

GUIDELINES ON UNIT TRUST FUNDS

SC-GL/GUTF-2008 (R3-2020)

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Chapter 1

INTRODUCTION

- 1.01 The *Guidelines on Unit Trust Funds* (Guidelines) is issued by the SC pursuant to section 377 of the *Capital Markets and Services Act 2007* (CMSA). These Guidelines set out the requirements to be complied with by any person seeking authorisation under the CMSA to make available, offer for subscription or purchase, or issue an invitation to subscribe for or purchase a unit trust fund.
- 1.02 These Guidelines are aimed at providing a regulatory environment that would protect the interests of the investing public and facilitate the orderly development of the unit trust industry in Malaysia. In addition, these Guidelines are also drawn up to govern the operation of unit trust funds established in Malaysia.
- 1.03 The securities laws and these Guidelines form the regulatory framework for unit trust funds in Malaysia, and must be read together. All parties to a unit trust fund are expected to be guided by the letter and spirit of the regulatory requirements.
- 1.03A To assist with the interpretation of the requirements under these Guidelines and their application, Guidance have been inserted, where appropriate. Any action or conduct which departs from the Guidance will be taken into account by the SC in determining compliance with these Guidelines.
- 1.04 The SC may, upon application, grant an exemption from or a variation to the requirements of these Guidelines if the SC is satisfied that—
- (a) such variation is not contrary to the intended purpose of the relevant requirement in these Guidelines; or
 - (b) there are mitigating factors which justify the said exemption or variation.

- 1.05 In addition to the requirements under these Guidelines, any person intending to offer a unit trust fund in any jurisdiction of an ACMF Signatory must also observe and ensure compliance with the Standards of Qualifying CIS¹.
- 1.06 A prospectus for the issuance of, offering for subscription or purchase, or invitation to subscribe for or purchase, any unit in a unit trust fund must be registered by the SC and comply with the requirements of the CMSA and the *Prospectus Guidelines for Collective Investment Schemes*.

¹ The Standards can be found at www.theacmf.org

Chapter 2

DEFINITIONS

2.01 Unless otherwise defined, all words used in these Guidelines shall have the same meaning as defined in the CMSA. In these Guidelines, unless the context otherwise requires:

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| accounting records | includes invoices, receipts, orders for payment of money, bills of exchange, cheques, promissory notes, vouchers and other documents of prime entry and also includes such working papers and other documents as are necessary to explain the methods and calculations by which financial statements are made up; |
| approved accounting standards | has the meaning assigned to it in the <i>Financial Reporting Act 1997</i> ; |
| ACMF | means the ASEAN Capital Markets Forum; |
| ACMF Retail MoU | means the memorandum of understanding on streamlined authorisation framework for cross-border public offers of ASEAN collective investment schemes; |
| ACMF Signatory | means the securities regulator of the ASEAN jurisdiction which has signed the ACMF Retail MoU; |
| adviser | means a holder of a CMSL for advising on corporate finance or such other person as may be approved by the SC based on the person's qualification, expertise and experience; |
| ASEAN CIS | means a Qualifying CIS; |
| base currency | means the currency specified in the deed of the fund as the currency in which the fund is denominated; |

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| classes of units | means two or more classes of units representing similar interests in the fund's assets; |
| close-ended fund | means a fund with limited number of units in issue and has a limited offer period; |
| CMSA | means the <i>Capital Markets and Services Act 2007</i> ; |
| collective investment scheme (CIS) | means any arrangement where— <ul style="list-style-type: none"> (a) it is made for the purpose, or having the effect, of providing facilities for persons to participate in or receive profits or income arising from the acquisition, holding, management or disposal of securities, derivatives or any other property (hereinafter referred to as fund's assets) or sums paid out of such profits or income; (b) the persons who participate in the arrangements do not have day-to-day control over the management of the fund's assets; (c) the contributions from the persons who participate in the arrangements and the profits or income from which payments are made, are pooled; and (d) except for gold exchange-traded fund (ETF), the fund's assets are managed by an entity who is responsible for the management of the fund's assets and is approved, authorised, or licensed by a securities regulator to conduct fund management activities; |

For the purpose of these Guidelines, the definition of CIS does not include business trusts;

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| controlling shareholder | means any person who is, or a group of persons who collectively are, entitled to exercise or control the exercise of more than 33% of the voting shares or voting rights in a corporation or who is or are in a position to control the composition of a majority of the board of directors of such corporation; |
| cooling-off right | means the right of a unit holder to obtain a refund of the unit holder's investment in the fund, if the unit holder so requests within the cooling-off period; |
| derivative | means an instrument the value of which depends upon the value of underlying indices or assets such as currencies, securities, commodities or other derivative instruments; |
| eligible issuer | means a person who is allowed to issue structured products under the <i>Guidelines on Unlisted Capital Market Products under the Lodge and Launch Framework</i> ; |
| eligible market | means a market that– <ul style="list-style-type: none"> (a) is regulated by a regulatory authority; (b) operates regularly; (c) is open to the public; and (d) has adequate liquidity for the purposes of the fund in question; |
| financial institution | means, if the institution is in Malaysia licensed bank; licensed investment bank; or licensed Islamic bank; or if the institution is outside Malaysia, any institution that is licensed, registered, approved, or authorised by the relevant banking regulator to provide financial services; |
| financial statements | has the meaning as set out in the approved accounting standards issued or approved by the Malaysian Accounting Standards Board pursuant to the <i>Financial Reporting Act 1997</i> ; |

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| forward price | means the price of a unit that is the NAV per unit calculated at the next valuation point after an instruction or a request is received; |
| fund applicant | means a person who submits an application to subscribe for units in a unit trust fund; |
| fund manager | means a person who undertakes the fund management function, or part thereof, for a unit trust fund and who is either– <ul style="list-style-type: none"> (a) a holder of a Capital Markets Services Licence for the regulated activity of fund management; or (b) in the case of a company outside Malaysia, a person properly licensed or authorised by the relevant regulator in its home jurisdiction to carry out fund management activities; |
| fund reports | means the annual and interim reports of the unit trust fund; |
| group of companies | means any company and its related corporations; |
| gold ETF | means an ETF where the underlying asset is physical gold bullions/bars; |
| historical price | means the price of a unit that is the NAV per unit calculated at the valuation point before an instruction or request is received; |
| independent member | in relation to the board of directors of a management company, the investment committee, the Shariah adviser or the panel of advisers of the fund, means a person who is free of any relationship with the management company, or a controlling shareholder of the management company that would otherwise interfere with the member's exercise of independent judgement. In any case, a period of six months must elapse before a person who was previously connected to the |

management company, or a controlling shareholder can be deemed to be independent. The following is a non-exhaustive list of persons that would not be considered as an "independent member":

- (a) In relation to the board of directors of a management company or the investment committee of a fund, an officer of the management company but excluding its non-executive director;
- (b) In relation to a Shariah adviser or any panel of advisers, an officer of the management company;
- (c) An officer of the trustee of the fund;
- (d) An officer of any body corporate or unincorporated body that has the power to appoint or make recommendations towards the appointment of members of the board of directors of the management company, members of the investment committee, the Shariah adviser or the panel of advisers of the fund;
- (e) A person related to an officer of the management company or trustee of the fund;
- (f) A person representing or seen to be representing any body corporate or unincorporated body with a controlling interest in the management company;
or

- (g) A person who, within six months prior to his appointment as an independent member, has derived any remuneration or benefit, other than retirement benefit, from the management company or any body corporate or unincorporated body that has the power to appoint or make recommendations towards the appointment of members of the board of directors of the management company, members of the investment committee, the Shariah adviser or the panel of advisers of the fund;

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| inverse ETF | means an ETF whose aim is to deliver the opposite of the daily performance of the index or benchmark being tracked; |
| leveraged ETF | means an ETF whose aim is to deliver multiples of the daily performance of the index or benchmark; |
| licensed bank | has the meaning assigned to it in the <i>Financial Services Act 2013</i> ; |
| licensed investment bank | has the meaning assigned to it in the <i>Financial Services Act 2013</i> ; |
| licensed Islamic bank | has the meaning assigned to it in the <i>Islamic Financial Services Act 2013</i> ; |
| liabilities of the fund | include all amounts payable by the fund, accrued expenses and taxes, and any appropriate provisions for contingencies; |
| major shareholder | means a person who has an interest or interests in one or more voting shares in a company and the nominal amount of that share, or the aggregate of the nominal amounts of those shares, is— (a) equal to or more than 10% of the aggregate of the nominal amounts of all the voting shares in the company; or |

- (b) equal to or more than 5% of the aggregate of the nominal amounts of all the voting shares in the company where such person is the largest shareholder of the company.

For the purpose of this definition, “interest or interests in one or more voting shares” has the meaning assigned to “interest in share” in Section 8 of the *Companies Act 2016*;

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| net asset value (NAV) | means the value of all the fund’s assets less the value of all the fund’s liabilities at the valuation point; |
| ordinary resolution | means a resolution passed by a simple majority of votes validly cast at a meeting of unit holders; |
| partner | <p>in relation to a director, chief executive officer or major shareholder of the management company, the management company or trustee or person connected with a director, chief executive officer or major shareholder of the management company, the management company or trustee, means such person who falls within any of the following categories:</p> <ul style="list-style-type: none">(a) A person with whom the director, chief executive officer or major shareholder of the management company, the management company or trustee or person connected with a director, chief executive officer or major shareholder of the management company, the management company or trustee is in or proposes to enter into partnership with. “Partnership” for this purpose is given the meaning under section 3 of the <i>Partnership Act 1963</i>; and |

- (b) A person with whom the director, chief executive officer or major shareholder of the management company, the management company or trustee or person connected with a director, chief executive officer or major shareholder of the management company, the management company or trustee has entered into or proposes to enter into a joint venture, whether incorporated into or not;

person connected

in relation to a director, chief executive officer or major shareholder of the management company, the management company or trustee, means such person who falls under any of the following categories:

- (a) A family member of the director, chief executive officer or major shareholder of the management company;
- (b) A trustee of a trust, other than a trustee for an employee share scheme or pension scheme, under which the director, chief executive officer or major shareholder of the management company; management company or trustee; or a family member of the director, chief executive officer or major shareholder of the management company, is the sole beneficiary;
- (c) A partner of the director, chief executive officer or major shareholder of the management company; management company or trustee; or a partner of a person connected with that director, chief executive officer or major shareholder of the management company; management company or trustee;
- (d) A person who is accustomed or under an obligation, whether formal or informal, to act in accordance with the direction, instruction or wish of the trustee, management company, or a director, the

chief executive officer or a major shareholder of the management company;

- (e) A person in accordance with whose direction, instruction or wish the trustee, management company, or a director, the chief executive officer or a major shareholder of the management company; management company or trustee; is accustomed or is under an obligation, whether formal or informal, to act;
- (f) A body corporate or its directors that is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the trustee, management company, or a director, chief executive officer or a major shareholder of the management company;
- (g) A body corporate or its directors upon whose direction, instruction or wish the trustee, management company, or a director, chief executive officer or a major shareholder of the management company is accustomed or under an obligation, whether formal or informal, to act;
- (h) A body corporate in which the director, chief executive officer or major shareholder of the management company; management company or trustee; or persons connected to him are entitled to exercise or control the exercise of, not less than 15% of the votes attached to the voting shares in the body corporate; or
- (i) A body corporate which is a related corporation;

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| Qualifying CIS | means a unit trust fund– (a) constituted or established in Malaysia, which has been authorised by the SC for offer to the public in Malaysia; and (b) has been assessed by the SC as suitable, pursuant to the Standards of Qualifying CIS, to apply to a host regulator for cross-border offering to the public in a host jurisdiction pursuant to the ACMF Retail MoU; |
| Qualifying CIS Operator | means a management company– (a) approved under the CMSA; and (b) complies with the Standards of Qualifying CIS; |
| related party | means: (a) The management company of the fund; (b) The trustee of the fund; (c) A director, chief executive officer or major shareholder of the management company; or (d) A person connected with any director, chief executive officer or major shareholder of the management company; or a person connected with the management company or trustee; |
| SC | means the Securities Commission Malaysia established under the SCMA; |
| SCMA | means the <i>Securities Commission Malaysia Act 1993</i> ; |
| special resolution | means a resolution passed by a majority of not less than $\frac{3}{4}$ of unit holders voting at a meeting of unit holders. |

For the purpose of terminating a fund, a special resolution is passed by a majority in number representing at least $\frac{3}{4}$ of the value of the units held by unit holders voting at the meeting;

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| Standards of Qualifying CIS | means a set of rules and regulations, as agreed and may be amended from time to time amongst the ACMF Signatories, which applies only to the Qualifying CIS under the ACMF Retail MoU; |
| stock exchange | has the meaning assigned to it in the CMSA, and includes stock exchanges in foreign jurisdictions; |
| structured products | has the meaning assigned to it in the <i>Guidelines on Unlisted Capital Market Products under the Lodge and Launch Framework</i> ; |
| total return of the fund | means the sum of the income generated by the fund which is reflected as distribution and the capital gains or loss of the fund which is reflected in the movement in the price of a unit; |
| transferable securities | refers to equities, debentures and warrants; |
| units in circulation | means units created and fully paid; |
| unit split | refers to where a unit is split into more than one unit subsequently; |
| unit trust fund or fund | has the meaning assigned to "unit trust scheme" in the CMSA, and includes a sub-fund of an umbrella fund; |

Calculation of time period

- 2.02 References to "days" in these Guidelines will be taken to mean calendar days unless otherwise stated. Furthermore, any time period stated in these Guidelines where no specific method for determining the time period is set out, the period shall start on the day after the day of the event.

Chapter 3

THE MANAGEMENT COMPANY

- 3.01 A management company is a company that–
- (a) establishes a fund;
 - (b) issues, offers for subscription, makes an invitation to subscribe for or purchase, units of the fund; and
 - (c) operates and administers the fund.
- 3.02 A management company must–
- (a) be an entity incorporated in Malaysia; and
 - (b) have a minimum shareholders' funds of RM10 million at all times.
- 3.03 The board of directors of a management company must comprise at least two independent members, while maintaining a minimum ratio of at least one-third independent members at all times. The independent directors of a management company must, in addition to their duties and responsibilities as directors, represent and safeguard the interests of unit holders.
- 3.04 A director of a management company must not–
- (a) hold office as director of more than one management company at any one time; and
 - (b) hold office as a member of an investment committee of a fund operated by another management company.

3.04A Paragraph 3.04 does not apply where the management companies satisfy the following conditions:

- (a) The management companies are related companies whereby–
 - (i) the management company is an ultimate holding company which wholly-owns the other management company;
 - (ii) the management company is a wholly-owned subsidiary of the other management company; or
 - (iii) the management companies concerned are wholly- owned subsidiaries of the same ultimate holding company; and
- (b) The management companies have notified the respective unit holders of such director's appointment.

3.05 In performing its duties as stipulated under the CMSA, a management company must–

- (a) exercise the degree of care and diligence that a reasonable person would exercise in the position of a management company;
- (b) act in the best interests of unit holders and, if there is a conflict between unit holders' interests and its own interests, give priority to unit holders' interests;
- (c) observe high standards of integrity and fair dealing in managing the fund to the best and exclusive interest of unit holders;
- (d) ensure that the assets of the fund are–
 - (i) clearly identified as the fund's assets; and
 - (ii) held separately from the assets of the management company and any other fund managed by the management company;

- (e) conduct all transactions for a fund on arm's length basis;
- (f) appoint a compliance officer who must directly report to the board of directors;
- (g) appoint an individual as a designated person responsible for the fund management function of the fund, whether the function is undertaken internally within the management company or externally. Where the fund management function is undertaken by an external party, the management company must ensure that the fund manager appoints a designated person for the fund;
- (h) for the purpose of subparagraph 3.05(g), the designated person must be a holder of a Capital Market Services Representative's Licence to carry on the regulated activity of fund management. Where the designated person is in a foreign fund management company, the designated person must be licensed, registered, approved or authorised to carry on the activity of fund management by the relevant regulator in his home jurisdiction;
- (i) ensure that the financial statements of the fund give a true and fair view of the fund's financial position as at the end of the fund's financial period;
- (j) maintain an internal audit function to report on the adequacy, effectiveness and efficiency of the management, operations, risk management and internal controls; and
- (k) where any change to the fund may materially prejudice the interest of the unit holders, obtain the approval of not less than two-thirds of all unit holders at a unit holders' meeting duly convened and held.

