



Effective date: 1 January 2024

NOTICE TO BANKS AND FINANCIAL INSTITUTIONS  
NOTICE NO. SYAFI/N/02/2022

NOTICE ON SYARIAH NON-COMPLIANCE



## 1. INTRODUCTION

- 1.1. This Notice is issued pursuant to section 54 of the Brunei Darussalam Central Bank Order, 2010 and applies to Banks and Financial Institutions carrying on any business or activity in accordance with **Hukum Syara'**.
- 1.2. This Notice outlines the requirements for Banks and Financial Institutions to report any event of Syariah non-compliance to the Authority and other related requirements.
- 1.3. This Notice is to be read together with the –
  - 1.3.1. Notice to Financial Institution on Syariah Governance Framework (IFAU/N/1/2018);
  - 1.3.2. as well as other notices, directives or guidelines which the Authority may issue from time to time.
- 1.4. This Notice shall take effect on 1 January 2024.

## 2. DEFINITIONS

- 2.1 For the purpose of this Notice:
  - 2.1.1 **“Authority”** means the Brunei Darussalam Central Bank established under section 3(1) of the Brunei Darussalam Central Bank Order, 2010;
  - 2.1.2 **“Bank(s)”** has the meaning assigned to it under section 2 of the Brunei Darussalam Central Bank Order, 2010;
  - 2.1.3 **“Board”** means the Board of Directors of a Bank or Financial Institution;
  - 2.1.4 **“Financial Institution(s)”** has the meaning assigned to it under section 2 of the Brunei Darussalam Central Bank Order, 2010. For the avoidance of doubt, this also includes Perbadanan Tabung Amanah Islam Brunei established under the Perbadanan Tabung Amanah Islam Brunei Act (Chapter 163);
  - 2.1.5 **“Hukum Syara”** has the meaning assigned to it in section 2 of the Syariah Financial Supervisory Board Order, 2006;
  - 2.1.6 **“Officer”** in relation to a body corporate or unincorporated, includes any employee or the chief executive officer of the body corporate or unincorporated;
  - 2.1.7 **“Officer of a Syariah Control Function”** means an officer that meets the following criteria –
    - (a) performs one of the Syariah Control Functions;



- (b) independent from the business lines and not involved in revenue generation activities; and
  - (c) possesses sound understanding of relevant Syariah requirements applicable to the business of the Bank or Financial Institution;
- 2.1.8 **“Potential Syariah non-compliance” or “PSNC” means a potential event of Syariah non-compliance which has been detected by any Officer of a Syariah Control Function or any officer within the Bank and Financial Institution but pending a decision by an SAB on its status;**
- 2.1.9 **“Syariah Advisory Body” or “SAB” means –**
- (a) A body established pursuant to section 8(2)(g) of the Islamic Banking Order, 2008;
  - (b) A body established pursuant to section 10(1)(e) of the Takaful Order, 2008;
  - (c) A body appointed pursuant to section 23(2) of the Securities Markets Order, 2013;
  - (d) A body established under section 14 of the Perbadanan Tabung Amanah Islam Brunei Act (Chapter 163);
  - (e) A body appointed pursuant to section 6(2)(g) of the Finance Companies Act (Chapter 89).
- 2.1.10 **“Syariah Control Function” refers to a function that is independent from business lines and is responsible to provide objective assessment, reporting and assurance on the effectiveness of a Bank and Financial Institution’s policies and operations, and its compliance with legal and regulatory obligations. This includes the Syariah risk management function, Syariah review function and the Syariah audit function;**
- 2.1.11 **“Syariah Financial Supervisory Board” or “SFSB” means the Syariah Financial Supervisory Board established pursuant to section 3 of the Syariah Financial Supervisory Board Order, 2006;**
- 2.1.12 **“Syariah non-compliance” or “SNC” means any event of Syariah non-compliance that has been confirmed by an SAB.**



### 3. GENERAL REQUIREMENTS

- 3.1 Banks and Financial Institutions shall establish and maintain policies which identify any SNC. The policies shall be approved by its Board and SAB.
- 3.2 Banks and Financial Institutions shall report to the Authority any PSNC and SNC that has occurred in the manner set out in paragraph 4.
- 3.3 Notwithstanding paragraph 3.2 above, Banks and Financial Institutions shall appoint an officer-in-charge (“the reporting officer”) to report PSNC and SNC to the Authority.

