



# **GUIDELINES ON PRIVATE RETIREMENT SCHEMES**

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## Chapter 1

### INTRODUCTION

#### General

- 1.01 The introduction of the private retirement scheme framework was a result of recommendations made by the Securities Commission Malaysia (SC) to the Government to accelerate development of the private pension industry in Malaysia. Private retirement schemes, which are an integral feature of the private pension industry, seek to enhance choices available for all Malaysians, whether employed or self-employed, to supplement their retirement savings under a well-structured and regulated environment.
- 1.02 The *Guidelines on Private Retirement Schemes* (guidelines) are issued by the SC pursuant to section 377 of the *Capital Markets and Services Act 2007* (CMSA). These guidelines are to be complied with by any person intending to act as a private retirement scheme provider (PRS Provider) in establishing, offering or providing a private retirement scheme or to hold himself as establishing, offering or providing a Scheme as well as the requirements to be complied with by a Scheme Trustee.
- 1.03 These guidelines are aimed at providing the regulatory and operational requirements that would safeguard the interests of contributors to the Scheme.
- 1.04 The CMSA, the *Capital Markets and Services (Private Retirement Scheme Industry) Regulations 2012* (PRS Regulations) and securities laws form the regulatory framework for private retirement schemes in Malaysia, and must be read together. All parties to a private retirement scheme are expected to be guided by the letter and the spirit of the regulatory requirements.
- 1.05 The SC may exempt where it deems appropriate or, upon application, grant exemptions or variations from compliance with any requirements in these guidelines.
- 1.06 The SC may, from time to time, issue practice notes to provide greater clarity and guidance on any of the provisions in these guidelines. The practice notes must be complied with in the same manner as these guidelines.
- 1.07 These guidelines or practice notes, as the case may be, may be reviewed as and when necessary.
- 1.08 Any person engaged in dealing, marketing and distributing units of a fund under a private retirement scheme (including issuance of advertisements and promotional materials) must observe and ensure compliance with the requirements as set out in the following guidelines issued by the SC:
  - (a) *Guidelines on Marketing and Distribution of Unit Trust Funds;*
  - (b) *Guidelines on Unit Trust Advertisement and Promotional Material;* and
  - (c) *Guidelines on Online Transactions and Activities in Relation to Unit Trust-*

For the purposes of the application of the above guidelines:

- (a) The words “management company” referred to in the guidelines shall be substituted with the words “private retirement scheme provider”;
- (b) The word “prospectus” referred to in the guidelines shall be substituted with the words “disclosure document”;
- (c) The words “unit trust fund” or “collective investment schemes” referred to in the guidelines shall be substituted with the words “private retirement scheme”; and
- (d) The words “unit holder”, “client” or “investor” referred to in the guidelines shall be substituted with the word “member”.

1.09 Where a PRS Provider carries on any regulated activity specified in Schedule 2 of the CMSA, the PRS Provider must be a holder of a Capital Markets Services Licence to carry on the regulated activity, and must observe and comply with the relevant guidelines issued by the SC for licence holders, including the following:

- (a) *Licensing Handbook*; and
- (b) *Guidelines on Compliance Function for Fund Management Companies*.

1.10 The SC is empowered under section 92A(1) of the CMSA to specify the information to be given to a person who makes a contribution to a private retirement scheme. Regulation 7 of the PRS Regulations further provides that a person shall not issue, circulate or distribute any form of application for contribution to a private retirement scheme without first registering and lodging a disclosure document with the SC containing the information as set out in these guidelines.

1.11 The SC may take enforcement action under securities laws for any contravention of these guidelines.

### **Overarching Principles**

1.12 The PRS Providers shall be guided by the following principles:

- (a) PRS Providers must act in the interest of members as a whole with the aim of providing cost effective voluntary retirement funds and ensure that the Schemes are operated in a proper and efficient manner;
- (b) PRS Providers must ensure that the Schemes are accessible by a wide cross-section of the population. Unreasonable exclusions from participation to a Scheme should be avoided, for example imposition of high minimum contribution amount or not accepting contributions from employers who make contributions on behalf of their employees; and

- (c) PRS Providers must ensure that the investment policies for the funds under the Schemes must be consistent with the objective of building savings for retirement and ensure that there is a prudent spread of risk.
- 1.13. The principles set out in paragraph 1.12 are in tandem with the SC's regulatory objectives of ensuring robust regulation and supervision of the private retirement scheme industry, promoting trust and confidence in the private retirement schemes and protecting members' interests.

## Chapter 2

### DEFINITIONS

2.01 In these guidelines, the following words have the following meanings, unless the context otherwise requires:

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 accounts are made up.
accounts	means a profit and loss account (or income and expenditure statement) and balance sheet (or statement of assets and liabilities) and includes notes or statements (other than auditor's report or director's report) attached or intended to be read with the profit and loss account and balance sheet.
accrued benefits	has the same meaning as given under the CMSA.
adviser	means a Malaysian incorporated—  (a) investment bank;  (b) universal broker; or  (c) such other person who provides advice/information to the proposed PRS Provider or applicant where such advice/information is submitted to the SC in relation to or in connection with any proposal.
assets of the fund	includes the assets of the fund and all amounts due to the fund.
auditor	means an auditor registered under section 310 of the <i>Securities Commission Act 1993</i> .
classes of units	means two or more classes of units representing similar interests in the assets of a fund.
CMSA	means the <i>Capital Markets and Services Act 2007</i> .
collective investment schemes	means, for the purpose of these guidelines, schemes or any arrangement where—  (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 (referred to as “scheme’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 scheme’s assets; and
- (c) the scheme’s assets are managed by an entity which is responsible for the management of the scheme’s assets and is approved/authorized/licensed by a relevant regulator to conduct fund management activities;

and includes among others unit trust funds, real estate investment trusts, exchange-traded funds, wholesale funds and closed-end funds.

conditionally vested unit	means a unit which accords a member with entitlement to the unit that is conditional upon fulfilment of condition(s) stipulated in a vesting schedule.
contribution	has the same meaning as given under section 139A of the CMSA.
contributor	has the same meaning as given under section 139A of the CMSA.
controlling shareholder	means any person who is, or a group of persons who together are, entitled to exercise or control the exercise of at least 33% of the voting shares in a company (or such other percentage as may be prescribed in the <i>Malaysian Code On Take-overs and Mergers 2010</i> ).
cooling-off right	means the right of a member to obtain a refund of the member’s investment in the fund, if the member so requests within the cooling-off period.
core funds	means one or more of the funds under the default option, namely the growth fund, moderate fund and conservative fund that meet the investment limits specified in schedule A1 of these guidelines.
debenture	has the same meaning as given under the CMSA.
deed	has the same meaning as given under the PRS Regulations.
default option	core funds that will be selected automatically for a member who does not specify his or her fund option upon participating in a Scheme.



derivative	has the same meaning as given under the CMSA.
disclosure document	has the same meaning as given under the PRS Regulations.
eligible market	means a market that– <ul style="list-style-type: none"><li>(a) is regulated by a regulatory authority;</li><li>(b) operates regularly;</li><li>(c) is open to the public; and</li><li>(d) has adequate liquidity for the purposes of the fund in question.</li></ul>
financial institution	<ul style="list-style-type: none"><li>(a) if the institution is in Malaysia–<ul style="list-style-type: none"><li>(i) licensed bank;</li><li>(ii) licensed finance companies;</li><li>(iii) Islamic bank; or</li><li>(iv) licensed institutions</li></ul></li><li>(b) if the institution is outside Malaysia, any institution that is licensed/registered/ approved/authorized to provide financial services by the relevant banking regulator.</li></ul>
financial statements	includes a profit and loss account (or an income and expenditure statement), a balance sheet (or statement of assets and liabilities), a statement showing either all changes in equity, or changes in equity other than those arising from capital transactions with owners and distribution to owners, a cash flow statement and accounting policies and explanatory notes.
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 manager	means a person who holds a Capital Markets Services Representative's Licence to carry on the regulated activity of fund management.
fund management	has the same meaning as given under the CMSA.
fund's property	means assets of a fund under the Scheme.
fund reports	means the annual and interim reports of the fund.
group of companies	means any company and its related corporations.

independent member	<p>in relation to the board of directors of a PRS Provider, the investment committee of a fund, the Shariah adviser and the panel of advisers, refers to a person who is free of any relationship with the PRS Provider or the controlling shareholder(s) of the PRS Provider that would otherwise interfere with the member's or person's exercise of independent judgment. In any case, a period of six months must elapse before a person who was previously connected to the PRS Provider or controlling shareholder(s) can be deemed to be independent. The following is a non-exhaustive list of persons who would not be considered as an "independent member":</p> <ul style="list-style-type: none"><li>(a) An officer of the PRS Provider;</li><li>(b) An officer of the Scheme trustee;</li><li>(c) An officer of any body corporate or unincorporate that has the power to appoint or make recommendations towards the appointment of board of directors of the PRS Provider, members of the investment committee, the Shariah adviser and the panel of advisers of the fund;</li><li>(d) A person related to an officer of the PRS Provider or Scheme Trustee of the private retirement scheme;</li><li>(e) A person representing or perceived to be representing any body corporate or unincorporate with a controlling interest in the PRS Provider; or</li><li>(f) A person who, within six months prior to his appointment as independent member, has derived any remuneration or benefit (other than retirement benefit) from the PRS Provider or any body corporate or unincorporate that has power to appoint or make recommendations towards the appointment of board of directors of the PRS Provider, members of the investment committee, the Shariah adviser and the panel of advisers of the fund.</li></ul>
Islamic bank	means a bank licensed under the <i>Islamic Banking Act 1983</i> .
liabilities of the fund	includes all amounts payable by the fund, accrued expenses and taxes, and any appropriate provisions for contingencies.
licensed institution	means any institution licensed or deemed to be licensed under the <i>Banking and Financial Institutions Act 1989</i> and <i>Islamic Banking Act 1983</i> .

licensed bank has the same meaning as given under the *Banking and Financial Institutions Act 1989*.

licensed finance companies has the same meaning as given under the *Banking and Financial Institutions Act 1989*.

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 in shares” shall have the meaning given in section 6A of the *Companies Act 1965*.

management company has the same meaning as given under the CMSA.

management expense ratio (MER) means the ratio of the sum of fees and the recovered expenses of the fund to the average value of the fund calculated on a daily basis, i.e.

$$\frac{\text{fees of the fund} + \text{recovered expenses of the fund}}{\text{average value of the fund calculated on a daily basis}} \times 100$$

where—

fees = all ongoing fees deducted/deductible directly from the 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 fund;

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

	average value of the unit = the NAV of the fund, including 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.
member	in relation to a private retirement scheme, has the same meaning as given under section 139A of the CMSA.
NAV per unit	means the NAV of the fund divided by the number of units in circulation, at the valuation point.
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.  <i>for the purpose of computing the annual management fee, annual trustee fee and annual Private Pension Administrator fee, the NAV of the fund must be inclusive of the management fee, trustee fee and Private Pension Administrator fee for the relevant day.</i>
non-core funds	refers to the funds under a Scheme that are not core funds.
officer	has the same meaning as given under the CMSA.
ordinary resolution	means a resolution passed by a simple majority of votes validly cast at a meeting of members of the private retirement scheme or the fund (where appropriate).
partner	in relation to a director, chief executive officer or substantial shareholder of the PRS Provider, the PRS Provider or Scheme Trustee or person connected with a director, chief executive officer or major shareholder of the PRS Provider, the PRS Provider or Scheme Trustee, means such person who falls within any of the following categories: <ul style="list-style-type: none"> <li>(a) A person with whom the director, chief executive officer or major shareholder of the PRS Provider, the PRS Provider or Scheme Trustee or person connected with a director, chief executive officer or major shareholder of the PRS Provider, the PRS Provider or Scheme 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</li> <li>(b) A person with whom the director, chief executive officer or major shareholder of the PRS Provider, the PRS Provider or Scheme Trustee or person connected with a director, chief executive officer or major shareholder of the PRS Provider,</li> </ul>

the PRS Provider or Scheme Trustee has entered into or proposes to enter into a joint venture, whether incorporated or not.

person connected

in relation to a director, chief executive officer or major shareholder of the PRS Provider, the PRS Provider or Scheme 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 PRS Provider;
- (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 PRS Provider; PRS Provider or Scheme Trustee; or a family member of the director, chief executive officer or major shareholder of the PRS Provider, is the sole beneficiary;
- (c) A partner of the director, chief executive officer or major shareholder of the PRS Provider; PRS Provider or Scheme Trustee; or a partner of a person connected with that director, chief executive officer or major shareholder of the PRS Provider; PRS Provider or Scheme Trustee;
- (d) A person who is accustomed or under obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the director, chief executive officer or major shareholder of the PRS Provider; PRS Provider or Scheme Trustee;
- (e) A person in accordance with whose directions, instructions or wishes the director, chief executive officer or major shareholder of the PRS Provider; PRS Provider or Scheme Trustee; is accustomed or is under obligation, whether formal or informal, to act;
- (f) A body corporate or its directors which/who is/are accustomed or under obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the director, chief executive officer or major shareholder of the PRS Provider; PRS Provider or Scheme Trustee;
- (g) A body corporate or its directors whose directions, instructions or wishes the director, chief executive officer or major shareholder of the PRS Provider; PRS Provider or

	Scheme Trustee; is accustomed or under obligation, whether formal or informal, to act;
	(h) A body corporate in which the director, chief executive officer or major shareholder of the PRS Provider; PRS Provider or Scheme Trustee; and/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.
portfolio turnover ratio (PTR)	means the ratio of the average sum of acquisitions and disposals of the fund for the year to the average value of the fund for the year calculated on a daily basis, i.e.
	$\frac{[\text{total acquisitions of the fund for the year} + \text{total disposals of the fund for the year}] / 2}{\text{average value of the fund for the year calculated on a daily basis}}$
pre-retirement withdrawal	means withdrawals from any fund under a private retirement scheme that occurs prior to a member reaching the retirement age and for the following reasons:
	(a) upon the death of a member; or
	(b) permanent departure of a member from Malaysia; or
	(c) withdrawal of any accrued benefits from sub-account B as maintained by PRS Providers for each member.
private pension account	means an account opened and maintained by the Private Pension Administrator for each member.
Private Pension Administrator	means the private retirement scheme administrator as defined under section 139A of the CMSA.
private retirement scheme or Scheme	has the same meaning as given under section 139A of the CMSA.
PRS Provider	means private retirement scheme provider as defined in section 139A of the CMSA.
PRS Regulations	means the <i>Capital Markets and Services (Private Retirement Scheme Industry) Regulations 2012</i> .

related corporation	has the same meaning as given under the CMSA.
related party	means– <ul style="list-style-type: none"> <li>(a) the PRS Provider of the Scheme;</li> <li>(b) the Scheme Trustee of the Scheme;</li> <li>(c) a director, chief executive officer or major shareholder of the PRS Provider; or</li> <li>(d) a person connected with any director, chief executive officer or major shareholder of the PRS Provider; or a person connected with the PRS Provider or Scheme Trustee.</li> </ul>
repurchase price	means the price payable to a member for a unit in the fund within the Scheme pursuant to a repurchase request.
retirement fund or fund	has the same meaning as given under the PRS Regulations.
retirement age	means the age of 55 years or any other age as may be specified by the SC.
SC	means the Securities Commission Malaysia.
SCA	means the <i>Securities Commission Act 1993</i> .
Scheme Trustee	has the same meaning as given under the CMSA
securities	has the same meaning as given under the CMSA.
securities laws	has the same meaning as given under the SCA.
special resolution	has the same meaning as given under the PRS Regulations except for the purpose of winding up a fund, a special resolution is passed by a majority in number representing at least 3/4 of the value of the units held by members voting at the meeting.
structured products	has the same meaning as given under the SC's <i>Guidelines on the Offering of Structured Products</i> .
substantial shareholder	has the meaning given in section 69D of the <i>Companies Act 1965</i> .
sub-account A	refers to a sub-account maintained by PRS Providers for each member which holds 70% of all contributions made to any fund under the Scheme which is reflected in units.
sub-account B	refers to a sub-account maintained by PRS Providers for each member which holds 30% of all contributions made to any fund under the Scheme which is reflected in units.

total return of the fund	means the sum of the income generated by the fund which is reflected as distribution and the capital gains/loss of the fund which is reflected in the movement in the price of a unit.
unit	in relation to a fund within a private retirement scheme, means any right of interest in that fund by whatever name called and includes any sub-unit thereof.
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 unit trust scheme	has the same meaning as the expression “unit trust scheme” in the CMSA.
vested unit	means a unit which accords a member with unconditional entitlement to such unit.
vesting schedule	refers to the schedule that determines the entitlement of an employee’s accrued benefits based on terms of service.

### **Calculation of Time Period**

- 2.02 References to “days” in the 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 PRS PROVIDER

#### Appointment of PRS Provider

- 3.01 As prescribed under subsection 139P(1) of the CMSA, only a PRS Provider approved by the SC under subsection 139Q(3) of the CMSA can establish, offer or provide a private retirement scheme or hold himself out as establishing, offering or providing a private retirement scheme.
- 3.02 The requirements in relation to an application for approval as a PRS Provider are set out in the *Eligibility Requirements for Private Retirement Scheme Providers*.

#### Operating Requirements

- 3.03 A PRS Provider must at all times—
- (a) be an entity incorporated in Malaysia;
  - (b) be a holder of a Capital Markets Services Licence who carries on the business of fund management;
  - (c) have a minimum paid up capital of RM5 million; and
  - (d) have minimum shareholders' funds of RM20 million.

#### Directors

- 3.04 The board of directors of a PRS Provider must maintain a minimum ratio of at least one-third independent members with at least two independent members at all times. The independent directors of a PRS Provider must represent and safeguard the interests of members.
- 3.05 A director of a PRS Provider must not—
- (a) hold office as director of more than one PRS Provider at any one time;
  - (b) hold office as director of a management company which is not within the group of companies;
  - (c) hold office as member of the investment committee of funds operated by another PRS Provider; and
  - (d) hold office as member of the investment committee of funds operated by a management company which is not within the group of companies.

## **Key Personnel**

### ***Chief Executive Officer***

3.06 The chief executive officer of a PRS Provider must be a full-time officer.

### ***Designated Person Responsible for the Fund Management Function of the Fund***

3.07 Subject to paragraph 3.08, the fund management function of a fund within the Scheme can be undertaken internally within the PRS Provider or delegated to an external party. Where such function is undertaken by the PRS Provider, the PRS Provider must appoint an individual as a designated person responsible for the fund management function of each fund under a Scheme. Where the fund management function is delegated to an external party, the PRS Provider must ensure that the delegate appoints an individual as a designated person for each fund.

3.08 An individual can be appointed as a designated person responsible for one or more funds under a Scheme.

3.09 For the purpose of clause 3.07, the designated person must:

- (a) Be a holder of a Capital Markets Services Representative's Licence to carry on the regulated activity of fund management;
- (b) Where the designated person is in a foreign fund management company, be licensed/registered/approved/authorized to carry on the activity of fund management by the relevant regulator in his home jurisdiction; and
- (c) Have three years' experience in managing funds with similar investment strategy and 10 years fund management experience in a related industry.

### ***Compliance Officer***

3.10 A PRS Provider must appoint a compliance officer to ensure compliance with the deed, PRS disclosure document, securities laws and these guidelines.

3.11 A compliance officer must report to the audit committee and compliance committee (where such committee has been established).

3.12 Where a PRS Provider manages or offers a fund under the private retirement scheme expressed to be managed and administered in accordance with Shariah principles, the compliance officer must have a basic knowledge of Shariah laws and principles.

3.13 The compliance officer must perform the duties and functions as set out in the *Guidelines on Compliance Function for Fund Management Companies*. In addition, the duties and functions of a compliance officer include, but are not limited to, the following:

- (a) Prepare and table compliance reviews regularly (i.e. at every audit committee meeting and compliance committee meeting, if any). The compliance review must

examine the compliance issues relating to each area of the PRS Provider's operations;

- (b) Examine and investigate any irregularity in the PRS Provider's operations. All findings must be properly documented. Where necessary, the compliance officer must notify or consult the Scheme Trustee or the SC or both;
- (c) Be responsible for the compliance manual and the code of conduct for employees of the PRS Provider, including liaising with the human resource department in briefing employees on compliance matters, regulatory requirements and PRS Provider's policies and procedures. The compliance officer together with the respective departments must continuously review and update the compliance manual and code of conduct to reflect new conditions;
- (d) Liaise with the human resource department or training unit to provide training, updates, and advise on compliance matters, industry and regulatory developments. In this regard, the training may be extended to the members of the board of directors, investment committee and audit committee, as well as any Shariah adviser or panel of advisers;
- (e) Monitor and resolve conflict of interest situations between all funds managed and administered by the PRS Provider in its capacity as a PRS Provider, and within the PRS Provider itself. Where appropriate, the compliance officer must advise the audit committee, or compliance committee (if any) of the PRS Provider, as well as the investment committee, and any Shariah adviser or panel of advisers of the fund(s) concerned accordingly;
- (f) Report to the audit committee or the compliance committee (if any) and Shariah adviser (where applicable) on whether dealings in the fund's property are appropriate to the fund, and in accordance with Shariah principles (where applicable); and
- (g) Be responsible to advise on any matter relating to compliance with the applicable requirements, including on fund management and on dealings by employees and directors of the PRS Providers, audit committee members, investment committee members and compliance committee members (if any).

### **Internal Audit**

3.14 A PRS Provider must maintain an internal audit function independent from its operations to report directly to the audit committee on the adequacy, effectiveness and efficiency of the management, operations, risk management and internal controls.

3.15 The internal audit must, among others—

- (a) follow clearly defined terms of the internal audit framework which sets out the scope, objectives, approach and reporting requirements;

- (b) adequately plan, control and record all audit work performed, and record the findings, conclusions and recommendations; and
- (c) highlight matters in the audit report, which must be resolved satisfactorily in a timely manner.

### **Roles and Responsibilities of PRS Provider**

3.16 In addition to the duties stipulated under the PRS Regulations, a PRS Provider must observe, act and carry out its duties in accordance with the roles and responsibilities set out in this chapter.

### **General**

3.17 A PRS Provider must operate the Scheme, manage the funds and exercise its responsibilities according to the deed, disclosure document, securities laws, these guidelines, and investment management standards set by the self-regulatory organisation approved by the SC unless exemption is given by the SC.

3.18 A PRS Provider must—

- (a) observe high standards of integrity and fair dealing in administering the Scheme and managing the funds to the best interest of members as a whole;
- (b) ensure that the fund's property is—
  - (i) clearly identified as the fund's property; and
  - (ii) held separately from the property of the PRS Provider, other funds under the Scheme and any other fund managed by the PRS Provider; and
- (c) comply with any other duty that is conferred on the PRS Provider by the deed in so far as it is not inconsistent with the securities laws and these guidelines.

3.19 A PRS Provider must, among others—

- (a) establish an organisational structure with clear lines of responsibility and authority;
- (b) establish and maintain risk management systems and controls to enable it to identify, assess, mitigate, control and monitor risks in relation to the Scheme it operates and funds it manages;
- (c) have adequate human resources with the necessary qualification, expertise and experience to carry on business as a PRS Provider; and
- (d) have adequate and appropriate systems, procedures and processes to undertake the business in a proper and efficient manner.

3.20 A PRS Provider must account to the Scheme Trustee for any loss suffered by a fund as a result of the PRS Provider's failure to exercise the degree of care and diligence required in operating the private retirement scheme and managing the fund.

3.21 A PRS Provider must ensure that its officers and delegates–

- (a) do not make improper use of information acquired through being such an officer or delegate of the PRS Provider to–
  - (i) gain an advantage for himself or another person; or
  - (ii) cause detriment to members in the private retirement scheme;
- (b) do not make improper use of their position as such officers or delegates to gain, directly or indirectly, an advantage for themselves or for any other person or to cause detriment to members in the private retirement scheme; and
- (c) comply with any other duty or obligation as may be prescribed under the securities laws, trust laws or these guidelines.