Guidance to subparagraph 3.05(k)

Management company should refer to the guidance to paragraph 11.69 on examples of changes that may materially prejudice unit holders' interest.

- 3.06 For the purpose of paragraph 3.05(f), where a management company manages a fund expressed to be managed and administered in accordance with Shariah principles, the compliance officer should have a basic knowledge of Shariah laws and principles.

Provision of information

- 3.07 A management company must submit or make available any information relating to the fund, its business and any other information as may be required by the trustee from time to time.

Maintenance of a website

- 3.08 A management company is required to maintain a website incorporating information relating to the management company and any of its funds.
- 3.09 The details of the information to be included on the website are as set out in Schedule A.

Holding of units by management company

- 3.10 A management company or its nominees must not hold any unit in the fund, other than when complying with repurchase requests or in creating new units to meet anticipated requests for units by investors (manager's box), subject to a maximum of–
- (a) three million units; or
 - (b) 10% of the units in circulation, whichever is the lower.

Guidance to paragraph 3.10

Units created to meet confirmed requests for units and held by the management company pending allocation to fund applicants (including units created to meet requests by fund applicants under the Skim Pelaburan Ahli Kumpulan Wang Simpanan Pekerja) are not subjected to the limits above.

Chapter 4

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Chapter 5

APPOINTMENT OF THIRD PARTY TO UNDERTAKE FUNCTIONS

General

- 5.01 A management company may appoint a third party to undertake its fund management function.
- 5.02 The management company is responsible for proper conduct of the function undertaken by such third party and will be held equally responsible for the action and omission by the third party.
- 5.03 For the purpose of these Guidelines, a third party appointed by a management company to undertake the fund management function for a fund will be referred to as “fund manager”.
- 5.04 A management company must ensure that–
- (a) adequate procedures are in place to monitor the conduct of the fund manager and to ensure that the function undertaken is performed in a proper and efficient manner;
 - (b) there are controls in place to ensure compliance with the securities laws, these Guidelines, prospectus and deed; and
 - (c) in relation to an appointment of a foreign fund manager, a letter of undertaking is provided by the foreign fund manager to the SC that it will maintain for a period of at least seven years, proper records–
 - (i) that sufficiently explain the transactions entered into on behalf of the fund and the financial position of the fund; and
 - (ii) that will enable such records to be conveniently and properly audited or inspected.
- 5.05 In appointing a fund manager, a management company must also ensure that the person appointed is suitable to undertake the particular function, including that it–

- (a) is duly licensed or authorised by the relevant authority;
- (b) has adequate financial resources;
- (c) has an adequate track record in the performance of the function; and
- (d) has adequate and appropriate human resources, systems, procedures and processes to carry out the function, including on compliance with applicable requirements and policies and procedures on internal controls.

5.06 The service agreement governing the appointment of a fund manager must, among others, contain clear provisions on–

- (a) the services to be provided;
- (b) the fees, remuneration and other charges;
- (c) any restriction or prohibition regarding the performance of the function to be undertaken; and
- (d) reporting requirements, including the line of reporting to the management company, and means of evaluating the performance of the fund manager.

5.07 An appointment of a fund manager by a management company requires prior notification to the SC in writing.

5.08 Where a management company appoints a foreign fund manager, the agreement between the management company and foreign fund manager must include, in addition to the requirements set out in paragraph 5.06, the following requirements:

- (a) Adequate training arrangements between the foreign fund manager and the management company; and
- (b) Powers of examination and inspection by the management company, the trustee and the SC to ensure that the foreign fund manager is in compliance with the applicable requirements of the securities laws, these Guidelines, prospectus or the deed.

- 5.09 An officer of a fund manager, must not hold office as a member of–
- (a) the investment committee of any fund for which the fund manager is appointed to manage;
 - (b) the Shariah adviser of any fund for which the fund manager is appointed to manage; or
 - (c) the panel of advisers of any fund for which the fund manager is appointed to manage.
- 5.09A Subparagraphs 5.09(a) and (c) do not apply where the fund manager and the management company satisfy the following conditions:
- (a) The fund manager and the management company are related companies whereby–
 - (i) the fund manager is an ultimate holding company which wholly-owns the management company;
 - (ii) the fund manager is a wholly-owned subsidiary of the management company; or
 - (iii) the fund manager and the management company concerned are wholly-owned subsidiaries of the same ultimate holding company; and
 - (b) The management company has notified the respective unit holders of such appointment.
- 5.10 The fund manager's remuneration must be paid by the management company and not be charged to the fund.
- 5.11 *[deleted]*
- 5.12 *[deleted]*

Chapter 6

OVERSIGHT ARRANGEMENT

- 6.01 A management company must establish and maintain additional arrangements to provide oversight on the operation and management of the fund.
- 6.02 A management company must implement and maintain the following arrangements:
- (a) Appointment of an investment committee for a fund; and
 - (b) Appointment of, where applicable—
 - (i) Shariah adviser for a Shariah-compliant fund; or
 - (ii) panel of advisers for a fund that is expressed to be managed in accordance with specific principles.

Investment committee

General

- 6.03 An investment committee of a fund must comprise—
- (a) at least three individual members; and
 - (b) at least two independent members, while maintaining a minimum ratio of at least one-third independent members at all times.
- 6.04 A member of the investment committee must not hold office as—
- (a) a member of an investment committee of a fund managed and administered by another management company;
 - (b) a director of another management company;
 - (c) a Shariah adviser for the same fund;
 - (d) a member of the panel of advisers for the same fund; or
 - (e) an officer of the fund manager for the fund.

- 6.04A Subparagraphs 6.04(a) and (b) do not apply where the management companies satisfy the following conditions:
- (a) The management companies are related companies whereby–
 - (i) the management company is an ultimate holding company which wholly-owns the other management company;
 - (ii) the management company is a wholly-owned subsidiary of the other management company; or
 - (iii) the management companies concerned are wholly-owned subsidiary of the same ultimate holding company; and
 - (b) The management companies have notified the respective unit holders of such appointment.
- 6.04B Subparagraph 6.04(e) does not apply where the management company and the fund manager satisfy the following conditions:
- (a) The management company and the fund manager are related companies whereby–
 - (i) the management company is an ultimate holding company which wholly-owns the fund manager;
 - (ii) the management company is a wholly-owned subsidiary of the fund manager; or
 - (iii) the management company and the fund manager concerned are wholly-owned subsidiaries of the same ultimate holding company; and
 - (b) The management company has notified the respective unit holders of such appointment.
- 6.05 For a Shariah-compliant fund, the investment committee must comprise at least two Muslim members. A quorum is not present for the purpose of holding an investment committee meeting unless one Muslim member is present at the meeting.

Roles and responsibilities

- 6.06 An investment committee must ensure that the fund is managed in accordance with–
- (a) the fund's investment objective;
 - (b) the deed;
 - (c) the prospectus; and
 - (d) the internal investment restrictions and policies.
- 6.07 An investment committee's roles and responsibilities include the following:
- (a) Select appropriate strategies to achieve the proper performance of the fund in accordance with the fund management policies;
 - (b) Ensure that the strategies selected are properly and efficiently implemented by the management company or the fund manager; and
 - (c) Actively monitor, measure and evaluate the fund management performance of the management company or the fund manager.

Shariah adviser

General

- 6.08 A Shariah adviser must either be–
- (a) a person or a company, registered by the SC;
 - (b) a licensed Islamic Bank; or
 - (c) a licensed bank or licensed investment bank approved to carry on Islamic banking business.

- 6.09 Where individuals are appointed as Shariah adviser, the management company must appoint at least three individuals so as to form a Shariah committee.
- 6.10 The Shariah adviser appointed under subparagraph 6.08(a) must be independent from the management company and must not hold office as a member of the investment committee of the same fund or any other fund managed and administered by the same management company.

Roles and responsibilities

- 6.11 The roles of a Shariah adviser include the following:
- (a) To advise on all aspects of unit trust and fund management business in accordance with Shariah principles;
 - (b) To provide Shariah expertise and guidance in all matters, particularly on the fund's deed and prospectus, fund structure, investments and other operational matters;
 - (c) To ensure that the fund is managed and operated in accordance with Shariah principles, relevant SC regulations and standards, including resolutions issued by the SC's Shariah Advisory Council;
 - (d) To review the fund's compliance report and investment transaction report to ensure that the fund's investments are in line with Shariah principles; and
 - (e) To prepare a report to be included in the fund's annual and interim reports stating its opinion whether the fund has been operated and managed in accordance with the Shariah principles for the financial period concerned.
- 6.12 In carrying out the roles above, a Shariah adviser must act with due care, skill and diligence.
- 6.13 Where there is ambiguity or uncertainty as to an investment, instrument, system, procedure and/or process, the Shariah adviser must consult the SC.

Panel of advisers

General

- 6.14 A panel of advisers must–
- (a) comprise at least three individual members; and
 - (b) be independent of the management company.
- 6.15 A member of the panel of advisers must not hold office as a member of the investment committee of the same fund or any other fund managed and administered by the same management company.

Roles and responsibilities

- 6.16 A panel of advisers must ensure that the fund is operated and managed in accordance with the specific principle set out for the fund.
- 6.17 A panel of advisers must review the fund's compliance report and investment transaction report to ensure that the fund's investments are in line with the specific principle set out for the fund.
- 6.18 A panel of advisers must prepare a report to be included in the fund's annual and interim reports stating its opinion on whether the fund has been managed and administered in accordance with the specific principle set out for the fund for the financial period concerned.

Fit and proper criteria

- 6.19 A person appointed to the panel of advisers must–
- (a) be of good repute and character;
 - (b) observe high standards of integrity and fair dealing in carrying out their duties and responsibilities;
 - (c) act with due skill, care and diligence in carrying out their duties and responsibilities;
 - (d) take reasonable care to ensure that they carry out their duties and functions in accordance with these Guidelines; and

- (e) possess the necessary qualifications, expertise and experience, particularly in the respective fields to perform their duties and responsibilities in a fit and proper manner.

6.20 Such a person must not have been involved in any unethical or inappropriate practice. In this regard, a member of the panel of advisers could be subject to a disqualification in any of the following events:

- (a) A petition filed under bankruptcy laws or he has been declared bankrupt;
- (b) A criminal proceeding for the conviction for fraud, dishonesty or any other offence punishable with imprisonment of one year or more, anywhere in the world;
- (c) Any inquiry or investigation carried out by any government, or statutory authority or body, in which an adverse finding was found; and
- (d) Any unethical practice and activity which would render the person unfit to perform an oversight function.

6.21 It is the responsibility of the management company to assess the ability of each member of the panel of advisers to carry out the duties and responsibilities required of him. In the case of an establishment of a new management company, this responsibility lies with the holding company and/or promoter and its board of directors.

6.22 Where a member of the panel of advisers becomes subject to any disqualification or becomes otherwise unfit to hold office, the management company must ensure that such person vacates the position immediately. The management company must immediately notify the SC of any disqualification and when the position becomes vacant.

6.23 Where a person is appointed as a member of other committees for funds managed and administered by the same management company, he must act separately and independently for each of the fund he is appointed for.

Chapter 7

CONSTITUTION OF THE FUND

Instrument constituting the fund

- 7.01 In addition to the requirements of the CMSA, the deed to be registered by the SC must contain the minimum requirements prescribed in Schedule D of these Guidelines.
- 7.02 The contents of the deed must not be prejudicial to the interest of a unit holder or a unit holder of any class of units, where applicable.
- 7.03 Notwithstanding paragraphs 7.01 and 7.02, a deed must not contain any matter which is inconsistent with the securities laws or the guidelines issued by the SC.
- 7.04 A management company and trustee are responsible for maintaining the deed and make necessary amendments to the deed in accordance with the securities laws and guidelines issued by the SC.

Name of Fund

- 7.05 A management company and trustee must ensure that the name of the fund or any class of units of any fund is appropriate and not misleading.
- 7.06 The SC may require the management company to change the name of the fund or any class of units of any fund if, in the opinion of the SC, the name is inappropriate or misleading.
- 7.07 In relation to paragraph 7.06, the SC will take into account, among other matters, whether the name of the fund or any class of units of any fund—
- (a) implies that the fund or any class of units of any fund has merits which are not justified;
 - (b) is inconsistent with the fund's investment objective or policy;

- (c) might mislead investors into thinking that a person other than the management company is responsible for the fund or part of the fund;
- (d) is substantially similar to the name of another fund in Malaysia or elsewhere; or
- (e) is in the opinion of the SC likely to offend the public.

Investment objective of the fund

- 7.08 The investment objective of a fund must be clear, specific and sufficiently stipulated in the deed.
- 7.09 Where the strategies to be adopted to meet the investment objective involve investment in a particular style, asset class, economic sector, market or geographical area, management company should ensure that an appropriate portion of the fund is invested in accordance with that intention.

Chapter 8

INVESTMENTS OF THE FUND

General

- 8.01 The fund's assets must be relevant and consistent with the investment objective of the fund.
- 8.02 Reasonable steps should be taken to ensure that, taking into account the investment objective and policy of the fund, the fund's assets provide a prudent spread of risk.

Dealings in the fund's assets

- 8.03 All dealings in the fund's assets should be appropriate to the fund and consistent with the securities laws, these Guidelines, prospectus and deed.

Guidance to paragraph 8.03

Dealings such as the disposal of assets with quick repurchase merely to realise capital gains, dealings for window-dressing or excessive dealing in the fund's assets, i.e. churning, are not considered appropriate to the fund.

- 8.04 The fund manager should—
- (a) inform the trustee in writing of any acquisition or disposal of a fund's assets within one business day after which the acquisition or disposal was effected;
 - (b) ensure that the fund's assets has adequate proof of title or ownership to allow proper custodial arrangements to be made; and
 - (c) cancel a transaction or make a corresponding acquisition or disposal at its own expense to secure restoration of the previous position where the trustee conveyed an opinion that a particular acquisition or disposal exceeds the powers conferred on it, or is otherwise contrary to the interests of the unit holders.

Investment powers: General

- 8.05 The fund's assets may only consist, unless otherwise provided in these Guidelines, of the following:
- (a) Transferable securities;
 - (b) Deposits and money market instruments;
 - (c) Units or shares in collective investment schemes; and
 - (d) Derivatives.
- 8.06 Transferable securities and money market instruments held by the fund must be traded in or under the rules of an eligible market.
- 8.07 For investments in a foreign market, a foreign market is an eligible market where it has satisfactory requirements relating to–
- (a) the regulation of the foreign market;
 - (b) the general carrying on of business in the market with due regard to the interests of the public;
 - (c) adequacy of market information;
 - (d) corporate governance;
 - (e) disciplining of participants for conduct inconsistent with just and equitable principles in the transaction of business, or for a contravention of, or a failure to comply with the rules of the market; and
 - (f) arrangements for the unimpeded transmission of income and capital from the foreign market.
- 8.08 Notwithstanding paragraph 8.07, investments in a foreign market are limited to markets where the regulatory authority is an ordinary or associate member of the International Organization of Securities Commissions (IOSCO).

Investments in unlisted securities

- 8.09 Notwithstanding paragraph 8.06, the fund's assets may consist of unlisted securities, subject to an exposure limit stipulated in Schedule B of these Guidelines.
- 8.10 The exposure limit referred to in paragraph 8.09 does not apply to "unlisted securities" that are–
- (a) equities not listed and quoted on a stock exchange but have been approved by the relevant regulatory authority for such listing and quotation, and are offered directly to the fund by the issuer;
 - (b) debentures traded on an organised OTC market; and
 - (c) structured products.
- 8.11 The fund manager must ensure that there are appropriate policies and procedures for the valuation of the unlisted securities.

Investments in collective investment schemes

- 8.12 The fund's assets may consist of units or shares in other collective investment schemes (referred to as "target funds").
- 8.13 The target fund must–
- (a) be regulated by a regulatory authority;
 - (b) if the target fund is constituted in Malaysia, be authorised or approved by, or lodged with the SC;
 - (c) if the target fund is constituted outside Malaysia, be registered, authorised or approved by the relevant regulatory authority in its home jurisdiction; and
 - (d) where the target fund is a fund other than–
 - (i) a real estate investment trust or property fund;
 - (ii) a gold ETF; or
 - (iii) a leveraged ETF or an inverse ETF,

operate on the principle of prudent spread of risk and its investments must not diverge from the general investment principles of these Guidelines.

