

# **PROSPECTUS GUIDELINES**

**SC-GL/PG-2012 (R10-2021)**

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## PROSPECTUS GUIDELINES

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### List of Revisions

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3 <sup>rd</sup> Revision	30.11.2017	01.03.2018	SC-GL/PG-2012 (R3-2017)
4 <sup>th</sup> Revision	19.09.2018	11.10.2018	SC-GL/PG-2012 (R4-2018)
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8 <sup>th</sup> Revision	04.05.2020	04.05.2020	SC-GL/PG-2012(R8-2020)
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10 <sup>th</sup> Revision	22.11.2021	22.11.2021	SC-GL/PG-2012(R10-2021)

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**PART I**

**GENERAL REQUIREMENTS**

## Chapter 1

### GENERAL

- 1.01 The Prospectus Guidelines is issued by the SC under section 377 of the *Capital Markets and Services Act 2007* (CMSA).
- 1.02 These Guidelines set out the additional disclosure requirements to be disclosed in a prospectus pursuant to section 235(1)(f) of the CMSA, and information to be disclosed in an abridged prospectus pursuant to section 237(2) of the CMSA.
- 1.02A These Guidelines shall not apply to a prospectus prepared by a public company making an offer of its shares through an equity crowdfunding (ECF) platform provided that the prospectus is registered by the ECF platform operator in compliance with the requirements set out in the *Guidelines on Recognized Markets*.
- 1.03 For the purpose of the CMSA and these Guidelines, a prospectus includes one prepared in any language other than Bahasa Malaysia or English.
- 1.04 These Guidelines are divided into the following parts:
- (a) **Part I** sets out the general requirements governing information to be disclosed in the prospectus;
  - (b) **Part II** sets out the minimum contents of a prospectus;
  - (c) **Part III** sets out the registration process of a prospectus; and
  - (d) **Part IV** sets out other matters related to a prospectus.
- 1.05 Notwithstanding the requirements in these Guidelines, the SC may require the disclosure of other additional information in any particular case, where it deems appropriate.
- 1.06 Information disclosed in a prospectus prepared must be disclosed in a true, complete and accurate manner.

- 1.07 A person who is involved in the preparation of the prospectus and becomes aware of any significant change or new matter arising that will affect the contents of the prospectus, must immediately inform the SC of such change or matter arising.
- 1.08 Information to investors must be presented in a manner that can be easily understood to enable them to assess and make an informed investment decision. In drafting the prospectus, persons responsible for the contents of the prospectus must ensure that–
- (a) all information is written in a clear and concise manner, and easy-to-understand sentences are used;
  - (b) plain and simple language is used. Legal or financial jargon, technical terms, or complicated methodologies or analyses are avoided, unless they can be clearly explained;
  - (c) comparative information is meaningful and presented in a fair and balanced way, and the source of information is disclosed; and
  - (d) key information is prominently presented.
- 1.09 The cut-off date for information to be disclosed in the prospectus must be the latest practicable date available prior to the issue of the prospectus.
- 1.10 A prospectus must be prepared in a simple design and layout with a font and type size that is easy to read.
- 1.11 To assist with the interpretation of the requirements under these Guidelines and their application, Guidance have been provided, where appropriate. Any action or conduct which departs from the Guidance will be taken into account by the SC in determining compliance with these Guidelines.
- 1.12 The SC may, upon application, grant an exemption from or a variation to the requirements of these Guidelines if the SC is satisfied that–
- (a) such variation is not contrary to the intended purpose of the relevant requirement in these Guidelines; or
  - (b) there are mitigating factors which justify the said exemption or variation.

Thereafter, an exemption or variation shall be referred to as “relief” in these Guidelines.

- 1.13 These Guidelines are in addition to and not in derogation of any other guidelines issued by the SC or any requirements provided under the securities laws.
- 1.14 If the securities are offered under an ACMF initiative, the prospectus must comply with the relevant ASEAN Disclosure Standards as set out in Divisions 1A and 2A of Part II.

## Chapter 2

### DEFINITIONS

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

ACE Market	means the alternative market of Bursa Securities;
ACE Market Listing Requirements	means the <i>ACE Market Listing Requirements</i> issued by Bursa Securities;
ACMF	means the ASEAN Capital Markets Forum;
adviser	means a person appointed by the applicant, the principal adviser or the issuer, as the case may be, to provide advice or opinion in connection with a submission of a proposal to the SC;
approved accounting standards	has the meaning assigned to it in the <i>Financial Reporting Act 1997</i> , but excluding the Malaysian Private Entities Reporting Standard or its equivalent;
Audit Oversight Board	has the meaning assigned to it in the <i>Securities Commission Malaysia Act 1993</i> ;
audited financial statements	means— (a) the audited financial statements of the corporation;  (b) where the corporation is a holding corporation, the audited consolidated financial statements of the corporation or the audited combined financial statements of the corporation; or  (c) the audited financial statements of each entity that forms part of the corporation’s group of entities,  as the case may be;

Bursa Securities call warrant	means Bursa Malaysia Securities Berhad;  means a contract under which a person has an actual, contingent or prospective—  (a) right to buy, a specified number or units of underlying shares or exchange-traded funds at a specified price on or by a specified future date; or  (b) right to receive, an amount in the form of cash or other property, depending on the state of affairs that relate to fluctuations in the value or price of an underlying financial instrument, and the amount will be calculated in a particular manner by reference to that state of affairs in accordance with the contract;
CMSA	means <i>Capital Markets and Services Act 2007</i> ;
competent person	has the meaning assigned to it in the <i>Equity Guidelines</i> ;
competent person's report	means a report prepared by a competent person on the technical assessment of MOG resources;
competent valuer	has the meaning assigned to it in the <i>Equity Guidelines</i> ;
competent valuer's report	means a report prepared by a competent valuer on the valuation of MOG resources;
Contingent Resources	has the meaning assigned to it under the respective O&G reporting standards;
corporate bonds	has the meaning assigned to it in the <i>Guidelines on Issuance of Corporate Bonds and Sukuk to Retail Investors</i> ;
dealer	means a person licensed or registered by the SC to carry on the business of dealing in securities;

e-host	<p>means an entity that issues, circulates or distributes electronic prospectus, and is limited to the following entities:</p> <ul style="list-style-type: none"><li>(a) Issuer;</li><li>(b) Stockbroking company;</li><li>(c) Licensed bank;</li><li>(d) Licensed investment bank;</li><li>(e) Issuing house; or</li><li>(f) Share registrar;</li></ul>
electronic application	<p>means a facility provided to investors to subscribe to new securities issuance electronically including, but not limited to, an automated teller machine or a digital platform such as website and mobile application or any other electronic platforms or means;</p>
electronic application provider	<p>means an entity that provides for electronic application, and is limited to the following entities:</p> <ul style="list-style-type: none"><li>(a) Stockbroking company;</li><li>(b) Licensed bank;</li><li>(c) Licensed investment bank;</li><li>(d) Stock exchange;</li><li>(e) Issuing house; or</li><li>(f) Share registrar</li></ul>
electronic prospectus	<p>means an electronic version of the prospectus that has been registered by the SC, which is being issued, circulated, distributed, stored or hosted on digital platforms or electronic storage mediums. This includes, but is not limited to, website, mobile application, email, compact disc, thumb drive and cloud-based storage;</p>
exercise price or strike price	<p>in relation to structured warrants, means the pre-specified price at which the holder of such warrants may exercise the right under such structured warrants;</p>

expiry date	in respect of the right of a person under a structured warrant, means the date in which the ability to exercise that right expires;
family	has the meaning assigned to it in the Main Market Listing Requirements;
financial assistance	has the meaning assigned to it in the Main Market Listing Requirements;
FSA	means <i>Financial Services Act 2013</i> ;
forecast	means any forecast of profits or losses or cash flow, and includes any statement which quantifies the anticipated level of future profits or losses or cash flow, and also includes profits or losses or cash flow for a financial period which has expired but for which the results have yet to be audited;
fully-collateralised call warrants	means call warrants where the underlying financial instrument is shares quoted on the stock exchange, the issue of which is accompanied by a deposit of all shares, which is the subject of such warrants, with a custodian or trustee for the entire term of the warrants in issue;
future financial information	means financial information based on the assumptions made by the directors of the corporation about events that it expects to exist and the course of action it expects to take;
governmental proceeding	means any proceeding that is undertaken by or against the government including the federal government, a state government, province, county or municipality as the case may be, a statutory or regulatory authority, or any agency, bureau or body carrying out the regulatory function;
independent director	has the meaning assigned to it in the Main Market Listing Requirements;
independent valuer	has the meaning assigned to it in <i>Chapter 3 of the Asset Valuation Guidelines</i> ;
Indicated Resources	has the meaning assigned to it in the mineral reporting standards;

Inferred Resources	has the meaning assigned to it in the mineral reporting standards;
infrastructure project	has the meaning assigned to it in the <i>Equity Guidelines</i> ;
infrastructure project corporation	has the meaning assigned to it in the <i>Equity Guidelines</i> ;
issuing house	has the meaning assigned to it in the <i>Guidelines on the Registration and Conduct of Capital Market Service Providers</i> ;
key senior management	the senior management team (excluding directors) of a corporation having authority and responsibility for the business operations or management, regardless of title used, and includes the chief executive officer, chief operating officer and chief financial officer;
latest practicable date	means a date whereby the information disclosed should remain relevant and current as at the date of issue of the prospectus;
licensed bank	has the meaning assigned to it in the FSA;
licensed investment bank	has the meaning assigned to it in the FSA;
Main Market	means the Main Market of Bursa Securities;

Main Market Listing Requirements	means the <i>Main Market Listing Requirements</i> issued by Bursa Securities;
market day	has the meaning assigned to it in the Main Market Listing Requirements;
market maker	means a person who performs market making;
market making	has the meaning assigned to it in the <i>Rules of Bursa Malaysia Securities Berhad</i> ;
Measured Resources	has the meaning assigned to it in the mineral reporting standards;
mineral	has the meaning as assigned to “mineral resources” in the respective mineral reporting standards;
mineral reporting standards	has the meaning assigned to it in the <i>Equity Guidelines</i> ;
Modifying Factors	has the meaning assigned to it under the respective mineral reporting standards;
MOG	means mineral or O&G;
MOG assets	has the meaning assigned to it in the <i>Equity Guidelines</i> ;
MOG resources	has the meaning as assigned to—  (a) “mineral resources” in the mineral reporting standards; and  (b) “resources” in the O&G reporting standards;
MOG reporting standards	has the meaning assigned to it in the <i>Equity Guidelines</i> ;
MOG valuation standards	has the meaning assigned to it in the <i>Equity Guidelines</i> ;

non-collateralised structured warrants	means structured warrants where the underlying financial instrument is not held in deposit by a custodian or trustee for the entire term of the warrants in issue;
O&G	has the meaning as assigned to “petroleum” in the respective O&G reporting standards;
O&G reporting standards	has the meaning assigned to it in the <i>Equity Guidelines</i> ;
offer or offering	refers to–  (a) issuing of;  (b) offering for subscription or purchase of; or  (c) issuing an invitation to subscribe for or purchase,  securities of a corporation;
performance guarantee	in relation to an issuer of structured warrants, means an unconditional and irrevocable guarantee to perform any and all of the issuer’s obligations in the terms and conditions of the structured warrants issue in the event the issuer fails to perform such obligations;
person connected	has the meaning assigned to it in the <i>Main Market Listing Requirements</i> ;
Possible Reserves	has the meaning assigned to it in the respective O&G reporting standards;
principal adviser	has the meaning assigned to it in the <i>Licensing Handbook</i> and includes a sponsor, where applicable;
Probable Reserves	(a) in relation to O&G, has the meaning assigned to it in the respective O&G reporting standards; and  (b) in relation to mineral, has the meaning assigned to it in the respective mineral reporting standards;
property assets	has the meaning assigned to it in the <i>Asset Valuation Guidelines</i> ;

Prospective Resources	has the meaning assigned to it in the respective O&G reporting standards;
Proved Reserves	(a) in relation to O&G, has the meaning assigned to it in the respective O&G reporting standards; and  (b) in relation to mineral, has the meaning assigned to it in the respective mineral reporting standards;
public company	has the meaning assigned to it in the <i>Companies Act 2016</i> ;
qualifying acquisition	has the meaning assigned to it in the <i>Equity Guidelines</i> ;
related party	has the meaning assigned to it in the Main Market Listing Requirements. For purposes of these Guidelines, reference to 'listed issuer' in the Main Market Listing Requirements should apply to a corporation that is preparing a prospectus under these Guidelines;
related party transaction	has the meaning assigned to it in the Main Market Listing Requirements. For purposes of these Guidelines, reference to 'listed issuer' in the Main Market Listing Requirements should apply to a corporation that is preparing a prospectus under these Guidelines;
reporting accountants	means a firm of public accountants that is a registered auditor with the Audit Oversight Board and whose registration has not been suspended;
RM	means ringgit Malaysia;
SC	means the Securities Commission Malaysia;
significant MOG operations	means a corporation whose MOG exploration or extraction activities represent 25% or more of its total assets, revenue, operating expenses or after tax profit;

Special Purpose Acquisition Company or 'SPAC'	has the meaning assigned to it in the <i>Equity Guidelines</i> ;
sponsor	has the meaning assigned to it in the ACE Market Listing Requirements;
stockbroking company	has the meaning assigned to it in the <i>Licensing Handbook</i> ;
structured warrants	comprises call warrants, put warrants, basket warrants, bull equity-linked structures and such other structures that may be specified by the SC from time to time;
subsidiary	has the meaning referred in <i>section 4 of the Companies Act 2016</i> ;
substantial shareholder	has the meaning assigned to it in the <i>Companies Act 2016</i> ;
sukuk	has the meaning assigned to it in the <i>Guidelines on Issuance of Corporate Bonds and Sukuk to Retail Investors</i> ;
underlying corporation	in relation to structured warrants, means the corporation that has issued the shares, which is the subject of such warrants;
underlying financial instrument	in relation to structured warrants, means the shares, exchange-traded funds or index, which is the subject of such warrants;
underlying shares	in relation to structured warrants, means the shares, which are the subject of such warrants;
very substantial transaction	has the meaning assigned to it in the Main Market Listing Requirements;
voting securities	means the securities issued by a SPAC which confer upon the holders, voting rights in relation to a qualifying acquisition by the SPAC.

**PART II**

**CONTENTS OF PROSPECTUS**

**DIVISION 1**

**EQUITY**

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## Chapter 1

### INTRODUCTION

This Division shall apply to a prospectus prepared by:

- (i) a corporation where its shares are seeking listing on the stock exchange; and
- (ii) a corporation where its shares are not seeking listing on the stock exchange.

### Cover Page

1.01 The cover page must include the following information and statements:

(a) Name of the corporation;

(b) Place of incorporation;

(c) Registration number;

For a foreign-incorporated corporation, to also include the registration number allocated to such corporation as a foreign company in Malaysia under the *Companies Act 2016*.

(d) The date of the prospectus;

(e) The following statement:

“No securities will be allotted or issued based on this prospectus after six months from the date of this prospectus.”

(f) The following statement, to appear in bold:

**“INVESTORS ARE ADVISED TO READ AND UNDERSTAND THE CONTENTS OF THIS PROSPECTUS. IF IN DOUBT, PLEASE CONSULT A PROFESSIONAL ADVISER.**

**FOR INFORMATION CONCERNING RISK FACTORS WHICH SHOULD BE CONSIDERED BY PROSPECTIVE INVESTORS, SEE “RISK FACTORS” COMMENCING ON PAGE [XX].”**

- (g) If the corporate proposal has been approved by the SC, to the following statement:

“The Securities Commission Malaysia has approved [to state the corporate proposal approved by the SC]”

- (h) The following statement:

“This prospectus has been registered by the Securities Commission Malaysia. The (approval of [to state the corporate proposal approved by the SC, if applicable] and) registration of this prospectus, 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 prospectus. The Securities Commission Malaysia has not, in any way, considered the merits of the securities being offered for investment.”

- (i) The following statement:

“The Securities Commission Malaysia is not liable for any non-disclosure on the part of the company and takes no responsibility for the contents of this document, makes no representation as to its accuracy or completeness, and expressly disclaims any liability for any loss you may suffer arising from or in reliance upon the whole or any part of the contents of this prospectus.”

- (j) For corporations seeking listing on the ACE Market, the following statement is to be included and highlighted in bold and a prominent colour:

**“THE ACE MARKET IS AN ALTERNATIVE MARKET DESIGNED PRIMARILY FOR EMERGING CORPORATIONS THAT MAY CARRY HIGHER INVESTMENT RISK WHEN COMPARED WITH LARGER OR MORE ESTABLISHED CORPORATIONS LISTED ON THE MAIN MARKET. THERE IS ALSO NO ASSURANCE THAT THERE WILL BE A LIQUID MARKET IN THE SHARES OR UNITS OF SHARES TRADED ON THE ACE MARKET. YOU SHOULD BE AWARE OF THE RISKS OF INVESTING IN SUCH CORPORATIONS AND SHOULD MAKE THE DECISION TO INVEST ONLY AFTER CAREFUL CONSIDERATION.**

**THE ISSUE, OFFER OR INVITATION FOR THE OFFERING IS A PROPOSAL NOT REQUIRING APPROVAL, AUTHORISATION OR RECOGNITION OF THE SECURITIES COMMISSION MALAYSIA UNDER SECTION 212(8) OF THE CAPITAL MARKETS AND SERVICES ACT 2007.”**

- (k) For SPACs, the following statement must be included and highlighted in bold, a contrasting colour and prominently displayed:

**“WE ARE A SPECIAL PURPOSE ACQUISITION COMPANY. WE CURRENTLY HAVE NO OPERATIONS OR INCOME GENERATING BUSINESS AND HAVE SPECIFIC RISKS AS DISCLOSED IN THIS PROSPECTUS.**

**IF WE ARE UNABLE TO COMPLETE OUR QUALIFYING ACQUISITION WITHIN 36 MONTHS FROM THE DATE OF LISTING, WE WILL BE LIQUIDATED. THE AMOUNT HELD IN THE TRUST ACCOUNT WILL BE DISTRIBUTED, NET OF ANY TAXES PAYABLE AND DIRECT EXPENSES RELATED TO THE LIQUIDATION DISTRIBUTION.”**

- (l) For a corporation where its shares are not seeking listing on the stock exchange, the following statement is to be included and highlighted in bold and a prominent colour:

**“WE ARE A CORPORATION WHERE OUR SHARES ARE NOT SEEKING LISTING ON THE STOCK EXCHANGE . OUR OFFERING MAY CARRY HIGHER INVESTMENT RISK WHEN COMPARED WITH CORPORATIONS LISTED ON THE STOCK EXCHANGE. THE SHARES OF A CORPORATION 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.**

**THE ISSUE, OFFER OR INVITATION FOR THE OFFERING IS A PROPOSAL NOT REQUIRING APPROVAL, AUTHORISATION OR RECOGNITION OF THE SECURITIES COMMISSION MALAYSIA UNDER SECTION 212(8) OF THE CAPITAL MARKETS AND SERVICES ACT 2007.”**

### **Inside Cover or First Page**

- 1.02 The inside cover or first page must include the following statements:

#### **Responsibility Statements**

- (a) “The directors and promoters of the corporation [and/or the offeror, (where

appropriate)] have seen and approved this prospectus. They collectively and individually accept full responsibility for the accuracy of the information. Having made all reasonable enquiries, and to the best of their knowledge and belief, they confirm there is no false or misleading statement or other facts which if omitted, would make any statement in the prospectus false or misleading.”

(b) “[Name of principal adviser], being the Principal Adviser, acknowledges that, based on all available information, and to the best of its knowledge and belief, this prospectus constitutes a full and true disclosure of all material facts concerning the offering.”

(c) Where future financial information is provided:

“The directors and promoters of the corporation [and/or the offeror, (where appropriate)] confirm that the bases and assumptions relied on in the preparation of the future financial information are reasonable.”

“[Name of principal adviser], being the Principal Adviser is satisfied that bases and assumptions relied on in the preparation of the future financial information are reasonable.”

#### **Statements of disclaimer**

(d) Where applicable:

“The valuation utilised for the purpose of the corporate exercise should not be construed as an endorsement by [the Securities Commission Malaysia, or Bursa Malaysia Securities Berhad (where appropriate)], on the value of the subject assets.”

(e) Where applicable:

“Admission to the Official List of Bursa Malaysia Securities Berhad is not to be taken as an indication of the merits of the offering, corporation, or its shares.”

(f) “This prospectus, together with the application form, has also been lodged with the Registrar of Companies, who takes no responsibility for its contents.”

## Other statements

- (g) “Investors should note that they may seek recourse under sections 248, 249 and 357 of the *Capital Markets and Services Act 2007* for breaches of securities laws including any statement in the prospectus that is false, misleading, or from which there is a material omission; or for any misleading or deceptive act in relation to the prospectus or the conduct of any other person in relation to the corporation.”
  - (h) “Shares are offered to the public on the premise of full and accurate disclosure of all material information concerning the offering, for which any person set out in section 236 of the *Capital Markets and Services Act 2007*, is responsible.”
  - (i) For a corporation whose shares have been classified as Shariah compliant, the following statement must be stated:

“The shares of this corporation are classified as Shariah compliant by the Shariah Advisory Council of the Securities Commission Malaysia. This classification remains valid from the date of issue of the prospectus until the next Shariah compliance review undertaken by the Shariah Advisory Council of the Securities Commission Malaysia. The new status is released in the updated list of Shariah-compliant securities, on the last Friday of May and November.”
- 1.03 In the case where the shares are proposed to be listed and quoted on a stock exchange or other similar exchange outside Malaysia, the prospectus must contain the following statements:
- (a) A statement that the approval for the listing and quotation of the shares on the stock exchange or other similar exchange outside Malaysia has been granted; or
  - (b) Where such approval has not been granted, the following statements:
    - (i) That an application has been or will be made for the shares offered to be listed and quoted on the official list of the stock exchange or other similar exchange outside Malaysia;
    - (ii) Any allotment made on an application to subscribe for shares under the prospectus would be void if–

- (A) the application to list and quote has not been made within three market days from the date of issue of the prospectus; or
- (B) the permission for the application to list and quote is not granted within six weeks from the date of issue of the prospectus or such longer period as may be specified by the SC; and
- (iii) The corporation will repay without interest all monies received from the applicants if such application was not made or if the exchange refuses to grant permission.

### **Indicative Timetable**

1.04 Disclose the timetable, including the following critical dates, where applicable:

- (a) Opening and closing dates of the offering;
- (b) Date for the balloting of share applications;
- (c) Date for allotment of shares; and
- (d) Listing date.

1.05 The method of informing the public for any change to the timetable must be disclosed.

### **Corporate Directory**

1.06 The directory must contain the following details, where applicable:

- (a) Name, designation, nationality and address of each director, including whether the director is independent or non-independent;
- (b) Name, address, and professional qualification, including any membership in

- a professional body, of the company secretary;
- (c) Address, telephone number, email and website addresses of the corporation's registered office, head or management office;
  - (d) Names and addresses of the following parties, where applicable:
    - (i) Principal adviser;
    - (ii) Legal adviser connected to the corporate proposal;
    - (iii) Issuing house;
    - (iv) Share registrar;
    - (v) Underwriter;
    - (vi) Placement agent;
    - (vii) Shariah adviser; and
    - (viii) Any other person connected to the corporate proposal.
  - (e) Name, address and professional qualification, including any membership in a professional body, of the corporation's reporting accountant;
  - (f) Name, address and qualification of an expert whose prepared reports or excerpts or summaries are included or referred to in the prospectus. If the expert is a corporation or a firm, to disclose the name of the individuals responsible for preparing the reports, excerpts or summaries; and
  - (g) Name of the stock exchange where the shares are already listed or the listing is sought in relation to the prospectus.

- 1.07 For purposes of paragraph 1.06(d)(viii), where the corporation has appointed a person to provide financial advice in relation to the corporate proposal, the salient terms of engagement and scope of work of such person must be disclosed in the prospectus.

### **Approvals and Conditions**

- 1.08 Disclose all approvals and conditions imposed by relevant authorities in relation to the offering and the status of compliance on such conditions.
- 1.09 For any specific relief obtained from compliance with relevant securities laws, guidelines and other regulatory requirements, to disclose the details of the relief granted.
- 1.10 Details of any moratorium on shares, such as–
- (a) the name of the shareholder;
  - (b) the authority or any other party which imposed the moratorium;
  - (c) the number of shares under moratorium; and
  - (d) the terms of the moratorium including commencement and expiry of the moratorium.

#### **Guidance to paragraph 1.04 – Changes to the indicative timetable**

1. Any material change to the timetable after the registration of the prospectus is considered as a significant change affecting a matter disclosed in the prospectus.

## **Chapter 2**

### **PROSPECTUS SUMMARY**

- 2.01 The Prospectus Summary must provide a concise overview of the corporation and highlights of significant matters disclosed elsewhere in the prospectus. The Prospectus Summary must not exceed 10 pages and must be placed at the beginning of the prospectus.
- 2.02 The Prospectus Summary must–
- (a) give a fair and balanced view of the nature, material benefits and material risks of the shares offered; and
  - (b) be consistent with the disclosures in other parts of the prospectus.
- 2.03 At the top of the Prospectus Summary, the following warning statement must be disclosed in bold:

**“This Prospectus Summary only highlights the key information from other parts of this prospectus. It does not contain all the information that may be important to you. You should read and understand the contents of the whole prospectus prior to deciding on whether to invest in our shares.”**

### **Principal details of the offering**

- 2.04 Disclose details of shares being offered to different groups of investors including:
- (a) number of shares;

- (b) offer price; and
- (c) moratorium imposed on the shares, if any.

### **Business model**

2.05 Describe the key features of the corporation's business model including:

- (a) Nature of the operations and principal activities;
- (b) Principal markets in which the corporation operates; and
- (c) Place of incorporation.

### **Competitive position and business strategies**

2.06 Briefly describe the corporation's competitive position and business strategies.

### **Risk factors**

2.07 Disclose risk factors that would have a material adverse effect on the corporation's business operations, financial position and results, and shareholders' investments in the corporation.

### **Directors and key senior management**

2.08 List out the name and designation of each director and member of key senior management.

### **Promoters and substantial shareholders**

2.09 Disclose the following details of the promoters and substantial shareholders:

- (a) Name;
- (b) Nationality or country of incorporation; and
- (c) Number and percentage of shares held in the corporation, before and immediately after the offering. Where the shares are held indirectly in the corporation, disclose the ultimate beneficial owner.

### **Use of proceeds**

2.10 Disclose the estimated gross proceeds from the offer segregated into each principal intended use and the time frame for such utilisation.

### **Financial and operational information**

2.11 Disclose the financial and operational highlights of the corporation. The highlights must be disclosed for each financial year for the period covered by the historical financial information as disclosed in the prospectus.

### **Dividend policy**

2.12 Disclose the corporation's dividend policy or, if it does not have a fixed policy, to state so.

**Guidance to Chapter 2 - Prospectus Summary**

1. It is encouraged to use diagrams and illustrations such as graphs, charts, flowcharts and tables to present information in the Prospectus Summary.
2. The Prospectus Summary should include appropriate cross-references to the specific sections of the prospectus which set out the full details on the respective matters.

## **Chapter 3**

### **DETAILS OF OFFERING**

3.01 Details of the shares being offered must be disclosed, including the following:

- (a) The number of shares proposed to be offered to different groups of investors;
- (b) If, in conjunction with the offering, shares of the same or another class are sold or subscribed privately, the nature of such sales or subscriptions and the number and characteristics of the offering concerned, including details of any underwriting or undertaking arrangements; and
- (c) If there are other securities offered in conjunction with the offering, details of such securities must be disclosed.

3.02 Where the shares are offered by way of rights or allotted to the existing shareholders of the holding company, the following must be disclosed:

- (a) The manner of allocating the shares;
- (b) The last date of acceptance and payment in relation to the offering;
- (c) How fractions arising from the allocation are treated;
- (d) Whether the offer is renounceable or non-renounceable; and
- (e) Whether approval from the shareholders of the holding company has been obtained.

3.03 Details about the pricing of shares, including–

- (a) the price offered to each class of investors and where applicable, the minimum and maximum offer price; and
- (b) the basis for determining the offer price.

**History of market prices**

3.04 If the shares are already listed on a stock exchange outside Malaysia, information on the price history of the shares must be disclosed as follows, where applicable:

- (a) For the three most recent full financial years: the annual highest and lowest market prices;
- (b) For the two most recent full financial years and any subsequent period: the highest and lowest market prices for each full financial quarter;
- (c) For the most recent six months preceding the date of the prospectus: the highest and lowest market prices for each month; and
- (d) For pre-emptive rights to subscribe for or purchase shares, to disclose:
  - (i) the highest and lowest market price for the first trading day in the most recent six months preceding the date of the prospectus; and
  - (ii) the closing market price on the last trading day before the announcement of the offer and, if different, on the latest practicable date prior to the issuance of the prospectus;

Information must be given with respect to the market price in the host market and the principal trading market outside the host market, where applicable.

- 3.05 The corporation must disclose any significant trading suspension that occurred in the three years preceding the latest practicable date. If the shares are not regularly traded in an organised market, information must be given about any lack of liquidity.

**Plan of distribution**

- 3.06 Where a corporation intends to allocate shares to eligible directors, employees or other persons under a preferential allocation scheme, the corporation must disclose the following:
- (a) A brief description of the criteria of allocation as approved by the board of directors;
  - (b) The total number of persons eligible for the allocation; and
  - (c) Where the directors of the corporation are eligible for the allocation scheme, the number of shares to be allocated to each director.
- 3.07 Disclose any price stabilisation mechanism that may be employed in accordance with the *Capital Markets and Services (Price Stabilization Mechanism) Regulations 2008*.
- 3.08 If the offering is being made simultaneously in the markets of two or more countries and if a tranche has been or is being reserved for certain markets, provide information about the tranche and details of any other allocation arrangement.
- 3.09 Outline the plan of distribution of shares that are to be offered other than through underwriters, if any. Indicate the amount of such shares to be offered including the nature of such sales or subscriptions.

- 3.10 To the extent known to the corporation, disclose if–
- (a) any substantial shareholder, director or member of key senior management intend to subscribe in the offering; or
  - (b) any person intends to subscribe for more than 5% of the offering.
- 3.11 For any offering where there are excess shares to be allocated, the corporation must state that the allocation of the excess shares will be made on a fair and equitable manner.

### **Selling shareholders**

- 3.12 Where applicable, disclose the following information on the selling shareholders:
- (a) The name and address of the person or entity offering to sell the shares, the nature of any position, office or other material relationship that the selling shareholder has had within the past three years with the corporation or any of its predecessors;
  - (b) The number and class of shares being offered by each of the selling shareholders, and the percentage of the existing and the enlarged share capital; and
  - (c) The number and percentage of the shares for each particular type of shares beneficially held by the selling shareholder as at the latest practicable date and immediately after the offering.

## **Dilution**

3.13 The following information must be provided:

- (a) Where there is a substantial disparity between the public offering price and the effective cash cost to–
  - (i) directors;
  - (ii) key senior management;
  - (iii) substantial shareholders; or
  - (iv) persons connected,

of shares acquired by them in transactions during the past three years, or which they have the right to acquire, disclose a comparison between the public contribution of the offering and the effective cash contribution of such persons;

- (b) Disclose the number and percentage of immediate dilution resulting from the offering, computed as the difference between the offering price per share and the net asset value per share, as at the latest audited financial year end or period, as the case may be.

The net asset value per share must be adjusted for the effects of the offer and any disposal or acquisition which occurred between the latest audited financial year end or period, as the case may be, and the date of the prospectus;

- (c) Where the information on dilution has been prepared using certain assumptions and after making certain adjustments on a pro forma basis, state such fact; and

- (d) In the case of an offering to existing shareholders, disclose the number and percentage of immediate dilution if they do not subscribe to the new offering.

### **Use of proceeds**

3.14 Where applicable, the following information must be disclosed:

- (a) The minimum level of subscription in order to satisfy the objectives of the offering and the basis for determining the minimum level, where the offer is not fully underwritten on a firm commitment basis;
- (b) The estimated gross proceeds from the offering categorised into each principal intended use and the timeframe for full utilisation of such proceeds. If the anticipated proceeds will not be sufficient to fund all the proposed purposes, the order of priority of such purposes must be given, as well as the amount and sources of other funds needed. Disclose also how the proceeds will be used pending their eventual utilisation for the proposed purposes;
- (c) If the corporation has no specific plans for the proceeds, it must discuss the principal reasons for the offering;
- (d) If the proceeds are being used directly or indirectly to acquire assets, other than in the ordinary course of business, briefly describe the assets and their cost;
- (e) If the proceeds may or will be used to finance acquisitions of other businesses, give a brief description of such businesses and information on the status of the acquisitions;
- (f) If any material part of the proceeds is to be used to discharge, reduce or retire indebtedness, describe the interest rate and maturity of such indebtedness. For indebtedness incurred within the last 12 months, how the proceeds of such indebtedness were used;

- (g) An analysis of the following:
  - (i) Expenses incurred in connection with the issuance and distribution of the shares being offered that are payable by, or on behalf of, the corporation;
  - (ii) If any of the shares are to be offered by the selling shareholder, expenses to be paid by, or on behalf of, such selling shareholder; and
  - (iii) Expenses specifically charged to the subscriber or purchaser of the shares being offered.

The information may be given subject to future contingencies. If the amounts of any items are not known, estimates must be identified and disclosed as such; and

- (h) Brokerage arrangements and commissions, including underwriting and placement fees.

3.15 The prospectus must contain details of any underwriting agreements entered into by the corporation, including–

- (a) the level of underwriting arrangement, together with the justifications for such arrangement;
- (b) name of the underwriter together with the number of shares underwritten by each underwriter;
- (c) amount of underwriting commissions; and
- (d) summary of the salient terms which may allow the underwriters to withdraw

from their obligations under the agreement after the commencement of the offering.

- 3.16 If the offering is not underwritten, a statement of this fact and the justifications must be provided.

**Guidance on paragraph 3.14(a) – Minimum level of subscription**

1. Details on the basis for determining the minimum level of subscription should include factors such as complying with the public shareholding spread requirements and the level of funding required by the corporation.

**Guidance on paragraph 3.14(b) – Utilisation of proceeds**

2. If the corporation intends to use the proceeds for general working capital, it should clearly explain the specific items of the corporation's general working capital and how the proceeds would be used for each item.

## **Chapter 4**

### **INFORMATION ON PROMOTERS, SUBSTANTIAL SHAREHOLDERS, DIRECTORS, KEY SENIOR MANAGEMENT AND KEY TECHNICAL PERSONNEL**

#### **Promoters and substantial shareholders**

- 4.01 Disclose details on the corporation's promoters, direct and indirect substantial shareholders, including:
- (a) Name;
  - (b) Principal activity and other background information;
  - (c) Nationality or country of incorporation;
  - (d) Number and percentage of shares held in the corporation, before and immediately after the offering. Where the shares are held indirectly in the corporation, disclose the ultimate beneficial owner;
  - (e) Any significant change in the direct or indirect shareholding during the past three years;
  - (f) If the substantial shareholder or promoter has different voting rights from the other shareholders of the corporation, or an appropriate negative statement;
  - (g) To the extent known to the corporation, provide a description of the persons, who, directly or indirectly, jointly or severally, exercise control over the corporation. Such description must include the nature of such control including number and proportion of shares held; and
  - (h) Describe any arrangement of which may, at a subsequent date, result in a change in control of the corporation.

- 4.02 Disclose details of amounts or benefits paid or intended to be paid or given to any promoter or substantial shareholder within the two years preceding the date of the prospectus.

**Directors, key senior management and key technical personnel**

- 4.03 The following information must be disclosed with respect to the corporation's directors, key senior management and key technical personnel:

- (a) Name, age, educational and professional qualification as well as past business, management or technical experience;
- (b) Functions and areas of experience or responsibility in the corporation;
- (c) Principal business activities performed outside the corporation. This includes other principal directorships at present and in the last five years. Disclose if such involvement affects their contribution to the corporation or an appropriate negative statement;
- (d) Representation of corporate shareholders, where applicable; and
- (e) The nature of any association or family relationship between the substantial shareholders, promoters, directors, key senior management and key technical personnel.

- 4.04 Disclose details on board practices, as follows:

- (a) Date of expiration of the current term of office, where applicable, and the period for which each director has served in that office; and
- (b) The board committees established including the names of the committee members and a summary of the terms of reference of each committee.

- 4.05 If there are any existing or proposed service contracts between the corporation and its directors, key senior management or key technical personnel, which provide for benefits upon termination of employment, salient details must be disclosed.
- 4.06 Provide the direct and indirect shareholding of each director, member of key senior management and key technical personnel in terms of number and percentage of shares held in the corporation as at the latest practicable date and immediately after the offer.

### **Remuneration of Directors and Key Senior Management**

- 4.07 For the last financial year, disclose the remuneration and material benefits in-kind of each director and member of key senior management, for services in all capacities to the corporation, including—
- (a) payment made in relation to a bonus or profit-sharing plan and provide a brief description of such plan and the basis upon which such persons participated in the plan; or
  - (b) the number of shares exercised from share options, the exercise price and the purchase price, if any.

This must include contingent or deferred remuneration. Where a portion of the remuneration was paid in the form of share options, to disclose the remaining share options to be exercised, the period during which the options are exercisable and the expiration date of the options.

- 4.08 For the current financial year, disclose the amount of remuneration and material benefits in-kind paid and to be paid to each director and member of key senior management, for services in all capacities to the corporation, including—
- (a) payment made in relation to a bonus or profit-sharing plan and to provide a brief description of the plan and the basis upon which such persons participated in the plan; or

- (b) the number of shares exercised from the share option, the exercise price and the purchase price, if any.

For (a), the amount that has not been paid may be excluded from the remuneration disclosed. However, to state such exclusion.

4.09 For paragraphs 4.07 and 4.08 above, remuneration and material benefits in-kind must be disclosed–

- (a) on a named basis and the actual amount for each component of the director’s remuneration and material benefits in-kind; and
- (b) in bands of RM50,000 for each member of key senior management.

#### **Management reporting structure**

4.10 Disclose the management reporting structure of the corporation.

#### **Declaration by each promoter, director, member of key senior management and key technical personnel**

4.11 Disclose the involvement of each promoter, director, member of key senior management, or key technical personnel in the following, whether in or outside Malaysia:

- (a) In the last 10 years, a petition under any bankruptcy or insolvency laws was filed (and not struck out) against such person or any partnership in which he was a partner or any corporation of which he was a director or member of key senior management;
- (b) Such person was disqualified from acting as a director of any corporation, or from taking part directly or indirectly in the management of any corporation;

- (c) In the last 10 years, such person was charged or convicted in a criminal proceeding or is a named subject of a pending criminal proceeding. If convicted, the date must be calculated from the date of conviction or if sentenced to imprisonment, from the date of release from prison;
- (d) In the last 10 years, any judgment was entered against such person, or finding of fault, misrepresentation, dishonesty, incompetence or malpractice on his part, involving a breach of any law or regulatory requirement that relates to the capital market;
- (e) In the last 10 years, such person was the subject of any civil proceeding, involving an allegation of fraud, misrepresentation, dishonesty, incompetence or malpractice on his part that relates to the capital market;
- (f) Such person was the subject of any order, judgment or ruling of any court, government, or regulatory authority or body temporarily enjoining him from engaging in any type of business practice or activity;
- (g) In the last 10 years, such person has been reprimanded or issued any warning by any regulatory authority, securities or derivatives exchange, professional body or government agency; and
- (h) Any unsatisfied judgment against such person.

## Chapter 5

### INFORMATION ON THE CORPORATION

#### Background

5.01 Details on the background of the corporation must be disclosed, including:

- (a) The legal and commercial name of the corporation;
- (b) Date and place of incorporation together with the registration number of the corporation. For a foreign-incorporated corporation, to also include the registration number allocated to such corporation as a foreign company in Malaysia under the *Companies Act 2016*;
- (c) The important events in the history and development of the group and its business;
- (d) If the corporation is part of a group, disclose the group's organisation structure together with notes describing the structure;
- (e) The information on each of the corporation's material subsidiaries, joint ventures and associated companies including:
  - (i) Name;
  - (ii) Date and place of incorporation together with the registration number;
  - (iii) Principal place of business;
  - (iv) Principal activities; and

- (v) Proportion of ownership interest and, if different, proportion of voting power held by the corporation;
- (f) Amount and description of the group's material investments and material divestitures, including geographical location–
  - (i) for each financial year for the period covered by the historical financial information as disclosed in the prospectus up to the latest practicable date;
  - (ii) in progress, and the method of financing (internal or external); and
  - (iii) which the corporation has already made firm commitments.
- (g) Any take-over offer, by a third party for the corporation's shares or by the corporation for other corporation's shares, which have occurred from the beginning of the last financial year to the latest practicable date. Details of the take-over offer must include the price or exchange terms of the offer and its outcome.

## **Business Overview**

5.02 Details on the group's business must be disclosed, including:

- (a) Nature of the operations and principal activities, stating the main categories of the products sold or services performed;
- (b) Principal markets in which the group operates, including an analysis of total revenue by category of activity and geographic market;
- (c) Significant products or services introduced and, to the extent the development of new products or services has been publicly disclosed, give their status of development;

- (d) If a statement on the group's competitive position is disclosed, the basis for such statement;
- (e) The seasonality of the business;
- (f) Sources and availability of raw materials or input, including volatility of prices for principal raw materials, if applicable;
- (g) The marketing activities including distribution channels;
- (h) Where the group's business or profitability is materially dependent on the following items, a summary of information regarding the extent of the group's dependency on such items:
  - (i) Contracts including commercial or financial contracts;
  - (ii) Intellectual property rights including patents and copyrights;
  - (iii) Licenses and permits; or
  - (iv) Production or business processes.

