



NOTICE UNDER THE SECURITIES MARKETS ORDER, 2013
NOTICE NO. CMA/N-3/2023/19

NOTICE ON CONDUCTING ISLAMIC INVESTMENT BUSINESS



1. INTRODUCTION

- 1.1 This Notice is issued pursuant to section 239(1) of the SMO and applies to all CMSL holders that are conducting Islamic investment business either as an Islamic investment institution or by operating an Islamic window.
- 1.2 This Notice shall take effect on 29 September 2023.

2. DEFINITIONS

- 2.1. For the purposes 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 **“board”** has the same meaning assigned to it under section 2(1) of the SMO;
 - 2.1.3 **“CMSL”** means capital markets services licence;
 - 2.1.4 **“compliance officer”** means the principal person responsible for the compliance function of an ICM Participant;
 - 2.1.5 **“Islamic investment business”** has the same meaning assigned to conducting Islamic investment business under section 23(5)(a) of the SMO;
 - 2.1.6 **“group”** has the same meaning as defined in section 18 of the SMO;
 - 2.1.7 **“Hukum Syara”** has the same meaning as defined in section 2 of the Syariah Financial Supervisory Board Order, 2006;
 - 2.1.8 **“ICM Participant”** means an Islamic investment institution and a CMSL holder operating an Islamic window;
 - 2.1.9 **“Islamic investment institution”** has the same meaning assigned to it under section 23(5)(b) of the SMO;
 - 2.1.10 **“Islamic securities”** includes any of the types of investment instruments specified in Part I of the Schedule of the SMO which are in accordance with Hukum *Syara*’;
 - 2.1.11 **“Islamic window”** has the same meaning assigned to it under section 23(5)(c) of the SMO;



- 2.1.12 **“SMO” means the Securities Markets Order, 2013 and any regulations or other subsidiary legislation made thereunder;**
- 2.1.13 **“SMR” means the Securities Markets Regulations, 2015; and**
- 2.1.14 **“Syariah Advisory Body” has the same meaning assigned to it in the Notice to Financial Institution on Syariah Governance Framework.**

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

3. PURPOSES

- 3.1 This Notice aims to impose additional requirements on CMSL holders that are conducting Islamic investment business either as an Islamic investment institution or by operating an Islamic window.
- 3.2 This Notice shall be read together with the SMO and any regulations, notices, directives and guidelines made thereunder. This Notice shall also be read together with the following –
 - (a) Notice to Financial Institution on Syariah Governance Framework (Notice No. IFAU/N1/2018);
 - (b) Notice to Financial Institutions and Banks Offering Islamic Financial Products and Services in Brunei Darussalam on Internal Syariah Audit Framework (Notice No. IFAU/N/2/2018);
 - (c) Notice on Market Conduct (Notice No. FCI/N2/2021/1);
 - (d) Guidelines on Conducting Islamic Investment Business [Guidelines No. CMA/G-1/2023/13]
 - (e) Guidelines on Internal Syariah Audit Framework for Financial Institutions and Banks Offering Islamic Financial Products and Services in Brunei Darussalam (Guidelines No. IFAU/G/3/2018); and
 - (f) **Guidelines on Fit and Proper Criteria for Financial Institutions’ Frontline Staff** (Guidelines No. FCI/G1/2018/1).

4. RESPONSIBILITIES OF THE COMPLIANCE OFFICER



- 4.1 In addition to the requirements set out under regulations 36 and 37 of the SMR, a compliance officer of an ICM Participant shall ensure that its Islamic investment business operations are in compliance with *Hukum Syara'* based on the policies and procedures approved by its Syariah Advisory Body, the SMO, its regulations, this Notice and any notices, directives and/or guidelines issued by the Authority.
- 4.2 The compliance officer shall assist the Syariah Advisory Body in certifying that the business activities are carried out in accordance with *Hukum Syara'*.

5. MAINTENANCE OF ACCOUNTS

- 5.1 Any accounts opened, operated or maintained by the ICM Participant, either for its clients or for itself, shall not accrue or be attributed with interest.
- 5.2 An ICM Participant using a third party to hold money and other assets of clients shall ensure the third party has been approved by its Syariah Advisory Body and board.
- 5.3 An ICM Participant shall **ensure that its clients' monies and assets are properly safeguarded** in accordance with *Hukum Syara'*.
- 5.4 An ICM Participant shall maintain all accounts with an Islamic bank licensed in Brunei Darussalam. However, an ICM Participant may maintain such accounts with a bank within its group or banks licensed in Brunei Darussalam provided the accounts are maintained in accordance with *Hukum Syara'* as determined by **the ICM Participant's** Syariah Advisory Body.
- 5.5 In the case of accounts outside Brunei Darussalam, an ICM Participant shall maintain such accounts with an Islamic financial institution regulated by a foreign regulatory authority. However, an ICM Participant may maintain such accounts with a financial institution within its group or other financial institutions provided the accounts are maintained in accordance with *Hukum Syara'* as determined by **the ICM Participant's** Syariah Advisory Body and that the financial institution is regulated by a foreign regulatory authority.

6. SEGREGATION OF FUNDS

- 6.1 An ICM Participant shall ensure that all funds maintained by it, whether for itself or its clients, in respect to Islamic securities are segregated from those funds maintained in respect to non-Islamic securities. This is to avoid commingling of the funds derived from its Islamic dealing activities and funds derived from its conventional dealing activities (if any).



- 6.2 A CMSL holder operating an Islamic window shall ensure that the accounts of its clients are clearly tagged to enable clients in distinguishing between an account for the purpose of Islamic securities and an account for other purposes.

7. TRANSITIONAL PERIOD

- 7.1 A one (1) year transitional period will take effect following the effective date of this Notice. Upon the expiry of the transitional period, ICM Participants shall comply with the provisions of this Notice.

ACTING MANAGING DIRECTOR
BRUNEI DARUSSALAM CENTRAL BANK

Issue Date: 10 Rabiulawal 1445/ 26 September 2023