such information must be disclosed pursuant to item (3)(g) of Appendix 9C.

- 9.39** [Deleted]

- 9.40 What is the definition of “relevant regulatory bodies” referred to in items (3)(h), 4(h) and 4A(g) of Appendix 9C?**

“Relevant regulatory bodies” refers to any regulator that regulates a listed corporation or its subsidiaries or any authority or organisation which regulates the business activity of a listed corporation or its subsidiaries. This includes Bursa Securities, the SC, Bank Negara Malaysia, the Companies Commission of Malaysia, the Employees Provident Fund, the Inland Revenue Board, the Department of Environment and the local municipal councils.

- 9.41 Pursuant to item (19)(b) of Appendix 9C, are listed corporations required to disclose non-audit fees paid to corporations which are owned by the external auditors i.e. the partners of the auditing firm?**

Yes, pursuant to item (19)(b) of Appendix 9C, listed corporations are required to disclose non-audit fees paid to corporations owned by the external auditors of the listed corporations.

9.42 What is considered as “non-audit fees” pursuant to item (19)(b) of Appendix 9C?

“Non-audit fees” would encompass any fees paid for services rendered to the listed corporation or its subsidiaries other than for statutory auditing work. An example would be consultancy services.

9.42A Pursuant to item 19(b) of Appendix 9C, listed corporations are required to set out in their annual reports, the details on the nature of the services rendered by the external auditors if the non-audit fees incurred were significant. For this purpose, what is regarded as “significant” non-audit fees?

In determining what could be regarded as “significant” non-audit fees, listed corporations should consider the amount of non-audit fees incurred compared to the amount of audit fees paid. Generally, if the non-audit fees constitute 50% of the total amount of audit fees paid to their external auditors, then such non-audit fees are regarded as significant.

9.43 Pursuant to items (3)(h), (4)(h) and (4A)(g) of Appendix 9C, listed corporations are required to set out in their annual report the particulars of the directors, chief executive and key senior management respectively including the list of convictions for offences within the past 5 years other than traffic offences, if any. What is regarded as “convicted of an offence”?

“Convicted of an offence” includes any finding of guilt or any order involving any finding of guilt by any court of competent authority in Malaysia or outside Malaysia in relation to any act or omission punishable under criminal law.

9.44 In relation to the statement on internal audit function as required under item (31) of Appendix 9C, where should such statement be located in the annual report?

There is no specific requirement for the location of the internal audit statement as long as the statement is clear and contains the information required.

9.45 In relation to item (31) of Appendix 9C, when the internal audit is conducted in-house, should the cost be disclosed?

Yes, the cost is to be disclosed regardless of whether the internal audit function is performed in-house or outsourced. Such cost should include all costs involved in performing the internal audit function.

Disclosure of Sustainability Statement in Annual Report**9.46 A listed corporation is required to make a Sustainability Statement in its annual reports issued for financial years ending on or after 31 December 2018. If a listed corporation voluntarily makes a Sustainability Statement in its annual report issued for the financial year ending on 31 December 2017, is the listed corporation still required to provide a description of its and its subsidiaries’ corporate social responsibility activities or practices, in its annual report issued for the financial year ending on 31 December 2017?**

No. The listed corporation is not required to provide a description of its and its subsidiaries’ corporate social responsibility statement activities or practices, if it has made a Sustainability Statement in its annual report issued for the financial year ending on 31 December 2017.

9.46A Is it mandatory for a listed corporation to comply with the Sustainability Reporting Guide issued by the Exchange when it prepares its Sustainability Statement?

No. As stated under paragraph 6.1 of Guidance Note 11, a listed corporation is only **encouraged as a best practice** to refer to the Sustainability Reporting Guide when preparing its Sustainability Statement. Whilst adherence to the Sustainability Reporting Guide is voluntary, the Exchange would strongly encourage listed corporations to refer to the Sustainability Reporting Guide, to the extent possible, when preparing their Sustainability Statement.

Circular and other requirements**9.47 Paragraph 9.30A(2)(c) of the ACE LR provides that the obligation on a listed corporation or offeror in an offer for sale of listed securities to submit a draft copy of all circulars and other documents proposed to be sent to the holders of the listed securities, does not apply, amongst others, to any document that is not prepared by the listed corporation or its advisers on its behalf. What are examples of such documents?**

Examples of documents that have not been prepared by the listed corporation or its advisers on its behalf, include amongst others, representations made by directors to the listed corporation pursuant to section 207(3) of the Companies Act 2016 and notices issued by trustees to bondholders pursuant to the provisions of a trust deed.