***Obligations to the Private Pension Administrator***

3.22 To enable the Private Pension Administrator to perform its duties and responsibilities under section 139H of the CMSA, a PRS Provider must–

- (a) provide information and comply with reporting requirements, in such manner and frequency as stipulated by the Private Pension Administrator;
- (b) notify the Private Pension Administrator in a timely manner of any changes made to Schemes or funds under the Scheme or disclosure document; and
- (c) facilitate the opening of a private pension account including scanning and uploading of the relevant forms and information;
- (d) take all steps to comply with the instructions given by Private Pension Administrator in respect of a member's request made to the Private Pension Administrator to–
  - (i) make any pre-retirement withdrawal from any fund under the private retirement scheme; or
  - (ii) transfer monies to another PRS Provider.

3.23 PRS Providers are to obtain satisfactory evidence of the member's identity for all forms and documents received on behalf of the Private Pension Administration, and have effective procedures for verifying the member, which must include–

- (a) establishing the member's full and true identity;
- (b) verifying the identification given, where required; and
- (c) establishing, where appropriate, the clients' financial position, investment experience, and investment objectives.

- 3.24 PRS Providers are to ensure the accuracy of the data and information provided to the Private Pension Administrator and must submit such data and information in specified file format and within the time frame stipulated by the Private Pension Administrator.

### ***Valuation and Pricing***

- 3.25 A PRS Provider must take all reasonable steps and exercise due diligence to ensure that the funds under the Scheme and each fund's units are correctly valued and priced, in line with the provisions of Chapter 10 (Dealing, Valuation and Pricing) and Schedule B (Valuation) of these guidelines, the deed and the disclosure document.
- 3.26 For the purpose of valuing the fund's property and pricing the fund's units, a PRS Provider must not do or omit anything that would confer on itself a benefit or advantage at the expense of members or potential members.

### ***Transactions***

- 3.27 A PRS Provider must conduct all transactions for a fund at arm's length.
- 3.28 A PRS Provider must not act or conduct transactions in any manner that would result in unnecessary cost or risk to a fund.

### ***Maintenance of Records***

- 3.29 A PRS Provider must maintain proper accounting records and other records as are necessary—
- (a) to enable a complete and accurate view of the private retirement scheme and its funds to be formed; and
  - (b) to comply with the deed, these guidelines, securities laws and any other relevant law.
- 3.30 A PRS Provider must ensure that the financial statements of the Scheme and its funds give a true and fair view of each fund's financial position as at the end of the fund's financial period.
- 3.31 A PRS Provider must prepare and present, or cause to be prepared and presented, its financial statements in accordance with approved accounting standards, the deed, these guidelines and securities laws.

### ***Provision of Information***

- 3.32 A PRS Provider must submit or make available any information relating to the Scheme, the funds, its business and any other information as may be required by the SC and the Scheme Trustee from time to time.

### **Holding of Units by PRS Provider**

- 3.33 A PRS Provider or its nominees must not hold any unit in a fund under the Scheme, other than when complying with repurchase requests by members or in creating new units to meet anticipated requests for units from contributions (“manager’s box”), subject to a maximum of–
- (a) three million units per fund; or
  - (b) 10% of the units in circulation of the fund, whichever is the lower.

#### **Guidance**

Where the PRS Provider hold units which have been created to meet confirmed requests by potential members, such holdings would not be subjected to the above limits.

### **Complaints Handling**

- 3.34 A PRS Provider must establish, maintain, and implement written policies and procedures to ensure that–
- (a) complaints from members are handled in a timely and appropriate manner; and
  - (b) members’ complaints are satisfactorily resolved.
- 3.35 A PRS Provider must maintain a register of complaints received and any actions taken, and ensure that it maintains a copy of the register.

## Chapter 4

### SCHEME TRUSTEE

#### Appointment of Scheme Trustees

- 4.01 As prescribed under section 139ZC of the CMSA, a Scheme Trustee must be approved by the SC. Only one Scheme Trustee may be appointed for each Scheme.

#### Eligibility Requirements

- 4.02 A Scheme Trustee must –
- (a) be a trust company registered under the *Trust Companies Act 1949* or incorporated pursuant to the *Public Trust Corporation Act 1995*;
  - (b) be registered with the SC;
  - (c) have a minimum paid-up capital of RM500,000 and a minimum shareholders funds of RM1 million (or such other amount as may be specified by the SC);
  - (d) obtain professional indemnity insurance coverage of at least RM5 million in the first year of its registration by the SC and increase its professional indemnity insurance coverage to at least RM10 million in the second year of its registration by the SC, and maintain such coverage thereafter; and
  - (e) be independent from the PRS Provider.

#### Roles and Responsibilities of Scheme Trustees

- 4.03 In addition to duties stipulated under the PRS Regulations, a scheme trustee must observe, act and carry out its duties in accordance with the roles and responsibilities set out in this chapter.

#### General

- 4.04 A Scheme Trustee shall act impartially, responsibly, honestly in accordance with the deed, these guidelines and securities laws.
- 4.05 A Scheme Trustee should ensure that its officers and delegates–
- (a) do not make improper use of information acquired through being such an officer or delegate of the Scheme Trustee to–
    - (i) gain an advantage for himself or another person; or



- (ii) cause detriment to members of the funds under the Scheme;
  - (b) do not make improper use of their position as such officers or delegates to gain, directly or indirectly, an advantage for themselves or for any other person or to cause detriment to members of the funds under the Scheme; and
  - (c) comply with any other duty or obligation as may be prescribed under securities laws, trust laws or these guidelines.
- 4.06 In safeguarding the interest of the members as a whole, the Scheme Trustee must conduct its own periodic reviews of the Scheme and not only depend on the information submitted by the PRS Provider. In conducting its review, the Scheme Trustee may rely on reports prepared by the relevant experts.
- 4.07 A Scheme Trustee must, among others—
- (a) have adequate human resources with the necessary qualification, expertise and experience to carry on business as a trustee to a Scheme;
  - (b) have adequate and appropriate systems, procedures and processes, to carry out its duties and responsibilities in a proper and efficient manner; and
  - (c) have a sound financial position, taking into account the nature, materiality and complexity of its operations and the extent of its other business operations.

#### ***Holding of the Fund's Property***

- 4.08 A Scheme Trustee must have controls in place to ensure that assets of the funds under the Scheme are—
- (a) clearly identified as the fund's property;
  - (b) held separately from any other asset held by or entrusted to the Scheme Trustee; and
  - (c) registered in the name of, or to the order of, the Scheme Trustee.

#### ***Scheme Trustee's Oversight Functions***

- 4.09 A Scheme Trustee should actively monitor the operation and management of the fund under the Scheme by the PRS Provider to safeguard the interests of members. A Scheme Trustee should at all times, through proper and adequate supervision, ensure that the Scheme and the funds under the Scheme are operated and managed by the PRS Provider in accordance with—
- (a) the deed;
  - (b) the disclosure document;
  - (c) these guidelines; and

- (d) securities laws including the PRS Regulations; and
  - (e) acceptable and efficacious business practices within the PRS industry.
- 4.10 A Scheme Trustee must have in place compliance and monitoring mechanism for regular review of compliance which includes monitoring and checking of compliance with investment limits as well as processes for reconciliation.
- 4.11 A Scheme Trustee must appoint an external auditor that is registered with the Audit Oversight Board for the Scheme and is independent of the PRS Provider and the Scheme Trustee.
- 4.12 Where a fund is expressed to be managed in accordance with specific principles, a Scheme Trustee should ensure that the fund is managed in accordance with those principles.
- 4.13 A Scheme Trustee should ensure that it is fully informed of the investment policies of the funds under the Scheme set by the PRS Provider, and of changes made. If the Scheme Trustee is of the opinion that the policies are not in the interests of members, it should, after considering any representation made by the PRS Provider, instruct the PRS Provider to take appropriate action as the Scheme Trustee deems fit and/or summon a members' meeting to give such instructions to the Scheme Trustee as the meeting thinks proper.

#### ***Maintenance of Records***

- 4.14 A Scheme Trustee must maintain and ensure that the PRS Provider maintains proper accounting records and other records as are necessary—
  - (a) to enable a complete and accurate view of the Scheme and the fund within the Scheme to be formed;
  - (b) to ensure that the fund is operated and managed in accordance with the deed of the Scheme, disclosure document, these guidelines and securities laws.
- 4.15 A Scheme Trustee is to ensure that records are kept in such manner that enables it to be properly audited.

#### ***Dealings in Fund's Property***

- 4.16 A Scheme Trustee should take all steps to effect any instruction properly given by the PRS Provider, or its fund management delegate, relating to acquisitions or disposals of, or the exercise of the rights attaching to, a fund's property.

#### ***Creation, Cancellation and Dealing in Units of the Funds under the Scheme***

- 4.17 A Scheme Trustee should take all steps to effect any instruction properly given by the PRS Provider under Chapter 10 of these guidelines.
- 4.18 A Scheme Trustee should ensure that the systems, procedures and processes employed by the PRS Provider are adequate to ensure that the funds under the Scheme or fund's units

are correctly valued and/or priced in line with provisions of Chapter 10 and Schedule B of these guidelines, the deed and disclosure document.

### ***Provision of Information***

- 4.19 A Scheme Trustee must submit or make available any statement, document, book, record and other information kept by itself relating to the Scheme or funds within the Scheme and the business of the Scheme Trustee which may be required by the SC from time to time.

### ***Scheme Trustee Reporting and Disclosure Obligations***

- 4.20 Where a fund is to be managed in accordance with specific principles, a Scheme Trustee should provide a transaction report(s) of the fund under the Scheme to the Shariah adviser/panel of advisers, whichever is applicable. If the transaction report is prepared by the PRS Provider, the Scheme Trustee should approve the transaction report prior to it being submitted to the relevant adviser.

### ***Delegation or Outsourcing of Function***

- 4.21 A Scheme Trustee may delegate its custodial function for the fund's property or outsource its other functions to third parties that are independent from the PRS provider.
- 4.22 Where the custodial function is delegated, the Scheme Trustee must ensure that–
- (a) it retains control of the fund's property at all times; and
  - (b) there are adequate arrangements to prevent the delegate from releasing the custody or control of the fund's property without the Scheme Trustee's prior consent.
- 4.23 Where a Scheme Trustee delegates or outsources a function, a Scheme Trustee remains responsible for–
- (a) discharging all of its obligations under these guidelines; and
  - (b) the actions and omissions of its delegate or service provider as though they were its own actions.
- 4.24 A Scheme Trustee must ensure that the following controls and procedures are in place:
- (a) Proper and documented due diligence for the selection of delegate or the service provider;
  - (b) Written and binding service level agreement with the delegate or service provider to formalise the delegation or outsourcing arrangement;
  - (c) Adequate reporting arrangement by the delegate or the service provider to the Scheme Trustee;

- (d) The right of the Scheme Trustee to conduct inspection and to have access to books, records and documents relating to the delegated or outsourced functions; and
  - (e) Adequate monitoring mechanism and regular assessment on the conduct and performance of the delegate or the service provider to ensure that the function delegated or outsourced is performed in a proper and efficient manner.
- 4.25 There must also be controls in place to ensure that the decision to use a related-party delegate or service provider in relation to the Scheme is in the best interest of the members as a whole.
- 4.26 Except where a Scheme Trustee appoints a foreign delegate for the custodial functions, the delegate's or the service provider's remuneration must be paid by the Scheme Trustee and not be charged to the Scheme or funds under the Scheme.
- 4.27 A Scheme Trustee must provide prior written notification to the SC in writing if it delegates or outsources any of its functions.

### **Separation of Functions**

- 4.28 A Scheme Trustee must maintain—
- (a) a clear line of reporting for every function, department and division; and
  - (b) a clear authorization for each function,
- to ensure that lines of responsibility and accountability are well defined.
- 4.29 A Scheme Trustee that utilises certain services, expertise and assets available within the group of companies must have controls in place to ensure that confidentiality of information is maintained and protected at all times.

### **Risk Management**

- 4.30 A Scheme Trustee must establish a risk management framework to identify, assess monitor, control and report all material risks to which the Scheme Trustee could be exposed in relation to the Scheme and mitigation actions to address such risks.
- 4.31 The risk management framework must-
- (a) be commensurate with the nature, scale and complexity of the Scheme Trustee's operations;
  - (b) be documented, communicated to all relevant staff; and
  - (c) be regularly reviewed by the Board, at least annually.

- 4.32 A Scheme Trustee must have in place business continuity plan to ensure continuation of its critical business operations in the event of interruptions including dealing with interruptions in any of the outsourced functions.
- 4.33 A Scheme Trustee must ensure that the business continuity plan is annually reviewed and tested to ensure its effectiveness.

### **Conflict of Interest**

- 4.34 A Scheme Trustee must establish, maintain and implement an internal control policy that—
  - (a) identifies, monitors and manages situations and/or potential situations which may give rise to conflicts of interest; and
  - (b) requires the Scheme Trustee, its directors, and employees to disclose any conflict or potential conflict-of-interest situation.
- 4.35 A Scheme Trustee must record the disclosure of conflict or potential conflict of interest situation and ensure that such conflicted members abstain from taking part in any decision involving or with respect to matters having conflict or potential conflict of interest.
- 4.36 Detail of the conflict and/or potential conflict of interest, including action taken to manage the conflict, must be reported to the board of directors and noted in the minutes of Board meeting.
- 4.37 A Scheme Trustee must not hold units or other interest in the funds within the Scheme.

## Chapter 5

### DELEGATION AND OUTSOURCING BY PRS PROVIDERS

#### General

- 5.01 A PRS Provider may delegate its fund management function and/or outsource its back office functions to external parties.
- 5.02 Delegating to any delegate and outsourcing to any service provider do not relieve a PRS Provider from the responsibility for proper conduct of the delegated and outsourced activities. A PRS Provider remains responsible for the actions and omissions of its delegate or service provider as though they were its own actions and omissions.
- 5.03 A PRS Provider must ensure that—
- (a) adequate procedures are in place to monitor the conduct of its delegate or service provider and to ensure that the function delegated or outsourced is performed in a proper and efficient manner; and
  - (b) there are controls in place to ensure compliance with the deed, disclosure document, these guidelines and securities laws.
- 5.04 A PRS Provider must ensure that its delegate or service provider is suitable to undertake the particular functions, including that the delegate or service provider—
- (a) is duly licensed or authorized by the relevant authority (where applicable);
  - (b) has adequate financial resources;
  - (c) has an adequate track record in the performance of the functions; and
  - (d) has adequate and appropriate human resources, systems, compliance, internal controls, procedures and processes to carry out the function.
- 5.05 The service agreement between the PRS Provider and its delegate or service provider must, among others, contain clear provisions on—
- (a) the services to be provided;
  - (b) the fees, remuneration and other charges of the delegate or service provider;
  - (c) any restriction or prohibition regarding the performance of the function to be delegated or outsourced; and
  - (d) reporting requirements, including the line of reporting between the delegate or service provider, and the PRS Provider, and means of evaluating the performance of the delegate or service provider.

### **Delegation of Function by the PRS Provider**

- 5.06 Delegation of a PRS Provider's function other than to a holder of a Capital Markets Services Licence requires the SC's prior approval.
- 5.07 Delegation of PRS Provider's function to a holder of a Capital Markets Services Licence requires notification to the SC.
- 5.08 Where a PRS Provider appoints a foreign delegate, the agreement between the PRS Provider and its foreign delegate must include, in addition to the requirements set out in clause 5.05, the following provisions:
- (a) Adequate training arrangements between the foreign delegate and the PRS Provider; and
  - (b) Powers of examination and inspection by the PRS Provider, Scheme Trustee and the SC to ensure that the foreign delegate is in compliance with the applicable requirements of the deed, disclosure document, these guidelines and securities laws.
- 5.09 An officer of the delegate (whether foreign or otherwise) must not hold office as member of—
- (a) the investment committee of any fund for which the delegate fund manager is appointed to manage;
  - (b) the Shariah adviser of any fund for which the delegate is appointed to manage; and
  - (c) the panel of advisers of any fund for which the delegate is appointed to manage.
- 5.10 The delegate's remuneration paid by the PRS Provider must not be charged to the fund.

### **Outsourcing of Functions**

- 5.11 A PRS Provider may outsource its back office functions to external parties.
- 5.12 For the purpose of clause 5.11, a PRS Provider must observe and ensure compliance with the requirements in the *Guidelines on Outsourcing for Capital Market Intermediaries* issued by the SC.

## Chapter 6

### OVERSIGHT ARRANGEMENT BY PRS PROVIDERS

- 6.01 In addition to the appointment of a Scheme Trustee, a PRS Provider must establish and maintain additional arrangements to provide oversight on the operation of the Scheme and management of the funds within the Scheme.
- 6.02 A PRS Provider must implement and maintain the following arrangements:
- (a) Appointment of an investment committee for each fund under the Scheme; and
  - (b) Appointment of an audit committee;
  - (c) Appointment of, as the case may be (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) a minimum ratio of at least one-third independent members with at least two independent members at all times.
- 6.04 A PRS Provider must ensure that members of the investment committee are fit and proper persons in accordance with clauses 6.24 and 6.25 and collectively have the requisite fund management expertise to perform the functions set out in clause 6.08 and 6.09.
- 6.05 An individual can be appointed as a member of one or more investment committee of funds under the Scheme.
- 6.06 A member of the investment committee must not hold office as–
- (a) member of an investment committee of funds managed and administered by another PRS Provider, or management company outside the group of companies;
  - (b) director of another PRS Provider, or management company outside the group of companies;
  - (c) Shariah adviser for the same fund;



- (d) member of the panel of advisers for the same fund; and
- (e) an officer of the delegate that carry on the fund management function for the same fund.

6.07 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***

6.08 An investment committee must ensure that the fund is managed in accordance with–

- (a) the fund’s investment objective;
- (b) the deed;
- (c) the disclosure document;
- (d) these guidelines, PRS Regulations and securities laws;
- (e) the internal investment and risk restrictions and policies; and
- (f) best practices within the investment management industry.

6.09 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 PRS Provider or its fund management delegate; and
- (c) Actively monitor, measure and evaluate the fund management performance of the PRS Provider or its fund management delegate.

### **Audit Committee**

#### ***General***

6.10 An audit committee of a PRS Provider must comprise non-executive directors of the PRS Provider with–

- (a) at least three individual members; and
- (b) a minimum ratio of at least one-third independent members with at least two independent members at all times.

6.11 A member of an audit committee must not hold office as–

- (a) Shariah adviser for any fund of the PRS Provider;
- (b) member of the panel of advisers for any fund of the PRS Provider; and
- (c) an officer of the delegate that carries on the fund management function for any fund of the PRS Provider.

### ***Roles and Responsibilities***

6.12 An audit committee's roles and responsibilities include reviewing and reporting to the board of directors on the following:

- (a) adequacy of the scope, objectives, approach and reporting of the internal audit framework and whether matters highlighted in the audit report have been satisfactorily resolved;
- (b) adequacy of the functions, competency and resources of the internal audit function and whether the function has the authority to conduct its work;
- (c) the interim and annual report of each fund under the Scheme and annual report of the PRS Provider; and
- (d) any related party transaction and conflict-of-interest situation.

### **Shariah Adviser**

#### ***General***

6.13 A Shariah adviser must–

- (a) be independent of the PRS Provider;
- (b) be registered with the SC;
- (c) (where individuals are appointed) comprise at least three individuals who meet the fit and proper criteria in clauses 6.24 and 6.25; and
- (d) (where a corporation is appointed) engage at least one Shariah expert who meets the fit and proper criteria in clauses 6.24 and 6.25.

6.14 Clauses 6.13(a) and (b) do not apply to an Islamic bank or a licensed institution approved by Bank Negara Malaysia to carry on an Islamic banking business.

6.15 Individuals appointed under clause 6.13(c) or (d) must not hold office as member of the investment committee of funds managed and administered by the same PRS Provider.

### ***Roles and Responsibilities***

- 6.16 The roles of a Shariah adviser include the following:
- (a) To advise on all aspects of the Scheme 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 disclosure document, 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 Shariah-compliant fund has been operated and managed in accordance with the Shariah principles for the financial period concerned.
- 6.17 Where there is ambiguity or uncertainty as to an investment, instrument, system, procedure or process, the Shariah adviser must consult the SC.

### **Panel of Advisers**

#### ***General***

- 6.18 Where a fund adheres to specific principles (e.g. socially responsible investment), a panel of advisers must be appointed and—
- (a) comprise at least three individual members; and
  - (b) be independent of the PRS Provider.
- 6.19 A PRS Provider must ensure that members of the panel of advisers are fit and proper persons in accordance with clauses 6.24 and 6.25.
- 6.20 Individuals appointed under clause 6.18 must not hold office as member of the investment committee of funds managed and administered by the same PRS Provider.

### ***Roles and Responsibilities***

- 6.21 A panel of advisers must ensure that the fund is operated and managed in accordance with the specific principles set out for the fund.
- 6.22 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 principles set out for the fund.
- 6.23 A panel of advisers must prepare a report to be included in the fund's annual and interim reports stating its opinion whether the specialist fund has been managed and administered in accordance with the specific principles set out for the fund for the financial period concerned.

### **Fit and Proper Criteria**

- 6.24 The persons appointed 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.
- 6.25 The persons must not have been involved in any unethical or inappropriate practice. Among others, the persons 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, statutory authority or body, in which an adverse finding was found; and
  - (d) Any unethical practice and activity which would render the persons unfit to perform an oversight function.

- 6.26 It is the responsibility of the PRS Provider to assess the ability of the persons to carry out the duties and responsibilities required of him and report it to the board of directors. In the case of a newly established company, this responsibility lies with the holding company of the PRS Provider or promoter of the PRS Provider, and its board of directors as well as the board of directors of the newly established PRS Provider.
- 6.27 Where any person becomes subject to any disqualification or becomes otherwise unfit to hold office, the PRS Provider must ensure that the person vacates the position immediately. The PRS Provider must notify the SC immediately of any disqualification and when the position becomes vacant.
- 6.28 Where an individual is appointed as a member for more than one committee of funds managed and administered by the same PRS Provider, he must act separately and independently for each of the funds he is appointed for.

## **Chapter 7**

### **CONSTITUTION OF THE SCHEME**

#### **Funds under a Scheme**

- 7.01 The purpose of a private retirement scheme is to facilitate accumulation of monies by individuals for their retirement needs. In view of this, these guidelines enable the establishment of Schemes which comprise a range of retirement funds.
- 7.02 Subject to clause 7.03, a range of seven funds can be offered under a Scheme by a PRS Provider. At the minimum, a PRS Provider must at all times offer the default option within the Scheme.
- 7.03 A PRS Provider that intends to offer both conventional and Shariah-compliant fund options may offer up to 10 funds under a Scheme.

#### **Instrument Constituting the Scheme**

- 7.04 A PRS Provider must ensure that there is in force at all times a deed of the Scheme. The deed must contain minimum requirements specified under Schedule C of these guidelines and those specified under securities laws.
- 7.05 A Scheme Trustee must ensure the requirements of clause 7.04 are met at all times.
- 7.06 A PRS Provider and Scheme Trustee are responsible for maintaining the deed and making necessary amendments to the deed in accordance with these guidelines and securities laws.

#### **Authorization of Funds under a Scheme**

- 7.07 The funds under the Scheme can consist of core funds and non-core funds which must be authorized by the SC in accordance with these guidelines.
- 7.08 An application for approval of a Scheme must include the application for authorization of at least the core funds under the Scheme.
- 7.09 Applications for authorization of non-core funds may be made at any time after the approval of the Scheme containing the core funds.
- 7.10 The authorization of a fund under a Scheme may be revoked by the SC if:
- (a) Any information or document furnished to the SC in respect of the application for authorization of the fund is false or misleading or from which there is a material omission;

- (b) The fund is not launched within six months from the date of authorization, unless an extension of time has been sought from, and agreed to, by the SC;
- (c) The PRS Provider has failed to comply with the requirements of the guidelines or any direction issued by the SC in relation to the Scheme or funds under the Scheme; or
- (d) It is necessary in order to protect the interests of the public or the members as a whole.

