



Suruhanjaya Sekuriti
Securities Commission
Malaysia

GUIDELINES ON OFFER OF SHARES BY UNLISTED PUBLIC COMPANIES TO SOPHISTICATED INVESTORS

SC-GL/1-2021 (R2-2024)

<p>1st Issued : 5 July 2021 Revised : 5 February 2024</p>
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**GUIDELINES ON OFFER OF SHARES
BY UNLISTED PUBLIC COMPANIES TO SOPHISTICATED INVESTORS**

Effective Date upon 1st Issuance	1 August 2021
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List of Revisions

Revision Series	Revision Date	Effective Date of Revision	Series Number
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Chapter 1

INTRODUCTION

- 1.01 The *Guidelines on Offer of Shares by Unlisted Public Companies to Sophisticated Investors* are issued by the Securities Commission Malaysia (SC) pursuant to section 377 of the *Capital Markets and Services Act 2007* (CMSA).
- 1.02 Currently, an unlisted public company (UPC) being a public company whose shares are not listed and is not seeking for its shares to be listed on the stock market of the stock exchange is not required to obtain SC's prior authorisation under section 212 of the CMSA for the offering of its shares.
- 1.03 These Guidelines are aimed at ensuring that there are controls established to ensure any offering including any marketing or distribution of its shares by a UPC to sophisticated investors are carried out in compliance with regulatory requirements. These Guidelines also imposes notification and reporting obligations on the UPC for such offerings.

CHAPTER 2

APPLICABILITY

- 2.01 These Guidelines will apply to a UPC when making an offer of its shares solely to sophisticated investors.
- 2.01 A These Guidelines do not apply to a UPC making an offer of its shares through an equity crowdfunding platform registered with the SC under the *Guidelines on Recognized Markets*.
- 2.02 The Board of Directors of a UPC is responsible for ensuring that the UPC, as well as persons acting on its behalf comply with these Guidelines.
- 2.03 For the purposes of these Guidelines, the term 'offer' in relation to any shares in a UPC includes the issuance of such shares, the making available of, offering for subscription or purchase of, or issuance of an invitation to subscribe for or purchase of such shares.
- 2.04 The SC may, upon application, grant an exemption from or a variation to the requirements of these Guidelines if the SC is satisfied that–
- (a) such variation is not contrary to the intended purpose of the relevant requirements in these Guidelines; or
 - (b) there are mitigating factors, which justify the said exemption or variation.

CHAPTER 3

RELATED PROVISIONS

3.01 These Guidelines are in addition to and not in derogation of any other requirements provided for under securities laws or any other guidelines issued by the SC.

CHAPTER 4

DEFINITIONS

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

public company has the meaning assigned to it in subsection 2(1) of the
Companies Act 2016;

sophisticated investor means any person who—

- (a) is determined to be a sophisticated investor under the
Guidelines on Categories of Sophisticated Investors; or
- (b) acquires shares pursuant to a private placement where the
consideration for the acquisition is not less than RM250,000
or its equivalent in foreign currencies for each transaction
whether such amount is paid for in cash or otherwise.

CHAPTER 5

REQUIREMENTS RELATING TO INFORMATION MEMORANDUM

- 5.01 A UPC must ensure that any information memorandum (IM) issued in respect of an offer of its shares must comply with, in addition to requirements under these Guidelines, the requirements as set out in the CMSA and any other guidelines issued by the SC.
- 5.02 The cover page of the IM issued by a UPC making an offer of its shares to sophisticated investors must contain the following:

- (a) The statement below which must be highlighted in bold and a prominent colour:

"WE ARE A COMPANY WHERE OUR SHARES ARE NOT SEEKING LISTING ON THE STOCK EXCHANGE. OUR OFFERING MAY CARRY HIGHER INVESTMENT RISK WHEN COMPARED WITH COMPANIES LISTED ON THE STOCK EXCHANGE. THE SHARES OF A COMPANY WHERE ITS SHARES ARE NOT SEEKING LISTING ON THE STOCK EXCHANGE ARE LESS LIQUID AS THE SHARES ARE NOT PUBLICLY TRADED ON THE STOCK EXCHANGE. YOU SHOULD BE AWARE OF THE RISKS OF INVESTING IN OUR COMPANY AND SHOULD MAKE THE DECISION TO INVEST ONLY AFTER CAREFUL CONSIDERATION. THIS ISSUE, OFFER OR INVITATION FOR THE OFFERING IS A PROPOSAL NOT REQUIRING AUTHORISATION OF THE SECURITIES COMMISSION MALAYSIA UNDER SECTION 212(8) OF THE CAPITAL MARKETS AND SERVICES ACT 2007."

- (b) The statement below which must be highlighted in bold:

"This document has not been approved or registered by the Securities Commission Malaysia. The deposit of this document should not be taken to indicate that the Securities Commission Malaysia recommends the offering or assumes responsibility for the correctness of any statement made, opinion expressed or report contained in this document.