Such information must include the salient terms, approvals and conditions attached, and status of compliance, where applicable;

- (i) Research and development policies. Where it is significant, include the amount spent on research and development activities, as a percentage of the net revenue for the period covered by the historical financial information as disclosed in the prospectus; and
- (j) Any relevant laws, regulations, rules or requirements governing the conduct of the group's business and environmental issue which may materially affect the group's business or operations. Where there has been a non-compliance incident of the aforesaid, the following information must be disclosed:

- (i) Nature and extent of the non-compliance;
- (ii) Rectification measures taken or to be taken including estimated time and cost;
- (iii) Penalties imposed or potential maximum penalty which may be imposed;
- (iv) Degree of impact or potential impact to the group's business operations or financial performance; and
- (v) Measures to be undertaken by the corporation to provide updates on the status of the non-compliance incident to its shareholders, where applicable.

5.03 Provide an overview of the corporation's business strategies, including the time frame to realise these strategies.

### **Material Contracts**

5.04 Disclose all material contracts, not being contracts in the ordinary course of business, entered into within the period covered by the historical financial information as disclosed in the prospectus up to the date of the prospectus. The following particulars must be disclosed for each contract:

- (a) Date;
- (b) Parties to the contract;
- (c) Subject matter of the contract; and
- (d) The consideration and the manner it is to be satisfied.

### **Property, Plant and Equipment**

5.05 The corporation must provide information regarding material properties, including—

- (a) location, size, and use of the property;
  - (b) status of the property, whether it is freehold, leasehold or rental; and
  - (c) major encumbrances.
- 5.06 The corporation must disclose the productive capacity and extent of utilisation of the material plant and equipment for the current financial year.
- 5.07 *[Deleted]*
- 5.08 On material plans to construct, expand or improve property, plant and equipment, describe–
- (a) the nature and reason for the plan;
  - (b) an estimate of the amount of expenditures including the amount already paid;
  - (c) the method of financing the activity;
  - (d) the estimated dates of start and completion of the activity; and
  - (e) the increase of production capacity anticipated after completion.

## **Employees**

- 5.09 Provide information regarding employees, including–
- (a) the number of employees at the end of period or average number of employees for the most recent financial year. If possible, to categorise the employees according to activity and geographical location;

- (b) if the corporation employs a significant number of contractual employees, the average number of contractual employees in the most recent financial year; and
- (c) if employees are members of any union, the name of the union. Disclose if there has been any industrial dispute in the past.

### **Major Customers**

5.10 Describe the top five major customers for each financial year for the period covered by the historical financial information as disclosed in the prospectus. Such details must include—

- (a) length of relationship with the corporation;
- (b) contribution to the corporation's revenue in terms of amount and percentage; and
- (c) whether or not the corporation is dependent on the major customer for business.

Where the corporation has no major customer, to state the fact and describe the customer base.

## Major Suppliers

- 5.11 Describe the top five major suppliers for each financial year for the period covered by the historical financial information as disclosed in the prospectus. Such details must include–
- (a) length of relationship with the corporation;
  - (b) contribution to the corporation’s total purchases in terms of amount and percentage; and
  - (c) whether or not the corporation is dependent on the major supplier.

Where the corporation has no major supplier, to state the fact and describe the supplier base.

## Exchange Controls

- 5.12 Describe any governmental law, decree, regulation or other requirement which may affect the repatriation of capital and the remittance of profit by or to the corporation. Also, explain how these would impact on the availability of cash and cash equivalents for use by the corporation and the remittance of dividends, interest or other payments to shareholders of the corporation.

### **Guidance to Chapter 5 – Information on Corporation**

1. Reference to “group” in this chapter means the group of entities, where the corporation is a holding corporation.

### **Guidance to paragraph 5.01(c) – Important events**

2. Examples of such important events would include submission of previous material corporate proposals to the relevant authorities by the corporation.

**Guidance to paragraph 5.01(d) – Organisational structure**

3. A description of the group’s organisation structure should include the identities of the shareholders of each non-wholly owned subsidiary, joint venture and associated company.

**Guidance to paragraph 5.02 – Business overview**

4. Where it is relevant to understand how the corporation generates revenue through its business model, a description of the following information may be included:
  - (a) Operating or trading mechanisms, including flow-charts of production or businesses processes, which are critical for the corporation’s business; and
  - (b) Technology used or to be used.
5. Where the basis for such statement relates to the corporation’s competitive position in the industry, a discussion on the industry may be provided to assist investors in making an informed investment decision. Such discussion should be guided by the following:
  - (a) The discussion should be specific to the corporation’s business and industry, and only to the extent it affects the corporation’s business model and the investor’s investment decision. To enable investors to focus on pertinent matters relating to the industry, the discussion should be concise and generally be no more than 10 pages;
  - (b) Information on the industry should be presented in a fair and balanced manner;
  - (c) The discussion should include the following:
    - (i) Description of the industry, industry players and competition; and
    - (ii) The corporation’s estimated market coverage, position and share, together with details on the bases. Where applicable, the source of information such as reports or supporting data to establish the reliability of the bases should also be disclosed; and

- (d) Only the most up-to-date market information should be disclosed. As an example, the period covered by the historical market information should be consistent with the corporation's historical financial information as disclosed in the prospectus. If this information is not available, this fact should be stated.

**Guidance to paragraph 5.03 – Business strategies**

- 6. The discussion should contain the following:
  - (a) Expansion plans to be adopted such as:
    - (i) site selection, expected capacity, time frame for implementation, proposed capital expenditure and source of funding;
    - (ii) strengthening sales network, vertical or horizontal expansion, entering into long-term contracts; and
  - (b) Whether the corporation has identified any acquisition target (if not, an appropriate negative statement) and details of the selection criteria.

**Guidance to paragraphs 5.10 and 5.11 – Major customers and major suppliers**

- 7. Disclosure of the name of major customer or major supplier is encouraged. Where the name of the major customer or major supplier is not disclosed, the following information should be provided:
  - (a) Principal activity and principal market in which the customer or supplier operates;
  - (b) Information on the holding or parent company where the customer or supplier is a subsidiary, including if the holding or parent company is listed on the stock exchange or other similar exchange outside Malaysia; and
  - (c) Reason for the non-disclosure.
- 8. In the event there is fewer than five major customers or suppliers, this fact should be stated.

## Chapter 6

### RISK FACTORS

- 6.01 Describe risk factors that would have a material adverse effect on the corporation's business operations, financial position and results, and shareholders' investments in the corporation.

#### **Guidance to paragraph 6.01 – Risk factors**

1. Risk factors that relate to each other should be grouped together. Appropriate and meaningful headings and sub-headings should be adopted. For example, headings may include risks relating to the corporation, its business, its industry and its offering.
2. Risk factors should be listed in such manner whereby the risks that would have the highest impact should be prominently disclosed at the beginning of each section.
3. The purpose of risk factors is to provide meaningful cautionary statement to investors. Hence, any disclaimer statement should not be so wide so as to prevent risk factors from having this effect. For example, the use of the following statement should be avoided:  
  
"The risks and investment considerations set out below are not an exhaustive or exclusive list of the challenges that we currently faced or that may develop in future. Additional risks, whether known or unknown, may in the future have a material adverse effect on us or our shares"
4. Risk factors should not be disclosed in a vague and generic manner. It should be specific and tailored to the corporation's risks or uncertainties. This means that the disclosure should not merely disclose the facts or circumstances that give rise to the existence of the risk. Each risk factor should be described to place the risk in context so that investors can understand the nature of, or circumstances giving rise to, the risk or uncertainty as it affects the corporation, its operations and shares, or the offering.

For example,

- (a) when disclosing the corporation's business overview, it would not be appropriate to provide a general statement that "the corporation is dependent on a major customer". An adequate risk disclosure would be to state the revenue contribution by the major customer as this would clearly illustrate the corporation's dependency on such major customer. In addition, the description on the major customer should include the name of the major customer and its relationship with the corporation, level of sales and how the loss of such major customer would have a material adverse effect on the corporation;
  - (b) if the corporation is dependent on a major supplier, it would not be appropriate to provide a general statement that "the corporation is dependent on a major supplier" without details of the name of the major supplier, level of purchases, length of relationship with the corporation and how the loss of such major supplier would have a material adverse effect on the corporation; or
  - (c) the corporation is dependent on licences or permits, it would not be appropriate to have a risk factor on possible non-renewal of such licences or permits unless there is a genuine and specific reason for such a risk.
5. There should be no mitigating facts that could cause confusion on the nature of the risk or its materiality.

## **Chapter 7**

### **RELATED PARTY TRANSACTIONS**

7.01 The following information must be disclosed for the period covered by the historical financial information as disclosed in the prospectus:

- (a) The nature and extent of each related party transaction which is material to the corporation;
- (b) The nature and extent of each related party transaction that is unusual in nature or condition;
- (c) Details on loans made by the corporation to or for the benefit of a related party that is material to the corporation, including:
  - (i) amount owing as at the latest practicable date;
  - (ii) amount classified as short term and long term;
  - (iii) in the case of foreign currency-denominated loans, the amount owing for such loans with the corresponding foreign currency amount; and
  - (iv) purpose and terms of each loan; and
- (d) Details of financial assistance provided for the benefit of a related party.

7.02 Disclose the nature and extent of related party transactions that individually may not be material to the corporation, but when grouped in a meaningful manner, the aggregate of such transactions would be material to the corporation. Details of such transactions must be disclosed on an aggregate basis.

- 7.03 Disclose the nature and extent of any related party transaction which is material to the corporation that has been–
- (a) effected after the period covered by the historical financial information as disclosed in the prospectus; or
  - (b) entered into but not yet effected,
- up to the date of the prospectus.
- 7.04 For each transaction disclosed pursuant to paragraphs 7.01, 7.02 and 7.03 above, to state:
- (a) Whether the transaction has been carried out on an arm’s length basis; or
  - (b) Where a transaction had not been carried out on an arm’s length basis, the procedure undertaken to ensure that these transactions will be carried out on an arm’s length basis in the future.

**Guidance to paragraphs 7.01, 7.02 and 7.03 – Related party transactions**

1. A disclosure on the “nature” of a related party transaction includes:
  - (a) Relationship between the corporation and the related party;
  - (b) Type of transaction such as supply of goods or services, rental and sales;
  - (c) Where the transaction is for an agreed period of time, the expiry date of such arrangement; and
  - (d) Where the expiry date of such arrangement occurs after the listing date, the salient terms of the arrangement including pricing, terms of renewal, termination or withdrawal rights and penalty clauses.
  
2. A disclosure on the “extent” of a related party transaction includes:
  - (a) The amount of the transaction; and
  - (b) The percentage to which the transaction forms part of revenue, cost of sales, net assets or liabilities or profit after tax of the corporation, as relevant.

## **Chapter 8**

### **CONFLICT OF INTEREST**

8.01 Where a director or substantial shareholder has a direct or indirect interest in any entity which is–

- (a) carrying on a similar trade as the corporation; or
- (b) a customer or supplier of the corporation;

the following must be disclosed:

- (i) Name of that entity;
- (ii) Principal activity of that entity;
- (iii) Name of the director or substantial shareholder involved;
- (iv) Nature and extent of his interest in that entity and the extent to which he is involved in the management of that entity either directly or indirectly; and
- (v) Steps taken to resolve, eliminate or mitigate the conflict of interest.

8.02 If there are factors to demonstrate that the substantial shareholder is not in a conflict of interest situation, to explain such factors.

8.03 Where an expert is named in the prospectus, include the declaration of the expert who has existing or potential–

- (a) interest in the corporation; or
- (b) conflict of interest vis-à-vis the corporation.

The declaration must include a full description of the situation set out in (a) or (b) above, as well as the steps taken to address it. If there is no such situation, to state an appropriate negative statement.

**Guidance to paragraph 8.02 – Conflict of interest**

1. Examples of factors where the SC would generally not consider there to be a conflict of interest situation in relation to a substantial shareholder are as follows:
  - (a) The substantial shareholder’s policy or objective is only for investment purposes and its role or action is limited to formulating corporate or business strategies for its portfolio of investee companies which do not create a conflict with the corporation’s business or operations. In addition, the substantial shareholder does not participate in the day-to- day management or operations of its investee companies; or
  - (b) Where the substantial shareholder’s business may potentially compete with the corporation, there is a clear delineation of business, such as differences in target customer segments, geographical presence, products or services sold or separate management teams.

## Chapter 9

### FINANCIAL INFORMATION

#### General

- 9.01 For the purposes of this chapter, unless the context otherwise requires, the corporation includes a group of entities where the corporation is a holding corporation.
- 9.02 This chapter sets out the minimum financial information that a corporation must include in a prospectus.

#### Financial information

- 9.03 The audited financial statements provided in the prospectus must be prepared in accordance with the approved accounting standards.
- 9.04 The corporation must disclose selected financial information from the audited financial statements provided in the prospectus, where—
- (a) in the case of corporation where its shares are seeking listing on the Main Market under the profit test, the financial years as stipulated under the *Equity Guidelines*;
  - (b) in the case of corporation where its shares are seeking listing on the Main Market under the market capitalisation test, infrastructure project corporation test or as a special purpose acquisition company, the three most recent financial years or such shorter period that the corporation has been in existence;
  - (c) in the case of corporation where its shares are seeking listing on the ACE Market, the three most recent financial years or such shorter period that the corporation has been in existence; or

- (d) in the case of a corporation where its shares are not seeking listing on the stock exchange, the three most recent financial years or such shorter period that the corporation has been in existence.
- 9.05 The date of the prospectus issuance must not be later than six months after the end of the most recent financial year. If the date of the prospectus issuance is later than six months after the end of the most recent financial year, audited interim financial report must be provided and the selected financial information must be disclosed.
- 9.06 If any annual financial statements to be provided under paragraph 9.03 relate to a period other than 12 months due to a change in the financial year end of the corporation, the annual financial statements in respect of that financial year and the financial years preceding that financial year shall be provided on a restated 12-month basis, so that the financial year end for each of the restated financial statements corresponds to the financial year end for the most recent financial year.
- 9.07 The selected financial information required to be disclosed must–
- (a) be prepared in the same currency as the currency used in the audited financial statements of the corporation; and
  - (b) include at a minimum, the following:
    - (i) Revenue;
    - (ii) Gross profit and gross profit margin;
    - (iii) Other income;
    - (iv) Depreciation and amortisation;
    - (v) Finance costs;
    - (vi) Share of profits and losses of associates and joint ventures;
    - (vii) Profit or loss before tax and profit margin;

- (viii) Tax expense;
- (ix) Profit or loss attributable to minority interest and equity holders of the parent;
- (x) Basic and diluted earnings per share;
- (xi) Total non-current assets and total non-current liabilities;
- (xii) Total current assets and total current liabilities;
- (xiii) Total assets and total liabilities;
- (xiv) Net assets or net liabilities;
- (xv) Issued capital and reserves; and
- (xvi) Non-controlling interest.

Where audited interim financial information is disclosed in the prospectus, comparative information in relation to subparagraphs (i) to (xvi) for the corresponding period in the most recent financial year must be included. The comparative interim financial information need not be audited.

9.08 Where the audited financial statements are prepared in a currency other than RM, a prospectus should disclose—

- (a) the exchange rate between the foreign currency and RM at the latest practicable date;
- (b) the highest and lowest exchange rates for each month during the last six months; and

- (c) for at least the three most recent financial years or such shorter period that the corporation has been in existence, and any subsequent interim period for which audited financial statements have been included, the average exchange rates for each period, calculated by using the average of the exchange rates on the last day of each month during the period.

### **Capitalisation and indebtedness**

- 9.09 Provide a statement of capitalisation and indebtedness (distinguishing between guaranteed and unguaranteed, and secured and unsecured, indebtedness) as of a date no earlier than 60 days prior to the date of the prospectus, showing the corporation's capitalisation and, where applicable, as adjusted to reflect the new securities being offered and the intended application of the proceeds. Indebtedness also includes indirect and contingent liabilities.

### **Management's discussion and analysis of financial condition and results of operations**

- 9.10 To provide the management's discussion and analysis of the corporation's financial condition, changes in the financial condition, and results of operations for each year and interim period for where the financial information is provided in the prospectus.

The discussion should include, among others:

- (a) material changes from year to year in relation to the selected financial information;
- (b) the nature and conditions of the business, its risk factors and business operations, and the prevailing economic situation; and
- (c) accounting policies which are peculiar to the corporation because of the nature of the business or the industry it is involved in.

9.11 Results of operations

- (a) Provide information regarding any significant factor, including unusual or infrequent events or new developments, which materially affected profits and to indicate the extent the profits were affected. Describe any other significant component of revenue or expenditure necessary to understand the corporation's results of operations;
- (b) Where the financial statements disclose material changes in revenues, provide a narrative discussion of the extent to which such changes are attributable to changes in prices or to changes in the volume or amount of products or services being sold or to the introduction of new products or services between corresponding periods;
- (c) If material, the impact of fluctuations of foreign exchange rates or interest rates on the corporation, and the extent to which foreign currency exposure and investments are hedged by currency borrowings or other hedging instruments;
- (d) If material, the impact of inflation on the corporation. Where the currency in which financial statements are presented is of a country which has experienced hyperinflation (rapid inflation), the existence of such inflation, a 5-year history of the annual rate of inflation, and a discussion of the impact of hyperinflation on the corporation's business should be disclosed; and
- (e) Provide information on any government, economic, fiscal or monetary policies or factors which have materially affected, or could materially affect the corporation's operations.

9.12 Liquidity and capital resources

- (a) Provide the following information regarding liquidity (both short and long term):

- (i) Description of the material sources of liquidity, whether internal or external, and a brief discussion of any material unused sources of liquidity, including a statement by the directors as to whether, in their opinion, the working capital available to the corporation will be sufficient for a period of 12 months from the date of issue of prospectus. If not, how the additional working capital which is deemed to be necessary will be obtained;
- (ii) An evaluation of the material sources and amounts of cash flows from operating, investing and financing activities for each financial year and/or the interim financial period, where applicable. This includes the nature and extent of any legal, financial, or economic restriction on the ability of subsidiaries to transfer funds to the corporation in the form of cash dividends, loans or advances, and the impact such restrictions have or are expected to have on the ability of the corporation to meet its cash obligations;
- (iii) The level of borrowings as at the end of the financial period under review, the seasonality of borrowing requirements, the maturity profile of borrowings and committed borrowing facilities, with a description of any restrictions on their use. Foreign borrowings to be separately identified with the corresponding foreign currencies amount. Gearing ratios for the period under review must also be disclosed; and
- (iv) If the corporation or any other entity in the group is in breach of terms and conditions or covenants associated with credit arrangement or bank loan which can materially affect the corporation's financial position and results or business operations, or the investments by holders of securities in the corporation, provide–
  - a statement of that fact;
  - details of the credit arrangement or bank loan; and
  - any action taken or to be taken by the corporation or other entity in the group, as the case may be, to

rectify the situation including status of any restructuring negotiations or agreement, if applicable;

- (b) Provide a statement whether there has been any default on payments of either interest and/or principal sums for any borrowing throughout the most recent financial year and the interim financial period (where applicable) as at the latest practicable date;
- (c) Provide information regarding the type of financial instruments used, the maturity profile of debt, currency and interest rate structure. To provide a discussion on funding and treasury policies and objectives in terms of the manner in which treasury activities are controlled, the currencies in which cash and cash equivalents are held, the extent to which borrowings are at fixed rates, and the use of any financial instrument for hedging purposes, where applicable;
- (d) Provide information on any material commitment for capital expenditures as at the latest practicable date and indicate the general purpose of such commitments and the anticipated source of funds needed to fulfil such commitments; and
- (e) Provide information on any governmental, legal or arbitration proceedings, including those relating to bankruptcy, receivership or similar proceedings which may have or have had, material or significant effects on the corporation's financial position or profitability, in the 12 months immediately preceding the date of prospectus. In relation to governmental proceedings, this includes proceedings which are pending decision or known to be contemplated.

#### 9.13 Trend information

- (a) Provide a discussion on the following items:
  - (i) Any material effect on the corporation's revenue, income from continuing operations, profitability, and liquidity or capital resources. The discussion should include, among others, any known trends, uncertainties, demands, commitments or events. If

there are no such trends, uncertainties, demands, commitments or events, provide an appropriate statement to that effect;

- (ii) Known factors which are likely to have a material effect on the financial condition and results of operations of the corporation or that would cause the financial statements to not be necessarily indicative of future financial performance; and
- (iii) The state of the order book since the most recent financial year or period. If such information is not relevant to the business of the corporation, provide an appropriate statement to that effect and the reason for this.

## **Dividends**

- 9.14 Describe the corporation's dividend policy or, if it does not have a fixed policy, to state so.
- 9.14A Disclose the amount of dividends paid or declared for each financial year and interim period for where the financial information is provided in the prospectus.
- 9.14B Where dividends are paid or declared subsequent to the most recent financial year or interim financial period, where applicable, but prior to listing, to disclose the following:
  - (a) the amount of dividends paid or declared;
  - (b) source of funds for the payment of such dividends;
  - (c) timing of payment for dividends declared but not paid; and
  - (d) whether such dividends would affect the execution and implementation of the corporation's future plans or strategies moving forward.
- 9.15 Describe any dividend restriction or an appropriate negative statement.

## **Taxation**

9.16 The corporation must disclose–

- (a) information regarding taxes, including withholding provisions, that may be applicable to shareholders; and
- (b) whether it assumes any responsibility for the withholding of tax at the source.

## **Significant changes**

9.17 Disclose whether or not there is any significant change that has occurred, which may have a material effect on the financial position and results of the corporation since the date of the most recent annual financial statements and, where applicable, since the date of the interim financial statements. If there are no changes, to provide an appropriate negative statement.

## **Pro forma financial information**

- 9.18 (a) A pro forma statement of financial position must be prepared based on the most recent audited financial year and adjusted for the following:
- (i) Any restructuring, acquisition or disposal connected with the proposed public offering exercise; and
  - (ii) Proceeds of the proposed public offering exercise, the effects of the public offering exercise on the shareholders' funds and proposed utilisation of the funds.
- (b) However, where interim audited financial information is provided, the pro forma statement as required under sub-paragraph (a) above, must be prepared based on the most recent audited financial period.

9.19 (a) A corporation must prepare a pro forma statement of comprehensive income and cash flows, including pro forma earnings per share, where the corporation had acquired or disposed a material entity or business, or entered into any agreement to acquire or dispose any material entity or business during the period from the beginning of the most recent completed financial year to the latest practicable date.

(b) The pro forma statements required under sub-paragraph (a) above must be prepared–

(i) for the most recent completed financial year; and

(ii) where any interim financial statements have been provided, for the period covered by the interim financial statements,

as if the acquisition or disposal had occurred or the agreement in relation to an acquisition or disposal had been entered into, at the beginning of the most recent completed financial year.

9.20 (a) A corporation must prepare a pro forma statement of financial position where the corporation had–

(i) acquired or disposed a material entity or business;

(ii) entered into any agreement to acquire or dispose a material entity or business; or

(iii) experienced a significant change to its capital structure, including any material distribution,

during the period from the beginning of the most recent completed financial year to the latest practicable date.

(b) However, the pro forma statement as required under sub-paragraph (a) must be prepared–

- (i) as at the end of the most recent financial year as if the event in sub- paragraphs (a)(i), (ii) or (iii) had occurred at the end of that financial year; or
- (ii) where any interim financial report has been provided, as at the end of the period covered by the interim financial report, as if the event in sub- paragraphs (a)(i), (ii) or (iii) had occurred at the end of the period.

9.21 For the purpose of paragraphs 9.19 and 9.20, the materiality of an acquisition or disposal of any entity or business should be determined by comparing–

- (i) the aggregated net assets or liabilities; and
- (ii) the aggregated profits or losses before tax,

of such entity or business with that of the corporation (after adjustments for the effects of the group restructuring, where applicable). Where the percentage of either (i) or (ii) is 10% or more, such acquisition or disposal would be deemed material.

9.22 The pro forma financial information prepared must state–

- (a) the basis upon which the pro forma financial information is compiled;
- (b) that the financial statements used in compilation of the pro forma financial information were prepared in accordance with the approved accounting standards. Details of the auditor’s qualification to these underlying financial statements should also be disclosed if any;
- (c) whether the pro forma financial information has been compiled in a manner consistent with the format of the financial statements and the accounting policies of the corporation; and
- (d) any material adjustments made and whether such adjustments are appropriate for the purposes of preparing the pro forma financial information.

- 9.23 The pro forma financial information must be accompanied by the reporting accountants' letter as required in Chapter 10.

**Future financial information**

- 9.24 Where future financial information is included in a prospectus, such information must be prepared on reasonable bases and assumptions.
- 9.25 Where future financial information is provided in the prospectus such information must–
- (a) be clear, unambiguous and disclose whether such information is prepared on the bases and accounting policies consistent with those adopted by the corporation; and
  - (b) be presented in accordance with the approved accounting standards adopted by the corporation.
- 9.26 Disclose details on the bases and assumptions of the future financial information and any additional information that investors would reasonably require, for the purpose of making an informed investment decision.
- 9.27 Where future financial information is disclosed, to state the extent to which projected revenues are based on secured contracts or orders, and the reasons for expecting such projected revenues, and profit or cash flow (as the case may be). A discussion on the impact of any likely changes in business and operating conditions included in the future financial information must also be stated.
- 9.28 The reporting accountants must review and report on the underlying accounting policies and assumptions relied on in the preparation of the future financial information.

### **Guidance to Chapter 9**

As a general rule, the financial information provided should reflect a comprehensive picture of the corporation's entire business undertaking to enable investors to make an informed investment decision. Examples are also given in the Guidance for illustration and are not exhaustive.

Advisers are also encouraged to consult the SC at an early stage if they require clarification, for example where the corporation:

- had a significant acquisition during the track record period and it may be appropriate to provide the financial information of the acquired business or entity prior to the date of the acquisition by the corporation.
- proposes to include future financial information in the prospectus.

### **Guidance to paragraph 9.03 – Audited financial statements**

1. Where the audited financial statements of the corporation and its subsidiaries are not prepared in accordance with the approved accounting standards and have been audited for purpose of the accountants' report, such statement should be disclosed.

### **Guidance to paragraph 9.11 – Results of operations**

2. The corporation should provide segmental analysis of revenue and profit or loss from operations, including by products or services and by markets or geographical location.
3. The corporation should provide and discuss relevant key financial ratios, including receivables and payables (incorporating ageing analysis) and inventory turnover, and current ratio for at least three financial years or such shorter period that the corporation has been in existence, and the interim financial period, where applicable.

### **Guidance to paragraph 9.12 – Liquidity and capital resources**

4. The corporation should identify those income, cash flow or financial position items that should be considered in assessing liquidity, unless it is clear from the discussion.

**Guidance to paragraph 9.13 – Trend information**

5. The discussion on any material effect on the corporation's financial performance and position i.e. revenue, profitability, liquidity or capital resources should also address, among others, the prospects of the industry in which the corporation is operating in and the future plans and strategies of the corporation.

**Guidance to paragraph 9.24 – Future financial information**

6. In preparing the future financial information, the bases and assumptions used to support such information should–
- (a) draw the investors' attention to those uncertain factors which can materially affect the ultimate achievement of such future financial results, and where possible to quantify such factors;
  - (b) be specific rather than vague, avoid generalisations and all- embracing assumptions and those relating to the general accuracy of the assumptions made in the future financial information;
  - (c) be clearly stated and reviewed for reasonableness by the directors who are responsible for the future financial information and bases and assumptions; and
  - (d) enable the investors to assess–
    - (i) the validity of the assumptions on which the future financial information is based;
    - (ii) the likelihood of the assumptions actually occurring;
    - (iii) the effect on the future financial information if the assumptions vary;
    - (iv) whether the future financial information is relevant and reliable, i.e. to enable investors to form their own view about how reasonable the grounds are for making the statement; and
    - (v) the facts and circumstances that support future financial information, as well as being able to demonstrate that the information is reasonable;

7. In addition to item 5 above, the corporation and principal adviser should be satisfied that, the bases and assumptions relied on in the preparation of the future financial information, are reasonable. What amounts to reasonable bases and assumptions should be judged by the facts and circumstances of each case. However, in general, the future financial information should assist the investors in making an informed investment decision.
8. In deciding whether the bases and assumptions are reasonable, the corporation and principal adviser should have regard to the following indicative factors:
  - (a) the information relates to agreements where future expenses and revenue of the corporation can be reasonably assured for the period of that agreement;
  - (b) the information is underpinned by independent industry experts' reports or independent accountants' reports where such experts believe that the future financial information and its bases and assumptions are reasonable; and
  - (c) the information includes reasonable short-term estimates relating to an existing business and based on events that the management of the corporation reasonably expects to take place or actions that the management of the corporation reasonably expects to occur.

The above factors are not necessarily conclusive. Most importantly, in certain circumstances, these factors alone may not be sufficient to establish reasonable bases and assumptions. Hence, in preparing future financial information, the corporation and principal adviser are required to consider other factors that may indicate whether or not the bases and assumptions used are reasonable.

9. Certain factors may indicate that the future financial information has not been prepared on reasonable bases and assumptions. Such factors include where:
- (a) the future financial information is supported only by hypothetical assumptions, and without demonstrating other factors that may support the inclusion of the future financial information;
  - (b) the corporation has made a statement asserting that the bases and assumptions relied on are reasonable, without coming up with verifiable reasons to support such a statement; and
  - (c) the corporation has made a statement along the lines of 'this is the best estimate of the directors'. The bases and assumptions relied on by the corporation in preparing the future financial information has to be objectively reasonable, taking into account among others, the list of factors set out under this Guidance and not made on the basis of genuine but unreasonable beliefs of the directors of the corporation.

The above factors are non-exhaustive. The corporation and principal adviser are strongly encouraged to consult the SC at an early stage should they face any difficulty in determining whether the bases and assumptions to be relied on are reasonable.

## **Chapter 10**

### **REPORTS BY THE REPORTING ACCOUNTANTS**

10.01 For the purposes of this chapter, unless the context otherwise requires, the corporation includes a group of entities where the corporation is a holding corporation.

#### **Accountants' Report**

10.02 A prospectus must contain an accountants' report prepared by a reporting accountant in respect of the audited financial statements and audited interim financial report of the corporation for each of the financial years and period under review

10.03 The accountants' report must include—

- (a) the financial statements and, where applicable, the interim financial report, as prepared by the corporation and has been audited;
- (b) an audit opinion expressed by the reporting accountant on the financial statements and, where applicable, the interim financial report;
- (c) a statement that it was prepared in accordance with the relevant standards on auditing approved for application in Malaysia; and
- (d) a statement that it was prepared for inclusion in the prospectus.

#### **Content**

10.04 The accountants' report must report on the audited financial statements of the corporation referred to in a prospectus for at least three most recent financial years or such shorter period that the corporation has been in operation and, where applicable, the interim financial period. The date of the interim financial period must not be more than six months from the issuance of the prospectus.

10.05 *[Deleted]*

### **Pro forma financial information**

10.06 In respect of the pro forma financial information prepared, the reporting accountant must state in its letter–

- (a) whether the pro forma financial information has been properly compiled on the basis stated in paragraph 9.22(a); and
- (b) that the engagement was performed in accordance with the relevant standards on assurance engagements approved for application in Malaysia.

10.07 In respect of paragraphs 9.19 and 9.20, where the corporation had acquired or entered into an agreement to acquire a material entity or business and pro forma financial information is prepared, the auditors who audited the financial statements of the entity or business acquired or to be acquired must be disclosed.

### **Future financial information**

10.08 In respect of paragraph 9.28, the report should state–

- (a) that the engagement was performed in accordance with the relevant standards on assurance engagements approved for application in Malaysia;
- (b) whether the reporting accountant is of the opinion that the future financial information is properly prepared based on the assumptions made by the directors and is presented in a manner consistent with both the format of the financial statements and the accounting policies of the corporation; and
- (c) that nothing has come to the reporting accountant's attention which gives him any reason to believe that the assumptions do not provide a reasonable basis for the preparation of future financial information.

## Chapter 11

### EXPERT'S REPORT

- 11.01 Where a statement or report attributed to a person as an expert is included in the prospectus, disclose such person's professional experience.
- 11.02 Where an expert's report is included in the prospectus, such report must be signed and dated.
- 11.03 Where valuations of property assets have been carried out for inclusion in a prospectus, a summary of the valuation in the form of a valuation certificate that complies with the *Asset Valuation Guidelines* must be included in the prospectus.
- 11.04 An expert must not make wide disclaimers of responsibility in its report.

#### **Guidance to paragraph 11.02 – Expert's report**

1. The expert's report should be signed and dated within a reasonable time, which generally should not be earlier than the latest practicable date.

## **Chapter 12**

### **ADDITIONAL INFORMATION**

- 12.01 Disclose a summary of the provisions of the corporation's constituent document, if any, relating to–
- (a) remuneration, voting and borrowing powers of directors;
  - (b) changes to share capital;
  - (c) transfer of securities; and
  - (d) rights, preferences and restrictions attached to each class of securities relating to voting, dividend, liquidation and any special rights.
- 12.02 If the corporation does not have a constituent document, to disclose the key provisions of the relevant laws that apply to the corporation in relation to the items under paragraph 12.01 above.
- 12.03 Describe any limitation on the right to own shares, including limitations on non-resident or foreign shareholders' right to hold or exercise voting rights imposed by law or by the corporation's constituent document. If there are no such limitations, to state the fact.
- 12.04 With respect to paragraphs 12.01, 12.02 and 12.03 above, if the law applicable to the relevant corporation is significantly different from that in Malaysia, explain the effect of the law in these areas.

## **Share capital**

12.05 Disclose the share capital, and changes during the period for the historical financial information as disclosed in the prospectus, including:

- (a) the date of allotment;
- (b) number of shares allotted;
- (c) consideration given, together with information regarding any discount, special term or instalment payment term or a negative statement thereof;
- (d) cumulative share capital; and
- (e) details of outstanding warrants, options, convertible securities and uncalled capital,

in respect of the corporation, and if the corporation is a holding company of a group, of each of the corporation's material subsidiaries and associated companies.

12.06 If more than 10% of share capital has been paid for with assets other than cash within the past three years from the latest practicable date, details must be provided.

12.07 For any capital of the corporation which is under option, or agreed conditionally or unconditionally to be put under option, indicate—

- (a) the identity of the grantees;
- (b) description and number of shares to which the option relates;
- (c) the period during which the option is exercisable including the expiry date of the option, or an appropriate negative statement;

- (d) the exercise price; and
- (e) the purchase price of the option or consideration to be given for the option.

12.08 For the purpose of paragraph 12.07, where options have been granted or agreed to be granted to—

- (a) all shareholders of the corporation;
- (b) all holders of debt securities of the corporation; or
- (c) directors and employees under a share option scheme,

it will be sufficient to state such fact without providing identity of the grantees.

## Chapter 13

### DOCUMENTS AVAILABLE FOR INSPECTION

13.01 Provide a statement that a copy of each of the following documents may be inspected for a period of at least six months from the date of issue of the prospectus at the registered office of the corporation in Malaysia, or if the registered office is not in Malaysia, at a place in Malaysia to be specified by the corporation:

- (a) The constituent document of the corporation; and
- (b) Each document referred to in the prospectus which includes the following:
  - (i) Each material contract, and, in the case of contracts not in writing, a memorandum which gives full particulars of the contracts;
  - (ii) Existing or proposed service contracts between the corporation and its directors, key senior management or key technical personnel, which provide for benefits upon termination of employment;
  - (iii) All reports, letters or other documents, valuations and statements by any expert, any part of which is extracted or referred to in the prospectus. Where a summary of the expert's report is included in the prospectus, the corresponding full expert's report must be made available for inspection.
  - (iv) Each consent given by parties as disclosed in the prospectus;
  - (v) The audited financial statements of the corporation and all its subsidiaries for at least the three most recent financial years or such shorter period that the corporation has been in existence, preceding the date of the prospectus; and
  - (vi) The audited interim financial report of the corporation, where applicable.

13.02 For purpose of paragraph 13.01(b)(v), where the financial statements of the corporation and its subsidiaries are not required to be audited under corporation laws and the same have not been prepared, such financial statements need not be made available for inspection.

## **Chapter 14**

### **APPLICATION FOR SHARES**

14.01 Disclose the procedures for application of shares.

14.02 Describe the manner in which–

- (a) the results of the allocation of shares will be made public; and
- (b) any excess application monies will be refunded to the applicants.

14.03 Disclose a statement to indicate where investors may find details on the authorised depository agents.

14.04 The contents of the application form must not be contrary to any information that is in the prospectus.

## Chapter 15

### **SPECIFIC REQUIREMENTS FOR AN INFRASTRUCTURE PROJECT CORPORATION**

15.01 In addition to other information required to be disclosed in these Guidelines, where applicable, a prospectus of an infrastructure project corporation should disclose the following:

- (a) Concession/licence/basis of business
  - (i) Act or regulation under which the concession or licence is granted to corporation;
  - (ii) Nature of concession (e.g. build-operate-transfer or build-transfer-operate or build-own-operate, etc.);
  - (iii) Life of concession or licence;
  - (iv) Exclusivity or non-exclusivity of concession or licence;
  - (v) Critical terms and conditions under concession or licence;
  - (vi) A corporation's rights, interests and major obligations under concession or licence;
  - (vii) Effect of failure to meet concession or licence terms;
  - (viii) Circumstances leading to termination provisions under concession agreement or licence;
  - (ix) Any restriction on changes in ownership of corporation;

- (x) Major agreements underlying the basis of a corporation's business (e.g. power or assets purchase and other offtake agreements);
  - (xi) Obligations of public development authorities;
  - (xii) Any related land acquisition;
  - (xiii) List of material contracts; and
  - (xiv) Taxation;
- (b) Relationship with concession giver or licensor
- (i) Description or constitution of concession giver or licensor;
  - (ii) Nature of relationship;
  - (iii) Licensor's obligations;
  - (iv) Revenue or profit-sharing agreements; and
  - (v) Impact on business or credit agreements if relationship changes;
- (c) Regulation
- (i) Relevant regulatory authorities;
  - (ii) Environmental regulation or issues; and
  - (iii) Material penalties on breach of regulation;

(d) Construction risk

- (i) Status of project or progress to-date;
- (ii) Expected progress schedule;
- (iii) Nature of construction contract;
- (iv) Nature of risks and mitigating factors;
- (v) Supplier agreements;
- (vi) Implications of failure to complete or proceed according to plan;
- (vii) Provision for strikes;
- (viii) Obligations of contractors or turn-key contracts;
- (ix) Geology and construction methods; and
- (x) Terms and conditions of performance bonds and construction guarantees;

(e) Track record of corporation

- (i) Length and scope of operating history;
- (ii) Qualifications and experience of management or licensee; and
- (iii) Summary of existing operations if the applicant is a mature corporation;

- (f) Competition
  - (i) Description of the industry;
  - (ii) Analysis of competitors;
  - (iii) Assessment of effects of competition; and
  - (iv) Treatment of corporation under competition law (if a monopoly and if applicable);
  
- (g) Operations
  - (i) Special reliance on key operating and maintenance contractors or management personnel;
  - (ii) Major operating contracts;
  - (iii) Operating risk factors;
  - (iv) Strategy for marketing products;
  - (v) Obligations of main users; and
  - (vi) Economics of project;
  
- (h) Pricing of product;
  
- (i) Government pricing and terms on which price/rates may be varied;

- (j) Conflicts or dependence
  - (i) Related-party transactions including construction contracts;
  - (ii) Dependence on concession giver/licensor; and
  - (iii) Dependence on suppliers, customers, competitors, infrastructure providers;
  
- (k) Financing
  - (i) Total capital expenditure to-date and for the future;
  - (ii) Sources and uses of issue proceeds and bank loans;
  - (iii) Adequacy of funds for expected total cost of project and working capital;
  - (iv) Salient terms of bank financing and other credit or guarantee agreements including recourse/non-recourse nature of arrangement;
  - (v) Availability and terms of supplier credit;
  - (vi) Any security arrangement entered into with loan providers or other credit suppliers including assignments of assets;
  - (vii) Tax effects;
  - (viii) Other financial arrangements with concession giver or licensor or parent;
  - (ix) Statement of financial requirements for subsequent phases; and

- (x) Availability of foreign currency during loan repayment period;
- (l) Feasibility study
- (i) Background of expert;
  - (ii) Scope of study;
  - (iii) Appraisal of corporation's business;
  - (iv) Appraisal of agreements, contracts and permits;
  - (v) Comments on capital expenditure plan;
  - (vi) Comments on adequacy of debt and equity financing;
  - (vii) Comments on operation and performance to-date, if applicable;
  - (viii) Comments on environmental impact;
  - (ix) Comments on industry and competition;
  - (x) Projections of profits and losses, balance sheet and cash flow;
  - (xi) Assumptions underlying the projections including the basis for valuation of existing property or projects. These may include, among others, net present value, discount rates, internal rate of return, and growth rates applied to the project;
  - (xii) Comments on the breakeven period;

- (xiii) Insurance risk assessment
- (xiv) Conclusion on overall feasibility of project for listing on a stock exchange; and
- (xv) Basis for monitoring of design, development and construction by expert.