### **Name of Funds and Schemes**

- 7.11 The three core funds that are the default option under a Scheme must be named '[insert name of PRS Provider] – Growth fund', '[insert name of the PRS Provider] – Moderate fund' and '[insert name of the Provider]- Conservative fund' respectively.
- 7.12 With respect to non-core funds, a PRS Provider and Scheme Trustee must ensure that the name of the fund or any class of units of any fund is not inappropriate, misleading or conflicts with the name of another fund.
- 7.13 The SC may direct the PRS Provider to change the name of the Scheme or funds under the Scheme or any class of units of any fund under the Scheme if, in the opinion of the SC, the name is inappropriate, misleading or conflicts with the name of another fund or Scheme.
- 7.14 When deciding whether to make a direction under clause 7.13, the SC will take into account, amongst 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 members into thinking that a person other than the PRS Provider 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 Scheme**

- 7.15 The investment objective of the Scheme and funds within the Scheme must be clear, specific and sufficiently stipulated in the deed.
- 7.16 The investment decision of the funds to be established under the Scheme must be for the purpose of achieving long-term optimum returns with emphasis on prudence, safety and sound commercial judgment.

- 7.17 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, it is the PRS Provider's duty to ensure that an appropriate portion of the fund is invested in accordance with that intention.

### **Modifications to the Deed**

- 7.18 The PRS Regulations provides that a deed may only be amended by a supplementary deed which shall not have effect unless it is registered with the SC.
- 7.19 Any modification to a Scheme's deed must be made in accordance with the provisions of the deed, Regulation 5 of the PRS Regulation and as specified under these guidelines.
- 7.20 For the purposes of Regulation 5 of the PRS Regulations, changes that may materially prejudice the interests of members include:
- (a) changes to the purposes, nature or investment objective of the Scheme or its funds;
  - (b) changes to the risk profile of the Scheme or its funds; or
  - (c) changes that increase the charges or fees payable to the PRS Provider or Scheme Trustee, or introduce a new type or payment out of the funds' property.
- 7.21 The PRS Provider must give at least 21 days prior written notice to members of a proposed modification to the deed, where the PRS Provider and Scheme Trustee are of the opinion that the proposed modification would not materially prejudice the interests of members.

#### **Guidance**

Depending on the existing circumstances, changes to the deed that result in the following may not be expected to materially prejudice the interests of members although the circumstances may be material in nature:

- (a) Affects the ability of a member to exercise his rights in relation to the Scheme or any fund under the private retirement scheme; or
- (b) Would reasonably be expected to cause a member to reconsider his participation in the Scheme or any fund under the private retirement scheme.

Changes that may not materially prejudice the interests of members include changes that are operational or procedural in nature.

- 7.22 Unless otherwise provided by the PRS Regulations, any modification to the deed, including any material change to the investment objective set out for the fund, must be approved by members of the fund by way of a special resolution.



## Chapter 8

### INVESTMENTS OF THE SCHEME

#### General

- 8.01 The fund's property must be relevant and consistent with the investment objective of the private retirement scheme which is to facilitate accumulation of retirement savings by individuals for use in retirement.
- 8.02 Reasonable steps should be taken to ensure that, taking into account the investment objective and policy of the Scheme and the funds under the Scheme, the fund's property provides a prudent spread of risk.
- 8.03 The provisions in this chapter apply to all retirement funds within the Scheme.
- 8.04 For the purpose of this chapter, "fund manager" means any person responsible for the investment management function of funds under the Scheme and includes the PRS Provider (if the function remains with PRS Provider) or its fund management delegate.

#### Dealings in the Fund's Property

- 8.05 All dealings in the fund's property must be appropriate to the fund and consistent with—
- (a) the deed;
  - (b) the disclosure document;
  - (c) these guidelines and the securities laws; and
  - (d) industry standards within the private retirement scheme industry and the fund management industry.

#### Guidance

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 property (i.e. churning) are not considered appropriate to the fund.

- 8.06 The fund manager must—
- (a) inform the Scheme Trustee in writing of any acquisition or disposal of a fund's property within one business day after the acquisition or disposal was effected;
  - (b) ensure that the fund's property 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 Scheme 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 members.

**Investment Powers: General**

- 8.07 The fund's property may only consist, unless otherwise provided in these guidelines, of the following:
- (a) Transferable securities;
  - (b) Cash, deposits and money market instruments;
  - (c) Units/shares in collective investment schemes;
  - (d) Derivatives; and
  - (e) Real estate.
- 8.08 For the purpose of these guidelines, "transferable securities" are equities, debentures and warrants.
- 8.09 Transferable securities and money market instruments held by the fund must be traded in or under the rules of an eligible market.
- 8.10 For investments in a foreign market, a foreign market is an eligible market where it has satisfactory provisions 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.
- 8.11 Notwithstanding clause 8.10, investments in a foreign market are limited to markets where the regulatory authority is a member of the International Organization of Securities Commissions (IOSCO).

### **Investments in Unlisted Securities**

- 8.12 Notwithstanding clause 8.07, the fund's property may consist of unlisted securities, subject to the investment limit stipulated in Schedule A of these guidelines.
- 8.13 The investment limit referred to in clause 8.12 does not apply to "unlisted securities" that are–
- (a) equities not listed or 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 over-the-counter (OTC) market; and
  - (c) structured products.
- 8.14 The fund manager must ensure that there are appropriate policies and procedures for the valuation of the unlisted securities.

### **Investments in Collective Investment Schemes**

- 8.15 The fund's property may consist of units/shares in other collective investment schemes (referred to as target funds).
- 8.16 The target fund must–
- (a) be regulated by a regulatory authority;
  - (b) if the target fund is constituted in Malaysia, be approved by the SC;
  - (c) if the target fund is constituted outside Malaysia, be registered/authorized/approved by the relevant regulatory authority in its home jurisdiction, be a signatory under Appendix A of the IOSCO Multilateral Memorandum of Understanding or have entered into a bilateral arrangement with the SC; and
  - (d) operate on the principle of prudent spread of risk and its investments do not diverge from the general investment principles of these guidelines.
- 8.17 Where the fund invests in a target fund operated by the same PRS Provider 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 are waived; and
  - (c) the management fee must only be charged once, either at the fund or the target fund.

### **Investments in Warrants**

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

### **Investments in Derivatives**

- 8.19 The fund's property may consist of derivatives that are—
- (a) traded on an exchange; or
  - (b) traded over-the-counter.
- 8.20 The underlying instruments of a derivative must consist of permissible investments under clause 8.07 and may also include indices, interest rates and foreign exchange rates.
- 8.21 The fund's exposure from derivatives position must not exceed the fund's NAV at all times.
- 8.22 For the purpose of clause 8.19(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 Scheme Trustee; and
  - (d) the counter-party must be ready to unwind, buy-back or close out the transaction upon request of the provider at a fair value determined on methods or bases which have been verified by the auditor of the fund and approved by the Scheme Trustee.
- 8.23 For the purpose of clause 8.22(a), where the rating of the counterparty falls below the minimum required, or the counter-party ceases to be rated, the fund manager must, within six months or sooner (if the Scheme Trustee considers it to be in the best interest of the members), take the necessary action to ensure that the requirements are complied with.
- 8.24 The writing of option derivatives and short position of futures contracts by the fund are strictly prohibited.
- 8.25 Notwithstanding clause 8.24, short position of futures contract for hedging purposes is allowed.

- 8.26 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.

### **Investment in Structured Products**

- 8.27 Notwithstanding clause 8.07, the fund's property may consist of structured products.
- 8.28 The fund manager must ensure that—
- (a) the counter-party is an eligible issuer (for structured products issued in Malaysia) or an issuer regulated by the relevant regulatory authority (for structured products issued outside Malaysia);
  - (b) (unless otherwise stated in these guidelines) the counterparty 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) clauses 8.22(b), (c) and (d) are complied with for OTC transactions.
- 8.29 For the purpose of clause 8.28(b), where the rating of the counterparty falls below the minimum required, or the counterparty ceases to be rated, the fund manager must, within six months or sooner (if the Scheme Trustee considers it to be in the best interest of the members), take the necessary action to ensure that the requirements are complied with.

### **Investments in Deposits**

- 8.30 The fund's property may consist of placement of deposits provided that this is with a financial institution.

### **Securities Lending**

- 8.31 The fund may participate in the lending of securities within the meaning of the *Securities Borrowing and Lending Guidelines* when the provider finds it appropriate to do so with a view of generating additional income for the fund with an acceptable degree of risk.
- 8.32 The lending of securities must—
- (a) be permitted under the deed and disclosed in the disclosure document;
  - (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.

- 8.33 The fund manager must ensure that it has appropriate policies and practices for the lending of securities by the fund.
- 8.34 Except otherwise provided under clause 8.31, the fund's property 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**

- 8.35 The fund is prohibited from borrowing other assets (including borrowing of securities within the meaning of *Guidelines on Securities Borrowing and Lending*) in connection with its activities.
- 8.36 Notwithstanding clause 8.35, the fund may borrow cash for the purpose of meeting repurchase requests for units and for short-term bridging requirements.
- 8.37 For the purpose of clause 8.36, the PRS Provider must ensure that–
- (a) the fund's cash borrowing is only on a temporary basis and that borrowings are not persistent;
  - (b) the borrowing period must not exceed one month;
  - (c) the aggregate borrowings of a fund must not exceed 10% of the fund's NAV at the time the borrowing is incurred; and
  - (d) the fund may only borrow from financial institutions.

### **Investment in Real Estate**

- 8.38 The fund's property may consist of ownership of real estate provided that it is limited to 15% of the NAV of a fund.
- 8.39 The fund manager must ensure that there are appropriate policies and procedures for the valuation of real estate properties.
- 8.40 For the purposes of these guidelines, real estate means land and all things that are a natural part of the land as well as things attached to the land both below and above the ground.

### **Investment Limits**

- 8.41 The fund manager must ensure that the investment limits and restrictions set out in Schedule A and Schedule A1 of these guidelines are complied with at all times based on the most up-to-date value of the fund's property.

- 8.42 The limits and restrictions in Schedule A do not apply to securities/instruments issued or guaranteed by the Malaysian government or Bank Negara Malaysia.
- 8.43 In determining compliance with the limits or restrictions, any accrued entitlement on the securities/instruments held by the fund may be excluded. The entitlement must not be exercised if the exercise results in a breach of any limit or restriction.
- 8.44 Notwithstanding clause 8.43, 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 Scheme Trustee has been obtained. Nonetheless, the fund manager must, 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.
- 8.45 Although the limits and restrictions under Schedule A 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 PRS Provider.

#### **Breach of Investment Limits**

- 8.46 Notwithstanding clause 8.41, 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 property, or as a result of repurchase of units or payment made out of the fund).
- 8.47 The fund manager must not make any further acquisition to which the relevant limit is breached, and the fund manager must, 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**

- 8.48 The fund manager or the Scheme Trustee is encouraged to exercise the voting rights for any share held by the fund at a shareholders' meeting of a corporation whose shares are so held.
- 8.49 Notwithstanding clause 8.48, the fund manager or the Scheme Trustee may not exercise the voting rights at any election for the appointment of a director of a corporation whose shares are so held, unless it is sanctioned by the members of the fund by way of an ordinary resolution.

## **Chapter 9**

### **CHARGES, FEES AND EXPENSES**

#### **Charges for Dealing in Units**

- 9.01 A PRS Provider 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 disclosure document.
- 9.02 Subject to clause 9.18, the charges must not exceed the amount or rate stated in the disclosure document unless–
- (a) the PRS Provider has notified the Scheme Trustee and the SC in writing of the higher charge and the effective date of the charge;
  - (b) a supplementary or replacement disclosure document stating the higher charge is issued; and
  - (c) 30 days have elapsed since the effective date of the supplementary or replacement disclosure document.
- 9.03 Subject to clause 9.18, any increase in the maximum amount or maximum rate stated in the deed can only be made by way of a supplemental deed and pursuant to a special resolution passed at a meeting of members of the Scheme or the fund within the Scheme, as the case may be.
- 9.04 Discounts and rebates in any form are prohibited. A PRS Provider, its sales agents and distributors must clearly inform members and contributors of the actual rate of charges payable.
- 9.05 (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.

#### **Management Fee and Scheme Trustee Fee**

- 9.06 Unless otherwise approved by the SC, a PRS Provider and Scheme Trustee may only be remunerated by way of an annual fee charged to the fund.
- 9.07 The fees may only be charged to the fund if permitted by the deed and clearly disclosed in the disclosure document.



- 9.08 The fees must be accrued daily and calculated based on the NAV of the fund. The number of days in a year must be used in calculating the accrued fees.
- 9.09 Subject to clause 9.18, the fees must not be higher than that disclosed in the disclosure document unless—
- (a) for management fee, the PRS Provider has notified the Scheme Trustee in writing of the new higher rate, and the Scheme Trustee agrees after considering matters stated in clause 9.11;
  - (b) for Scheme Trustee fee, the Scheme Trustee has notified the PRS Provider in writing of the new higher rate, and the PRS Provider agrees after considering matters stated in clause 9.13;
  - (c) the PRS Provider has notified members of the higher rate and its effective date;
  - (d) a supplementary or replacement disclosure document disclosing the new higher rate of fees has been registered and issued; and
  - (e) 90 days have elapsed since the date of the supplementary or replacement disclosure document.
- 9.10 Subject to clause 9.18, any increase in the maximum rate stated in the deed may only be made by way of a supplemental deed and pursuant to a special resolution passed at a meeting of members of the Scheme or the fund within the Scheme, as the case may be .

***Remuneration of PRS Provider***

- 9.11 A PRS Provider must demonstrate, and the Scheme Trustee must agree, that the management fee is reasonable, considering—
- (a) the roles, duties and responsibilities of the PRS Provider;
  - (b) the interests of members;
  - (c) the nature, quality and extent of the services provided by the PRS Provider;
  - (d) the size and composition of the respective fund's property;
  - (e) the success of the PRS Provider in meeting the respective fund's investment objective;
  - (f) the need to maximise returns to members; and
  - (g) the maximum rate stipulated in the deed.
- 9.12 Notwithstanding clause 9.11, if at any time the Scheme Trustee is of the opinion that the management fee charged to the fund is unreasonable, the Scheme Trustee must take such necessary action, which may include convening a members' meeting, to ensure that the fee charged is commensurate with the services provided by the PRS Provider.

### ***Remuneration of Scheme Trustee***

9.13 The Scheme Trustee fee must be reasonable, considering–

- (a) the roles, duties and responsibilities of the Scheme Trustee;
- (b) the interests of members;
- (c) the maximum rate stipulated in the deed; and
- (d) the size and composition of the respective fund's property.

### ***Expenses of the Fund***

9.14 Except for fees payable to the Private Pension Administrator, only expenses (or part thereof) directly related and necessary in operating the Scheme and managing a fund may be paid out of the fund.

These include the following:

- (a) Commissions or fees paid to brokers or dealers in effecting dealings in the fund's property, shown on the contract notes or confirmation notes or difference accounts;
- (b) Where the custodial function is delegated by the Scheme Trustee, charges or fees paid to sub-custodians;
- (c) Tax and other duties charged on the fund by the Malaysian government and other authorities;
- (e) Fees and other expenses properly incurred by the auditor appointed for the Scheme;
- (f) Fees for the valuation of fund's property by independent valuers for the benefit of the funds under the Scheme;
- (g) Costs incurred for the modification of the deed other than those for the benefit of the PRS Provider or Scheme Trustee; and
- (h) Costs incurred for any meeting of members other than those convened by, or for the benefit of, the PRS Provider or Scheme Trustee.

9.15 General overheads and costs for services expected to be provided by the PRS Provider must not be charged to the fund. Costs of issuing disclosure document must be borne by the PRS Provider but may be charged to the fund if no sales charge is imposed.

9.16 A Scheme Trustee must ensure that all expenses charged to the fund are legitimate. In addition, a Scheme 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 Scheme 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.

- 9.17 A Scheme Trustee may be reimbursed by the fund for any expense appropriately incurred in the performance of its duties and responsibilities as a Scheme Trustee.

#### **Power to Review Fees**

- 9.18 Where the SC believes that any fee and charge imposed in respect of a private retirement scheme is not consistent with the objectives of the long term operations of a Scheme or prejudicial to the interests of members, the SC may review and require such fees and charges to commensurate with the services provided.

#### **Fees payable to Private Pension Administrator**

- 9.19 Any fees to be charged by the Private Pension Administrator to members or contributors may be collected by the PRS Provider acting on behalf of the Private Pension Administrator.

## **Chapter 10**

### **DEALING, VALUATION AND PRICING**

#### **Initial Offer**

- 10.01 A fund may provide for an initial offer period of not exceeding 21 days.
- 10.02 Dealing in units during the initial offer period must be at the initial price determined by the PRS Provider. Any creation or cancellation of units during the initial offer period must also be at the initial price
- 10.03 A PRS Provider must pay the Scheme Trustee the value of units created within 10 days of giving instructions to the Scheme Trustee to create units.
- 10.04 A Scheme Trustee must pay the PRS Provider the value of units cancelled within 10 days of receiving instructions from the PRS Provider to cancel units.

#### **Creation and Cancellation of Units**

- 10.05 A PRS Provider must instruct the Scheme Trustee in writing to create or cancel units of a fund, and respectively pay or receive cash from the Scheme Trustee for the transaction.
- 10.06 A Scheme Trustee must create or cancel units on receipt of, and in accordance with, the instructions given by the PRS Provider and only for cash.
- 10.07 Where a request for units is received from or on behalf of members or potential members, the PRS Provider must instruct the Scheme Trustee to create new units at or before the next valuation point if the PRS Provider has insufficient units to meet the request.
- 10.08 A PRS Provider must not, when giving instructions to the Scheme Trustee for the creation or cancellation of units, do or omit to do, anything which would confer on itself or a delegate a benefit at the expense of a member or a potential member.
- 10.09 Any instruction for the creation or cancellation of units may be modified but only if the Scheme 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 clause 10.09 must be corrected within the payment period applicable under clauses 10.11 and 10.12.
- 10.11 A PRS Provider must pay the Scheme Trustee the value of units created within 10 days of giving instructions to the Scheme Trustee to create units.

- 10.12 A Scheme Trustee must pay the PRS Provider the value of units cancelled within 10 days of receiving instructions from the PRS Provider to cancel units. However, the Scheme Trustee may extend the period where the fund does not have sufficient cash or liquid assets and the Scheme Trustee considers payment within 10 days is not in the best interest of members.
- 10.13 The creation and cancellation of units must be at NAV per unit of the fund as at the next valuation point after an instruction from the PRS Provider is received by the Scheme Trustee as referred to in clause 10.07.

#### **Scheme Trustee May Refuse to Create or Cancel Units**

- 10.14 Notwithstanding any other provision under these guidelines, a Scheme Trustee may by notice to the PRS Provider refuse to—

- (a) create units; or
- (b) create units in the number instructed by the PRS Provider;

where the Scheme Trustee considers the creation would result in a breach of the deed, these or other guidelines or securities laws. Where the Scheme Trustee refuses to create units under this paragraph, the PRS Provider shall repay all monies received from the contributor in relation to the units which are not created as soon as possible, at most within 10 days after the PRS Provider receives notification from the Scheme Trustee on its refusal to create units.

- 10.14A Notwithstanding any other provision under these guidelines, a Scheme Trustee may by notice to the PRS Provider refuse to—

- (a) cancel units; or
- (b) cancel units in the number instructed by the PRS Provider;

where the Scheme Trustee considers the cancellation is not in the best interest of members or it would result in a breach of the deed, these or other guidelines or securities laws.

#### **Dealing in Units**

- 10.15 A PRS Provider must agree to issue and redeem, and effect the sale and repurchase of units upon the proper request of a member.
- 10.16 A PRS Provider must, at all times during the business day, deal in units of a fund in accordance with the deed and the disclosure document unless it has reasonable grounds to refuse a sale or repurchase.

- 10.17 To give effect to transfers between PRS Providers under clause 11.87 and withdrawals under clause 11.37, a PRS Provider must—
- (a) for transfers between PRS Providers, pay the transferee PRS Provider the proceeds of the repurchase of units within 5 business days of receiving a completed transfer form from the Private Pension Administrator;
  - (b) for withdrawals, pay the member the proceeds of the repurchase of units by crediting the member's bank account or by issuing a cheque payable specifically to the member within 10 days of receiving a completed withdrawal request from the member. Following the death of a member, where payment to the trustee, executor or administrator of the deceased member requires the prior authorization of the Private Pension Administrator, a PRS Provider must pay the trustee, executor or administrator of the deceased member the proceeds of the repurchase of units within 10 days after the Private Pension Administrator's authorization is received by the PRS Provider; and
  - (c) maintain adequate arrangements to enable it to meet any repurchase of units for the purpose of a transfer or a withdrawal request within the stated period of time.
- 10.18 A PRS Provider must deal in units at a price determined in accordance with clauses 10.33.

### **Suspension of Dealing in Units**

- 10.19 A Scheme Trustee must suspend dealing in units of the fund—
- (a) where requests are made by the PRS Provider to cancel units to satisfy a repurchase request and the Scheme Trustee considers that it is not in the best interest of members to permit the fund's property to be sold or that the fund's property 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 members or potential members.
- 10.20 A suspension under clause 10.19(a) must only be carried out where the interests of members or potential members would be materially affected if the dealing in units were not suspended. In such a case, the Scheme Trustee must immediately call for a members' meeting to decide on the next course of action.
- 10.21 A suspension under clause 10.19(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.
- 10.22 A Scheme Trustee must not create or cancel units when dealing in units is suspended.
- 10.23 A Scheme Trustee must immediately notify the SC in writing if dealing in units is suspended stating the reasons for the suspension.

- 10.24 Before resuming dealing in units after any suspension, the PRS Provider must notify the SC in writing of the proposed resumption and the date of the proposed resumption.
- 10.25 A PRS Provider may deal in units at a price calculated by reference to the first valuation point after restart of dealing in units.

### **Valuation**

- 10.26 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.
- 10.27 The valuation points for a fund must be at least once every business day.
- 10.28 No valuation points are required during the initial offer period.
- 10.29 A PRS Provider may have additional valuation points for the fund during the business day, where it considers necessary.
- 10.30 For a fund with limited repurchase arrangements or investments in real estate, clause 10.27 does not apply. The valuation points for a fund with limited repurchase arrangements or investments in real estate must be clearly disclosed in the disclosure document and must be at least once a month.
- 10.31 Upon completion of a valuation, the Scheme Trustee must be immediately notified of the NAV per unit of the fund.

### **Price of a Unit**

- 10.32 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 shall be calculated:
- (a) by reference to the NAV of the fund's property; and
  - (b) in accordance with the provisions of both the deed and disclosure document applying to that class of units.
- 10.33 Subject to clause 10.33A, any dealing in units of the fund must be at a price that is the NAV per unit of the fund as at the next valuation point after the request for sale or repurchase of units is received by the PRS Provider (forward price).
- 10.33A In circumstances where the prior authorization of the Private Pension Administrator is required, any repurchase of units will be at a price that is the NAV per unit of the fund as at the next valuation point after the Private Pension Administrator's authorization is received by the PRS Provider.

### **Incorrect Valuation or Pricing**

- 10.34 Where incorrect valuation or pricing occurs, a PRS Provider must–
- (a) notify the Scheme Trustee; and
  - (b) notify the SC, unless the Scheme Trustee considers the incorrect valuation or pricing to be of minimal significance.
- 10.35 The PRS Provider must take immediate remedial action to rectify any incorrect valuation or pricing. Rectification must be extended to the reimbursement of money–
- (a) by the PRS Provider to the fund;
  - (b) from the fund to the PRS Provider; or
  - (c) by the PRS Provider to members and former members.
- 10.36 Notwithstanding clause 10.35, rectification need not, unless the Scheme Trustee otherwise directs, extend to any reimbursement where the Scheme Trustee considers the incorrect valuation or pricing to be of minimal significance.