- 8.13A Where a fund invests in gold ETF, the gold ETF must meet the following criteria:
- (a) The gold bullion/bars, forming the underlying asset of the gold ETF, are held in trust and is segregated from the assets of the manager, sponsor, trustee and/or custodian;
 - (b) The gold ETF adopts a passive management strategy with the objective of tracking the price of gold;
 - (c) The maximum potential loss which may be incurred by a fund as a result of investment in the gold ETF is limited to the amount paid for it;
 - (d) The shares or units of the gold ETF are liquid;
 - (e) The shares or units of the gold ETF are subject to reliable and verifiable valuation on a daily basis;
 - (f) There is appropriate information available to the market on the gold ETF; and
 - (g) The shares or units of the gold ETF must be listed for quotation and traded on an eligible market, and the regulatory authority for such market is an ordinary or associate member of the IOSCO.
- 8.13B A fund is permitted to invest in a leveraged ETF or an inverse ETF, subject to an exposure limit stipulated in Schedule B of these Guidelines.
- 8.14 Where the fund invests in a target fund operated by the same management company or its related corporation, the fund manager must ensure that–
- (a) there is no cross-holding between the fund and the target fund;
 - (b) all initial charges on the target fund is waived; and

- (c) the management fee must only be charged once, either at the fund or the target fund.

Investments in warrants

- 8.15 The fund's assets may consist of warrants, provided that the warrants carry the right in respect of a security traded in or under the rules of an eligible market.

Investments in derivatives

- 8.16 The fund's assets may consist of derivatives that are—
 - (a) traded on an exchange; or
 - (b) OTC traded.
- 8.17 The underlying instruments of a derivative should only consist of permissible investments under paragraph 8.05 and may also include indices, interest rates and foreign exchange rates.
- 8.18 The fund's exposure from derivatives position should not exceed the fund's NAV at all times.
- 8.19 For the purpose of paragraph 8.16(b), a transaction in OTC derivatives may only be entered where—
 - (a) the counter-party is a financial institution with a minimum long-term rating provided by any domestic or global rating agency that indicates strong capacity for timely payment of financial obligations;
 - (b) the fund manager has determined it is able to value the investment concerned to ensure that the pricing is reasonable;
 - (c) the counter-party is able to provide a reliable and verifiable valuation on a regular basis (preferably every business day) or at any time as may be requested by the fund manager or the trustee; and

- (d) the counter-party must be ready to unwind, buy-back or close out the transaction upon request of the fund manager at a fair value determined on methods or bases which have been verified by the auditor of the fund and approved by the trustee.
- 8.20 For the purpose of paragraph 8.19(a), where the rating of the counter-party falls below the minimum required, or the counter-party ceases to be rated, the fund manager should, within six months or sooner, if the trustee considers it to be in the best interest of the unit holders, take the necessary action to ensure that the requirements are complied with.
- 8.21 The writing of option derivatives and short position of futures contracts by the fund are strictly prohibited.
- 8.22 Notwithstanding paragraph 8.21, short position of futures contract for hedging purposes is allowed.
- 8.23 The fund manager must have in place necessary risk management measures which would enable it to monitor, measure and manage the risks of the fund's position in derivatives and their contribution to the overall risk profile of the fund.

Investments in structured products

- 8.24 Notwithstanding paragraph 8.05, the fund's assets may consist of structured products.
- 8.25 The fund manager must ensure that—
- (a) for structured products issued in Malaysia, the counter-party is an eligible issuer or for structured products issued outside Malaysia, an issuer regulated by the relevant regulatory authority;
 - (b) unless otherwise stated in these Guidelines, the counter-party has a minimum long-term rating by any domestic or global rating agency that indicates adequate capacity for timely payment of financial obligations; and
 - (c) subparagraphs 8.19(b), (c) and (d) are complied with for OTC transactions.

- 8.26 For the purpose of paragraph 8.25(b), where the rating of the counter-party falls below the minimum required, or the counter-party ceases to be rated, the fund manager should, within six months or sooner (if the trustee considers it to be in the best interest of the unit holders), take the necessary action to ensure that the requirements are complied with.

Investments in deposits

- 8.27 The fund's assets may consist of placement of deposits provided that it is with a financial institution.

Securities lending

- 8.28 The fund may participate in the lending of securities within the meaning of the *Securities Borrowing and Lending Guidelines* when the fund manager finds it appropriate to do so with a view of generating additional income for the fund with an acceptable degree of risk.
- 8.29 The lending of securities must—
- (a) be permitted under the deed and disclosed in the prospectus;
 - (b) comply with the *Securities Borrowing and Lending Guidelines*; and
 - (c) comply with relevant rules and directives issued by Bursa Malaysia Securities Bhd, Bursa Malaysia Depository Sdn Bhd and Bursa Malaysia Securities Clearing Sdn Bhd.
- 8.30 The fund manager must ensure that it has appropriate policies and practices for the lending of securities by the fund.
- 8.31 Except otherwise provided under paragraph 8.28, the fund's assets may not be lent. In addition, the fund may not assume, guarantee, endorse or otherwise become directly or contingently liable for, or in connection with, any obligation or indebtedness of any person.

Borrowings

- 8.32 The fund is prohibited from borrowing other assets (including borrowing of securities within the meaning of *Securities Borrowing and Lending Guidelines*) in connection with its activities.
- 8.33 Notwithstanding paragraph 8.32, the fund may borrow cash for the purpose of meeting repurchase requests for units and for short-term bridging requirements.
- 8.34 For the purpose of paragraph 8.33, the management company should ensure that–
- (a) the fund's cash borrowing is only on a temporary basis and that borrowings are not persistent;
 - (b) the borrowing period should not exceed one month;
 - (c) the aggregate borrowings of a fund should not exceed 10% of the fund's NAV at the time the borrowing is incurred; and
 - (d) the fund only borrows from financial institutions.

Investment Limits

- 8.35 The fund manager should ensure that the investment limits and restrictions set out in Schedule B of these Guidelines are complied with at all times based on the most up-to-date value of the fund's assets.
- 8.36 The limits and restrictions in Schedule B do not apply to securities or instruments issued or guaranteed by the Malaysian government or Bank Negara Malaysia.
- 8.37 In determining compliance with the limits or restrictions, any accrued entitlement on the securities or instruments held by the fund may be excluded. The entitlement should not be exercised if the exercise results in a breach of any limit or restriction.

- 8.38 Notwithstanding paragraph 8.37, the right of convertibility may be exercised if it results in a breach of any limit or restriction, provided there are justifiable reasons and prior approval of the trustee has been obtained. Nonetheless, the fund manager should, within a time frame of not more than one month from the date of the breach, take all necessary steps and actions to rectify the breach.
- 8.39 Although the limits and restrictions under Schedule B of these Guidelines apply only on a per fund basis, the fund manager is encouraged to have prudential internal limits and restrictions on a group-of-funds basis if the funds are operated by the same management company.

Breach of investment limits

- 8.40 Notwithstanding paragraph 8.35, a 5% allowance in excess of any limit or restriction imposed under these Guidelines is permitted where the limit or restriction is breached through an appreciation or depreciation of the fund's NAV, whether as a result of an appreciation or depreciation in value of the fund's assets, or as a result of repurchase of units or payment made out of the fund.
- 8.41 The fund manager should not make any further acquisition to which the relevant limit is breached, and the fund manager should, within reasonable period of not more than three months from the date of the breach, take all necessary steps and actions to rectify the breach.

Voting rights

- 8.42 The fund manager or the trustee is encouraged to exercise the voting rights for any share held by the fund at a shareholder meeting of corporations whose shares are so held.
- 8.43 *[deleted]*

Chapter 9

CHARGES, FEES AND EXPENSES

Charges for dealing in units

- 9.01 A management company may impose a charge for the sale and/or repurchase of units.
- 9.02 A management company must not impose a charge unless it is—
- (a) permitted by the deed;
 - (b) expressed as a fixed amount or calculated as a percentage of the price of a unit or amount invested; and
 - (c) disclosed in the prospectus.
- 9.03 The charges must not exceed the amount or rate stated in the prospectus unless—
- (a) the management company has notified the trustee in writing of the higher charge and the effective date of the charge;
 - (b) a supplementary or replacement prospectus stating the higher charge has been registered, lodged and issued; and
 - (c) 30 days have elapsed since the effective date of the supplementary or replacement prospectus.
- 9.04 Any increase in the maximum amount or maximum rate stated in the deed can only be made by way of a supplementary deed and in accordance with the requirements of the CMSA.
- 9.05 Discounts and rebates in any form are prohibited. A management company, its sales agents and distributors must clearly inform investors the actual rate of charges payable.

- 9.06 Where applicable, for the purpose of calculating the charges, the calculation must be based on a fund's NAV per unit that has not been rounded up.
- 9.07 NAV per unit is computed based on the NAV of the fund divided by the number of units in circulation, at the valuation point. Where multiple classes of units are issued, NAV per unit is computed based on the NAV of the fund attributable to a class of units divided by the number of units in circulation for that class of units, at the valuation point.

Management fee and trustee fee

- 9.08 A management company and trustee may only be remunerated by way of an annual fee charged to the fund.
- 9.08A For the purpose of these Guidelines, management fee includes performance fee. A management company, in charging a performance fee, must comply with the following principles:
- (a) The computation of performance fee should be equitable to all unit holders;
 - (b) The frequency for crystallising the performance fee should not be more than once a year;
 - (c) The method of computation should—
 - (i) be independently verifiable;
 - (ii) be measured against an appropriate benchmark that is consistent with the investment objective and strategy of a fund. If the performance fee is not measured against a benchmark, the performance fee can only be payable if the net asset value per unit exceeds the net asset value per unit on which the performance fee was last calculated and paid;
 - (iii) ensure the performance fee is only payable on the excess performance and increases or decreases proportionately with the investment performance; and

- (iv) ensure cumulative losses are offset in some way by cumulative gains before a performance fee is payable, if the computation is not based on a fulcrum fee model; and
- (d) The use of performance fee must be clearly disclosed to unit holders, including the computation method of performance fee together with illustrations as well as its impact on the fund.

9.08B Where the method of computation for performance fees deviates from the principles set out in paragraph 9.08A, the management company must demonstrate to the SC's satisfaction that such method of computation is in the best interest of the unit holders.

Guidance to paragraph 9.08B

The following methods of computation for performance fee are acceptable:

- (a) Fulcrum fee model;
- (b) High-water mark; or
- (c) High-on-high.

The management company should consult the SC for any other methods of computation for performance fees.

- 9.09 The fees may only be charged to the fund if permitted by the deed and clearly disclosed in the prospectus.
- 9.10 The fees should be accrued daily and calculated based on the NAV of the fund. The number of days in a year should be used in calculating the accrued fees.
- 9.11 The fees must not be higher than that disclosed in the prospectus unless–
- (a) in the case of the management fee, the management company has notified the trustee in writing of the new higher rate, and the trustee agrees after considering matters stated in paragraph 9.13;

- (b) in the case of the trustee fee, the trustee has notified the management company in writing of the new higher rate, and the management company agrees after considering matters stated in paragraph 9.15;
- (c) the management company has notified unit holders of the higher rate and its effective date, such effective date being at least 90 days after the date of the notice;
- (d) a supplementary or replacement prospectus disclosing the new higher rate of fees has been registered, lodged and issued; and
- (e) 90 days have elapsed since the date of the supplementary or replacement prospectus.

9.12 Any increase in the maximum rate stated in the deed may only be made by way of a supplementary deed and in accordance with the requirements of the CMSA.

Remuneration of management company

9.13 A management company must demonstrate, and the trustee must agree, that the management fee is reasonable, considering–

- (a) the roles, duties and responsibilities of the management company;
- (b) the interests of unit holders;
- (c) the nature, quality and extent of the services provided by the management company;
- (d) the size and composition of the fund's assets;
- (e) the success of the management company in meeting the fund's investment objective;
- (f) the need to maximise returns to unit holders; and
- (g) the maximum rate stipulated in the deed.

- 9.14 If at any time the trustee is of the opinion that the management fee charged to the fund is unreasonable, the trustee must take such necessary action, which may include convening a unit holders' meeting, to ensure that the fee charged commensurate with the services provided by the management company.

Remuneration of trustee

- 9.15 The trustee fee must be reasonable, and takes into consideration–
- (a) the roles, duties and responsibilities of the trustee;
 - (b) the interests of unit holders;
 - (c) the maximum rate stipulated in the deed; and
 - (d) the size and composition of the fund's assets.

Expenses of the fund

- 9.16 Only expenses, or part thereof, directly related and necessary in operating and administering a fund may be paid out of the fund, which includes the following:
- (a) Commissions or fees paid to brokers or dealers in effecting dealings in the fund's assets, shown on the contract notes or confirmation notes or difference accounts;
 - (b) Where the custodial function is delegated by the trustee, charges or fees paid to sub-custodians;
 - (c) Tax and other duties charged on the fund by the government and other authorities;
 - (d) Fees and other expenses properly incurred by the auditor appointed for the fund;
 - (e) Fees for the valuation of fund's assets by independent valuers for the benefit of the fund;

- (f) Costs incurred for the modification of the deed other than those for the benefit of the management company or trustee; and
 - (g) Costs incurred for any meeting of unit holders other than those convened by, or for the benefit of, the management company or trustee.
- 9.17 General overheads and costs for services expected to be provided by the management company must not be charged to the fund. Cost of issuing a prospectus must be borne by the management company but may be charged to the fund if no sales charge is imposed.
- 9.18 A trustee must ensure that all expenses charged to the fund are legitimate. In addition, a trustee must ensure that the quantum of expenses charged to the fund is not excessive or beyond the standard commercial rates. Where uncertainties arise, a trustee must exercise its discretion carefully and appropriately in determining whether or not to allow the expense, or the quantum of the expense to be charged to the fund.
- 9.19 A trustee may be reimbursed by the fund for any expense appropriately incurred in the performance of its duties and responsibilities as a trustee.

Chapter 10

DEALING, VALUATION AND PRICING

Initial offer

- 10.01 The initial offer period must not exceed 21 days. However, the initial offer period may be extended up to 45 days for close-ended funds.
- 10.02 Dealing in units during the initial offer period must be at the initial price determined by the management company. Any creation or cancellation of units must also be at the initial price.

Creation and cancellation of units

- 10.03 A management company must instruct the trustee in writing to create or cancel units of the fund, and pay or receive cash to or from the trustee for the transaction.
- 10.04 A management company must pay the trustee the value of units created within 10 days of giving instructions to the trustee to create units.
- 10.05 A trustee must pay the management company the value of units cancelled within 10 days of receiving instructions from the management company to cancel units.
- 10.06 A trustee must create or cancel units on receipt of, and in accordance with, the instruction given by the management company and only for cash.
- 10.07 Where a request for units is received from investors, the management company must instruct the trustee to create new units at or before the next valuation point if the management company has insufficient units to meet the request.
- 10.08 A management company must not, when giving instructions to the trustee for the creation or cancellation of units, do or omit to do, anything which would confer on itself or the fund manager a benefit at the expense of a unit holder or a potential unit holder.

- 10.09 Any instruction for the creation or cancellation of units may be modified but only if the trustee agrees and has taken reasonable care to determine that–
- (a) the modification corrects an error in the instruction; and
 - (b) the error is an isolated one.
- 10.10 Any error referred to in paragraph 10.09 should be corrected within the payment period applicable under paragraph 10.11.
- 10.11 Where the payment cannot be satisfied within 10 days, the trustee may extend the payment period where the fund does not have sufficient cash or liquid assets and the trustee considers payment within 10 days is not in the best interests of unit holders.
- 10.12 The creation and cancellation of units should be at NAV per unit of the fund as at the next valuation point after an instruction from the management company is received by the trustee.

Trustee may refuse to create or cancel units

- 10.13 Notwithstanding any other requirement under these Guidelines, a trustee may, by notice to the management company, refuse to–
- (a) create units;
 - (b) cancel units; or
 - (c) create or cancel units in the number instructed by the management company,

where the trustee considers the creation or cancellation is not in the best interests of unit holders or it would result in a breach of the securities laws, these Guidelines or the deed.

Dealing in units

- 10.14 A management company must agree to issue and repurchase units upon the proper request of an investor.

- 10.14A Notwithstanding paragraph 10.14, a management company has the right to repurchase all units of a unit holder in the event such repurchase is necessary to ensure that the management company is in compliance with relevant laws. The management company must provide prior notification to the unit holders of such repurchase.
- 10.15 A management company must, at all times during the business day, deal in units of a fund in accordance with the deed and the prospectus unless it has reasonable grounds to refuse a sale or repurchase.
- 10.16 A management company must—
- (a) pay the unit holder in cash the proceeds of the repurchase of units as soon as possible, within 10 days of receiving the repurchase request; and
 - (b) maintain adequate arrangements to enable it to meet any repurchase request within the stated period of time.
- 10.17 A management company must deal in units at a price determined in accordance with paragraphs 10.38 and 10.39.