9.48 What are the main obligations of a listed corporation or the adviser in respect of the Exempt Circulars given that such circulars will not be perused by Bursa Securities?

Pursuant to paragraph 3.2 of Guidance Note 22, the Exempt Circulars must include a statement that Bursa Securities has not perused the circular before its issuance. Further, a listed corporation must submit a checklist showing compliance with the relevant parts of the ACE LR immediately upon issuance of the Exempt Circulars to securities holders. The listed corporation, its director, Sponsor or adviser, as the case may be, must also ensure that the Exempt Circulars comply with the ACE LR, including the standard of disclosure prescribed in Rule 9.35 of the ACE LR and the prescribed minimum contents, if any, failing which, Bursa Securities may take enforcement action against the listed corporation, its directors, Sponsor or adviser, as the case may be.

9.48A What are the areas that Bursa Securities will focus on in respect of the Limited Review Circulars?

In conducting a limited review, Bursa Securities will only focus on key disclosure areas and not the entire circular. However, Bursa Securities may conduct a full review in circumstances where it deems fit. In any event, listed corporations, their directors, Sponsor or adviser, as the case may be, must ensure the accuracy and completeness of the Limited Review Circulars pursuant to Rule 9.35 of the ACE LR.

Others – Default in Payment

9.49 Rule 9.19A(1) of the ACE LR among others, requires a listed corporation to immediately announce any default in payment of either interest or principal sums, or both, in respect of debt securities (whether listed or unlisted on Bursa Securities) by the listed corporation. In this regard, what would constitute a default in payment in respect of debt securities?

Default in payments in respect of debt securities includes -

- (a) default in payments of the interest or principal sum or both in respect of loan stocks or bonds;
- (b) default in payments under a debenture.

9.50 Does a listed corporation have to make an immediate announcement when its 49% associated company defaults in payment of either interest or principal sums but the associated company's bankers do not issue any notices/demand letter?

Pursuant to Rules 9.19A(1)(b) of the ACE LR, any such default in payments (as envisaged in the loan/credit facility agreement) including by an associated company of a listed corporation which is material (ie. vis-à-vis the group) would require immediate announcement irrespective of whether a notice or demand has been issued by the bankers.

9.51 With effect from 27 January 2015, Guidance Note 5 will be deleted from the ACE LR and the requirements relating to default in payment will be set out in Rule 9.19A of the ACE LR instead.

- (a) **DEF Bhd, a listed corporation, triggers the criteria for default in payment on 30 January 2015. Which template under Bursa LINK should DEF Bhd use to make the immediate announcement and monthly status updates required under Rule 9.19A of the ACE LR?**

DEF Bhd must make the required immediate announcement and monthly status updates in the “**General Announcement**” template under the main keyword “**Others**” in the “Subject” column. There will no longer be any sub keyword in the “Subject” column for a default in payment announcement.

- (b) **If DEF Bhd triggered the criteria for default in payment under Guidance Note 5 on 15 January 2015 which was announced by DEF Bhd on the same date, which template under Bursa LINK should DEF Bhd use to make the announcement of the default in payment as well as the monthly status updates?**

DEF Bhd must make the required immediate announcement and monthly status updates in the following manner:

- (i) the announcement of the default in payment on 15 January 2015 should be made in the “**General Announcement**” template under the main keyword “**Practice Note 1/Guidance Note 5**” and sub keyword “**New Default**” in the “Subject” column; and

- (ii) the announcement of the monthly status update in February 2015 and thereafter should be made in the “**General Announcement**” template under the main keyword “**Others**” in the “Subject” column. There will no longer be any sub keyword in the “Subject” column for the monthly status update announcement.

9.52 *A Berhad’s net assets based on the latest published or announced financial statements is RM100 million. A Berhad has procured a credit facility of RM8 million from a bank and has withdrawn RM5 million from the facility as at 30 August 2009. On 30 August 2009, A Berhad defaults in the repayment of a monthly installment of RM100,000. As a result, the bank recalls the credit facility and demanded that A Berhad repays the bank the total outstanding sum due and owing under the credit facility amounting to RM5 million.*

In this case, what is the “total amount outstanding of the defaulted credit facility” referred to in Rule 9.19A(1)(a) of the ACE LR in determining whether *A Berhad* is required to announce the default under Rule 9.19A of the ACE LR?