### **Dilution Fee or Transaction Cost**

- 10.37 Where there are material costs involved in acquiring or disposing a fund's property, a PRS Provider 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 disclosure document.
- 10.38 The PRS Provider must ensure that the fee or adjustment made for dilution or transaction cost is fair and for the sole purpose of reducing dilution.
- 10.39 Where a fee is imposed, the PRS Provider 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 Scheme Trustee as soon as practicable after receipt to become part of the fund's property.
- 10.40 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.
- 10.41 As soon as practicable after a valuation point, the PRS Provider must notify the Scheme Trustee on the amount or rate of any dilution adjustment made to the NAV per unit of the fund or any dilution fee imposed.



- 10.42 A PRS Provider 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 member.

**Publication of Price of a Unit**

- 10.43 A PRS Provider may, in lieu of publication in newspapers on a daily basis, publish the price of a fund's unit daily on the website of the PRS Provider and on a daily basis provide the same to the Private Pension Administrator.
- 10.44 The unit price published must be the latest price per unit calculated for the day, before the newspaper ceases to accept material for publication (where applicable). For fund's invested overseas, the valuation point may be extended to 5.00 pm the next business day of Bursa Malaysia to accommodate markets that are still open after 5.00 pm the same business day.
- 10.45 The unit price must be rounded to four decimal places.

## **Chapter 11**

### **OPERATIONAL MATTERS**

#### **Register of Members**

- 11.01 A PRS Provider must keep and maintain an up-to-date register of members at the registered office or principal place of business of the PRS Provider.
- 11.02 The register of members must set out the information required under Regulation 17 of the PRS Regulations. In addition to Regulation 17, a PRS Provider must enter into the register–
- (a) the member’s passport number for members that are foreigners;
  - (b) where the PRS Provider holds units of funds in the Scheme, the corporation’s name and registration number; and
  - (c) where units are issued pursuant to a vesting schedule, the name of the employee as member and further classify such units as vested or conditionally vested in accordance with the vesting schedule.
- 11.03 A PRS Provider must–
- (a) alter the register upon receiving a written notice of a change of name or address of any member; and
  - (b) refuse to make entries into the register in joint names.
- 11.04 In the event of conflict or discrepancy, the entries in the register of members as maintained by the PRS Provider shall prevail over the information in the private pension account maintained by the Private Pension Administrator.

#### **Cooling-off Right**

- 11.05 A cooling-off right must be given to an individual who makes a contribution in a private retirement scheme for the first time. Once an individual is a member of a private retirement scheme and has exercised his cooling-off right, the cooling-off right is not available for contributions in other private retirement schemes.
- 11.06 Notwithstanding clause 11.05, a cooling-off right must not be given to–
- (a) a staff of that PRS Provider; and
  - (b) a person registered with a body approved by the SC to deal in private retirement schemes.
- 11.07 The cooling-off period must not be less than six business days commencing from the date of receipt of the application by the PRS Provider.

- 11.08 The refund for every unit held by the member pursuant to the 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.
- 11.09 When an individual requests to exercise his cooling-off right, the PRS Provider must obtain prior authorization of the Private Pension Administrator before proceeding to refund the money in accordance with clause 10.17(a).

### **Default Option**

- 11.10 Where contributions are made by or on behalf of a member who does not select a fund under the private retirement scheme, the PRS Provider must allocate contributions into the default option that corresponds to the age of the member as specified in Schedule A1 of these guidelines.
- 11.10A Notwithstanding clause 11.10, where an individual becomes a member and has made his first contribution to the Scheme a month before he attains the age of 40 or 50 years old as the case may be, the PRS Provider must allocate such contribution to the moderate fund or conservative fund as the case may be.
- 11.11 A member may actively select one or more of core funds under the default option notwithstanding that the funds do not correspond with the age of the member.
- 11.12 Where a member is allocated to the default option under clause 11.10, the PRS Provider must, within a reasonable time from the first contribution, notify the member in writing that the member has been allocated to the default option and provide to that member a brief description of how the default option operates.
- 11.13 Where the member is in the default option, the PRS Provider must before the end of the next calendar month from the day the member attains–
- (a) the age of 40 years old, redeem the units in the growth fund and purchase units in the moderate fund; and
  - (b) the age of 50 years old, redeem the units in the moderate fund and purchase units in the conservative fund,
- unless the member instructs otherwise.
- 11.14 Where the member is in the default option, the PRS Provider must notify the member in writing one month before the member attains the age specified in sub-clauses 11.13(a) and (b), that the member's investments in a core fund will be switched in accordance with the rules of the default option unless the member instructs otherwise. The notice to the member must at minimum include general investment advice and outlook.

## **Distribution of Income**

- 11.15 Distribution of income must only–
- (a) be made from realised gains or realised income; and
  - (b) be in the form of units in lieu of cash.
- 11.16 Distribution of income must be made after the PRS Provider has taken 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.
- 11.17 A PRS Provider must ensure that all relevant deductions on any tax and duty are made prior to distribution to members.
- 11.18 There must be a distribution account to which the fund's income is transferred prior to distribution to members.
- 11.19 Where a distribution is made, the PRS Provider must send a statement detailing the nature and the amount of income distributed to every member of the fund. 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.
- 11.20 For interim distribution, a PRS Provider may, instead of sending a statement required under clause 11.19, choose to publish the same information in an advertisement in at least one national Bahasa Malaysia newspaper and one national English newspaper.

## **Unit Split**

- 11.21 A unit split exercise may only be conducted once in any financial year of the fund.
- 11.22 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 six-month period preceding the unit split exercise.

**Guidance**

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

- 11.23 The PRS Provider must submit the Scheme Trustee's verification on compliance with clause 11.22 to the SC within 14 days after the unit split exercise.
- 11.24 The PRS Provider must send a statement detailing the ratio of the split to every member of the fund. The statement must also include the following information:
- (a) NAV per unit prior and subsequent to the unit split exercise; and
  - (b) Reasons for conducting the unit split exercise.
- 11.25 A PRS Provider may, instead of sending a statement required under clause 11.24, choose to publish the same information in an advertisement in at least one national Bahasa Malaysia newspaper and one national English newspaper.

**Conflict of Interest**

- 11.26 A PRS Provider, a Scheme Trustee and any delegate or service provider must avoid conflicts of interest arising, or if conflicts arise, must ensure that any fund under the private retirement scheme is not disadvantaged by the transaction concerned.
- 11.27 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.
- 11.28 The appointment or renewal of appointment of any delegate or service provider who is a related party must be approved by the independent directors of the PRS Provider.

**Use of Brokers or Dealers**

- 11.29 Every broker or dealer used for dealings in the fund's property, either directly by the PRS Provider or fund management delegate, must be approved by the investment committee of the fund.
- 11.30 In approving a broker or dealer, the investment committee of a fund—
- (a) must be satisfied that the dealings in the fund's property will be effected by the broker or dealer on terms which are the best available for the fund ("best execution" basis); and
  - (b) must prescribe a limit in terms of proportion of dealings (in percentage) executed with each broker or dealer.

- 11.31 In determining the limit under clause 11.30(b), the investment committee of a fund must 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.
- 11.32 Notwithstanding clauses 11.30(b) and 11.31, 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.

### **Rebates and Soft Commissions**

- 11.33 A PRS Provider, a Scheme Trustee or a delegate of the PRS Provider must 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 property. Accordingly, any rebate or shared commission must be directed to the account of the fund concerned.
- 11.34 Notwithstanding clause 11.33, goods and services (soft commissions) provided by any broker or dealer may be retained by a PRS Provider or its delegate, but only if the goods and services are of demonstrable benefit to members and–
- (a) dealings with the broker or dealer are executed on terms which are the best available for the fund; and
  - (b) the PRS Provider's or delegate's soft commission practices are adequately disclosed in the disclosure document and fund reports (including a description of the goods and services received by the PRS Provider or delegate).

#### **Guidance**

Soft commissions which are not allowed include, among others, entertainment allowance, travel, accommodation and membership fee.

- 11.35 Where clause 11.34 applies, the compliance officer must verify and inform the PRS Provider's board of directors or audit committee or compliance committee (if any) that any goods or services received by the PRS Provider or its delegate, comply with the guidelines' requirements.

### **Documents for Inspection by Members**

- 11.36 A PRS Provider and/or a Scheme Trustee must make available at their principal place of business the following documents:
- (a) The deed and the supplementary deed(s) (if any) of the Scheme or funds under the Scheme;

- (b) The current disclosure document and supplementary or replacement disclosure document (if any) of the Scheme and funds under the Scheme;
- (c) The latest annual and interim reports of the funds under the Scheme;
- (d) Each material contract or document referred to in the disclosure document and supplementary or replacement disclosure document (if any);
- (e) All reports, letters or other documents, valuations and statements by any expert, any part of which is extracted or referred to in the disclosure document and supplementary or replacement disclosure document (if any);
- (f) The audited accounts of the PRS Provider and the funds under the Scheme for the last three financial years or from the date of incorporation or commencement (if less than three years);
- (g) Latest audited accounts of the PRS Provider and the funds under the Scheme for the current financial year (where applicable); and
- (h) Any consent given by experts or persons named in the disclosure document and supplementary or replacement disclosure document (if any) as having made a statement that is included in the disclosure document and supplementary or replacement disclosure document (if any) or on which a statement made in the disclosure document and supplementary or replacement disclosure document (if any) is based, for inspection by members at all times (without charge) during the ordinary business hours of the PRS Provider and the Scheme Trustee.

### **Withdrawals from Private Retirement Schemes**

11.37 Request for withdrawals may be made in the following circumstances and as follows:

- (a) After the day the member reaches the retirement age, withdrawals may be made in part or in full;
- (b) Following the death of a member, only full withdrawals may be made;
- (c) Prior to the member reaching the retirement age, withdrawals from sub-account B may be made in part or in full; or
- (d) Permanent departure of a member from Malaysia, only full withdrawals may be made.

**Guidance:**

The following are not considered a withdrawal from a Scheme:

- (a) Exercise of cooling-off rights;
- (b) Withdrawal/redemption for the purpose of transfer to a scheme by another PRS Provider; or
- (c) Redemption or holding of units by PRS Provider for the purpose of complying with

repurchase requests by members or in creating new units to meet anticipated requests for units from contributions under the manager's box under clause 3.33.

- 11.38 Upon receiving a member's request to withdraw some or all of the accrued benefits in any fund under a Scheme, the PRS Provider or Private Pension Administrator (as the case may be) may require the member to provide evidence of the facts necessary to establish the member's right to withdraw monies from any fund under the Scheme. For withdrawals following the death of a member under clause 11.37(b), a PRS Provider must obtain prior authorization from the Private Pension Administrator before issuing instructions to the Scheme Trustee to cancel units.
- 11.39 Withdrawals under clause 11.37(c) may be requested by a member once every calendar year from each PRS Provider (from one or multiple funds under any Scheme(s) managed by that PRS Provider) provided that no withdrawal can be made from a Scheme where the individual has been a member of that Scheme (whether via member contribution or employer contribution) for less than one year. A PRS Provider must deduct an 8% tax penalty (or such other applicable tax penalty) from the withdrawn amount before making payment to the member. For the avoidance of doubt, the tax penalty would not apply for pre-retirement withdrawals due to death or permanent departure of a member from Malaysia.

#### **Terminating or Winding Up a Scheme or Funds under the Scheme**

- 11.40 Regulation 25 provides that, notwithstanding any provisions or covenant of a deed, prior approval of the SC is required before a Scheme may be wound up. Where termination or winding up relate to a fund under the Scheme, the following are circumstances upon occurrence of which a fund may be terminated or wound up:
- (a) The SC's approval for the private retirement scheme is withdrawn under sub-sections 139X(1) or 139X(2) of the CMSA;
  - (b) The SC's authorization for the fund is revoked under clause 7.10 of these guidelines;
  - (c) A special resolution is passed at a members' meeting to wind up a non-core fund;
  - (d) The fund has reached its maturity date as specified in the deed; and
  - (e) The effective date of an approved transfer scheme has resulted in the non-core fund, which is the subject of the transfer scheme, being left with no asset or property.
- 11.41 Upon the occurrence of any of the events under clause 11.40—
- (a) Chapter 10 (Dealing, Valuation and Pricing) and Chapter 8 (Investments of the Scheme) cease to apply to the affected fund(s);



- (b) the Scheme Trustee must cease to create and cancel units in the affected fund(s);
  - (c) the PRS Provider must cease to deal in units in the affected fund(s); and
  - (d) the Scheme Trustee must proceed to wind up the fund in accordance with clauses 11.42 and 11.43.
- 11.42 If an event under clause 11.40(e) occurs, the Scheme Trustee must proceed to wind up the fund in accordance with the approved transfer scheme.
- 11.42A In any other event under clause 11.40, the Scheme Trustee must–
- (a) sell all the affected fund’s property remaining in its hands; and
  - (b) after paying or retaining adequate amount for all liabilities payable and cost of winding up, transfer the net cash proceeds available for the purpose of such distribution in proportion to the number of units held by members respectively to another fund under the same Scheme or under a different Scheme.
- 11.43 The PRS Provider or Scheme Trustee must as soon as practicable after the termination or winding up of a Scheme or a fund under the Scheme–
- (a) (where members’ resolution for the termination or winding up is not obtained) inform members of the termination or winding up of the Scheme or fund under the Scheme and the procedures for the members to transfer the net proceeds from the fund to another fund under a Scheme; and
  - (b) publish a notice on the termination or winding up of the fund and the procedures for the members to transfer the net proceeds from the fund to another fund under a Scheme on the Private Pension Administrator’s website and in one national Bahasa Malaysia newspaper and one national English newspaper.
- 11.44 The PRS Provider and Scheme Trustee must notify the SC in writing–
- (a) upon the passing of a resolution to terminate or wind up the fund; and
  - (b) upon the completion of the termination and winding up of the fund.
- 11.45 Where a Scheme or a fund under the Scheme is being terminated or wound up, the Scheme 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 or Winding Up***

- 11.46 While a Scheme or fund under the Scheme is being terminated or wound up–
- (a) the accounting period continues to run; and
  - (b) the annual and interim reports continue to be required, unless after consulting the auditor and the SC, the PRS Provider has taken reasonable care to determine that

timely production of an annual or interim report is not required in the interests of members.

### **Transfer Schemes**

11.47 A transfer scheme is an arrangement to transfer fund property from a fund (transferor fund) to another fund (transferee fund) under a Scheme.

11.48 A PRS Provider must ensure that the members of the transferor fund do not become members of a fund other than a fund under a Scheme approved by the SC.

11.49 A transfer scheme must not be implemented without the sanction of—

- (a) a special resolution of members of the transferor fund; and
- (b) a special resolution of members of the transferee fund.

11.50 If the PRS Provider and Scheme Trustee or other persons providing oversight functions for the transferee fund or the auditor of the transferee fund agrees that the receipt of the property concerned for the account of the transferee fund—

- (a) is not likely to result in any material prejudice to the interests of members of the transferee fund;
- (b) is consistent with the investment objective of the transferee fund; and
- (c) could be effected without any breach of clauses stipulated in Chapter 8 (Investments of the Scheme);

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

### **Meeting of Members**

11.51 A PRS Provider or Scheme Trustee may, at any time, convene a meeting of members of the Scheme or a fund within the Scheme.

11.52 Regulation 20 of the PRS Regulations makes provision for requisition of a meeting by members of the Scheme or a fund, as the case may be.

### **Notice of Meetings**

11.53 Where a PRS Provider or Scheme Trustee decides to convene a members' meeting, it must—

- (a) give at least 14 days' written notice to members; and
- (b) specify in the notice, the place, time and terms of the resolutions to be proposed.

11.54 Where a meeting is requested by members under Regulation 20 of the PRS Regulations, the PRS Provider must–

- (a) call the meeting within 21 days after receiving the request from members;
- (b) give notice to members of the time and place of the meeting by:
  - (i) sending by post a notice of the proposed meeting at least seven days before the date of the proposed meeting, to each member of the Scheme or where relevant, to each member of the fund at the member's last known address; and
  - (ii) publishing, at least 14 days before the date of the proposed meeting, an advertisement giving notice of the meeting in a national language national daily newspaper and in one other newspaper as may be approved by the SC; and
- (c) specify in the notice the terms of the resolutions to be proposed.

11.55 For a meeting of members of a fund, the notice specified under clauses 11.53(a) and 11.54(b) must only be given to members of the fund.

11.56 A copy of the notice referred to under clauses 11.53(a) and 11.54(b) must be delivered to the SC and the Scheme Trustee.

### **Chairman**

11.57 A members' meeting must be chaired by–

- (a) if the meeting is requested by the members or the Scheme Trustee, a person appointed on their behalf by members who are present at the meeting or (where no such appointment is made) by a nominee of the Scheme Trustee; or
- (b) if the meeting is called by the PRS Provider, a person appointed by the PRS Provider.

### **Quorum**

11.58 The quorum required for a meeting is five members, whether present in person or by proxy, provided always that the quorum for a meeting which requires a special resolution is five members holding in aggregate at least 25% of the units in issue at the time of the meeting.

11.59 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 members, must be dissolved; and
- (b) in any other case, must 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.

11.60 Notice of an adjourned meeting must be given to members, stating that while five members 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 members 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**

11.61 Except where a special resolution is specifically required or permitted, any resolution is passed by a simple majority.

11.62 Resolutions passed at a meeting of members bind all members of the Scheme or a fund 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.

11.63 A copy of the resolution must be delivered to the SC and Scheme Trustee.

### **Voting Rights**

11.64 On a show of hands, every member who is present in person or by proxy has one vote.

11.65 A poll may be demanded on any resolution. On a poll–

- (a) votes may be given either personally or by proxy; and
- (b) every member who is present in person or by proxy has one vote for every unit held by him.

11.66 A PRS Provider must not exercise the voting rights for the units it or its nominees hold in any members' meeting, regardless of the party who requested for the meeting and the matters that are laid before the meeting.

11.67 Related parties who have interest in the outcome of the transaction tabled for approval and that interest is different from the interests of other members, must not vote or be counted in the quorum at a meeting.

### **Right to Demand Poll**

11.68 A resolution put to the vote at a members' meeting must be determined by a show of hands unless a poll is demanded (before or immediately after any question is put to the show of hands) by–

- (a) the chairman;
- (b) the Scheme Trustee;

- (c) the PRS Provider; or
- (d) members present (or represented by proxy) who hold between them not less than one-tenth of the total number of units in issue of the private retirement scheme or fund (depending on the type of meeting called for).

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

### ***Proxies***

11.70 A member may appoint another person to attend a members' meeting and vote in the member's place.

11.71 Every notice calling a members' meeting must contain a statement that a member is entitled to attend and vote, or may appoint a proxy.

11.72 The document appointing a proxy must be deposited at the office of the PRS Provider not less than 48 hours before the meeting or adjourned meeting.

### ***Adjournment and Minutes***

11.73 The chairman—

- (a) may, with the consent of any meeting of members at which a quorum is present; and
  - (b) must, if so directed by the meeting;
- adjourn the meeting.

11.74 A PRS Provider must ensure that—

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

### ***Unclaimed Monies***

11.75 Subject to clause 11.76, where a member of a private retirement scheme has not made any transaction or instruction in relation to any private retirement scheme for more than 12 months subsequent to attaining the age of 80 years, the Scheme Trustee may pay any unclaimed accrued benefit held by the Scheme Trustee to the Registrar of Unclaimed Monies, in accordance with the provisions of the *Unclaimed Monies Act 1965*.

11.76 Prior to paying the unclaimed accrued benefits to the Registrar of Unclaimed Monies, the Scheme Trustee must obtain approval of the Private Pension Administrator.

### **Training Requirements**

- 11.77 A PRS Provider and a Scheme Trustee must provide training to its officers to improve and upgrade their skills and expertise.
- 11.78 In particular, a PRS Provider must allocate and spend at least 3% per annum of its gross salary expense on training its officers.

### **Corporate Governance**

- 11.79 A PRS Provider of a private retirement scheme must adhere to good corporate governance principles and best industry standards for all activities conducted in relation to the Scheme.
- 11.80 The Scheme Trustee, and any other delegates or service provider of the Scheme or the fund (where relevant) must observe the best of corporate governance standards.

### **Other Features of the Scheme**

- 11.81 Contributions to any fund under the private retirement schemes can be received by a PRS Provider from an employer on behalf of its employees or from any individual who has attained the age of 18 years as of the date of opening of a private pension account.
- 11.81A Where an employer makes a contribution on behalf of an employee whether subject to a vesting schedule or otherwise, the choice of funds under the Scheme (including the right to switch to another fund under the Scheme) is to be made by the employee. Where an employee does not make a fund selection, clause 11.10 applies.
- 11.82 A PRS Provider may set a minimum or maximum contribution amount for each fund under a Scheme and may limit the number of funds that any person may be a member of under a Scheme.
- 11.83 PRS Providers cannot require members to make fixed or regular contributions to any fund under the Scheme.
- 11.84 PRS Providers must ensure that contributions received from an employer on behalf of an employee that is subject to a vesting schedule are not to be transferred to another PRS Provider at the request of that employee, or withdrawn by that employee, until units issued pursuant to such contributions are vested unconditionally.
- 11.85 Vested units are to be maintained in two separate sub-accounts by the PRS Provider as follows:
- (a) Sub-account A which must not be made available for pre-retirement withdrawal; and

- (b) Sub-account B which would be available for pre-retirement withdrawal subject to payment of tax penalty set by the Inland Revenue Board.

11.86 PRS Providers may prescribe the circumstances and may limit the number of times in a year that a member can switch funds within a Scheme.

#### **Transfer between PRS Providers prior to retirement**

11.87 Subject to clauses 11.84 and 11.89 and prior to a member reaching the retirement age, a PRS Provider must allow accrued benefits of any amount from one or multiple funds under any Scheme(s) managed by that PRS Provider to be transferred at the request of a member once every calendar year to another PRS Provider provided:

- (a) that the individual has been a member of that Scheme (whether via member contribution or employer contribution) for at least one year; and
- (b) all the accrued benefits to be transferred from a particular fund must be transferred to one (1) other fund.

11.88 *(Deleted on 15 November 2013).*

11.89 In effecting a transfer of accrued benefits, –

- (a) the transferor PRS Provider may rely on the transferee PRS Provider's verification of the identity of the member requesting such transfer; and
- (b) the proceeds from the cancellation of units in sub-account A (whether from one or multiple funds managed by the transferor PRS Provider) must be used to create units in sub-account A of one or multiple funds managed by the transferee PRS Provider. Similarly, the proceeds from the cancellation of units in sub-account B (whether from one or multiple funds managed by the transferor PRS Provider) must be used to create units in sub-account B of one or multiple funds managed by the transferee PRS Provider.

11.90 PRS Providers may only charge actual and reasonable expenses incurred in connection with transfers to another PRS Provider or switching between funds within the Scheme as disclosed in the disclosure document.

#### **Vesting of Contributions in member as accrued benefits**

11.91 Under sub-section 139Y(1) of the CMSA, contributions in respect of a member of a PRS Scheme shall vest in the member as accrued benefits as soon as it is paid to either the approved PRS Provider or the Scheme Trustee, whichever is earlier.

11.92 For the purposes of employers who make contributions into a PRS scheme on behalf of his employees, the manner in which the accrued benefits will be accounted for and vested in a

member may be in accordance with the vesting schedule issued by the respective employer.

11.93 Contributions that are subject to a vesting schedule may result in the issuance of vested and conditionally vested units. Members who hold vested and conditionally vested units will enjoy equivalent rights as members of a fund. However, a member holding conditionally vested units is not permitted to request for a transfer of such units to another PRS Provider or to withdraw any such units.

11.94 A PRS Provider must ensure that a vesting schedule issued by an employer must clearly stipulate the terms and conditions of the vesting schedule including but not limited to the following:

- (a) terms and conditions of the employer's contribution and of the vesting of the units issued;
- (b) the rights attached to vested and conditionally vested units, including any limitation on the rights attached to conditionally vested units;
- (c) whether conditionally vested units will be unconditionally vested under circumstances including but not limited to the following-
  - (i) cessation of the employee's employment (under various circumstances);
  - (ii) where the employer is in the course of being wound up or otherwise dissolved;
  - (iii) where a receiver, a receiver and manager or an equivalent person has been appointed in respect of any property of the employer;
  - (iv) where the employer has, whether within or outside Malaysia entered into a compromise or scheme of arrangement with its creditors, being a compromise or a scheme of arrangement that is still in operation;
  - (v) merger of the employer with, or acquisition of the employer by, another entity;
  - (vi) termination of the vesting schedule;
  - (vii) death of the employee; and
  - (viii) any other circumstances as may be specified by the SC.