Close-ended funds

- 10.18 For a close-ended fund, a management company may provide for limited repurchase arrangements appropriate to the fund's investment objective, if permitted by the deed and is clearly disclosed in the prospectus.
- 10.19 Notwithstanding paragraph 10.18, a management company must allow for repurchase of units at least once a month.

Loan financing in the sale of units

- 10.20 A management company must ensure that the margin of finance for loans in the sale of units does not exceed 67% of the amount invested.

Guidance to paragraph 10.20

The above paragraph does not apply to payments for units via credit or charge card.

- 10.21 Where an investor takes on loan financing, the management company must obtain a unit trust loan financing risk disclosure statement signed by the investor acknowledging that he has understood its contents. A duplicate of the risk disclosure statement must be forwarded to the investor while the original must be filed by the management company for record and inspection purposes.

Suspension of dealing in units

- 10.22 A trustee must suspend dealing in units of the fund—
- (a) where requests are made by the management company to cancel units to satisfy a repurchase request and the trustee considers that it is not in the best interests of unit holders to permit the fund's assets to be sold or that the fund's assets cannot be liquidated at an appropriate price or on adequate terms; or
 - (b) due to exceptional circumstances, where there is good and sufficient reason to do so, considering the interests of unit holders.
- 10.23 A suspension of dealing in units under paragraph 10.22 can apply to one or more classes of units without being applied to other classes provided always that such suspension does not prejudice the interests of unit holders.
- 10.24 A suspension under subparagraph 10.22(a) must only be carried out where the interests of unit holders would be materially affected if the dealing in units were not suspended. In such a case, the trustee must immediately call for a unit holders' meeting to decide on the next course of action.

- 10.25 A suspension under subparagraph 10.22(b) must cease as soon as practicable after the exceptional circumstances have ceased, and in any event, within 21 days of the commencement of the suspension.
- 10.26 A trustee must not create or cancel units when dealing in units is suspended.
- 10.27 A trustee must immediately notify the SC in writing if dealing in units is suspended stating the reasons for the suspension.
- 10.28 Before resuming dealing in units after any suspension, the management company must notify the SC in writing of the proposed resumption and the date of the proposed resumption.
- 10.29 A management company may deal in units at a price calculated by reference to the first valuation point after restart of dealing in units.

Valuation

- 10.30 A management company must ensure that the fund and the fund's units are correctly valued and priced, in line with the requirements of this chapter and Schedule C of these Guidelines, the deed and the prospectus.
- 10.31 To determine the fund's NAV per unit, a fair and accurate valuation of all assets and liabilities of the fund must be conducted. Valuations must be based on a process which is consistently applied and leads to objective and independently verifiable valuations.
- 10.32 The valuation points for a fund must be at least once every business day.
- 10.33 No valuation points are required during the initial offer period.
- 10.34 For a fund with limited repurchase arrangements, paragraph 10.32 does not apply. The valuation points for a fund with limited repurchase arrangements must be clearly disclosed in the prospectus and must be at least once a month.
- 10.35 Upon completion of a valuation, the trustee must be immediately notified of the NAV per unit of the fund.

Price of a Unit

- 10.36 The price of a fund's unit must be the NAV per unit of the fund. Where a fund issues multiple classes of units, the price of a unit of any class of units must be calculated–
- (a) by reference to the NAV of the fund; and
 - (b) in accordance with the provisions of both the deed and the prospectus applying to that class of units.
- 10.37 For classes of units denominated in different currencies, the price of a unit must be quoted and paid for in the currency in which those classes are denominated.
- 10.38 Any dealing in units of the fund must either be at a forward price or a historical price.
- 10.39 Where historical price is used, the management company should have an additional valuation point during the mid-day of business and re-price the units where it differs by more than 5% from the last valuation point.

Incorrect valuation or pricing

- 10.40 Where incorrect valuation or pricing occurs, a management company must–
- (a) notify the trustee; and
 - (b) notify the SC, unless the trustee considers the incorrect valuation or pricing to be of minimal significance.
- 10.41 The management company must take immediate remedial action to rectify any incorrect valuation or pricing. Rectification must be extended to the reimbursement of money–
- (a) by the management company to the fund;
 - (b) from the fund to the management company; or

- (c) by the management company to unit holders and former unit holders.

10.42 Notwithstanding paragraph 10.41, rectification need not, unless the trustee otherwise directs, extend to any reimbursement where the trustee considers the incorrect valuation or pricing to be of minimal significance.

Dilution fee or transaction cost

10.43 Where there are material costs involved in acquiring or disposing a fund's assets, a management company may–

- (a) require the payment of a dilution fee or transaction cost; or
- (b) make a dilution or transaction cost adjustment,

provided that it is permitted by the deed and clearly disclosed in the prospectus.

10.44 The management company must ensure that the fee or adjustment made for dilution and transaction cost is fair and for the sole purpose of reducing dilution.

10.45 Where a fee is imposed, the management company must ensure that the fee becomes due at the same time payment is made for the creation, cancellation, sale or repurchase of units and such fee must be paid to the trustee as soon as practicable after receipt to become part of the fund's assets.

10.46 Where an adjustment is made, it may be made to the NAV per unit to reduce the dilution in the fund or to recover any amount which the fund had already paid or reasonably expects to pay in the future for the creation or cancellation of units.

10.47 As soon as practicable after a valuation point, the management company must notify the trustee on the amount or rate of any dilution adjustment made to the NAV per unit of the fund or any dilution fee imposed.

10.48 A management company must not impose a dilution fee or make a dilution adjustment for the purpose of making a profit or avoiding a loss for the account of the affected unit holder.

Chapter 11

OPERATIONAL MATTERS

Size of Funds

11.01 In determining the size of a fund, which must be expressed in units, a management company must take into account its resources, expertise, experience and overall capability to carry out its duties in accordance with the securities law, these Guidelines and the deed.

Register of unit holders

11.02 A management company must take reasonable steps to update the register upon receiving written notice of a change of name or address of any unit holder to ensure an up-to-date register of unit holders is maintained.

Cooling-off right

11.03 A cooling-off right must be given to an individual investor who is investing in any unit trust fund managed by a particular management company for the first time, except for where such investor is—

- (a) a staff of that management company; or
- (b) a person registered with a body approved by the SC to deal in unit trusts.

11.04 The cooling-off period must not be fewer than 6 business days commencing from the date of receipt of the application by the management company.

11.05 The refund pursuant to an exercise of a cooling-off right must be the sum of—

- (a) the price of a unit on the day the units were purchased; and

(b) the charges imposed on the day the units were purchased.

11.06 When an investor notifies the management company of his intention to exercise his cooling-off right, the management company must refund the investor in cash within 10 days of receiving such notification.

Distribution of income

11.07 Any distribution of income can only be made from realised gains or realised income, after taking into consideration the following:

- (a) Total returns for the period;
- (b) Income for the period;
- (c) Cash flow for distribution;
- (d) Stability and sustainability of distribution of income; and
- (e) The investment objective and distribution policy of the fund.

11.08 There should be a distribution account to which the fund's income is transferred prior to distribution to unit holders.

11.09 Where a distribution is made, the management company must send to every unit holder a statement detailing the nature, whether in the form of cash or units in lieu of cash, and the amount of income distributed. The statement must also include the following information:

- (a) Total returns of the fund; and
- (b) NAV per unit prior to, and subsequent to, the distribution.

11.10 For classes of units denominated in different currencies, distributions, if any, must be in the currencies in which those classes of units are denominated.

11.11 For interim distribution of funds, a management company may, instead of sending a statement required under paragraph 11.09, choose to publish the same information in the management company's website or through an advertisement in at least one national Bahasa Malaysia newspaper and one national English newspaper.

Unit split

11.12 A unit split exercise may only be conducted once in any financial year of the fund.

11.13 A unit split exercise may only be conducted when the monthly average NAV per unit of the fund has shown a sustainable appreciation over a 6-month period preceding the unit split exercise.

Guidance to paragraph 11.13

Sustainable appreciation means the monthly average NAV per unit of a fund increases from one month to another over the six-month period.

11.14 The management company must submit the trustee's verification on compliance with paragraph 11.13 to the SC within 14 days after the unit split exercise.

11.15 The management company must send to every unit holder a statement detailing the ratio of the split. The statement must also include the following information:

(a) NAV per unit prior to and subsequent to, the unit split exercise; and

(b) Reasons for conducting the unit split exercise.

11.16 A management company may, instead of sending a statement required under paragraph 11.15, choose to publish the same information in the management company's website or through

an advertisement in at least one national Bahasa Malaysia newspaper and one national English newspaper.

Conflict of interest or related-party transactions

- 11.17 A management company and a fund manager must avoid any conflicts of interest. Where a conflict cannot be avoided, appropriate safeguards must be put in place to protect the interests of the investors and ensure that the fund is not disadvantaged by the transaction concerned.
- 11.18 Any related party transaction, dealing, investment and appointment involving parties to a fund must be made on terms which are the best available for the fund and which are no less favourable to the fund than an arm's length transaction between independent parties.
- 11.19 The appointment or renewal of appointment of a fund manager who is a related party must be approved by the independent directors of the management company.

Use of broker or dealer

- 11.20 Every broker or dealer used for any dealing in the fund's assets, either by the management company or the fund manager, must be approved by the investment committee of the fund.
- 11.21 In approving a broker or dealer, the investment committee must—
- (a) be satisfied that the dealings in the fund's assets will be effected by the broker or dealer on terms which are the most favourable for the fund (best execution basis); and
 - (b) prescribe a limit in terms of proportion of dealings, in percentage form, to be executed with each broker or dealer.

- 11.22 In determining the limit under subparagraph 11.21(b), the investment committee should consider–
- (a) the capability and services of the broker or dealer concerned; and
 - (b) the desirability of keeping a good spread of brokers or dealers for the fund.
- 11.23 Notwithstanding subparagraphs 11.21(b) and 11.22, the use of any broker or dealer for a fund must not exceed 50% of the fund's dealings in value in any one financial year of the fund.

Guidance to paragraph 11.23

The 50% limit of the fund's dealings in value should cover equities and fixed income transactions.

Rebates and soft commissions

- 11.24 A management company, fund manager, trustee or trustee's delegate should not retain any rebate from, or otherwise share in any commission with, any broker or dealer in consideration for directing dealings in a fund's assets. Accordingly, any rebate or shared commission should be directed to the account of the fund concerned.
- 11.25 Notwithstanding paragraph 11.24, goods and services (soft commissions) provided by any broker or dealer may be retained by the management company or the fund manager if–
- (a) the goods and services are of demonstrable benefit to unit holders and in the form of research and advisory services that assist in the decision making process relating to the fund's investments;

- (b) any dealing with the broker or dealer is executed on terms which are the most favourable for the fund; and
- (c) the practice of the management company or the fund manager in relation to soft commissions is adequately disclosed in the prospectus and fund reports, including a description of the goods and services received by the management company or the fund manager.

11.26 Where paragraph 11.25 applies, the compliance officer must verify and inform the management company's board of directors or the audit and compliance committee, if any, that the goods or services received by the management company or the fund manager comply with the requirements of these Guidelines.

Documents for inspection by unit holders

11.27 A management company and a trustee must make available at their principal place of business the following documents for inspection by investors and unit holders at all times, without charge, during the ordinary business hours of the management company and the trustee:

- (a) The deed and the supplementary deed(s) of the fund, if any;
- (b) The current prospectus and supplementary or replacement prospectuses of the fund, if any;
- (c) The latest annual and interim reports of the fund;
- (d) Each material contract or document referred to in the prospectus;
- (e) All reports, letters or other documents, valuations and statements by any expert, any part of which is extracted or referred to in the prospectus;

- (f) Where applicable, the audited financial statements of the management company and the fund for the current financial year, and for the last three financial years or if less than three years, from the date of incorporation or commencement; and
- (g) Any consent given by experts or persons named in the prospectus as having made a statement that is included in the prospectus or on which a statement made in the prospectus is based.

Terminating a fund

11.28 A fund must be terminated upon the occurrence of any of the following events:

- (a) The SC's authorisation is withdrawn;
- (b) A special resolution is passed at a unit holders' meeting to terminate the fund;
- (c) The fund has reached its maturity date as specified in the deed; and
- (d) The effective date of an approved transfer scheme has resulted in the fund, which is the subject of the transfer scheme, being left with no asset.

11.29 In a termination other than as a result of an event under subparagraph 11.28(d), the trustee must–

- (a) sell all the fund's assets remaining in its hands;
- (b) after paying or retaining adequate amount for all liabilities payable and cost of termination, distribute to unit holders the net cash proceeds available for the purpose of such distribution in proportion to the number of units held by unit holders respectively; and

- (c) in relation to any monies held by the trustee that remains unclaimed after 12 months, transfer of such monies to the *Registrar of Unclaimed Moneys*, in accordance with the requirements of the *Unclaimed Moneys Act 1965*.

11.30 The management company or trustee must as soon as practicable after the termination of the fund–

- (a) where unit holders' resolution for the termination is not obtained, inform unit holders of such termination; and

(b) [*deleted*]

11.31 The management company and trustee must notify the SC in writing–

- (a) upon the passing of a resolution to terminate the fund, or upon the court confirming the unit holders' resolution to terminate the fund; and

(b) upon the completion of the termination of the fund.

11.32 Where a fund is being terminated, the trustee must also arrange for the auditor of the fund to conduct a final review and audit of the fund's accounts.

Accounting and reports during termination

11.33 While a fund is being terminated–

- (a) the financial period continues to run; and

(b) annual and interim reports continue to be required, unless after consulting the auditor and the SC, the management company has taken reasonable care to determine that timely production of an annual or interim report is not required in the interests of unit holders.

Terminating a class of units

- 11.34 A class of units may be terminated if a special resolution is passed at a meeting of unit holders of that class of units to terminate the class provided always that such termination does not prejudice the interests of any other class of units.
- 11.35 The management company or trustee must as soon as practicable after the termination of a class of units–
- (a) inform all unit holders of the fund of the termination of the class of units; and
 - (b) *[deleted]*
- 11.36 The management company and trustee must notify the SC in writing–
- (a) upon the passing of a resolution to terminate a class of units; and
 - (b) upon the completion of the termination of a class of units.
- 11.37 Where a class of units is being terminated, the trustee must also arrange for the auditor of the fund to conduct a final review and audit of the fund's accounts in relation to that class of units.

Transfer Schemes

- 11.38 A transfer scheme is an arrangement to transfer the assets of the fund from a fund ("transferor fund") to another fund ("transferee fund").
- 11.39 A management company must ensure that the unit holders of the transferor fund do not become unit holders of a fund other than a fund authorised by the SC.

11.40 A transfer scheme must not be implemented without the sanction of special resolution of unit holders of both the transferor and transferee funds.

11.41 If the management company and trustee or other persons providing oversight functions for the transferee fund or the auditor of the transferee fund agree that the receipt of the assets concerned for the account of the transferee fund—

- (a) is not likely to result in any material prejudice to the interest of unit holders of the transferee fund;
- (b) is consistent with the investment objective of the transferee fund; and
- (c) could be effected without any breach of Chapter 8 of these Guidelines;

then, the transfer scheme may be implemented and the issue of units in exchange for the transferor fund's assets may be undertaken.

Meeting of unit holders

11.42 A management company or trustee may convene a unit holders' meeting at any time, other than for the required circumstances provided for in the CMSA.

Guidance to paragraph 11.42

All references to a meeting of unit holders shall include a meeting of unit holders of a class of units and all requirements in these Guidelines applicable to a meeting of unit holders shall be equally applicable to a meeting of unit holders of a class of units.

Notice of meetings

- 11.43 Except where specifically provided for in the CMSA, when a management company or trustee convenes a unit holders' meeting, it must–
- (a) give at least 14 days' written notice to unit holders; and
 - (b) specify in the notice, the place, time and terms of the resolutions to be proposed.
- 11.44 A copy of the notice of any unit holders' meeting, including those convened under section 305 of the CMSA, must be provided to the SC and the trustee.

Chairman

- 11.45 A unit holders' meeting must be chaired by–
- (a) where the meeting is requested by the unit holders or trustee, a person appointed on their behalf by unit holders who are present at the meeting or where no such appointment is made, by a nominee of the trustee; or
 - (b) where the meeting is called by the management company, a person appointed by the management company.