The above should be guided by the requirements of Chapter 11;

(m) Financial projections by corporation until expiry of concession or licence

- (i) Financial projections by corporation;
- (ii) Assumptions and bases of projections; and
- (iii) Return to investor and sensitivity analysis.

The above should be guided by the requirements of Chapter 9;

(n) Other disclosures:

- (i) Shareholders' agreement;
- (ii) Control of corporation;
- (iii) Criteria for future investment in projects;
- (iv) Insurance arrangements;
- (v) Business development strategy;
- (vi) Privileges of shareholders;

- (vii) Underwriting arrangements in respect of the offer of securities;
- (viii) Political risks if applicable; and
- (ix) Other risks.

## **Chapter 16**

### **SPECIFIC REQUIREMENTS FOR A SPECIAL PURPOSE ACQUISITION COMPANY**

16.01 Other than the information required to be disclosed in these Guidelines, where applicable, the prospectus should disclose the following:

- (a) Qualifying acquisition
  - (i) Indicative target sector and/or geographical area in which SPAC intends to acquire target business;
  - (ii) Criteria or factors that the management team may consider in the selection of target business; and
  - (iii) The existence of a prospective target, if any, including details of any agreement entered into, whether written or oral, binding or non-binding;
- (b) Valuation
  - (i) Valuation methods intended to be used in valuing the qualifying acquisition, if known;
- (c) Time frame for completion
  - (i) Time required to complete the qualifying acquisition;
- (d) Management capability
  - (i) Discussion of how the experience, qualification and competency of each member of the management team will contribute to the SPAC achieving its business strategy.

The above should be guided by the requirements of Chapter 4 of these Guidelines;

- (e) Approval for qualifying acquisition
  - (i) Percentage of holdings held by holders of voting securities required to proceed with a qualifying acquisition;
  - (ii) Circumstances in which the corporation will not be able to proceed with a qualifying acquisition;
  - (iii) Rights of holders of voting securities who vote against the qualifying acquisition including disclosure on the basis of computation for their pro rata entitlement; and
  - (iv) Rights of holders of voting securities in the event that the qualifying acquisition is not completed within the stipulated time frame;
- (f) Proceeds placed in trust account
  - (i) The amount and percentage of proceeds placed in the trust account;
  - (ii) The proposed nature of permitted investments for the SPAC's funds in the trust account; and
  - (iii) The intended use of amounts not deposited in the trust account.
- (g) Promoters or management agreement
  - (i) The nature of management team's compensation arrangement and remuneration, if any; and
  - (ii) The terms of the initial investment (i.e. investment prior to the listing of the SPAC) by the management team in the SPAC.

- (h) Custodian
  - (i) Roles and responsibilities of the custodian appointed by the SPAC; and
  - (ii) Salient terms of the custodian agreement.
- (i) Delisting and liquidation
  - (i) Circumstances when SPAC may be delisted or liquidated;
  - (ii) The liquidation distribution feature of SPAC; and
  - (iii) Time frame for public shareholders to receive liquidation distributions.
- (j) Other salient terms of the SPAC's constituent documents
  - (i) Approval of holders of voting securities to complete a qualifying acquisition;
  - (ii) Rights of holders of voting securities; and
  - (iii) Liquidation of a SPAC.

## **Chapter 17**

### **SPECIFIC REQUIREMENTS FOR A CORPORATION WITH MOG EXPLORATION OR EXTRACTION ASSETS**

17.01 Other than the information required to be disclosed in these Guidelines, the prospectus must disclose the following where applicable.

17.02 Where a disclosure on MOG exploration or extraction assets is included, such disclosure must be presented in accordance with the MOG reporting standards, which must be applied in a consistent manner.

17.03 A disclosure under paragraph 17.02 above must include:

- (a) An estimation of volume, tonnage and grade of the MOG exploration or extraction assets, which must be presented in a tabular format that is readily understandable to a non-technical person;
- (b) Material assumptions and statements in relation to paragraph (a) above;
- (c) Where production targets are disclosed, prominent cautionary statements must be included;
- (d) For O&G resources, production targets disclosed must only be based on Proved Reserves and Probable Reserves, and not Possible Reserves, Contingent Resources or Prospective Resources; and
- (e) For mineral resources, production targets disclosed–
  - (i) must not be based on Inferred Resources; and

- (ii) must not be based on Indicated Resources and Measured Resources and not included in economic analyses unless–
  - (A) sufficient work has been done on the Modifying Factors;
  - (B) the basis on which they are considered to be economically extractable is explained; and
  - (C) they are appropriately discounted for the probabilities of their conversion to Proved Reserve or Probable Reserve.

17.04 In addition to the requirements of paragraph 17.03 above, a prospectus of a corporation with significant MOG operations must contain the following:

- (a) A competent person's report prepared in accordance with MOG reporting standards; and
- (b) A statement that no material changes have occurred since the effective date of the competent person's report.

17.05 Where a valuation of the mineral asset or O&G asset is disclosed in the prospectus–

- (a) the valuation must be supported by a competent valuer's report prepared in accordance with MOG valuation standards; and
- (b) the competent valuer's report must be included in the prospectus; and
- (c) where applicable, a statement that no material changes have occurred since the effective date of the competent valuer's report.

### **Competent Person's Report and Competent Valuer's Report**

17.06 Where a competent person's report or a competent valuer's report is included in a prospectus, such report must–

- (a) be dated not more than six months from date of the prospectus;
- (b) be signed by the expert responsible in the preparation of the report;
- (c) be updated where there are material changes; and
- (d) comply with the requirements of paragraph 17.07 or paragraph 17.08 below.

### **Content of Competent Person's Report**

17.07 A competent person's report must include, but is not limited to, the following information:

- (a) Name and address of the corporation;
- (b) Purpose of the report;
- (c) Scope of work;
- (d) The effective date of the estimates;
- (e) The MOG reporting standard adopted and statement to affirm reference and compliance with the standard;
- (f) A statement on the health, safety, security and environment policies governing the operations of the MOG assets;

- (g) Identification and description of the MOG assets including–
  - (i) geological overview;
  - (ii) the legal nature and extent of the corporation’s rights of exploration and extraction and a description of the assets to which the rights attach, with details of the duration and other principal terms and conditions of these rights including environmental obligations, and any necessary licences and consents including planning permission;
  - (iii) any other material terms and conditions of exploration and extraction including host government rights and arrangements with partner corporations;
  - (iv) historic production or expenditures; (v)  
  
infrastructure and facilities; and
  - (vi) environmental and social obligations;
- (h) Method of assessment of MOG resources adopted; (i)  
  
Explanation on the analyses of data;
- (j) The estimates on the MOG resources based on the classification provided by the MOG reporting standard in a tabular format;
- (k) Explanation on the results of the MOG resources reported and interpretation on the assessment of the MOG resources;
- (l) Information regarding the sources of the data used and site visit, where applicable;
- (m) Maps, plans, tables and diagrams showing material details featured in the text;

- (n) Name, address, qualifications and professional membership of the expert;
- (o) A statement on the independence of the expert;
- (p) Information on any factor which may have a material impact on ownership or operating rights, including any legal opinion obtained, and how this material impact was considered in the assessment; and
- (q) An executive summary.

### **Content of Competent Valuer's Report**

17.08 A competent valuer's report must include, but is not limited to, the following information:

- (a) Name and address of the corporation;
- (b) Purpose of valuation including brief description of the corporate proposal undertaken by the corporation;
- (c) Scope of work;
- (d) Basis of valuation;
- (e) The effective date of the valuation;
- (f) Statement to affirm reference and compliance with relevant and applicable MOG valuation standards;
- (g) Identification of the MOG assets including details on the ownership;
- (h) A description of the MOG assets;

- (i) The assessment of the MOG resources adopted and its source of information in a tabular format;
- (j) Method of valuation adopted together with explanation;
- (k) Sufficient information that will allow the reader to understand how the valuation was carried out;
- (l) Information regarding the sources of the data used and site visit, where applicable;
- (m) Market value;
- (n) Name, address, qualification and professional membership of the expert;
- (o) A statement on the independence of the expert;
- (p) A summary of the estimation of the MOG resources by the competent person relied upon for the valuation;
- (q) Information on any factor which may have a material impact on the valuation; and
- (r) Sensitivity analysis.

**Guidance to paragraph 17.07(p) - Impact on ownership or operating rights**

1. The factors that could have a material impact on ownership or operating rights include title restrictions, encumbrances, native rights, production quotas, drilling restrictions and selling restrictions.

## **Division 1A**

# **[Inserted on 1 April 2013] ASEAN EQUITY SECURITIES DISCLOSURE STANDARDS**

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## **ASEAN EQUITY DISCLOSURE STANDARDS**

### **Part I**

#### **IDENTITY OF DIRECTORS, SENIOR MANAGEMENT, ADVISERS, AGENTS AND OTHER INDEPENDENT THIRD PARTIES**

##### **A. Directors and Senior Management**

1. Provide the names, nationality, addresses and functions of the issuer's directors and senior management.

##### **B. Corporate Secretary**

1. Provide the name, professional qualifications and address of the secretary of the issuer (if any).

##### **C. Advisers**

1. Provide the names and addresses of –
  - (a) the issuer's principal bankers to the extent the issuer has a continuing relationship with such entities;
  - (b) the sponsor for listing or issue manager to the offer;
  - (c) the underwriter to the offer, if any; and
  - (d) the legal advisers to the offer.

##### **D. Auditors**

1. Provide the names, addresses and professional qualifications (including any membership in a professional body) of the issuer's auditors for the preceding three completed financial years.

##### **E. Registrars and Agents**

1. Provide the names, addresses and professional qualifications (including any membership in a professional body) of the issuer's share registrar, transfer agents, receiving bankers for the application monies and any other persons connected with the public offering.

**Part II**

**OFFER STATISTICS AND EXPECTED TIMETABLE**

**A. Offer Statistics**

1. For each method of offering, state the total amount of the offer, including the offer price or the method of determining the price and the number of shares to be offered.

**B. Method and Expected Timetable**

For all offerings, and separately for each group of targeted potential investors, the prospectus shall state the following information to the extent applicable to the offering procedure:

1. The time period during which the offer will be open, and where and to whom purchase or subscription applications shall be addressed. Describe whether the purchase period may be extended or shortened, and the manner and duration of possible extensions or possible early closure or shortening of this period. Describe the manner in which the latter shall be made public. If the exact dates are not known when the prospectus is first filed or distributed to the public, describe the arrangements for announcing the final or definitive date or period.
2. Method and time limits for paying up for the shares being offered; where payment is partial, the manner and dates on which amounts due are to be paid.
3. Where applicable, methods of and time limits for —
  - (a) the delivery of the documents evidencing title to the shares being offered (including temporary documents of title, if applicable) to subscribers or purchasers; and
  - (b) the book-entry transfers of the shares being offered in favour of subscribers or purchasers.
4. A full description of the manner in which results of the distribution of the shares being offered are to be made public, and where appropriate, the manner for refunding excess amount paid by applicants (including whether interest will be paid).

**Part III**

**KEY INFORMATION**

**A. Selected Financial Data**

1. The issuer shall provide from the audited financial statements provided in response to Part VIII. Financial Information, selected audited historical financial data regarding the issuer or, if the issuer is the holding company of a group, the group which shall be presented for the three latest financial years (or such shorter period that the issuer has been in operation), in the same currency as the financial statements provided in response to Part VIII. Financial Information. If interim period financial statements are included, the selected financial data should be updated for that interim period. If selected financial data for an interim period is provided, comparative data (except information found in the statement of financial position) from the corresponding period in the previous financial year shall also be provided.
2. The selected financial data presented shall include items generally corresponding to the following, except that the specific line items presented should be expressed in the same manner as the corresponding line items in the issuer's financial statements. Such data shall include, at a minimum, net sales or operating revenues; income (loss) from operations; income (loss) from continuing operations; net income (loss); net income (loss) from operations per share; income (loss) from continuing operations per share; total assets; total liabilities; net assets or liabilities; capital stock (excluding long term debt and redeemable preferred stock); number of shares as adjusted to reflect changes in capital; dividends declared per share in respect of each class of shares in both the currency of the financial statements and the currencies of the countries in which the shares will be offered, including the formula used for any adjustments to dividends declared and giving particulars for each such class of shares; net income per share and diluted net income per share. Per share amounts must be determined in accordance with the body of accounting principles used in preparing the financial statements.
3. Where the financial statements provided in response to Part VIII. Financial Information are prepared in a currency other than the currency of any of the countries in which the shares will be offered, disclosure of the exchange rate between the financial reporting currency and the currency of that country should be provided, using the exchange rate designated by that country for this purpose, if any:
  - (a) at the latest practicable date;
  - (b) the highest and lowest exchange rates for each month during the previous six months; and

- (c) for the three most recent financial years and any subsequent interim period for which financial statements are presented, the average rates for each period, calculated by using the average of the exchange rates between that financial reporting currency and the currency of that country on the last day of each month during the period.

**B. Capitallisation and Indebtedness**

1. A statement of capitallisation and indebtedness (distinguishing between guaranteed and non-guaranteed, and secured and unsecured, indebtedness) as of a date no earlier than 60 days prior to the [effective/registration] date of the prospectus shall be provided showing the issuer's, or if the issuer is the holding company of a group, the group's capitallisation on an actual basis and, if applicable, as adjusted to reflect the sale of new shares being issued and the intended application of the net proceeds therefrom. Indebtedness also includes indirect and contingent indebtedness.

**C. Reasons for the Offer and Use of Proceeds**

1. The prospectus shall disclose the estimated net amount, and percentage of the proceeds broken down into each principal intended use thereof and, where possible, the timeframe for the full utilisation of the proceeds for each principal intended use. If the anticipated proceeds will not be sufficient to fund all the proposed purposes, the order of priority of such purposes should be given, as well as the amount and sources of other funds needed. Disclose also how the proceeds will be used pending their eventual utilisation for the proposed purposes.
2. If the issuer has no specific plans for the proceeds, it should discuss the principal reasons for the offering.
3. Where the offer is not fully underwritten on a firm commitment basis, state the minimum amount which, in the reasonable opinion of the directors of the issuer, must be raised by the offer of shares.
4. If the proceeds are being used directly or indirectly to acquire or to refinance the acquisition of assets, other than in the ordinary course of business, briefly describe the assets and their cost. If the assets have been or will be acquired from related parties of the issuer, disclose the persons from whom they will be acquired and how the cost to the issuer is/or will be determined.

5. If the proceeds may or will be used to finance or refinance the acquisition of other businesses, give a brief description of such businesses and information on the status of the acquisitions.
6. If any material part of the proceeds is to be used to discharge, reduce or retire indebtedness, describe the interest rate and maturity of such indebtedness and, for indebtedness incurred within the past year, the uses to which the proceeds of such indebtedness were put.

**D. Expenses of the Issue**

The following information shall be provided:

1. The amount of discount or commission per share, and the total amount of discounts or commissions, agreed upon between the underwriters or other placement or selling agents and the issuer or offeror, as well as the percentage such discounts or commissions represent of the total amount of the offer.
2. A reasonably itemised statement of the major categories of expenses incurred in connection with the issuance and distribution of the shares to be listed or offered (in absolute terms and as a percentage of the total amount of the offer) and by whom the expenses are payable, if other than the issuer. If any of the shares are to be offered for the account of a selling shareholder, indicate the portion of such expenses to be borne by such shareholder. Indicate the amount of any expense specifically charged to the subscriber or purchaser of the shares being offered. The information may be given subject to future contingencies. If the amounts of any items are not known, estimates (identified as such) shall be given.

**E. Risk Factors**

1. The prospectus shall prominently disclose risk factors that are specific to the issuer and its industry, and the shares being offered, which had materially affected or could materially affect, directly or indirectly, the issuer's financial position and results and business operations, and investments by shareholders of the issuer, in a section headed "Risk Factors". Issuers are encouraged, but not required, to list the risk factors in the order of their priority to the issuer. The Risk Factors section is intended to be a summary of more detailed discussion contained elsewhere in the prospectus.

## **Part IV**

### **INFORMATION ON THE ISSUER**

#### **A. History and Development of the Issuer**

The following information shall be provided:

1. The website address of the issuer, if any.
2. The legal and commercial name of the issuer.
3. The date of incorporation and the length of life of the issuer, except where indefinite.
4. The domicile and legal form of the issuer, the legislation under which the issuer operates, its country of incorporation and the address and telephone number of its registered office (or principal place of business if different from its registered office). Provide the name and address of the issuer's agents in each of the countries in which the shares will be offered, if any.
5. The length of time for which the business of the issuer, or if the issuer is the holding company of a group, of the group has been carried on and the important events in the development of the issuer's business, e.g. information concerning the nature and results of any material reclassification, merger or consolidation of the issuer or any of its significant subsidiaries; acquisitions or dispositions of material assets other than in the ordinary course of business; any material changes in the mode of conducting the business; material changes in the types of products produced or services rendered; name changes; or the nature and results of any bankruptcy, receivership or similar proceedings with respect to the issuer or significant subsidiaries.
6. A description, including the amount invested, of the issuer's material capital expenditures and divestitures (including interests in other companies), since the beginning of the issuer's last three financial years to the date of the prospectus.
7. Information concerning the material capital expenditures and divestitures currently in progress, including the distribution of these investments geographically (home and abroad) and the method of financing (internal or external).
8. An indication of any public takeover offers by third parties in respect of the issuer's shares or by the issuer in respect of other companies' shares which have occurred from the beginning of the last financial year to the latest practicable date. The price or exchange terms attaching to such offers and the outcome thereof are to be stated.

**B. Business Overview**

The information required by this item may be presented on the same basis as that used to determine the issuer's business segments under the body of accounting principles used in preparing the financial statements. The following information shall be provided:

1. A description of the nature of the issuer's operations and its principal activities, stating the main categories of products sold and/or services performed for each of the last three financial years. Indicate any significant new products and/or services that have been introduced between the beginning of the period comprising the three most recent completed financial years and the latest practicable date and, to the extent the development of new products or services has been publicly disclosed, give the status of development.
2. A description of the principal markets in which the issuer competes, including a breakdown of total revenues by category of activity and geographic market for each of the last three financial years.
3. A description of the seasonality of the issuer's main business.
4. A description of the sources and availability of raw materials, including a description of whether prices of principal raw materials are volatile.
5. A description of the marketing channels used by the issuer, including an explanation of any special sales methods, such as installment sales.
6. Summary information regarding the extent to which the issuer is dependent, if at all, on patents or licenses, industrial, commercial or financial contracts (including contracts with customers or suppliers) or new manufacturing processes, where such factors are material to the issuer's business or profitability.
7. The basis for any statements made by the issuer regarding its competitive position shall be disclosed.
8. A description of the material effects of government regulations on the issuer's business, identifying the regulatory body.

**C. Organisational Structure**

1. If the issuer is part of a group, include a brief description of the group and the issuer's position within the group. Provide information on each of the issuer's subsidiaries and associated companies which account for 10% or more of the absolute amount of the net assets, net liabilities or profit or loss

before tax, respectively, of the group for any of the two most recent completed financial years, including its name, country of incorporation or residence, principal place of business, principal activities, proportion of ownership interest and, if different, proportion of voting power held by the issuer.

**D. Property, Plants and Equipment**

1. The issuer shall provide information regarding any material tangible fixed assets, including leased properties, and any major encumbrances thereon, including a description of the size and uses of the property; productive capacity and extent of utilisation of the issuer's facilities for each of the last three completed financial years; how the assets are held; the products produced; and the location.
2. Describe any regulatory requirements and environmental issues that may materially affect the issuer's utilisation of the assets. With regard to any material plans to construct, expand or improve facilities, describe the nature of and reason for the plan, an estimate of the amount of expenditures including the amount of expenditures already paid, a description of the method of financing the activity, the estimated dates of start and completion of the activity, and the increase of production capacity anticipated after completion.

**Part V**

**OPERATING AND FINANCIAL REVIEW AND PROSPECTS**

1. Discuss the issuer's financial condition, changes in financial condition and results of operations for each year and interim period for which financial statements are required, including the causes of material changes from year to year in financial statement line items, to the extent necessary for an understanding of the issuer's business as a whole. Information provided also shall relate to all separate segments of the issuer. Provide the information specified below as well as such other information that is necessary for an investor's understanding of the issuer's financial condition, changes in financial condition and results of operation.

**A. Operating Results**

1. Provide information regarding significant factors, including unusual or infrequent events or new developments, materially affecting the issuer's income from operations, indicating the extent to which income was so affected. Describe any other significant component of revenue or expenses necessary to understand the issuer's results of operations.
2. To the extent that the financial statements disclose material changes in net sales or revenues, provide a narrative discussion of the extent to which such changes are attributable to changes in prices or to changes in the volume or amount of products or services being sold or to the introduction of new products or services between corresponding periods.
3. Describe the impact of inflation, if material. If the currency in which financial statements are presented is of a country that has experienced hyperinflation, the existence of such inflation, a five year history of the annual rate of inflation and a discussion of the impact of hyperinflation on the issuer's business shall be disclosed.
4. Provide information regarding the impact of foreign currency fluctuations on the issuer, if material, and the extent to which foreign currency net investments are hedged by currency borrowings and other hedging instruments.
5. Provide information regarding any governmental, economic, fiscal, monetary political policies or factors that have materially affected, or could materially affect, directly or indirectly, the issuer's operations or investments by the shareholders in any of the countries in which the shares will be offered.

**B. Liquidity and Capital Resources**

The following information shall be provided:

1. Information regarding the issuer's liquidity (both short and long term), including:
  - (a) a description of the internal and external sources of liquidity and a brief discussion of any material unused sources of liquidity. Include a statement by the issuer that, in its opinion, the working capital is sufficient for the issuer's requirements for a period of 12 months from the date of issue of prospectus, or, if not, how it proposes to provide the additional working capital needed;
  - (b) an evaluation of the sources and amounts of the issuer's cash flows from operating, investing and financing activities in respect of each financial year required to be included in the prospectus and, if interim cash flow statement has been included in the prospectus, the period covered by the interim cash flow statement. This includes the nature and extent of any legal, financial, or economic restrictions on the ability of subsidiaries to transfer funds to the issuer in the form of cash dividends, loans or advances and the impact such restrictions have had or are expected to have on the ability of the issuer to meet its cash obligations.
  - (c) information on the level of borrowings at the end of the period under review, the seasonality of borrowing requirements and the maturity profile of borrowings and committed borrowing facilities, with a description of any restrictions on their use. Foreign borrowings should be separately identified with the corresponding foreign currencies amount. Disclose gearing ratios for the period under review.
2. If the issuer or any other entity in the group is in breach of any of the terms and conditions or covenants associated with any credit arrangement or bank loan which could materially affect the issuer's financial position and results or business operations, or the investments by holders of securities in the issuer—
  - (a) a statement of that fact;
  - (b) details of the credit arrangement or bank loan; and
  - (c) details of any action taken or to be taken by the issuer or other entity in the group, as the case may be, to rectify the situation (including the status of any restructuring negotiations or agreement, if applicable).
3. A statement as to whether there have been any defaults on payments of either interest and/or principal sums in respect of any borrowings throughout

the past one financial year and the subsequent financial period thereof as at the latest practicable date.

4. Information regarding the type of financial instruments used, the maturity profile of debt, currency and interest rate structure. The discussion also should include funding and treasury policies and objectives in terms of the manner in which treasury activities are controlled, the currencies in which cash and cash equivalents are held, the extent to which borrowings are at fixed rates, and the use of financial instruments for hedging purposes.
5. Information regarding the issuer's material commitments for capital expenditures as of the latest practicable date and an indication of the general purpose of such commitments and the anticipated sources of funds needed to fulfill such commitments.

**C. Research and Development**

1. Provide a description of the issuer's research and development policies for the last three completed financial years, where it is significant, including the amount spent (and such amount as a percentage of the net sales or revenue) during each of the last three financial years on issuer-sponsored research and development activities.

**D. Trend Information, Profit Forecast and Cash Flow Forecast**

1. The issuer should discuss, for at least the current financial year, the business and financial prospects and identify any significant recent trends in production, sales and inventory, and costs and selling prices since the latest financial year. The issuer also should discuss, for at least the current financial year, any known trends, uncertainties, demands, commitments or events that are reasonably likely to have a material effect on the issuer's net sales or revenues, income from continuing operations, profitability, liquidity or capital resources, or that would cause reported financial information to be not necessarily indicative of future operating results or financial condition. If there are no such trends, uncertainties, demands, commitments or events, provide an appropriate statement to that effect.
2. Discuss the state of the order book since the end of the most recent period for which annual or interim financial statements have been provided in the prospectus. Where such information is not relevant to the business of the issuer; provide an appropriate statement to that effect and the reason for this.
3. Where a profit forecast or cash flow forecast is disclosed, state the extent to which projected sales or revenues are based on secured contracts or orders, and the reasons for expecting to achieve the projected sales or

revenues, and profit or cash flow (as the case may be), and discuss the impact of any likely change in business and operating conditions on the forecast.

4. Where a profit forecast or cash flow forecast is disclosed, state the basis and all principal assumptions, if any, upon which the directors of the issuer have based their profit forecast or cash flow forecast.
5. Where a profit forecast or cash flow forecast is disclosed, include in the prospectus a statement by the directors of the issuer to the effect that they have stated the profit forecast or cash flow forecast after due and careful enquiry, and that they individually and collectively take responsibility for the profit forecast or cash flow forecast.
6. Where a profit forecast or cash flow forecast is disclosed, include in the prospectus a statement—
  - (a) by an auditor, the sponsor or the issue manager to the effect that, based on his examination, no matter has come to his attention which gives him reason to believe that the assumptions do not provide reasonable grounds for the profit forecast or the cash flow forecast; and
  - (b) by an auditor that the profit forecast or cash flow forecast, is properly prepared and calculated on the basis of the assumptions disclosed, and is consistent with the accounting policies and standards adopted by the issuer.
7. For the purpose of this Part V. D –
  - (a) profit forecast<sup>11</sup> refers to a forecast of profit for any period of time after the [effective/registration] date of the prospectus or an estimate of profit for any period of time from the end of the financial period covered by the most recent financial statements (whether audited, pro forma or interim) that are included in the prospectus to a date no later than the [effective /registration] date; and
  - (b) cash flow forecast<sup>11</sup> refers to a forecast of cash flow for any period of time after the [effective/registration] date of the prospectus or an estimate of cash flow for any period of time from the end of the financial period covered by the most recent financial statements (whether audited, pro forma or interim) that are included in the prospectus to a date no later than the [effective/registration] date.

**Part VI**

**DIRECTORS, SENIOR MANAGEMENT AND EMPLOYEES**

**A. Directors and Senior Management**

The following information shall be disclosed with respect to the issuer's directors and senior management, and any employees such as scientists, researchers or designers upon whose work the issuer is dependent:

1. Name, business experience, educational and professional qualifications, functions and areas of experience or responsibility in the issuer.
2. Principal business activities performed outside the issuer (including, in the case of directors, other principal directorships at present and in the last five years).
3. Date of birth or age.
4. The nature of any family relationship between (a) any of the persons named above; and (b) any of the persons named above and any major shareholder of the issuer.
5. Any arrangement or understanding with major shareholders, customers, suppliers or others, pursuant to which any person referred to above was selected as a director or member of senior management of the issuer.

**B. Management Reporting Structure**

1. Provide the management reporting structure of the issuer.

**C. Material Background Information**

1. Disclose the following matters concerning a director, senior management member or significant person of the issuer:
  - (a) whether at any time during the last ten years, an application or a petition under any bankruptcy laws of any jurisdiction was filed against him or against a partnership of which he was a partner at the time when he was a partner or at any time within two years from the date he ceased to be a partner;

- (b) whether at any time during the last ten years, an application or a petition under any law of any jurisdiction was filed against an entity (not being a partnership) of which he was a director or an equivalent person or a senior management member, at the time when he was a director or an equivalent person or a senior management member of that entity or at any time within two years from the date he ceased to be a director or an equivalent person or a senior management member of that entity, for the winding up or dissolution of that entity or, where that entity is the trustee of a business trust, that business trust, on the ground of insolvency;
- (c) whether there is any unsatisfied judgment against him;
- (d) whether he has ever been convicted of any offence, in any country, involving fraud or dishonesty which is punishable with imprisonment, or has been the subject of any criminal proceedings (including any pending criminal proceedings of which he is aware) for such purpose;
- (e) whether he has ever been convicted of any offence, in any country, involving a breach of any law or regulatory requirement that relates to the securities or futures industry in any country, or has been the subject of any criminal proceedings (including any pending criminal proceedings of which he is aware) for such breach;
- (f) whether at any time during the last ten years, judgment has been entered against him in any civil proceedings in any country involving a breach of any law or regulatory requirement that relates to the securities or futures industry in any country, or a finding of fraud, misrepresentation or dishonesty on his part, or he has been the subject of any civil proceedings (including any pending civil proceedings of which he is aware) involving an allegation of fraud, misrepresentation or dishonesty on his part;
- (g) whether he has ever been convicted in any country of any offence in connection with the formation or management of any entity or business trust;
- (h) whether he has ever been disqualified from acting as a director or an equivalent person of any entity (including the trustee of a business trust), or from taking part directly or indirectly in the management of any entity or business trust;
- (i) whether he has ever been the subject of any order, judgment or ruling of any court, tribunal or governmental body permanently or temporarily enjoining him from engaging in any type of business practice or activity;
- (j) whether he has ever, to his knowledge, been concerned with the management or conduct, in any country, of the affairs of–

- (i) any corporation which has been investigated for a breach of any law or regulatory requirement governing corporations in any country;
- (ii) any entity (not being a corporation) which has been investigated for a breach of any law or regulatory requirement governing such entities in any country;
- (iii) any business trust which has been investigated for a breach of any law or regulatory requirement governing business trusts in any country; or
- (iv) any entity or business trust which has been investigated for a breach of any law or regulatory requirement that relates to the securities or futures industry in any country,

in connection with any matter occurring or arising during the period when he was so concerned with the entity or business trust;

- (k) whether he has been the subject of any current or past investigation or

disciplinary proceedings, or has been reprimanded or issued any warning, by any regulatory authority, exchange, professional body or government agency, in any country.

#### **D. Compensation**

1. Disclose:

- (a) the amount of compensation paid for each of the three most recent completed financial years; and
- (b) estimated amount of compensation paid and to be paid for the whole of the current financial year;

to each director of the issuer.

2. Disclose in bands of US\$50,000:

- (a) the amount of compensation paid for each of the three most recent completed financial years; and
- (b) estimated amount of compensation paid and to be paid for the whole of the current financial year;

to each member of the issuer's senior management other than directors.

3. The compensation to be disclosed under paragraphs 1 and 2 of this Part VI. B must include contingent or deferred compensation accrued for the year, even if the compensation is payable at a later date. If any portion of the compensation was paid (a) pursuant to a bonus or profit-sharing plan, provide a brief description of the plan and the basis upon which such persons participate in the plan; or (b) in the form of stock options, provide the title and amount of securities covered by the options, the exercise price, the purchase price (if any), and the expiration date of the options.
4. Any estimated amount of compensation that is to be paid pursuant to any bonus or profit-sharing plan or any other profit-linked agreement or arrangement, but which has not yet been paid, may be excluded from the calculation of the estimated amount of compensation in respect of the whole of the current financial year, provided that that fact is stated.
5. Disclose the total amounts set aside or accrued by the issuer or its subsidiaries to provide pension, retirement or similar benefits, if any.

**E. Board Practices**

The following information shall be given with respect to, unless otherwise specified, each of the issuer's directors, and members of its administrative, supervisory or management bodies.

1. Date of expiration of the current term of office, if applicable, and the period during which the person has served in that office.
2. Details of directors' service contracts with the issuer or any of its subsidiaries providing for benefits upon termination of employment, or an appropriate negative statement. For a service contract with a fixed term, state the term of each such contract, the unexpired term and the name of the relevant director.
3. Details relating to the issuer's audit committee, nomination committee and remuneration committee, including the names of committee members and a summary of the terms of reference under which the committee operates.

**F. Employees**

1. Provide either the number of employees at the end of the period or the average for the period for each of the past three financial years (and changes in such numbers, if material) and, if possible, a breakdown of persons employed by main category of activity and geographic location. Also disclose any significant change in the number of employees, and information regarding the relationship between management and labor unions. If the issuer employs a significant number of temporary employees,

include disclosure of the number of temporary employees on an average during the most recent financial year.

**G. Share Ownership**

1. With respect to the issuer's directors and members of its administrative, supervisory or management bodies, provide information as to their share ownership in the issuer as of the latest practicable date and immediately after the offer (including disclosure on an individual basis of the number of shares and percent of shares outstanding of that class, and whether they have different voting rights or an appropriate negative statement) held directly, or deemed to be held, by the persons and options granted to them on the issuer's shares. Information regarding options shall include: the title and amount of securities called for by the options; the exercise price; the purchase price, if any; the period during which the option is exercisable and the expiration date of the options.
2. Disclose any contractual undertaking provided by any party (including but not limited to the issuer's directors and members of its administrative, supervisory or management bodies) to observe a moratorium on the transfer or disposal of his interest in the shares of the issuer.

**Part VII**

**MAJOR SHAREHOLDERS, RELATED-PARTY TRANSACTIONS AND CONFLICTS OF INTERESTS**

**A. Major Shareholders**

1. The following information shall be provided regarding the issuer's major shareholders:
  - (a) the names of the major shareholders, and the number of shares and the percentage of outstanding shares of each class owned by each of them as of the most recent practicable date and immediately after the offer, or an appropriate negative statement if there are no major shareholders.
  - (b) any significant change in the percentage ownership held by any major shareholders in the last three years prior to the latest practicable date.
  - (c) whether the issuer's major shareholders have different voting rights, or an appropriate negative statement.
2. Information shall be provided as to the portion of each class of securities held in each of the countries in which the shares will be offered and the number of record holders in each of the countries in which the shares will be offered.
3. To the extent known to the issuer, state whether the issuer is directly or indirectly owned or controlled by another corporations, by any foreign government or by any other natural or legal persons severally or jointly, and, if so, give the names of such controlling corporations, government or other persons, and briefly describe the nature of such control, including the amount and proportion of capital held giving a right to vote.
4. Describe any arrangements, known to the issuer, the operation of which may at a subsequent date result in a change in control of the issuer.
5. Describe any arrangements for involving the directors and employees of the group in the capital of the issuer, including any arrangement that involves the issue or grant of options or shares or securities of the issuer.

**B. Related-party Transactions**

1. Provide the information required below for the period since the beginning of the issuer's preceding three financial years up to the date of the prospectus,

with respect to transactions or loans between the issuer and its related parties.

2. Describe the nature and extent of any transactions or presently proposed transactions which are material to the issuer or the related party, or any transactions that are unusual in their nature or conditions, involving goods, services, or tangible or intangible assets, to which the issuer or any of its parent or subsidiaries was a party.
3. Disclose the amount of outstanding loans (including guarantees of any kind) made by the issuer or any of its parent or subsidiaries to or for the benefit of any of the persons listed above. The information given should include the largest amount outstanding during the period covered, the amount outstanding as of the latest practicable date, the nature of the loan and the transaction in which it was incurred, and the interest rate on the loan.
4. For each transaction referred to in this Part VII.B –
  - (a) that has been completed or will be completed at or before the close of the offer, disclose whether or not the transaction has been or will be carried out on an arm's length basis;
  - (b) that will continue after the close of the offer, disclose –
    - (i) whether or not the transaction has been carried out on an arm's length basis; and
    - (ii) the procedure undertaken or which will be undertaken to ensure that such transaction will be carried out on an arm's length basis; or
  - (c) that has been proposed, disclose the procedure which will be undertaken to ensure that such transaction will be carried out on an arm's length basis.
5. For each loan referred to in this Part VII.B –
  - (a) that has been repaid or will be repaid at or before the close of the offer, disclose whether or not the loan was made on an arm's length basis;
  - (b) that is to be repaid, whether partly or wholly, after the close of the offer, disclose–
    - (i) whether or not the loan was made on an arm's length basis; and
    - (ii) when the loan is intended or required to be repaid; or

- (c) that has been proposed, disclose the procedure which will be undertaken to ensure that such loan will be made on an arm's length basis.
6. Where transactions or loans referred to in this Part VII.B are similar and recurring in nature or could otherwise be grouped in a meaningful manner, the information required with respect to this Part VII.B should be provided on an aggregate basis, if the aggregate of these transactions or loans are material in the context of the offer.

**C. Conflict of Interests**

1. Where a director or significant person of the issuer or his associate has an interest in any entity carrying on the same business or dealing in similar products as the issuer or, if the issuer is the holding company of a group, as the group, disclose–
- (a) the name of that entity;
  - (b) the name of the director or significant person involved;
  - (c) the nature and extent of his interest in that entity and the extent to which he is involved in the management of that entity either directly or indirectly; and
  - (d) whether any conflict of interests thereby arising has been or is to be resolved or mitigated and, if so, how it has been or is proposed to be resolved or mitigated.

**D. Interests of Experts, Counsel, Underwriters and Financial Advisers**

1. If any of the named experts, counselors, underwriter or other financial adviser was employed on a contingent basis, owns an amount of shares in the issuer or its subsidiaries which is material to that person, has a material, direct or indirect economic interest in the issuer or that depends on the success of the offering, or otherwise has a material relationship with the issuer, provide a brief description of the nature and terms of such contingency, interest or relationship.

**Part VIII**

**FINANCIAL INFORMATION**

**A. Audited Financial Statements**

1. The prospectus must contain comparative consolidated financial statements of the issuer, or if the issuer is a holding company, of the group, that cover the latest three financial years (or such shorter period that the issuer has been in operation).
2. If the [effective/registration] date of the prospectus is more than six months after the end of the most recent completed financial year for which financial statements is provided under paragraph 1, the prospectus must contain interim financial statements of the issuer, or if the issuer is a holding company, of the group, made up to a date that is not earlier than six months before the [effective/registration] date of the prospectus. The prospectus must also include comparative interim financial statements (other than a statement of financial position) for the corresponding period in the previous financial year.
3. Where a common control combination involving the issuer has occurred at any time from the beginning of the latest three financial years up to the [effective/registration] date of the prospectus, the financial statements to be provided under paragraph 1 and 2 of this Part VIII.A should be prepared to show the combined financial information of the issuer and the common control entities or businesses as if the common control combination had taken place at the beginning of the latest three financial years or at the time when the common control entities or businesses first came under common control, whichever date is the later.

For the purpose of this item, -common control combination<sup>11</sup> means a business combination in which all the combining entities or businesses are under common control.

4. The financial statements to be provided under paragraph 1 and 2 of this Part VIII.A must be:
  - (a) prepared in accordance with the International Financial Reporting Standards and International Accounting Standards (referred to in this Part VIII. as IFRS); and,
  - (b) other than the comparative interim financial statements, if any, which need not be audited, the financial statements are to be audited in accordance with the International Standards on Auditing (referred to in this Part VIII. as ISA).

5. The financial statements to be provided under paragraph 1 and 2 of this Part VIII.A must be accompanied by –
  - (a) an audit report or audit reports covering each of the financial statements (other than the comparative interim financial status); and
  - (b) a statement identifying the auditors who audited the financial statements and the membership or memberships of each auditor in any professional body or bodies.
6. The financial statements to be provided under paragraph 1 or 2 of this Part VIII.A shall comprise such items as required by IFRS.
7. If any annual financial statements to be provided under paragraph 1 of this Part VIII.A relate to a period other than 12 months due to a change in the financial year end of the issuer, the annual financial statements in respect of that financial year and the financial years preceding that financial year shall be provided on a restated 12-month basis, so that the financial year end for each of the restated financial statements corresponds to the financial year end for the most recent completed financial year.

**B. Pro Forma Financial Statements**

1. Where –
  - (a) the issuer or any entity in the group has acquired or disposed of one or more asset, or entered into any agreement (including any conditional agreement) to acquire or dispose of one or more asset during the period from the beginning of the most recent completed financial year to the [effective/registration] date of the prospectus and —
    - (i) the net book value, or the absolute amount of the profit or loss before tax, of any of the assets has or would have accounted for 10% or more of the absolute amount of the net assets or net liabilities, or the profit or loss before tax, respectively, of the issuer or of the group (after adjusting for the effects of the group restructuring, where applicable) in respect of the most recent completed financial year; or
    - (ii) the total net book value, or the total absolute amount of the profit or loss before tax, of all the assets together have or would have accounted for 10% or more of the absolute amount of the net assets or net liabilities, or the profit or loss before tax, respectively, of the issuer or the group (after adjusting for the effects of the group restructuring, where applicable) in respect of the most recent completed financial year; or

- (b) any significant change to the capital structure (including any material distribution) of the issuer or any other entity in the group, has occurred during the period between the end of the most recent completed financial year and the [effective/registration] date of the prospectus, and the effects of such acquisitions, disposals or significant changes have not been reflected in the audited financial statements included in the prospectus,

provide pro forma financial statements for the most recent completed financial year and, if interim financial statements have been included in the prospectus, for the period covered by the interim financial statements.

For the purpose of this item, -assetll means any business, interest in a business or an entity, or any other asset.

For the avoidance of doubt, a proforma statement of comprehensive income or statement of cash flows is not required to be provided if the acquisition, disposal or change to the capital structure has no effect on the audited statement of comprehensive income or statement of cash flows included in the prospectus respectively.