11.95 Upon being notified of any of the circumstances stipulated in a vesting schedule pursuant to clause 11.94 (c) the PRS Provider is required to-

- (a) repurchase the conditionally vested units and pay the proceeds to the respective employer not later than 10 days after being notified; or



- (b) vest the conditionally vested units in that member or in that member's estate as soon as practicable.

## Chapter 12

### REPORTING AND AUDIT

#### Reporting Requirements

- 12.01 A PRS Provider must prepare an annual and an interim report of all funds under the Scheme to provide all necessary information to enable members to evaluate the performance of each fund under the Scheme. Every fund must have the same financial year-end.
- 12.02 For a new fund, where the first accounting period is less than 12 months, an interim report need not be prepared.
- 12.03 If a PRS Provider intends to change the annual or interim financial period, the PRS Provider must obtain—
- (a) a written confirmation from the auditor that the change would not result in any significant distortion of the financial position of each fund under the Scheme; 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) Scheme Trustee's report;
  - (e) Shariah adviser's/panel of advisers' report (where applicable);
  - (f) Audited financial statements for the accounting period; 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) Scheme Trustee's report;
  - (e) Shariah adviser's/panel of advisers' interim review report (where applicable); and

- (f) Financial statements for the interim accounting period.

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

### **Publication of Reports**

12.07 A PRS Provider must–

- (a) prepare and publish the interim report and annual report of the fund;
- (b) send the interim report and annual report without charge to members;
- (c) send the interim report and annual report to the Private Pension Administrator; and
- (d) lodge the annual report and deliver the interim report to the SC;

within two months after the end of the financial period the report covers as provided for under regulation 11.

12.08 Notwithstanding the requirement for an interim report in clause 12.07(b), a PRS Provider may choose to send a short interim report to members.

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 states that the interim report is available upon request and without charge (to appear in bold and in a prominent position).

### **Audit**

12.10 A PRS Provider and Scheme Trustee must ensure that the financial statements of the fund are audited annually by an auditor appointed under clause 12.11.

12.11 A Scheme Trustee must appoint an auditor for the fund that is independent of the PRS Provider and the Scheme Trustee, and registered with the Audit Oversight Board.

12.12 Where the SC is of the opinion that the auditor appointed by the Scheme Trustee is not suitable, or where an auditor has not been appointed, the SC may direct the Scheme Trustee to replace or appoint an auditor to the fund in accordance with the requirements of this chapter.

12.13 A Scheme Trustee may, from time to time, if it deems appropriate, remove the auditor of the fund and appoint another in its place. In addition, members may by way of an ordinary resolution request the Scheme Trustee to replace the auditor.

**Co-operation with Auditors**

- 12.14 A PRS Provider 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.
- 12.15 A PRS Provider must, in writing, require any person to whom the PRS Provider has delegated or outsourced any function to co-operate with the fund’s auditor in accordance with the provisions specified in clause 12.14.

## Chapter 13

### DISCLOSURE DOCUMENT AND PRODUCT HIGHLIGHTS SHEET

#### General

- 13.01 The information that must be given to a person by a PRS Provider when offering or inviting contributions to the Scheme is the Scheme's disclosure document and product highlights sheet. Schedule G specifies the minimum information required by the SC in a Scheme's product highlights sheet. The product highlights sheet must follow the template provided in Appendix I of Schedule G which may be specified by the SC from time to time. Minimum contents of the disclosure document are set out under Schedule H.
- 13.02 The purpose of a product highlights sheet is to provide a summary of the key information on of the fund(s) under the Scheme to potential members. A product highlights sheet must be prepared for each fund under the Scheme except for the core funds of the Scheme which must be covered under one product highlights sheet. Product highlights sheet, either in electronic form or printed copy, depending on the choice made by the potential member, are to be provided at the initial engagement or at the point individuals show interest in contributing to the Scheme.
- 13.03 The product highlights sheet and disclosure document, either in electronic form or printed copy depending on the choice made by the potential member, must be provided before the potential member contributes to any fund under a Scheme except for contributions, whether from employers or individuals, that are channelled to the default option owing to the reason that a member has not made a fund selection. Where the exception applies, PRS Providers must make all reasonable efforts to make available or send the product highlights sheet and disclosure document to the relevant member after the first contribution has been made to the relevant fund under a Scheme.
- 13.04 The minimum information required in these guidelines is general in nature and must not be viewed as the only criteria for disclosure in a Scheme's product highlights sheet and disclosure document. Directors, advisers and experts have the primary obligation and liability for the contents of a Scheme's product highlights sheet and disclosure document and they must ensure that all information necessary for an assessment of the scheme offered by the disclosure document is disclosed.
- 13.05 The SC may require and request for additional information in any particular case. Where a fund under the Scheme issues more than one class of units, similar information must be given for each class of units.
- 13.06 In determining the information to be disclosed in a Scheme's disclosure document, the following must be considered:
- (a) Nature of the Scheme;
  - (b) Persons likely to consider acquiring units of the funds under the Scheme;

- (c) Certain matters that may reasonably be expected to be within the knowledge of professional advisers whom members may consult; and
  - (d) Whether the persons to whom an issue of, offer for subscription or purchase of, or invitation to subscribe for or purchase, units is to be made are members in the scheme, and if they are, to what extent (if any) relevant information has previously been given to them by the PRS Provider under any law or guidelines, if applicable, or otherwise.
- 13.07 Subject to 13.08, PRS Providers or their advisers must strictly monitor any significant change or occurrence of a material event or new material information arising that will affect the contents of the disclosure document and to update it via a supplementary or replacement disclosure document where necessary.
- 13.08 Any change, occurrence of an event or new information which is not material must be posted on the website of the PRS Provider provided this information is intended to be registered with the SC via a supplementary or replacement disclosure document within six months from occurrence of the change, event or new information.
- 13.08A Any change (significant or otherwise) in the information disclosed in the product highlights sheet, or occurrence of an event or new information (material or otherwise) which should be reflected in the product highlights sheet, must be reflected in the product highlights sheet immediately. A replacement product highlights sheet must be lodged with the SC in accordance with clause 13.36.
- 13.09 The disclosure document must be legible and printed in typefaces which are not smaller than Times New Roman eight points. All pages must be numbered.
- 13.09A The product highlights sheet must be easy to read, highly legible and printed in typefaces which are not smaller than Calibri ten (10) points for the main text. Headings should be presented in a manner which ensures clear differentiation from the main text. All pages must be numbered.
- 13.10 Full accountability for the accuracy of all information in the product highlights sheet and disclosure document and the responsibility to ensure there is no omission of facts which would make any of the statements therein misleading, remains with the directors of the PRS Provider or any other person who is a party to the preparation of the product highlights sheet and disclosure document or any of its relevant portions. Such persons are advised to be mindful of provisions of section 92A of the CMSA on liability for false or misleading statements or material omissions in the information given to a person who invests in a private retirement scheme.
- 13.11 The SC may take action against persons who fail to comply with and/or observe any of the provisions in these guidelines, as permitted under section 354 of the CMSA.

- 13.12 The PRS Provider must ensure that the minimum contents of a product highlights sheet and disclosure document as set out in Schedules G and H respectively, are complied with at all times.

#### **Registration and Lodgement of the Disclosure Document - General**

- 13.13 The PRS Provider, or its adviser, must submit a disclosure document of the Scheme for registration and lodgement in accordance with the submission requirements and procedures set out in this chapter.
- 13.14 The SC will not register a disclosure document unless it is in its final or complete form and is accompanied by all required materials and documents. The SC reserves the right to refuse registration and return the disclosure document, if in the opinion of the SC, the disclosure is incomplete and inadequate, the disclosure document is not in its final or complete form and/or the disclosure document is not accompanied by all relevant material or documents, as the case may be.
- 13.15 The original or certified true copies of all reports and letters in the disclosure document must be included as accompanying documents in the registration file. For certified true copies, the identity and position of the person certifying the documents must be stated.
- 13.16 All reports and letters, e.g. tax adviser's report, letter of consent and other reports, contained in the disclosure document must be dated and signed.
- 13.17 Where the PRS Provider proposes to issue the disclosure document in various languages, the disclosure document in each language must be registered and lodged with the SC.

#### **Fees Payable to the SC**

- 13.18 The disclosure document must be submitted to the SC for registration and lodgement together with prescribed fees.
- 13.19 Payment must be made in the form of a crossed cheque/draft order made in favour of "Suruhanjaya Sekuriti" or "Securities Commission".

#### **Registration of Disclosure Document**

- 13.20 For a new Scheme, the registration file comprising documents required under clause 13.27 must be submitted to the SC together with the application to seek the SC's approval to establish a new Scheme.
- 13.21 The disclosure document may be left undated upon submission to the SC for registration. However, the disclosure document must be dated before it is lodged with the SC.

### **Supplementary Disclosure Document or Replacement Disclosure Document**

13.22 Regulation 8 of the PRS Regulations provides for circumstances when a supplementary or replacement disclosure document must be registered with the SC.

#### **Guidance**

Subject to 13.07 and 13.08, a PRS Provider must, within 14 days after becoming aware of any occurrence in Regulation 8 of the PRS Regulations, submit a supplementary or replacement disclosure document for registration.

13.23 The changes requiring a supplementary or replacement disclosure document may consist of–

- (a) changes to the body of the original disclosure document;
- (b) changes to experts' reports included in the original disclosure document; and/or
- (c) changes to information in the supplementary disclosure document (including new reports) previously registered for a particular disclosure document.

13.24 Where a person submits an application to subscribe for or purchase units in a fund under the Scheme and before the units are issued, a supplementary or replacement disclosure document is submitted to the SC for registration, then as soon as practicable after the registration of the supplementary or replacement disclosure document, the PRS Provider must–

- (a) give a written notice to the person or other notices as may be specified by the SC –
  - (i) advising the person that a supplementary or replacement disclosure document has been registered by the SC;
  - (ii) giving the person no less than 14 days from the date of receipt of the notice an opportunity to withdraw his application; and
- (b) ensure that the written notice is accompanied by a copy of the supplementary or replacement disclosure document.

13.25 A disclosure document or a supplementary or replacement disclosure document must be legible and printed in typefaces which are not smaller than Times New Roman eight points. All pages of the supplementary or replacement disclosure document must be numbered.

13.26 For the registration of a supplementary disclosure document or a replacement disclosure document, the registration file must be submitted to the SC at least seven business days prior to the registration date.



### **Documents to be Submitted for Registration of Disclosure Document**

13.27 For the registration of a disclosure document, the PRS Provider or its adviser must ensure that the registration file submitted to the SC comprise the following documents:

- (a) Cover letter signed by at least one of the directors of the PRS Provider, specifying the following:
  - (i) Application to register the disclosure document;
  - (ii) A confirmation that a due diligence review has been conducted and verified that the disclosure document complies with the minimum disclosure requirements as stated under these guidelines;
  - (iii) A confirmation that the accompanying documents in the registration file are complete, duly signed and dated; and
  - (iv) A confirmation that all relevant conditions of approval, to be complied with before the issuance of the disclosure document, have been met.
- (b) Registrable copies of the disclosure document (printers' proof) (two copies each in Bahasa Malaysia or English Language);
- (c) Registration checklist;
- (d) Registration fees and the fee checklist;
- (e) Compliance Schedule;
- (f) Director's responsibility statement for the disclosure document which all directors must sign;
- (g) If an alternate director signs the responsibility statement, there must be a clear reference made in the responsibility statement of such fact. The original written authorizations by directors, appointing an alternate director to sign the responsibility statement on their behalf must be submitted;
- (h) Original copies of all letters of consent from all persons named in the disclosure document as having made a statement that is included in the disclosure document or on which a statement made in the disclosure document is based. The consent letter is to be addressed to the PRS provider;
- (i) Copy of letter of approval from any other relevant authority (e.g. Bank Negara Malaysia) (where applicable);
- (j) Certified copies of all material contracts referred to in the disclosure document or, in the case of contracts not reduced into writing, a memorandum which gives full particulars of the contracts;
- (k) Original copies of reports or letters from experts disclosed in the disclosure document (e.g. tax advisers, etc.);

- (l) Letter of confirmation from the PRS Provider, or its adviser (where applicable), confirming the true and accurate translation of the disclosure document (where applicable);
- (m) Letter of confirmation from the PRS Provider or its adviser (where applicable), that the electronic copy of the disclosure document will be identical to the printed disclosure document registered with the SC (if applicable); and
- (n) Copy of the application form\* in the same language as the registrable copies of the disclosure document; and
- (o) Copy of the product highlights sheet(s)\* for each of the funds in the same language as the registrable copies of the disclosure document.

**Note**

- \* Where a PRS Provider proposes to register the disclosure document translated in various languages, a copy of the application form and product highlights sheet in the same language as the said translated registrable disclosure document must be submitted.

13.28 For registration of a supplementary disclosure document or a replacement disclosure document, the registration file must include documents required under clause 13.27 (where applicable) and the following documents:

- (a) A list highlighting the original statements from the previously registered disclosure document and the amended document; and
- (b) Certified copies of additional, amended or new material contracts disclosed in the disclosure document pursuant to clause 13.27(j). In the case of contracts not reduced into writing, a memorandum which gives full particulars of the contracts.

**Lodgement of a Disclosure Document**

13.29 The following requirements and procedures apply to lodgement of a disclosure document, supplementary disclosure document and replacement disclosure document of private retirement schemes.

13.30 Upon the registration of a disclosure document pursuant to Regulation 7 of the PRS Regulations, the PRS Provider or its adviser, must submit a printed version of the disclosure document for lodgement with the SC before issuing or circulating or distributing any form of application for contribution to a Scheme as provided for under Regulation 9. Supplementary or replacement disclosure document must be lodged immediately upon registration for supplementary or replacement disclosure document under sub-regulation (2) of Regulation 9 of the PRS Regulations.

### **Documents to be Submitted for Lodgement of a Disclosure Document**

- 13.31 For lodgement of a disclosure document, the PRS Provider or its adviser must ensure that the lodgement file comprise the following documents:
- (a) Cover letter signed by at least one of the directors of the PRS Provider or the adviser specifying the following:
    - (i) Application to lodge the disclosure document;
    - (ii) A declaration that the printed copy of the disclosure document lodged with the SC is the same as the registrable disclosure document registered with the SC; and
    - (iii) A declaration that the copy of disclosure document in the “pdf” format contained in the CD-ROM is identical to the printed disclosure document;
  - (b) Printed copies of the disclosure document and its application form (two copies in each language);
  - (c) A CD-ROM containing electronic images of the disclosure document in “pdf”. The CD-ROM must be labelled with a description of what the contents relate to and the date of lodgement;
  - (d) Lodgement checklist; and
  - (e) Lodgement fee and the fee checklist.

### **Lodgement of a Product Highlights Sheet**

- 13.32 Upon the registration of a disclosure document, the PRS Provider or its adviser must submit the product highlights sheet(s) for each of the funds, for lodgement with the SC before issuing or circulating or distributing any form of application for contribution to a Scheme. Where the PRS Provider or its adviser has registered a disclosure document in various languages, the PRS Provider or its adviser, must submit product highlights sheet(s) in the same language(s) as the registered translated disclosure document for lodgement with the SC.
- 13.33 The product highlights sheet must be submitted for lodgement with the SC together with prescribed fees.
- 13.34 Payment must be made in the form of a crossed cheque/ draft order made in favour of “Suruhanjaya Sekuriti” or “Securities Commission”.

### **Replacement Product Highlights Sheet**

- 13.35 Clause 13.08A provides for circumstances when a replacement product highlights sheet must be issued.
- 13.36 If any product highlights sheet replacing an existing product highlights sheet is proposed to be issued, the PRS Provider or its adviser must submit the replacement product highlights sheet for lodgement with the SC before issuing or circulating or distributing any form of application for contribution to a Scheme to a potential member.

### **Documents to be Submitted for Lodgement of a Product Highlights Sheet**

- 13.37 For lodgement of a product highlights sheet, the PRS Provider or its adviser must ensure that the lodgement file submitted to the SC comprise the following documents:
- (a) Cover letter signed by at least one of the directors of the PRS Provider or the adviser specifying the following:
    - (i) Application to lodge the product highlights sheet;
    - (ii) A declaration that the product highlights sheet is in compliance with the Guidelines on Private Retirement Schemes; and
    - (iii) A declaration that the copy of the product highlights sheet in the “pdf” format contained in the CD-ROM is identical to the printed product highlights sheet;
  - (b) Where the product highlights sheet is issued in various languages, a letter of confirmation from the PRS Provider or its adviser confirming that the said product highlights sheet is a true and accurate translation of the product highlights sheet issued/to be issued in the original language (i.e. either Bahasa Malaysia or English Language) of the disclosure document;
  - (c) Printed copies of the product highlights sheet (three copies in each language);
  - (d) A CD-ROM containing electronic images of the product highlights sheet in “pdf” format. The CD-ROM must be labeled with a description of what the contents relate to and the date of lodgement;
  - (e) Lodgement checklist; and
  - (f) Lodgement fee and the fee checklist.

## **Chapter 14**

### **APPLICATIONS, NOTIFICATIONS AND REPORTING**

#### **Application for SC Approval**

14.01 The CMSA requires that the SC's approval be obtained for the following proposals:

- (a) Establishing, offering or providing a private retirement scheme and authorization of funds; and
- (b) A company to be approved as Scheme Trustee.

14.02 The SC may–

- (a) approve proposals subject to any term and restriction as it deems fit;
- (b) approve proposals with revisions and subject to any term and restriction as it deems fit; or
- (c) reject proposals.

14.03 In addition to clause 14.01, the following proposals are required to be submitted for SC's approval:

- (a) Exemption or variation from provisions in these guidelines;
- (b) Extension of time to comply with the requirements of these guidelines and terms and conditions of approval;
- (c) Appointment of a delegate that is not a holder of a Capital Markets Services Licence; and
- (d) Approval of a Scheme Trustee under subsection 139ZC of the CMSA.

#### **Application for the SC Registration**

14.04 The following proposals are required to be submitted for the SC's registration:

- (a) Registration of a Scheme Trustee for a private retirement scheme; and
- (b) Renewal of a Scheme Trustee's registration.

#### **Application to Register and Lodge Documents with the SC**

14.05 Pursuant to subregulations 4(2), 5(2), 7(1) and 8(2) of the PRS Regulations, the following documents must be registered with the SC:

- (a) Deed and supplementary deed of the private retirement scheme; and
- (b) Disclosure document and supplementary or replacement disclosure document of the private retirement scheme.

14.06 The documents referred to in clause 14.05 must, subsequent to registration, be lodged with the SC as required under Regulations 6, 7 and 8 of the PRS Regulations.

#### **Submission of Applications to the SC**

14.07 Applications must be submitted in accordance with the requirements stipulated under Schedule E of these guidelines.

14.08 Submission of applications must be addressed to:

Pengerusi  
Suruhanjaya Sekuriti Malaysia  
3 Persiaran Bukit Kiara  
Bukit Kiara  
50490 Kuala Lumpur  
(Attn: Managed Investment Schemes Department)

#### **Notifications to the SC**

14.09 A PRS Provider must notify the SC of, any of the following:

- (a) Appointment and resignation of chief executive officer;
- (b) Appointment and resignation of an investment committee member;
- (c) Appointment and resignation of an audit committee member;
- (d) Appointment and resignation of the Shariah adviser;
- (e) Appointment and resignation of a member of the panel of advisers;
- (f) Appointment of a delegate that is a holder of a Capital Markets Services Licence;
- (g) Foreign markets in which the fund invests in;
- (h) A resolution passed to terminate/wind up a fund or a Scheme;
- (i) Completion of the termination or winding up of a fund or a Scheme;
- (j) A unit split exercise; and
- (k) Creation of a new class of units.

### **Documents Required to Be Lodged/Delivered/Deposited to the SC**

14.10 Pursuant to Regulation 11, a PRS Provider must–

- (a) lodge the annual report of the fund and the PRS Provider;
- (b) deliver the interim report of the fund; and
- (c) deliver notices issued or published after the registration of a disclosure document.

### **Submission of Notifications/Documents to the SC**

14.11 Notifications and documents referred to in clauses 14.09 and 14.10 must be submitted in accordance with the requirements stipulated under Schedule E of these guidelines (where applicable).

14.12 Submission of notifications and documents must be addressed to:

Pengerusi  
Suruhanjaya Sekuriti Malaysia  
3 Persiaran Bukit Kiara  
Bukit Kiara  
50490 Kuala Lumpur  
(Attn: Managed Investment Schemes Department)

### **Reporting to the SC**

14.13 In addition to other information as may be required by the SC for supervision purposes, a PRS Provider is required to submit a Statistical Return and Compliance Return of the fund to the SC.

14.14 The fund's Statistical Return and Compliance Return must be submitted on a monthly basis in accordance with the requirements set out under Schedule F of these guidelines, unless otherwise specified.

## SCHEDULE A

### INVESTMENT RESTRICTIONS AND LIMITS – CORE REQUIREMENTS

#### General

- (1) The requirements herein apply to non-specialised funds under the Scheme. 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 value of a fund's investments in unlisted securities 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 placements 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 OTC derivative transaction with any single counterparty must not exceed 10% of the fund's NAV.
- (8) The value of a fund's investments in structured products issued by a single counterparty must not exceed 15% of the fund's NAV.
- (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) Except for investments by core funds, 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 counterparty limit in paragraph (8) is entirely waived if–
- (a) the counterparty 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 paragraph (12) applies, calculation of the aggregate value to determine compliance with paragraph (9) must exclude the value of investments in structured products.

### ***Bond/Fixed Income Funds***

- (14) The single issuer limit in paragraph (5) and single group limit in paragraph (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 paragraph (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 paragraph (4) and single group limit in paragraph (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 must–
- (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) Except for investments by core funds, a fund's investments in collective investment schemes must not exceed 25% of the units/shares in any one collective investment scheme.

## Schedule A – Appendix I

### CASH MANAGEMENT FUND

#### General

- (1) A cash management fund is one which invests primarily in short-term debentures, short-term money market instruments and placement in short-term deposits.
- (2) Only a fund which complies with the restrictions and limits of this appendix can hold itself out as a cash management fund.
- (3) The investment limits and restrictions in this appendix do not apply to a fund that invests 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 property must 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.

## Schedule A – Appendix II

### 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 property must only consist of units/shares in other collective investment funds.
- (3) Only a fund which complies with the restrictions and limits of this appendix can hold itself out as a Fund-of-Funds.
- (4) A PRS Provider or its fund management delegate, 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 fund 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 fund, the sub-fund of the umbrella fund must 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.

## Schedule A – Appendix III

### FEEDER FUND

#### General

- (1) A Feeder Fund is one which invests all its assets in a single collective investment scheme.
- (2) The fund's property must only consist of units/shares of a single collective investment scheme.
- (3) Only a fund which complies with the restrictions and limits of this appendix can hold itself out as a Feeder Fund.
- (4) A PRS Provider, or its fund management delegate, 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 the same PRS Provider or another PRS Provider 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 issues and offers 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 fund which is a Fund-of-Funds or a Feeder Fund.
- (7) For a Feeder Fund that invests in a sub-fund of an umbrella fund, the sub-fund of the umbrella fund must be treated as if it is a separate collective investment scheme.