Quorum

- 11.46 The quorum required for a meeting is five unit holders, whether present in person or by proxy, provided always that the quorum for a meeting which requires a special resolution is five unit holders holding in aggregate at least 25% of the units in issue at the time of the meeting.
- 11.47 If after a reasonable time from the start of the meeting, a quorum is not present, the meeting–

- (a) if convened on the request of the unit holders, must be dissolved; and
- (b) in any other case, should stand adjourned to—
 - (i) a day and time which is seven or more days after the day and time of the meeting; and
 - (ii) a place appointed by the chairman.

11.48 Notice of an adjourned meeting must be given to unit holders, stating that while five unit holders present in person or by proxy, and holding the minimum aggregate number of units, as the case may be, are required to constitute a quorum at the adjourned meeting, whatever the number of unit holders or number of units held, as the case may be, present in person or by proxy at the adjourned meeting will form a quorum after a reasonable time has passed from the convening of the meeting.

Resolutions

- 11.49 Except where a special resolution is specifically required or permitted, any resolution is passed by a simple majority.
- 11.50 A resolution passed at a meeting of unit holders binds all unit holders, whether or not they were present at the meeting. No objection may be made as to any vote cast unless such objection is made at the meeting.
- 11.51 A copy of the resolution must be provided to the SC and trustee.

Voting rights

- 11.52 On a voting by show of hands, every unit holder who is present in person or by proxy has one vote.
- 11.53 A poll voting may be demanded on any resolution. On a voting by poll—

- (a) votes may be given either personally or by proxy; and
 - (b) the votes by every unit holder, who is present in person or by proxy, shall be proportionate to the number or to the value of units held by him.
- 11.54 In the case of joint unit holders, any one of such joint unit holders may vote either personally or by proxy, but if the joint unit holders are present at the meeting either personally or by proxy, only the vote of the first named in the register of unit holders can be taken.
- 11.55 A management company must not exercise the voting rights for the units it or its nominees hold in any unit holders' meeting, regardless of the party who requested for the meeting and the matters that are laid before the meeting.
- 11.56 Related parties who have interest in the outcome of the transaction tabled for approval and that interest is different from the interests of other unit holders, must not vote or be counted in the quorum at a meeting.

Right to demand poll voting

- 11.57 A resolution put to the vote at a unit holders' meeting must be determined by a show of hands unless a poll voting is demanded, before or immediately after any question is put to the show of hands, by—
- (a) the chairman;
 - (b) the trustee;
 - (c) the management company; or
 - (d) unit holders present, or represented by proxy, who hold between them not less than one-tenth of the total number of units in issue.

11.58 Unless a poll voting is demanded, a declaration by the chairman as to the result of the resolution is conclusive evidence of the fact.

Proxies

11.59 A unit holder may appoint another person to attend a unit holders' meeting and vote in the unit holder's place.

11.60 Every notice calling for a unit holders' meeting must contain a statement that a unit holder is entitled to attend and vote, or may appoint a proxy.

11.61 The document appointing a proxy must be deposited at the office of the management company not less than 48 hours before the meeting or adjourned meeting.

Adjournment and minutes

11.62 The chairman—

- (a) may, with the consent of any meeting of unit holders at which a quorum is present; and
- (b) should, if so directed by the meeting,

adjourn the meeting.

11.63 A management company must ensure that—

- (a) minutes of all resolutions and proceedings at every unit holders' meeting are made and kept; and
- (b) any minute made in subparagraph 11.63(a) is signed by the chairman of the unit holders' meeting.

Training requirements

11.64 A management company should provide training to its officers

to improve and upgrade their skills and expertise.

- 11.65 In particular, a management company should allocate and spend at least 3% per annum of its gross salary expense on training its officers.

Corporate governance

- 11.66 A management company and the fund manager should implement good corporate governance practices and best industry standards for all activities conducted in relation to the fund.

- 11.67 *[deleted]*

Notification of changes

- 11.68 A management company of a fund must inform unit holders of any change made to the fund.
- 11.69 For the purpose of section 295(4) of the CMSA, the management company or trustee must convene a unit holders' meeting to obtain unit holders' approval where the interests of the unit holders may be materially prejudiced by any changes to the deed.

Guidance to paragraph 11.69

Examples of changes that may materially prejudice the interests of unit holders include—

- (a) changes to the nature or objective of the fund;
- (b) changes to the risk profile of the fund;
- (c) change in distribution policy;
- (d) introduction of a new category of fees or charges; or
- (e) increase in fees or charges.

11.70 Where there is a change to the prospectus, the management company is required to undertake the following:

- (a) For a significant change which may affect the unit holders' decision to stay invested in the fund, the management company must give a written notice to unit holders, informing them—
 - (i) that a supplementary or replacement prospectus will be or has been registered by the SC;
 - (ii) of the significant change to the fund, highlighting the current and revised positions; and
 - (iii) of the effective date of the significant change.
- (b) For any change other than a significant change under subparagraph 11.70(a), the management company must notify unit holders via an interim or annual report, whichever is earlier, of the—
 - (i) change made to the fund, highlighting the current and revised positions; and
 - (ii) effective date of the change.

Guidance to paragraph 11.70(a)

Examples of a significant change which may affect a unit holder's decision to stay invested in the fund include—

- (a) change in investment strategy of the fund;
- (b) change in distribution policy of the fund; or
- (c) change in minimum balance.

Editorial changes such as amending grammatical errors, or correcting pagination, paragraphing and numbering in the prospectus are changes that will not require any notification to unit holders.

11.71 In relation to subparagraph 11.70(a)(iii), the effective date of the significant change must not be less than 14 days from the date of such notice.

11.72 In relation to the obligation of a management company towards a fund applicant under section 239(2)(a)(ii) of the CMSA, when a registration of a supplementary or replacement prospectus is due to—

- (a) a new fund being added to a master prospectus; or
- (b) a change in a fund, not being a fund invested in by the fund applicant, in the master prospectus,

a management company is exempted from such obligation pursuant to SC's order dated 18 July 2016 ("Exemption Order")² in respect of the funds that are not affected by the change.

² Section 239(2)(a)(ii) gives the fund applicant who has submitted an application to subscribe for a fund prior to the registration of a supplementary or replacement prospectus, the right to withdraw the application.

Chapter 12

REPORTING AND AUDIT

Reporting Requirements

- 12.01 A management company must prepare an annual report and an interim report of the fund to provide all necessary information to enable unit holders to evaluate the performance of the fund.
- 12.02 For a new fund, where the first financial period is less than 12 months, an interim report need not be prepared.
- 12.03 If a management company intends to change the fund's annual or interim financial period, the management company must obtain—
- (a) a written confirmation from the fund's auditor that the change would not result in any significant distortion of the financial position of the fund; and
 - (b) the SC's prior consent before implementing the change.

Content of fund reports

- 12.04 An annual report of a fund must contain at least the following:
- (a) Fund information;
 - (b) Report on fund performance;
 - (c) Manager's report;
 - (d) Trustee's report;
 - (e) Shariah adviser's or panel of advisers' report, where applicable;

- (f) Audited financial statements for the financial year; and
- (g) Auditor's report.

12.05 An interim report of a fund must contain at least the following:

- (a) Fund information;
- (b) Report on fund performance;
- (c) Manager's report;
- (d) Trustee's report;
- (e) Shariah adviser's or panel of advisers' interim review report, where applicable; and
- (f) Financial statements for the interim financial period.

12.06 The minimum and detailed information to be included in the fund's reports is stipulated in Schedule E of these Guidelines.

Publication of reports

12.07 A management company must—

- (a) prepare and publish the annual and interim reports of the fund;
- (b) send the annual report without charge to unit holders;
- (c) send the interim report without charge to unit holders; and
- (d) lodge the annual report with, and deliver the interim report to, the SC,

within two months after the end of the financial period the report covers.

12.08 Notwithstanding subparagraph 12.07(c), a management company may choose to send a short interim report to unit holders.

- 12.09 A short interim report must contain at least the following:
- (a) Report on fund performance;
 - (b) Manager's report; and
 - (c) A statement that that the interim report is available upon request and without charge to unit holders, where such statement is in bold font and displayed in a prominent position.

Audit

- 12.10 A management company and trustee must ensure that the financial statements of the fund are audited annually.
- 12.11 Where the SC is of the opinion that the auditor appointed by the trustee is not suitable, or where an auditor has not been appointed, the SC may direct the trustee to replace or appoint an auditor to the fund in accordance with the requirements of this chapter.
- 12.12 A trustee may, from time to time, if it deems appropriate, remove the auditor of the fund and appoint another in its place. In addition, unit holders may by way of an ordinary resolution request the trustee to replace the auditor.

Co-operation with Auditors

- 12.13 A management company must take reasonable steps to ensure that its employees—
- (a) provide such assistance as the auditor reasonably requires to discharge its duties;
 - (b) give the auditor right of access at all reasonable times to relevant records and information;

- (c) do not interfere with the auditor's ability to discharge its duties;
- (d) do not provide false or misleading information to the auditor; and
- (e) report to the auditor any matter which may significantly affect the financial position of the fund.

12.14 A management company must, in writing, require a fund manager to co-operate with the fund's auditor in accordance with the requirements specified in paragraph 12.13.

Chapter 13

APPLICATIONS, NOTIFICATIONS AND REPORTING TO THE SECURITIES COMMISSION MALAYSIA

Application for SC's authorisation or approval

- 13.01 The SC provides for two authorisation processes for the establishment of a unit trust fund:
- (a) Standard authorisation process for complex funds; and
 - (b) Expedited authorisation process for non-complex funds.
- 13.02 A complex fund that would be subject to the standard authorisation process includes:
- (a) A feeder fund;
 - (b) A fund-of-funds;
 - (c) A fund that can invest in–
 - (i) derivatives other than for hedging purposes;
 - (ii) warrants and convertibles other than those which are capable of being converted into new shares;
 - (iii) structured products; or
 - (d) a cross-border fund, which is a fund that can be offered in a foreign jurisdiction under an arrangement between the SC and the securities regulator in that foreign jurisdiction.

Guidance to Paragraph 13.02(c)(i) in relation to hedging

Motivation

To mitigate risk that arises due to an identified underlying exposure.

Transaction size

The transaction size must be appropriate to offset any risks associated with the underlying being hedged.

Transaction tenure

The hedge tenure should commensurate with the tenure and timing of the exposure.

- 13.03 A fund other than those specified in paragraph 13.02, would be deemed as a non-complex fund and thus eligible for the expedited authorisation process.
- 13.04 Notwithstanding paragraph 13.03, the SC reserves the right to determine the eligibility criteria of a fund qualifying under the expedited authorisation process.
- 13.05 For the purpose of an application under paragraph 1.04, in relation to an issuance of a non-complex fund, the management company must first submit such application and procure the SC's decision prior to submitting an application for authorisation of the fund.
- 13.06 All information, documents and notifications submitted to the SC must be true, complete and accurate. These information and documents must be in accordance with the requirements stipulated under Schedule F of these Guidelines.
- 13.07 An application for authorisation of a non-complex fund will lapse if an authorisation is not granted by the SC within six months from the date of first submission. The SC, at its sole discretion, may extend this period under limited circumstances.

- 13.08 When an application for authorisation of non-complex fund has lapsed, and the management company wishes to seek authorisation for the same fund again, the management company shall submit a fresh application together with the necessary fees.
- 13.09 The following are other proposals that are required to be submitted for the SC's approval:
- (a) Exemption or variation from the requirements of these Guidelines; and
 - (b) Extension of time to comply with the requirements of these Guidelines and terms and conditions of approval.

Application to be a Qualifying CIS

- 13.10 A fund seeking to be assessed as suitable to be a Qualifying CIS must submit an application to the SC.
- 13.11 *[deleted]*

Application to register and lodge documents with SC

Deed

- 13.12 An application to register and lodge a fund's deed must be made in accordance with the requirements set out in Appendix III of Schedule F.

Prospectus

- 13.13 An application to register and lodge a fund's prospectus must be made in accordance with the requirements set out in *Prospectus Guidelines for Collective Investment Schemes*.

Submission of applications to SC

- 13.14 *[deleted]*

Documents and notifications required to be submitted to the SC

13.15 A management company must submit the following to the SC:

- (a) The annual report of the fund;
- (b) The interim report of the fund;
- (c) Notice issued or published after the registration of a prospectus;
- (d) Statistical Return and Compliance Return;
- (e) Details of the appointment and where relevant, the resignation of an investment committee member;
- (f) Details of the appointment and where relevant, the resignation of the Shariah adviser;
- (g) Details of the appointment and where relevant, the resignation of a member of the panel of advisers;
- (h) Appointment of a fund manager to perform fund management function for the management company;
- (i) A special resolution passed to terminate a fund or a class of units and where applicable, a court order confirming the same; and
- (j) Commencement and completion of the termination of a fund.

Submission of applications, notifications or documents to the SC

13.16 Unless otherwise specified in these Guidelines, applications and notifications under this Chapter must be submitted as follows:

- (a) All submission documents must be in hard copies and one electronic copy. The electronic copy must be in text-searchable format (PDF-text);

- (b) The electronic copy of the documents must be submitted via e-mail, up to 10MB in size per e-mail, to MISsubmissions@seccom.com.my
- (c) For submission in relation to the expedited authorisation process for non-complex funds, the electronic copy of the documents must be submitted via e-mail, up to 10MB in size per e-mail, to eap@seccom.com.my;
- (d) Submission of hard copies of applications must be addressed to:

Chairman
Securities Commission Malaysia
3 Persiaran Bukit Kiara
Bukit Kiara
50490 Kuala Lumpur
(Attention: Managed Investment Schemes, Corporate
Finance and Investments)

- (e) Submission of notifications and documents should be addressed to:

Head of Department
Managed Investment Schemes
Corporate Finance and Investments
Securities Commission Malaysia
3 Persiaran Bukit Kiara
Bukit Kiara
50490 Kuala Lumpur

Launching of fund

- 13.17 A complex fund must be launched within six months from the date of authorisation.
- 13.18 A non-complex fund must be launched within two months from the date of authorisation.

SCHEDULES

SCHEDULE A

INFORMATION REQUIRED TO BE INCLUDED IN THE MANAGEMENT COMPANY'S WEBSITE

- (1) Information on key personnel such as the chief executive officer and designated person responsible for compliance matters;
- (2) Summary of the management company's financial position for the past three years, where applicable, in tabular form, disclosing–
 - (a) paid-up share capital;
 - (b) shareholders' funds;
 - (c) revenue;
 - (d) profit or loss before tax; and
 - (e) profit or loss after tax;
- (3) Total number of funds as well total value of funds operated by the management company;
- (4) Where the fund management function is undertaken by an external fund manager, a brief corporate information of the external fund manager and total value of funds under the fund manager's management;
- (5) Names, status (independent or non-independent), relevant qualifications and experience of each member of the investment committee and the frequency of the investment committee meeting;
- (6) If the management company outsources any function to an external party, a brief corporate information of the service provider or sub-contractor and the roles and duties of the service provider or sub-contractor;

- (7) Where a Shariah adviser or panel of advisers is appointed, the relevant qualifications of each of the Shariah adviser or panel of advisers. Where the Shariah adviser is a company–
- (a) the corporate information of the company;
 - (b) the number of funds in which it acts as adviser; and
 - (c) the relevant qualifications of the designated person responsible for Shariah matters of the fund.

SCHEDULE B

INVESTMENT RESTRICTIONS AND LIMITS – CORE REQUIREMENTS

General

- (1) The requirements herein apply to non-specialised funds. For specialised funds, the requirements are stipulated in the respective appendices of this schedule.
- (2) The investment limits and restrictions must be read together with the general requirements and prohibitions set out in Chapter 8 of these Guidelines.

Exposure limit

- (3) The aggregate value of a fund's investments in—
 - (a) unlisted securities;
 - (b) units or shares in leveraged ETFs; and
 - (c) units or shares in inverse ETFs,must not exceed 10% of the fund's NAV.

Investment Spread Limits

- (4) The value of a fund's investments in ordinary shares issued by any single issuer must not exceed 10% of the fund's NAV.
- (5) The value of a fund's investments in transferable securities and money market instruments issued by any single issuer must not exceed 15% of the fund's NAV.
- (6) The value of a fund's placement in deposits with any single institution must not exceed 20% of the fund's NAV.

