ANNEX 1

GUIDELINES TO BANKS

GUIDELINES ON ADVERTISEMENT OF BANKING PRODUCTS AND SERVICES

Date: 13 September 2017

1. DEFINITIONS

1.1. For the purposes of these Guidelines –

"Advertisements" refer to any mode of communication intended to advertise and market banking products and services in Brunei Darussalam which include but may not be limited to the following:

(a) magazines and newspapers;

(b) radio and television;

(c) outdoor advertising, including billboards, signs at public venues, and transit advertising;

(d) the internet, including webpages, banner advertisements, video streaming (e.g. YouTube), and social networking and microblogging (e.g. Twitter);

(e) social media and internet discussion sites;

(f) mobile phone messages (e.g. SMS, MMS, text messages);

(g) product brochures and promotional fact sheets;

(h) direct mail (e.g. by post, facsimile or email);

(i) telemarketing activities and audio messages for telephone callers on hold; and

(j) presentations to groups of people, seminars and advertorials.

"banking products and services" refers to products and services developed or marketed by all banks licensed under the Banking Order, 2006 and Islamic Banking Order, 2008, including products and services developed or marketed by a bank on behalf of another financial institution or third party (e.g. bancassurance). Securities that fall under Securities Market Order, 2013 are not included in this definition.

2. GENERAL FEATURES OF ADVERTISEMENTS

2.1. An advertisement should not present a one-sided view of a banking product and service's key features to overstate the benefits associated with the banking product and service.

2.1.1. One example is omission of important fee information. Some savings accounts may not attract a fee called an 'annual fee' but instead attract a monthly fee that is cumulative and amounts to an annual fee.

2.2. If a banking product and service offers certain benefits that are mutually exclusive (i.e. they cannot be taken up simultaneously), this should be made clear in the advertisement. Advertisements must make clear the extent of commitment customers must make to obtain the benefits.

2.2.1. One example of banking product and service with mutually exclusive benefits is an introductory offer for a credit card which might offer both a low interest rate/administrative fee for six months on a balance transfer and an interest-free period on purchases. If those benefits are not available concurrently, this should be made clear in any advertising that refers to both.

2.3. An advertisement should not contain an open-ended promise about a benefit if it is likely that circumstances will change so that the promise will become misleading. It is important to remember that an advertisement may create a lasting impression in customers' minds. If circumstances change, merely withdrawing the advertisement may not alter the fact that certain expectations have been created, and the advertisement may have an effect that is misleading.

2.4. Where an advertisement contains a promise about a benefit that is likely to change if circumstances change, the advertisement should be qualified by a prominent statement that alerts the customer to the fact that circumstances may change.

2.5. Information about returns and benefits should be net of fees and costs to the greatest extent practicable. In addition, the effect that fees and costs may have on returns and benefits over time should be clearly stated, and not be hidden or difficult to understand.

3. DISCLOSURES OF RISKS, WARNINGS, DISCLAIMERS, QUALIFICATIONS AND FINE PRINT

3.1. Information about the risks of a banking product and service (e.g. interest rate fluctuations, exchange rate fluctuations, etc) should be clear, and not hidden or difficult to understand, and should be given sufficient prominence to information about returns and benefits. The tone of the advertisement should not undermine the importance of the risks.

3.2. If warnings, disclaimers and qualifications are required, they should not be inconsistent with other content in the advertisement, including any headline claims. They should also have sufficient prominence to effectively convey key information to a reasonable member of the audience on first viewing of the advertisement. Information is less likely to be noticed and understood if it is in fine print, contained within a dense block of text, only shown on television or a computer screen for a brief period, or placed where there is distracting content shown simultaneously.

3.3. Where a banking product and service is denominated in a currency other than Brunei Dollars, the customer must be warned that changes to the rates of the exchange may have an effect on the value, price or income of his/her holding in that banking product and service.

Benefits only available to new customers

3.4. It is important that advertisements clearly state whether an offer is available to existing customers (and, if so, how). The bank should take a number of steps to ensure that its existing customers had not been misled, including writing to all of them.

Qualifications and warnings to be included in an advertisement

3.5. Advertisements should include other fees and charges that may be applicable.

3.6. If warnings, disclaimers or qualifications are included in an advertisement, they should be in a form similar to the main body of the advertisement so that the customers can understand the warning, disclaimer or qualification.