2. The pro forma statement of comprehensive income and pro forma statement of cash flows shall be prepared –
  - (a) for the most recent completed financial year for which audited financial statements are provided in accordance with paragraph 1 of Part VIII.A; and
  - (b) where any interim financial statements have been provided in accordance with paragraph 2 of Part VIII.A, for the period covered by the interim financial statements, as if the acquisition, disposal or significant change had occurred at the beginning of the most recent completed financial year.
3. The pro forma statement of comprehensive income shall include an item on earnings per share.
4. The pro forma statement of financial position shall be prepared –
  - (a) as at the end of the most recent completed financial year as if the acquisition, disposal or significant change had occurred at the end of that financial year; and
  - (b) where any interim financial statements have been provided, as at the end of the period covered by the interim financial statements, as if the acquisition, disposal or significant change had occurred at the end of the period.

5. In respect of the pro forma financial statements state –
- (a) that they are prepared for illustrative purposes only and are based on certain assumptions, after making certain adjustments, to show –
    - (i) what the financial results and cash flows of the issuer or the group, as the case may be, for the most recent completed financial year and, where applicable, the period covered by the interim financial statements would have been, if the acquisition, disposal or significant change had occurred at the beginning of that financial year; and
    - (ii) what the financial position of the issuer or the group, as the case may be, would have been –
      - (A) as at the end of the most recent completed financial year, if the acquisition, disposal or significant change had occurred at the end of that financial year; and
      - (B) where applicable, as at the end of the period covered by the interim financial statements, if the acquisition, disposal or significant change had occurred at the end of that period;
  - (b) that because of their nature, they may not give a true picture of the actual financial position or results of the issuer or the group, as the case may be;
  - (c) the basis upon which they are prepared, including the source of each item of information; and
  - (d) any material adjustment made to any information used in the preparation of the pro forma financial statements and the reason for making that adjustment.
6. Where pro forma financial statements have been provided for any reason referred to in paragraph 1(a) above, with respect to the pro forma financial statements –
- (a) identify each asset referred to in paragraph 1 (a)(i) and (ii) of this Part VIII.B;
  - (b) provide a statement that the pro forma financial statements included in the prospectus have been properly prepared from financial statements relating to –
    - (i) the assets in the group; and

- (ii) the assets referred to in paragraph 1(a)(i) and (ii) of this Part VIII.B;
  - (c) provide a statement that the financial statements relating to the assets referred to in paragraph 1(a)(i) and (ii) of this Part VIII.B which were used in the preparation of the pro forma financial statements were prepared or restated in accordance with IFRS;
  - (d) state, in respect of each of the financial statements relating to the assets referred to in paragraph 1(a)(i) and (ii) of this Part VIII.B above which were used in the preparation of the pro forma financial statements, the body of accounting standards that was adopted in the preparation of the financial statements.
7. The financial statements of significant asset or assets related to any major transaction, referred to in paragraph 1(a)(i) and (ii) of this Part VIII.B, which are used in the preparation of the pro forma financial statements must be audited. For other assets, state whether or not the financial statements are audited.
8. If the financial statements referred to in paragraph 7 above are audited,
- (a) state the body of auditing standards that was adopted by the auditors in the audit of the financial statements; and
  - (b) provide a statement identifying the auditors who audited the financial statements, together with the membership or memberships of each auditor in a professional body.
9. Include, in the prospectus –
- (a) a statement that the audit reports for the financial statements referred to in paragraph 8 above do not contain any material qualification; or
  - (b) if any of those audit reports contains any material qualification, modification or disclaimer, a statement –
    - (i) setting out in full the qualification, modification or disclaimer; and
    - (ii) providing the reason for the qualification, modification or disclaimer.
10. Include, in the prospectus, an opinion from the auditors of the issuer, that –
- (a) the pro forma financial statements have been properly prepared –
    - (i) on the basis referred to in paragraph 5 (c) of this Part VIII.B; and

- (ii) where the pro forma financial statements have been provided for any reason referred to in paragraph 1 (a) of this Part VIII.B, in accordance with the matters referred to in the statements under paragraph 6 (b) and (c) of this Part VIII.B; and
- (b) each material adjustment made to the information used in the preparation of the pro forma financial statements is appropriate for the purpose of preparing such financial statements and in accordance with ISA.

**C. Change in Accounting Policies**

- 1. Where there has been any material change to the issuer's accounting policies, provide a summary of the material change and the reason for and quantitative impact of such change on the financial results of the issuer or, if the issuer is a holding company, of the group for each of the financial years for which financial statements are provided pursuant to paragraph 1 of this Part VIII.A.

**D. Litigation**

- 1. Provide information on any legal or arbitration proceedings, including those relating to bankruptcy, receivership or similar proceedings which may have, or have had in the 12 months immediately preceding the date of prospectus, significant effects on the issuer's financial position or profitability. This includes governmental proceedings pending or known to be contemplated.

**E. Dividends**

- 1. Describe the issuer's policy on dividend distributions or, if it does not have a fixed policy, state so.

**F. Significant Changes**

- 1. Disclose whether or not any significant change has occurred which may have a material effect on the financial position and results of the issuer since the date of the annual financial statements, and/or since the date of the most recent interim financial statements, if any, included in the prospectus. If there is no such change, provide an appropriate negative statement.

**Part IX**

**THE OFFER AND LISTING**

**A. Offer and Listing Details**

1. If there is no established market for the shares to be offered, the prospectus shall contain information regarding the manner of determination of the offering price, including who established the price or who is formally responsible for the determination of the price, the various factors considered in such determination and the parameters or elements used as a basis for establishing the price.
2. If the issuer's shareholders have pre-emptive purchase rights and where the exercise of the right of pre-emption of shareholders is restricted, withdrawn or waived, the issuer shall indicate the basis for the issue price if the issue is for cash, together with the reasons for such restriction, withdrawal or waiver and the beneficiaries of such restriction, withdrawal or waiver if intended to benefit specific persons.
3. Information regarding the price history, if any, of the shares to be offered or listed shall be disclosed as follows:
  - (a) for the three most recent full financial years: the annual highest and lowest market prices;
  - (b) for the two most recent full financial years and any subsequent period: the highest and lowest market prices for each full financial quarter;
  - (c) for the most recent six months: the highest and lowest market prices for each month.

Information regarding the closing market prices on the last trading day before the announcement of the offer and (if different) on the latest practicable date shall also be disclosed.

Information shall be given with respect to the market price in each of the markets of the countries in which the shares will be offered as well as the principal trading market outside those countries.

4. If significant trading suspensions occurred in the prior three years preceding the latest practicable date, they shall be disclosed. If the shares are not regularly traded in an organized market, information shall be given about any lack of liquidity.
5. State the type and class of the shares being offered or listed and furnish the following information:

- (a) Indicate whether the shares are registered shares or bearer shares and provide the number of shares to be issued and to be made available to the market for each kind of share. The nominal par or equivalent value should be given on a per share basis and, where applicable, a statement of the minimum and maximum offer price.
  - (b) Describe the coupons attached, if applicable.
  - (c) Describe arrangements for transfer and any restrictions on the free transferability of the shares.
6. If the rights evidenced by the shares being offered or listed are or may be materially limited or qualified by the rights evidenced by any other class of securities or by the provisions of any contract or other documents, include information regarding such limitation or qualification and its effect on the rights evidenced by the shares to be listed or offered.

**B. Plan of Distribution**

- 1. To the extent known to the issuer, indicate whether major shareholders, directors or members of the issuer's management, supervisory or administrative bodies intend to subscribe in the offering, or whether any person intends to subscribe for more than 5% of the offering.
- 2. Identify any group of targeted potential investors to whom the shares are offered. If the offering is being made simultaneously in the markets of two or more countries and if a tranche has been or is being reserved for certain of these, indicate any such tranche.
- 3. If the shares are reserved for allocation to any group of targeted investors, including, for example, offerings to existing shareholders, directors, or employees and past employees of the issuer or its subsidiaries, provide details of these and any other preferential allocation arrangements.
- 4. Indicate whether the amount of the offering could be increased, such as by the exercise of an underwriter's over-allotment option or "greenshoe" option, and state the exercise period and amount under such option.
- 5. Indicate the amount, and outline briefly the plan of distribution, of any shares that are to be offered otherwise than through underwriters. If the shares are to be offered through the selling efforts of brokers or dealers, describe the plan of distribution and the terms of any agreement or understanding with such entities. If known, identify the brokers or dealers that will participate in the offering and state the amount to be offered through each broker and dealer.
- 6. If simultaneously or almost simultaneously with the creation of shares for which admission to official listing is being sought, shares of the same class

are subscribed for or placed privately or if shares of other classes are created for public or private placing, details are to be given of the nature of such operations and of the number and characteristics of the shares to which they relate.

7. Unless otherwise described under the response to Part X.C., describe the features of the underwriting relationship together with the amount of shares being underwritten by each underwriter in privity of contract with the issuer or selling shareholders. The foregoing information should include a statement as to whether the underwriters are or will be committed to take and to pay for all of the shares if any are taken, or whether it is an agency or the type of "best efforts" arrangement under which the underwriters are required to take and to pay for only such shares as they may sell to the public.

**C. Markets**

1. The issuer shall disclose all stock exchanges and other regulated markets on which the shares to be offered or listed are traded.
2. When an application for admission to any exchange and/or regulated market is being or will be sought, this must be mentioned with the identity of the exchange, without creating the impression that the listing necessarily will be approved. If known, the dates on which the shares will be listed and dealt in should be given.

**D. Selling Shareholders**

The following information shall be provided:

1. The name and address of the person or entity offering to sell the shares, the nature of any position, office or other material relationship that the selling shareholder has had within the past three years with the issuer or where the issuer is the holding company of the group, the group, or any of its related parties.
2. The number and class of shares being offered by each of the selling shareholders, and the percentage of the existing and the enlarged equity capital. The amount and percentage of the securities for each particular type of securities beneficially held by the selling shareholder as of the latest practicable date and immediately after the offering shall be specified.

**E. Dilution**

The following information shall be provided:

1. Where there is a substantial disparity between the public offering price and the effective cash cost to directors or senior management, major shareholders or their associates, of equity securities acquired by them in transactions during the past three years, or which they have the right to acquire, include a comparison of the public contribution in the proposed public offering and the effective cash contributions of such persons.
2. Disclose the amount and percentage of immediate dilution resulting from the offering, computed as the difference between the offering price per share and the net book value per share for the equivalent class of security, as of the latest balance sheet date after adjusting for the effects of the offer, and any disposal or acquisition which occurred between the latest balance sheet date and the date of the prospectus, on the net asset value per share.
3. Where the information required under this Part IX.E has been prepared using certain assumptions and after making certain adjustments on a pro forma basis, state such fact.
4. In the case of a subscription offering to existing shareholders, disclose the amount and percentage of immediate dilution if they do not subscribe to the new offering.

**Part X**

**ADDITIONAL INFORMATION**

**A. Share Capital**

The following information shall be given as of the date of the most recent balance sheet included in the financial statements and as of the latest practicable date:

1. The amount of issued capital and, for each class of share capital: (a) the number of shares authorised; (b) the number of shares issued and fully paid and issued but not fully paid; (c) the par value per share, or that the shares have no par value; and (d) a reconciliation of the number of shares outstanding at the beginning and end of the year. If more than 10% of capital has been paid for with assets other than cash within the past three years, that fact should be stated.
2. If there are shares not representing capital, the number and main characteristics of such shares shall be stated.
3. Indicate, if any, the number, book value and face value of shares in the issuer held by or on behalf of the issuer itself or by subsidiaries of the issuer.
4. Where there is authorised but unissued capital or an undertaking to increase the capital, for example, in connection with warrants, convertible obligations or other outstanding equity-linked securities, or subscription rights granted, indicate: (i) the amount of outstanding equity-linked securities and of such authorised capital or capital increase and, where appropriate, the duration of the authorisation and/or undertaking; (ii) the categories of persons having preferential subscription rights for such additional portions of capital; and (iii) the terms, arrangements and procedures for the share issue corresponding to such portions.
5. The persons to whom any capital of any member of the group is under option or agreed conditionally or unconditionally to be put under option, including the title and amount of securities covered by the options; the exercise price; the purchase price, if any; the period during which the options are exercisable, and the expiration date of the options, or an appropriate negative statement. Where options have been granted or agreed to be granted to all the holders of shares or debt securities of the issuer or of any entity in the group, or of any class thereof, or to employees under an employees' share scheme, it will be sufficient so far as the names are concerned, to record that fact without giving names.
6. A history of share capital of the issuer for the period of three years prior to the latest practicable date identifying the events during such period which

have changed the amount of the issued capital and/or the number and classes of shares of which it composed, together with a description of changes in voting rights attached to the various classes of shares during that time. Details should be given of the price and terms of any issue including particulars of consideration where this was other than cash (including information regarding discounts, special terms or installment payments). If there are no such issues, an appropriate negative statement must be made. The reason for any reduction of the amount of capital and the ratio of capital reductions also shall be given.

7. An indication of the resolutions, authorisations and approvals by virtue of which any shares have been or will be created and/or issued, the nature of the issue and amount thereof and the number of shares which have been or will be created and / or issued, if predetermined.

## **B. Memorandum and Articles of Association**

The following information shall be provided:

1. Indicate the register and the entry number therein, if applicable, and describe the issuer's objects and purposes and where they can be found in the memorandum and articles.
2. With respect to directors, provide a summary of any provisions of the issuer's articles of association or charter and bylaws with respect to: (a) a director's power to vote on a proposal, arrangement or contract in which the director is interested; (b) the directors' power (if any), in the absence of and with an independent quorum, to vote on compensation (including pension or other benefits) to themselves or any members of their body; (c) borrowing powers exercisable by the directors and how such borrowing powers can be varied; (d) retirement or non-retirement of directors under an age limit requirement; and (e) number of shares, if any, required for director's qualification.
3. Describe the rights, preferences and restrictions attaching to each class of the shares, including: (a) dividend rights, including the time limit after which dividend entitlement lapses and an indication of the party in whose favor this entitlement operates; (b) voting rights, including whether directors stand for re-election at staggered intervals and the impact of that arrangement where cumulative voting is permitted or required; (c) rights to share in the issuer's profits; (d) rights to share in any surplus in the event of liquidation; (e) redemption provisions; (f) sinking fund provisions; (g) liability to further capital calls by the issuer; and (h) any provision discriminating against any existing or prospective holder of such securities as a result of such shareholder owning a substantial number of shares.

4. Describe what action is necessary to change the rights of holders of the various classes of shares, indicating where the conditions are more significant than is required by law.
5. Describe the conditions governing the manner in which annual general meetings and extraordinary general meetings of shareholders are convened, including the conditions of admission.
6. Describe any limitations on the rights to own securities, including the rights of non-resident or foreign shareholders to hold or exercise voting rights on the securities imposed by foreign law or by the charter or other constituent document of the issuer or state that there are no such limitations if that is the case.
7. Describe briefly any provision of the issuer's articles of association, charter or bylaws that would have an effect of delaying, deferring or preventing a change in control of the issuer and that would operate only with respect to a merger, acquisition or corporate restructuring involving the issuer (or any of its subsidiaries).
8. Indicate the bylaw provisions, if any, governing the ownership threshold above which shareholder ownership must be disclosed.
9. With respect to paragraphs 2 through 8 of this Part X.B, if the law applicable to the issuer in these areas is significantly different from that in any of the countries in which the shares will be offered, the effect of the law in these areas is to be explained.
10. Describe the material conditions imposed by the memorandum and articles of association governing changes in the capital.

**C. Material Contracts**

1. Provide a summary of each material contract, other than contracts entered into in the ordinary course of business, to which the issuer or any member of the group is a party, for the two years immediately preceding the date of the prospectus, including dates, parties, general nature of the contracts, terms and conditions, and amount of any consideration passing to or from the issuer or any other member of the group.

**D. Exchange Controls**

Describe any governmental laws, decrees, regulations or other legislation of the home country of the issuer that may affect–

1. the import or export of capital, including the availability of cash and cash equivalents for use by the issuer's group.

2. the remittance of dividends, interest or other payments to nonresident holders of the issuer's securities.

**E. Taxation**

1. The issuer shall provide information regarding taxes (including withholding provisions) to which shareholders may be subject. Information should be included as to whether the issuer assumes responsibility for the withholding of tax at the source and regarding applicable provisions of any reciprocal tax treaties, or a statement, if applicable, that there are no such treaties.

**F. Dividends and Paying Agents**

1. Disclose any dividend restrictions, the date on which the entitlement to dividends arises, if known, and any procedures for shareholders to claim dividends. Identify the financial organisations which, at the time of admission of shares to official listing, are the paying agents of the issuer in the countries where admission has taken place or is expected to take place.

**G. Statement by Experts**

1. If the prospectus indicates that a statement or report included in it can be attributed to an expert, disclose the expert's name, business address and qualifications. Indicate:
  - (a) that the statement or report, in the form and context in which it is included, has been included with the consent of that expert, who has authorised the contents of that portion of the prospectus;
  - (b) the date on which the statement or report was made; and
  - (c) whether or not the statement or report was prepared by the expert for the purpose of incorporation in the prospectus.

**H. Sign offs or consents from persons advising the issuer in the preparation of the prospectus**

1. Where a person is –
  - (a) named in the prospectus and is required to provide his written consent to be so named in the prospectus by the law of the jurisdiction in which the offer is made; or

- (b) is required to provide his written consent to the issue of the prospectus by the law of the jurisdiction in which the offer is made,

include a statement that the person has given, and has not withdrawn, his written consent to being named in the prospectus or to the issue of the prospectus as the case may be.

## **I. Documents for Public Inspection**

1. The issuer shall provide an indication of where the documents (or copies thereof) concerning the issuer which are referred to in the prospectus may be inspected. Exhibits and documents on display generally should be translated into English, or a summary in English should be provided. These documents, which shall be made available for public inspection for a period of at least one year from the [effective/registration] date of the prospectus, include:

- (a) the constituent documents of the issuer;
- (b) every material contract referred to in the prospectus or, where the contract is not reduced into writing, a memorandum giving full particulars thereof;
- (c) the directors' service contracts referred to in the prospectus;
- (d) every report, memorandum, letter, valuation, statement or other document by any expert any part of which is included or referred to in the prospectus;
- (e) the audited financial statements of the issuer for each of the financial years for which audited financial statements of the issuer have been included in the prospectus;
- (f) if the issuer is the holding company of a group, the respective audited financial statements of the entities or businesses in the group (being entities or businesses which have audited financial statements) for each of the financial years for which audited financial statements of the issuer have been included in the prospectus;
- (g) if the issuer is the holding company of a pro forma group and pro forma financial statements have been included in the prospectus, the respective audited financial statements of the entities or businesses in the pro forma group (being entities or businesses which have audited financial statements), other than the entities or businesses referred to in sub-paragraph (f), for the financial year in respect of which pro forma financial statements have been included in the prospectus; and

- (h) any interim financial statements of the issuer, group or pro forma group, as the case may be, which are included in the prospectus.

**Others**

1. On the front cover of the prospectus, provide:
  - (a) the [effective/registration] date of the [prospectus/ registration statement] or the date of lodgment of the supplementary [prospectus/registration statement] or replacement [prospectus/registration statement];
  - (b) the statement: -This document is important. If you are in any doubt as to the action you should take, you should consult your legal, financial, tax, or other professional adviserll;
  - (c) the statement: -A copy of this [prospectus/registration statement] has been registered by the [*insert name of the relevant regulator*]. The [effectiveness of this registration statement/registration of this prospectus] neither represent that [*insert name of the relevant regulator*] have suggested investment in the offered securities; nor contain any assurance in relation to the value or returns on the offered securities; nor shall certify the accuracy and completeness of information contained in the [prospectus/registration statement]. Registration of the [prospectus/registration statement] by the [*insert name of the relevant regulator*] does not imply that the legal or regulatory requirements have been complied with. The [*insert name of the relevant regulator*] has not, in any way, considered the merits of the shares, as the case may be, being offered for investmentll;
  - (d) a statement that no shares shall be allotted or allocated on the basis of the [prospectus/registration statement] later than [*insert relevant number of months as stipulated under the relevant regulations*] months after the [effective/registration] date of the [prospectus/registration statement].
2. Disclose all approvals and conditions imposed by relevant authorities in respect of the offering or listing of the shares to which the prospectus relates.

## APPENDIX

## Definitions of Terms Used in the ASEAN Equity Disclosure Standards

Terms	Definition
<b>associate</b>	<p>This term, in relation to –</p> <ul style="list-style-type: none"> <li>(a) an individual, means a close family member, and an entity which is controlled, directly or indirectly, by the individual;</li> <li>(b) an entity, its significant person or an entity which is controlled, directly or indirectly, by the significant person of such entity.</li> </ul>
<b>associated company</b>	<p>This term, in relation to an issuer, means –</p> <ul style="list-style-type: none"> <li>(a) any corporation, other than a subsidiary of the issuer, in which the issuer and/or one or more of its subsidiaries has or have a direct interest of not less than 20% but not more than 50% of the voting shares of the corporation; or</li> <li>(b) any corporation, other than a subsidiary or an associated company by virtue of paragraph (a), the policies of which the issuer and/or one or more of its subsidiaries is or are able to control or influence materially.</li> </ul>
<b>close family member</b>	<p>This term, in relation to an individual, means the individual's spouse, parent, child, sibling, spouse of his child and spouse of his sibling.</p>
<b>common control</b>	<p>Two or more entities or businesses are under common control if they are ultimately controlled by the same party or parties and the control is not transitory. A party is or a group of parties shall be regarded as controlling an entity or business when the party or group of parties, as a result of contractual arrangements, has or collectively have the power to govern its financial and operating policies so as to obtain benefits from its activities.</p>
<b>directors</b>	<p>This term, in relation to a corporation, includes–</p> <ul style="list-style-type: none"> <li>(a) a member of the corporation's board of directors, board of commissioners or equivalent governing body by whatever name called;</li> <li>(b) a person in accordance with whose directions or instructions the members of the corporation's board of directors, board of commissioners or equivalent governing body (by whatever name called) is accustomed to act; and</li> </ul>

	(c) an alternate or substitute member of the corporation's board of directors, board of commissioners or equivalent governing body by whatever name called.
<b>major shareholder</b>	This term, in relation to a corporation, means a person who has an interest in or control over 5% or more of the voting shares of the corporation.
<b>related party</b>	This term, in relation to an issuer, includes– <ul style="list-style-type: none"> <li>(a) an enterprise that directly or indirectly, controls, or is under common control with, the issuer;</li> <li>(b) a significant person of the issuer;</li> <li>(c) a director or a member of the senior management of, the issuer;</li> <li>(d) a close family member of an individual referred to in (b) or (c); or</li> <li>(e) an enterprise which is controlled, directly or indirectly, by an individual referred to in (b), (c) or (d).</li> </ul>
<b>senior management</b>	This term: <ul style="list-style-type: none"> <li>(a) in relation to a corporation, means all the individuals (including directors of the corporation) who are employed in an executive capacity by the corporation and who each – <ul style="list-style-type: none"> <li>(i) makes or participates in making decisions that affect the whole or a substantial part of the business of the corporation; or</li> <li>(ii) has the capacity to make decisions which affect significantly the corporation's financial standing; and</li> </ul> </li> <li>(b) in relation to a group of corporations, means all the individuals (including directors of the corporations in the group) who are employed in an executive capacity by any of the corporations in the group and who each – <ul style="list-style-type: none"> <li>(i) makes or participates in making decisions that affect the whole or a substantial part of the business of the group; or</li> <li>(ii) has the capacity to make decisions which affect significantly the group's financial standing.</li> </ul> </li> </ul>

<b>significant person</b>	This term, in relation to a corporation, means a person –  (a) who has an interest in or control over 10% or more of the voting shares of the corporation; or  (b) who is in a position to control the composition of the majority of the board of directors of the corporation; or  (c) who, directly or indirectly, has the ability to control the management and/or the policies of the corporation.
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## **DIVISION 2**

# **CORPORATE BONDS AND SUKUK**

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## **Chapter 1**

### **GENERAL**

- 1.01 This division shall apply to a prospectus prepared in relation to the offer of corporate bonds or sukuk except for Plain Debt Securities under an ACMF initiative.
- 1.02 If the issuer is a special purpose vehicle (SPV), the requirements on an issuer stated in this division shall also apply, where applicable, to the obligor.
- 1.03 The information to be disclosed in the prospectus must be up-to-date not more than six weeks prior to the issue of the prospectus, except for, where applicable, the requirements as set out in Chapter 10 Reports by the Reporting Accountants of Division 1 of Part II.
- 1.04 Issuer and any other relevant persons responsible for preparing the prospectus must strictly observe any significant change or new matter arising that will affect the content of the prospectus and to update it via a supplementary prospectus or replacement prospectus as necessary.
- 1.05 Subject to paragraph 1.06, a prospectus is valid for a period of 12 months from the date of registration of the prospectus.
- 1.06 In the case of a debt or sukuk programme, a prospectus may be issued:
- (a) in a single document, which is valid for a period of 12 months from the date of registration of the prospectus; or
  - (b) by way of a base prospectus supported by pricing supplement, which is valid for a period of 24 months from the date of registration of the prospectus.
- 1.07 A base prospectus and its supporting pricing supplement must both comply with these guidelines. The base prospectus must contain information relating to the issuer and the pricing supplement must contain information concerning the specific issue of each tranche under the debt or sukuk programme. The base prospectus and pricing supplement must each contain a statement that it should be read in conjunction with the other.
- 1.08 A base prospectus may only be issued where the terms and conditions for every issuance under a debt or sukuk programme remain unchanged except in relation to the following terms and condition:
- (a) Issue size;
  - (b) Price/yield to maturity;
  - (c) Tenure;

- (d) Coupon/profit/rental rate and payment period;
- (e) Listing status of the corporate bonds or sukuk;
- (f) Selling restrictions;
- (g) Rating;
- (h) Lead manager; and
- (i) Shariah adviser.

1.09 For the purposes of this division:

“Corporate bonds or sukuk” refers to corporate bonds or sukuk, as the case may be;

“Debt or sukuk programme” has the meaning assigned to it in the *Guidelines on Issuance of Corporate Bonds and Sukuk to Retail Investors*, as the case may be;

“Obligor” has the meaning assigned to it in the *Guidelines on Issuance of Corporate Bonds and Sukuk to Retail Investors*;

“Pricing supplement” refers to the pricing supplement under paragraph 12.08 of Part C of the *Guidelines on Issuance of Corporate Bonds and Sukuk to Retail Investors*; and

“Significant subsidiary” means a subsidiary which accounts for 10% or more of the total amount of the net assets, net liabilities, or profit or loss before tax, of the group during any of the past three financial years.

## **Chapter 2**

### **COVER PAGE**

2.01 The cover page must contain the following information and statements:

- (a) Particulars about the issuer, including full name, registration number, place of incorporation and statute under which it was incorporated;
- (b) The date of the prospectus;
- (c) Salient features of the corporate bonds or sukuk offered, including type, tenure, nominal amount, coupon/profit/rental, offer price, the Shariah principles applied, and in the case of loan stocks/Islamic loan stocks<sup>1</sup>, the number of loan stocks/Islamic loan stocks offered;
- (d) Whether the corporate bonds or sukuk will be listed on the stock exchange, issued over-the-counter or both and the manner in which the corporate bonds or sukuk are offered to investors;
- (e) The name of the principal adviser, lead arranger and underwriter;
- (f) The following statements to appear in bold:

**“INVESTORS ARE ADVISED TO READ AND UNDERSTAND THE CONTENTS OF THE PROSPECTUS. IF IN DOUBT, PLEASE CONSULT A PROFESSIONAL ADVISER.**

**THERE ARE CERTAIN RISK FACTORS WHICH PROSPECTIVE INVESTORS SHOULD CONSIDER. TURN TO PAGE [ ] FOR “RISK FACTORS”;**

- (g) For corporate bonds or sukuk that are non-transferable and non-tradable, the following statement is to be included and highlighted in bold:

**INVESTORS ARE ADVISED TO NOTE THAT THIS CORPORATE BOND OR SUKUK IS NON-TRANSFERABLE AND NON-TRADABLE.**

2.02 In relation to the offer of corporate bonds or sukuk under a debt or sukuk programme where a base prospectus is issued, the information and statement under paragraphs 2.01(c), (d) and (g) need not be included in the base prospectus but must be incorporated in the pricing supplement.

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<sup>1</sup> These are loan stocks structured in a Shariah-compliant manner based on any permissible Shariah principles and have been named appropriately.

### **Chapter 3**

#### **INSIDE COVER/FIRST PAGE**

3.01 The prospectus must contain the following statements on the inside cover or at the very least, on page 1:

##### **Responsibility statements**

- (a) “The directors of the issuer have seen and approved this prospectus. They collectively and individually accept full responsibility for the accuracy of the information. Having made all reasonable enquiries, and to the best of their knowledge and belief, they confirm there is no false or misleading statement or other facts which if omitted, would make any statement in the prospectus false or misleading.”;
- (b) “[Name of principal adviser/lead arranger], being the Principal Adviser/Lead Arranger, acknowledges that, based on all available information, and to the best of its knowledge and belief, this prospectus constitutes a full and true disclosure of all material facts concerning the offering.”;
- (c) Where future financial information is provided:  
  
“The directors of the issuer confirm that the bases and assumptions relied on in the preparation of the future financial information are reasonable.”  
  
“[Name of principal adviser/lead arranger], being the Principal Adviser/Lead Arranger, is satisfied that bases and assumptions relied on in the preparation of the future financial information are reasonable.”;

##### **Statements of disclaimer**

- (a) “The Securities Commission Malaysia has approved the [to state the offering approved by the SC]. This prospectus has been registered with the Securities Commission Malaysia. The approval, and registration of this prospectus, 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 prospectus. The Securities Commission Malaysia has not, in any way, considered the merits of the corporate bonds or sukuk being offered for investment.”;
- (b) “The Securities Commission Malaysia is not liable for any non-disclosure on the part of the company and takes no responsibility for the contents of this document, makes no representation as to its accuracy or completeness, and expressly disclaims any liability for any loss you may suffer arising from or in reliance upon the whole or any part of the contents of this prospectus.”;

- (c) Where applicable:

“The valuation utilised for the purpose of the corporate exercise should not be construed as an endorsement by the Securities Commission Malaysia on the value of the subject assets.”;
- (d) Where the corporate bonds or sukuk offered are to be listed and quoted on Bursa Securities:

“Admission to the Official List of Bursa Malaysia Securities Bhd is not to be taken as an indication of the merits of the offering, issuer, or its corporate bonds or sukuk.”;
- (e) “This prospectus, together with the application form, has also been lodged with the Registrar of Companies who takes no responsibility for its contents.”;

**Additional statements**

- (a) “Investors should note that they may seek recourse under sections 248, 249 and 357 of the *Capital Markets and Services Act 2007* for breaches of securities laws, including any statement in the prospectus that is false, misleading, or from which there is a material omission; or for any misleading or deceptive act in relation to the prospectus or the conduct of any other person in relation to the corporation.”;
- (b) “Corporate bonds or sukuk are offered to the public on the premise of full and accurate disclosure of all material information concerning the offering, for which any person set out in section 236 of the *Capital Markets and Services Act 2007*, is responsible.”; and
- (c) A statement that no corporate bonds or sukuk will be issued on the basis of–
  - (i) a prospectus, later than 12 months after the date of issue of the prospectus; or
  - (ii) a base prospectus, later than 24 months after the date of issue of the base prospectus.

3.02 In addition to the statements required under paragraph 3.01 above, where the corporate bonds or sukuk are proposed to be listed and quoted on a stock exchange, the prospectus must contain the following statements:

- (a) A statement that the approval for the listing and quotation of the corporate bonds or sukuk on the stock exchange has been granted; or
- (b) Where such approval has not been granted, the following statements:

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- (i) that an application has been or will be made for the corporate bonds or sukuk offered to be listed and quoted on the official list of a stock exchange;
- (ii) any allotment made on an application to subscribe for corporate bonds or sukuk under the prospectus would be void if–
  - A. the application to list and quote has not been made within three market days from the date of issue of the prospectus; or
  - B. the permission for the application to list and quote is not granted within six weeks from the date of issue of the prospectus (or such longer period as may be specified by the SC); and
- (iii) the issuer will repay without interest all monies received from the applicants if such application was not made or if the stock exchange refuses to grant permission.

## **Chapter 4**

### **TIMETABLE AND CORPORATE DIRECTORY**

#### **Indicative timetable**

- 4.01 Disclose the timetable, including the following critical dates:
- (a) Opening and closing dates of the offering; and
  - (b) Dates of any special event, for example, date for balloting, allotment and listing.
- 4.02 Disclose whether the directors reserve the right to extend the closing date of the offering.
- 4.03 Disclose the method of informing the public if the closing date is extended.

#### **Corporate directory**

- 4.04 The directory must contain the following details:
- (a) Addresses and telephone numbers of the company's registered office, head/management office and the e-mail and website addresses;
  - (b) Name, address and membership number of the company secretary;
  - (c) Names, addresses and telephone numbers of the following parties, where applicable:
    - (i) Principal adviser;
    - (ii) Lead arranger;
    - (iii) Facility agent;
    - (iii) Paying agent;
    - (iv) Solicitors;
    - (v) Credit rating agency;
    - (vi) Bond/sukuk trustee;
    - (vii) Guarantor;
    - (ix) Underwriter;
    - (x) Shariah adviser;
    - (xi) Any other expert whose prepared reports or excerpts or summaries are included or referred to in the prospectus; and
    - (xii) Any other person connected to the offer.

## Chapter 5

### INFORMATION ON THE CORPORATE BONDS OR SUKUK

- 5.01 The prospectus must include the Principal Terms and Conditions of the Proposal, set out in Part 2 of Appendix 1 of the *Guidelines on Issuance of Corporate Bonds and Sukuk to Retail Investors*.
- 5.02 The prospectus must also include a summary of the credit rating report relevant to the corporate bonds or sukuk, published by a credit rating agency.
- 5.03 In addition, the prospectus must disclose information on the relevant tax provisions, including whether the issuer will be responsible for the withholding of tax on any payments made on the corporate bonds or sukuk.
- 5.04 The prospectus must disclose a reasonably itemised statement of the major categories of expenses incurred in connection with the issuance or offering of the corporate bonds or sukuk. If the amounts of any items are not known, estimated expenses (identified as such) must be given. The prospectus must also disclose if parties other than the issuer are paying the expenses.
- 5.05 If the corporate bonds or sukuk are convertible/exchangeable into shares that are listed on a stock exchange or are issued with warrants, whether or not detachable, the following detailed information, where applicable, must be made available:
- (a) Mode of conversion/exchange;
  - (b) Conversion/exchange period;
  - (c) Conversion/exchange ratio;
  - (d) Conversion/exchange price;
  - (e) Number of warrants;
  - (f) Price of warrants;
  - (g) Rights attached to warrants;
  - (h) Warrant exercise period;
  - (i) Warrant exercise price;
  - (j) The effects of the issuance and the conversion on, inter alia, the earnings per share and net tangible assets/net assets per share of the company;
  - (k) Details of the proposed utilisation of proceeds from the issuance and conversion;
  - (l) Detailed description on the adjustment of the conversion price in light of any changes to the issuer's share capital and to provide illustrations for each possible circumstance; and
  - (m) Any other relevant information which a potential investor will require on the issuance of the convertible/exchangeable corporate bonds or sukuk.

- 5.06 In relation to paragraph 5.05 above, where the underlying shares are already listed on a stock exchange, the following information relating to the shares must also be disclosed:
- (a) Information on the highest and lowest market prices for the three most recent full financial years and monthly for the most recent six months;
  - (b) If there is any significant trading suspensions occurred in any of the preceding three years; and
  - (c) Where the underlying shares are not regularly traded on a stock exchange, information must be given about any lack of liquidity.
- 5.07 In relation to Sustainable and Responsible Investment (SRI) sukuk, the prospectus must include a statement to inform the investors that further information relating to the issuer's SRI sukuk framework is provided on a designated website as required under paragraphs 20.05 and 20.16 of the *Guidelines on Issuance of Corporate Bonds and Sukuk to Retail Investors*.

## **Chapter 6**

### **RISK FACTORS**

- 6.01 The prospectus must contain information about risk factors which are specific to the issuer/group and its industry, and the corporate bonds or sukuk being offered, including the extent of credit risks.
- 6.02 Disclaimers on the risk factors should not undermine the risk disclosures which will render the risk disclosures of little or no beneficial use to investors.

## **Chapter 7**

### **INFORMATION ABOUT ISSUER/SUBSTANTIAL SHAREHOLDERS/ DIRECTORS/KEY MANAGEMENT PERSONNEL/GUARANTOR**

7.01 The following information must be provided in the prospectus:

- (a) Information about the background and business activities of the issuer, its significant subsidiaries and associated corporations, and an overview of the industry in which they operate;
- (b) A list of subsidiary and associated corporations, the percentage interest held and a diagrammatic illustration of the group;
- (c) Information on the issuer's substantial shareholders:
  - (i) Name and background information;
  - (ii) Nationality or country of incorporation; and
  - (iii) Direct and indirect shareholding in the issuer, and to state the ultimate beneficial ownership of shares held under nominee or corporation or trustee arrangements.
- (d) Information on the issuer's directors and chief executive:
  - (i) Name, age, address, profession, qualification and profile, including business and management experience;
  - (ii) Designation or functions, including executive or non-executive and independent/non-independent;
  - (iii) Representation of corporate shareholders, where applicable;
  - (iv) Direct and indirect shareholding in the issuer;
  - (v) Other principal directorships at present and in the last three years; and
  - (vi) Involvement in the issuer's Audit Committee as chairman or member.
- (e) Information on the issuer's key management and key technical personnel:
  - (i) Name, age and qualification and profile, including business, management or technical experience;
  - (ii) Designation or functions; and
  - (iii) Direct and indirect shareholding in the issuer.
- (f) Information on all the issuer's current, pending or threatened material litigation or arbitration proceedings and contingent liabilities, including assessment and disclosure of specific impact on financial performance and position upon becoming enforceable; and

- (g) Where a guarantor is other than a financial institution, Danajamin Nasional Bhd or the Credit Guarantee and Investment Facility, information on the guarantor:
  - (i) Business overview;
  - (ii) Financial information as set out under paragraph 8.02 below for the past three financial years and where applicable, the latest financial period;
  - (iii) Capitalisation and indebtedness statement as set out under paragraph 8.03; and
  - (iv) Main features and terms of guarantees provided on the corporate bonds or sukuk offered.

## **Chapter 8**

### **FINANCIAL INFORMATION**

8.01 This chapter sets out the minimum financial information that an issuer must include in a prospectus. All financial statements must be prepared in ringgit Malaysia.

8.02 The issuer must disclose a table of the issuer's financial statement and the group's financial statement, where the issuer is a holding company, for the past three financial years or such shorter period that the issuer/group has been in operation, and where applicable the latest financial period.

Such information must be extracted from the issuer/group's audited financial statements and must include the following:

- (a) Revenue;
- (b) Gross profit and gross profit margin;
- (c) Earnings before interest, taxation, depreciation and amortisation (EBITDA);
- (d) Other income;
- (e) Finance costs;
- (f) Share of profits and losses of associates and joint ventures;
- (g) Profit or loss before tax and profit/loss before tax margin;
- (h) Tax expense;
- (i) Profit/loss for the year and profit/loss margin;
- (j) Profit/loss attributable to minority interest and equity holders of the parent;
- (k) Basic and diluted earnings per share;
- (l) Issued and paid-up share capital;
- (m) Retained profits or accumulated losses;
- (n) Shareholders' funds; and
- (o) Key financial ratios, including gearing, liquidity, and receivables and payables turnover.

In relation to the key financial ratios, the prospectus must state the formula used to compute the key financial ratios.

8.03 Provide a statement of capitalisation and indebtedness (distinguishing between guaranteed and unguaranteed, and secured and unsecured, indebtedness) as at the latest financial period and disclose any subsequent significant changes in the capitalisation and indebtedness. Indebtedness also includes indirect and contingent liabilities.

8.04 If the date of the prospectus issuance is later than six months after the end of the last financial year, interim audited financial statements must be provided in the same format as the audited financial statements provided under paragraph 8.02 above.

- 8.05 The prospectus must also disclose the following information:
- (a) A statement of total outstanding borrowings/financings, classified into long term and short term, interest-bearing and non-interest bearing; and for all foreign borrowings or financings, to be separately identified with the corresponding foreign currencies amount.  
  
If a material deficiency is identified in the issuer's ability to meet its cash obligations, disclose the course of action that the issuer has taken or proposes to take to remedy the deficiency. Include a statement whether there has been any default on payments of either interest or profits and/or principal sums for any borrowing or financing throughout the past one financial year and the subsequent financial period; and
  - (b) If the issuer or any other entity in the group is in breach of terms and conditions or covenants associated with credit arrangement or bank loan/financing which can materially affect the issuer's financial position and results or business operations, or the investments by holders of corporate bonds or sukuk of the issuer, provide details of the credit arrangement or bank loan or financing and any actions taken or to be taken by the issuer or other entity in the group to rectify the situation, including status of any restructuring negotiations or agreement, if applicable.
- 8.06 Pro forma financial information is required if the corporate bonds or sukuk offered causes or has a material effect on the issuer or group's assets, liabilities or earnings.
- 8.07 Where pro forma financial information, or future financial information are provided in the prospectus, the relevant sections pertaining to **Pro forma financial information** and **Future financial information** in Chapter 9 Financial Information, and Chapter 10 Reports by the Reporting Accountants of Division 1 of Part II shall apply.