- (7) For investments in derivatives–
 - (a) the exposure to the underlying assets must not exceed the investment spread limits stipulated in this schedule; and
 - (b) the value of a fund's over-the-counter (OTC) derivative transaction with any single counter-party must not exceed 10% of the fund's NAV.
- (8) The value of a fund's investments in structured products issued by a single counter-party must not exceed 15% of the fund's AV.
- (9) The aggregate value of a fund's investments in transferable securities, money market instruments, deposits, OTC derivatives and structured products issued by or placed with, as the case may be, any single issuer/institution must not exceed 25% of the fund's NAV.
- (10) The value of a fund's investments in units/shares of any collective investment scheme must not exceed 20% of the fund's NAV.
- (11) The value of a fund's investments in transferable securities and money market instruments issued by any group of companies must not exceed 20% of the fund's NAV.

Exceptions to investment spread limits

Structured products

- (12) The single counter-party limit in (8) is entirely waived if–
 - (a) the counter-party has a minimum long-term rating by any domestic or global rating agency that indicates very strong capacity for timely payment of financial obligations provided; and
 - (b) the structured product has a capital protection feature.
- (13) Where (12) applies, calculation of the aggregate value to determine compliance with (9) should exclude the value of investments in structured products.

Bond/fixed income funds

- (14) The single issuer limit in (5) and single group limit in (11) do not apply to a bond/fixed income fund.
- (15) The value of a bond/fixed income fund's investments in debentures issued by any single issuer must not exceed 20% of the fund's NAV.
- (16) The single issuer limit in (15) may be increased to 30% if the debentures are rated by any domestic or global rating agency to be of the best quality and offer highest safety for timely payment of interest and principal.
- (17) For the purpose of paragraph (9), where the single issuer limit is increased to 30% pursuant to paragraph (16), the aggregate value of a fund's investment must not exceed 30%.
- (18) The value of a bond/fixed income fund's investments in debentures issued by any one group of companies must not exceed 30% of the fund's NAV.

Index funds

- (19) For a fund whose principal objective is to track or replicate an index, the single issuer limit in (4) and single group limit in (11) may be exceeded provided that the investment in any component securities does not exceed its respective weightings in the underlying index.
- (20) The weightings may be based either on the entire component securities, or a representative sample, of the underlying index.
- (21) The underlying index should—
 - (a) have a clearly defined objective;
 - (b) appropriately reflect the characteristics of the market or sector;

- (c) be able to reflect price movements of its component securities, and change the composition and weightings of the component securities;
- (d) be broadly based;
- (e) be sufficiently liquid; and
- (f) be transparent and published in an appropriate manner.

Investment concentration limits

- (22) A fund's investments in transferable securities (other than debentures) must not exceed 10% of the securities issued by any single issuer.
- (23) A fund's investments in debentures must not exceed 20% of the debentures issued by any single issuer.
- (24) A fund's investments in money market instruments must not exceed 10% of the instruments issued by any single issuer.

Note: The limit in paragraph (24) does not apply to money market instruments that do not have a pre-determined issue size.

- (25) A fund's investments in collective investment schemes must not exceed 25% of the units/shares in any one collective investment scheme.

MONEY MARKET

FUND General

- (1) A money market fund is one which invests primarily in short-term debentures, short-term money market instruments and placement in short-term deposits.
- (2) Only funds that comply with the restrictions and limits of this appendix can hold itself out as a money market fund.
- (3) The investment limits and restrictions in this appendix does not apply to a fund that invest in debentures and/or money market instruments as part of a diversified portfolio, or a fund whose investment objective is to invest predominantly in long-term debentures or money market instruments.
- (4) The fund's assets should only consist of "permitted investments". For the purpose of this appendix, "permitted investments" are—
 - (a) debentures;
 - (b) money market instruments; and
 - (c) placement in deposits.

Exposure limits

- (5) The value of a fund's investments in permitted investments must not be less than 90% of the fund's NAV.
- (6) The value of a fund's investments in permitted investments which have a remaining maturity period of not more than 365 days must not be less than 90% of the fund's NAV.

- (7) The value of a fund's investments in permitted investments which have a remaining maturity period of more than 365 days but fewer than 732 days must not exceed 10% of the fund's NAV.

Investment spread limits

- (8) The value of a fund's investments in debentures and money market instruments issued by any single issuer must not exceed 20% of the fund's NAV.
- (9) The single issuer limit in (8) may be increased to 30% if the debentures are rated by any domestic or global rating agency to be of the best quality and offer highest safety for timely payment of interest and principal.
- (10) The value of a fund's placement in deposits with any single financial institution must not exceed 20% of the fund's NAV.
- (11) The value of a fund's investments in debentures and money market instruments issued by any group of companies must not exceed 30% of the fund's NAV.
- (12) Where applicable, the core requirements for non-specialised funds shall apply for any other type of investments.

Investment Concentration Limits

- (13) A fund's investments in debentures must not exceed 20% of the securities issued by any single issuer.
- (14) A fund's investments in money market instruments must not exceed 20% of the instruments issued by any single issuer.
- (15) A fund's investments in collective investment schemes must not exceed 25% of the units/shares in any collective investment scheme.

FUND-OF-FUNDS

General

- (1) A Fund-of-Funds is one which invests all its assets in other collective investment schemes.
- (2) The fund's assets should only consist of units/shares in other collective investment schemes.
- (3) Only funds which comply with the restrictions and limits of this appendix can hold itself out as a Fund-of-Funds.
- (4) A management company or the fund manager, must ensure that the investments in other collective investment schemes comply with the general requirements set out in Chapter 8 "Investments in Collective Investment Schemes" of these Guidelines.
- (5) A Fund-of-Funds must not invest in–
 - (a) a Fund-of-Funds;
 - (b) a Feeder Fund; and
 - (c) any sub-fund of an umbrella scheme which is a Fund-of-Funds or a Feeder Fund.
- (6) For a Fund-of-Funds that invests in a sub-fund of an umbrella scheme, the sub-fund of the umbrella scheme should be treated as if it is a separate collective investment scheme.

Investment spread limits

- (7) A Fund-of-Funds must invest in at least five collective investment schemes at all times.

- (8) The value of a fund's investments in units/shares of any collective investment scheme must not exceed 30% of the fund's NAV.

Investment concentration limit

- (9) A fund's investments in collective investment schemes must not exceed 25% of the units/shares in any collective investment scheme.

FEEDER FUND

General

- (1) A Feeder Fund is one which invests all its assets in a single collective investment scheme.
- (2) The fund's assets should only consist of units/shares of a single collective investment scheme.
- (3) Only funds which comply with the restrictions and limits of this appendix can hold itself out as a Feeder Fund.
- (4) A management company or the fund manager, must ensure that–
 - (a) investments in the other collective investment scheme comply with the general requirements set out in Chapter 8 “Investments in Collective Investment Schemes” of these Guidelines; and
 - (b) the collective investment scheme is managed by another management company or a foreign operator.
- (5) “Foreign operator” in (4)(b) means a foreign-incorporated entity responsible for the management of assets held for or within a collective investment scheme, or who otherwise operates a collective investment scheme, and on whose behalf issue and offer units/shares of the collective investment scheme.
- (6) A Feeder Fund must not invest in–
 - (a) a Fund-of-Funds;
 - (b) a Feeder Fund; and
 - (c) any sub-fund of an umbrella scheme which is a Fund-of-Funds or a Feeder Fund.
- (7) For a Feeder Fund that invests in a sub-fund of an umbrella scheme, the sub-fund of the umbrella scheme should be treated as if it is a separate collective investment scheme.

UMBRELLA FUND

General

- (1) An umbrella fund is one which comprises at least two sub-funds.
- (2) An umbrella fund must provide favourable switching facilities between its sub-funds, compared with switching facility involving other funds under the same management company.
- (3) A sub-fund's assets must not consist of units/shares of another sub-fund within the same umbrella fund.

Investment Restrictions

- (4) Each sub-fund of an umbrella fund is subject to the investment restrictions and spread limits within which it is categorised under, and will be treated as a single fund.
- (5) Notwithstanding (4), the investment concentration limits will apply at the level of the umbrella fund.

CAPITAL PROTECTED FUND

General

- (1) A capital protected fund is one whose primary objective is to protect and return investors' capital at a pre-determined date in the future, with some returns, if any.
- (2) The word "protected" must appear in the fund's name. Where a fund does not comply with the requirements in this appendix, it must not use the word "protected" or any other name that implies some form of capital protection, in its name or in its promotional materials. Such a fund is prohibited from holding itself out as a capital protected fund.
- (3) To ensure the fund's objective is met, the fund's assets must primarily consist of debentures and money market instruments that–
 - (a) (for debentures) have a minimum short-term rating by a global or domestic rating agency which indicates strong ability for timely payment of obligations, or a minimum long-term rating by a global or domestic rating agency which indicates high safety for timely payment of interest and principal; and
 - (b) (for money market instruments) are issued by a financial institution with a minimum short-term rating by any global or domestic rating agency which indicates strong capacity for timely payment of obligations, or a minimum long-term rating by a global or domestic rating agency which indicates high safety for timely payment of financial obligations.

Guidance to paragraph (3)

The minimum-ratings in (3) are not applicable to debentures issued by, or backed by, the Malaysian government or Bank Negara Malaysia.

Exposure limits

- (4) The value of a fund's investments in debentures and money market instruments which meet the minimum rating in (3) must not be less than 85% of the fund's NAV.
- (5) The value of a fund's investments in unlisted securities must not exceed 10% of the fund's NAV.

Investment spread limits

- (6) The value of a fund's investments in debentures and money market instruments issued by any single issuer must not exceed 20% of the fund's NAV.
- (7) The value of a fund's investments in debentures and money market instruments issued by any group of companies must not exceed 30% of the fund's NAV.
- (8) Where applicable, the investment limits and restrictions for non-specialised funds should apply for any other type of investments.

Investment concentration limits

- (9) A fund's investments in debentures must not exceed 20% of the debentures issued by any single issuer.
- (10) A fund's investments in money market instruments must not exceed 20% of the instruments issued by any single issuer.
- (11) A fund's investments in collective investment schemes must not exceed 25% of the units/shares in any collective investment scheme.

GUARANTEED FUND

General

- (1) A guaranteed fund is one which guarantees investors will get back the capital invested, with some returns, if any, or guarantees investors a certain investment return payable at a pre-determined date in the future.
- (2) The word “guarantee” must appear in the fund’s name. Where a fund does not comply with the requirements in this appendix, it must not use the word “guarantee”, or any other name which may imply some form of guarantee, in its name or in its promotional materials. Such a fund is prohibited from holding itself out as a guaranteed fund.

Guarantor

- (3) A guarantor must be appointed to provide a guarantee for the fund.
- (4) A guarantor must be a licensed bank, licensed investment bank or a licensed Islamic bank.
- (5) A guarantor must have a minimum long-term rating that indicates adequate safety for timely payments of financial obligations and have adequate credit profile by any global or domestic rating agency.
- (6) Where a guarantor’s rating falls below the minimum required under (5), or the guarantor ceases to be rated, the management company should, within six months or sooner, and if the trustee considers it to be in the best interest of unit holders, enter into a new agreement with a new guarantor that satisfies (4) and (5).

Guarantee

- (7) The trustee must enter into a written agreement with the guarantor and must ensure there is a guarantee at all times.
- (8) The guarantee must be legally enforceable against the guarantor by the trustee, on behalf of unit holders.
- (9) For a capital guaranteed fund, the guarantee must cover no less than 100% of the capital invested by a unit holder (i.e. excluding sales charge or front-end loads).
- (10) No variation or modification to the guarantee agreement is permitted, unless the trustee's consent has been obtained. Notwithstanding, where the trustee is of the opinion that the variations or modifications are material, such variations or modifications can only be made with unit holders' prior approval.
- (11) The guarantee may be terminated under the following circumstances:
 - (a) The trustee may terminate the guarantee if the guarantor is in liquidation or ceases to carry on business (excluding for the purpose of reconstruction or amalgamation);
 - (b) The trustee and guarantor may terminate the guarantee if any law is passed which renders the agreement illegal or null and void; and
 - (c) The trustee and the guarantor may terminate the guarantee if the fund is terminated voluntarily.

Investment spread and concentration limits

- (12) Depending on the nature and underlying investments of the fund, the respective investment limits and restrictions for non-specialised and specialised funds should apply to a guaranteed fund.

Schedule C

VALUATION

| Investment instruments | Valuation basis |
|---|--|
| <p>Securities listed on any exchange</p> | <p>Market price.</p> <p>However, if–</p> <p>(a) a valuation based on the market price does not represent the fair value of the securities, for example during abnormal market conditions; or</p> <p>(b) no market price is available, including in the event of a suspension in the quotation of the securities for a period exceeding 14 days, or such shorter period as agreed by the trustee,</p> <p>then the securities should be valued at fair value, as determined in good faith by the management company or the fund manager, based on the methods or bases approved by the trustee after appropriate technical consultation.</p> |
| <p>Unlisted bonds denominated in ringgit Malaysia</p> | <p>Price quoted by a bond pricing agency (BPA) registered by the SC.</p> <p>Where a management company is of the view that the price quoted by BPA for a specific bond differs from the “market price” by more than 20 basis points, the management company or fund manager may use the “market price”, provided that the management company or fund manager–</p> |

| Investment instruments | Valuation basis |
|--|--|
| | <p>(a) records its basis for using a non-BPA price;</p> <p>(b) obtain necessary internal approvals to use the non-BPA price; and</p> <p>(c) keeps an audit trail of all decisions and basis for adopting the “market yield”.</p> |
| Other unlisted bonds | Fair value by reference to the average indicative yield quoted by three independent and reputable institutions. |
| Unlisted collective investment schemes | Last published repurchase price. |
| Any other investment | Fair value as determined in good faith by the management company or fund manager, on methods or bases which have been verified by the auditor of the fund and approved by the trustee, and adequately disclosed in the prospectus of the fund. |

DEED OF A UNIT TRUST FUND

Minimum contents for a deed

Covenants of the management company

- (1) A deed of a unit trust fund must contain duties of a management company which are prescribed under the CMSA and also include, but not limited to, the following covenants:
 - (a) It must ensure that the unit trust fund has, at all times, an appointed trustee;
 - (b) It must pay to the trustee, within 10 days after receipt by the management company, any money which, under the deed, is payable to the trustee;
 - (c) It must not sell any unit of the unit trust fund to which the deed relates, other than at a price calculated in accordance with the deed;
 - (d) It must, at the request of the unit holder, purchase units held by the unit holder, and the purchase price will be a price calculated in accordance with the deed;
 - (e) It must make available, or ensure that there is made available, to the trustee such information as the trustee requires on all matters relating to the unit trust fund to which the deed relates;
 - (f) It must not exercise the voting rights with respect to the units it holds in any unit holders' meeting, regardless of the party who requested for and called the meeting and the matter or matters that are laid before unit holders; and
 - (g) It must attach the trustee's report together with the annual report to be sent to unit holders.
 - (h) *[deleted]*

Covenants of the Trustee

- (2) A deed of a unit trust fund must contain duties of a trustee which are prescribed under the CMSA and also include, but not be limited to, the following covenants:
- (a) It must ensure that the unit trust fund has, at all times, an appointed management company;
 - (b) It must exercise all due diligence and vigilance in carrying out its functions and duties and in safeguarding the rights and interests of unit holders to which the deed relates;
 - (c) It must ensure that the management company does not use its position improperly in managing the unit trust fund to gain, directly or indirectly, an advantage for itself or for any other person or to cause detriment to the interests of unit holders of such a unit trust fund;
 - (d) It must keep or cause to be kept proper books for all investments and properties of the unit trust fund;
 - (e) It must ensure that proper books are kept of all transactions, dividends, interests and income received and distributed for the unit trust fund to which the deed relates; and
 - (f) It must cause the financial statements of the unit trust fund to be audited at the end of each financial year by an auditor appointed by the trustee.

Joint covenants of the management company and trustee

- (3) A deed of a unit trust fund must contain covenants of the management company and trustee including, but not be limited to, the following:
- (a) The management company and the trustee must safeguard the interests of unit holders; and
 - (b) The management company and the trustee must ensure

that for the duration of the unit trust fund, there is a registered deed in force at all times.