### 4. REPORTING REQUIREMENTS

#### Potential Syariah Non-Compliance

- 4.1 If a PSNC is detected by any Officer of a Syariah Control Function or any officer within a Bank and Financial Institution, the following steps shall be taken –
  - 4.1.1 The reporting officer must be informed immediately upon detection;
  - 4.1.2 On the same day that the PSNC is detected, the reporting officer must report the PSNC to the Head of Syariah Risk Management and Head of Syariah. A notification must also be submitted to the Authority in the form set out in Appendix 1;
  - 4.1.3 The Bank and Financial Institution must immediately cease the particular business transaction relating to the PSNC upon its detection;
  - 4.1.4 Within fourteen (14) working days after the PSNC is detected, the Bank and Financial Institution shall –
    - (a) Escalate the PSNC to its SAB; and
    - (b) Ensure the SAB decides whether the PSNC should be classified as a SNC or otherwise;
  - 4.1.5 The reporting officer shall notify the Authority of the decision of the SAB no later than one (1) working day after the SAB reaches its decision in the form set out in Appendix 2.

#### Syariah Non-Compliance

- 4.2 In addition to the steps outlined in paragraph 4.1 above, the Bank and Financial Institution shall also submit the information set out in Appendix 3 including an SNC rectification plan which has been approved by its SAB and its Board to the Authority within fourteen (14) working days after the notification to the Authority pursuant to paragraph 4.1.5.