## SCHEDULE A1

### Asset Allocation for Core Funds under the Default Option

- (1) The default option shall consist of the following core funds:
  - (a) Asset allocation of the conservative fund, for members aged 50 years and above: 80% in debentures/fixed income instruments of which a minimum of 20% must be in money market instruments and a maximum of 20% in equity;
  - (b) Asset allocation of the moderate fund for members aged 40 years and above but have not yet reached 50 years: Maximum of 60% in equity; and
  - (c) Asset allocation of the growth fund for members below 40 years: Maximum 70% in equity.
- (2) PRS Providers may maintain the asset allocation of the core funds at any level provided that it is at or below the ceiling permitted for such funds.
- (3) Investment of core funds into one or more collective investment schemes of the same PRS Provider (target funds) is permitted for a five-year period from the launch of the Scheme or upon reaching RM200 million NAV (whichever is earlier) provided:
  - (a) The value of a core fund's investment in any of the target fund(s) must not exceed 40% of the core fund's NAV; and
  - (b) That the investment objectives of the target fund are similar to the core fund.
- (4) Investment outside Malaysia is not permitted for the conservative fund under the default option.

**SCHEDULE B****VALUATION**

<b>Investment Instruments</b>	<b>Valuation Basis</b>
Securities listed on any exchange	<p>Market price.</p> <p>However, if–</p> <ul style="list-style-type: none"> <li>(a) a valuation based on the market price does not represent the fair value of the securities, for example during abnormal market conditions; or</li> <li>(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 Scheme Trustee,</li> </ul> <p>then the securities must be valued at fair value, as determined in good faith by the PRS Provider or its fund management delegate, based on the methods or bases approved by the Scheme Trustee after appropriate technical consultation.</p>
Unlisted bonds denominated in Ringgit Malaysia	<p>Price quoted by a bond pricing agency (BPA) registered with the SC.</p> <p>Where a PRS Provider 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 PRS Provider or its fund management delegate may use the “market price”, provided that the PRS Provider or its fund management delegate–</p> <ul style="list-style-type: none"> <li>(a) records its basis for using a non- BPA price;</li> <li>(b) obtains necessary internal approvals to use the non-BPA price; and</li> <li>(c) keeps an audit trail of all decisions and basis for adopting the “market yield”.</li> </ul>
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 PRS Provider or its fund management delegate, on methods or bases which have been verified by the auditor of the fund and approved by the Scheme Trustee, and adequately disclosed in the disclosure document of the Scheme.



## SCHEDULE C

### DEED OF A PRIVATE RETIREMENT SCHEME

#### General

- (1) Under subregulation 4(1)(a) of the PRS Regulations, a deed submitted to the SC must meet with the requirements as specified under these guidelines.
- (2) The requirements stipulated in this schedule are in addition to requirements imposed on a PRS Provider and a Scheme Trustee under the PRS Regulations and the law. The contents of this schedule are in addition to and not in derogation of any other duty imposed by any other law.
- (3) A PRS Provider, or its adviser, must submit an application to register and lodge the deeds in accordance with the requirements and procedures set out in Appendix III of Schedule E.

#### Minimum Contents for a Deed

##### *Covenants of the PRS Provider*

- (4) A deed must contain the duties and responsibilities of a PRS Provider as set out under Regulation 10 of the PRS Regulations.
- (5) In addition, the PRS Provider's duties must include, but are not limited to, the following covenants:
  - (a) The PRS Provider must ensure that the scheme has, at all times, an appointed Scheme Trustee;
  - (b) The PRS Provider must pay to the Scheme Trustee, within 10 days after receipt by the PRS Provider, any money which, under the deed, is payable to the Scheme Trustee;
  - (c) The PRS Provider must not sell any unit of the funds under the Scheme to which the deed relates, other than at a price calculated in accordance with the deed;
  - (d) The PRS Provider must, at the request of members, purchase units held by the member, and the purchase price will be a price calculated in accordance with the deed;
  - (e) The PRS Provider must make available, or ensure that there is made available, to the Scheme Trustee such information as the Scheme Trustee requires on all matters relating to the Scheme and funds under the Scheme to which the deed relates;
  - (f) The PRS Provider must not exercise the voting rights with respect to the units it holds in any members' meeting, regardless of the party who requested for and called the meeting and the matter or matters that are laid before members;

- (g) The PRS Provider must attach the Scheme Trustee's report together with the annual report required to be sent to members;
- (h) Where a member becomes accountable or liable for any tax penalty in respect to any benefit or payment to be paid for pre-retirement withdrawals, the PRS Provider may deduct such tax penalty from the benefit or payment before making payment to the member; and
- (i) If a member dies, to permit withdrawal to the beneficiary(ies) nominated by the member during his or her lifetime or to the member's personal representative upon the making of an application for withdrawal to the relevant PRS Provider.

#### ***Covenants of the Scheme Trustee***

- (6) A deed of a Scheme must contain duties of a Scheme Trustee which are provided under Regulation 12 of the PRS Regulations, the securities laws, these guidelines and also include, but not be limited to, the following covenants:
  - (a) The Scheme Trustee must ensure that the scheme has, at all times, an appointed PRS Provider;
  - (b) The Scheme Trustee must cause the accounts referred to in Regulation 11 to be audited at the end of each financial year by an auditor appointed by the Scheme Trustee; and
  - (c) The Scheme Trustee must provide at least three months' notice of its intention to leave office as Scheme Trustee and undertake to act as Scheme Trustee until a new Scheme Trustee is appointed and has taken office as Scheme Trustee.

#### ***Joint Covenants of the PRS Provider and Scheme Trustee***

- (7) A deed of a scheme must contain covenants of the PRS Provider and Scheme Trustee including, but not be limited to, the following:
  - (a) The PRS Provider and the Scheme Trustee must safeguard the interests of members as a whole;
  - (b) The PRS Provider and the Scheme Trustee must ensure that for the duration of the scheme, there is a registered deed in force at all times; and
  - (c) The PRS Provider or the Scheme Trustee may not exercise the voting rights at any election for the appointment of a director of a corporation whose shares are so held, unless it is sanctioned by the members of the fund by way of an ordinary resolution.

#### ***Other Provisions***

- (8) A deed of a Scheme must also contain provisions for the following:

- (a) Creation of the fund(s) 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 Scheme Trustee, and the duties and obligations of the Scheme Trustee towards;
- (b) That the deed–
  - (i) is binding on each member as if it had been a party to it and that it is bound by its provisions;
  - (ii) authorizes and requires the PRS Provider and the Scheme 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 Scheme Trustee to the Scheme to which the deed relates;
- (d) Full particulars of the Scheme and funds within the Scheme including, but not limited to–
  - (i) names of the funds within the Scheme;
  - (ii) investment objective of all the funds within the Scheme;
  - (iii) permitted investments, limits and restrictions;
  - (iv) basis for the valuation and the pricing policy;
  - (v) distribution policy, including the basis for the distribution or reinvestment of income;
  - (vi) accounting period of all the funds within the scheme;
  - (vii) if classes of units are issued, a provision specifying the classes, differences between the classes and rights attached to each class; and

**Guidance note on item (viii) paragraph 8(d):**

- (a) a class of units must not provide any advantage for that class if that would result in prejudice to members of any other class;
- (b) the nature, operation and effect of the new class of units must be capable of being explained clearly to prospective contributors; and
- (c) the effect of the new class of units must 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;
- (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 property 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 circumstances in which the PRS Provider may be required to repurchase from a member any unit which the member has purchased, and the method of calculation of the repurchase price of the unit;
- (h) Full particulars on the conditions governing the transfer of any units in a fund under a Scheme to which the deed relates to another PRS Provider as allowed under applicable transfer rules governing the scheme;
- (i) Full particulars on the remuneration of the PRS Provider and Scheme Trustee, respectively, including dealing charges (if any) and expenses which are allowed to be paid out of the fund;
- (j) Where the deed requires, or confers a right on, members to enter into an agreement in connection with a fund under a Scheme, a provision incorporating, the terms and conditions of that agreement;
- (k) A declaration that unless the conditions of issue of any unit expressly provide that a certificate need not be issued, a certificate must be issued by the Scheme Trustee to a purchaser of any unit purchased or subscribed for, not more than two months after the issue of the unit;
- (l) Circumstances under which the dealing in units can be deferred or suspended;
- (m) Circumstances, procedures and processes for termination or winding up of the Scheme or the fund under the Scheme (where multiple classes of units are issued, the circumstances, procedures and processes for termination of each class of units and the fund);
- (n) Circumstances, procedures and processes for convening of meetings of members, including the manner in which votes may be given at a meeting of members;
- (o) Circumstances, procedures and processes for retirement, removal and replacement of the PRS Provider and the Scheme Trustee;
- (p) Circumstances, procedures and processes for the appointment, retirement, removal and replacement of the auditor for the fund under the Scheme;

- (q) Specific provisions whereby the PRS Provider undertakes to keep and maintain an up-to-date register of members and to make that register available for inspection, free of charge, to any member at any time during ordinary business hours of the PRS Provider;
- (r) The extent of the indemnity provided by the PRS Provider;
- (s) Provisions relating to members' rights and the extent of their liability, including the rights, liabilities and any limitation attached to vested and conditionally vested units issued pursuant to a vesting schedule;
- (t) Provisions governing the modification of the deed;
- (u) Conditions under which the benefit becomes payable and the way in which benefits will be determined;
- (v) Conditions which are necessary to give effect to the requirement for payment of tax penalty for pre-retirement withdrawal. This may include the following provisions:
  - (i) Subject to permitted reasons for withdrawals, a member may not make a withdrawal from any fund under the scheme until the member reaches the retirement age. Upon reaching the retirement age, a member shall be entitled to withdraw the full amount accumulated in all funds under the Scheme held by the member as accrued benefits without payment of any tax; and
  - (ii) At any time before reaching the retirement age, a member may by making a request to the PRS Provider (in such form and within such time limits as may be required) request for withdrawal from sub-account B of the relevant PRS Provider.

## SCHEDULE D

### CONTENTS OF A FUND'S REPORT

#### General

- (1) The purpose of a fund's report is to provide information to enable members to evaluate the performance of a fund within the Scheme. A fund report is required for each fund under the Scheme.
- (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 must avoid unnecessary jargon and use terms which are easily understood by members.
- (4) For a fund with multiple classes of units, that fund's report must contain information with respect to each class of units in issue, where relevant.

#### Fund Information

- (5) This section must disclose the following information:
  - (a) Name, type and category of the fund;
  - (b) The fund's investment objective;
  - (c) The fund's performance benchmark;
  - (d) The fund's distribution policy; and
  - (e) 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

- (6) 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/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 form 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, if applicable; and
    - (viii) portfolio turnover ratio (PTR) of the fund and an explanation for the difference in PTR, if 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.
- (7) A fund's report may include other performance data for any other period aside from those mentioned in (6) 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.
- (8) 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.

## **PRS Provider Report**

- (9) A PRS Provider must prepare a report containing an operational review of the funds under the Scheme, the result of those operations and details of significant changes in the state of affairs of each fund within the Scheme during the financial period.
- (10) 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. The PRS Provider's Report must be presented for all funds under the Scheme.
- (11) 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 disclosure document. This must cover the last five financial years, or since inception if shorter, and must 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 disclosure document;
  - (d) (If 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 (to adjust for income distribution, if any) since the last review period or since commencement (in the case of newly launched funds);
  - (f) Review of the market(s) (including foreign markets) in which the fund invests in during the period. Information on returns on investments in each market(s) is encouraged. Focus must 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 the PRS Provider's report, not otherwise disclosed in the financial statements;
  - (i) Circumstances which materially affect any interests of members;
  - (j) A statement whether any soft commission has or has not been received by the PRS Provider and/or its delegate for the period under review from its



broker(s)/dealer(s) by virtue of transactions conducted by the fund. If any soft commission (i.e. goods and services) is received, the following must be disclosed:

- (i) Identification of the goods/services received; and
- (ii) Manner in which the goods/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.

**Scheme Trustee's Report**

- (12) A Scheme Trustee must prepare a report stating its opinion whether the PRS Provider has operated and managed the fund under the Scheme in accordance with the following:
  - (a) Limitations imposed on the investment powers of the PRS Provider and the Scheme Trustee under the deed, these guidelines, CMSA and other applicable laws;
  - (b) Valuation/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.
- (13) If the Scheme Trustee is of the opinion that the PRS Provider has not done so, the Scheme Trustee must disclose the shortcoming(s) which may have an impact on the decision of existing or potential members to remain invested or to invest in the fund. The Scheme Trustee must also highlight steps taken to address the shortcoming(s) and/or to prevent the recurrence of the shortcoming(s).
- (14) The report prepared by a Scheme Trustee under (12) must include a further statement stating its opinion whether the distribution of returns by the fund under the Scheme is relevant and reflects the investment objective(s) of the fund.

**Shariah Adviser/Panel of Advisers' Report**

- (15) The Shariah adviser/panel of advisers must prepare a report stating its opinion whether the relevant fund under the Scheme 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/or to prevent the recurrence of the situation must be highlighted.

- (16) 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 securities which have been classified as Shariah compliant by the Shariah Advisory Council (SAC) of the SC. For securities not certified by the SAC of the SC, a statement stating that the status of the securities has been determined in accordance with the ruling issued by the Shariah adviser.

### **Auditors Report**

- (17) An annual report must be accompanied by an auditor's report.
- (18) An auditor's report must state an opinion on the accounts of the fund. Where the auditor's report is qualified, details of the qualification must be noted in the comment section.

### **Financial Statements**

- (19) 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 trust 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.
- (20) For interim reports, it must be clearly stated whether the financial statements in the interim report are audited or unaudited.
- (21) For the purpose of (20) where unaudited financial statements are used, the financial statements must include a declaration by the director(s) of the PRS Provider 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.
- (22) 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 members.

**B      *Classification of Investments***

- (a) Investments (including cash and cash equivalents) must not be classified as current or non-current, but must 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 PRS Provider, with each type of fee and charge shown separately;
  - (ii) Scheme Trustee's fees and any requirement of Scheme Trustee's expenses, including the basis for the fees charged by the Scheme Trustee;

- (iii) Auditors fees;
- (iv) Tax agent's fees;
- (v) Administrative fees and expenses;
- (vi) Fees of the Private Pension Administrator;
- (vii) Payment made to charitable bodies (for Shariah funds); and
- (viii) 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 members. 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 members; 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 PRS Provider;
- (c) The basis for fees and charges paid to the Scheme Trustee;
- (d) Movements in the number of units with the following items to be shown separately:

- (i) Maximum issuable under the provisions of the deed and any subsequent increase as approved by the SC; and
- (ii) Units created/cancelled during the period, highlighting the number of units created as additional distribution, if any;
- (e) Transactions with the top 10 brokers/dealers disclosed as follows:
  - (i) Broker/dealer transactions by value of trade and percentage;
  - (ii) The aggregate amount of brokerage fees/commissions paid by the fund, as well as the amount of fees/commissions paid to each broker/dealer expressed in both value and percentage;
  - (iii) Parties related to the PRS Provider and/or its delegate must be highlighted; and
  - (iv) Statement as to whether dealings with related parties have been transacted at an arm's length basis;

#### Guidance

For all funds other than cash management funds, only new placements for depository facilities are considered as a transaction. Renewals of depository facilities are not to be reported as transactions.

- (f) The total number and value of units held by the PRS Provider and its related parties and whether the units are held legally or beneficially;
- (g) The composition of the investment portfolio of the fund under the Scheme 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 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-based funds) must be separately identified. Action(s) to be taken by the PRS Provider 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 members is from the following sources (where applicable):

	20XX	20XX
	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	<u>XX</u>	<u>XX</u>
	XXX	XXX
Less:		
Expenses	XX	XX
Taxation	<u>XX</u>	<u>XX</u>
	<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/period or brought forward from previous year/period) within the fund; and/or
- (ii) distributions are made from previous year's realised gains.

## SCHEDULE E

### SUBMISSION OF APPLICATIONS, NOTIFICATIONS AND DOCUMENTS

#### General

- (1) Applications may only be submitted to the SC by the following:
  - (a) A PRS Provider;
  - (b) A Scheme Trustee (where the application relates to registration or renewal of registration of the Scheme Trustee and approval of a company to act as a Scheme Trustee); or
  - (c) Adviser.
- (2) Applications must be submitted in accordance with the requirements set out under this schedule, unless otherwise specified. Submissions of applications which do not comply with the requirements or which are unsatisfactory will be returned.
- (3) The submitting party has a duty of care to ensure that all SC requirements pertaining to submission of applications/proposals are met and is responsible for dealing with the SC on all matters in connection with the applications.
- (4) The proposed PRS Provider (including directors), advisers, experts 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 proposal. The parties to the submission of a proposal 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 proposal; and/or
  - (b) any material change/development in circumstances relating to the proposal, occurring subsequent to the SC's approval.
- (8) If certain circumstances are made known to the SC after the proposal has been considered, and the circumstances would have affected the decision made had the SC known about them, the SC may review its decision.

- (9) Any person who is aggrieved by the SC's decision may, within 30 days after the aggrieved person is notified of such decision, make an application to the SC for a review of its decision, which will then be final.
- (10) An application for a revision to the terms and conditions of an SC approval is not subjected to any time limit. The principles adopted by the SC for such applications are as follows:
  - (a) Such applications must be supported by evidence of justifiable grounds or developments beyond the control of the relevant parties; and
  - (b) Such applications which do not comply with sub-paragraph (a) above may be considered by the SC at its discretion based on exceptional reasons.

#### **Application for the Establishment of a Scheme**

- (11) Submission to the SC for the establishment of a scheme must comprise the following:
  - (a) Application to issue or offer units of the funds under the Scheme;
  - (b) Application for a company to act as Scheme Trustee for the Scheme;
  - (c) Application to register and lodge the deed of the Scheme and funds under the Scheme (as the case may be);
  - (d) Application to register the disclosure document ; and
  - (e) Any other relevant application.
- (12) The SC would inform the proposed PRS Provider/submitting party of its decision within 21 days (excluding public holidays) after receiving a complete submission.
- (13) The SC may require an extension of up to 30 days [in addition to the 21 days in paragraph (12) above] if the proposed Scheme or fund under the Scheme:
  - (a) does not fall within the categories/types stipulated under these guidelines;
  - (b) has special/unique features that could have a material impact on members; or
  - (c) comes together with proposed exemptions/variations from these guidelines which do not have any precedent case.

The SC would inform the proposed PRS Provider/submitting party if an extension is required.

- (14) To minimise any extension, proposed PRS Providers are advised to consult the SC before submitting any proposed Scheme which may fall within the categories set out in paragraph (13).



**Application for an Extension of Time/Renewal of Scheme Trustee's Registration**

- (15) An application for an extension of time and renewal of Scheme Trustee's registration must be submitted to the SC at least 30 days before the stipulated expiry date.
- (16) 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**

- (17) All applications must be accompanied with the prescribed fees (where applicable). An application is deemed incomplete if the prescribed fee is not submitted.
- (18) Payment must be made in the form of a crossed cheque/draft order made in favour of "Suruhanjaya Sekuriti" or "Securities Commission".

## Schedule E – Appendix 1(a)

**SUBMISSION OF APPLICATIONS FOR APPROVAL/REGISTRATION****Application for SC Approval**

(1) An application submitted for the SC's approval must comprise the following:

- (a) Cover letter, specifying–
  - (i) the approval sought, including particulars of the proposal(s); and
  - (ii) other approvals or clearance obtained/pending (if applicable);

**Guidance**

For an application to establish a Scheme, one cover letter will be accepted to establish core funds in a single application. For an application to establish non-core funds under the Scheme, a separate application must be submitted for each fund.

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

**Guidance**

For multiple applications, a declaration must be submitted by the relevant proposed PRS Provider 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 website at [www.sc.com.my](http://www.sc.com.my)):

***Application to Establish a Scheme***

Appendix	Form	Title/Remarks
I	SC/PRS-NEW	Application for the approval of a Scheme and funds under a Scheme.

***Application to Act as Scheme Trustee***

Appendix	Form	Title/Remarks
I	SC/PRS-SCHEME TRUSTEE	Application for the approval of a company to act as a Scheme Trustee to a Scheme.
II		Statutory declaration from the applicant stating that it is independent of the PRS Provider.

### ***Application to Appoint a Delegate Not Licensed by the SC***

Appendix	Form	Title/Remarks
I	SC/PRS-DELEGATE	Application for the appointment of a delegate not licensed by the SC.
II		An undertaking that the applicant will take responsibility for the actions and omissions of any delegate as though they were its own actions and omissions.
III		<p>A declaration by the applicant that it–</p> <ul style="list-style-type: none"> <li>• has adequate procedures to monitor the conduct of the delegate to ensure that the delegated function is performed in a proper and efficient manner;</li> <li>• has conducted a review of the operations of the delegate, and is satisfied that the delegate has the capabilities, capacity and suitability to undertake the delegated function; and</li> <li>• is satisfied that the delegate will be able to fulfil its duties and responsibilities for the delegated function in a proper and efficient manner.</li> </ul>

### ***Application for an Exemption/Variation/Extension of Time***

Appendix	Form	Title/Remarks
I		Justification or rationale for proposal.
II		Statement from the Scheme Trustee that the exemption/variation/extension of time does not jeopardise members' interest.
III		Approval or clearance letter from other authorities (where applicable).

### **Application to Register with the SC**

- (2) An application submitted to the SC must comprise the following:
- (a) Cover letter, specifying–
    - (i) the registration/renewal sought; and
    - (ii) other approvals or clearance obtained/pending (if applicable); and
  - (b) Supporting documents as follows (application forms are available on the SC website at [www.sc.com.my](http://www.sc.com.my)):

***Application to Register/Renew Registration for a Scheme Trustee***

Appendix	Form	Title/Remarks
I	SC/PRS SCHEME TRUSTEE REGISTRATION	Application for registration/renewal of registration for Scheme Trustee to a Scheme.
II		An undertaking by the applicant that it will comply with the Scheme Trustee requirements under the <i>Guidelines on Private Retirement Schemes</i> before commencing Scheme-related business.

**Application to Register and Lodge Documents with the SC**

***Deed***

- (3) An application to register and lodge a deed must be made in accordance with the requirements set out in Appendix III of this schedule.

***Disclosure Document***

- (4) An application to register and lodge a disclosure document must be made in accordance with the requirements set out in Schedules G and H.

**NOTIFICATION AND SUBMISSION OF DOCUMENTS****Notification to the SC**

- (1) A notification to the SC must comprise the following:
- (i) Notification letter (with details of notification);
  - (ii) Notification forms (where applicable); and
  - (iii) Supporting documents required for each type of notification (where applicable).

**Notification of New Class(es) of Units**

Appendix	Form	Title/Remarks
I	<i>Notification - PRS New Class(es) of Units</i>	Notification of the issuance of new class(es) of units.
II		Statement from the PRS Provider and Scheme Trustee of the fund that the issuance of the new class(es) of units does not prejudice the interests of existing and potential members of any other class of units.
III		Statement from the PRS Provider that it has obtained the requisite approval of the existing members for the issuance of the new class(es) of units.
IV		Declaration by the PRS Provider that it has the capabilities and capacity to manage and administer the new class(es) of units.

- (2) The notification forms are available on the SC website at [www.sc.com.my](http://www.sc.com.my).

**Lodgement of Documents with the SC**

- (3) The annual report of the fund must be lodged with the SC.
- (4) The submission must comprise a cover letter specifying the documents lodged, three printed copies of the annual report, minimum content checklist and a CD-ROM containing the annual report in “pdf” format.

**Delivery/Deposit of Documents**

- (5) The SC requires that the interim report of a fund be delivered to the SC. The submission must comprise a cover letter specifying the documents delivered, three printed copies of the interim report, minimum content checklist and a CD-ROM containing the interim report in “pdf” format.

**DECLARATION BY THE APPLICANT**

Chairman  
Securities Commission Malaysia

Dear Sir

**APPLICANT** (*name of proposed PRS Provider/Scheme 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 inquiries that the Proposals is in full compliance with the following:

- (i) The *Guidelines on Private Retirement Schemes*;<sup>\*</sup> and
- (ii) Other requirements under the *Capital Markets and Services Act 2007* as may be applicable.

4. We declare that we will ensure continuous compliance with the requirements and conditions imposed by the SC on the Proposal.

5. We undertake to provide to the SC all information that 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

- \* Applicable only to proposals falling under the *Guidelines on Private Retirement Schemes*. Where an application for exemption is being sought, to insert the words “except clause(s) ....(refer to clause where exemption is being sought).... where exemption(s) is/are being sought as part of the submission to the SC.”