(c) *[deleted]*

Other provisions

- (4) A deed of a unit trust fund must also contain provisions for the following:
- (a) Creation of the fund or declaration of trust, which also sets out full particulars of the trust, including precise information as to the circumstances in which the money, securities, investments and properties subject to the fund are or will be vested in that trustee, and the duties and obligations of the trustee towards;
 - (b) That the deed—
 - (i) is binding on each unit holder as if it had been a party to it and that it is bound by its provisions;
 - (ii) authorises and requires the management company and the trustee to do the things required or permitted of them by the terms of the deed; and
 - (iii) is made and governed under the laws of Malaysia;
 - (c) Appointment of a trustee to the unit trust fund to which the deed relates;
 - (d) Full particulars of the unit trust fund including, but not limited to—
 - (i) name of the fund;
 - (ii) investment objective of the fund;
 - (iii) permitted investments, limits and restrictions;

- (iv) basis for the valuation and the pricing policy for the fund;
- (v) if the fund has a limited duration, a statement to that effect;
- (vi) distribution policy, including the basis for the distribution or reinvestment of income;
- (vii) financial period of the fund;
- (viii) if classes of units are issued, a provision specifying the classes, differences between the classes and rights attached to each class;

Guidance to subparagraph (4)(d)(viii)

- (a) A class of units should not provide any advantage for that class if that would result in prejudice to unit holders of any other class;
- (b) The nature, operation and effect of the new class of units should be capable of being explained clearly to prospective investors; and
- (c) The effect of the new class of units should not be contrary to the requirements of the CMSA or the purpose of any part of these Guidelines.

- (ix) if any class of units may be mandatorily or otherwise converted to another class of units, a provision specifying the conditions/circumstances in which such conversion may occur; and
- (x) a statement on the base currency of a fund (if classes of units are denominated in different currencies).

- (e) Full particulars on circumstances in which, and methods by which, all or any of the investments may be varied;
- (f) Full particulars on the provision to be made for investments in assets which depreciates in value, including the source from which the replacement is to be made or from which the cost of replacement is to be met. If no provision is made, a statement to that fact must be clearly stated;
- (g) Full particulars on the conditions governing the transfer of any unit to which the deed relates;
- (h) Full particulars on the remuneration of the management company and trustee, respectively, including dealing charges, if any, and expenses which are allowed to be paid out of the fund;
- (i) Where the deed requires, or confers a right on, unit holders to enter into an agreement in connection with the unit trust fund, a provision incorporating, the terms and conditions of that agreement;
- (j) A declaration that unless the conditions of issue of any unit expressly provide that a certificate not be issued, a certificate must be issued by the trustee to a purchaser of any unit purchased or subscribed for, not more than two months after the issue of the unit;
- (k) Circumstances under which the dealing in units can be deferred or suspended;
- (l) Circumstances, procedures and processes for termination of the fund (where multiple classes of units are issued, the circumstances, procedures and processes for termination of each class of units and the fund);
- (m) Circumstances, procedures and processes for convening of meetings of unit holders, including the manner in which votes may be given at a meeting of unit holders;

- (n) Circumstances, procedures and processes for retirement, removal and replacement of the management company and the trustee;
- (o) Circumstances, procedures and processes for the appointment, retirement, removal and replacement of the auditor for the fund;
- (p) Specific provisions whereby the management company undertakes to keep and maintain an up-to-date register of unit holders and to make that register available for inspection, free of charge, to any unit holder at any time during ordinary business hours of the management company;
- (q) The extent of the indemnity provided by the management company;
- (r) Provisions relating to unit holders' rights and the extent of their liability; and
- (s) Provisions governing the modification of the deed.

CONTENTS OF A FUND'S REPORT

- (1) The purpose of a fund's report is to provide information to enable unit holders to evaluate the performance of a fund.
- (2) The information required by the SC under this schedule is the minimum that must be included in a fund's report.
- (3) A fund's report need not adopt the terms used under this schedule. Where possible, the report should avoid unnecessary jargon and use terms which are easily understood by unit holders.
- (4) For umbrella funds, a report must be prepared for each sub-fund.
- (5) For a fund with multiple classes of units, that fund's report must contain information with respect to each class of units in issue.

Fund Information

- (6) This section must disclose the following information:
 - (a) Name, type and category of the fund;
 - (b) The fund's investment objective;
 - (c) Duration of the fund and its termination date, where applicable;
 - (d) The fund's performance benchmark;
 - (e) The fund's distribution policy; and
 - (f) Breakdown of unit holdings by size:
 - (i) 5,000 and below;
 - (ii) 5,001 to 10,000;

- (iii) 10,001 to 50,000;
- (iv) 50,001 to 500,000; and
- (v) 500,001 and above.

Fund Performance

- (7) The following information must be disclosed in this section:
- (a) A comparative table covering the last three financial years, or since inception if shorter, showing for the end of each financial year—
 - (i) portfolio composition of the fund, e.g. distribution among industry sectors, markets and category of investments;
 - (ii) NAV of the fund;
 - (iii) NAV per unit and the number of units in circulation as at the end of each year;
 - (iv) highest and lowest NAV per unit;
(The above figures referred to in (ii) to (iv) must be shown as ex-distribution.)
 - (v) total return of the fund, and the breakdown into capital growth and income distribution;
 - (vi) distribution per unit (gross and net) for interim and final distribution, if any, and any other forms of distribution made and proposed during the period. The date of each distribution and the effects of the income and additional distribution in terms of NAV per unit before and after distribution must be disclosed;

- (vii) management expense ratio (MER) of the fund and an explanation for the difference in MER, where applicable. MER; and
- (viii) portfolio turnover ratio (PTR) of the fund and an explanation for the difference in PTR, where applicable;
- (b) Average total return of the fund measured over the following periods, to the date of the report:
 - (i) one year, or since inception if shorter;
 - (ii) three years; and
 - (iii) five years; and
- (c) Annual total return of the fund for each of the last five financial years, or since inception if shorter.
- (8) MER can be calculated based on the ratio of the sum of fees and the recovered expenses of the unit trust fund to the average value of the unit trust fund calculated on a daily basis, i.e.

$$\frac{\text{Fees of the unit trust fund + Recovered expenses of the unit trust fund}}{\text{Average value of the unit trust fund calculated on a daily basis}} \times 100$$

Where:

Fees = All ongoing fees deducted / deductible directly from the unit trust fund in respect of the period covered by the management expense ratio, expressed as a fixed amount, calculated on a daily basis. This would include the annual management fee, the annual trustee fee and any other fees deducted / deductible directly from the unit trust fund;

Recovered = All expenses recovered from/ charged to the unit trust fund, as a result of the expenses incurred by the operation of the unit trust fund, expressed as a fixed amount. This should not include expenses that would otherwise be incurred by an individual investor (e.g. brokerage, taxes and levies); and

Average value of the unit trust fund = The NAV of the unit trust fund, including unit trust net income value of the fund, less expenses on an accrued basis, in respect of the period covered by the management expense ratio, calculated on a daily basis.

- (9) PTR can be calculated based on the ratio of the average sum of acquisitions and disposals of the unit trust fund for the year to the average value of the unit trust fund for the year calculated on a daily basis, i.e.

[Total acquisitions of the fund for the year + Total disposals of the fund for the year] / 2

Average value of the unit trust fund for the year calculated on a daily basis

- (9) PTR can be calculated based on the ratio of the average sum of acquisitions and disposals of the unit trust fund for the year to the average value of the unit trust fund for the year calculated on a daily basis, i.e.

$$\frac{[\text{Total acquisitions of the fund for the year} + \text{Total disposals of the fund for the year}] / 2}{\text{Average value of the unit trust fund for the year calculated on a daily basis}}$$

- Average value of the unit trust fund for the year calculated on a daily basis
- (10) A fund's report may include other performance data for any other period aside from those mentioned in (7) above. However, all performance data presented must comply with the following requirements:
- (a) The bases of calculation and any assumption made must be consistently applied, adequately disclosed and independently verified; or
 - (b) The data used must be obtained from independent sources.
- (11) There must be a warning statement that past performance is not necessarily indicative of future performance and that unit prices and investment returns may go down, as well as up.

Manager's report

- (12) A management company must prepare a report containing an operational review of the fund, the result of those operations and details of significant changes in the state of affairs of the fund during the financial period.
- (13) In selecting a format for the presentation of the report, consideration must be given, not only to the completeness and accuracy of the data, but also to the clarity of the overall presentation.

- (14) A fund's report must include the following:
- (a) Explanation on whether the fund has achieved its investment objective. The explanation must be stated upfront and clearly, but this is not compulsory for interim report;
 - (b) Comparison between the fund's performance during the period and the performance of the benchmark disclosed in the prospectus. This must cover the last five financial years, or since inception if shorter, and should be illustrated in graphical form;
 - (c) Description of the strategies and policies employed during the period under review. To state any change in strategy adopted which was not in line with the strategy disclosed in the prospectus;
 - (d) Where applicable, an explanation on the differences in portfolio composition between the current and previous year;
 - (e) A write-up of the analysis of the fund's performance based on NAV per unit adjusted for income distribution, if any, since the last review period or in the case of newly launched funds, since commencement;
 - (f) Review of the markets in which the fund invests in during the period. Information on returns on investments in each market is encouraged. Focus should be given on instruments comprising major asset allocation, e.g. equity-general, equity-small cap;
 - (g) Details of any unit split exercise carried out during the period. State clearly effects on NAV per unit before and after the unit split exercise;
 - (h) Description and explanation of significant changes in the state of affairs of the fund during the period and up to the date of manager's report, not otherwise disclosed in the financial statements;

- (i) Circumstances which materially affect any interest of unit holders;
- (j) A statement whether any soft commission has or has not been received by the management company or fund manager for the period under review from any broker or dealer by virtue of transactions conducted for the fund. If any soft commission is received, the following must be disclosed:
 - (i) Identification of the goods or services received; and
 - (ii) Manner in which the goods or services received were utilised.

For Index Funds only

- (k) The characteristics and general composition of the index and, where applicable, concentration in any economic sector and/or issuer; and
- (l) Comparison and explanation of the fund's performance, and the actual underlying index's performance over the relevant period.

Trustee's report

- (15) A trustee must prepare a report stating its opinion whether the management company has operated and managed the fund in accordance with the following:
 - (a) Limitations imposed on the investment powers of the management company under the deed, securities laws and these Guidelines;
 - (b) Valuation and pricing is carried out in accordance with the deed and any regulatory requirement; and
 - (c) Creation and cancellation of units are carried out in accordance with the deed and any regulatory requirement.

- (16) If the trustee is of the opinion that the management company has not done so, the trustee must disclose the shortcomings which may have an impact on the decision of existing or potential unit holders to remain invested or to invest in the fund. The trustee must also highlight steps taken to address the shortcomings and to prevent the recurrence of the shortcomings.
- (17) The report prepared by a trustee must state its opinion on whether the distribution of income by the fund is appropriate and reflects the investment objective of the fund.

Shariah adviser or panel of advisers' report

- (18) The Shariah adviser or panel of advisers must prepare a report stating its opinion whether the fund has been operated and managed in accordance with the specific principles set out for the fund. If it has not been operated and managed according to the specific principles, then the steps taken to address the situation and to prevent the recurrence of the situation must be highlighted.
- (19) For a Shariah-compliant fund, the report by the Shariah adviser must also include–
 - (a) its opinion whether the fund has been managed in accordance with applicable guidelines, ruling or decision issued by the SC pertaining to Shariah matters; and
 - (b) a statement to the effect that the investment portfolio of the fund comprises instruments that have been classified as Shariah compliant by the Shariah Advisory Council (SAC) of the SC or the SAC of Bank Negara Malaysia (BNM). For instruments not classified as Shariah-compliant by the SAC of the SC or SAC of BNM, a statement stating that the status of the instruments has been determined in accordance with the ruling issued by the Shariah adviser.

Financial Statements

- (20) The financial statements must give a true and fair view of the fund, and must be prepared in accordance with applicable approved accounting standards, applicable statutory requirements, the deed and any regulatory requirement. The disclosure requirements set out for financial statements in this schedule must be complied with unless superseded by approved accounting standards.
- (21) For interim reports, it must be clearly stated whether the financial statements in the interim report are audited or unaudited.
- (22) For the purpose of (21) where unaudited financial statements are used, the financial statements must include a declaration by the director(s) of the management company that the financial statements give a true and fair view of the fund. A signed copy of the declaration, which must be identical to the declaration printed in the report, must be submitted to the SC.
- (23) Additional Disclosure Requirements in Financial Statements
- A Balance sheet**
- (a) NAV of the fund;
 - (b) Number of units in circulation;
 - (c) NAV per unit (ex-distribution, where applicable); and
 - (d) Net assets/liabilities attributable to unit holders.
- B Classification of investments**
- (a) Investment (including cash and cash equivalents) should not be classified as current or non-current, but should be presented in an order that reflects each category's relative liquidity; and

- (b) The carrying amount of investments, where applicable, to be categorised as follows:
 - (i) Fixed income and other debt securities;
 - (ii) Quoted and unquoted equity securities;
 - (iii) Derivatives (e.g. futures, options);
 - (iv) Other collective investment schemes;
 - (v) All foreign investments;
 - (vi) Any other investment, with significant items to be disclosed separately;
 - (vii) Cash and cash equivalents; and
 - (viii) Significant items included in other assets, disclosed separately.

C *Income statement*

- (a) Income, by category:
 - (i) Interest income;
 - (ii) Dividend income;
 - (iii) Net realised gains or losses on sale of investments;
 - (iv) Net realised gain on sale of instrument in non-permissible securities (for Shariah funds);
 - (v) Dividend income from non-permissible securities (for Shariah funds); and
 - (vi) Other significant income items;

- (b) Expenses, by category:
 - (i) Fees and charges paid to management company, with each type of fee and charge shown separately;
 - (ii) Trustee's fees and any requirement of trustee's expenses, including the basis for the fees charged by the trustee;
 - (iii) Auditor's fees;
 - (iv) Tax agent's fee;
 - (v) Administrative fees and expenses;
 - (vi) Payment made to charitable bodies (for Shariah funds); and
 - (vii) Other significant expenses items;
- (c) Net income before and after taxation;
- (d) For net income after tax, the break down into "realised" and "unrealised" portions; and
- (e) Total amount for distribution (net) and distribution per unit (gross and net) for the interim and final distribution, including the date for each distribution.

D *Statement of Changes in NAV*

Movement in the NAV of the fund during the period, separately categorising those changes arising from investment and those arising from transactions with unit holders. The following, where applicable, must be shown separately under the appropriate categories:

- (a) NAV at the beginning and end of the period;
- (b) Net income for the period;

- (c) Amounts received from units created;
- (d) Amounts paid for units cancelled;
- (e) Distributions to unit holders; and
- (f) Changes in unrealised reserves.

E Cash flow statement

F Notes to the financial statements

- (a) The basis of income recognition;
- (b) The basis for fees and charges paid to the management company;
- (c) The basis for fees and charges paid to the trustee;
- (d) Movements in the number of units created or cancelled during the period, highlighting the number of units created as additional distribution, if any;
- (e) Transactions with the top 10 brokers or dealers disclosed as follows:
 - (i) Broker or dealer transactions by value of trade and percentage;
 - (ii) The aggregate amount of brokerage fees or commissions paid by the fund, as well as the amount of fees or commissions paid to each broker or dealer expressed in both value and percentage;
 - (iii) Parties related to the management company or fund manager must be highlighted; and

- (iv) Statement as to whether dealings with related parties have been transacted at an arm's length basis.

- (f) The total number and value of units held by the management company and its related parties and whether the units are held legally or beneficially;

- (g) The composition of the investment portfolio of the fund as at the date of the financial report must be disclosed. It must be grouped appropriately, based on categories (e.g. sector, market) that would facilitate a meaningful analysis. For each category, the following must be stated:
 - (i) Quantity held;
 - (ii) Cost of the investment;
 - (iii) Market value of the investment; and
 - (iv) Market value of each holding as a percentage of NAV.

A list of suspended counters, including valuation method and non-approved securities (for Shariah-compliant funds) must be separately identified. Actions to be taken by the managers on these suspended counters must be disclosed;

- (h) Auditor's verification on management expense ratio and portfolio turnover ratio (applicable only for annual report);

- (i) Sources of distribution

Distribution to unit holders is from the following sources, where applicable:

| | 20X8 | 20X7 |
|---|------------|------------|
| | RM'000 | RM'000 |
| Dividend income | xx | xx |
| Interest income | xx | xx |
| Profit sharing from Islamic debt securities | xx | xx |
| Realised gains [less losses] on sale of investments | xx | xx |
| Previous year/period's realised gains | xx | xx |
| Other income | xx | xx |
| | <u>xxx</u> | <u>xxx</u> |
| Less: | | |
| Expenses | xx | xx |
| Taxation | xx | xx |
| | <u>xxx</u> | <u>xxx</u> |
| Gross distribution per unit (sen) | xx | xx |
| Net distribution per unit (sen) | xx | xx |

- (j) Additional statements on distributions are required, when–
- (i) there are unrealised losses (be they arising during the year or period or brought forward from previous year or period) within the fund; and/or
 - (ii) distributions are made from previous year's realised gains.