The Securities Commission Malaysia expressly disclaims any liability whatsoever arising from, or in reliance upon, the whole or any part of this document."

CHAPTER 6

CONDUCT OBLIGATIONS RELATING TO DISTRIBUTION

- 6.01 A UPC that appoints an agent for the purposes of promoting or marketing its shares must ensure that the agent holds a Capital Markets Services Licence for the regulated activity of dealing in securities.
- 6.02 A UPC and persons acting on its behalf must take reasonable steps to verify that any prospective investor is a sophisticated investor prior to approaching the investor for the offering of its shares.

CHAPTER 7

REPORTING REQUIREMENTS

- 7.01 This Chapter applies irrespective whether an offer of shares by a UPC is accompanied with an IM.
- 7.02 A UPC must submit to the SC:
- (a) a post-issuance notification in such form as set out in Appendix 1 no later than seven days after the commencement of the offering; and
 - (b) a report that is prepared on a quarterly basis (post-issuance update report) in such form as set out in Appendix 2 no later than seven days after the end of each quarter of its financial year, as long as the offering is ongoing.
- 7.03 A UPC must include in the post-issuance notification and post-issuance update report, the information as set out in Appendices 1 and 2 and provide any other information as may be required by the SC.
- 7.04 A UPC must ensure that all statements and information submitted to the SC are true, not misleading and do not contain material omission.
- 7.05 A UPC must submit to the SC any revision to the post-issuance notification and/or post-issuance update report made by the UPC.
- 7.06 A UPC must immediately make a revision to the post-issuance notification and/or post-issuance update report upon becoming aware of any change or a likelihood of any change that may render any information submitted with the SC to be false, misleading or contain any material omission.
- 7.07 Every post-issuance notification, post-issuance update report and any revisions thereof submitted to the SC must be signed by a person duly authorised by the UPC.

7.08 Any submission made under these Guidelines to the SC must be made in:

- (a) one hard copy; and
- (b) an electronic copy, in a text-searchable format,

and addressed to:

The Chairman
Securities Commission Malaysia 3
Persiaran Bukit Kiara
Bukit Kiara
50490 Kuala Lumpur
(Attention: Corporate Finance and Investments)

Post-Issuance Notification

Type of Filing	
<input type="checkbox"/> New Notice	<input type="checkbox"/> Revision
SECTION 1 DETAILS OF CORPORATION	
Name of company	:
Company registration number	:
Place of incorporation	:
Principal activity	:
Principal place of business	:
Information on the directors	: [Name, address, identification/passport numbers and contact details]
Information on the key senior management	: [Name, address, identification/passport numbers and contact details]
Liaison person	: [Name and contact details]
SECTION 2 DETAILS OF OFFERING	
Type of shares to be issued	:
Number of shares to be issued and share price	:
Commencement date of offering	:
Closing date of offering	:
Proposed amount to be raised	:
Proposed utilisation of proceeds	:
SECTION 3 DECLARATION	
<p>We hereby declare and confirm the following:</p> <p>(i) The information set out in this notification is true, correct and complete;</p> <p>(ii) The offer of shares are only to sophisticated investors as defined in the <i>Guidelines for Offer of Shares by Unlisted Public Companies to Sophisticated Investors</i>; and</p> <p>(iii) We have complied with all the requirements set out in the <i>Guidelines for Offer of Shares by Unlisted Public Companies to Sophisticated Investors</i> regarding the proposed offering of shares.</p>	

Signature	
Name (<i>Director/Authorised Signatory</i>):	
NRIC No/ Passport No:	
Date (<i>dd mmm yyyy</i>):	

Post-Issuance Update Report

Type of Filing	
<input type="checkbox"/> New Notice	<input type="checkbox"/> Revision
SECTION 1 DETAILS OF CORPORATION	
Name of company	:
Company registration number	:
Place of incorporation	:
Principal activity	:
Principal place of business	:
Information on the directors	: [Name, address, identification/passport numbers and contact details]
Information on the key senior management	: [Name, address, identification/passport numbers and contact details]
Liaison person	: [Name and contact details]
SECTION 2 DETAILS OF OFFERING	
Type of shares issued	:
Number of shares issued and share price	:
Commencement date of offering	:
Closing date of offering	:
Amount raised up to-date (RM)	:
Remaining amount to be raised (RM)	:
Number of investors	:
Details of utilisation of proceed up to-date (RM)	:
SECTION 3 DECLARATION	
We hereby declare and confirm the following:	
(i) The information set out in this report is true, correct and complete;	
(ii) The offer of shares are only to sophisticated investors as defined in the <i>Guidelines for Offer of Shares by Unlisted Public Companies to Sophisticated Investors</i> ; and	
(iii) We have complied with all the requirements set out in the <i>Guidelines for Offer of Shares by Unlisted Public Companies to Sophisticated Investors</i> regarding the proposed offering of shares.	

Signature	
Name (<i>Director/Authorised Signatory</i>):	
NRIC No/ Passport No:	
Date (<i>dd mmm yyyy</i>):	