

GUIDELINE ON APPLICATION TO CARRY ON ISLAMIC INVESTMENT BUSINESS



GUIDELINE NO. CMU/G-4/2017/4

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1. INTRODUCTION

- 1.1 This Guideline is issued pursuant to section 32 of the Autoriti Monetari Brunei Darussalam Order, 2010.
- 1.2 The objectives of this Guideline is to:
- (a) Provide guidance and clarity to any applicant on the procedures in relation to an application for an endorsement to carry on Islamic investment business as an Islamic investment institution or by operating an Islamic window pursuant to section 23 of the SMO; and
 - (b) Facilitate the application process for those intending to carry on Islamic investment business as an Islamic investment institution or by operating an Islamic window and ensure the application process is fully understood and complied with.

2. APPLICABILITY

- 2.1 This Guideline is aimed at any person who wishes to carry on Islamic investment business either as an Islamic investment institution or by operating an Islamic window.
- 2.2 This Guideline is not legally binding, exhaustive and subject to revision from time to time as deemed necessary by the Authority.
- 2.3 This Guideline is to be read together with the SMO and all applicable rules and regulations made thereunder.
- 2.4 This Guideline shall be effective on 14 December 2017.

3. DEFINITION OF THE TERMS

- 3.1 In this Guideline, the following terms shall have the following meanings, except where the context otherwise requires:

Term	Definition
Authority	means Autoriti Monetari Brunei Darussalam;
CMSL	means capital markets services licence;
<i>Hukum Syara'</i>	has the same meaning as defined in the Syariah Financial Supervisory Board Order, 2006;
ICM Participant	means an Islamic investment institution and/or Islamic window operator;
Islamic investment business	means carrying on one or more of the regulated activities in the Schedule of the SMO in accordance with <i>Hukum Syara'</i> ;
Islamic Investment Institution	means holder of a capital markets services licence or a market operator whose entire business operations are conducted in accordance with <i>Hukum Syara'</i> ;
Islamic Window	means where a holder of a capital markets services licence or a market operator, other than an Islamic Investment Institution, conducts Islamic investment business as part of his overall business operations;
SMO	means the Securities Markets Order, 2013 and any regulations or other subsidiary legislation made thereunder;

GUIDELINE ON APPLICATION TO CARRY ON ISLAMIC INVESTMENT BUSINESS

SMR	means the Securities Markets Regulations, 2015;
Syariah Advisory Body	means a body who is responsible to review, advise, give opinion(s) and approve Islamic product(s) and any Syariah-related operations and activities to ensure compliance with Syariah principles;
SFSB	means the Syariah financial supervisory board established by section 3 of the Syariah Financial Supervisory Board Order, 2006.

- 3.2 Any expression used in this Guideline shall, except where expressly defined in this Guideline or where the context requires, have the same meaning as in the SMO.

4. PERMISSIBLE REGULATED ACTIVITIES UNDER THE OPERATION OF AN ISLAMIC CAPITAL MARKET PARTICIPANT

- 4.1 An applicant who intends to carry on an Islamic investment business as an ICM Participant must obtain an approval from SFSB before an endorsement to his licence can be granted by the Authority as specified in section 23 (2) of the SMO.
- 4.2 Subject to paragraph 4.1, an applicant who intends to carry on an Islamic investment business as an ICM Participant may carry on any of the regulated activities set out in Part II of the Schedule of the SMO.
- 4.3 In the course of carrying on any of the regulated activities as stated in paragraph 4.2, an ICM Participant shall ensure that all the requirements in the SMO and the SMR are met.

5. APPLICATION PROCEDURE

5.1 Pursuant to Section 23 (1) and (2) of the SMO, an applicant seeking an endorsement from the Authority to his licence to carry on Islamic investment business should provide and submit a complete application along with the necessary supporting documents to the Authority.

5.2 The complete application referred to in paragraph 5.1 above should include, but is not limited to, the following:

5.2.1 For any new applicants applying for a CMSL permitting it to carry on Islamic investment business as an ICM Participant;

(a) Form – Application for CMSL; and

(b) Any supporting documents that are specified in the form mentioned in para 5.2.1 (a).