## **Chapter 9**

### **RELATED-PARTY TRANSACTIONS/CONFLICT OF INTEREST**

- 9.01 The following information must be disclosed for the three most recent financial years, and the latest financial period, where applicable, immediately preceding the date of the prospectus:
- (a) The nature and extent of any related-party transaction or presently proposed related-party transactions that are material to the issuer and its related party, or any transaction that is unusual in nature or conditions to which the issuer or any of its parent or subsidiaries was a party; and
  - (b) The amount of outstanding loans (including guarantees of any kind) made by the issuer or any of its parent or subsidiaries to or for the benefit of the related party. The information given must be classified into long term and short term.
- 9.02 The issuer must disclose, for each transaction mentioned above, whether it was carried out on an arm's length basis and the procedure undertaken or which will be undertaken to ensure that such a transaction will be carried out on an arm's length basis.
- 9.03 A prospectus must include a declaration of any expert's existing and potential interests/conflicts of interest in an advisory capacity (if any) vis-à-vis the issuer/group. If a conflict of interest exists, full disclosure of the nature of the conflict and the steps taken to address such conflicts must be provided.

## **Chapter 10**

### **RIGHTS OF HOLDERS OF CORPORATE BONDS OR SUKUK**

- 10.01 There must be a summary of rights conferred upon the holders of corporate bonds or sukuk, including any provisions relating to how the terms or their rights may be modified.
- 10.02 There must be details on the requirements for convening, attending or voting at a meeting of holders of corporate bonds or sukuk, if such a meeting can be held. Disclose the conditions governing the manner in which such a meeting would be convened, the quorum requirement, the admittance to the meeting and the minimum number of votes required to adopt certain types of resolutions.
- 10.03 The prospectus must also disclose the recourse available to the holders of corporate bonds or sukuk in an event of default, termination or failure to make a payment (which may not constitute an event of default).

## **Chapter 11**

### **INFORMATION RELATING TO BOND OR SUKUK TRUSTEE AND TRUST DEED**

11.01 The prospectus must provide the following information:

- (a) In relation to the bond or sukuk trustee:
  - (i) Any requirements before the bond or sukuk trustee can act on behalf of the holders of corporate bonds or sukuk, such as a requirement that the holders of a certain percentage of the corporate bonds or sukuk have instructed the bond or sukuk trustee to take action; and
  - (ii) Whether the bond or sukuk trustee requires indemnification before proceeding to enforce a lien against the issuer's property or before taking any other action at the request of the holders of corporate bonds or sukuk.
- (b) In relation to the trust deed:
  - (i) The main terms of the trust deed; and
  - (ii) Whether the issuer is required to make periodic disclosure to provide any early indication of any deterioration in the issuer's financial condition such as periodic disclosure of evidence that the issuer is not in default or that it is in full compliance with the terms of that contract.

## Chapter 12

### EXPERT'S REPORTS

- 12.01 Where an expert's report is included in the prospectus, it must be signed and dated.
- 12.02 Where valuations of property assets have been carried out for inclusion in a prospectus, a summary of the valuation in the form of a valuation certificate that complies with the *Asset Valuation Guidelines* must be included in the prospectus.
- 12.03 Where the offering involves sukuk, the Shariah pronouncement including detailed Shariah reasoning or justification from the Shariah adviser must be disclosed in the prospectus.
- 12.04 Where the offering involves SRI sukuk, a summary of the external reviewer's report as required under the *Guidelines on Issuance of Corporate Bonds and Sukuk to Retail Investors* must be included in the prospectus, together with a link to a website where investors may have free access to the full report.

#### **Guidance to paragraph 12.01 – Expert's report**

1. The expert's report should be signed and dated within a reasonable time, which generally should not be earlier than the latest practicable date.

## **Chapter 13**

### **DOCUMENTS AVAILABLE FOR INSPECTION**

- 13.01 A prospectus must provide a statement informing the investors that for a period of at least 12 months from the date of issue of the prospectus, the investor may inspect the following documents (or copies thereof), at a specified place in Malaysia:
- (a) The constituent document of the issuer;
  - (b) Any trust deed or deed poll;
  - (c) Each material contract or document referred to in the prospectus and, in the case of contracts not in writing, a memorandum which gives full particulars of the contracts;
  - (d) All reports, letters or other documents, valuations and statements by any expert, any part of which is extracted or referred to in the prospectus. Where a summary of the expert's report is included in the prospectus, the corresponding full expert's report must be made available for inspection;
  - (e) Each consent given by parties disclosed in the prospectus;
  - (f) The audited financial statements of the issuer and the group, where the issuer is a holding company, and of significant subsidiaries for the last three years (or such shorter period that the issuer/group has been in operation), preceding the date of the prospectus;
  - (g) The latest audited financial statements of the issuer and the group, where the issuer is a holding company, and key subsidiaries for the current financial period (where applicable); and
  - (h) Such information and documents as specified in Division 4 of Part VI of the CMSA, may be inspected by relevant persons.

## **Chapter 14**

### **APPLICATION FOR CORPORATE BONDS OR SUKUK**

- 14.01 Disclose the procedures for application of corporate bonds or sukuk.
- 14.02 Disclose whether directors reserve the right to extend the closing date.
- 14.03 The contents of the application form must not be contrary to any information that is in the prospectus.
- 14.04 Where applicable, the issuer must allocate all excess corporate bonds or sukuk for any subscription on a fair and equitable basis. The prospectus must state that the allocation of the excess corporate bonds or sukuk will be made on a fair and equitable manner.

## **Division 2A**

# **ASEAN DEBT SECURITIES DISCLOSURE STANDARDS**

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## ASEAN DEBT SECURITIES DISCLOSURE STANDARDS

### INTRODUCTION

ASEAN Debt Securities Disclosure Standards shall be applied to Plain Debt Securities as defined below:

#### **Definition of Plain Debt Securities:**

Plain Debt Securities shall mean bonds or sukuk *ijarah*, which have the following characteristics:

1. Denominated in any currency;
2. Fixed term with principal and any accrued interest or returns payable at expiry;
3. Fixed rate of return or floating rate of return that comprises a variable market determined rate and fixed margin;
4. Except for zero coupon bonds or sukuk *ijarah* without periodic distributions, interests or returns are to be paid periodically on dates specified in the prospectus/registration statement;
5. Ranked at least equally with amounts owing to unsecured and unsubordinated creditors;
6. Not convertible;
7. Issued to all investors at the same price; and
8. Except for a purchase undertaking in the case of a sukuk *ijarah*, does not embed any swap, option or other derivative.

For the purposes of the above definition of “Plain Debt Securities”, the term “sukuk *ijarah*” shall mean a certificate that is issued under the Shariah principles of *ijarah* (leasing) and meets the following requirements:

1. Proceeds from the issue are used for Shariah-compliant activities only;
2. A Shariah Adviser has been appointed to ensure that the transaction structure is Shariah-compliant throughout its tenure;
3. A Shariah Adviser has provided a detailed Shariah Pronouncement that the transaction structure is Shariah-compliant;
4. The underlying asset to the *ijarah* (lease) agreement meets the following requirements:
  - (a) It is a Shariah-compliant tangible asset;
  - (b) Where it is an encumbered asset, consent from the chargees has been obtained for the sale of the asset;
  - (c) Where it is a jointly-owned asset, consent from the joint owners has been obtained for the sale of the asset; and
  - (d) The asset is used for Shariah-compliant activities only;

5. The lessor shall assume responsibility for maintaining the asset. (For the avoidance of doubt, the lessor can assign the responsibility to the lessee as service agent at the lessor's cost);
6. The maintenance of the asset shall be determined as agreed by both parties as stated in the terms and conditions of the *ijarah* agreement;
7. The lessor shall have ownership over the asset prior to the execution of the *ijarah* agreement;
8. The lessee shall provide a purchase undertaking to the lessor to purchase the asset at a pre-agreed price, which must be equal to the principal sum of the certificate and any accrued but unpaid returns;
9. The terms of the *ijarah* agreement shall provide that at the expiry of the agreement or the occurrence of a dissolution event under the terms of the certificate (event of default), the purchase undertaking must be enforced;
10. The lease payments, whether fixed or variable, and the lease period are determined upfront; and
11. The periodic payments (returns) must be derived from the lease rentals from the lessee, while the source of the principal payment must be derived from the enforcement of the purchase undertaking; and
12. Late payment charges (*ta'widh*) may only be imposed with the agreement of the Shariah Adviser.

**Part I**

**IDENTITY OF DIRECTORS, SENIOR MANAGEMENT, ADVISERS, AGENTS AND OTHER INDEPENDENT THIRD PARTIES**

**A. Directors and Senior Management**

Provide the names, nationality, addresses and functions of the issuer's directors and senior management.

**B. Advisers and other parties**

Provide the names and addresses of –

1. the issuer's principal bankers to the extent the issuer has a continuing relationship with such entities;
2. the sponsor for listing or the issue manager to the offer;
3. the underwriter to the offer;
4. the legal advisers to the offer;
5. the arranger of the offer; and
6. other parties who are responsible for the disclosure contained in the prospectus/registration statement (if any).

**C. Auditors**

Provide the names, addresses and professional qualifications (including any membership in a professional body) of the issuer's auditors for the preceding two completed financial years.

**D. Shariah Advisers (for a sukuk *ljarah* issue)**

Provide the names, addresses and qualifications of the Shariah advisers.

**E. Corporate Secretary**

Provide the name, professional qualifications and address of the secretary of the issuer (if any).

**F. Registrars and Agents**

Provide the names, addresses and professional qualifications (including any membership in a professional body) of the issuer's share registrar, transfer agents, receiving bankers for the application monies and any other persons connected with the public offering.

**Part II**

**DESCRIPTION OF THE PLAIN DEBT SECURITIES**

**A. Economic Terms of the Plain Debt Securities**

1. Provide information about the terms of the Plain Debt Securities that will be offered, such as the interest/profit/rental rate and any other payments (e.g., premium) that will be paid on the Plain Debt Securities, the maturity date, and provisions relating to redemption, amortization, and retirement of the Plain Debt Securities.
2. Indicate whether the Plain Debt Securities are registered or bearer securities, the total nominal amount of the Plain Debt Securities as well as the individual face value of each type of Plain Debt Securities offered or listed.
3. Provide information about the form of the Plain Debt Securities, such as whether investors can obtain physical certificates or whether their interests will be recorded via a book-entry system.
4. Indicate the total nominal amount, the individual face value, and the interest to be paid during the life of the Plain Debt Securities, and the dates on which such payments are due.
5. Describe any arrangements for transfer and any restrictions on the free transferability of the Plain Debt Securities.
6. Disclose the currency the Plain Debt Securities are denominated in as well as the currency in which any amounts are payable on the Plain Debt Securities. In case the payments on the Plain Debt Securities are payable in two or more currencies, indicate who has the option to determine the currency conversion, as well as the basis for that determination.
7. Where not all of the Plain Debt Securities being offered are guaranteed, provide a statement of the fact.
8. In the case of a sukuk *Ijarah* issue, disclose the Shariah principles adopted, together with a description of the transaction accompanied by a diagram describing the transaction structure and the underlying assets of the transaction.

**B. Covenants Relating to the Issuance of the Plain Debt Securities**

1. Provide information of the covenants that are aimed at protecting the Plain Debt Securities holders, which can require the issuer to take certain actions or to refrain from taking certain actions.  
Examples of covenants include:
  - (a) prohibition on the payment of dividends if certain conditions are met to prevent depletion of the issuer's funds that are available to pay the Plain Debt Securities holders
  - (b) provision that requires the issuer to maintain certain financial ratios

- (c) provision that restricts the issuer from creating additional debt under certain conditions
  - (d) provision that restricts the issuer and/or the obligor from creating a lien on its assets or that of its subsidiaries so that other creditors obtain a senior position to the Plain Debt Securities holder covered by the prospectus/registration statement
  - (e) prohibition on the issuance of other types of securities under certain circumstances to prevent the issuer from taking too many payment obligations
  - (f) covenant concerning subsequent issues of other forms or series of debentures or sukuk.
  - (g) covenant concerning any right to create additional charges over any of the assets.
2. For secured Plain Debt Securities, other covenants may include:
- (a) provision that requires the maintenance of properties.
  - (b) provision that permits or restricts the withdrawal of cash that has been deposited as a basis for the issuance of additional securities.
  - (c) provision regarding the release or substitution of assets securing the issue.

### **C. GUARANTEES**

Provide information about the guarantors and the main features and terms of guarantees. The information shall cover at least:

1. names, addresses and occupations of each director or equivalent person and key executive
2. business overview and main functions
3. the financial information
4. capitalisation and indebtedness statement
5. risk factors
6. information regarding liquidity and capital resources
7. names, addresses and professional qualifications of auditors for the preceding two years.
8. replacement of guarantor (if any).
9. rating (if any).

### **D. Liens**

In case of issuing secured Plain Debt Securities, disclose the kind and priority of any lien securing the issue, as well as the principal properties or assets subject to the lien, including:

1. In the form of a summary by the auditors or other professionals e.g. independent financial advisers, the aggregate value of the tangible assets which have been

charged to secure the repayment of all or any moneys payable in respect of the secured Plain Debt Securities. Where any of the assets have been charged to secure the repayment of other liabilities, the aggregate amount of such other liabilities. If the charge is for a liability which may vary, state the actual amount of the liability as at the date on which the summary is made and any further amount which may be advanced under that charge.

2. Where any of the tangible assets referred to above are in the form of property, provide information on report of valuation of interest of the issuer and each of their guarantors in each property. Such report should be made by an independent qualified valuer and dated not more than six months before date of lodgement of prospectus/registration statement.

**E. Subordination and limitation of rights**

Where the ability of the Plain Debt Securities holders to enforce their rights as creditors of the issuer depends on whether other security holders or creditors have claims that would be viewed as senior, as having priority, or otherwise limiting the rights of the Plain Debt Securities holders to any payments on the Plain Debt Securities:

1. Provide information about the existence or possible creation of other securities and other indebtedness with seniority to the Plain Debt Securities, including, in the form of a summary report by the auditors or other professionals e.g. independent financial adviser, the amounts outstanding of the aggregate amounts borrowed by the issuer and each of its guarantors as of a date no earlier than 60 days prior to the [effective or registration] date of the prospectus/registration statement, distinguishing between those amounts outstanding which will rank for repayment in priority to the amount under the proposed issue and those amounts outstanding which will rank for repayment *pari passu* with the amount under the proposed issue.
2. Disclose any limitations on the issuance of additional senior indebtedness or indicate that there is no such limitation.
3. Indicate whether the rights evidenced by the Plain Debt Securities are or may be materially limited or qualified by the rights of any other class of securities.

**F. Default**

Include information about the general types of events that would constitute a default, as well as the remedies that would be available in the event of default.

**G. Consequences of a failure to make payments**

Disclose any consequences of a failure to make payments, which may not constitute an event of default, the consequences of such failure and the available remedies under either the terms of the Plain Debt Securities or the applicable law.

**H. Representative of Plain Debt Securities holders**

1. Disclose the party that is acting as the Plain Debt Securities holders' official representative who acts in a fiduciary capacity for the Plain Debt Securities holders, as well as the provisions applying to this representation. In addition, disclose the address of the representative, and the nature of any material relationship between the representative and the issuer or its associate, to indicate whether a conflict exists between its interest as a representative of the Plain Debt Securities holders and any other interests that it may have.
2. Disclose if there are any requirements before the representative can act on behalf of the Plain Debt Securities holders, such as a requirement that the holders of a certain percentage of the Plain Debt Securities have instructed the representative to take action. Disclose if the representative may also require indemnification before proceeding to enforce a lien against the issuer's property or before taking any other action at the request of the Plain Debt Securities holders.
3. Disclose the main terms of the contract or law governing the representation of the Plain Debt Securities holders, as well as where the investors may obtain access to the contract. Indicate whether the issuer is required to make periodic disclosure such as disclose the evidence periodically that the issuer is not in default or that it is in full compliance with the terms of that contract to provide any early indication of any deterioration in the issuer's financial condition.

**I. Meeting of Plain Debt Securities holders**

1. Disclose details relating to the requirements for convening, attending or voting at a meeting of Plain Debt Securities holders, if such a meeting can be held.
2. Disclose the conditions governing the manner in which such a meeting would be convened, such as quorum requirements, the conditions for being admitted to the meeting and the minimum number of votes required to adopt certain types of resolutions.

**J. Modification of Terms**

Disclose any provisions relating to how the terms of the Plain Debt Securities or rights of the Plain Debt Securities holders may be modified.

**K. Paying Agent**

Identify name and address of issuer's appointed entity who is responsible for making payments on the Plain Debt Securities, and whom they can contact to collect any payments due.

**L. Credit Rating**

Provide information about the credit rating that has been assigned to the issuer or the Plain Debt Securities at the request or with the cooperation of the issuer, including name of the credit rating agency, the credit rating (including whether it is a short-term or long-term credit rating) and date on which the credit rating was given.

If the issuer, its guarantor, or Plain Debt Securities have been given a credit rating, disclose whether or not the issuer, guarantor entity or any of their related parties had paid any fee or benefit of any kind to the credit rating agency in consideration for the credit rating.

**M. Shariah Pronouncement**

Where the Plain Debt Securities is a sukuk *ljarah*, disclose in the prospectus or registration statement the detailed Shariah pronouncement issued by the Shariah Adviser.

**N. Applicable Law**

Identify the law applicable to the Plain Debt Securities being publicly offered and/or listed.

**Part III**

**RISK FACTORS**

The Risk Factors section is intended to be a summary of more detailed discussion contained in the prospectus/registration statement.

1. Provide the disclosure in a separate section titled “Risk Factors” and separate different types of risk factors into different subsections.
2. The prospectus/registration statement shall prominently disclose risk factors that are specific to the issuer and its industry, and the Plain Debt Securities being offered, which had materially affected or could materially affect, directly or indirectly, the issuer’s financial position and results and business operations, and investments by holders of the Plain Debt Securities of the issuer in a section headed "Risk Factors". Issuers are encouraged, but not required, to list the risk factors in the order of their priority to the issuer. The Risk Factors section is intended to be a summary of more detailed discussion contained elsewhere in the prospectus/registration statement.
3. In case of offering for sales of unusually risky (i.e. rated below investment grade) Plain Debt Securities, highlight the riskiness of securities on the cover page.

**Part IV**

**MARKETS**

**A. Identity of Exchanges and Regulated Markets**

1. Identify all the exchanges and/or regulated markets on which the Plain Debt Securities are intended to be listed or admitted to trading. Indicate the dates on which the Plain Debt Securities will be listed and/or admitted to trading.
2. If applicable, identify all the exchanges on which any part of the shares or equity interests of the issuer is already listed for quotation or quoted, or on which permission to list for quotation or quote any part of the shares or equity interests is being or is proposed to be sought, specifying the name of the securities exchange or overseas securities exchange on which the issuer's primary listing is or is to be.

**B. Entities Providing Liquidity**

If any entities have made a firm commitment to act as intermediaries for the Plain Debt Securities in secondary market trading, such as market makers providing liquidity through bid and offer rates, disclose the names and addresses of these entities and the main terms of their commitment.

**Part V**

**INFORMATION ABOUT THE PUBLIC OFFERING**

**A. Offer statistics**

1. For each method of offering, state the total amount of the offer, including the offer price or the method of determining the price and the number of Plain Debt Securities to be offered.

**B. Pricing**

1. Disclose the information about the yield and the method by which the price has been calculated.
2. If the offering price is not already determined, indicate how the price will be disclosed to the public.

**C. Method and Expected Timetable**

For all offerings, and separately for each group of targeted potential investors, the prospectus/registration statement shall state the following information to the extent applicable to the offering procedure:

1. The time period during which the offer will be open, and where and to whom purchase or subscription applications shall be addressed. Describe whether the purchase period may be extended or shortened, and the manner and duration of possible extensions or possible early closure or shortening of this period. Describe the manner in which the latter shall be made public. If the exact dates are not known when the prospectus/registration statement is first filed or distributed to the public, describe the arrangements for announcing the final or definitive date or period.
2. Method and time limits for paying up for the Plain Debt Securities being offered; where payment is partial, the manner and dates on which amounts due are to be paid.
3. Where applicable, methods of and time limits for —
  - (a) the delivery of the documents evidencing title to the Plain Debt Securities being offered (including temporary documents of title, if applicable) to subscribers or purchasers; and
  - (b) the book-entry transfers of the Plain Debt Securities being offered in favour of subscribers or purchasers.

4. A full description of the manner in which results of the distribution of the Plain Debt Securities being offered are to be made public, and where appropriate, the manner for refunding excess amount paid by applicants (including whether interest will be paid).

**D. Underwriting Arrangements**

1. Disclose the names and addresses of the entities underwriting the public offering, as well as describe the material features of the underwriting relationship.
2. Where not all of the Plain Debt Securities being offered are underwritten, provide a statement of the portion not underwritten.
3. Indicate whether the amount of the offering could be increased, such as by the exercise of an underwriter's over-allotment option and state the exercise period and amount under such option.
4. Disclose underwriters' financial interest in the success of public offering and listing (for example - firm commitment offering or best effort). If the underwriter has a material relationship with the issuer, disclose the nature and terms of that relationship.
5. If other parties are involved in distributing the Plain Debt Securities to the public, briefly outline the plan of distribution and indicate the amount of any Plain Debt Securities that are to be offered other than through the underwriters. The disclosure shall include terms relating to any volume limitations on sales and conditions under which the agreement may be terminated. If known, disclose the identity of the brokers or dealers that will participate in the public offering, as well as the amount of Plain Debt Securities to be offered through each.

**E. Targeted Investors**

1. Disclose if the issuer expects to offer Plain Debt Securities to certain selected investors. Identify any group of targeted potential investors to whom the Plain Debt Securities are being offered, noting any allocation that is reserved to any group of targeted investors.
2. If the offering is being made simultaneously in the markets of two or more countries and if a tranche has been or is being reserved for certain markets, provide information about the tranche and details of any other allocation arrangements.

**F. Expenses of the Issue**

1. Disclose the expenses to be paid in relation to the public offering to enable investors and others to assess how much of the offering proceeds will be available for the issuer.
2. Disclose a reasonably itemised statement of the major categories of expenses incurred in connection with the issuance and distribution of the Plain Debt Securities to be offered (in absolute terms and as a percentage of the total amount of the offer). For example, this could include the total amount of discounts or commissions agreed between the underwriters or other placement or selling agents and the issuer or offeror, as well as the percentage of the total amount of the offering that the commissions represent. If the amounts of any items are not known, estimates (identified as such) shall be given.
3. Disclose if parties other than the issuer are paying the expenses, such as the underwriters.

**G. Reasons for the Offer and Use of Proceeds**

1. The prospectus/registration statement shall disclose the estimated net amount, and percentage of the proceeds broken down into each principal intended use thereof and, where possible, the timeframe for the full utilisation of the proceeds for each principal intended use. If the anticipated proceeds will not be sufficient to fund all the proposed purposes, the order of priority of such purposes should be given, as well as the amount and sources of other funds needed. Disclose also how the proceeds will be used pending their eventual utilisation for the proposed purposes.
2. If the issuer has no specific plans for the proceeds, it should discuss the principal reasons for the offering.
3. Where the offer is not fully underwritten on a firm commitment basis, state the minimum amount which, in the reasonable opinion of the directors of the issuer, must be raised by the offer of Plain Debt Securities.
4. If the proceeds are being used directly or indirectly to acquire or to refinance the acquisition of assets, other than in the ordinary course of business, briefly describe the assets and their cost. If the assets have been or will be acquired from related parties of the issuer, disclose the persons from whom they will be acquired and how the cost to the issuer is/or will be determined.
5. If the proceeds may or will be used to finance or refinance the acquisition of other businesses, give a brief description of such businesses and information on the status of the acquisitions.

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6. If any material part of the proceeds is to be used to discharge, reduce or retire indebtedness, describe the interest rate and maturity of such indebtedness and, for indebtedness incurred within the past year, the uses to which the proceeds of such indebtedness were put.

**Part VI**

**TAXATION**

The issuer shall provide information regarding taxes (including withholding provisions) to which Plain Debt Securities holders may be subject. Information should be included as to whether the issuer assumes responsibility for the withholding of tax at the source and regarding applicable provisions of any reciprocal tax treaties, or a statement, if applicable, that there are no such treaties.

**Part VII**

**KEY INFORMATION**

**A. Selected Financial Data**

1. The issuer shall provide from the audited financial statements provided in response to Part XIII. Financial Information, selected audited historical financial data regarding the issuer or, if the issuer is the holding company of a group, the group which shall be presented for the two latest financial years (or such shorter period that the issuer has been in operation), in the same currency as the financial statements provided in response to Part XIII. Financial Information. If interim period financial statements are included, the selected financial data should be updated for that interim period. If selected financial data for an interim period is provided, comparative data (except information found in the statement of financial position) from the corresponding period in the previous financial year shall also be provided.
2. The selected financial data presented shall include items generally corresponding to the following, except that the specific line items presented should be expressed in the same manner as the corresponding line items in the issuer's financial statements. Such data shall include, at a minimum, net sales or operating revenues; income (loss) from operations; income (loss) from continuing operations; net income (loss); total assets; total liabilities; net assets or liabilities; capital stock (excluding long term debt and redeemable preferred stock); dividends declared per share in respect of each class of shares in both the currency of the financial statements and the currencies of the countries in which the Plain Debt Securities will be offered, including the formula used for any adjustments to dividends declared and giving particulars for each such class of shares; net income per share. Per share amounts must be determined in accordance with the body of accounting principles used in preparing the financial statements.
3. Where the financial statements provided in response to Part XIII. Financial Information are prepared in a currency other than the currency of any of the countries in which the Plain Debt Securities will be offered, disclosure of the exchange rate between the financial reporting currency and the currency of that country should be provided, using the exchange rate designated by that country for this purpose, if any-
  - (a) at the latest practicable date;
  - (b) the highest and lowest exchange rates for each month during the previous six months; and
  - (c) for the two most recent financial years and any subsequent interim period for which financial statements are presented, the average rates for each

period, calculated by using the average of the exchange rates between that financial reporting currency and the currency of that country on the last day of each month during the period.

**B. Capitalisation and Indebtedness**

A statement of capitalisation and indebtedness (distinguishing between guaranteed and unguaranteed, and secured and unsecured, indebtedness) as of a date no earlier than 60 days prior to the [effective/registration] date of the prospectus/registration statement shall be provided showing the issuer's, or if the issuer is the holding company of a group, the group's capitalisation on an actual basis and if applicable, as adjusted to reflect the sales of Plain Debt Securities and the intended application of the net proceeds therefrom. Indebtedness also includes indirect and contingent indebtedness.

**Part VIII**

**INFORMATION ABOUT THE ISSUER**

**A. Busine and Development of the Issuer**

The following information shall be provided:

1. The website address of the issuer, if any.
2. The legal and commercial name of the issuer.
3. The date of incorporation and the length of life of the issuer, except where indefinite.
4. The domicile and legal form of the issuer, the legislation under which the issuer operates, its country of incorporation and the address and telephone number of its registered office (or principal place of business if different from its registered office). Provide the name and address of the issuer's agents in each of the countries in which the Plain Debt Securities will be offered, if any.
5. The length of time for which the business of the issuer, or if the issuer is the holding company of a group, of the group has been carried on and the important events in the development of the issuer's business, e.g. information concerning the nature and results of any material reclassification, merger or consolidation of the issuer or any of its significant subsidiaries; acquisitions or dispositions of material assets other than in the ordinary course of business; any material changes in the mode of conducting the business; material changes in the types of products produced or services rendered; name changes; or the nature and results of any bankruptcy, receivership or similar proceedings with respect to the issuer or significant subsidiaries.
6. A description, including the amount invested, of the issuer's material capital expenditures and divestitures (including interests in other companies), since the beginning of the issuer's last two financial years to the date of the prospectus/registration statement.
7. Information concerning the material capital expenditures and divestitures currently in progress, including the distribution of these investments geographically (home and abroad) and the method of financing (internal or external).
8. An indication of any public takeover offers by third parties in respect of the issuer's shares or by the issuer in respect of other companies' shares which have occurred from the beginning of the last financial year to the latest practicable date. The price or exchange terms attaching to such offers and the outcome thereof are to be stated.

**B. Business Overview**

The information required by this item may be presented on the same basis as that used to determine the issuer's business segments under the body of accounting principles used in preparing the financial statements. The following information shall be provided:

1. A description of the nature of the issuer's operations and its principal activities, stating the main categories of products sold and/or services performed for each of the last two financial years. Indicate any significant new products and/or services that have been introduced between the beginning of the period comprising the two most recent completed financial years and the latest practicable date and, to the extent the development of new products or services has been publicly disclosed, give the status of development.
2. A description of the principal markets in which the issuer competes, including a breakdown of total revenues by category of activity and geographic market for each of the last two financial years.
3. The basis for any statements made by the issuer regarding its competitive position shall be disclosed.
4. A description of the material effects of government regulations on the issuer's business, identifying the regulatory body.

**C. Organisational Structure**

If the issuer is part of a group, include a brief description of the group and the issuer's position within the group. Provide information on each of the issuer's subsidiaries and associated companies which account for 10% or more of the absolute amount of the net assets, net liabilities or profit or loss before tax, respectively, of the group for any of the two most recent completed financial years, including its name, country of incorporation or residence, principal place of business, principal activities, proportion of ownership interest and, if different, proportion of voting power held by the issuer.

**D. Patents, Licenses or Contracts**

Provide information regarding the extent to which the issuer is dependent, if at all, on patents or licenses, industrial, commercial or financial contracts (including contracts with customers or suppliers) or new manufacturing processes, where such factors are material to its business or profitability.

**E. Property, Plants and Equipment**

For businesses that invest heavily in property, plants and/or equipment, the issuer is required to provide information about its significant investments in these assets.

**Part IX**

**OPERATING AND FINANCIAL REVIEW AND PROSPECTS**

Discuss the issuer's financial condition, changes in financial condition and results of operations for each year and interim period for which financial statements are required, including the causes of material changes from year to year in financial statement line items, to the extent necessary for an understanding of the issuer's business as a whole. Information provided also shall relate to all separate segments of the issuer. Provide the information specified below as well as such other information that is necessary for an investor's understanding of the issuer's financial condition, changes in financial condition and results of operation.

**A. Operating Results**

1. Provide information regarding significant factors, including unusual or infrequent events or new developments, materially affecting the issuer's income from operations, indicating the extent to which income was so affected. Describe any other significant component of revenue or expenses necessary to understand the issuer's results of operations.
2. To the extent that the financial statements disclose material changes in net sales or revenues, provide a narrative discussion of the extent to which such changes are attributable to changes in prices or to changes in the volume or amount of products or services being sold or to the introduction of new products or services between corresponding periods.
3. Describe the impact of inflation, if material. If the currency in which financial statements are presented is of a country that has experienced hyperinflation, the existence of such inflation, a five year history of the annual rate of inflation and a discussion of the impact of hyperinflation on the issuer's business shall be disclosed.
4. Provide information regarding the impact of foreign currency fluctuations on the issuer, if material, and the extent to which foreign currency net investments are hedged by currency borrowings and other hedging instruments.
5. Provide information regarding any governmental, economic, fiscal, monetary political policies or factors that have materially affected, or could materially affect, directly or indirectly, the issuer's operations or investments by the Plain Debt Securities holders in any of the countries in which the Plain Debt Securities will be offered.

**B. Liquidity and Capital Resources**

The following information shall be provided:

1. Information regarding the issuer's liquidity (both short and long term), including-
  - (a) a description of the internal and external sources of liquidity and a brief discussion of any material unused sources of liquidity. Include a statement by the issuer that, in its opinion, the working capital is sufficient for the issuer's requirements for a period of 12 months from the date of issue of prospectus/registration statement, or, if not, how it proposes to provide the additional working capital needed;
  - (b) an evaluation of the sources and amounts of the issuer's cash flows from operating, investing and financing activities in respect of each financial year required to be included in the prospectus/registration statement and, if interim cash flow statement has been included in the prospectus/registration statement, the period covered by the interim cash flow statement. This includes the nature and extent of any legal, financial, or economic restrictions on the ability of subsidiaries to transfer funds to the issuer in the form of cash dividends, loans or advances and the impact such restrictions have had or are expected to have on the ability of the issuer to meet its cash obligations.
  - (c) information on the level of borrowings at the end of the period under review, the seasonality of borrowing requirements and the maturity profile of borrowings and committed borrowing facilities, with a description of any restrictions on their use. Foreign borrowings should be separately identified with the corresponding foreign currencies amount. Disclose gearing ratios for the period under review.
2. If the issuer or any other entity in the group is in breach of any of the terms and conditions or covenants associated with any credit arrangement or bank loan which could materially affect the issuer's financial position and results or business operations, or the investments by holders of Plain Debt Securities in the issuer-
  - (a) a statement of that fact;
  - (b) details of the credit arrangement or bank loan; and
  - (c) details of any action taken or to be taken by the issuer or other entity in the group, as the case may be, to rectify the situation (including the status of any restructuring negotiations or agreement, if applicable).
3. A statement as to whether there have been any defaults on payments of either interest and/or principal sums in respect of any borrowings throughout the past one financial year and the subsequent financial period thereof as at the latest practicable date.

4. Information regarding the type of financial instruments used, the maturity profile of debt, currency and interest rate structure. The discussion also should include funding and treasury policies and objectives in terms of the manner in which treasury activities are controlled, the currencies in which cash and cash equivalents are held, the extent to which borrowings are at fixed rates, and the use of financial instruments for hedging purposes.
5. Information regarding the issuer's material commitments for capital expenditures as of the latest practicable date and an indication of the general purpose of such commitments and the anticipated sources of funds needed to fulfil such commitments.
6. In the case of a guaranteed Plain Debt Securities issue, the information referred to in paragraphs 1 to 5 above shall be provided in respect of the guarantor.

**C. Trend Information, Profit Forecast and Cash Flow Forecast**

1. The issuer should discuss, for at least the current financial year, the business and financial prospects and identify any significant recent trends in production, sales and inventory, and costs and selling prices since the latest financial year. The issuer also should discuss, for at least the current financial year, any known trends, uncertainties, demands, commitments or events that are reasonably likely to have a material effect on the issuer's net sales or revenues, income from continuing operations, profitability, liquidity or capital resources, or that would cause reported financial information to be not necessarily indicative of future operating results or financial condition. If there are no such trends, uncertainties, demands, commitments or events, provide an appropriate statement to that effect.
2. Where a profit forecast or cash flow forecast is disclosed, state the basis and all principal assumptions, if any, upon which the directors of the issuer have based their profit forecast or cash flow forecast.
3. Where a profit forecast or cash flow forecast is disclosed, include in the prospectus/registration statement a statement by the directors of the issuer to the effect that they have stated the profit forecast or cash flow forecast after due and careful enquiry, and that they individually and collectively take responsibility for the profit forecast or cash flow forecast.
4. Where a profit forecast or cash flow forecast is disclosed, include in the prospectus/registration statement a statement—
  - (a) by an auditor, the sponsor or the issue manager to the effect that, based on his examination, no matter has come to his attention which gives him reason to believe that the assumptions do not provide reasonable grounds for the profit forecast or the cash flow forecast; and

- (b) by an auditor that the profit forecast or cash flow forecast, is properly prepared and calculated on the basis of the assumptions disclosed, and is consistent with the accounting policies and standards adopted by the issuer.
5. For the purpose of this Part IX.C
- (a) “profit forecast” refers to a forecast of profit for any period of time after the [effective/registration] date of the prospectus/registration statement or an estimate of profit for any period of time from the end of the financial period covered by the most recent financial statements (whether audited, pro forma or interim) that are included in the prospectus/registration statement to a date no later than the [effective /registration] date; and
  - (b) “cash flow forecast” refers to a forecast of cash flow for any period of time after the [effective/registration] date of the prospectus/registration statement or an estimate of cash flow for any period of time from the end of the financial period covered by the most recent financial statements (whether audited, pro forma or interim) that are included in the prospectus/registration statement to a date no later than the [effective/registration] date.

**D. Off-Balance Sheet Arrangements**

1. Disclose all material off-balance sheet arrangements that have, or are reasonably likely to have, a material effect on the issuer’s financial position.
2. Disclose such information that the issuer believes is necessary for an understanding of these arrangements and their material impact on the issuer’s financial position.

**E. Critical Accounting Estimates**

Disclose estimates and assumptions involved in applying accounting policies. In determining which critical accounting estimates or assumptions should be disclosed, the issuer should consider whether the nature of the estimate or assumption is material because of the subjectivity and judgment required to account for highly uncertain matters, as well as whether the estimate or assumption will have a material impact on financial condition or operating performance.

**Part X**

**DIRECTORS, SENIOR MANAGEMENT AND EMPLOYEES**

**A. Directors and Senior Management**

The following information shall be disclosed with respect to the issuer's directors and senior management, and any employees such as scientists, researchers or designers upon whose work the issuer is dependent:

1. Name, business experience, educational and professional qualifications, functions and areas of experience or responsibility in the issuer or if the issuer is the holding entity of a group, in the group.
2. Principal business activities performed outside the issuer (including, in the case of directors, other principal directorships at present and in the last five years).
3. Date of birth or age.

**B. Material Background Information**

1. Disclose the following matters concerning a director, senior management member or significant person of the issuer:
  - (a) Whether at any time during the last ten years, an application or a petition under any bankruptcy laws of any jurisdiction was filed against him or against a partnership of which he was a partner at the time when he was a partner or at any time within two years from the date he ceased to be a partner;
  - (b) Whether at any time during the last ten years, an application or a petition under any law of any jurisdiction was filed against an entity (not being a partnership) of which he was a director or an equivalent person or a senior management member, at the time when he was a director or an equivalent person or a senior management member of that entity or at any time within two years from the date he ceased to be a director or an equivalent person or a senior management member of that entity, for the winding up or dissolution of that entity or, where that entity is the trustee of a business trust, that business trust, on the ground of insolvency;
  - (c) Whether there is any unsatisfied judgment against him;

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- (d) Whether he has ever been convicted of any offence, in any country, involving fraud or dishonesty which is punishable with imprisonment, or has been the subject of any criminal proceedings (including any pending criminal proceedings of which he is aware) for such purpose;
- (e) Whether he has ever been convicted of any offence, in any country, involving a breach of any law or regulatory requirement that relates to the securities or futures industry in any country, or has been the subject of any criminal proceedings (including any pending criminal proceedings of which he is aware) for such breach;
- (f) Whether at any time during the last ten years, judgment has been entered against him in any civil proceedings in any country involving a breach of any law or regulatory requirement that relates to the securities or futures industry in any country, or a finding of fraud, misrepresentation or dishonesty on his part, or he has been the subject of any civil proceedings (including any pending civil proceedings of which he is aware) involving an allegation of fraud, misrepresentation or dishonesty on his part;
- (g) Whether he has ever been convicted in any country of any offence in connection with the formation or management of any entity or business trust;
- (h) Whether he has ever been disqualified from acting as a director or an equivalent person of any entity (including the trustee of a business trust), or from taking part directly or indirectly in the management of any entity or business trust;
- (i) Whether he has ever been the subject of any order, judgment or ruling of any court, tribunal or governmental body permanently or temporarily enjoining him from engaging in any type of business practice or activity;
- (j) Whether he has ever, to his knowledge, been concerned with the management or conduct, in any country, of the affairs of -
  - (i) any corporation which has been investigated for a breach of any law or regulatory requirement governing corporations in any country;
  - (ii) any entity (not being a corporation) which has been investigated for a breach of any law or regulatory requirement governing such entities in any country;
  - (iii) any business trust which has been investigated for a breach of any law or regulatory requirement governing business trusts in any country; or

- (iv) any entity or business trust which has been investigated for a breach of any law or regulatory requirement that relates to the securities or futures industry in any country,

in connection with any matter occurring or arising during the period when he was so concerned with the entity or business trust;

- (k) whether he has been the subject of any current or past investigation or disciplinary proceedings, or has been reprimanded or issued any warning, by any regulatory authority, exchange, professional body or government agency, in any country.

**C. Compensation**

Provide information about the remuneration paid to the issuer's directors and senior management members that could have a material impact on the issuer's ability to service the Plain Debt Securities obligations. In any case disclose at least the aggregate amount of the remuneration paid in the last financial and the remuneration proposed to be paid in the current financial year.

**D. Share Ownership**

Provide current information about the amount of shares held by the issuer's directors and senior management members.

**Part XI**

**MAJOR SHAREHOLDERS, RELATED-PARTY TRANSACTIONS AND CONFLICTS OF INTERESTS**

**A. Major Shareholders**

1. The following information shall be provided regarding the issuer's major shareholders:
  - (a) Names of the major shareholders, and the number of shares and the percentage of outstanding shares of each class owned by each of them as of the most recent practicable date and immediately after the offer, or an appropriate negative statement if there are no major shareholders.
  - (b) Whether the issuer's major shareholders have different voting rights, or an appropriate negative statement.
2. Information shall be provided as to the portion of each class of securities held in each of the countries in which the Plain Debt Securities will be offered and the number of record holders in each of the countries in which the Plain Debt Securities will be offered.
3. To the extent known to the issuer, state whether the issuer is directly or indirectly owned or controlled by another corporations, by any foreign government or by any other natural or legal persons severally or jointly, and, if so, give the names of such controlling corporations, government or other persons, and briefly describe the nature of such control, including the amount and proportion of capital held giving a right to vote.
4. Describe any arrangements, known to the issuer, the operation of which may at a subsequent date result in a change in control of the issuer.
5. Describe any arrangements for involving the directors and employees of the group in the capital of the issuer, including any arrangement that involves the issue or grant of options or shares or securities of the issuer.