**DECLARATION BY THE ADVISER**

Chairman  
Securities Commission Malaysia

Dear Sir

**APPLICANT** (name of PRS Provider/ Scheme 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 inquiries that the Proposal is in full compliance with the following:

- (i) The *Guidelines on Private Retirement Schemes*;<sup>\*</sup> 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 undertake to provide to the SC all information that the SC may require on the Proposal.

Yours faithfully

.....  
Signature

Name of Authorized Signatory:

Designation:

Name of Adviser:

Date:



Note

- \* Applicable only to proposals falling under the *Guidelines on Private Retirement Schemes*. Where an application for exemption is being sought, to insert the words “except clause(s) ....(refer to clause where exemption is being sought).... where exemption(s) is/are being sought as part of the submission to the SC.”

## Schedule E – Appendix III

### REGISTRATION AND LODGEMENT OF A DEED

#### General

- (1) A deed 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/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) As provided under subregulation 4(2) of the PRS Regulations, a deed shall not have effect unless it is registered with the SC.
- (4) An application to register a deed proposed to be established must be submitted together with the application to establish a Scheme. There may be separate deeds for the funds under a Scheme.
- (5) An application to register a supplementary deed must be submitted immediately upon the execution of the deed.
- (6) Under Regulation 6 of the PRS Regulations, a copy of the deed shall be lodged with the SC within seven days after the deed has been registered and the deed shall be available for inspection by any person at the SC premises.
- (7) The lodgement file must be submitted together with the registration file (the lodgement file and registration file must be in separate folders.)

#### Submission of Application

##### *Registration of Deed*

- (8) 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 PRS Provider, 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 minimum contents under Schedule C of these guidelines; or

- the deed complies with the contents of the Standard Deed issued by a body approved by the SC;
- (b) Executed and stamped copy of the deed (two copies);
- (c) (For supplementary deed) A members' resolution sanctioning the modification to the deed, or a statement from the Scheme Trustee and the PRS Provider as required under the PRS Regulations and these guidelines;
- (d) (For supplementary deed) A list highlighting the original provisions from the principal deed and the amended provisions;
- (e) (For a deed that is not based on the Standard Deed) Checklist for minimum contents for deeds under Schedule C;
- (f) Registration Checklist; and
- (g) Registration fee and Fee Checklist.

### **Lodgement of Deeds**

- (9) 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 PRS Provider, 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 copy of the deed in CD-ROM is identical to the printed deed;
  - (b) Printed copies of the deed (two copies);
  - (c) A CD-ROM containing the deed in "pdf" format. The CD-ROM must be labelled with a description of the contents and the date of lodgement;
  - (d) Lodgement Checklist; and
  - (e) Lodgement fee and fee checklist.

## SCHEDULE F

### REPORTING TO THE SC

#### General

- (1) For the purpose of reporting to the SC, a PRS Provider must submit a Statistical Return and Compliance Return (collectively referred to as “PRS Returns”) of all funds under the Scheme. The PRS Returns must be submitted on a monthly basis.
- (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 fund, the PRS 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 PRS Returns must be submitted for the month of July. In this instance, the PRS Returns will consist of data for more than one month, i.e. from 28 June to 31 July.
- (4) A PRS Provider must take all necessary precautions to ensure that the information provided in the PRS Returns is accurate.
- (5) The chief executive officer is ultimately responsible for all information provided in the PRS Returns.
- (6) The Compliance Return must be submitted to the Scheme Trustee for verification that it is complete, true and accurate to the best of the Scheme Trustee’s knowledge and belief.
- (7) A PRS Provider must keep a printed copy of the PRS Returns at the business address of the PRS Provider or a designated place approved by the SC at all times for a period of seven years from the date of submission.
- (8) The SC reserves the right to conduct an examination at the business address or at the designated place to ensure compliance with (7).

#### Submission of PRS Returns

- (9) The PRS Returns must be submitted to the SC within seven business days (by 5.00 pm on a weekday) of the month following the month of reporting.
- (10) The PRS Returns must be submitted to the SC only after the Scheme Trustee has verified the Compliance Returns.

#### Submission of PRS Returns During Termination or Winding Up

- (11) While a fund under a Scheme is being terminated or wound up, a PRS Provider must continue to submit PRS Returns until the termination or winding up is complete.

**Submission of Compliance Review Report**

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

## SCHEDULE G

### MINIMUM CONTENTS OF A PRODUCT HIGHLIGHTS SHEET

- (1) The information required by the SC under this schedule is the minimum that must be included in a product highlights sheet. A product highlights sheet cannot contain information that is not included in the disclosure document unless specifically required in the product highlights sheet template which may be specified by the SC from time to time.
- (2) A product highlights sheet must highlight information to potential members in a clear, concise and effective manner. To that end, the product highlights sheet:
  - (i) must be prepared in easily-understood language. Short sentences should be used. Drafting should be in the first person (i.e. “we” and “you”) and should enable the reader to understand how that information is applicable to them; and
  - (ii) where necessary, may use simple examples, charts, tables, diagrams and graphics to act as an aid for better presentation of information and/or for illustrative purposes. Such examples, charts, tables, diagrams and graphics should be relevant to the information disclosed in and should not distract or draw attention away from, the text of the product highlights sheet. Graphics considered to be offensive by a reasonable person should not be used.
- (3) The following warning statements must be in bold and presented in a prominent position:
 

“This product highlights sheet is an important document.

  - It is summary of the salient information about the Scheme and the fund(s) under the Scheme.
  - You must not contribute to the Scheme based on this product highlights sheet alone. Please read the Scheme’s disclosure document before deciding to make a contribution. If you do not have a copy, please contact us to ask for one.
  - You should not contribute to the Scheme if you do not understand it or are not comfortable with the accompanying risks.”
- (4) The product highlights sheet must include, but is not limited to, the following information:
  - (a) **Scheme Information**
    - (i) Name of Scheme;
    - (ii) General information on the Scheme. This should include a brief description of the benefits of contributing to the Scheme.;
    - (iii) Brief description on the operations of the Scheme;
    - (iv) Statement that there are other funds that have been launched within the Scheme which are not the subject-matter of the product highlights sheet in question. However, once all funds under the Scheme have been launched, the following must be disclosed :

- (i) number of funds within the Scheme; and
- (ii) a list of their respective names.

**(b) Fund Information**

- (i) Name of fund;
- (ii) Category of fund;
- (iii) Investment objectives of the fund;
- (iv) Brief but relevant description of the principal investment strategy, including the asset allocation strategy to be employed by the fund manager to meet the objectives;
- (v) Performance benchmark;
- (vi) Member profile; and
- (vii) Where multiple classes of units are issued, a comparison table highlighting the different features of each class.
- (viii) For a Shariah-compliant fund, the following statement must be disclosed :  
“<<name of fund>> has been certified as being Shariah-compliant by  
<<name of Shariah Adviser appointed for the Fund>>”

**(c) Fees and Charges**

Explanation of :

- (i) all fees and charges for each fund(s) that is the subject-matter of the product highlights sheet and should be clearly identified in tabular form; and
- (ii) how members will be notified of any increase in fees and charges, including whether there is any notice period required prior to the effective date of such higher fees and/or charges.

**(d) Taxation of the Fund**

A product highlights sheet must contain briefly:

- (a) the taxation of the fund under a Scheme taking into account any distinctive characteristic of the fund;
- (b) with regard to members, the tax deduction available and tax liabilities (including the tax penalty for withdrawals prior to retirement), if any; and
- (c) maximum tax deduction available for employers who contribute on behalf of employees.

**(e) Risk Factors**

A product highlights sheet must highlight general investment risks and risks specific to the fund(s) the subject-matter of the product highlights sheet.

**(f) Other Information**

- (i) Avenues for advice available to prospective members;
- (ii) Information on how members can keep abreast of developments in the fund as well as track unit price/NAV per unit of the fund and their contribution(s) to a Scheme;
- (iii) Where and how members can lodge a complaint;
- (iv) The following statements must be disclosed in bold:

**“This is a Private Retirement Scheme” (to be disclosed on the upper right hand corner of the product highlights sheet)**

**“There are fees and charges involved and you are advised to consider them before contributing to a Scheme.”**

**“Unit prices and distributions, if any, may go down as well as up.”**

- (v) Where a fund invests or proposes to invest substantially in derivatives (i.e. exceeding 30%), a warning statement, to appear in bold, must be stated on the likelihood of high volatility in the NAV of the fund as a result of the fund’s investment in derivatives; and
- (vi) Any other information that the PRS Provider may consider necessary, material and important to be included in a product highlights sheet.



**SCHEDULE G – Appendix I**

<<Date>>

**This is a Private Retirement Scheme**

**<<name of Private Retirement Scheme>>**

**<<relevant fund name(s)>>**

**RESPONSIBILITY STATEMENTS**

This Product Highlights Sheet has been reviewed and approved by the directors of <<name of Private Retirement Scheme Provider>> and they collectively and individually accept full responsibility for the accuracy of the information. Having made all reasonable enquiries, they confirm to the best of their knowledge and belief, that there are no false or misleading statements, or omission of other facts which would make any statement in the Product Highlights Sheet false or misleading.

**STATEMENTS OF DISCLAIMER**

The Securities Commission Malaysia has approved the <<name of Private Retirement Scheme>> and authorized the <<relevant fund name(s)>>, and a copy of this Product Highlights Sheet has been lodged with the Securities Commission Malaysia.

The approval and authorization, as well as the lodgement of this Product Highlights Sheet, should not be taken to indicate that the Securities Commission Malaysia recommends the <<name of Private Retirement Scheme>> or <<relevant fund name(s)>>, or assumes responsibility for the correctness of any statement made or opinion or report expressed in this Product Highlights Sheet.

The Securities Commission Malaysia is not liable for any non-disclosure on the part of <<name of Private Retirement Scheme Provider>>, the private retirement scheme provider responsible for the <<name of Private Retirement Scheme>> and <<relevant fund name(s)>>, and takes no responsibility for the contents of this Product Highlights Sheet. The Securities Commission Malaysia makes no representation on the accuracy or completeness of this Product Highlights Sheet, and expressly disclaims any liability whatsoever arising from, or in reliance upon, the whole or any part of its contents.

<<Date>>

## This is a Private Retirement Scheme

### <<name of Private Retirement Scheme>> (the “Scheme”)

This Product Highlights Sheet is an important document.

- **It is a summary of the salient information about the Scheme and <<relevant fund name(s)>>.**
- **You must not contribute to the Scheme based on this Product Highlights Sheet alone.** Please read the Scheme’s disclosure document before deciding to make a contribution. If you do not have a copy, please contact us to ask for one.
- You should not contribute to the Scheme if you do not understand it or are not comfortable with the accompanying risks.

### What is the <<name of Private Retirement Scheme>>?

<< Brief description - one paragraph >>

This Product Highlights Sheet only provides information on << relevant fund name(s)>>.

<< To highlight that there are other funds offered under the Scheme. Once all funds under the Scheme have been launched, a list of every fund under the Scheme is to be disclosed. To highlight that if the potential member is interested to know more, he/she should ask for the relevant Product Highlights Sheet.>>

The trustee of the Scheme is <<name of Scheme Trustee>>.

### What are the benefits of contributing to the Scheme?

<<Bullet-points - each bullet-point maximum 2 lines>>

### How does the Scheme work?

<<Brief description. To include circumstances where no selection is made by the members i.e. explain Default Option. A table should be used to set-out the age groups for the Default Option. To highlight that the current retirement age is 55 years and that it may change to any other compulsory age of retirement from employment as may be specified under any written law>>

<< To include a statement on when the cooling-off right may be exercised>>

<< To describe how the contributions will be split into sub-accounts A and B. To describe how/when withdrawals can be effected from each sub-account. Note: tax penalty of 8% should be clearly stated>>

<<To include a statement on when and how frequently a member may:

- (i) switch between PRS funds managed by the PRS Provider
- (ii) transfer his/her accrued benefits to another PRS Provider >>

&lt;&lt;Date&gt;&gt;

**This is a Private Retirement Scheme**

&lt;&lt;For multi-fund PHS&gt;&gt; What are the Core Funds under the Scheme?

&lt;&lt;For single-fund PHS&gt;&gt; What is the &lt;&lt;name of non-Core Fund&gt;&gt;?

<<For Shariah-compliant fund(s)>> <<name of fund>> has been certified as being Shariah-compliant by  
<<name of Shariah Adviser appointed for the fund(s)>>

&lt;&lt;name of fund&gt;&gt;

<<Name of fund>>		
Investment Objective		
Fund Category		
Investment Strategy		
Asset Allocation	<<Identify asset>>	<<Range in percentage of NAV>>
Benchmark		
Member profile	<<Bullet-points. For Core Funds, there should be disclosure on the age range for Members under the Default Option >>	

&lt;&lt;name of fund&gt;&gt;

<<Name of fund>>		
Investment Objective		
Fund Category		
Investment Strategy		
Asset Allocation	<<Identify asset>>	<<Range in percentage of NAV>>
Benchmark		
Member profile	<<Bullet-points. For Core Funds, there should be disclosure on the age range for Members under the Default Option >>	

&lt;&lt;Date&gt;&gt;

**This is a Private Retirement Scheme****What are multiple classes of units?** <<Only if applicable>>

<<Brief description of what is a multi-class fund. There should be a table showing the different features of the classes offered by the funds covered in this PHS >>

**What are the risks?****General investment risks**

<< The following are the minimum risks to be disclosed. You may disclose additional general investment risks using the same format>>

- **Capital and Returns Not Guaranteed**  
<<Brief explanation\*>>
- **Market Risk**  
<<Brief explanation\*>>
- **Fund Manager Risk**  
<<Brief explanation\*>>
- **Inflation Risk**  
<<Brief explanation\*>>
- **Legal and Regulatory Risk**  
<<Brief explanation\*. To reflect that laws and guidelines relating to private retirement schemes may change and this may affect a member's PRS account and/or his/her ability to access his/her balance in the account >>
- **Risks associated with the Default Option**  
<<Brief explanation\*>>

<<For multi-fund PHS>> **Risks specific to each Fund**

	<<fund name>>	<<fund name>>	<<fund name>>
➤ <<specific risk>> <<Brief explanation*>>	√	√	√
➤ <<specific risk>> <<Brief explanation*>>	√	√	√

<<For single-fund PHS>> **Specific risks**

- <<specific risk>>  
<<Brief explanation\*>>
- <<specific risk>>  
<<Brief explanation\*>>

<< To insert a statement that if a potential member does not understand any of the above risks, he/she should refer to the Scheme's disclosure document or consult a professional adviser>>

\*Note: Explanation should be concise.

&lt;&lt;Date&gt;&gt;

**This is a Private Retirement Scheme****What are the fees and charges?**

There are fees and charges involved and you are advised to consider them before contributing to the Scheme.

What will I be charged by <<name of Private Retirement Scheme Provider>>?

	<<fund name>>	<<fund name>>	<<fund name>>
<b>Sales charge</b>	<<insert>> <u>Example:</u> For every contribution of RM1,000, you will be charged <<RMX.XX>>, i.e. RM1,000 x <<X.X>>% sales charge.		
<b>Redemption charge</b>	<<insert>>		
<b>Switching fee (between funds in this Scheme)</b>	<<insert>> <<If applicable, to state that a sales charge will be imposed by the fund switched into>>		
<b>Switching fee (between funds in another PRS managed by &lt;&lt;name of Private Retirement Scheme Provider&gt;&gt;)</b>	<<insert>> <<If applicable, to state that a sales charge will be imposed by the fund switched into>>		
<b>Transfer fee (to another PRS Provider)</b>	<<insert>>		

What will I be charged by the Private Pension Administrator (PPA)?

	<<fund name>>	<<fund name>>	<<fund name>>
<b>PPA account opening fee</b>	RM10		
<b>PPA annual fee</b>	RM8. Not payable for the year the account is opened and not payable for the year(s) where no contributions are made.		
<b>PPA pre-retirement withdrawal fee</b>	RM25		
<b>PPA transfer fee (to another PRS Provider)</b>	RM25		

What are the key ongoing fees charged to a Fund?

	<<fund name>>	<<fund name>>	<<fund name>>
<b>Management fee</b>	<<insert>>		
<b>Trustee fee</b>	<<insert>>		
<b>PPA Administration fee</b>	<<insert>>		

Example

Assuming the amount you have in your account for a particular fund is RM50,000, the fees that will be deducted on a daily basis are as follows:

Management fee	: (RM50,000 x <<X.X>>%) / 365	= <<RMX.XX>>
Trustee fee	: (RM50,000 x <<X.X>>%) / 365	= <<RMX.XX>>
PPA Administrative fee	: (RM50,000 x <<X.X>>%) / 365	= <<RMX.XX>>

You can also compare the fees and charges of other private retirement schemes by visiting the Private Pension Administrator's website, [www.ppa.my](http://www.ppa.my)

<<Date>>

## This is a Private Retirement Scheme

### How will I be notified of any increase in fees and charges?

<< Bullet-points. To also include notice period, if any>>

### What taxes apply?

<< To include explanation: (i) of how the RM3,000 tax deduction applies to an individual; (ii) on the maximum 19% tax deduction for employers; (iii) that withdrawals prior to retirement from sub-account B will be subject to the 8% tax penalty; (iv) that after reaching the retirement age, death or permanent departure from Malaysia, withdrawals will not be subject to any tax.>>

### How can I keep track of my contribution?

<< Bullet-points to include: (i) where and when NAV per Unit will be published with an example (eg. "For example, Monday's price will be available on Wednesday. This means that if you make a contribution on Monday, you will only know the number of units to be credited into your account on Wednesday"); (ii) to state that a consolidated statement of account from the PPA, and the interim and annual reports of the Fund, will be sent.>>

**Unit prices and distributions, if any, may go down as well as up.**

### How do I start contributing?

**It is important to understand what you are contributing into. Ask for a copy of the Scheme's disclosure document. If in doubt, consult a professional adviser.**

#### **Need Advice?**

<<To provide avenue for members to obtain advice>>

#### Account opening

<<Insert key steps and where to submit completed documents>>

Contribution << May be combined with "Account opening" provided instructions are clear>>

<<Insert key steps and where to submit completed documents>>

#### Minimum initial and subsequent contributions

Minimum initial contribution: <<insert amount>>

Minimum subsequent contribution: <<insert amount>>

<<Date>>

## This is a Private Retirement Scheme

### How do I lodge a complaint?

1. For internal dispute resolution, you may contact:

<<Insert contact details for internal dispute resolution>>

2. If you are dissatisfied with the outcome of the internal dispute resolution process, please refer your dispute to the Securities Industries Dispute Resolution Corporation (SIDREC):

- (a) via phone to : 03-2282 2280
- (b) via fax to : 03-2282-3855
- (c) via email to : [info@sidrec.com.my](mailto:info@sidrec.com.my)
- (d) via letter to : Securities Industry Dispute Resolution Center (SIDREC)  
Unit A-9-1, Level 9, Tower A  
Menara UOA Bangsar  
No. 5, Jalan Bangsar Utama 1  
59000 Kuala Lumpur

3. You can also direct your complaint to Securities Commission Malaysia (SC) even if you have initiated a dispute resolution process with SIDREC. To make a complaint, please contact the SC's Investor Affairs & Complaints Department:

- (a) via phone to the Aduan Hotline at : 03 – 6204 8999
- (b) via fax to : 03 – 6204 8991
- (c) via e-mail to : [aduan@seccom.com.my](mailto:aduan@seccom.com.my)
- (d) via online complaint form available at [www.sc.com.my](http://www.sc.com.my)
- (e) via letter to : Investor Affairs & Complaints Department  
Securities Commission Malaysia  
No 3 Persiaran Bukit Kiara  
Bukit Kiara  
50490 Kuala Lumpur

## SCHEDULE H

### MINIMUM CONTENTS OF A DISCLOSURE DOCUMENT

#### General

- (1) The purpose of a disclosure document is to provide information to enable members to make informed investment decisions in contributing to funds under a Scheme. Emphasis should be given to providing relevant and accurate information that is material to understanding the management and operation of the respective funds within the Scheme.
- (2) The information required by the SC under this schedule is the minimum that must be included in a disclosure document. Where possible, the disclosure document must avoid using technical terms. Terms used must be easily understood by members.
- (3) Where a member seeks to make a contribution to a private retirement scheme and requests for a subscription to a fund within the Scheme, such application must be accompanied by a copy of the disclosure document, whether in electronic or printed form depending on the choice made by the member. Members must be advised to read and understand the disclosure document before making an investment decision.

#### Cover Page

- (4) A disclosure document must contain the name of the Scheme and the funds under the Scheme, on its cover page.
- (5) A disclosure document must state the following particulars of the PRS Provider:
  - (a) Full name of the PRS Provider; and
  - (b) Registration number of the PRS Provider.
- (6) A PRS disclosure document must also disclose the following particulars of the Scheme Trustee:
  - (a) Full name of the Scheme Trustee; and
  - (b) Registration number of the Scheme Trustee.
- (7) A disclosure document must be dated.
- (8) The date of constitution of the Scheme must be clearly disclosed.
- (9) The following statement must appear in bold on the cover page of the disclosure document:

**“This is a Private Retirement Scheme” (to be disclosed on the upper right hand corner of the disclosure document)**

**“Members are advised to read and understand the contents of the disclosure document . If in doubt, please consult a professional adviser.”**



“For information concerning certain risk factors which should be considered by prospective members, see "Risk Factors" commencing on page [xx].”

- (10) Where a fund’s property consists, or proposes to consist, of derivatives exceeding 30% of net asset value (NAV), there must be a statement disclosing the fund’s substantial investment, or intention to invest substantially, in derivatives. The statement must appear in bold and in a prominent position on the cover page of the disclosure document.

#### **Inside Cover/First Page**

- (11) There are certain types of information considered essential to identify a disclosure document and the status of a disclosure document. If not already disclosed on the front cover, the disclosure document must contain the following statements on the inside cover or at the very least, on page 1:

##### ***Responsibility Statements***

“This disclosure document has been reviewed and approved by the directors of the PRS Provider and they collectively and individually accept full responsibility for the accuracy of the information. Having made all reasonable enquiries, they confirm to the best of their knowledge and belief, that there are no false or misleading statements, or omission of other facts which would make any statement in the disclosure document false or misleading.”

##### ***Statements of Disclaimer***

“The Securities Commission Malaysia has approved the Scheme and authorized the funds under the Scheme, and a copy of this disclosure document has been registered with the Securities Commission Malaysia”.

“The approval and authorization, as well as the registration of this disclosure document should not be taken to indicate that the Securities Commission Malaysia recommends the Scheme or fund(s) under the Scheme or assumes responsibility for the correctness of any statement made or opinion or report expressed in this disclosure document.”

“The Securities Commission Malaysia is not liable for any non-disclosure on the part of the PRS Provider responsible for the Scheme and the funds under the Scheme, and takes no responsibility for the contents in this disclosure document. The Securities Commission Malaysia makes no representation on the accuracy or completeness of this disclosure document, and expressly disclaims any liability whatsoever arising from, or in reliance upon, the whole or any part of its contents.”

“Members should rely on their own evaluation to assess the merits and risks of the investment. In considering the investment, members who are in doubt on the action to be taken should consult professional advisers immediately.”

- (12) In addition to the statements required above, the following additional statements must also be stated:

“Members are advised to note that recourse for false or misleading statements or acts made in connection with the disclosure document is directly available through section 92A(3) of the *Capital Markets and Services Act 2007*.”

- (13) For a Shariah-compliant fund, the following statement must be additionally stated:

“[Name of fund] has been certified as being Shariah-compliant by the Shariah adviser appointed for the fund.”