3.7. Where cancellation rights apply, this right must be adequately disclosed, along with the liabilities attached to the exercise of such right, to customers and potential customers in the advertisement or in the terms and conditions of the contract attached to the banking product and service.

Disclaimer in a different form to the main advertisement

3.8. If the main body of an advertisement for a banking product and service is in a language other than English, any warnings, disclaimers or qualifications should be in the same language.

3.9. If a qualification is required, it must be published at the same time as the original message. Subsequent qualifying disclosures will not be effective as the misleading impression will already have been created.

4. FEES AND COSTS

4.1. Where a fee or cost is referred to in an advertisement, it should give a realistic impression of the overall level of fees and costs a customer is likely to pay. When a headline claim about a fee or cost is used in an advertisement, any exclusions or qualifications should be contained within the headline claim or be clearly and prominently noted within the advertisement.

4.1.1. An example is waived fees - There is an important distinction between the absence of a fee, and a fee that exists but is not charged in certain circumstances. Advertisements should not make a claim of ‘no fees’ (including ‘$0’ or ‘fee-free’) where fees apply to the banking product and service but are waived if the customer meets certain qualifying criteria.

4.1.2. Another example is on omission of applicable fees - Advertising material for a credit card claimed that the credit card had no annual fee suggesting there are no costs imposed on customers in holding the credit card. However, new cardholders may be imposed other fees such as registration fees for signing up for the credit card. Advertisements should therefore not be misleading and should state clearly of overall fees and costs.

4.2. An advertisement should not state that there is only one fee if there are other costs associated with the banking product and service that customers will incur. Banks should not assume that customers will understand the distinction between 'fees' and 'costs'. If an advertisement refers to the fees that apply, it will generally need to positively state whether or not other costs apply.

4.2.1. For example, an advertisement should not suggest that a banking product or service is 'free' or 'low cost' if in fact, the customer is required to spend a minimum amount to be eligible for the banking product or service. This must be clearly stated, and any qualification must be clearly and prominently noted in the advertisement. Where applicable, the disclaimer "terms and conditions apply" may be included in the advertisement.

4.3. Advertisements that quote instalment costs must state the total price of the advertised banking product and the instalment frequency as prominently as the cost of individual instalments.

Interest/Profit Rates

4.4. An advertisement for a banking product and service does not need to include an interest/profit rate, but must do so if the advertisement states the amount of any repayment. The advertisement must also include references to any fees and charges.

4.5. Any advertisements that include details of interest rates should ensure that the interest/profit rates quoted are effective interest rates or annualized profit rates.. Effective interest rates/annualized profit rates are the actual interest rates paid on a banking product and service taking into account of compounding over a given period of time.

4.6. If an advertisement includes details of this interest rate or fees, it should state, with equal prominence, the period for which the discount applies.

5. COMPARISONS

5.1. When comparing banking products and services in an advertisement, the banking products and services should have sufficiently similar features to make the comparison relevant and not misleading.

5.2. Where only one particular feature of a banking product and service is highlighted, a comparison may be misleading if it ignores other key features.

5.3. Any comparisons of benefits and returns should be accurate and balanced and have a reasonable basis.

5.4. The facts on which any comparison or contrast of returns is based should be verified, and any relevant assumptions disclosed.

Ratings

5.5. If an advertisement discloses a rating, the rating used should be properly explained either in the advertisement itself or by including details of where an investor can obtain further information about the meaning of the rating and the rating scale.

Awards

5.6. Where awards received are included in an advertisement for a banking product and service, the grantor of the award should be clearly identified and the award explained, including the currency of the award. An advertisement should make it clear if an award is granted by someone related to the bank.

6. PAST PERFORMANCE AND FORECAST

6.1. Past performance information should be accompanied by a warning that past performance is not indicative of future performance.

6.2. Forecasts about the future performance of a banking product and service should be based on reasonable assumptions and should also state that the forecasts are not guaranteed to occur.

7. USE OF CERTAIN TERMS AND PHRASES

7.1. Care should be taken when using certain terms and phrases in an advertisement, particularly where the way those terms and phrases are used is not consistent with the ordinary meaning commonly recognised by customers (e.g. ‘free’, ‘secure’ and ‘guaranteed’).

7.1.1. Advertisements must not describe a banking product and service as “free”, “without charge”, “gratis” or similar if the customer has to pay anything other than the unavoidable cost of responding to the promotion and collecting or paying for the delivery of the item;

7.1.2. Promotional claims using phrases such as “up to” and “from” must not exaggerate the availability or amount of benefits likely to be obtained by customers.