Schedule F

SUBMISSION OF APPLICATIONS, NOTIFICATIONS AND DOCUMENTS

General

- (1) Applications may only be submitted to the SC by the following:
 - (a) A management company;
 - (b) [*deleted*]
 - (c) An adviser,

herein referred to as “submitting party”.
- (2) Applications must be submitted in accordance with the requirements set out under this schedule, unless otherwise specified. Submission of applications which do not comply with the requirements or which are unsatisfactory will be returned.
- (3) The management company, trustee, or adviser, as the case may be, has a duty of care to ensure that all SC requirements pertaining to submission of applications are met and is responsible for dealing with the SC on all matters in connection with the applications.
- (4) The submitting party and any other person accepting responsibility for all or part of the information and documents submitted to the SC must exercise due diligence for all or any part of the information submitted relating to, or in connection with the application. The parties to the submission of an application must comply with the relevant guidelines issued by the SC in this regard.
- (5) The information provided in the submission must be correct as at the latest practicable date.

- (6) The SC may, at its discretion, request for additional information and documents not specified in this schedule.
- (7) The SC must be immediately informed of–
 - (a) any material change in circumstances that would affect the SC's consideration of the application; and/or
 - (b) any material change or development in circumstances relating to the application, occurring subsequent to the SC's approval or authorisation.
- (8) The SC may consider an application to vary any terms and conditions of an SC approval or authorisation, as the case may be. Such application must be supported by justifiable grounds which may include changes in circumstances beyond the control of the relevant parties.

Application for the establishment of a unit trust fund

- (9) Submission to the SC must comprise the following:
 - (a) Application–
 - (i) to authorise a new fund; and
 - (ii) where applicable, to be assessed as a Qualifying CIS pursuant to the Standards of Qualifying CIS;
 - (b) Application for a company to act as management company for the fund, where applicable;
 - (c) [*deleted*]
 - (d) Application to register and lodge the deed of the fund;
 - (e) Application to register the prospectus of the fund; and
 - (f) Any other relevant application.

Application for an extension of time

- (10) An application for an extension of time must be submitted to the SC at least 30 days before the stipulated expiry date.
- (11) Where an application is submitted less than 30 days before the expiry date, the SC will not be responsible for any delay in considering the application.

Fees

- (12) All applications must be accompanied with the appropriate fee, where applicable. An application is deemed incomplete if the appropriate fee is not submitted.
- (13) The details of fees payable to the SC for the various types of applications are set out in the *Capital Markets and Services (Fees) Regulations 2012* as may be amended from time to time.
- (14) Payment must be made in the form of a crossed cheque/draft order made in favour of "Suruhanjaya Sekuriti" or "Securities Commission".

Schedule F: Appendix I(a)

SUBMISSION OF APPLICATIONS

Application for SC's authorisation or approval

- (1) An application submitted to the SC must comprise the following:
 - (a) Cover letter, specifying–
 - (i) the authorisation or approval sought, including particulars of the application(s);
 - (ii) other approvals or clearance obtained or pending, where applicable; and
 - (iii) details of any departure from the relevant guidelines, together with relevant justifications and waiver or exemption sought for such departure. Where waiver or exemption has been obtained, to provide details of such waiver or exemption.

Guidance to subparagraph (1)(a)

For an application to establish a new fund, one cover letter can be accepted for multiple applications in a single submission. For an application to establish more than one fund (except an umbrella fund), a separate application must be submitted for each fund.

- (b) A declaration letter in the form provided in Appendix II of this schedule;

Guidance to subparagraph (1)(b)

For multiple applications, a declaration must be submitted by the relevant submitting party responsible for all or any part of the information submitted in respect of the application to which it is seeking an approval.

- (c) Supporting documents required for each type of application as follows (application forms are available on the SC's website at www.sc.com.my):

Application to establish a new fund

| Appendix | Form | Title/Remarks |
|-----------------|-------------|--|
| I | SC/UTF-NEW | Application for the establishment of a fund. |
| II | | For application under expedited authorisation process, an electronic copy of the prospectus in text-searchable format (PDF-text) and scanned with OCR (optical character recognition) must be submitted in a manner as prescribed by the SC. |

Application to act as management company of a fund

| Appendix | Form | Title/Remarks |
|-----------------|-------------|---|
| I | SC/MC | Application for the appointment of a company to act as a management company to a fund. |
| II | | Statutory declaration from the management company stating that it is independent of the trustee. |
| III | | Where applicable, a declaration by the management company that it has the capabilities and capacity to manage and administer multiple classes of units for a fund. |
| IV | | Where applicable, the management company must: (i) Declare that it has fulfilled the requirements as prescribed under the Standards of Qualifying CIS to be a Qualifying CIS Operator; and |

| Appendix | Form | Title/Remarks |
|----------|------------|--|
| | | (ii) Undertake to ensure continuous compliance with the requirements of the Standards of Qualifying CIS. |
| I | SC/TRUSTEE | [deleted] |
| II | | [deleted] |
| III | | [deleted] |

Application for an exemption, variation or extension of time

| Appendix | Form | Title/Remarks |
|----------|------|---|
| I | | Justification or rationale for the application. |
| II | | Statement from the trustee of the fund that the exemption, variation or extension of time does not jeopardise unit holders' interest. |
| III | | Approval or clearance letter from other authorities, where applicable. |

Application to register with the SC

- (2) [deleted]
 - (a) [deleted]
 - (i) [deleted]
 - (ii) [deleted]
 - (b) [deleted]

| Appendix | Form | Title/Remarks |
|-----------------|----------------------------|----------------------|
| I | SC/TRUSTEE REGISTRATION | [deleted] |
| II | | [deleted] |

Schedule F – Appendix I(b)

NOTIFICATION AND SUBMISSION OF DOCUMENTS

Notification to SC

- (1) A notification to the SC must comprise the following:
 - (i) Notification forms, where applicable; and
 - (ii) Supporting documents required for each type of notification, where applicable.
- (2) The notification forms are available on the SC's website at www.sc.com.my.

Lodgement of annual report of a fund with SC

- (3) The submission of the annual report which must be lodged with the SC pursuant to requirements of the CMSA must comprise a cover letter, three printed copies of the annual report and minimum content checklist.

Submission of interim report of a fund to SC

- (4) The submission of the interim report of a fund required under paragraph 13.15 must comprise a cover letter, three printed copies of the interim report and minimum content checklist.

Schedule F – Appendix II(a)(i)

DECLARATION BY THE APPLICANT

Chairman
Securities Commission Malaysia

Dear Sir

APPLICANT (*name of management company/trustee*)

Declaration

We,....(*name of applicant*)...., are proposing to undertake the following proposals:

- a.
- b.
- c.

(hereafter referred to as “the Proposal”)

2. We confirm that after having made all reasonable enquiries, and to the best of our knowledge and belief, there is no false or misleading statement contained in, or material omission from, the information which is provided to the advisers or to the SC on the Proposal and the *Guidelines on Due Diligence Conduct for Corporate Proposals* have been complied with.

3. We declare that we are satisfied, after having made all reasonable enquiries, that the Proposal is in full compliance with the following:

- (i) The relevant requirements of the *Guidelines on Unit Trust Funds**;
- (ii) The relevant requirements of the Standards of Qualifying CIS[^]; and
- (iii) Other requirements under the *Capital Markets and Services Act 2007* as may be applicable.

4. We undertake to ensure continuous compliance with the requirements and conditions by the SC on the Proposal.

5. We also undertake to provide to the SC all information the SC may require on the Proposal.

This declaration has been signed by me as ...(designation of director)... of ...(the applicant)... pursuant to authority granted to me by a resolution of the Board of Directors on ...(date of resolution)...

Yours faithfully

.....

Signature

Name:

Name of applicant:

Date:

Note

* Where an application for exemption or variation is being sought, to insert the words "except paragraph(s) ...(refer to paragraph where exemption or variation is being sought).... where exemption(s) or variation(s) is/are being sought as part of the submission to the SC."

^ Where it is an application for the establishment of a fund to be deemed as a Qualifying CIS

Schedule F – Appendix II(a)(ii)

DECLARATION BY THE ADVISER

Chairman
Securities Commission Malaysia

Dear Sir

APPLICANT (*name of management company/trustee*)

Declaration

...(Name of applicant)... is proposing to undertake the following

- proposals: (a)
(b)
(c)

(hereafter referred to as “the Proposal”)

We, ...(name of adviser)..., are advising ...(name of applicant)... on the Proposal.

2. We confirm that after having made all reasonable enquiries, and to the best of our knowledge and belief, there is no false or misleading statement contained in, or material omission from, the information which is provided to the SC on the Proposal and the *Guidelines on Due Diligence Conduct for Corporate Proposals* have been complied with.

3. We declare that we are satisfied, after having made all reasonable enquiries, that the Proposal is in full compliance with the following:

- (i) The relevant requirements of the *Guidelines on Unit Trust Funds*;^{*} and
- (ii) Other requirements under the *Capital Markets and Services Act 2007* as may be applicable.

4. We undertake to immediately inform the SC if it has come to our knowledge that the Applicant has breached or failed to comply with such requirements, after submission of this declaration for the Proposal until the implementation of the Proposal.

5. We also undertake to provide to the SC all information the SC may require on the Proposal.

Yours faithfully

.....
Signature

Name of Authorised Signatory:

Designation:

Name of Adviser:

Date:

Note

* Where an application for exemption or variation is being sought, to insert the words "except paragraph(s) ...(refer to paragraph where exemption or variation is being sought).... where exemption(s) or variation(s) is/are being sought as part of the submission to the SC."

Schedule F – Appendix III

REGISTRATION AND LODGEMENT OF A DEED

General

- (1) A deed of a unit trust fund must be submitted for registration and lodgement according to the requirements under this appendix.
- (2) The SC will not register a deed unless the submission is complete and accompanied by all required materials and documents. The SC reserves the right to refuse registration and return the application if the contents of the deed are inadequate and unsuitable, or if the submission is incomplete, as the case may be.
- (3) An application to register a deed of a unit trust fund proposed to be established should be submitted together with the application to establish a new unit trust fund.
- (4) The lodgement file should be submitted together with the registration file (the lodgement file and registration file should be in separate folders.)

Submission of application

Registration of deed

- (5) For the purpose of registering a deed, the registration file must comprise the following:
 - (a) Cover letter, signed by at least one of the directors of the management company, specifying the following:
 - (i) Application to register a deed;
 - (ii) A confirmation that the accompanying documents are complete, signed and dated; and
 - (iii) A declaration stating that the deed complies with the requirements of the CMSA and the Minimum Contents

Requirement for Deed stipulated under these Guidelines.

- (b) Two copies of the executed and stamped deed (two copies);
- (c) (For supplementary deed) A list highlighting the original provisions from the principal deed and the amended provisions;
- (d) Checklist for Minimum Contents for Deeds of Unit Trust Funds;
- (e) Registration Checklist;³ and
- (f) Registration fee and Fee Checklist.^{3a}

Lodgement of deeds

- (6) For lodgement of a deed, the lodgement file must comprise the following:
 - (a) Cover letter signed by at least one of the directors of the management company, specifying the following:
 - (i) Purpose of submission;
 - (ii) A declaration that the copy of the deed lodged with the SC is identical to the deed registered by the SC; and
 - (iii) A declaration that the electronic copy of the deed is identical to the printed deed;
 - (b) Two printed copies of the deed;
 - (c) [*deleted*]
 - (d) Lodgement Checklist;³ and
 - (e) Lodgement fee and Fee Checklist.^{3a}

^{3,3a} The checklist is available at www.sc.com.my

Schedule F – Appendix IV

SUBMISSION OF DOCUMENTS PRIOR TO THE APPLICATION TO ESTABLISH A FEEDER FUND

General

- (1) Prior to a management company submitting an application for authorisation of a feeder fund, the management company must submit to the SC a documentation of–
 - (a) the policy and procedures on how the management company selects its target fund (referred to as “Target Fund Selection Process”), for SC’s clearance; and
 - (b) the risk management policy and procedures of the feeder fund (referred to as “Feeder Fund Risk Management Process”), which is comprehensive in managing all risks related to the feeder fund and its investment in the target fund.
- (2) The submission of the documentation of the Target Fund Selection Process and Feeder Fund Risk Management Process must comprise the following:
 - (a) A cover letter, signed by at least one of the directors of the management company, specifying the clearance sought for the Target Fund Selection Process;
 - (b) A minimum content checklist for the Target Fund Selection Process;
 - (c) A minimum content checklist for the Feeder Fund Risk Management Process;
 - (d) the corresponding electronic copy, in text-searchable Portable Document Format; and
 - (e) Where any document is amended after submission, marked-up copies, including deletions of information, together with the corresponding electronic copy must be submitted to the SC.

REPORTING TO THE SECURITIES COMMISSION MALAYSIA

General

- (1) For the purpose of reporting to the SC, a management company must submit a Statistical Return and Compliance Return (collectively referred to as "UTF Returns") of the fund. The UTF Returns must be submitted on a monthly basis, via the Trusts and Investment Management Electronic Reporting System (TIM-ERS).
- (2) The reporting period must cover the period starting from the first day until the last day of the respective month. For information required at a certain cut-off, it must be as at the last day of the month.
- (3) For a newly-established unit trust fund, the UTF Returns must commence from the month in which the fund's initial offer period ends. For example, if a fund was launched on 28 June and the initial offer period ends on 18 July, the first UTF Returns must be submitted for the month of July. In this instance, the UTF Returns will consist of data for more than one month, i.e. from 28 June to 31 July.
- (4) A management company must take all necessary precautions to ensure that the information provided in the UTF Returns is accurate.
- (5) The chief executive officer is ultimately responsible for all information entered into TIM-ERS. The chief executive officer is expected to ensure that the necessary policies and procedures are in place and the information submitted to the SC via TIM-ERS is true, complete and accurate.
- (6) The Compliance Return must be submitted to the trustee for verification that it is true, complete and accurate to the best of the trustee's knowledge and belief.
- (7) A management company must keep a printed copy of the UTF Returns at the business address of the management company or a designated place approved by the SC at all times for a period of seven years from the date of submission.

- (8) A management company must ensure that the particulars in the printed copy of the UTF Returns and that submitted to the SC via TIM-ERS are identical.
- (9) The SC reserves the right to conduct an examination at the business address or at the designated place to ensure compliance with paragraphs (7) and (8).
- (10) For guidance on use of TIM-ERS, a management company may refer to the TIM-ERS user manual which is available at TIM-ERS website at https://esubmissions.seccom.com.my/tims1.5/TIMERSUserManualversion1_5.pdf .

Access to TIM-ERS

- (11) A new management company must, within 30 days of the launch of its maiden fund, apply to the SC for access to TIM-ERS to ensure compliance with paragraph (3).
- (12) For application to access TIM-ERS, the management company must submit the External User ID Request Form. The management company must also submit the Terms and Conditions of Use of TIM-ERS, evidencing the company's agreement to be bound by them.⁴

Submission of UTF Returns

- (13) The deadline for submission of UTF Returns are as follows:
 - (a) The Statistical Returns must be submitted within seven business days; and
 - (b) The Compliance Returns must be submitted within 14 business days, (by 5.00 pm on a weekday) of the month following the month of reporting.

⁴ The External User ID Request Form and Terms and Conditions of Use of TIM-ERS are available at TIM-ERS website.

- (14) The Compliance Returns must only be submitted to the SC after trustee's verification.
- (15) The SC considers the UTF Returns submitted via TIM-ERS as final.
- (16) Should there be errors or omissions discovered after the submission has been made, the management company must immediately make the rectification and submit the amended UTF Returns to the SC via TIM-ERS.

Submission of UTF Returns during termination

- (17) While a fund is being terminated, a management company must continue to submit UTF Returns until the termination is complete.

Submission of Compliance Review Report

- (18) Where there is a notification of non-compliance upon the submission of the Compliance Returns via TIM-ERS, the management company must provide an explanation for the non-compliance and the action to be taken to rectify the matter in a Compliance Review Report.
- (19) The Compliance Review Report must be submitted to the SC via TIM-ERS not later than seven business days from the date of submission of the Compliance Returns.