**B. Related-Party Transactions**

1. Provide the information required below for the period since the beginning of the issuer's preceding two financial years up to the date of the prospectus/registration statement, with respect to transactions or loans between the issuer and its related parties.
2. Describe the nature and extent of any transactions or presently proposed transactions which are material to the issuer or the related party, or any

transactions that are unusual in their nature or conditions, involving goods, services, or tangible or intangible assets, to which the issuer or any of its parent or subsidiaries was a party.

3. Disclose the amount of outstanding loans (including guarantees of any kind) made by the issuer or any of its parent or subsidiaries to or for the benefit of any of the persons listed above. The information given should include the largest amount outstanding during the period covered, the amount outstanding as of the latest practicable date, the nature of the loan and the transaction in which it was incurred, and the interest rate on the loan.
4. For each transaction referred to in this Part XI.B—
  - (a) that has been completed or will be completed at or before the close of the offer, disclose whether or not the transaction has been or will be carried out on an arm's length basis;
  - (b) that will continue after the close of the offer, disclose—
    - (i) whether or not the transaction has been carried out on an arm's length basis; and
    - (ii) the procedure undertaken or which will be undertaken to ensure that such transaction will be carried out on an arm's length basis; or
  - (c) that has been proposed, disclose the procedure which will be undertaken to ensure that such transaction will be carried out on an arm's length basis.
5. For each loan referred to in this Part XI.B –
  - (a) that has been repaid or will be repaid at or before the close of the offer, disclose whether or not the loan was made on an arm's length basis;
  - (b) that is to be repaid, whether partly or wholly, after the close of the offer, disclose -
    - (i) whether or not the loan was made on an arm's length basis; and
    - (ii) when the loan is intended or required to be repaid; or
  - (c) that has been proposed, disclose the procedure which will be undertaken to ensure that such loan will be made on an arm's length basis.
6. Where transactions or loans referred to in this Part XI.B are similar and recurring in nature or could otherwise be grouped in a meaningful manner, the information required with respect to this Part XI.B should be provided on an aggregate basis, if the aggregate of these transactions or loans are material in the context of the offer.

**C. Conflict of Interests**

Where a director or significant person of the issuer or his associate has an interest in any entity carrying on the same business or dealing in similar products as the issuer or, if the issuer is the holding company of a group, as the group, disclose-

- (a) the name of that entity;
- (b) the name of the director or significant person involved;
- (c) the nature and extent of his interest in that entity and the extent to which he is involved in the management of that entity either directly or indirectly; and
- (d) whether any conflict of interests thereby arising has been or is to be resolved or mitigated and, if so, how it has been or is proposed to be resolved or mitigated.

**Part XII**

**INTERESTS OF EXPERTS, COUNSEL, UNDERWRITERS, SHARIAH ADVISERS AND FINANCIAL ADVISERS**

Disclose the nature and terms of that interest or conflict of interest if any of the experts, counselors, underwriter, Shariah advisers or other financial advisers named in the prospectus/registration statement has a material direct or indirect economic interest in the issuer or an interest that depends on the success of the issuer's offering or listing or otherwise has a material conflict of interest in rendering its advice or opinion.

**Part XIII**

**FINANCIAL INFORMATION**

**A. Audited Financial Statements and Other Financial Information**

1. The prospectus/registration statement must contain comparative consolidated financial statements of the issuer, or if the issuer is a holding company, of the group, that cover the latest two financial years (or such shorter period that the issuer has been in operation).
2. If the [effective/registration] date of the prospectus/registration statement is more than six months after the end of the most recent completed financial year for which financial statements is provided under paragraph 1, the prospectus/registration statement must contain interim financial statements of the issuer, or if the issuer is a holding company, of the group, made up to a date that is not earlier than six months before the [effective/registration] date of the prospectus/registration statement. The prospectus/registration statement must also include comparative interim financial statements (other than a statement of financial position) for the corresponding period in the previous financial year.
3. Where a common control combination involving the issuer has occurred at any time from the beginning of the latest two financial years up to the [effective/registration] date of the prospectus/registration statement, the financial statements to be provided under paragraph 1 and 2 of this Part XIII.A should be prepared to show the combined financial information of the issuer and the common control entities or businesses as if the common control combination had taken place at the beginning of the latest two financial years or at the time when the common control entities or businesses first came under common control, whichever date is the later.

For the purpose of this item, “common control combination” means a business combination in which all the combining entities or businesses are under common control.

4. The financial statements to be provided under paragraph 1 and 2 of this Part XIII.A must be-
  - (a) prepared in accordance with the International Financial Reporting Standards and International Accounting Standards (referred to in this Part XIII. as IFRS); and,
  - (b) other than the comparative interim financial statements, if any, which need not be audited, the financial statements are to be audited in

accordance with the International Standards on Auditing (referred to in this Part XIII. as ISA).

5. The financial statements to be provided under paragraph 1 and 2 of this Part XIII.A must be accompanied by–
  - (a) an audit report or audit reports covering each of the financial statements (other than the comparative interim financial status); and
  - (b) a statement identifying the auditors who audited the financial statements and the membership or memberships of each auditor in any professional body or bodies.
6. The financial statements to be provided under paragraph 1 or 2 of this Part XIII.A shall comprise such items as required by IFRS.
7. If any annual financial statements to be provided under paragraph 1 of this Part XIII.A relate to a period other than 12 months due to a change in the financial year end of the issuer, the annual financial statements in respect of that financial year and the financial years preceding that financial year shall be provided on a restated 12-month basis, so that the financial year end for each of the restated financial statements corresponds to the financial year end for the most recent completed financial year.

**B. Pro Forma Financial Statements**

1. Where–
  - (a) the issuer or any entity in the group has acquired or disposed of one or more asset, or entered into any agreement (including any conditional agreement) to acquire or dispose of one or more asset during the period from the beginning of the most recent completed financial year to the [effective/registration] date of the prospectus/registration statement and;
    - (i) the net book value, or the absolute amount of the profit or loss before tax, of any of the assets has or would have accounted for 10% or more of the absolute amount of the net assets or net liabilities, or the profit or loss before tax, respectively, of the issuer or of the group (after adjusting for the effects of the group restructuring, where applicable) in respect of the most recent completed financial year; or

- (ii) the total net book value, or the total absolute amount of the profit or loss before tax, of all the assets together have or would have accounted for 10% or more of the absolute amount of the net assets or net liabilities, or the profit or loss before tax, respectively, of the issuer or the group (after adjusting for the effects of the group restructuring, where applicable) in respect of the most recent completed financial year; or
- (b) any significant change to the capital structure (including any material distribution) of the issuer or any other entity in the group, has occurred during the period between the end of the most recent completed financial year and the [effective/registration] date of the prospectus/registration statement, and the effects of such acquisitions, disposals or significant changes have not been reflected in the audited financial statements included in the prospectus/registration statement,

provide pro forma financial statements for the most recent completed financial year and, if interim financial statements have been included in the prospectus/registration statement, for the period covered by the interim financial statements.

For the purpose of this item, “asset” means any business, interest in a business or an entity, or any other asset.

For the avoidance of doubt, a pro forma statement of comprehensive income or statement of cash flows is not required to be provided if the acquisition, disposal or change to the capital structure has no effect on the audited statement of comprehensive income or statement of cash flows included in the prospectus/registration statement respectively.

2. The pro forma statement of comprehensive income and pro forma statement of cash flows shall be prepared:
  - (a) for the most recent completed financial year for which audited financial statements are provided in accordance with paragraph 1 of Part XIII.A; and
  - (b) where any interim financial statements have been provided in accordance with paragraph 2 of Part XIII.A, for the period covered by the interim financial statements, as if the acquisition, disposal or significant change had occurred at the beginning of the most recent completed financial year.
3. The pro forma statement of comprehensive income shall include an item on earnings per share.
4. The pro forma statement of financial position shall be prepared-

- (a) as at the end of the most recent completed financial year as if the acquisition, disposal or significant change had occurred at the end of that financial year; and
  - (b) where any interim financial statements have been provided, as at the end of the period covered by the interim financial statements, as if the acquisition, disposal or significant change had occurred at the end of the period.
- 5. In respect of the pro forma financial statements state-
  - (a) that they are prepared for illustrative purposes only and are based on certain assumptions, after making certain adjustments, to show:
    - (i) what the financial results and cash flows of the issuer or the group, as the case may be, for the most recent completed financial year and, where applicable, the period covered by the interim financial statements would have been, if the acquisition, disposal or significant change had occurred at the beginning of that financial year; and
    - (ii) what the financial position of the issuer or the group, as the case may be, would have been:
      - (A) as at the end of the most recent completed financial year, if the acquisition, disposal or significant change had occurred at the end of that financial year; and
      - (B) where applicable, as at the end of the period covered by the interim financial statements, if the acquisition, disposal or significant change had occurred at the end of that period;
  - (b) that because of their nature, they may not give a true picture of the actual financial position or results of the issuer or the group, as the case may be;
  - (c) the basis upon which they are prepared, including the source of each item of information; and
  - (d) any material adjustment made to any information used in the preparation of the pro forma financial statements and the reason for making that adjustment.
- 6. Where pro forma financial statements have been provided for any reason referred to in paragraph 1(a) above, with respect to the pro forma financial

statements:

- (a) Identify each asset referred to in paragraph 1 (a)(i) and (ii) of this Part XIII.B;
  - (b) Provide a statement that the pro forma financial statements included in the prospectus/registration statement have been properly prepared from financial statements relating to-
    - (i) the assets in the group; and
    - (ii) the assets referred to in paragraph 1(a)(i) and (ii) of this Part XIII.B;
  - (c) Provide a statement that the financial statements relating to the assets referred to in paragraph 1(a)(i) and (ii) of this Part XIII.B which were used in the preparation of the pro forma financial statements were prepared or restated in accordance with IFRS;
  - (d) State, in respect of each of the financial statements relating to the assets referred to in paragraph 1(a)(i) and (ii) of this Part XIII.B above which were used in the preparation of the pro forma financial statements, the body of accounting standards that was adopted in the preparation of the financial statements.
7. The financial statements of significant asset or assets related to any major transaction, referred to in paragraph 1(a)(i) and (ii) of this Part XIII.B, which are used in the preparation of the pro forma financial statements must be audited. For other assets, state whether or not the financial statements are audited.
8. If the financial statements referred to in paragraph 7 above are audited,
- (a) state the body of auditing standards that was adopted by the auditors in the audit of the financial statements; and
  - (b) provide a statement identifying the auditors who audited the financial statements, together with the membership or memberships of each auditor in a professional body.
9. Include, in the prospectus/registration statement:
- (a) A statement that the audit reports for the financial statements referred to in paragraph 8 above do not contain any material qualification; or

- (b) If any of those audit reports contains any material qualification, modification or disclaimer, a statement-
  - (i) setting out in full the qualification, modification or disclaimer; and
  - (ii) providing the reason for the qualification, modification or disclaimer.
- 10. Include, in the prospectus/registration statement, an opinion from the auditors of the issuer, that
  - (a) the pro forma financial statements have been properly prepared-
    - (i) on the basis referred to in paragraph 5 (c) of this Part XIII.B; and
    - (ii) where the pro forma financial statements have been provided for any reason referred to in paragraph 1 (a) of this Part XIII.B, in accordance with the matters referred to in the statements under paragraph 6 (b) and (c) of this Part XIII.B; and
  - (b) each material adjustment made to the information used in the preparation of the pro forma financial statements is appropriate for the purpose of preparing such financial statements and in accordance with ISA.

**C. Change in Accounting Policies**

Where there has been any material change to the issuer's accounting policies, provide a summary of the material change and the reason for and quantitative impact of such change on the financial results of the issuer or, if the issuer is a holding company, of the group for each of the financial years for which financial statements are provided pursuant to paragraph 1 of this Part XIII.A.

**D. Litigation**

Provide information on any legal or arbitration proceedings, including those relating to bankruptcy, receivership or similar proceedings which may have, or have had in the 12 months immediately preceding the date of prospectus/registration statement, significant effects on the issuer's financial position or profitability. This includes governmental proceedings pending or known to be contemplated.

**E. Dividends**

Describe the issuer's policy on dividend distributions or, if it does not have a fixed policy, state so.

**F. Significant Changes**

*Part II – Contents of Prospectus (Division 2A)*

Disclose whether or not any significant change has occurred which may have a material effect on the financial position and results of the issuer since the date of the annual financial statements, and/or since the date of the most recent interim financial statements, if any, included in the prospectus/registration statement. If there is no such change, provide an appropriate negative statement.

**Part XIV**

**ADDITIONAL INFORMATION**

**A. Memorandum and Articles of Association**

Provide a summary of the provisions of the issuer's constituent documents and by laws with respect to -

1. the borrowing powers exercisable by the directors of the issuer; and
2. how such borrowing powers may be varied.

**B. Material Contracts**

Provide a summary of each material contract, other than contracts entered into in the ordinary course of business, to which the issuer or any member of the group is a party, for the two years immediately preceding the date of the prospectus/registration statement including dates, parties, general nature of the contracts, terms and conditions, and amount of any consideration passing to or from the issuer or any other member of the group.

**C. Exchange Controls**

Describe any governmental laws, decrees, regulations or other legislation of the home country of the issuer that may affect –

1. the import or export of capital, including the availability of cash and cash equivalents for use by the issuer's group.
2. the remittance of dividends, interest or other payments to non-resident holders of the issuer's Plain Debt Securities.

**D. Statement by Experts**

1. If the prospectus/registration statement indicates that a statement or report included in it can be attributed to an expert, disclose the expert's name, business address and qualifications. Indicate–
  - (a) that the statement or report, in the form and context in which it is included, has been included with the consent of that expert, who has authorised the

contents of that portion of the prospectus/registration statement;

- (b) the date on which the statement or report was made; and
- (c) whether or not the statement or report was prepared by the expert for the purpose of incorporation in the prospectus/registration statement.

**E. Sign offs or consents**

Where a person is–

- (a) named in the prospectus/registration statement and is required to provide his written consent to be so named in the prospectus/registration statement by the law of the jurisdiction in which the offer is made; or
- (b) is required to provide his written consent to the issue of the prospectus/registration statement by the law of the jurisdiction in which the offer is made,

include a statement that the person has given, and has not withdrawn, his written consent to being named in the prospectus/registration statement or to the issue of the prospectus/registration statement as the case may be.

**F. Documents for public inspection**

1. The issuer shall provide an indication of where the documents (or copies thereof) concerning the issuer which are referred to in the prospectus/registration statement may be inspected. Exhibits and documents on display generally should be translated into English, or a summary in English should be provided. These documents, which shall be made available for public inspection for a period of at least one year from the [effective/registration] date of the prospectus/registration statement, include –
  - (a) the constituent documents of the issuer;
  - (b) every material contract referred to in the prospectus/registration statement or, where the contract is not reduced into writing, a memorandum giving full particulars thereof;
  - (c) the directors' service contracts referred to in the prospectus/registration statement;
  - (d) every report, memorandum, letter, valuation, statement or other document by any expert any part of which is included or referred to in the

- prospectus/registration statement;
- (e) the audited financial statements of the issuer for each of the financial years for which audited financial statements of the issuer have been included in the prospectus/registration statement;
  - (f) if the issuer is the holding company of a group, the respective audited financial statements of the entities or businesses in the group (being entities or businesses which have audited financial statements) for each of the financial years for which audited financial statements of the issuer have been included in the prospectus/registration statement;
  - (g) if the issuer is the holding company of a pro forma group and pro forma financial statements have been included in the prospectus/registration statement, the respective audited financial statements of the entities or businesses in the pro forma group (being entities or businesses which have audited financial statements), other than the entities or businesses referred to in sub-paragraph (f), for the financial year in respect of which pro forma financial statements have been included in the prospectus/registration statement;
  - (h) any interim financial statements of the issuer, group or pro forma group, as the case may be, which are included in the prospectus/registration statement;
  - (i) any trust deed, fiscal agency agreement or other document constituting the Plain Debt Securities as the case may be;
  - (j) all notes, reports or information relating to the financial statements referred to in sub-paragraph (e), (f), (g) and (h) above; and
  - (k) in the case of a guaranteed Plain Debt Securities issue, documents (or copies) referred to in sub-paragraphs (e), (f), (g),(h) and (j) above, of the guarantor.
2. Provide an indication of the resolutions, authorisations and approvals by virtue of which any Plain Debt Securities of the issuer may be issued, the nature and amount of the issue, and the number of Plain Debt Securities which may be issued, if predetermined.

**G. Others**

1. On the front cover of the prospectus/registration statement, provide-
  - (a) the [effective/registration] date of the [prospectus/registration statement] or the date of lodgment of the supplementary [prospectus/registration statement] or replacement [prospectus/registration statement];
  - (b) the statement: “This document is important. If you are in any doubt as to the action you should take, you should consult your legal, financial, tax, or other professional adviser”;
  - (c) the statement: “A copy of this [prospectus/registration statement] has been registered by the [*insert name of the relevant regulator*]. The effectiveness of this [prospectus/registration statement] neither represent that [*insert name of the relevant regulator*] have suggested investment in the offered securities; nor contain any assurance in relation to the value or returns on the offered securities; nor shall certify the accuracy and completeness of information contained in the [prospectus/registration statement]. Registration of the [prospectus/registration statement] by the [*insert name of the relevant regulator*] does not imply that the legal or regulatory requirements have been complied with. The [*insert name of the relevant regulator*] has not, in any way, considered the merits of the Plain Debt Securities, as the case may be, being offered for investment”;
  - (d) a statement that no Plain Debt Securities shall be allotted or allocated on the basis of the [prospectus/registration statement] later than [*insert relevant number of months as stipulated under the relevant regulations*] months after the [effective/registration] date of [the prospectus/registration statement] .
2. Disclose all approvals and conditions imposed by relevant authorities in respect of the offering or listing of the Plain Debt Securities to which the prospectus/registration statement relates.

**Part XV**

**ADDITIONAL REQUIREMENTS FOR AN ASEAN DEBT ISSUANCE PROGRAMME**

**A. General:**

1. An issuer of Plain Debt Securities under a debt issuance programme must comply with the ASEAN Disclosure Standards for Debt Issuance Programme under this Part.
2. An offer of Plain Debt Securities under a Debt Issuance Programme has to be accompanied by a base prospectus for the Debt Issuance Programme and a pricing statement for that particular issue of Plain Debt Securities, together with any supplementary base prospectus as necessary. Information in the base prospectus has to be updated when there are material developments since the base prospectus was prepared, before an offer of Plain Debt Securities can be made using the base prospectus and pricing statement.
3. Issuers are expected to comply with the ASEAN Debt Securities Disclosure Standards, in addition to the disclosure requirements set out below, unless expressly provided for below.
4. For the avoidance of doubt, the ASEAN Disclosure Standards for Debt Issuance Programme only focuses on the disclosure requirements in relation to offers of Plain Debt Securities under a Debt Issuance Programme. The registration requirements of each jurisdiction will continue to apply for offers into that jurisdiction e.g. when the pricing statement should be submitted to the regulator and announced to the public, additional requirements on the quality of the Plain Debt Securities, etc.

**B. Information to be included in the base prospectus:**

1. The base prospectus for the Debt Issuance Programme must contain all the information set out in the ASEAN Debt Securities Disclosure Standards, subject to paragraph 1 of this Part XV.C below.
2. In addition, the base prospectus must contain the following information:
  - (a) the maximum amount and types of Plain Debt Securities to be offered under the Debt Issuance Programme;
  - (b) the terms and conditions applicable to all offers of Plain Debt Securities under the Debt Issuance Programme e.g. guarantee, events of default, meeting provisions for the holders of Plain Debt Securities, etc.;
  - (c) the duration of the Debt Issuance Programme (i.e. the period during which Plain Debt Securities can be issued under the Debt Issuance Programme);

- (d) a statement that the documents required by Part XIV. ADDITIONAL INFORMATION – F (Documents for public inspection) of the ASEAN Debt Securities Disclosure Standards are available for inspection throughout the duration of the Debt Issuance Programme;
- (e) a statement that the base prospectus, as well as any supplementary base prospectus in respect of the Debt Issuance Programme issued since the base prospectus was published, are available for inspection for as long as offers are made under the Debt Issuance Programme;
- (f) a statement that no Plain Debt Securities shall be allotted or allocated on the basis of the base prospectus later than [ ] months after the [effective/registration] date of [the prospectus/registration statement], in lieu of the statement in Part XIV. ADDITIONAL INFORMATION – G. Others, 1(d) of the ASEAN Debt Securities Disclosure Standards; and
- (g) a prominent statement that information excluded from the base prospectus under paragraph 1 of this Part XV.C below (that would otherwise be required under the ASEAN Debt Securities Disclosure Standards) shall be published from time to time by way of a pricing statement in relation to each offer of Plain Debt Securities under the Debt Issuance Programme.

**C. Information that may be excluded from the base prospectus**

- 1. The following information required under the ASEAN Debt Securities Disclosure Standards may be excluded from the base prospectus, and if so excluded must be included in the pricing statement:
  - (a) Part II. DESCRIPTION OF THE PLAIN DEBT SECURITIES (apart from “H. Representative of Plain Debt Securities holders”); and
  - (b) Part V. INFORMATION ABOUT THE PUBLIC OFFERING.

**D. Information to be included in the pricing statement**

- 1. The pricing statement for any offer under the Debt Issuance Programme must contain the following information:
  - (a) Where the base prospectus does not contain any of the information referred to in paragraph 1 of this Part XV.C above, the pricing statement for each offer of Plain Debt Securities under the Debt Issuance Programme must contain that information, as well as the following statements:

*Part II – Contents of Prospectus (Division 2A)*

- (i) “This offer is made on the basis of information contained in this pricing statement as well as in the base prospectus and supplementary base prospectus or prospectuses, if any, in respect of the Debt Issuance Programme.”;
  - (ii) “Copies of the base prospectus and supplementary base prospectus or prospectuses, if any, and this pricing statement are available for collection at the times and places specified in this statement.”; and
  - (iii) “A copy of this pricing statement has been registered by the *[insert name of the relevant regulator]* together with the base prospectus. The effectiveness of this pricing statement neither represent that *[insert name of the relevant regulator]* have suggested investment in the Plain Debt Securities; nor contain any assurance in relation to the value or returns on the Plain Debt Securities; nor shall certify the accuracy and completeness of information contained in the pricing statement. Registration of the pricing statement and the base prospectus by the *[insert name of the relevant regulator]* does not imply that the legal or regulatory requirements have been complied with. The *[insert name of the relevant regulator]* has not, in any way, considered the merits of the Plain Debt Securities being offered for investment”.
- (b) material terms and conditions of the offer of Plain Debt Securities to which it relates, when read together with the base prospectus and any supplementary base prospectus e.g. debt amount issued, interest rate, credit rating, Debt Issuance Programme schedule, etc.; and
- (c) other information required by the *[insert name of the relevant regulator]* which is specific and relevant only to that particular offer of Plain Debt Securities.

**Appendix  
Definitions of Terms Used in Division 2A**

Terms	Definition
<b>associate</b>	<p>This term, in relation to–</p> <p>(a) an individual, means a close member of the individual's family, and an entity which is controlled, directly or indirectly, by the individual;</p> <p>(b) an entity, its significant person or an entity which is controlled, directly or indirectly, by the significant person of such entity.</p>
<b>associated company</b>	<p>This term, in relation to an issuer, means–</p> <p>(a) any corporation, other than a subsidiary of the issuer, in which the issuer and/or one or more of its subsidiaries has or have a direct interest of not less than 20% but not more than 50% of the voting shares of the corporation; or</p> <p>(b) any corporation, other than a subsidiary or an associated company by virtue of paragraph (a), the policies of which the issuer and/or one or more of its subsidiaries is or are able to control or influence materially.</p>
<b>base prospectus</b>	<p>Shall mean the offer document applicable to every offer of Plain Debt Securities under a Debt Issuance Programme.</p>
<b>close family member</b>	<p>This term, in relation to an individual, means the individual's spouse, parent, child, sibling, spouse of his child and spouse of his sibling.</p>
<b>common control</b>	<p>Two or more entities or businesses are under common control if they are ultimately controlled by the same party or parties and the control is not transitory. A party is or a group of parties shall be regarded as controlling an entity or business when the party or group of parties, as a result of contractual arrangements, has or collectively have the power to govern its financial and operating policies so as to obtain benefits from its activities.</p>

<b>Debt Issuance Programme</b>	Shall mean a programme for issuance of Plain Debt Securities (as defined in the ASEAN Debt Securities Disclosure Standards) set up by an issuer wishing to make multi-jurisdictional offerings of Plain Debt Securities within ASEAN, by utilising a set of standardised documents (e.g. base prospectus, agreements with selling agents or dealers and issuing and paying agency agreements) that allow the issue of different types of Plain Debt Securities upon the completion of short-form standardised documentation (pricing statement).
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Terms	Definition
<b>directors</b>	<p>This term, in relation to a corporation, includes–</p> <ul style="list-style-type: none"> <li>(a) a member of the corporation’s board of directors, board of commissioners or equivalent governing body by whatever name called;</li> <li>(b) a person in accordance with whose directions or instructions the members of the corporation’s board of directors, board of commissioners or equivalent governing body (by whatever name called) is accustomed to act; and</li> <li>(c) an alternate or substitute member of the corporation’s board of directors, board of commissioners or equivalent governing body by whatever name called.</li> </ul>
<b>issuer</b>	<p>In the case of a sukuk <i>ljarah</i> where the issuer is a special purpose vehicle, the term issuer refers to both the issuer and the obligor under the sukuk <i>ljarah</i>.</p>
<b>major Shareholder</b>	<p>This term, in relation to a corporation, means a person who has an interest in or control over 5% or more of the voting shares of the corporation.</p>
<b>pricing statement</b>	<p>Shall mean an addendum to the base prospectus setting out the terms of a particular offer of Plain Debt Securities under a Debt Issuance Programme.</p>
<b>related party</b>	<p>This term, in relation to an issuer, includes–</p> <ul style="list-style-type: none"> <li>(a) an enterprise that directly or indirectly, controls, or is under common control with, the issuer;</li> <li>(b) a significant person of the issuer;</li> <li>(c) a director or a member of the senior management of, the issuer;</li> <li>(d) a close family member of the family of an individual referred to in (b) or (c); or</li> <li>(e) an enterprise which is controlled, directly or indirectly, by an individual referred to in (b), (c) or (d).</li> </ul>

Terms	Definition
<b>senior management</b>	<p>This term:</p> <p>(a) in relation to a corporation, means all the individuals (including directors of the corporation) who are employed in an executive capacity by the corporation and who each –</p> <p>(i) makes or participates in making decisions that affect the whole or a substantial part of the business of the corporation; or</p> <p>(ii) has the capacity to make decisions which affect significantly the corporation's financial standing; and</p> <p>(b) in relation to a group of corporations, means all the individuals (including directors of the corporations in the group) who are employed in an executive capacity by any of the corporations in the group and who each –</p> <p>(i) makes or participates in making decisions that affect the whole or a substantial part of the business of the group; or</p> <p>(ii) has the capacity to make decisions which affect significantly the group's financial standing;</p>
<b>significant person</b>	<p>This term, in relation to a corporation, means a person–</p> <p>(a) who has an interest in or control over 10% or more of the voting shares of the corporation; or</p> <p>(b) who is in a position to control the composition of the majority of the board of directors of the corporation; or</p> <p>(c) who, directly or indirectly, has the ability to control the management and/or the policies of the corporation.</p>
<b>supplementary base prospectus</b>	<p>Shall mean a supplementary offer document that updates the information in the base prospectus.</p>

# **DIVISION 3**

## **STRUCTURED WARRANT**

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## **Chapter 1**

### **GENERAL**

- 1.01 This division shall apply to a prospectus prepared in relation to the issue of, offer for subscription or purchase of, or invitation to subscribe for or purchase of structured warrants.
- 1.02 A prospectus in relation to the issuance of structured warrants may be issued–
- (a) in a single document; or
  - (b) by way of a base prospectus supported by term sheets, in which case, the base prospectus and term sheets should between them comply with these guidelines. The base prospectus should contain information relating to the issuer. The term sheet should contain information concerning the specific issue. The base prospectus and term sheets should each contain a statement that it should be read in conjunction with the other.
- 1.03 In determining what information is required to be included in the prospectus, regard should be given to the following:
- (a) The nature of the structured warrants;
  - (b) Business of the issuer and underlying corporation;
  - (c) The persons likely to consider acquiring the structured warrants; and
  - (d) The fact that certain matters may reasonably be expected to be within the knowledge of professional advisers whom potential investors may reasonably expect to consult.
- 1.04 The cut-off date for information to be disclosed in the prospectus should be as at the latest practicable date available prior to the issue of the prospectus, save for the requirements as set out in Chapter 9. Preparers of prospectuses should strictly observe any significant change or new matter arising that will affect the content of the prospectus and update it via a supplementary prospectus where necessary.

## Chapter 2

### FRONT COVER

The front cover should contain the following information and statements.

2.01 Particulars of the issuer, including:

- (a) Full name;
- (b) Place of incorporation;
- (c) Statute under which it was incorporated; and
- (d) Registration number;

For a foreign-incorporated issuer, to state, where applicable, that it has been registered as a foreign company in Malaysia under the *Companies Act 1965* together with its registration number.

2.02 The date of the prospectus.

2.03 Details of the structured warrants offering, including–

- (a) issue size and type of structured warrants;
- (b) issue price of structured warrants (if available);
- (c) listing that is sought; and
- (d) underlying financial instrument.

2.04 Name of the principal adviser, custodian and guarantor, where applicable.

2.05 The following statements, to appear in bold:

**INVESTORS ARE ADVISED TO READ AND UNDERSTAND THE CONTENTS OF THE PROSPECTUS. IF IN DOUBT, PLEASE CONSULT A PROFESSIONAL ADVISER.**

**THERE ARE CERTAIN RISK FACTORS WHICH PROSPECTIVE INVESTORS SHOULD CONSIDER. TURN TO PAGE [ ] FOR “RISK FACTORS”.**

## **Chapter 3**

### **INSIDE COVER/FIRST PAGE**

- 3.01 There are certain types of information that are considered essential to identify the prospectus and the status of the prospectus. If not already disclosed on the front cover, the prospectus should contain the following statements on the inside cover or at the very least, on page 1.

#### **Responsibility statements**

- (a) The directors of the issuer (and/or guarantor) have seen and approved this prospectus. The directors of the issuer (and/or guarantor) collectively and individually accepts full responsibility for the accuracy of the information contained in this prospectus and confirms, having made all reasonable enquiries, that to the best of its/their knowledge and belief, there are no false or misleading statements or other facts the omission of which would make any statement in this prospectus false or misleading.
- (b) [Name of principal adviser], being the principal adviser, acknowledges that based on all available information, and to the best of its knowledge and belief, this prospectus constitutes a full and true disclosure of all material facts concerning the offer.

#### **Statements of risk**

- (c) Investors are warned that the price of the underlying financial instruments and structured warrants may fall in value as rapidly as it may rise and holders may sustain a total loss of their investment. Prospective purchasers should therefore make sure they understand the terms and conditions of the structured warrants offered, the risk factors involved, and where necessary seek professional advice before investing in the structured warrants.
- (d) In the case of non-collateralised structured warrants, the issuer should also disclose the following:

The structured warrants constitute general unsecured contractual obligations of the issuer and of no other person. Therefore, if you purchase the structured warrants, you are relying on the creditworthiness of the issuer (and/or the guarantor) and have no recourse/rights against the underlying corporation."

#### **Statements of disclaimer**

- (e) A copy of this prospectus has been registered with the Securities Commission

Malaysia. The registration of this prospectus should not be taken to indicate that the Securities Commission Malaysia recommends the structured warrants offering or assumes responsibility for the correctness of any statement made or opinion or report expressed in this prospectus.

- (f) The Securities Commission Malaysia is not liable for any non-disclosure on the part of the issuer and takes no responsibility for the contents of this document, makes no representation as to its accuracy or completeness and expressly disclaims any liability whatsoever for any loss howsoever arising from or in reliance upon the whole or any part of the contents of this prospectus.

**INVESTORS SHOULD RELY ON THEIR OWN EVALUATION TO ASSESS THE MERITS AND RISKS OF THE INVESTMENT. IN CONSIDERING THE INVESTMENT, INVESTORS WHO ARE IN ANY DOUBT AS TO THE ACTION TO BE TAKEN SHOULD CONSULT THEIR STOCKBROKERS, BANK MANAGERS, SOLICITORS, ACCOUNTANTS OR OTHER PROFESSIONAL ADVISERS IMMEDIATELY.**

- (g) Approval has been or will be obtained from Bursa Malaysia Securities Bhd for the listing of and quotation of the structured warrants being offered. Admission to the Official List of Bursa Malaysia Securities Bhd is not to be taken as an indication of the merits of the invitation, corporation, or its securities; and
- (h) A copy of this prospectus, together with the form of application, has also been lodged with the Registrar of Companies who takes no responsibility for its contents.

### **Other statements**

3.02 The following additional statements should also be stated:

- (a) Investors are advised to note that recourse for false or misleading statements or acts made in connection with the prospectus is directly available through sections 248, 249 and 357 of the *Capital Markets and Services Act 2007*; and
- (b) Securities listed on Bursa Malaysia Securities Bhd are offered to the public premised on full and accurate disclosure of all material information concerning the issue for which any of the persons set out in section 236 of the *Capital Markets and Services Act 2007*, e.g. directors and advisers, are responsible.

## **Chapter 4**

### **TIMETABLE/DEFINITIONS/TABLE OF CONTENTS/CORPORATE DIRECTORY**

4.01 The prospectus should be properly structured, with the relevant sections and headings, for ease of reference and cross-reference.

#### **Indicative timetable**

4.02 The prospectus should disclose the period during which the offering of structured warrants should remain open after the publication of the prospectus which is inclusive of the date of issue of the prospectus and which should be for a reasonable period.

4.03 The prospectus should set out the critical dates for the offering, including-

- (a) opening and closing dates of the issue and/or offer;
- (b) tentative dates of any special events, for example, date for the balloting of applications (day, month and year);
- (c) tentative price determination date (day, month and year);
- (d) tentative date for allotment of securities (day, month and year); and
- (e) tentative listing date (day, month and year).

4.04 The prospectus should state whether the directors of the issuer reserve the right to extend the closing date.

4.05 The prospectus should disclose the method of informing the public if the closing date is extended.

#### **Definitions**

4.06 A glossary of abbreviations and technical terms should be provided.

#### **Table of contents**

4.07 There should be a table of contents, listing all sections and subsections of the prospectus.

#### **Corporate directory**

4.08 The prospectus should contain details of the following persons:

*Part II – Contents of Prospectus (Division 3)*

- (a) Names, nationalities, addresses and professions of all directors of the issuer (to specify the independent directors);
- (b) Names of the audit committee members;
- (c) Name, address and membership number of the company secretary of the issuer;
- (d) Addresses and telephone numbers of the issuer's registered office, head/management office and the e-mail and website address (if any);
- (e) Names and addresses of the following parties (where applicable):
  - (i) Auditors;
  - (ii) Reporting accountants;
  - (iii) Solicitors;
  - (iv) Principal bankers;
  - (v) Issuing house;
  - (vi) Registrar;
  - (vii) Principal adviser;
  - (viii) Selling/Placement agents;
  - (ix) Rating agency;
  - (x) Trustee;
  - (xi) Custodian;
  - (xii) Guarantors;
  - (xiii) Shariah adviser;
  - (xiv) Paying agent;
  - (xv) Facility agent; and
  - (xvi) Authorised depository institutions;
- (f) Names and addresses of experts whose prepared reports or excerpts or summaries are included or referred to in the prospectus; and
- (g) Names of stock exchanges where the structured warrants and underlying shares are already listed and/or the listing is sought in relation to the prospectus.

## **Chapter 5**

### **DETAILS OF STRUCTURED WARRANTS OFFERING**

#### **Information on the issuer**

- 5.01 The prospectus should contain a description of the issuer, its subsidiaries or affiliates and, where applicable, the guarantor and/or the risk manager, including its history and business, its place of incorporation and business, its directors and management, its experience in the issuance and management of warrants and other equity derivatives.
- 5.02 In the case of a non-collateralised structured warrants issue, disclose the published audited consolidated financial statements for the past three financial years. Where there is a performance guarantee for the structured warrants issue, disclose the guarantor's published audited consolidated financial statements and auditor's report for the past three financial years. In the case of a fully-collateralised call warrants issue, provide the published audited financial statements for the past one financial year.
- 5.03 Where the date of a prospectus is within 15 months of the last audited financial statements of the issuer, disclose the last audited financial statements together with the latest quarterly and quarterly cumulative financial statements, including the explanatory notes.
- 5.04 Where the issue is non-collateralised, provide a description of the issuer's activities on its use of the securities, e.g. structured warrants, options and futures, swaps and similar instruments, covering the following:
- (a) The purpose for which such instruments are used;
  - (b) The hedging strategy to be employed and its internal risk management set up to mitigate the risk arising, such as market risk, credit risk, concentration risk and operational risk. If an outside risk manager has been appointed to supervise the risk management process, the terms and conditions of the agreement or guarantee should be clearly specified;
  - (c) The role of senior management in the supervision of the risk management process, including the functions and independence of its risk management, credit, finance, internal audit and compliance units; and
  - (d) The imposition and monitoring of trading and credit limits, including the procedures and authorisations necessary for such limits to be exceeded and the procedures in relation to and action which would be taken if such limits are exceeded without due authority.

- 5.05 Where the issue is fully collateralised, the issuer should disclose the security arrangement and the identity of the trustee or custodian of the underlying financial instruments.
- 5.06 On matters regarding material litigation and arbitration, disclose any litigation, arbitration or claims of material importance pending or threatened against the issuer or any member of the issuer's group which has or will have a material effect on the ability of the issuer to meet its obligations. Where the issuer is an eligible broker or licensed institution, disclose only the material litigation which is outside the ordinary course of business.
- 5.07 If the issuer or guarantor is regulated by a regulator, disclose a statement on that fact and identify the relevant regulatory body. If otherwise, provide an appropriate negative statement.
- 5.08 If the issuer or guarantor was rated by a rating agency, disclose a statement on that fact and identify the rating agency (including the rating and when it was awarded). If otherwise, provide an appropriate negative statement.
- 5.09 The prospectus should contain the salient details of underwriting/undertaking arrangements and guarantee agreements, if any.

### **Market making**

- 5.10 Disclose whether the issuer intends to fulfil the spread requirement or provide liquidity for a structured warrant issue via market making, or both.
- 5.11 Where the issuer appoints a market maker for its issue of structured warrants, it should disclose the identity of the market maker for the issue of the structured warrants and an explanation of the relationship between the issuer and the market maker emphasising that that market maker is acting as agent for the issuer.
- 5.12 Disclose the minimum quantity of structured warrants for which liquidity will be provided.
- 5.13 Where the issuer provides liquidity via market making, disclose the circumstances under which the market maker will not be able to, and should not be obliged to provide liquidity in its structured warrants.
- 5.14 Disclose the daily market presence of the market maker.
- 5.15 Disclose the maximum spread between the bid and offer prices when liquidity is provided.
- 5.16 Disclose whether the issuer has any intention to undertake a further issue of the structured warrants.

### **Conflicts of interest**

- 5.17 The issuer should disclose any agreement, arrangement or understanding (direct or indirect) in place at the latest practicable date between the issuer and any member of the issuer's group, and any substantial shareholder of the underlying corporation, where such agreement, arrangement or understanding will have an effect on the issuance of the structured warrants.
- 5.18 There should be disclosed a declaration of any party's existing and potential interests/ conflicts of interest in an advisory capacity (if any) vis-à-vis the issuer/group. Such parties should include advisers, firms of public accountants, law firms, experts and such other parties which provide advice to the issuer/group.

### **Information on the terms and conditions of the structured warrants**

- 5.19 The prospectus should set out in detail the terms and conditions of the structured warrants, including but not limited to the following:
- (a) The issue size;
  - (b) A full description of the nature of the structured warrants, e.g. single or basket, exercise style (American or European), underlying financial instruments and settlement method; and
  - (c) A summary of the terms of the structured warrants, including the issue price, strike price, exercise period, expiry date, the implied volatility, gearing, effective gearing and premium. In the case of equity-linked structures, the yield of the instrument and for other structured warrants, such information as required.
- 5.20 Where the underlying financial instrument is a basket of shares, the prospectus should disclose the relevant weightings of each underlying share in the basket.
- 5.21 A description of all applicable exercise rights should be made including:
- (a) Automatic exercise at the expiry of the exercise of the structured warrants;
  - (b) For a physical settlement, the delivery of an exercise notice and payment of the exercise price, and state the period in which the issuer may deliver the underlying by electronic transfer to the holder following a valid exercise;
  - (c) The maximum number of underlying shares which the issuer is obliged to transfer upon exercise of the structured warrants;
  - (d) For a cash settlement, state clearly the method of calculating the settlement amount and the period in which the issuer may deliver the requisite cash settlement amount. Also state the issuer's obligation to provide for automatic exercise upon expiry or maturity of the structured warrants; and

- (e) The period during which the structured warrants in issue may be exercised and the date when the structured warrants mature or expire.
- 5.22 A prospectus should disclose the rights of the holders of the structured warrants in the event of a take-over, merger, liquidation, dissolution or winding-up of the issuer or a scheme of arrangement involving the shareholders of the issuer.
- 5.23 Provide a description of any other rights other than those stipulated in any of the paragraphs above conferring rights on the holder of the structured warrants.
- 5.24 The issuer is required to publish a notice on the final issue price and exercise price in a widely circulated English newspaper. A copy of the notice should be furnished to the SC on the date of publication.

