

CAPITAL MARKETS AND SERVICES ACT 2007

CAPITAL MARKETS AND SERVICES (PRESCRIPTION OF ISLAMIC SECURITIES) ORDER
2012

IN the exercise of the powers conferred by subsections 5(1) and 316(2) of the Capital Markets and Services Act 2007 [*Act 671*], the Minister, on the recommendation of the Commission, makes the following order:

Citation and commencement

1. (1) This order may be cited as the **Capital Markets and Services (Prescription of Islamic Securities) Order 2012**.
- (2) This Order comes into operation on 28 December 2012.

Interpretation

2. (1) In this Order—

“structured product” has the same meaning as provided for in the Commission’s guidelines in respect of structured products;

“Islamic structured product” means a structured product structured in compliance with *Shariah* principles;

“Islamic securities” means—

- (a) shares in a body corporate or an unincorporated body, which are classified

as *Shariah*-compliant by the *Shariah* Advisory Council;

- (b) units in a unit trusts scheme or prescribed investments structured in compliance with *Shariah* principles;
- (c) an Islamic structured product; or
- (d) sukuk structured in compliance with *Shariah* principles,

and includes any right, option or interest in respect thereof which are in compliance with *Shariah* principles;

“sukuk” has the same meaning as provided for in the Commission’s guidelines in respect of Islamic securities;

(2) Notwithstanding subsection (1), Islamic securities does not include any Islamic Negotiable Instruments that satisfy the following conditions:

- (a) the issuance of the Islamic Negotiable Instrument is by an eligible licensed institution or Islamic bank that is in compliance with the Guidelines on Islamic Negotiable Instruments as may be specified by the Central Bank of Malaysia; and
- (b) the maximum tenure of the Islamic Negotiable Instrument does not exceed five years.

Prescription as securities

3. (1) Islamic securities are prescribed as securities for the purposes of securities laws.

(2) Any proposal, scheme, transaction, arrangement, activity, product or matter relating to Islamic securities shall comply with the relevant requirements under securities laws and guidelines issued by the Commission.

Application of Division 4 of Part VI of the Act

4. Any reference to the “borrower” in Division 4 of Part VI of the Act shall be construed as a reference to “issuer of sukuk” or “issuer of an Islamic structured product” for the purposes of the application of those provisions to sukuk or Islamic structured product.

Revocation

5. The Securities Commission (Prescription of Islamic Securities) Order 2004 [*P.U. (A) 230/2004*] is revoked.

Made 27 December 2012

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