5.2.2 For any CMSL holders applying for an endorsement to its CMSL, to permit it to carry on Islamic investment business;

(a) such form as may be determined by the Authority; and

(b) Any supporting documents that are specified in the form mentioned in para 5.2.2 (a).

5.3 The supporting documents referred to in paragraph 5.1 above should include a working paper to the Authority, but is not limited to, the following information:

5.2.1 **Introduction**

(a) The name of the applicant;

(b) The purpose of submission of the application; and

(c) Proposed launch date.

5.2.2 Objectives/Background

- (a) The objectives of the applicant; and
- (b) The proposed regulated activity/activities to be carried on.

5.2.3 Third party arrangement

Details of any arrangements with other parties/strategic alliances. The following information should be provided on this:

- (a) Details of the arrangement of the strategic alliance (e.g. key terms of strategic alliance, commitments, cost and benefits of alliances);
- (b) Information about the other party/ strategic alliance;
- (c) Rationale why the strategic alliance is critical to the operation of the ICM Participant; and
- (d) Highlight any potential risk(s) and actions taken to minimize or mitigate these potential risks which arises as a result of the arrangement the other parties/strategic alliance.

5.2.4 Skill, expertise and resources

Details on how the applicant is going to equip itself in terms of resources and infrastructure to be able to effectively monitor its operations.

5.2.5 Operation

- (a) A description of the Syariah governance including the list of the Syariah Advisory Body members and their CVs;

GUIDELINE ON APPLICATION TO CARRY ON ISLAMIC INVESTMENT BUSINESS

- (b) A description on the major operation of the applicant (including diagrammatic illustrations/flowcharts) which includes, but is not limited to, Syariah concepts and mechanism, including the relevant Fiqh literature, fatwas, supporting evidences and reasoning that have been approved by the Syariah Advisory Body, if any;
- (c) A description on the role of compliance function in implementing Syariah governance process, if any.

5.2.6 **Endorsement/Resolution by the Syariah Advisory Body**

A copy of the endorsement/resolution from the applicant's Syariah Advisory Body specifying that it has resolved for the applicant to carry on Islamic investment business as an ICM Participant.

5.2.7 **Endorsement/Resolution by the Board of Directors**

A copy of the endorsement/resolution from the applicant's board of directors specifying that it has resolved for the applicant to carry on Islamic investment business as an ICM Participant.

- 5.4 The working paper should be prepared in both English and Malay language. In the event of any inconsistencies, the English version will prevail.
- 5.5 The applicant should submit a copy of its memorandum and article of association which does not impose any restrictions explicitly for the applicant to carry on Islamic investment business.
- 5.6 The Authority may seek further clarification and request for any additional information or documents from the applicant if necessary.
- 5.7 The Authority may approve an application within forty (40) working days from the date of receipt of a complete application by the Authority. A complete application includes the supporting documents under paragraph 5.2 and any other additional information/documents requested under paragraph 5.5.

5. 8 The applicant should not market, advertise, announce or in any way communicate the launch of its operations until the applicant has an endorsement from the Authority to his licence.

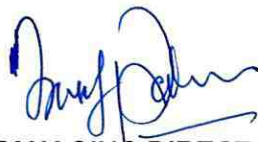
6. SUBMISSION OF APPLICATION

6. 1 An applicant is required to submit to the Authority the relevant forms and documents and any other information as may be required by the Authority.
6. 2 All submissions relating to this application and any correspondence should be addressed to:

**MANAGING DIRECTOR,
AUTORITI MONETARI BRUNEI DARUSSALAM,
LEVEL 14, MINISTRY OF FINANCE BUILDING,
COMMONWEALTH DRIVE,
BANDAR SERI BEGAWAN BB3910,
BRUNEI DARUSSALAM.**

Attention to:

**CAPITAL MARKET UNIT,
REGULATORY DEPARTMENT**



MANAGING DIRECTOR

AUTORITI MONETARI BRUNEI DARUSSALAM

Issue Date:

RS Rabiulawal 1439/ *14* December 2017