7.1.3. Some terms and phrases have such a strong connotation for customers that they should only be used in advertising with great care. While literally correct, it may be inappropriate to use them in customer advertising. This includes using words in a different context to their ordinary meaning. For example, everyday savings account vs long-term savings account.

7.2. Inappropriately using terms and phrases can:

(a) create expectations that cannot be met;

(b) indicate a certain level of security that does not exist; and

(c) indicate different levels of protection and different levels of risk.

7.3. Industry concepts or jargon should be avoided unless the bank is confident that these terms will be understood by the audience.

8. <u>TARGET AUDIENCE</u>

8.1. Banks should consider the characteristics of the actual audience that is likely to see the advertisement (e.g. their financial literacy, knowledge, demographics) and whether the advertisement provides adequate information for that audience.

8.2. Advertisements should not state or imply that a banking product and service is suitable for a particular class of customers unless the bank has actually assessed the suitability of the banking product and service for the particular customers targeted by the advertisement.

8.3. The use of terms such as ‘conditions apply’ or ‘find out if you qualify’ may not always be sufficient to warn customers that the advertised banking product and service may not be suitable for them, or made available to them, depending on the nature of the banking product and service and the distribution of the advertising campaign.

<u>Complexity</u>

8.4. Care should be taken to ensure that the advertisement is sufficiently simple and capable of being understood by the audience likely to see it. The more complex a banking product and service (either in terms of the structure of the banking product and service or the ability of customers to understand the risks posed by the banking product and service), the more important it is for an advertisement to be simple and clear to avoid creating a misleading impression.

8.5. The more complex the banking product and service, the less likely it can be advertised in limited space (e.g. internet banner advertisements, signs in public venues, 30-second television commercials) without being misleading.

9. CONSISTENCY WITH DISCLOSURE DOCUMENTS

9.1. Where an advertisement draws attention to specific features of a banking product and service, statements in advertisements should be consistent with the features of the advertised banking product and service and the disclosures in any corresponding disclosure documents or contracts.

10. ARTWORK

10.1. Images in advertising (e.g. in print and television advertising) can create a particularly significant impression on customers, potentially more significant than that created by written or spoken messages.

10.2. If the effect of an image is to contradict, detract from or reduce the prominence of any warnings, disclaimers or qualifying statements, this may make the advertisement more likely to mislead.

10.2.1. As an example, the advertisement should not include the interest-free option in the context of images of cheaper items which, if purchased in isolation, would not be available interest free. The message conveyed by the image may be too strong, even if the advertisement has fine print stating which banking products and services qualify for the interest-free loan.

11. MEDIA-SPECIFIC GUIDANCE

Mass Media

11.1. Mass media refers to media channels used for mass communication, such as radio, television, newspapers, magazines and the internet. Mass media advertising can take the form of audio, video, images, text, or a combination of all four.

11.2. Banks should consider the actual audience that is likely to see the advertisement and whether the advertisement is accurate, balanced and helpful for that audience.

11.3. Advertising should be clearly distinguished from normal program or editorial content.

Audio advertisements

11.4. Warnings, disclaimers and qualifications should be read at a speed that is comprehensible to an average listener.

Film and video advertisements

11.5. Information about risks and any warnings should be easily understood by an average viewer on the first viewing of an advertisement and not undermined by distracting sounds or images.

Internet advertising

11.6. Banks should consider the overall impression created by an internet banner advertisement when viewed by itself for the first time.

11.7. Banks should consider the appropriateness of using new media channels for advertising if content limitations mean there is insufficient space to provide balanced information.

11.8. Customers should be able to keep a record of an advertisement, including any disclaimers or warnings.

Outdoor advertising

11.9. Banks should take into account the conditions under which an advertisement will be viewed (e.g. from a distance or from a moving vehicle) when considering whether the overall impression of the advertisement is misleading or deceptive.

12. ASSESSMENT CRITERIA

12.1. When determining whether an advertisement is misleading or deceptive, the overall impression given by the advertisement is very important. In assessing the overall impression, the following factors are relevant:

(a) the subject of the advertisement;

(b) the content of the advertisement;

(c) the format of the advertisement;

(d) the audience that will view the advertisement;

(e) the media used to communicate the information; and

(f) the likely effect of the advertisement.