### **Information on the underlying financial instrument**

- 5.25 Where the underlying financial instrument is listed shares, the prospectus should include the following information in respect of each of the underlying corporation:
  - (a) Description of the underlying corporation, its subsidiaries, its history and business, its directors, key management and substantial shareholders;
  - (b) The published audited consolidated financial statements for the past three financial years and the latest quarterly results (where relevant);
  - (c) The date of and arrangement for adjusting the amount payable on the exercise of such rights or the entitlement due upon exercise (where applicable) to take account of any rights issue, bonus issue, sub-division, consolidation or other alteration to the share capital of the underlying corporation;
  - (d) The rights (if any) of the holders of the structured warrants to participate in any distribution and/or offers of further securities made by the underlying corporation;
  - (e) The rights (if any) of the holders of the structured warrants in the event of a take-over, merger, liquidation, dissolution or winding-up of the underlying corporation or a scheme of arrangement involving the shareholders of the underlying corporation;
  - (f) Market statistics of the underlying shares quoted on a securities exchange outside Malaysia:
    - (i) The quarterly highest and lowest market prices of the underlying shares and the composite index of the relevant stock exchange for the past three years;
    - (ii) The closing price and five-day volume-weighted average price preceding the date of the issue of the prospectus;

- (iii) The market capitalisation based on the latest closing price preceding the date of the issue of the prospectus;
  - (iv) The price-earnings multiple based on the latest closing price preceding the date of the issue of the prospectus and the latest published audited results; and
  - (v) The dividend yield based on latest closing price preceding the date of the issue of the prospectus and the latest annual dividend that was declared and paid;
  - (g) Any other information concerning the relevant companies which has been published generally and which is necessary to enable an investor to make an informed assessment of the value of the structured warrants;
- 5.26 Where the underlying is an index, provide the following information:
- (a) A description of the index;
  - (b) A description of the constituent stocks (if applicable);
  - (c) The identity of the party which sponsors and/or calculates the index;
  - (d) A description of the method of calculation;
  - (e) The arrangements for calculation if the index is not published by the normal party;
  - (f) The historic highs or lows for the last three years; and
  - (g) The closing spot level as at the latest practicable date.
- 5.27 In the case of structured warrants for other securities or assets, the prospectus should contain that information which is necessary to enable an investor to make an informed assessment of the value of the structured warrants.
- 5.28 Issuers may fulfil the disclosure requirements under paragraphs 5.02, 5.03, 5.25 and 5.26 by way of reference to a website address.

### **Additional information**

- 5.29 A statement that no securities will be allotted or issued on the basis of the prospectus later than 12 months after the date of issue of the prospectus.

## **Chapter 6**

### **RISK FACTORS**

- 6.01 The prospectus should contain information regarding the risks involved in purchasing the structured warrants. The risks involved include, but are not limited to–
- (a) all risks relating to the structured warrants and underlying financial instruments, such as volatility risk, liquidity risk (especially if no market making is undertaken) and all other risks which are material for an investor to make an informed decision in respect of investing in the structured warrants;
  - (b) risks associated with market disruption and settlement disruption events in relation to the underlying financial instrument;
  - (c) risks associated with events affecting the structured warrants including but not limited to, adjustments of rights/bonus issue of the underlying shares, insolvency, litigation and merger events of the underlying corporation; and
  - (d) risks associated with any termination events of the issue by the issuer.
- 6.02 For a non-collateralised structured warrants issue, the issuer is to state that buyers of the structured warrants are taking on the credit risk of the issuer and to provide its credit rating, if any.
- 6.03 The listing of risk factors in order of priority is encouraged.
- 6.04 Care should be taken in making disclaimers of risk factors to ensure that the disclaimers are not so wide as to cause the risk disclosures to be of little or no beneficial use to investors.

**Chapter 7**

**APPROVALS AND CONDITIONS**

- 7.01 The prospectus should disclose the approvals of the relevant authorities in conjunction with the structured warrants offering together with the dates of approvals and any conditions attached and the compliance thereof.
- 7.02 For any waivers from these guidelines that have been approved by the SC, to state the specific paragraph of the guidelines for which the waiver was sought and details of the approval with conditions (if any).

## **Chapter 8**

### **EXPERTS' STATEMENTS/REPORTS**

- 8.01 Where the prospectus includes a statement purporting to be made by an expert, there should be included a statement–
- (a) specifying the qualifications of such an expert and whether such an expert holds any securities in the issuer, any member of the issuer's group or has the right to nominate persons to subscribe for securities in the issuer or any member of the issuer's group and, if so, a full description thereof; and
  - (b) whether such an expert holds any securities in the underlying corporation.
- 8.02 There should be disclosed excerpts from, or summaries of, opinions expressed and conclusions recorded in the reports. The experts should state whether or not the reports were prepared for inclusion in the prospectus.
- 8.03 The experts' reports should be signed and dated within a reasonable time of the issue of the prospectus to ensure that the contents are substantially relevant.
- 8.04 If the expert becomes aware of significant changes affecting the content of the report, either–
- (a) between the date of the report and the issue of the prospectus; or
  - (b) after the issue of the prospectus and before the issue of the structured warrants,
- then the expert has an ongoing obligation to either cause the report to be updated for the changes and, where applicable, cause the issuer to issue a supplementary prospectus, or withdraw the expert's consent to the inclusion of the report in the prospectus. Failure to do so will result in the issuer and the expert being liable for any misleading statements or material omission arising from the outdated report.
- 8.05 Care should be taken by experts in making disclaimers of responsibility in their experts' reports. If the disclaimers are so wide as to cause the report to be of little or no beneficial use to investors, then inclusion of the report in the prospectus may itself be misleading.

## **Chapter 9**

### **DIRECTORS' REPORT**

- 9.01 The prospectus should contain a report by the directors of the issuer, for the period between the date to which the last audited financial statements of the issuer/group have been made up and a date not earlier than 14 days before the date of issue of the prospectus, stating whether, after due enquiry by them–
- (a) the business of the issuer/group has, in their opinion, been satisfactorily maintained;
  - (b) there have, in their opinion, arisen, since the last audited financial statements of the issuer/group, any circumstances which have adversely affected the trading or the value of the assets of the issuer/group;
  - (c) the current assets of the issuer/group appear in the books at values which are believed to be realisable in the ordinary course of business;
  - (d) there are contingent liabilities by reason of any guarantees or indemnities given by the issuer/group;
  - (e) there have been, since the last audited financial statements of the issuer/group, any default or any known event that could give rise to a default situation, in respect of payments of either interest and/or principal sums in relation to any borrowings in which they are aware of; or
  - (f) there have been, since the last audited financial statements of the issuer/group, any material changes in the published reserves or any unusual factors affecting the profits of the issuer/group.

The report should contain full details of all matters required to be dealt with above.

**Chapter 10**

**CONSENTS**

10.01 The prospectus should contain statements of consents from relevant parties, such as advisers, reporting accountants, auditors, issuing houses, registrars, selling/placement agents, solicitors, external company secretaries, bankers, rating agencies and experts or inclusion of their names and (where relevant) statements and reports in the form and context in which such statements and reports appear. A statement that they have not subsequently withdrawn such consents should also be disclosed.

## **Chapter 11**

### **DOCUMENTS AVAILABLE FOR INSPECTION**

- 11.01 Provide a statement that for a period of at least 12 months from the date of issue of the prospectus, the following documents (or copies thereof), where applicable, may be inspected at a specified place in Malaysia:
- (a) The Memorandum and Articles of Association of the issuer;
  - (b) Any trust deed/deed poll;
  - (c) Each material contract or document referred to in the prospectus and, in the case of contracts not in writing, a memorandum which gives full particulars of the contracts;
  - (d) All reports, letters or other documents, and statements by any expert, any part of which is extracted or referred to in the prospectus. Where a summary expert's report is included in the prospectus, the corresponding full expert's report should be made available for inspection;
  - (e) The audited financial statements of the issuer and its subsidiaries for the last three financial years or from the date of incorporation, if less than three years, preceding the date of prospectus;
  - (f) Writ and relevant cause papers of all current material litigation and arbitration disclosed in the prospectus;
  - (g) Latest audited financial statements of the issuer and its subsidiaries for the current financial period (where applicable); and
  - (h) Each consent given under Chapter 10.

## **Chapter 12**

### **APPLICATION FOR STRUCTURED WARRANTS**

- 12.01 The prospectus should contain instructions/procedures on how to apply for the structured warrants and how to complete applications. The instructions/procedures should contain terms and conditions for application, specific steps/measures to be complied with in relation to the various modes of application for structured warrants, e.g. automated teller machines, Internet and/or physical applications and any relevant statements of disclaimers in respect of the application.
- 12.02 The addresses where completed applications should be sent should be set out in the prospectus, as well as a statement as to whom payments should be made payable.
- 12.03 The prospectus should disclose the minimum number of structured warrants that can be applied for and the multiples of additional structured warrants for which investors may apply.
- 12.04 The application form should be identifiable with the prospectus to which it relates and warn investors against signing the form without having read and understood the prospectus. Accordingly, the application form should contain the following statements:
- (a) The name of the issuer and registration number;
  - (b) The date of the prospectus to which it relates;
  - (c) The expiry date of the prospectus;
  - (d) Words to the effect that, in accordance with the requirements of the CMSA, the application form should not be circulated unless accompanied by the prospectus; and
  - (e) Words to the effect that investors should have read the prospectus before completing the application form.
- 12.05 The application form should not contain any investment information that is not also contained in the body of the prospectus.
- 12.06 Where applicable, the issuer should allocate all excess securities in respect of any subscription on a fair and equitable basis. In this respect, the prospectus should contain a statement that the allocation of the excess structured warrants will be made on a fair and equitable manner.

## **DIVISION 4**

### **BUSINESS TRUST**

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## **Chapter 1**

### **GENERAL**

- 1.01 This division shall apply to a prospectus prepared in relation to the issue of, offer for subscription or purchase of, or invitation to subscribe for or purchase of units of business trust.
- 1.02 Preparers of prospectuses must strictly observe any significant change or new matter arising that will affect the content of the prospectus and to update it via a supplementary prospectus or replacement prospectus where necessary.
- 1.03 *[Deleted]*

## Chapter 2

### DEFINITIONS

2.01 Unless provided for in this chapter, all the terms used in this division shall have the meanings as provided for in the law and the *Business Trust Guidelines*.

associated entity	in relation to a business trust, means—  An entity, including an unincorporated entity such as a partnership over which the business trust has significant influence and a joint venture which the business trust has an interest in.
business trust	has the same meaning as provided for under subsection 2(1) of the CMSA.
business trust group	means the business trust the business trust's subsidiary entities and associated entities.
deed	has the same meaning as provided for under section 256H of the CMSA.
director	has the same meaning as provided for under subsection 2(1) of the CMSA and includes a person who is a chief executive.
independent member	in relation to –  (a) the board of directors of a trustee-manager; (b) the audit committee; and (c) the Shariah adviser,  means a person who is free of any relationship with the –  (A) trustee-manager; (B) controlling shareholders or major shareholders of the trustee-manager; or (C) substantial unit holders of the business trust  In any case, a period of two years must lapse before a person who was previously connected to the trustee-manager, controlling shareholders/major shareholders or substantial unit holders of the business trust can be deemed to be independent.  A person would not be considered an independent member if, amongst others, the person:  (a) is an officer of the trustee-manager or any of its subsidiaries;  (b) is an officer of any body corporate or unincorporated body that has power to appoint or make recommendations towards the appointment of board of directors of the trustee-manager members of the audit committee and the Shariah adviser of the business trust;

*Part II – Contents of Prospectus (Division 4)*

- (c) is related to an officer of the trustee-manager of the business trust;
- (d) represents or perceived to represent any body corporate or unincorporated body with a controlling shareholding in the trustee-manager;
- (e) represents or is seen to be representing any body corporate or unincorporated body with a business interest in the trustee-manager; or
- (f) within two years prior to his appointment as independent member, has derived any remuneration or benefit (other than retirement benefit) from the trustee-manager or any body corporate or unincorporated body that has power to appoint or make recommendations towards the appointment of members of the board of directors of the trustee-manager, members of the audit committee and the Shariah adviser of the business trust.

pre-emptive issues	refers to the offerings made to the business trust's existing unit holders in order to allow the existing unit holders to maintain their pro-rata ownership in the business trust.
promoters	has the same meaning given in section 226 of the CMSA.

**Calculation of time period**

- 2.02 References to "days" in this division will be taken to mean calendar days unless otherwise stated. Furthermore, any time period stated in this division 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**

### **COVER PAGE**

The front cover should contain the following information and statements.

3.01 Particulars of the business trust, including:

- (a) Name;
- (b) Date of registration/recognition;
- (c) Country of constitution;
- (d) Regulatory authority which regulates the business trust, where relevant; and
- (e) Registration number, where relevant.

3.02 Particulars of the trustee-manager, including its:

- (a) Full name;
- (b) Registration number;
- (c) Date of incorporation;
- (d) Country of incorporation of the trustee-manager;
- (e) Statute under which it was incorporated; and
- (f) Regulatory authority which regulates the trustee-manager, where relevant.

3.03 The date of the prospectus.

3.04 Details of the offering, including—

- (a) number and type of units being issued/offered;
- (b) price of units being issued/offered; and
- (c) listing that is sought.

3.05 The name of the principal adviser/lead arranger and managing underwriter.

3.06 The following statement, to appear in bold:

**INVESTORS ARE ADVISED TO READ AND UNDERSTAND THE CONTENTS OF THE PROSPECTUS. IF IN DOUBT, PLEASE CONSULT A PROFESSIONAL ADVISER.**

**THERE ARE CERTAIN RISK FACTORS WHICH PROSPECTIVE INVESTORS SHOULD CONSIDER. TURN TO PAGE [ ] FOR “RISK FACTORS”.**

## Chapter 4

### INSIDE COVER/FIRST PAGE

- 4.01 There are certain types of information that are considered essential to identify a prospectus and the status of a prospectus. If not already disclosed on the front cover, the prospectus should contain the following statements on the inside cover or at the very least, on page 1.

#### Responsibility statements

- (a) “The directors of the trustee-manager of the business trust have seen and approved this prospectus. They collectively and individually accept full responsibility for the accuracy of the information. Having made all reasonable enquiries, and to the best of their knowledge and belief, they confirm there is no false or misleading statement or other facts which if omitted, would make any statement in the prospectus false or misleading.”
- (b) Where a forecast is provided:
- “The directors of the trustee-manager of the business trust accepts full responsibility for the profit and/or cash flow estimate/forecast and/or projections included in this prospectus and confirm that the profit and/or cash flow estimate/forecast and/or projections have been prepared based on assumptions made.”
- (c) “[Name of principal adviser/lead arranger], being the principal adviser/lead arranger, acknowledges that, based on all available information, and to the best of its knowledge and belief, this prospectus constitutes a full and true disclosure of all material facts concerning the public offering. It is satisfied that any profit and/or cash flow estimate/forecast and/or projections, prepared for inclusion in the prospectus have been stated by the directors of the trustee-manager of the business trust after due and careful enquiry and have been duly reviewed by the reporting accountants.”

#### Statements of disclaimer

- (d) “The Securities Commission Malaysia has approved the issue, offer or invitation for the offering (where applicable) and a copy of this prospectus has been registered with the Securities Commission Malaysia. The approval, and registration of this prospectus, should not be taken to indicate that the Securities Commission Malaysia recommends the offering or assumes responsibility for the correctness of any statement made or opinion or report expressed in this prospectus. The Securities Commission Malaysia has not, in any way, considered the merits of the securities being offered for investment.”
- (e) “The Securities Commission Malaysia is not liable for any non-disclosure on the part of the trustee-manager responsible for the business trust and takes no responsibility for the contents of this prospectus. The Securities Commission Malaysia makes no representation on the accuracy or completeness of this prospectus, and expressly disclaims any liability whatsoever arising from, or in reliance upon, the whole or any part of its contents.

**INVESTORS SHOULD RELY ON THEIR OWN EVALUATION TO ASSESS THE MERITS AND RISKS OF THE INVESTMENT. INVESTORS WHO ARE IN ANY DOUBT AS TO THE ACTION TO BE TAKEN SHOULD CONSULT THEIR STOCKBROKERS, BANK MANAGERS, SOLICITORS, ACCOUNTANTS, OR OTHER PROFESSIONAL ADVISERS IMMEDIATELY.”**

(f) Where applicable:

“The valuation utilised for the purpose of the proposal should not be construed as an endorsement by the Securities Commission Malaysia on the value of the assets.”

(g) “Approval has been or will be obtained from Bursa Malaysia Securities Berhad for the listing of and quotation for the units being offered. Admission to the Official List of Bursa Malaysia Securities Berhad is not to be taken as an indication of the merits of the invitation, business trust, or its units.”

#### Other statements

4.02 A prospectus should disclose the following:

(a) Where a prospectus states or implies that an application has been or will be made for the units offered to be listed for quotation on the official list of a stock exchange or other similar exchange outside Malaysia, any allotment made on an application to subscribe for units under the prospectus would be void–

- if the permission is not applied for before the third day on which the exchange is open after the date of issue of the prospectus; or
- the permission is not granted before the expiration of six weeks from the date of issue of the prospectus (or such longer period as may be specified by the SC); and

(b) If no permission has been applied for, or has not been granted by the exchange as mentioned above, the trustee-manager of the business trust will repay without interest all monies received from the applicants. If any such monies are not repaid within 14 days after the trustee-manager of the business trust becomes liable to repay it, the provision of sub-section 243(2) of the CMSA will apply accordingly.

4.03 The following additional statements must also be stated:

“Investors are advised to note that recourse for false or misleading statements or acts made in connection with the prospectus is directly available through sections 92A, 248, 249 and 357 of the *Capital Markets & Services Act 2007*.”

“Securities listed on Bursa Malaysia Securities Berhad are offered to the public premised on full and accurate disclosure of all material information concerning the issue for which any of the persons set out in section 236 of the *Capital Markets & Services Act 2007*, e.g. directors of the trustee-manager and principal adviser, are responsible.”

4.04 For an Islamic business trust, the following statement must be stated:

“The Islamic business trust named in this prospectus has been certified as being Shariah compliant by the Shariah adviser appointed for the Islamic business trust.”

## **Chapter 5**

### **TIMETABLE/DEFINITIONS/TABLE OF CONTENTS/CORPORATE DIRECTORY**

5.01 A prospectus should be properly structured, with the relevant sections and headings, for ease of reference and cross reference.

#### **Indicative timetable**

5.02 A prospectus should disclose the period during which the offering of units remains open after the publication of the prospectus. The offer period should be reasonable and inclusive of the date of issue of the prospectus.

5.03 A prospectus should set out the critical dates for the offering, including–

- (a) opening and closing dates of the issue and/or offer;
- (b) tentative dates of any special event, for example, date for the balloting of applications (day, month and year);
- (c) tentative date for allotment of units (day, month and year); and
- (d) tentative listing date (day, month and year).

5.04 A prospectus should state whether the directors of the trustee-manager reserve the right to extend the closing date.

5.05 A prospectus should disclose the method of informing the public if the closing date is extended.

#### **Definitions**

5.06 A glossary of abbreviations and technical terms should be provided.

#### **Table of contents**

5.07 There should be a table of contents, listing all sections and subsections of the prospectus.

#### **Corporate directory**

5.08 The directory should contain details of the following persons:

- (a) Name, address and telephone number of the registered office and business office of the trustee-manager and, the agents of the trustee-manager (if any), as well as the email address and website address (if any);
- (b) Name, nationality, address, and profession of all directors of the trustee-manager (to specify the independent director);

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- (c) Name of the audit committee members of the trustee-manager (to specify the independent member);
- (d) Name, nationality and profession of all key management of the trustee-manager;
- (e) Name, address, and membership number of the company secretary of the trustee-manager;
- (f) Name and address of the following parties in respect of the business trust (where applicable):
  - (i) Auditors;
  - (ii) Reporting accountants;
  - (iii) Tax consultants;
  - (iv) Solicitors;
  - (v) Principal bankers;
  - (vi) Issuing house;
  - (vii) Registrar;
  - (viii) Principal adviser and managing underwriter;
  - (ix) Underwriters;
  - (x) Placement agents;
  - (xi) Valuers; and
  - (xii) Shariah adviser/Shariah committee members (where applicable);
- (g) Name and address of experts whose prepared report or excerpt or summary are included or referred to in the prospectus; and
- (h) Name of stock exchange where units are already listed and/or the listing is sought in relation to the prospectus.

## **Chapter 6**

### **INFORMATION SUMMARY/INVESTOR WARNING**

#### **Information summary**

- 6.01 There must be an information summary near the front of the prospectus, which summarises key information about the offer/issue and business trust/business trust group.
- 6.02 The information summary should, where necessary, include cross references to specific sections and pages of the body of the prospectus which contain full details about the respective matters.
- 6.03 Detailed content of the information summary is to be determined by the trustee-manager. This may include, but is not limited to, the following:
- (a) Objective of the business trust including the core business of the business trust group;
  - (b) Units for distribution, offering price, and expected net proceeds;
  - (c) Use of proceeds for the business trust group;
  - (d) Risk factors in respect of the business trust group;
  - (e) Fees and expenses in respect of the business trust;
  - (f) Summary financial information of the business trust group; and
  - (g) A list of current deed and supplemental deed (if any) and their corresponding dates.
- 6.04 The information summary should generally not exceed 3,000 words.

#### **Investor warning**

- 6.05 There must be a warning in bold at the front of the information summary advising investors that the information summary is only a summary of the salient information about the business trust group and that investors should read and understand the whole prospectus prior to deciding on whether to invest.
- 6.06 The following warning statement must also be disclosed in bold:

**“There are fees and expenses involved and investors are advised to consider them before investing in the business trust.”**

## **Chapter 7**

### **DETAILS OF OFFERING**

#### **Offer and listing details**

- 7.01 The prospectus should contain full details of–
- (a) the purpose of the offering;
  - (b) the number and type of units to be issued/offered;
  - (c) classes of units and rights attached to the units regarding voting, distribution, liquidation and any special rights;
  - (d) the number and type of units proposed to be issued/offered to different groups of investors;
  - (e) where there is more than one class of units of the business trust in issue, similar particulars should be given for each additional class; and
  - (f) if, in conjunction with the offering, units of the same or another class are sold or subscribed privately, the nature of such sales or subscriptions and the number and characteristics of the issues concerned, including details of underwriting/undertaking arrangements, if any.
- 7.02 The prospectus should contain details about the pricing of units, including–
- (a) prices applied to different classes of investors; and
  - (b) bases for determination of the issue/offer price. Such bases should be clearly explained.
- 7.03 The prospectus should disclose the total market capitalisation of the business trust upon listing.

#### **History of market prices**

- 7.04 If the units are already listed on other stock exchange, information on the price history, if any, of the units to be offered or listed should be disclosed as follows:
- (a) For the three most recent full financial years, the annual highest and lowest market prices;
  - (b) For the two most recent full financial years and any subsequent period, the highest and lowest market prices for each full financial quarter;
  - (c) For the most recent six months, the highest and lowest market prices for each month; and
  - (d) For pre-emptive issues, the market prices for the first trading day in the most recent six months, for the last trading day before the announcement of the offering and (if different) for the latest practicable date prior to issuance of the prospectus.

Information should be given with respect to the market price in the host market and the principal trading market outside the host market.

- 7.05 If significant trading suspensions occurred in the three years preceding the latest practicable date, they should be disclosed. If the units are not regularly traded in an organised market, information should be given about any lack of liquidity.

### **Plan of distribution**

- 7.06 Where a trustee-manager intends to allocate units to:

- (a) Eligible shareholders, directors or employees of the trustee-manager;
- (b) Subsidiary entities of the business trust;
- (c) Unit holders of the business trust; or
- (d) Other persons,

under a preferential allocation scheme, the trustee-manager should disclose the following:

- (i) A brief description of the criteria of allocation of the units as approved by the board of directors of the trustee-manager;
- (ii) The total number of persons eligible for the allocation; and
- (iii) Where the directors of the trustee-manager and subsidiary entities of the business trust are eligible for the allocation scheme, the number of units to be allocated to each individual director.

- 7.07 The prospectus should disclose whether the amount of the offering could be increased, such as by exercise of an underwriter's over-allotment option or 'greenshoe', and state the exercise period and amount under such option.

- 7.08 If the offering is being made simultaneously in the markets of two or more countries and if a tranche has been or is being reserved for certain markets, the prospectus should provide information about the tranche and details of any other allocation arrangement.

### **Selling unit holders**

- 7.09 The following information on selling unit holders should be provided:

- (a) The name and address of the person or entity offering to sell the units, the nature of any position, office or other material relationship that the selling unit holder has had within the past three years with the trustee-manager or any of its predecessors, or the business trust group; and

- (b) The number and class of units being offered by each of the selling unit holders, and the percentage of the existing and the enlarged units in issue. The amount and percentage of the units for each particular type of units beneficially held by the selling unit holder as of the latest practicable date and immediately after the offering should be specified.

### **Dilution**

7.10 The following information should be provided:

- (a) A comparison of the public contribution in the proposed offering and the effective cash contributions where there is a substantial disparity between the offering price and the effective cash cost of units acquired in transactions during the past three years, or units of which there is a right to acquire, by the following persons:
  - (i) Directors, senior management or substantial shareholders of the trustee-manager;
  - (ii) Substantial unit holders of the business trust; or
  - (iii) Persons connected to the persons in (i) or (ii);
- (b) The amount and percentage of immediate dilution resulting from the offering, computed as the difference between the offering price per unit and the net asset value per unit for the equivalent class of unit, as of the date of the latest statement of financial position after adjusting for the effects of the offer, and any disposal or acquisition which occurred between the date of the latest statement of financial position and the date of the prospectus, on the net asset value per unit;
- (c) Whether the information on dilution has been prepared using certain assumptions and after making certain adjustments on a pro forma basis; and
- (d) The amount and percentage of immediate dilution in the case of a subscription offering to existing unit holders, if they do not subscribe to the new offering.

### **Use of proceeds**

7.11 Where applicable, the prospectus should contain full details of the following:

- (a) The minimum level of subscription to be raised in order to satisfy the objectives of the offering, including the basis for determining the minimum level based on factors such as the level of funding required by the trustee-manager on behalf of the business trust and the extent of the unit holding spread needed;
- (b) The estimated gross proceeds from the offering broken down into each principal intended use. If the anticipated proceeds will not be sufficient to fund all the proposed purposes, the order of priority of such purposes should be given, as well as the amount and sources of other funds needed. Disclose also how the proceeds will be used pending their eventual utilisation for the proposed purposes;
- (c) If the trustee-manager for the business trust has no specific plans for the proceeds, it should discuss the principal reasons for the offering;

- (d) If the proceeds are being used directly or indirectly to acquire or refinance the acquisition of assets, other than in the ordinary course of business, briefly describe the assets and their cost. If the assets has been or will be acquired from:
    - (i) The trustee-manager for the business trust;
    - (ii) A director or substantial shareholder of the trustee-manager;
    - (iii) Substantial unit holder of the business trust; or
    - (iv) Persons connected to the above,disclose the persons from whom they will be acquired and how the cost to the business trust will be determined;
  - (e) If the proceeds may or will be used to finance or refinance acquisitions of other business, give a brief description of such business and information on the status of the acquisition;
  - (f) If any material part of the proceeds is to be used to discharge, reduce or retire–
    - (i) the indebtedness of the trustee-manager arising from its acting on behalf of the business trust; or
    - (ii) in the case of a business trust group, the indebtedness of the trustee-manager arising from its acting on behalf of the business trust and the indebtedness of the business trust group,describe the interest rate and maturity of such indebtedness as well as the uses to which the proceeds of such indebtedness were put;
  - (g) If any material part of the proceeds is used for general working capital, briefly describe the items;
  - (h) A reasonably itemised statement of the major categories of expenses incurred in connection with the issuance and distribution of the units to be listed or offered and by whom the expenses are payable. If any of the units are to be offered for the account of a selling unit holder, indicate the portion of such expenses to be borne by such unit holder. Indicate the amount of any expense specifically charged to the subscriber or purchaser of the units being offered. The information may be given subject to future contingencies. If the amounts of any items are not known, estimates (identified as such) should be given;
    - (i) Brokerage arrangements and commissions, including underwriting and placement fees;
    - (j) The time frame for full utilisation of the proceeds based on each category; and
    - (k) The financial impact on the business trust/business trust group from the utilisation of the proceeds, i.e. interest savings, etc.
- 7.12 The prospectus should contain details of underwriting agreements, including–
- (a) the level of underwriting that has been arranged, together with the justifications for the level arranged;

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- (b) name of the underwriters together with the amount of units underwritten by each underwriter;
- (c) amount of underwriting commissions; and
- (d) brief description of any provision which may allow the underwriters to withdraw from their obligations under the agreement after the opening of the offer.

If the offering is not underwritten, to give a clear statement of the fact and the justifications.

## **Chapter 8**

### **RISK FACTORS**

- 8.01 A prospectus should contain information about risk factors which are specific to the business trust group, its business and its industry, and to the units being offered. These are risk factors which had or could materially affect, directly or indirectly, the business, operating results, and financial condition of the business trust group, and the investments by unit holders in the business trust.
- 8.02 There should also be a disclosure highlighting difference between the risks of investing in a business trust, a unit trust scheme and a listed corporation.
- 8.03 The listing of risk factors in order of priority is encouraged.
- 8.04 Disclaimers on the risk factors should not be so wide that the risk disclosures are of little or no beneficial use to investors.

## Chapter 9

### INFORMATION ABOUT BUSINESS TRUST AND BUSINESS TRUST GROUP

#### Background

- 9.01 The following information about the background of the business trust and its subsidiary entities or associated entities should be disclosed:
- (a) History of the business from inception to date, including important events in the development of the business trust's business, for example—
    - (i) information concerning the nature and results of any material reclassification, merger or consolidation of the business or any entities within the business trust group;
    - (ii) acquisitions or disposals of material assets other than in the ordinary course of business;
    - (iii) any material changes in the mode of conducting the business;
    - (iv) core business activities and products or services including any material changes in the types of products produced or services rendered;
    - (v) name changes; or
    - (vi) the nature and results of any bankruptcy, receivership or similar proceedings with respect to any entities within the business trust group;
  - (b) In respect of the business trust:
    - (i) Date and place of establishment of the business trust, date of commencement of the business, and where the deed of the business trust provide that the business trust is to be wound up at a specified time, in specified circumstances or on the happening of a specified event, such specified time, circumstances or event;
    - (ii) Issued units in the business trust, and changes for the last three years (or such shorter period that the business trust has been in operation), including:
      - (A) date of allotment, number of units issued, consideration given (together with information regarding any discount, special term or installment payment term or a negative statement thereof), details of outstanding warrants, options and convertible units; and
      - (B) Reduction of the amount of issued units;
  - (c) In respect of a corporation in the business trust group:
    - (i) Date and place of incorporation together with the registration number, date of commencement of business and whether private or public corporation;

- (ii) Authorised, issued and paid-up capital, and changes for the last three years, including the date of allotment, number of shares allotted, consideration given (together with information regarding any discount, special term or installment payment term or a negative statement thereof) and cumulative issued and paid-up capital, nominal value, details of outstanding warrants, options, convertible securities and uncalled capital;
- (d) Business trust group structure (where applicable), including a list of subsidiary entities and associated entities, the percentage interest held, and a diagrammatic illustration of the business trust group;
- (e) A description, including the amount invested, of the business trust's material capital expenditures and divestitures (including interests in other corporations) by the trustee-manager acting on behalf of the business trust, since the beginning of the business trust's last three financial years to the date of the prospectus;
- (f) Information concerning the material capital expenditures and divestitures by the trustee-manager acting on behalf of the business trust currently in progress, including the distribution of these investments geographically (home and abroad) and the method of financing (internal or external); and
- (g) Key achievements/milestones/awards of the business trust group.

## **Business**

- 9.02 Where applicable, in respect of the business trust there should be a description of and information on–
- (a) core business activities;
  - (b) type of products manufactured or services provided. Up to the latest practicable date, indicate significant new or proposed products/services introduced and give their status of development;
  - (c) principal markets for products and, if exported, the percentage and names of countries exported to;
  - (d) seasonality of the business;
  - (e) competitive strengths and advantages;
  - (f) types, sources and availability of raw materials/input, including a description of whether prices of principal raw materials are volatile;
  - (g) technology used or to be used;
  - (h) operating or trading mechanisms, including flow-charts of production or business processes;
  - (i) quality control procedures or quality management programmes;

- (j) marketing activities, including modes and location/network of marketing/distribution/sales;
- (k) approvals, major licences and permits obtained, conditions attached (if any) and status of compliance;
- (l) brand names, patents, trademarks, licences, technical assistance agreements, franchises and other intellectual property rights and salient terms of those rights. If intellectual property rights are licensed, to state the identity of the licensor and the relationship between the business trust/entities within the business trust group and the licensor, and provide a summary of the salient terms of the licence agreement;
- (m) salient terms of any contract/arrangement/document/other matter on which the business trust is highly dependent. This includes patents or licences, industrial, commercial or financial contracts or new manufacturing processes, where such factors are material to the business trust's business or profitability;
- (n) research and development policies for the last three years. Where it is significant, include the amount spent on business trust-sponsored research and development activities (as a percentage of the net sales or revenue) for each of the last three financial years; and
- (o) any interruption in the business which had a significant effect on operations during the past 12 months.

### **Property, plant, and equipment**

- 9.03 The trustee-manager should provide information regarding material tangible fixed assets, including leased properties, and major encumbrances, of the business trust group, including–
- (a) a description of the location, size, and uses of the property;
  - (b) productive capacity and extent of utilisation of the facilities;
  - (c) how the assets are held;
  - (d) market value (where valuations have been carried out for inclusion in the prospectus) and/or net book value; and
  - (e) where valuations have been carried out for inclusion in the prospectus, details on whether the valuation surplus or deficit have been incorporated in the financial statements.
- 9.04 The prospectus should also describe any regulatory requirement and environmental issue which may materially affect the business trust group's operations and utilisation of assets.
- 9.05 On material plans to construct, expand or improve facilities, describe–
- (a) the nature and reason for the plan;
  - (b) an estimate of the amount of expenditures including the amount of expenditures already paid;

- (c) a description of the method of financing the activity;
- (d) the estimated dates of start and completion of the activity; and
- (e) the increase of production capacity anticipated after completion.

### **Major customers**

- 9.06 A prospectus should contain descriptions of major customers (i.e. those individually contributing 10% or more of revenue for each of the last three financial years and the latest financial period [if any]), level of sales, and whether or not the business trust group is dependent on the major customers for business.

### **Major suppliers**

- 9.07 A prospectus should contain descriptions of major suppliers (i.e. those individually contributing 10% or more of purchases for each of the last three financial years and the latest financial period [if any]), level of purchases, and whether or not the business trust group is dependent on the major suppliers.

### **Industry overview**

- 9.08 On the industry in which the business trust group operates, there should be a discussion of the following:
- (a) Description of the industry and its position within the industry;
  - (b) Differing segments/sectors;
  - (c) Past performance (if applicable);
  - (d) Future growth;
  - (e) Industry players and competition;
  - (f) The business trust's estimated market coverage, position and share (together with details on the bases) which are supported by any study and/or report (where applicable);
  - (g) Relevant laws and regulations governing the industry and peculiarities of the industry;
  - (h) Demand/supply conditions;
  - (i) Substitute products/services;
  - (j) Prospects and outlook of the industry; and
  - (k) Industry's reliance on and vulnerability to imports.

**Future plans, strategies, and prospects**

9.09 A prospectus should contain the following discussions:

- (a) Description of future plans of the business trust/business trust group and steps taken (including time frame) to realise the plans;
- (b) Strategies to be adopted to ensure growth; and
- (c) Prospects of the business trust/business trust group in light of the industry prospects/outlook/conditions, future plans/strategies, and competition.

**Islamic business trust**

9.10 For an Islamic business trust, the prospectus should also disclose

- (a) The methodology used in determining the Shariah-compliant status of the business trust, including principles used;
- (b) The basis and justifications of using such methodology;
- (c) The Shariah adviser's opinion and justifications; and
- (d) The Shariah governance framework of the business trust.

## **Chapter 10**

### **INFORMATION ABOUT THE TRUSTEE-MANAGER OF THE BUSINESS TRUST**

10.01 The following information about the background of the trustee-manager should be disclosed:

- (a) History of the trustee-manager from inception to date, where relevant; and
- (b) Key policies and practices of the trustee-manager to ensure–
  - (i) adherence with the objective of the business trust; and
  - (ii) interests of unit holders are protected.

10.02 There should be a disclosure on the management reporting structure of the trustee-manager.

#### **Agent**

10.03 If the trustee-manager has appointed an agent, the following information on the agent should be disclosed:

- (a) A brief corporate information of the agent; and
- (b) Roles and duties of the agent.

#### **Shariah adviser**

10.04 For an Islamic business trust, the following information on the Shariah adviser appointed for the business trust should be disclosed:

- (a) Names, relevant qualifications and experience of each member of the Shariah adviser;
- (b) Where the Shariah adviser is a company–
  - (i) the corporate information of the company;
  - (ii) experience relevant to its appointment as an adviser; and
  - (iii) number of business trusts in which it acts as adviser;
- (c) Roles and primary functions of the Shariah adviser; and
- (d) Frequency of review by the Shariah adviser of the assets of the Islamic business trust to ensure compliance with Shariah principles or any other relevant principle at all times.

## **CHAPTER 11**

### **INFORMATION ON SHAREHOLDERS/DIRECTORS/KEY MANAGEMENT OF THE TRUSTEE-MANAGER OF THE BUSINESS TRUST AND UNIT HOLDERS OF THE BUSINESS TRUST**

#### **Substantial shareholders of the trustee-manager and substantial unit holders of the business trust**

- 11.01 The following information should be provided on the substantial shareholders of the trustee-manager and substantial unit holders of the business trust:
- (a) Name and background information;
  - (b) Nationality/country of incorporation;
  - (c) Direct and indirect shareholding in the trustee-manager, and direct and indirect unit holding in the business trust (before and after the offering), and to state the ultimate beneficial ownership of shares in the trustee-manager or units of the business trust held under nominee or a corporation or trustee arrangement; and
  - (d) Any significant change in the direct or indirect shareholding in the trustee-manager, and in the direct or indirect unit holding in the business trust during the past three years.
- 11.02 To the extent known to the trustee-manager, there should be provided a description of the persons, who, directly or indirectly, jointly or severally, exercise control over the trustee-manager or the business trust. Particulars of the nature of such control, including the amount and proportion of the respective shares or units held, should also be given. Joint control means control exercised by two or more persons who have concluded an agreement which may lead them to adopt a common policy in respect of the trustee-manager or the business trust respectively.
- 11.03 In respect of the controlling shareholders of the trustee-manager, a prospectus should also disclose:
- (a) The relevant knowledge/experience of the controlling shareholders of the trustee-manager; and
  - (b) Whether the controlling shareholder has been involved in any of the events (whether in or outside Malaysia) as set out in paragraph 11.09.