#### **Table of Contents/Definitions/Corporate Directory**

- (14) The disclosure document must be properly structured, with relevant sections and headings, for ease of reference and cross-reference.
- (15) There must be a table of contents which lists all sections and subsections of the disclosure document.
- (16) A glossary of abbreviations and technical terms must be provided.
- (17) The directory must contain details of the following:
- (a) Names, addresses and telephone numbers of the registered office and business office of the PRS Provider and its delegates (if any). E-mail addresses and website addresses (if any) must also be stated;
  - (b) Names, addresses and telephone numbers of the registered office and business office of the Scheme Trustee and its delegates (if any). E-mail addresses and website addresses (if any) must also be stated;
  - (c) Names of the directors of the PRS Provider (to specify the independent directors);
  - (d) Names of the investment committee members (to specify the independent members);
  - (e) Names of specialist committee members/advisers (where applicable);
  - (f) Names of the audit and compliance committee (or by whatever name called) members (where applicable);
  - (g) Name, address and membership number of company secretary;
  - (h) Names and addresses of the following parties (where applicable):
    - (i) Federation of Investment Managers Malaysia (FiMM);
    - (ii) Auditors;
    - (iii) Reporting accountants;

- (iv) Tax consultants;
- (v) Valuers;
- (vi) Solicitors;
- (vii) Principal bankers; and
- (viii) Agency offices; and
- (i) Names and addresses of expert(s) who prepared reports or excerpts or summaries included or referred to in the Disclosure document.

### **Key Data/Information Summary**

- (18) There must be a key data/information summary section in the disclosure document, highlighting salient features of the fund.
- (19) The key data/information summary section must, where necessary, include cross-references to pages in the disclosure document which give full details on respective matters.
- (20) The following statements must be disclosed in bold in the disclosure document :
  - “This is a Private Retirement Scheme”
  - “There are fees and charges involved and potential members are advised to consider them before contributing to a Scheme.”
  - “Unit prices and distributions, if any, may go down as well as up.”
- (21) The summary section should include, but is not limited to the following information:
  - (a) Scheme information
    - (i) Name of Scheme;
    - (ii) General information on the Scheme;
    - (iii) Brief description on the operations of the Scheme;
    - (iv) The number of funds within the Scheme and for each fund, its name.
  - (b) Fund Information (for each fund under a Scheme)
    - (i) Name of fund;
    - (ii) Category of fund;
    - (iii) Initial offer period and its initial price;
    - (iv) Investment objectives of the fund;

- (v) Brief but relevant description of the policies and principal investment strategy, including the asset allocation strategy to be employed by the fund manager to meet the objectives;
  - (vi) Performance benchmark;
  - (vii) Member profile
  - (viii) Brief but relevant description of the principal risks of investing in the fund; and
  - (ix) Where multiple classes of units are issued, a comparison table highlighting the different features of each class.
- (c) Fees and charges
  - (i) To disclose charges directly incurred by members when purchasing or redeeming units of a fund;
  - (ii) To indicate clearly in the disclosure document whether the charges are negotiable; and
  - (iii) To disclose fees indirectly incurred by members when investing in the fund.
- (d) Other information
  - (i) A list of current deed and supplemental deed (if any) and their corresponding dates;
  - (ii) Avenues for advice available to prospective members;
  - (iii) Where and how members can lodge a complaint;
  - (iv) Any other key data/information summary that the PRS Provider may consider necessary, material and important to be included in this section; and
  - (v) For funds under a Scheme which is already in operation, the disclosure document to state the following warning statement in bold:  
  
“Past performance of the fund is not an indication of its future performance.”

### **Risk Factors**

- (22) A disclosure document should contain information regarding risk factors relating to the funds under the Scheme which would include, among others–
  - (a) General risks of investing in the fund; and
  - (b) Specific risks associated with the investment portfolio of the fund.

- (c) Where the fund's property consists or proposes to consist of warrants, options and structured products, risk disclosures must include the inherent risks associated with these types of investment.
- (d) Where the fund's property consists or proposes to consist of derivatives, the risks with respect to investment in derivatives must be disclosed, including the likelihood of high volatility in the NAV of the fund.
- (e) Mitigating factors must be disclosed in circumstances where risks are considered major to members.
- (f) The listing of risk factors in order of priority is encouraged.
- (g) In making disclaimers on risk factors, care must be taken to ensure that the disclaimers are not so wide as to cause the risk disclosures to be of little or no beneficial use to members.

### **Scheme Details**

- (23) Name of Scheme
- (24) General information on the Scheme. This should include a brief description of the benefits of contributing to the Scheme.
- (25) Detailed description of the operations of the Scheme

### **The Fund**

- (26) A disclosure document must include a section giving details on the funds under the Scheme offered in the disclosure document. The objective is to assist prospective members to make informed assessments of the fund for decision-making purposes.
- (27) The information to be disclosed in this section must include, but is not limited to, the following:
  - (a) The investment objective of the fund. There must also be a statement that any material change to the investment objective of the fund would require members' approval;
  - (b) The investment policy and principal investment strategies to achieve the stated investment objective. In describing the investment policy and principal investment strategies, the following information must be disclosed:
    - (i) Investment focus of the fund (e.g. equity, debenture, money market, collective investment schemes, etc.), the characteristics of the securities/instruments to be invested and the asset allocation strategy. Where appropriate, the investment focus must also include the

- countries/markets (e.g. global, regional or country specific, developed or emerging markets, etc.) and target sector/industry;
- (ii) Practice, technique or approach used by the fund manager in managing the investment portfolio, including its policy on active and frequent trading of securities; and
  - (iii) Where applicable, disclosure on whether the fund manager may take temporary defensive positions which may be inconsistent with the fund's principal strategy in attempting to respond to adverse market conditions, economic, political or any other condition. The types of securities/instruments the fund would invest in during defensive positions must also be disclosed;
- (c) The risk management strategies and techniques to be employed by the fund manager;
  - (d) The fund's performance benchmark and where the information on the benchmark can be obtained. If a customised benchmark or a combination of multiple benchmarks is used, there must be a description on how the benchmark is derived;
  - (e) The permitted or authorized investments and the investment limits/restrictions for the fund;
  - (f) Valuation bases for all types of assets invested or to be invested by the fund, including treatment for suspended counters; and
  - (g) Policy in respect of valuation point(s) to determine the NAV of the fund (including policy in respect of timing for valuation of a fund's foreign investments and frequency of valuation of the fund's property).
- (28) Where a Scheme invests in derivatives and structured products, a disclosure document must clearly disclose the following:
- (a) The types and characteristics of derivatives and structured products the fund invests in;
  - (b) The purpose of investing in derivatives (either for hedging or investment);
  - (c) (Where applicable) the likelihood of high volatility of the NAV per unit of the fund; and
  - (d) The specific risk management adopted in such investments which includes measures to be taken in the event of a downgrade in the rating of the issuer in the case of over-the-counter (OTC) options.
- (29) For a Shariah-compliant fund, a disclosure document must also include—
- (a) a clear description of the Shariah-approval process, including details of methodologies, rulings and screening process; and

- (b) a statement to the effect that the investment portfolio of the fund comprises securities which have been classified as Shariah-compliant by the Shariah Advisory Council (SAC) of the SC. For securities not certified by the SAC of the SC, a statement stating that the status of the securities has been determined in accordance with the ruling issued by the Shariah adviser.
- (30) In addition to the above requirements, for certain types and categories of fund, the PRS Provider must also disclose the additional information stipulated in paragraphs –79–90 of this schedule.

### **Fees, Charges and Expenses**

- (31) A disclosure document must clearly disclose and explain the cost of investing in the fund under a Scheme.
- (32) A disclosure document must include a description of the charges *directly incurred* by members when purchasing or redeeming units of the fund under a Scheme:
  - (a) The maximum rate or amount of charges imposed by each distribution channel;
  - (b) The basis on which the charges are calculated;
  - (c) Illustration on how the charges are calculated; and
  - (d) Whether charges are negotiable.
- (33) Policy on rounding adjustment adopted must also be clearly disclosed.
- (34) A disclosure document must describe the fees indirectly incurred by members when investing in the fund which include, among others, PRS Provider's management fee and Scheme Trustee's trustee fee. The description must include the annual rate imposed.
- (35) A disclosure document must also describe any other fee that may be imposed.
- (35A) A disclosure document must explain how members will be notified of any increase in fees and charges. There must also be disclosure of any notice period required prior to the effective date of such higher fees and/or charges.
- (36) There must be a list of expenses to be incurred/incurred by the fund (e.g. commission paid to brokers, auditors fee, valuation fee, taxes, custodial charges, etc.) in the disclosure document.
- (37) Rebates and soft commissions must be clearly disclosed and the PRS Provider's policy on rebates and soft commissions must be clearly explained.
- (38) The following statement must appear in bold under this section:

**"There are fees and charges involved and members are advised to consider them before contributing to a Scheme."**

### **Transaction Information**

- (39) A disclosure document must contain information reasonably required by a member for purchasing and redeeming units, as well as information on how members can keep abreast on their investments in the fund under a Scheme.

### **Pricing**

- (40) A disclosure document must clearly disclose the valuation points for the purpose of determining the NAV and unit price of the fund under a Scheme .
- (41) A disclosure document must clearly explain the pricing policy adopted by the PRS Provider for the fund's units.
- (42) There must be a numerical illustration to show members the amount payable, amount invested and amount of charges imposed for an investment of RM10,000 at a unit price of RM0.50.

### **Transaction Details**

- (43) Instructions and procedures on how to purchase and redeem units of the fund under a Scheme must be clearly disclosed. The instructions/procedures must include information, such as minimum initial investment, minimum additional investment, minimum repurchase amount, switching, transfer of units, etc. The instructions/procedures must also take into account the different procedures adopted by different distribution channels.
- (44) The type of distribution channels, e.g. banks, brokers, PRS Provider, sales agents, financial planners, etc. must also be disclosed. Cross-references must be made to a complete list of distribution offices at the end of the disclosure document (where applicable).
- (45) A disclosure document must clearly disclose the cooling-off policy, including an explanation/description of how/when it applies to potential members.
- (46) The following warning statement must appear in bold:
- “Members are advised not to make payment in cash when purchasing units of a fund under a Scheme via any institutional/retail agent.”

### **The PRS Provider**

- (47) A disclosure document must include a section on the PRS Provider operating the Scheme offered in the disclosure document.

### **Corporate Information**

- (48) The corporate information of the PRS Provider must be disclosed which includes–
- (a) names of directors and their status (independent or non-independent);



- (b) information on key personnel such as the CEO and designated person responsible for compliance matters. Information must include their academic and/or professional qualifications and relevant work experiences;
  - (c) the PRS Provider's experience in operating a unit trust scheme;
  - (d) summary of the PRS Provider's financial position for the past three years (where applicable), in tabular form, disclosing–
    - (i) paid-up share capital;
    - (ii) shareholders' funds;
    - (iii) revenue;
    - (iv) profit/loss before tax; and
    - (v) profit/loss after tax; and
  - (e) total number of unit trust schemes as well as total value of funds operated by the PRS Provider (where applicable).
- (49) There must also be disclosure of–
- (a) roles, duties and responsibilities of the PRS Provider; and
  - (b) all current material litigation and arbitration, including those pending or threatened, and any facts likely to give rise to any proceeding which might materially affect the business/financial position of the PRS Provider or any of its delegates.

***Investment Committee***

- (50) Information on the investment committee of the Scheme must also be disclosed such as–
- (a) names, status (independent or non-independent), relevant qualifications and experience of each member of the committee; and
  - (b) roles and primary functions of the investment committee, including frequency of meetings.

***Audit Committee***

- (51) Information on the audit committee of the Scheme must also be disclosed such as–
- (a) names, status (independent or non-independent), relevant qualifications and experience of each member of the committee; and
  - (b) roles and primary functions of the audit committee, including frequency of meetings.

### ***Shariah Adviser/Panel of Adviser***

- (52) Where a Shariah adviser/panel of advisers is appointed, the following information must be disclosed:
- (a) Names, relevant qualifications and experience of each member of the Shariah adviser/panel of advisers;
  - (b) Where the Shariah adviser is a company—
    - (i) the corporate information of the company;
    - (ii) experience relevant to its appointment as an adviser;
    - (iii) the number of schemes and funds in which it acts as adviser; and
    - (iv) the name, relevant qualifications and experience of the designated person responsible for Shariah matters of the fund;
  - (c) Roles and primary functions of the Shariah adviser/panel of advisers, including the frequency of meetings; and
  - (d) Frequency of review on the scheme's property by the Shariah adviser/panel of advisers to ensure compliance with Shariah principles or any other relevant principle at all times.

### ***Fund Management Function***

- (53) A disclosure document must disclose relevant information on the designated person responsible for the fund management function of the fund within the Scheme, including his qualifications and relevant experience.
- (54) Where the fund management function is delegated to an external party, the disclosure document must in addition to the disclosure requirements under paragraph 55, disclose the following:
- (a) A brief corporate information of the delegate;
  - (b) Roles and duties of the delegate;
  - (c) The delegate's experience in fund management (including number of years in the fund management industry); and
  - (d) Total value of funds under the delegate's management.

### ***Delegates***

- (55) If any other function of the PRS Provider is delegated to an external party, the following information must be disclosed:
- (a) A brief corporate information of the delegate; and

- (b) Roles and duties of the delegate.

### **The Scheme Trustee**

- (56) A disclosure document must include a section on the Scheme Trustee.
- (57) The corporate information of the Scheme Trustee must be disclosed, which includes–
  - (a) names of the directors and CEO;
  - (b) the Scheme Trustee’s experience as trustee to the Scheme; and
  - (c) summary of the Scheme Trustee’s financial position for the past three years (where applicable), in tabular form, disclosing–
    - (i) paid-up share capital;
    - (ii) shareholders’ funds;
    - (iii) revenue;
    - (iv) profit/loss before tax; and
    - (v) profit/loss after tax; and
  - (d) number of funds under trusteeship.
- (58) A disclosure document must also include a Scheme Trustee’s statement of responsibility.
- (59) There must also be disclosure of–
  - (a) roles, duties and responsibilities of the Scheme Trustee; and
  - (b) all current material litigation and arbitration, including those pending or threatened, and any fact likely to give rise to any proceeding which might materially affect the business/financial position of the Scheme Trustee or any of its delegates.

### **Delegates**

- (60) Where the custodial function of the Scheme Trustee is delegated, the following information must be disclosed:
  - (a) A brief corporate information of the delegate; and
  - (b) The roles and duties of the delegate.

### **Salient Terms of Deed**

- (61) A disclosure document must disclose salient terms of the deed, particularly provisions relating to–

- (a) rights and liabilities of members, including the limitations and restrictions on their rights;
- (b) maximum fees and charges permitted by the deed and payable by the members both directly and indirectly (such as management fee, trustee fee, sales charge and repurchase charge, etc.);
- (c) increase in fees and charges from the level disclosed in the disclosure document and the maximum rate provided in the deed;
- (d) permitted expenses payable out of the fund's property;
- (e) removal, replacement and retirement of the PRS Provider and Scheme Trustee;
- (f) termination of the Scheme or fund under a Scheme (where multiple classes of units are issued, the circumstances, procedures and processes for termination of each class of units and the scheme);
- (g) members' meeting; and
- (h) permitted withdrawals and pre-retirement withdrawals;
- (i) circumstances when members may switch funds within the Scheme and transfer units in a fund under a Scheme to another PRS Provider.

#### **Approvals and Conditions**

- (62) A disclosure document must disclose approvals obtained from relevant authorities in conjunction with the establishment of the Scheme and fund(s) under the Scheme, together with the dates of approvals, any condition attached and its status of compliance (where applicable).
- (63) For any waiver from any relevant guidelines which has been approved by the SC, to state the specific clauses of the guidelines for which the waiver was sought and details of the approval with condition(s) (if any).

#### **Related-Party Transactions/Conflict of Interest**

- (64) A disclosure document must disclose the existing and proposed related-party transactions involving the funds under the scheme, the PRS Provider, Scheme Trustee, promoters, vendors and/or persons connected to them (where applicable), together with steps taken to resolve any conflict of interest. Such disclosures are also required if the scheme enters into any transaction with its key personnel of the PRS Provider, promoters, vendors, and/or persons connected to them.
- (65) The PRS Provider must disclose its policy on dealing with conflict-of-interest situations (e.g. dealing in securities by employees, directors, investment committee members, etc.).
- (66) The PRS Provider must elaborate the nature and extent of the related-party transactions and conflict-of-interest situations in the disclosure document.

- (67) A disclosure document must provide details of directors' and substantial shareholders' of the PRS Provider's direct and indirect interests in other corporations carrying on a similar business.
- (68) Declaration of any expert's existing and potential interests/conflicts of interest in an advisory capacity (if any) vis-à-vis the PRS Provider must be provided in the disclosure document. "Experts" means advisers, firms of public accountants, law firms, valuers, engineers and other parties which provide advice to the PRS Provider.

#### **Taxation of the Fund**

- (69) A disclosure document must contain a report providing an opinion from the fund's tax adviser detailing the following:
  - (a) The taxation of the fund taking into account any distinctive characteristic of the fund (e.g. its participation in futures contracts, investment in foreign securities);
  - (b) With regard to members, the tax deduction available and tax liabilities (including the tax penalty for withdrawals prior to retirement), if any; and
  - (c) Maximum tax deduction available for employers who contribute on behalf of employees

#### **Contributions and Withdrawals**

- (70) A disclosure document must contain procedures for making contributions, payment of members' benefits upon withdrawals from a Scheme including deduction of tax penalty for pre-retirement withdrawals, switching between funds within the Scheme and transfer of accrued benefits to other PRS Providers.
- (71) A disclosure document must contain provisions on the minimum switching amount, circumstances under which switching between funds within a Scheme may occur and minimum redemption amount, if any, of each fund within the Scheme.

#### **Additional Information**

- (72) A disclosure document must contain information on how members can keep abreast of developments in the fund within a Scheme and track unit price/NAV per unit of the fund.
- (73) A disclosure document must also disclose and highlight the customer services provided by the PRS Provider.
- (74) Policies and procedures adopted by the PRS Provider to avoid money laundering activities must also be disclosed (e.g. procedures on identifying and verifying members, and actions to be taken by the PRS Provider when a money laundering activity is detected).
- (75) There must also be full disclosure of all material contracts (including contracts not reduced in writing), not being contracts in the course of business, entered into within two years preceding the date of the disclosure document. The following particulars must be disclosed for each contract:

- (a) Date;
  - (b) Parties;
  - (c) Subject matter;
  - (d) Consideration passing to or from the fund and/or PRS Provider where applicable; and
  - (e) The mode of satisfaction of the consideration.
- (76) A list of distribution channels' offices/premises in which units can be purchased or redeemed must also be disclosed.

### **Consents**

- (77) A disclosure document must contain statements of consent from relevant parties (e.g. advisers, reporting accountants, auditors, issuing houses, registrars, solicitors, external company secretaries, bankers, valuers, underwriters, rating agencies and other experts) for inclusion of their names and statements/reports (where relevant) in the disclosure document in the form and context in which it appears. A statement that they have not subsequently withdrawn such consent must also be disclosed.

### **Documents Available For Inspection**

- (78) A disclosure document must contain a statement stating that, for a period of not less than 12 months, the following documents or copies of them or other documents as may be required by the SC (where applicable) are available for inspection at the registered office of the PRS Provider or such other place as the SC may determine:
- (a) The deed and supplemental deed;
  - (b) Each contract disclosed in the disclosure document and, in the case of contracts not reduced into writing, a memorandum which gives full particulars of the contracts;
  - (c) The latest annual and interim reports of the fund;
  - (d) The audited financial statements of the fund and PRS Provider for the current financial year (where applicable) and the last three financial years or from the date of establishment/ incorporation, if less than three years, preceding the date of disclosure document;
  - (e) All reports, letters or other documents, valuations and statements by any expert, any part of which is extracted or referred to in the disclosure document. Where a summary expert's report is included in the disclosure document, the corresponding full expert's report must be made available for inspection;
  - (f) Writ and relevant cause papers for all current material litigation and arbitration disclosed in the disclosure document; and

- (g) All consents given by experts disclosed in the disclosure document.

### **Specific Requirements For Index Funds**

- (79) The following information must be disclosed in the disclosure document of an index fund, in addition to that specified under paragraphs 4–78 of this schedule, unless otherwise specified:
  - (a) The underlying index which the fund intends to track or replicate, as well as a description of the market or sector the index represents;
  - (b) The characteristics and general composition of the index and, where applicable, concentration in any economic sector and/or issuer;
  - (c) The fund's investment strategy whether to invest in all (full replication) or a representative sample (sampling) of component securities of the underlying index. Where a representative sample of component securities of the index is used, to disclose how the sample is constituted;
  - (d) A brief description of the index methodology/rules and how members may obtain such information;
  - (e) The means by which members may obtain the latest index information and other important news of the index;
  - (f) Circumstances which may affect the accuracy and completeness in the calculation of the index;
  - (g) Circumstances which may lead to tracking errors and strategies employed in minimising such errors;
  - (h) The risks of investing in an index fund;
  - (i) The policy on rebalancing the investment portfolio;
  - (j) The weightings of the top 10 component securities of the underlying index; and
  - (k) In addition to paragraph 79(j), where a representative sample of component securities of the underlying index is used to track or replicate the index, the weightings of the top 10 component securities in the sample.
- (80) There must be statements, highlighted in bold, to the effect that–
  - (a) there is no guarantee or assurance of exact or identical replication at any time of the performance of the index;
  - (b) the index composition may change and component securities of the underlying index may be delisted; and
  - (c) (where appropriate) the investment of the fund may be concentrated in securities of a single issuer or several issuers.

### **Specific Requirements For Cash Management Funds**

- (81) The following information must be disclosed in the disclosure document of a cash management fund, in addition to that specified under paragraphs 4–78 of this schedule, unless otherwise specified.
- (82) The following information must be disclosed:
- (a) The minimum credit rating of the money market instruments or debentures which the fund will invest in; and
  - (b) The steps to be taken where the ratings are downgraded below the pre-determined rating.
- (83) The following statement must be disclosed in bold:
- “Investment in the fund is not the same as placement in a deposit with a financial institution. There are risks involved and members should rely on their own evaluation to assess the merits and risks when investing in the fund.”**

### **Specific Requirements For Feeder Funds**

- (84) The following information must be disclosed in the disclosure document of a feeder fund, in addition to that specified under paragraphs 4–78 of this schedule, unless otherwise specified.
- (85) This section must also include information on the target fund, as follows:
- (a) Name of the target fund;
  - (b) The operator and fund manager of the target fund;
  - (c) Country of origin of the target fund;
  - (d) Regulatory authority which regulates the target fund; and
  - (e) Date of establishment of the target fund.
- (86) There must be a section which describes the target fund, including–
- (a) the investment objective and its principal investment strategy;
  - (b) the specific and peculiar risks of the target fund;
  - (c) the permitted/authorized investment and the limits/restrictions of the target fund;
  - (d) (where applicable) the foreign jurisdiction from where the fund originates and name of the regulator responsible for regulating the fund and parties responsible for the fund; and
  - (e) the applicable legislation in the foreign jurisdiction which applies to the target fund.



- (87) There must also be information on the operator and fund manager of the target fund. The information must include the corporate information, experience and expertise in the relevant industry.

***Fund Performance***

- (88) There must be a disclosure on the most recent performance of the target fund vis-à-vis its selected benchmark.

***Fees, Charges, and Expenses***

- (89) A disclosure document must clearly explain (with illustration) the impact of fees and charges imposed by the target fund on the cost of investing in the feeder fund. Where fees and charges of the target fund are waived, or where rebates are given, this must be clearly disclosed.
- (90) Where applicable, there must be a warning statement, highlighted in bold, to alert potential members to the fact that they will be subjected to higher fees arising from the layered investment structure.

**Application Form**

- (91) An application form must be identifiable with the disclosure document and warn members against signing the form without having read and understood the disclosure document.
- (92) Accordingly, an application form must contain the following:
- (a) Name of the Scheme and funds under the Scheme;
  - (b) Date of the disclosure document to which it relates;
  - (c) A statement that the application form must not be circulated unless accompanied by the disclosure document;
  - (d) A statement that members must read the disclosure document before completing the application form; and
  - (e) Acknowledgement by a member that he is aware of the fees and charges that he will incur directly or indirectly when investing in the fund.