## 5. TREATMENT OF SNC INCOME

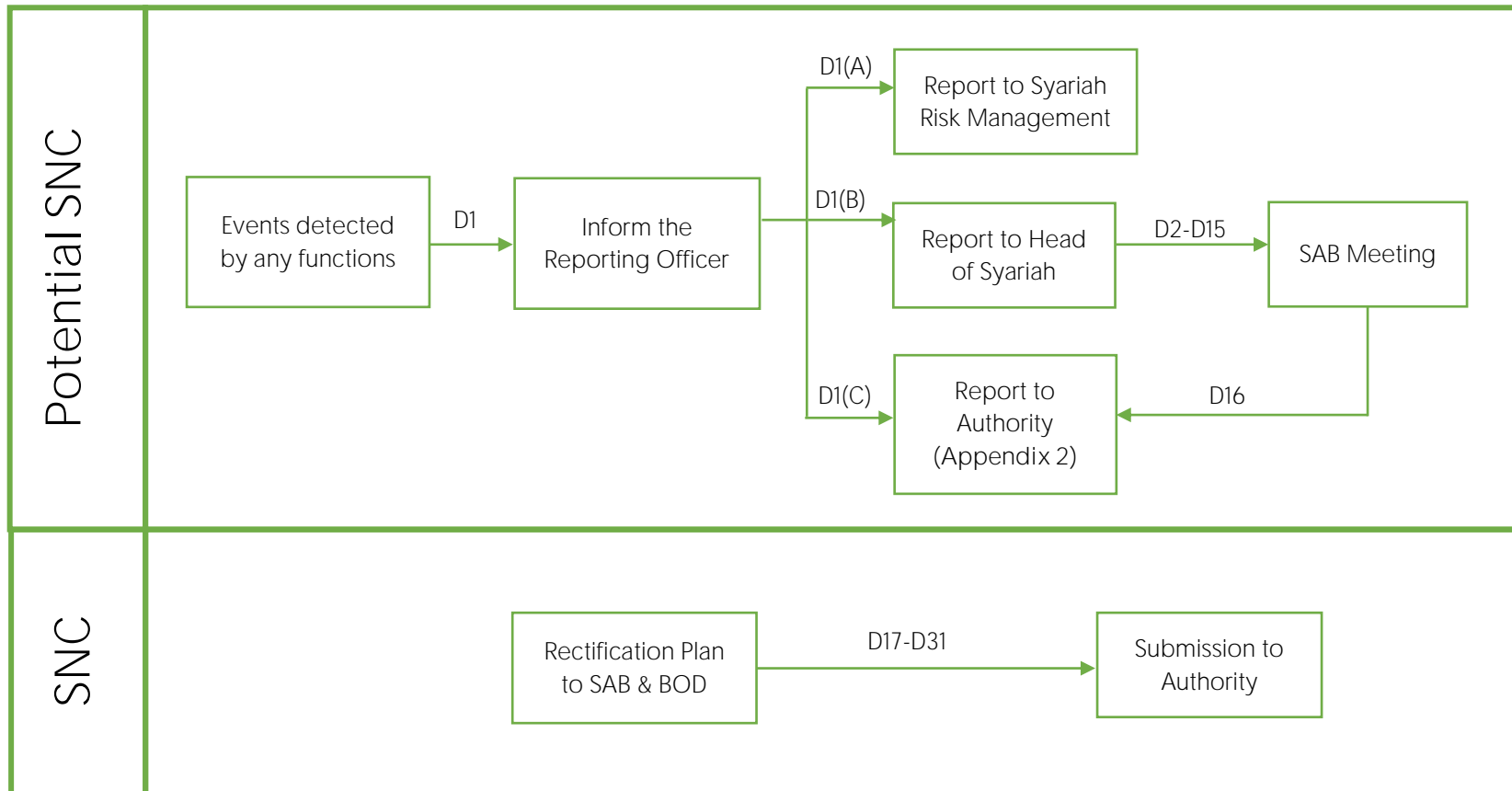
- 5.1 Where a Bank and Financial Institution gains any income from any business or activity relating to an SNC, that income must be purified and distributed for the purpose of public welfare.
- 5.2 Where the income referred to in paragraph 5.1 is purified and distributed, the SAB of a Bank and Financial Institution shall determine and monitor the usage and distribution of the funds.
- 5.3 Banks and Financial Institutions shall establish and maintain an SNC cleansing policy which is approved by both its SAB and Board.

ACTING MANAGING DIRECTOR  
BRUNEI DARUSSALAM CENTRAL BANK

Issue Date: 9 Zulhijjah 1444 / 28 June 2023



Illustration: Syariah non-compliance reporting requirement





APPENDIX 1: POTENTIAL SYARIAH NON-COMPLIANCE FORM

No.	Item	Description
1.	Summary of Event	
2.	Date of detection	
3.	Detected by	
4.	Name of Islamic Product/Service	
5.	Syariah concept apply	
6.	Date of report to the reporting officer	
7.	Date of reporting to Head of Syariah Risk Management	
8.	Date of reporting to Head of Syariah	



APPENDIX 2: DECISION OF SAB

No.	Item	Description
1.	Date of SAB Meeting	
2.s	Decision of SAB	





APPENDIX 3: SYARIAH NON-COMPLIANCE FORM

No.	Item	Description
1.	Date of reporting to the Authority on SAB decision	
2.	Rectification plan	
3.	Impact (financial/non-financial)	
4.	Financial Impact (Please indicate amount incurred due to SNC)	
5.	Non-financial impact (example: reputation affected)	
6.	Date of SAB meeting on the rectification plan	
7.	Date of SAB approval on the rectification plan	
8.	Date of BOD meeting on the rectification plan	
9.	Date of BOD approval on the rectification plan	
10.	Date of submission of rectification plan to the Authority	