The “total amount outstanding of the defaulted credit facility” referred to in Rule 9.19A(1)(a) of the ACE LR is the total outstanding sum due and owing under the credit facility when the bank issued the demand, i.e. RM5 million.

9.53 The facts of the matter are as follows:

- *X Berhad* has a financial year end on 31 December.
- *X Berhad’s* net assets as at 30 June 2015, based on its latest financial statements published on 30 July 2015 is RM250 million.
- In 2015, *X Berhad* had defaulted in the following payments of its credit facilities/debt securities:

Date	Default in payments	Total Amount Outstanding (RM'000)
31 July 2015	Default in repayment of loan instalments to <i>Bank A</i> (“Default 1”)	10,000
21 August 2015	Default in payment of interests due to bond holders which had become due and payable (“Default 2”)	4,000

Based on the facts above, is *X Berhad* required to immediately announce each default in payment pursuant to Rule 9.19A of the ACE LR?

Under Rule 9.19A(1)(a) of the ACE LR, a listed issuer must immediately announce any default in payment where the total amount outstanding either singly or collectively is 5% or more of the net assets of the listed corporation based on the latest published or announced financial

statements. In this regard, the table below clarifies the immediate announcement obligation of *X Berhad* as required under Rule 9.19A(1)(a) of the ACE LR:

Date	Default in Payments	Total Amount Outstanding (RM'000)	Immediate Announcement Required?
31 July 2015	Default 1	10,000	No as total amount outstanding of Default 1 is only 4% of the net assets.
21 August 2015	Default 1 (which is still outstanding) and Default 2	14,000	Yes as the total amount outstanding of Default 1 and Default 2 are collectively 5.6% of the net assets.

9.54 The facts of the matter are as follows:

- *X Berhad* has a financial year end on 31 December.
- *X Berhad's* net assets as at 30 June 2015, based on its latest financial statements published on 30 July 2015 is RM250 million.
- *X Berhad's* net assets as at 30 September 2015, based on its latest financial statements published on 23 November 2015 is RM200 million.
- In 2015, *X Berhad* had defaulted in the following payments of its credit facilities/debt securities:

Date	Default in payments	Total Amount Outstanding (RM'000)
31 July 2015	Default in repayment of loan instalments to <i>Bank A</i> ("Default 1")	10,000
21 August 2015	Default in payment of interests due to bond holders which had become due and payable ("Default 2")	1,500

Based on the facts above, is *X Berhad* required to immediately announce each default in payment pursuant to Rule 9.19A of the ACE LR?

The table below clarifies the immediate announcement obligation of *X Berhad* as required under Rule 9.19A(1)(a) of the ACE LR:

Date	Default in Payments	Total Amount Outstanding (RM'000)	Immediate Announcement Required?
31 July 2015	Default 1	10,000	No as total amount outstanding of Default 1 is only 4% of the net assets as at 30 July 2015.
21 August 2015	Default 1 (which is still outstanding) and Default 2	11,500	No as the total amount outstanding of Default 1 and Default 2 are collectively only 4.6% of the net assets as at 30 July 2015.
23 November 2015	Default 1 and Default 2 (which are still outstanding)	11,500	Yes as the total amount outstanding of Default 1 and Default 2 are collectively 5.75% of the net assets as at 23 November 2015.

- 9.55** If a listed corporation, its major subsidiary or major associated company commits a default in payment pursuant to Rule 9.19A of the ACE LR, when does the listed corporation have to furnish a statement of solvency declaration to Bursa Securities?

The statement of solvency declaration duly executed by the board of directors of the listed corporation must be submitted via fax and mail to the Head of Listing, Bursa Securities within 3 market days from the date of the announcement on the default in payment pursuant to Rule 9.19A of the ACE LR.

- 9.56** If a listed corporation has negative net assets, how should the listed corporation determine how material a default in payment is for the purpose of making an announcement under the ACE LR?

Where a listed corporation has negative net assets, any amount in default will be considered as material pursuant to Rule 9.19A(2) of the ACE LR and the listed corporation must announce any amount in default.