



## TERMS OF REFERENCE OF SHARIAH SUPERVISORY COUNCIL BANK ISLAM MALAYSIA BERHAD

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### 1. Introduction

The Shariah Supervisory Council (SSC) is established pursuant to Section 30 (1) of the Islamic Financial Services Act (IFSA) 2013, which requires the Bank to establish a Shariah Committee for purposes of advising the Bank in ensuring its business, affairs and activities comply with Shariah.

SSC plays critical role in ensuring sound and comprehensive compliance with Shariah rules and principles in all aspects of business operations and activities at all times.

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### 2. Authority

In line with the Shariah Governance Policy Document issued by Bank Negara Malaysia (BNM), The SSC during the discharge of its duties shall have:

- (a) authority to decide on Shariah related matters referred to the SSC by taking into consideration of the published rulings of the Shariah Advisory Council (SAC) of BNM. In the event where the decision given by the SSC is different from the ruling given by the SAC, the rulings of the SAC shall prevail. However, the SSC is allowed to adopt a more stringent Shariah decision. In the event where the SSC decides or advises to place additional restrictions on the operations, business, affairs and activities of the Bank in applying the SAC rulings, the Bank must;
  - i. document the deliberations and justifications of the SSC decision or advice;
  - ii. ascertain the Board of Director's (Board) views on the decision or advice made by the SSC with regards to the SAC ruling; and
  - iii. ensure immediate notification to the BNM of such decision or advice.
- (b) authority to decide on Shariah related matters referred to the SSC without undue influence that would hamper the SSC from exercising objective judgment in deliberating issues brought before them;
- (c) authority to ensure that decisions made by the SSC are duly observed and implemented by the Bank. Decisions made by the SSC should not be set aside or modified without its consent; and

**TERMS OF REFERENCE OF SHARIAH SUPERVISORY COUNCIL  
BANK ISLAM MALAYSIA BERHAD**

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- (d) authority to inform the Board in any case that the SSC has reason to believe that the Bank has been carrying on Shariah non-compliant activities and to recommend suitable measures to rectify the situation. In cases where Shariah non-compliant activities are not effectively or adequately addressed or no rectification measures are made by the Bank, the SSC shall inform BNM of the fact. In this case, the SSC will not be regarded as breaching the confidentiality and secrecy code if the sensitive information were disclosed to BNM in good faith.

In addition, during the discharge of such duties, the SSC shall have:-

- (a) access to the full company records, properties and personnel;
- (b) independent professional advice and expertise necessary to perform its duties; and
- (c) access to advice and services of the Secretary of the SSC and Company Secretary.

A SSC member shall at all times act honestly and shall use reasonable diligence in the discharge of his/her duties.

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**3. Primary Duties and Responsibilities**

The SSC has the responsibility to provide objective and sound advice to the Bank to ensure that its aims and operations, business, affairs and activities are in compliance with Shariah without undue influence from any party. This includes a consideration of the long term implications of the SSC's decision on the Bank, its stakeholders and the general public.

In general, the SSC's key roles and responsibilities include but not limited to the following: -

- (a) to advise the Board and Management on Shariah related matters in order for the Bank to comply with Shariah rules and principles at all time;
- (b) to perform an oversight role on Shariah matters related to the Bank's business operations and activities;
- (c) oversee the Bank's compliance with any Shariah regulatory requirements as imposed by BNM;
- (d) to endorse Shariah related policies and guidelines;
- (e) to approve products and services to ensure compliance with Shariah rules and principles which include:
  - i. validating the terms and conditions contained in the forms, contracts, agreements or legal documents used in executing the transactions;

**TERMS OF REFERENCE OF SHARIAH SUPERVISORY COUNCIL  
BANK ISLAM MALAYSIA BERHAD**

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ii. validating the product manual, marketing advertisements, sales illustrations and brochures used to describe the product and services;

- (f) to deliberate and affirm a Shariah non-compliance finding by assessing works carried out by Shariah review and Shariah audit which forms part of the SSC duties in providing assessment of Shariah compliance and assurance information in the annual report of the Bank;
- (g) to provide a decision or advice on the operations, business, affairs and activities of the Bank which may trigger a Shariah non-compliance event;
- (h) to confirm the status of potential Shariah non-compliance event(s) and to endorse a rectification measure to address a Shariah non-compliance event;
- (i) to advise related parties such as the Bank's parent company, subsidiaries, clients, legal counsels, auditors or consultants on Shariah matters for advice upon request;
- (j) to advise the Bank to consult the SAC of BNM and Securities Commission on Shariah matters that cannot be resolved;
- (k) to provide written Shariah opinions in circumstances where the Bank makes reference to the SAC for further deliberation, or where the Bank submits application to BNM for new product approval; and
- (l) to approve the computation, payment and distribution of Zakat of the Bank and subsidiaries.

