



**MALAYSIAN INSTITUTE
OF ACCOUNTANTS**
ACCOUNTANTS: MANAGERS OF VALUE

FINANCIAL REPORTING STANDARDS IMPLEMENTATION COMMITTEE

FRSIC Draft Consensus D7

Monies Held in Trust by Participating Organisations of Bursa Malaysia Securities Berhad

Comments to be received by 7 December 2011

Preamble

FRSIC Draft Consensus D7 “Monies Held in Trust by Participating Organisations of Bursa Malaysia Securities Berhad” is issued by the Financial Reporting Standards Implementation Committee (“FRSIC”) of the Malaysian Institute of Accountants (“Institute”) for comment only. Comments on the draft Consensus should be submitted in writing so as to be received by **7 December 2011**.

All responses will be put on the public record unless the respondent requests confidentiality. Comments should be addressed to:

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Invitation to Comment

FRSIC has approved the release of FRSIC Draft Consensus D7 for distribution to the members and member firms of the Institute, regulators, users and other interested individuals and organisations for comments.

There is no specific question raised on the proposed FRSIC Consensus. FRSIC, however, invites interested parties to comment on any aspect of the consensus reached in the proposed FRSIC Consensus. Comments are most helpful if they indicate specific paragraph to which they relate, contain a clear rationale and, where applicable, provide a suggestion for alternative wording.

The draft Consensus contained herein is issued as part of the Institute’s initiatives to promote best practices in compliance with the highest standards in financial accounting.

FRSIC DRAFT CONSENSUS D7**MONIES HELD IN TRUST BY PARTICIPATING ORGANISATIONS OF BURSA MALAYSIA SECURITIES BERHAD**

FRSIC Consensus is guidance issued by MIA and shall be regarded as best practice. It should be read in conjunction with the respective applicable accounting standards.

Members of MIA are expected to observe compliance to the consensus issued. In exceptional circumstances where departure is necessary, members shall be prepared to justify the departure.

FRSIC Consensus need not be applied to immaterial items. Nothing in the FRSIC Consensus is to be construed as amending or overriding the accounting standards or other statements adopted or issued by the MASB and other relevant laws.

Background

- 1 A participating organisation of Bursa Malaysia Securities Berhad ("Bursa Securities") is defined in both the Capital Markets and Services Act, 2007 ("CMSA 2007") and the Rules of Bursa Malaysia Securities Berhad ("Bursa Securities Rules") as a company who carries on the business of dealing in securities and is recognised as such in accordance with Bursa Securities Rules.
- 2 The business of dealing in securities is classified as one of the regulated activities under the CMSA 2007, thus a participating organisation of Bursa Securities must hold a valid Capital Markets Services Licence and shall act within the limits of CMSA 2007 and Bursa Securities Rules.
- 3 Section 111 of CMSA 2007 and Rule 405 of the Bursa Securities Rules essentially requires a participating organisation of Bursa Securities to establish and keep at least one trust account with a licensed financial institution. A participating organisation shall pay into the said trust account all amounts, less any brokerage and other proper charges, received for or on account of a client for:
 - (a) the purchase of securities; and
 - (b) the sale of securities by a client that are yet to be paid to the client.

- 4 In accordance with Section 113 of CMSA 2007, monies held in the trust account shall not be withdrawn except for the following purposes:
- (a) payment to, or in accordance with the written instructions of the client;
 - (b) payment of brokerage and any other proper charges due from the client to the participating organisation; or
 - (c) other payments that is otherwise authorised by the law.

Monies held in the trust account shall not be available for payment of debts of the participating organisation or be liable to be paid or taken in execution under an order or process of any court.

Scope

- 5 This [draft] Consensus applies to the accounting of monies held in the trust account by a participating organisation of Bursa Securities pursuant to the provisions of CMSA 2007 and Bursa Securities Rules.

The Issue

- 6 It was observed that there is divergence in practice amongst participating organisations of Bursa Securities. In some cases, the trust monies are recognised as part of the participating organisation's assets and hence, a corresponding recognition of liabilities. Proponents of this treatment are of the view that such recognition enhances transparency and accountability so as to overcome risks of inattention. Moreover, the trust monies are held by the participating organisation in a fiduciary capacity, hence justifying the recognition of liabilities.
- 7 Nevertheless, it was argued that the recognition of the trust monies as assets of the participating organisation with a corresponding recognition of liabilities may not be appropriate from the context of the Financial Reporting Standards ("FRS"), as the provisions contained in Section 113 of CMSA 2007 do suggest that rights of a participating organisation over the trust monies do not exist.

Consensus and Basis of Consensus

- 8 An asset is defined in Paragraph 49(a) of the Framework for the Preparation and Presentation of Financial Statements ("Framework") as "a resource controlled by the entity as a result of past events and from which future economic benefits are expected to flow to the entity". Paragraph 53 of the Framework further clarified that "future economic benefit embodied in an asset" is "the potential to contribute, directly or indirectly, to the flow of cash and cash equivalents to the entity".
- 9 As a result of the provisions contained in Section 113 of CMSA 2007, a participating organisation does not have any control over the trust monies – the participating organisation is prohibited under statute to utilise the funds for its own benefits, nor are the funds available for distribution in the event the participating organisation is liquidated.
- 10 On the other hand, a liability is defined in Paragraph 49(b) of the Framework as "a present obligation of the entity arising from past events, the settlement of which is expected to result in an outflow from the entity of the resources embodying economic benefits. Notwithstanding the fiduciary duty described in Paragraph 6 of this [draft] Consensus, a distinction needs to be drawn between a present obligation and a future commitment.
- 11 A present obligation exists only when there is an obligating event. For an event to be an obligating event, it is necessary that the entity has no realistic alternative to settling the obligation created by the event; referring to Paragraph 17 of FRS 137 "Provisions, Contingent Liabilities and Contingent Assets", this is the case only:
- (a) where the settlement of the obligation can be enforced by law; or
 - (b) in the case of a constructive obligation, where the event (which may be an action of the entity) creates valid expectations in other parties that the entity will discharge the obligation.
- 12 The Committee is of the opinion that requirements to establish and keep the trust account, by itself, is not an obligating event and thus, a present obligation does not arise. The obligating event as far as the trust monies are concerned would perhaps be a loss event related to the trust monies that would result in the payment of any compensation by the participating organisation to the client.
- 13 The Committee therefore opined that the recognition of the trust monies as part of the participating organisation's assets with a corresponding recognition of liabilities is inappropriate from the context of FRS.

- 14 To ensure the financial statements faithfully represents its economic phenomena, a participating organisation is encouraged to provide additional disclosures regarding the monies that it held in trust for its clients. Additional disclosures in this respect provide a complete depiction about the participating organisation to the users of financial statements.
- 15 As a best practice, the Committee recommends the disclosure of the following information by way of notes to the financial statements:
- (a) The carrying amounts of monies held in trust as at the end of the period and the end of the previous period;
 - (b) Total interest income earned from the licensed financial institution and paid into the trust account during the period and the previous period, if any; and
 - (c) Qualitative disclosures, such as exposure to risk and its objectives, policies and processes for managing the risk and the methods used to measure the risk.

Issuance date of this Consensus

- 16 This *[draft]* Consensus is issued on *[date to be set upon final approval by the Institute's Council]*.

References

Framework for the Preparation and Presentation of Financial Statements

FRS 7 "Financial Instruments: Disclosures"

FRS 101 "Presentation of Financial Statements"

FRS 137 "Provisions, Contingent Liabilities and Contingent Assets"