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**4. Composition**

(a) IFSA 2013 specifies that the number of the SSC members comprise of at least five (5) members and Article 10 (2) of The Bank's Constitution specifies the number of the SSC not more than seven (7) seven members.

(b) All SSC members shall be Shariah qualified persons.

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**5. Secretary**

The Secretary shall be the Head of Shariah Division.

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**6. Frequency Meetings**

of The SSC meetings shall be held at least once in every two (2) months. The number of meeting must be disclosed in the Bank's annual report.

**TERMS OF REFERENCE OF SHARIAH SUPERVISORY COUNCIL  
BANK ISLAM MALAYSIA BERHAD**

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- 7. Notice Meetings**      **of** (a) Unless otherwise agreed by the SSC, the notice for each meeting confirming the venue, date and time together with the agenda of the meetings shall be forwarded to each member of the SSC at least five (5) working days prior to the date of the meeting;
- (b) In addition to the scheduled meeting, the Secretary shall convene any special meetings of the SSC upon receipt of request from the Chairman by giving due notice; and
- (c) Any late submission to the SSC will only be considered to be discussed in the meeting with the permission from the Chairman.
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- 8. Quorum Meetings**      **for** (a) The quorum for meeting shall be two-third of the members;
- (b) Any member who participates in the meeting via tele-conferencing device shall be counted for the purpose of determining a quorum; and
- (c) In the event that the Chairman is unable to attend the meeting, the members present may elect one (1) of them to chair the meeting.
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- 9. Circular Resolution**      (a) Decisions by the SSC members may be made via circular resolution where the mode of communication can be via telephone, email, facsimile etc;
- (b) Decisions made via circular resolutions are deemed effective after being executed by all members of the SSC. All decisions made via circular resolution shall be presented at the subsequent SSC meeting for notation.
- (c) SSC members shall respond to all circular resolution submitted to the SSC members within the stipulated date.
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- 10. Minutes Meetings**      **of** (a) The Secretary shall minute the proceedings and resolutions of all meetings of the SSC. The Secretary shall ensure that clear and accurate minutes of SSC meetings are maintained to record the decisions or advice of the SSC, including the key deliberations, rationale for each decision or advice made, and any significant concerns and dissenting views. The minutes must also indicate whether any SSC abstained from voting or excused himself from deliberating on a particular matter;

**TERMS OF REFERENCE OF SHARIAH SUPERVISORY COUNCIL  
BANK ISLAM MALAYSIA BERHAD**

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- (b) Minutes of meetings shall be submitted to the Board for notification; and
  - (c) Minutes and resolutions of meeting shall be circulated to Management and relevant division for necessary action.
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**11. Decision-Making**

- (a) The decision of the SSC shall be based on simple majority basis.
  - (b) In the event of absence of SSC member(s) in the meeting, any written comment(s) provided by him/her shall be treated as his/her view on the issue(s) and shall be taken into consideration to make a decision;
  - (c) While the board or senior management may provide useful insights on any business, technical or operational matters discussed during a SSC meeting, they must not exercise undue influence that could hinder the SSC in exercising objective judgment in its decision-making.
  - (d) In reaching to the decision on matter(s) referred to the SSC, the SSC must always observe the methodology and means of Shariah decision making process as detailed out in Section 11 of SSC Charter.
  - (e) In the event where there may be a conflict of interest to any SSC members, the SSC must excuse himself from the discussion and abstain from voting on that particular matter as detailed out in Section 10 of SSC Charter.
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**12. Attendance**

- (a) Each SSC member is required to attend at least 75% of the SSC meetings held in each financial year. The attendance of each SSC member must be disclosed in the Bank's annual report.
  - (b) A SSC member must devote sufficient time to prepare for and attend Shariah committee meetings.
  - (c) Attendance of members at a SSC meeting, by way other than physical presence, remains the exception rather than the norm, and is subject to appropriate safeguards to preserve confidentiality of the deliberations.
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**TERMS OF REFERENCE OF SHARIAH SUPERVISORY COUNCIL  
BANK ISLAM MALAYSIA BERHAD**

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- 13. Permanent Invitees**
- (a) The member of the Board as decided by the Board, may attend the SSC meeting as permanent invitees. Their attendance at the SSC meetings will facilitate and assist the SSC members when deliberating issues relating to the Bank's business strategies.
  - (b) The following officers shall attend the SSC meeting as and when considered appropriate by the SSC:
    - i. Chief Executive Officer;
    - ii. General Manager Strategic Relations;
    - iii. Chief Financial Officer;
    - iv. Chief Internal Auditor;
    - v. Chief Compliance Officer;
    - vi. Head of Operational Risk; and
    - vii. Head of Product Management Division.
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- 14. Review of Terms of Reference**
- The Board and the SSC may review this Terms of Reference once every two years or as and when is necessary.
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