#### **Directors and employees**

- 11.04 The following information should be provided on the directors of the trustee-manager:
- (a) Name, age, profession and qualification;
  - (b) Profile including business and management experience;
  - (c) Designation/functions (including executive/non-executive, independent);

- (d) Representation of corporate shareholders (where applicable);
  - (e) Direct and indirect shareholding in the trustee-manager and direct and indirect unit holding in the business trust (before and after the offering); and
  - (f) Principal business activities performed outside the trustee-manager (including other principal directorships at present and in the last five years).
- 11.05 A prospectus should disclose the remuneration and material benefits in-kind (on an individual basis) of the directors of the trustee-manager, for services in all capacities to the business trust group according to bands of RM50,000 for the last financial year and proposed for the current financial year. The remuneration and benefits should cover contingent or deferred compensation accrued for the year, even if the compensation is payable at a later date.
- 11.06 Disclose also details on board practices, as follows:
- (a) For each director of the trustee-manager, state the date of expiration of the current term of office, where applicable, and the period for which the person has served in that office; and
  - (b) For the current financial year, provide details on the trustee-manager's audit, remuneration and nomination committees, including the names of committee members and a summary of the terms of reference of the committee.
- 11.07 For the key management and, where applicable, the key technical personnel of the trustee-manager and the business trust group, the following information should be provided:
- (a) Name, age and qualification;
  - (b) Profile including business and management or technical experience;
  - (c) Designation/functions; and
  - (d) Direct and indirect shareholding in the trustee-manager, and direct and indirect unit holding in the business trust (before and after the offering).
- 11.08 A prospectus should provide information on the extent of involvement of executive directors/key management of the trustee-manager in other principal business activities outside of the business trust group and whether such involvement affects their contribution to the business trust group, or an appropriate negative statement.
- 11.09 A prospectus should provide a statement as to whether or not any director, or key management personnel of the trustee-manager and, where applicable, its key technical personnel, is or has been involved in any of the following events (whether in or outside Malaysia):
- (a) A petition under any bankruptcy or insolvency laws was filed (and not struck out) against such person or any partnership in which he was a partner or any corporation of which he was a director or key personnel;
  - (b) Such person was disqualified from acting as a director of any corporation, or from taking part directly or indirectly in the management of any corporation;
  - (c) Such person was charged and/or convicted in a criminal proceeding or is a named subject

of a pending criminal proceeding;

- (d) Any unsatisfied judgment against such person;
  - (e) Any judgment was entered against such person involving a breach of any law or regulatory requirement that relates to the securities or futures industry;
  - (f) Such person was ever convicted of any offence in connection with the formation or management of any entity or business trust;
  - (g) Such person was the subject of any order, judgment or ruling of any court, government, or regulatory authority or body temporarily enjoining him from engaging in any type of business practice or activity; or
  - (h) Such person was ever subjected to any current or past investigation or disciplinary proceedings, or has been reprimanded or issued any warning, by the SC or any other regulatory authority, exchange, professional body or government agency.
- 11.10 A prospectus should disclose details of any family relationships or associations between the substantial shareholder, director, key management or key technical personnel of the trustee-manager, and substantial unit holder of the business trust.
- 11.11 A prospectus should contain information and details of amounts or benefits paid or intended to be paid or given to any director or substantial shareholder of the trustee-manager, and any substantial unit holder of the business trust within the two years preceding the date of the prospectus.
- 11.12 If there are any existing or proposed service agreements between the trustee-manager acting on behalf of the business trust group and the directors and key management or key technical personnel of the trustee-manager, salient details should be disclosed.
- 11.13 A prospectus should provide information regarding employees of the trustee-manager and business trust group, including–
- (a) the number of employees at the end of period or the average for the period for each of the past three financial years (and changes in such number, if material). If possible, to provide a breakdown of persons employed by main category of activity and geographical location. Also, to disclose any significant change in the number of employees;
  - (b) if the trustee-manager/business trust group employs a significant number of contractual/temporary employees, to disclose the number of contractual/temporary employees on average in the most recent year;
  - (c) training and development programmes undertaken and ongoing;
  - (d) whether employees of trustee-manager and business trust group are members of any union and, if so, to name the union; and
  - (e) labour relationship with unions and whether or not there has been any industrial dispute in the past.

## **Chapter 12**

### **FEES**

#### **Fees and expenses**

- 12.01 A prospectus must clearly disclose and explain the cost of investing in the business trust by investors.
- 12.02 The fees and expenses payable to the trustee-manager from the trust property of the business trust should be disclosed in a table, in the following order:
  - (a) Management fee;
  - (b) Performance fee (if applicable); (c) Guarantee fee (if applicable); and
  - (d) Any other material fee or charge.
- 12.03 Where there is a provision for a maximum payable fee or charge, the maximum payable fee or charge should be stated.
- 12.04 Where the amount of fee or charge is currently indeterminable, this fact should be stated and the reason why it could not be determined be explained.

## **Chapter 13**

### **APPROVALS AND CONDITIONS**

13.01 A prospectus must disclose the following:

- (a) Details of approvals of all relevant authorities in conjunction with the offering including the dates of approvals, any condition attached and compliance thereof (where applicable).

For any specific relief obtained from compliance with this division, to state the specific paragraph of the division for which relief was sought and details of the approval;

- (b) Details of any moratorium on units of the business trust, such as–
  - (i) the authority which imposed the moratorium;
  - (ii) name of the unit holder of the business trust;
  - (iii) number of units of the business trust under moratorium;
  - (iv) commencement and expiry of the moratorium; and
  - (v) terms of the moratorium; and
- (c) Details of any profit-guarantee conditions (if any) and the salient features of the profit-guarantee agreement, which include, but are not limited to–
  - (i) amount and number of years;
  - (ii) guarantors;
  - (iii) details of security provided; and
  - (iv) rights to vary or terminate the agreement.

## **Chapter 14**

### **RELATED-PARTY TRANSACTIONS**

14.01 The following information should be disclosed for the three most recent financial years, and the subsequent financial period, if any, immediately preceding the date of the prospectus:

- (a) The nature and extent of any related-party transaction or presently proposed related-party transactions that:
  - (i) are material to the trustee-manager (acting in its capacity as trustee-manager of the business trust), an entity under the business trust group and its related party; or
  - (ii) is unusual in nature or conditions, involving goods, services, tangible or intangible assets, to which the trustee-manager (acting in its capacity as trustee-manager of the business trust) or an entity under the business trust group was a party; and
- (b) The amount of outstanding loans (including guarantees of any kind) made to or for the benefit of the related party, by:
  - (i) The trustee-manager (acting in its capacity as trustee-manager of the business trust); or
  - (ii) An entity under the business trust group.

14.02 The information under paragraph 14.01 above given should be classified into long term and short term.

All foreign outstanding loans are to be separately identified with the corresponding foreign currencies amount, the amount outstanding as of the latest practicable date, the nature of the loan, and the transaction in which it was incurred, and the interest rate on the loan, and when the loan is intended or required to be repaid.

14.03 For each transaction mentioned above, there should be a disclosure on whether the transaction was carried out in the best interest of the unit holders and the procedure undertaken or which will be undertaken to ensure that such a transaction will be in the best interest of the unit holders.

## **Chapter 15**

### **CONFLICT OF INTEREST**

15.01 A prospectus should disclose–

- (a) details of the direct and indirect interests of a director or substantial shareholder of the trustee-manager, or a substantial unit holder of the business trust in–
  - (i) other businesses, corporations and business trusts carrying on a similar trade as the business trust group; and
  - (ii) other businesses, corporations and business trusts which are the customers or suppliers of the business trust group;
- (b) whether the interests of such persons under subparagraph (a) would give rise to a situation of conflict of interest with the business trust group’s business and steps taken to address such conflicts; and
- (c) declaration of any expert’s existing and potential interests/conflicts of interest in an advisory capacity (if any) vis-à-vis the business trust group. If a conflict of interest exists, full disclosure of the nature of the conflict and the steps taken to address such conflicts should be provided.

## **Chapter 16**

### **FINANCIAL INFORMATION**

#### **General**

16.01 This chapter sets out the minimum financial information that a business trust/business trust group must include in a prospectus. All financial statements prepared in a currency other than RM must be translated into RM.

#### **Historical financial information**

16.02 A table of the statement of profit or loss and other comprehensive income of the business trust group (pro forma or actual) for the past three financial years (or such shorter period that the business trust group has been in operation) and latest financial period (where applicable) should be disclosed. The table should include, at the minimum, the following:

- (a) Revenue;
  - (b) Gross profit and gross profit margin;
  - (c) EBITDA – earnings before interest, taxation, depreciation and amortisation;
  - (d) Other comprehensive income;
  - (e) Finance costs;
  - (f) Share of profits and losses of associates and joint ventures;
  - (g) Profit or loss before tax and profit or loss before tax margin;
  - (h) Tax expense;
  - (i) Profit or loss for the year and profit or loss margin;
  - (j) Profit or loss attributable to minority interest and equity holders of the parent;
  - (k) Earnings per unit; and
  - (l) Discontinued operations.
- 16.03 Where the financial statements are prepared in a currency other than RM, a prospectus should disclose the exchange rate between the foreign currency and RM–
- (a) at the latest practicable date;
  - (b) the high and low exchange rates for each month during the previous six months; and
  - (c) for the three most recent financial years and any subsequent interim period for which financial statements are prepared, the average exchange rates for each period, calculated

by using the average of the exchange rates on the last day of each month during the period.

### **Unit holders' equity and indebtedness**

- 16.04 Provide a statement of unit holders' equity and indebtedness (distinguishing between guaranteed and unguaranteed, and secured and unsecured, indebtedness) as at the latest financial period showing the unit holders' equity on an actual basis and, if applicable, as adjusted to reflect the new units being issued and the intended application of the proceeds. Indebtedness also includes indirect and contingent liabilities.

### **Management's discussion and analysis of financial condition, results of operations and prospects**

- 16.05 To provide a detailed analysis of the business trust's business, financial condition, changes in financial condition, and results of operations for each year and interim period for which historical financial information is provided. Include the causes of material changes from year to year in financial statement line items, to the extent necessary, for an understanding of the business trust's business as a whole. Discuss also factors and trends that are anticipated to have a material effect on the business trust's financial condition and results of operations in future periods. Take into consideration the nature and conditions of the business in which the business trust is operating in, the risk factors of the business trust and its business operations, the prospects and outlook of the industry in which the business trust is operating in, the prevailing economic situation, and the future plans and strategies of the business trust.
- 16.06 Results of operations
- (a) Segmental analysis of revenue and profits/losses from operations, including, by subsidiary entities/associated entities of the business trust, products/services and markets/geographical location;
  - (b) Provide information regarding any significant factor, including unusual or infrequent events or new developments, materially affecting profits and to indicate the extent affecting the profits. Describe any other significant component of revenue or expenditure necessary to understand the business trust's results of operations;
  - (c) Where the financial statements disclose material changes in sales or revenues, provide a narrative discussion of the extent to which such changes are attributable to changes in prices or to changes in the volume or amount of products or services being sold or to the introduction of new products or services between corresponding periods;
  - (d) If material, impact of foreign exchange, interest rates or commodity prices on the business trust, and the extent to which foreign currency exposure and investments are hedged by currency borrowings or other hedging instruments;
  - (e) If material, impact of inflation on the business trust. Where the currency in which financial statements are presented is of a country which has experienced hyperinflation (rapid inflation), the existence of such inflation, a three-year history of the annual rate of inflation, and a discussion of the impact of hyperinflation on the business trust's business should be disclosed; and

- (f) Provide information on any government, economic, fiscal or monetary policies or factors which have materially affected, or could materially affect the business trust's operations.

16.07 Liquidity and capital resources

- (a) To provide the following information regarding liquidity (both short and long term):
- (i) Identity and description of the material sources of liquidity, whether internal or external, and a brief discussion of any material unused sources of liquidity<sup>2</sup>;
- Include a statement by the directors of the trustee-manager as to whether, in their opinion, the working capital available to the business trust will be sufficient for a period of 12 months from the date of issue of prospectus. If not, how the additional working capital which is deemed to be necessary will be obtained;
- (ii) An evaluation of the material sources and amounts of cash flows from operating, investing and financing activities for the most recent financial year and/or latest audited financial period (where applicable). This includes the nature and extent of any legal, financial, or economic restriction on the ability of subsidiary entities to transfer funds to the business trust in the form of cash dividends, loans or advances, and the impact such restrictions have or are expected to have on the ability of the business trust to meet its cash obligations;
- (iii) A statement of total outstanding borrowings, classified into long term and short term, interest-bearing and non-interest bearing; and for all foreign borrowings, to be separately identified with the corresponding foreign currencies amount. Include a statement whether there has been any default on payments of either interest and/or principal sums for any borrowing throughout the past one financial year and the subsequent financial period, as at the latest practicable date. Also, to disclose gearing ratios for the period under review; and
- (iv) If the business trust or any of its subsidiary entity/associated entity in the business trust group is in breach of terms and conditions or covenants associated with credit arrangement or bank loan which can materially affect the business trust's financial position and results or business operations, or the investments by unit holders in the business trust, provide–
- a statement of that fact;
  - details of the credit arrangement or bank loan; and
  - any action taken or to be taken by the business trust or its subsidiary entity/associated entity in the business trust group, as the case may be, to rectify the situation (including status of any restructuring negotiations or agreement, if applicable);

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<sup>2</sup> Except where it is otherwise clear from the discussion, the business trust must identify those balance sheet or income or cash flow items that should be considered in assessing liquidity (the ability of the business trust to convert its assets into cash quickly).

- (b) To provide information (where applicable) regarding the type of financial instruments used, the maturity profile of debt, currency and interest rate structure. Discuss also funding and treasury policies and objectives in terms of the manner in which treasury activities are controlled, the currencies in which cash and cash equivalents are held, the extent to which borrowings are at fixed rates, and the use of any financial instrument for hedging purposes;
- (c) To provide information on any material commitment for capital expenditures as at the latest practicable date and indicate the general purpose of such commitments and the anticipated source of funds needed to fulfill such commitments;
- (d) Full disclosure of all pending material litigation/arbitration proceedings and contingent liabilities as at the latest practicable date, including assessment and disclosure of specific impact on financial performance and position upon becoming enforceable; and
- (e) To provide and discuss relevant key financial ratios, including receivables and payables (incorporating ageing analysis) and stock turnover for the past three financial years and/or the latest financial period (where applicable).

16.08 Trend information

- (a) Discuss and analyse the business and financial prospects, most significant recent trends in production, sales and stocks, and costs and selling prices since the most recent financial year or period;
- (b) Discuss the state of the order book since the most recent financial year or period. If such information is not relevant to the business of the business trust, provide an appropriate statement to that effect and the reason for this; and
- (c) Discuss and analyse known factors which are likely to have a material effect on the financial condition and results of operations of the business trust or that would cause the historical financial statements to be not necessarily indicative of future financial performance. The discussion should include:
  - (i) Liquidity: Identify known factors which will result in or are reasonably likely to result in the business trust's liquidity increasing or decreasing in any material way. If a material deficiency is identified, indicate the course of action that the business trust has taken or proposes to take to remedy the deficiency;
  - (ii) Capital resources: Describe known material factors, favourable or unfavourable, in the business trust's capital resources. Indicate any expected material changes in the mix and relative cost of such resources; and
  - (iii) Results of operations: Describe known factors that are likely to have a material impact on revenue or profits/losses.

16.09 Disclose in the prospectus, if the business trust is newly established and/or does not have any financial record.

**Interim financial information**

16.10 If the date of the prospectus issuance is later than six months after the end of the last financial year, interim audited financial statements must be provided.

- 16.11 Provide interim financial statements in the same format as the audited financial statements provided under paragraph 17.13 and/or pro forma financial statements under paragraph 16.16.
- 16.12 In addition, the interim financial statements should include–
- (a) comparative statements for the same period in the prior financial year for the statement of profit or loss and other comprehensive income. The comparative interim financial statements need not be audited; and
  - (b) selected note disclosures which explain events and changes significant to an understanding of the changes in financial position and performance of the business trust since the last annual reporting date.

**Pro forma financial information**

- 16.13 A pro forma consolidated statement of financial position for the most recent financial year and/or latest audited financial period, should be disclosed and adjusted for the following:

- (a) Any restructuring or acquisition connected with the proposed public-offering exercise; and
- (b) Proceeds of the proposed public-offering exercise and proposed utilisation of funds.

Details of such adjustments must be set out in the prospectus. Such a pro forma will assist investors or analysts determine the financial effects of the restructuring and the notional financial position of the business trust.

- 16.14 The following information should be included in the pro forma consolidated statement of financial position:

- (a) Net asset value per unit (or liabilities, as the case may be); and
- (b) Pro forma net asset value per unit (or liabilities, as the case may be).

- 16.15 For a group of business entities, constituted during the period under review, pro forma financial information must be compiled based on the audited results of the business entities. The pro forma financial information is presented for illustrative purpose only and on the assumption that the group structure had been in existence throughout the period under review.

- 16.16 The pro forma financial information provided under paragraph 16.15 must deal with the following:

- (a) The consolidated statement of profit or loss and other comprehensive income of the pro forma group for the last three financial years (or such shorter period that the businesses has been in operation) and the latest financial period (where applicable);
- (b) The consolidated statement of financial position of the pro forma group at the last date of the financial statements; and
- (c) The consolidated statement of cash flows of the pro forma group for the last financial year or latest financial period (where applicable) of the financial statements, where such date should not in any case be more than six months prior to the issue of the

prospectus.

- 16.17 For the pro forma financial information required under paragraphs 16.13 and 16.16, state–
- (a) the basis upon which the pro forma financial information is compiled;
  - (b) that the financial statements used in the compilation of the pro forma financial information were prepared in accordance with the approved accounting standards as defined in the *Financial Reporting Act 1997*, which include International Accounting Standards. Details of the auditor’s qualification to these underlying financial statements should also be disclosed if any;
  - (c) whether the pro forma financial information has been compiled in a manner consistent with the applicable financial reporting framework and the accounting policies of the business trust; and
  - (d) prominently, any adjustment dealt with when compiling the pro forma financial information.
- 16.18 The pro forma financial information should be accompanied by a reporting accountants’ assurance report stating–
- (a) whether the pro forma financial information has been properly compiled on the basis stated in paragraph 16.17(a); and
  - (b) that the engagement was performed in accordance with the relevant standard on assurance engagement approved for application in Malaysia.

In the case of a recognised business trust, the above assurance report should be provided by a professional accountant who is qualified under the *Accountants Act 1967* and from an international accounting firm.

### **Future financial information**

- 16.19 Where profit and cash flow estimates, forecasts and/or projections are provided in the prospectus, disclose whether the forecast is prepared on bases and accounting principles consistent with those previously adopted by the business trust, and is presented in accordance with the accounting standards adopted by the business trust in the preparation of its financial statements.
- 16.20 Disclose sufficient details on the bases and assumptions of the estimates, forecasts and/or projections to enable the investor to assess the reliability of the estimates, forecasts and/or projections and the effect of any change to the assumptions used.
- 16.21 The bases and assumptions stated on profit and cash flow estimates, forecasts and/or projections should–
- (a) provide useful information to assist investors in forming a view on the reasonableness and reliability of the estimates, forecasts and/or projections;

- (b) draw the investors' attention to, and where possible quantify, those uncertain factors which can materially affect the ultimate achievement of the estimates, forecasts and/or projections;
  - (c) be specific rather than vague;
  - (d) where possible, avoid generalisations and all-embracing assumptions and those relating to the general accuracy of the assumptions made in the estimates, forecasts and/or projections; and
  - (e) be clearly stated and reviewed for reasonableness by the directors of the trustee-manager who are responsible for the estimates, forecasts and/or projections and bases and assumptions.
- 16.22 The requirements for profit and cash flow estimates, forecasts and/or projections are as follows:
- (a) An estimate, forecast and/or projection must be realistic and achievable to provide investors with information on the business trust's prospects. An unrealistic estimate, forecast and/or projection, irrespective of whether it is too high or too low, may mislead investors into making investment decisions based on the information contained in the prospectus. An estimate, forecast and/or projection must be compiled with utmost care and objectivity; and
  - (b) Where the estimate, forecast and/or projection may be subject to a high probability of variation, a sensitivity analysis must be provided based on key variables, such as selling prices, volume of sales, production costs, production capacity, operating expenses and financing costs.
- 16.23 In addition to the above, owing to the specific nature of profit and cash flow projections, the business trust may take note of the following:
- (a) A projection, being a representation of financial information based on a set of assumptions which are uncertain and hypothetical, must be qualified by the directors of the trustee-manager as to its achievability;
  - (b) The qualification of projected financial information must draw attention to the fact that the presentation is based on hypothetical assumptions, and that actual events may differ from those assumed, and may materially affect the financial information projected; and
  - (c) Notwithstanding the uncertainties and hypothetical assumptions associated with projections, these should be prepared with care, skill and objectivity so as to represent the stated assumptions, and not to purport unreasonable hypotheses and assumptions.
- 16.24 A prospectus should also state the extent to which estimate and forecast revenues are based on secured contracts or orders and the reasons for expecting such revenues and profits to be achieved, and discuss the impact of any likely change in business and operating conditions on the estimate and forecast.
- 16.25 The accounting policies and calculations for the profit and cash flow estimates, forecasts and/or projections must be reviewed and reported by the reporting accountants. The report should state–
- (a) that the profit and cash flow estimate, forecast and/or projection have been reviewed

in accordance with the standard applicable to the review of the forecast;

- (b) whether the reporting accountant is of the opinion that the profit and cash flow estimate, forecast and/or projection are properly prepared based on the assumptions made by the directors of the trustee-manager and are presented in a manner consistent with both the format of the financial statements and the accounting policies of the business trust; and
- (c) that no matter has come to the reporting accountant's attention which gives him reason to believe that the assumptions do not provide reasonable grounds for the profit and cash flow estimate, forecast and/or projection.

In the case of a recognised business trust, the above report should be provided by a professional accountant who is qualified under *the Accountants Act 1967* and from an international accounting firm.

## Chapter 17

### ACCOUNTANTS' REPORT

- 17.01 A prospectus must contain a report in respect of the audited financial statements of the business trust provided in the prospectus prepared by a firm of public accountants registered in Malaysia. In the case of a recognized business trust, a professional accountant who is qualified under the *Accountants Act 1967* and from an international accounting firm must confirm that the business trust's financial statements comply with the approved accounting standards referred to in paragraph 17.03.
- 17.02 The report should state that it has been prepared by an approved company auditor and whether it was prepared for inclusion in the prospectus. The report should also be signed and dated.
- 17.03 The audited financial statements provided in the report must be prepared in accordance with the approved accounting standards as defined in the *Financial Reporting Act 1997*, which include International Accounting Standards, and in adherence to the relevant assurance engagement standards.
- 17.04 Where the audited financial statements are not prepared in accordance with the approved accounting standards referred to in paragraph 17.03–
- (a) they must be restated in accordance with paragraph 17.03; or
  - (b) if no material adjustments are required to restate the financial statements in accordance with paragraph 17.03, they must be accompanied by an opinion from the auditors that this is so.
- 17.05 The reporting accountants should disclose any restatement to the audited financial statements which have been dealt with in the report.
- 17.06 The report should–
- (a) provide the basis of accounting policies adopted in preparation of the report;
  - (b) state that the information presented in the report has been prepared in accordance with the approved accounting standards as defined in the *Financial Reporting Act 1997*, which include International Accounting Standards;
  - (c) provide disclosures on any material change in the accounting policies adopted, including a summary of such material change, the reason of such change and quantitative impact of such change on the financial results of the business trust; and
  - (d) highlight and provide the reasons for and details of any material qualification modification or disclaimer contained in the audited financial statements.
- 17.07 All material items in the audited financial statements should be adequately explained.
- 17.08 The auditors of the financial statements should be identified, especially where the

audited financial statements for one or more financial years were audited by different auditors.

- 17.09 The reporting accountants should deal with and incorporate in the report subsequent events between the date of the last accounts used in the preparation of the report and the date of the report.
- 17.10 The audited financial statements in respect of paragraph 17.13 should be accompanied by the audit reports of those audited financial statements. Notes and schedules of the audited financial statements should also be disclosed.
- 17.11 Where applicable, the Accountants' Report should incorporate the interim financial statements in accordance with paragraphs 16.10 to 16.12.
- 17.12 All financial statements prepared in a currency other than RM must be translated into RM.

## **Contents**

17.13 The report should deal with the audited financial statements of the business trust referred to in a prospectus in accordance with the following:

(a) Business trust with no subsidiary entities

The report should deal with the audited statement of profit or loss and other comprehensive income, statement of financial position, statement of cash flows, and statement of changes in equity of the business trust referred to in a prospectus for each of the three financial years (or such shorter period that the business trust has been in operation) and latest financial period (where applicable) immediately preceding the last date of the business trust's accounts. Such date should not in any case be more than six months prior to the issue of the prospectus.

(b) Business trust with subsidiary entities

- (i) The report should deal with the audited consolidated financial statements of the business trust, as provided by paragraph 17.13(a); and
- (ii) Where the business trust has been in existence for less than the period under review–
- the audited consolidated financial statements for each financial year during which the business trust has been in existence should be provided; and
  - if the profit/loss before tax stated in the annual consolidated statement of profit or loss and other comprehensive income of a previous corporation/business entity accounted for 75% or more of the profit/loss before tax of the pro forma group referred to in paragraph 16.16(a), the audited consolidated financial statements of the previous corporation/business entity should be disclosed. It should exclude the financial statements for any financial year where the audited financial statements of the group have already been provided in the sub-paragraph immediately preceding, above.

The business trust may also disclose the audited statement of profit or loss and other comprehensive income and statement of financial position of each subsidiary entity individually.

- 17.14 The report should deal with rates of the distributions/dividends, if any, paid by the business trust/previous corporation for each class of units/shares during the period under review.

**Purchase of any business**

- 17.15 If the proceeds, or any part of the proceeds, of the issue of the units are to be utilised directly or indirectly for the purchase of any business, the report should deal with–
- (a) the statement of profit or loss and other comprehensive income of the business, for each of the three financial years immediately preceding the last date of the financial statements of the business; and
  - (b) the statement of financial position of the business for each of the past three financial years immediately preceding the last date of the financial statements of the business.

Such date should not, in any case, be more than six months prior to the issue of prospectus.

**Acquisition of another corporation**

- 17.16 If–
- (a) the proceeds, or any part of the proceeds, of the public offering of the units are to be applied directly or indirectly in any manner resulting in the acquisition by the trustee-manager (acting on behalf of the business trust) of any other corporation; and
  - (b) by reason of that acquisition, or anything to be done in consequence or in connection with it, that corporation will become a subsidiary entity of the business trust,

the report should deal with the statement of profit or loss and other comprehensive income and statement of financial position of that corporation in accordance with the relevant sections of paragraphs 16.16 and 17.13 respectively.

- 17.17 For the purposes of the above paragraph, the report should indicate how the statement of profit or loss and other comprehensive income of the other corporation and, where applicable, the consolidated statement of profit or loss and other comprehensive income of the other corporation and its subsidiaries dealt with by the report would have impacted on the unit holders of the business trust. Indicate also what allowance would have to be made, in the statement of financial position and consolidated statement of financial position, if the trustee-manager (acting on behalf of the business trust) had at all material times held the securities to be acquired.

## Chapter 18

### EXPERT'S REPORTS

- 18.01 A prospectus should contain excerpts from, or summaries of, opinion expressed and conclusion recorded in any expert's report included in the prospectus. The expert should state whether or not the report was prepared for inclusion in the prospectus. The expert's report should be signed and dated within a reasonable time of the issue of the prospectus to ensure that the contents are substantially relevant.
- 18.02 Where valuations of property assets have been carried out for inclusion in a prospectus, a summary of the valuation in the form of a valuation certificate that complies with the *Asset Valuation Guidelines* must be included in the prospectus.
- 18.03 For an Islamic business trust, excerpts from the Shariah adviser's report including Shariah justifications, should be disclosed in the prospectus.
- 18.04 If the expert becomes aware of significant changes affecting the content of his report, either—
- (a) between the date of the report and the issue of the prospectus; or
  - (b) after the issue of the prospectus and before the issue of the units,
- then he has an ongoing obligation to either cause his report to be updated for the changes and, where applicable, cause the trustee-manager to issue a supplementary prospectus or replacement prospectus, or withdraw his consent to the inclusion of the report in the prospectus. Failure to do so will result in the trustee-manager, promoter, and the expert being liable for any misleading statement or material omission in the outdated report.
- 18.05 Experts should take care in making disclaimers of responsibility in their reports. If the disclaimers are too wide, the report will be of little or no beneficial use to investors. The inclusion of such a report in such a prospectus may itself be misleading.

## **Chapter 19**

### **DIRECTORS' REPORT**

- 19.01 A prospectus must contain a report by the directors of the trustee-manager, for the period between the date to which the last audited financial statements of the business trust have been made up and a date not earlier than 14 market days before the date of issue of the prospectus, stating whether, after due enquiry by them–
- (a) the business of the business trust group has, in their opinion, been satisfactorily maintained;
  - (b) there have, in their opinion, arisen, since the last audited financial statements of the business trust, any circumstance which has adversely affected the trading or the value of the assets of the business trust group;
  - (c) the current assets of the business trust group appear in the books at values which are believed to be realisable in the ordinary course of business;
  - (d) there are any contingent liabilities by reason of any guarantee or indemnity given by the trustee-manager on behalf of the business trust or any entity in the business trust group;
  - (e) there have been, since the last audited consolidated financial statements of the business trust, any default or any known event that could give rise to a default situation, on payments of either interest and/or principal sums for any borrowing. This applies for all entities under the business trust group; and
  - (f) there have been, since the last audited financial statements of the business trust, no material change in the published reserves or any unusual factor affecting the profits of the business trust group; and where any report is required following this paragraph, the report should contain full details of all matters required to be dealt with in the report.

## **Chapter 20**

### **ADDITIONAL INFORMATION**

- 20.01 With respect to a recognised business trust, if the law applicable to the said business trust in its home country is significantly different from that in Malaysia, to state this fact and to explain how the difference in the law might affect the operation of the recognized business trust and the rights of investors.
- 20.02 For any unit of the business trust which is under option, or agreed conditionally or unconditionally to be put under option, the following should be disclosed:
- (a) The description and number of units covered by the option;
  - (b) The period during which the option is exercisable;
  - (c) The exercise price;
  - (d) The option purchase price (if any);
  - (e) The expiration date of the option; and
  - (f) The names of the grantees, provided that, where options have been granted or agreed to be granted to all unit holders of the business trust, shareholders of the trustee-manager, holders of debt securities, directors of the trustee-manager and employees of the trustee- manager under the unit option scheme, it should be sufficient to record that fact without giving the names of the grantees.
- 20.03 Details of any option scheme involving employees of the trustee-manager, or if any, employees of the business trust group.
- 20.04 Fully disclose all material contracts (including contracts not in writing), not being contracts in the ordinary course of business, entered into within two years preceding the date of the prospectus. The following particulars should be disclosed for each such contract:
- (a) Date;
  - (b) Parties;
  - (c) Subject matter;
  - (d) Consideration passing to or from the business trust/business trust group; and

(e) The mode of satisfaction of the consideration.

- 20.05 Fully disclose all current material litigation and arbitration, including those pending or threatened, and of any fact likely to give rise to any proceeding which may materially affect the business/financial position of the business trust or any of its subsidiary entities.
- 20.06 Describe any governmental law, decree, regulation or other requirement which may affect the repatriation of capital and the remittance of profit by or to the business trust. Also, explain how these would impact on the availability of cash and cash equivalents for use by the business trust, the remittance of distributions, interest or other payments to unit holders of the business trust.
- 20.07 There should be a statement as to whether any of the following has occurred during the last financial year and the current financial year:
- (a) Public take-over offers by third parties for the units in the business trust; and
  - (b) Public take-over offers by the trustee-manager (acting in its capacity as trustee-manager of the business trust) in respect of the shares of a corporation or the units of another business trust.

If yes, state the price of the offer and its outcome.

- 20.08 Where the units are offered by way of rights or allotment to the holders of an existing listed unit, the pro-rata entitlement, the last date on which transfers were or will be accepted for registration for participation in the offering must be disclosed. A statement on the treatment of any fraction whether the offer is renounceable and whether approval has been obtained from the unit holders of the existing listed business trust.
- 20.09 If the prospectus or cover contains photographs or illustrations of properties or assets which do not belong to the business trust, the photographs or illustrations should be accompanied by a statement that the properties or assets depicted do not belong to the business trust.
- 20.10 Provide information regarding taxes (including withholding provisions) to which unit holders of the business trust may be subject. If the business trust is established outside Malaysia, the information shall include whether the trustee-manager (acting in its capacity as trustee-manager for the business trust) assumes responsibility for the withholding of tax at source and applicable provisions of any reciprocal tax treaties between the home country of the business trust and Malaysia, or a statement, if applicable, that there are no such treaties.

## **Chapter 21**

### **SALIENT TERMS OF DEED**

21.01 A prospectus should disclose salient terms of the deed, particularly provisions relating to–

- (a) rights and liabilities of investors, including voting rights on the units, and the procedures for changing such rights and liabilities;
- (b) any limitation and restrictions on the right to own units in the business trust or state that there are no limitations and restrictions if this is the case;
- (c) maximum fees permitted by the deed and payable by the investors;
- (d) increase in fees from the level disclosed in the prospectus and the maximum rate provided in the deed;
- (e) permitted expenses payable out of the trust property of the business trust;
- (f) circumstances under which the trustee-manager may be indemnified out of the trust property of the business trust;
- (g) any time limit after which a distribution entitlement will lapse and an indication of the party in whose favour this entitlement then operates;
- (h) removal, replacement and retirement of the trustee-manager;
- (i) removal, replacement and retirement of a director of the trustee-manager;
- (j) termination or winding up of the business trust;
- (k) general meeting of unit holders of the business trust; and
- (l) the borrowing powers exercisable by the trustee-manager (acting in its capacity as trustee- manager for the business trust) and how such borrowing powers may be varied.

## **Chapter 22**

### **CONSENTS**

- 22.01 A prospectus should contain statement of consent from relevant parties, such as Shariah advisers, principal advisers, reporting accountants, auditors, issuing houses, registrars, solicitors, valuers, underwriters, and experts for inclusion of their names and (where relevant) statements and reports in the form and context in which such statements and reports appear. A statement that they have not subsequently withdrawn such consents must also be disclosed.

**Chapter 23**

**DOCUMENTS AVAILABLE FOR INSPECTION**

23.01 Provide a statement that for a period of at least 12 months from the date of issue of the prospectus, the following documents (or copies thereof), where applicable, may be inspected at a specified place in Malaysia:

- (a) The deed/supplemental deed of the business trust;
- (b) Each material contract or document referred to in the prospectus and, in the case of contracts not in writing, a memorandum which gives full particulars of the contracts;
- (c) Directors' existing or proposed service contracts with the trustee-manager or any of the subsidiary entities of the business trust, excluding contracts expiring or determinable by the trustee-manager or the subsidiary entities without payments or compensation (other than statutory compensation) within one year;
- (d) All reports, letters or other documents, valuations and statements by any expert, any part of which is extracted or referred to in the prospectus. Where a summary expert's report is included in the prospectus, the corresponding full expert's report must be made available for inspection;
- (e) Each consent given by experts disclosed in the prospectus;
- (f) Any writ and relevant cause papers for all current material litigation and arbitration disclosed in the prospectus;
- (g) The audited financial statements of the business trust group for the last three financial years (or such shorter period that the business trust group has been in operation), preceding the date of prospectus; and
- (h) The latest audited financial statements of the business trust group for the current financial period (where applicable).

## **Chapter 24**

### **SPECIFIC REQUIREMENTS FOR INFRASTRUCTURE UNDERTAKING BUSINESS TRUSTS**

24.01 In addition to other information required to be disclosed in this division, where applicable, a prospectus of an infrastructure undertaking business trusts should disclose the following:

- (a) Concession/licence/basis of business
  - (i) Act/regulation under which the concession/licence is granted;
  - (ii) Nature of concession (e.g. build-operate-transfer/build-transfer-operate/ build-down-operate, etc.);
  - (iii) Life of concession/licence;
  - (iv) Exclusivity/non-exclusivity of concession/licence;
  - (v) Critical terms and conditions under concession/licence;
  - (vi) A business trust's rights, interests and major obligations under concession/licence;
  - (vii) Effect of failure to meet concession/licence terms;
  - (viii) Circumstances leading to termination provisions under concession agreement/licence;
  - (ix) Any restriction on changes in ownership of business trust;
  - (x) Major agreements underlying the basis of (e.g. power/assets purchase and other offtake agreements);
  - (xi) Obligations of public development authorities;
  - (xii) Any related land acquisition;
  - (xiii) List of material contracts; and
  - (xiv) Taxation;

- (b) Relationship with concession giver/licensor
  - (i) Description/constitution of concession giver/licensor;
  - (ii) Nature of relationship;
  - (iii) Licensor's obligations;
  - (iv) Revenue/profit-sharing agreements; and
  - (v) Impact on business/credit agreements if relationship changes;
- (c) Regulation
  - (i) Relevant regulatory authority(ies);
  - (ii) Environmental regulation/issues; and
  - (iii) Material penalties on breach of regulation;
- (d) Competition
  - (i) Description of the industry;
  - (ii) Analysis of competitors;
  - (iii) Assessment of effects of competition; and
  - (iv) Treatment of business of business trust under competition law (if a monopoly and if applicable);
- (e) Operations
  - (i) Special reliance on key operating and maintenance contractors or management personnel;
  - (ii) Major operating contracts;
  - (iii) Operating risk factors;
  - (iv) Strategy for marketing products;
  - (v) Obligations of main users; and
  - (vi) Economics of project;
- (f) Pricing of product;
- (g) Government pricing and terms on which price/rates may be varied;

- (h) Conflicts/dependence
  - (i) Related-party transactions including construction contracts;
  - (ii) Dependence on concession giver/licensor; and
  - (iii) Dependence on suppliers, customers, competitors, infrastructure providers;
- (i) Financing
  - (i) Total capital expenditure to-date and for the future;
  - (ii) Sources and uses of issue proceeds and bank loans;
  - (iii) Adequacy of funds for expected total cost of project and working capital;
  - (iv) Salient terms of bank financing and other credit/guarantee agreements including recourse/non-recourse nature of arrangement;
  - (v) Availability and terms of supplier credit;
  - (vi) Any security arrangement entered into with loan providers or other credit suppliers including assignments of assets;
  - (vii) Tax effects;
  - (viii) Other financial arrangements with concession giver/licensor/parent;
  - (ix) Statement of financial requirements for subsequent phases; and
  - (x) Availability of foreign currency during loan repayment period;
- (j) Other disclosures
  - (i) Unit holders' agreement;
  - (ii) Criteria for future investment in projects;
  - (iii) Insurance arrangements;
  - (iv) Business development strategy;
  - (v) Privileges of unit holders;
  - (vi) Underwriting arrangements in respect of the issue/offer of units;
  - (vii) Political risks if applicable; and
  - (viii) Other risks.

## **Chapter 25**

### **APPLICATION FOR UNITS**

- 25.01 A prospectus should contain instructions/procedures on how to apply for the units and how to complete applications. The instructions/procedures should contain terms and conditions for application, specific steps/measures to be complied with for the various modes of application for units, e.g. automated teller machines, Internet and/or physical applications, and any relevant statement of disclaimers.
- 25.02 Give the addresses to send completed applications and state to whom payments should be made.
- 25.03 Disclose the minimum number of units that can be applied for and the multiples of additional units.
- 25.04 Disclose whether directors of the trustee-manager reserve the right to extend the closing date.
- 25.05 An application form should be identifiable with the prospectus and warn investors against signing the form without having read and understood the prospectus.
- 25.06 Accordingly, the application form should contain the following statements:
- (a) The name and registration number of the business trust;
  - (b) The name and registration number of the trustee-manager;
  - (c) The date of the prospectus;
  - (d) The expiry date of the prospectus;
  - (e) A statement that, in accordance with the requirements of the CMSA, the application form should not be circulated unless accompanied by the prospectus; and
  - (f) A statement that investors should read and understand the prospectus before completing the application form.
- 25.07 The application form should not contain any investment information that is not also contained in the body of the prospectus.
- 25.08 Where applicable, the trustee-manager should allocate all excess units for any subscription on a fair and equitable basis. The prospectus should state that the allocation of the excess units will be made on a fair and equitable manner and a clear disclosure on the basis/methodology for the allocation must also be made.
- 25.09 With respect to paragraph 25.08, to state that if the trustee-manager is not able to distribute the excess units based on the disclosed basis/methodology, the trustee-manager will allocate on an alternative basis/methodology that will ensure allocation on a fair and equitable manner and such alternative basis/methodology should be made known through announcement on the exchange.

**DIVISION 5  
ABRIDGED  
PROSPECTUS  
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## Chapter 1

This Division shall apply to a prospectus prepared by:

- (i) a corporation where its shares are seeking listing on the stock exchange; and
- (ii) a corporation where its shares are not seeking listing on the stock exchange.

### COVER PAGE

1.01 The cover page must include the following information:

- (a) Name of the corporation;
- (b) Place of incorporation;
- (c) Registration number;

In the case of a foreign-incorporated corporation, to also include the registration number allocated to such corporation as a foreign company in Malaysia under the *Companies Act 2016*.

- (d) The date of the abridged prospectus;
- (e) Details of the rights issue, including:
  - (i) Number, type and nominal value of securities being issued and the basis of allotment; and
  - (ii) Price of the securities; and

### Indicative timetable

- (f) Important relevant dates relating to the provisional allotment of the rights, highlighted in a prominent colour, being the last date and time for–

- (i) Sale;
- (ii) Transfer;
- (iii) Acceptance and payment; and
- (iv) Excess application and payment.

1.02 The cover page must also include the following statements:

- (a) “No securities will be allotted or issued based on this abridged prospectus after six months from the date of this abridged prospectus.”;
- (b) Highlighted in bold and a prominent colour:

**“THIS DOCUMENT IS IMPORTANT”**

**“INVESTORS ARE ADVISED TO READ AND UNDERSTAND THE CONTENTS OF THIS ABRIDGED PROSPECTUS. IF IN DOUBT AS TO THE ACTION YOU SHOULD TAKE, PLEASE CONSULT A PROFESSIONAL ADVISER IMMEDIATELY.”;**

- (c) “This abridged prospectus has been registered by the Securities Commission Malaysia. The registration of this abridged prospectus should not be taken to indicate that the Securities Commission Malaysia recommends the rights issue or assumes responsibility for the correctness of any statement made, opinion expressed or report contained in this abridged prospectus. The Securities Commission Malaysia has not, in any way, considered the merits of this rights issue.”;
- (d) “A copy of this abridged prospectus, together with the Rights Subscription Form, has also been lodged with the Registrar of Companies who takes no responsibility for its contents.”;
- (e) Where applicable:

“Approval has been obtained from Bursa Malaysia Securities Berhad for the listing of and quotation for all the new securities arising from this rights

issue. Admission to the Official List of Bursa Malaysia Securities Berhad and quotation of the new securities are not to be taken as an indication of the merits of the rights issue.”; and

- (f) “The Securities Commission Malaysia is not liable for any non-disclosure on the part of the corporation and takes no responsibility for the contents of this document, makes no representation as to its accuracy or completeness, and expressly disclaims any liability for any loss you may suffer arising from or in reliance upon the whole or any part of the contents of this abridged prospectus.”

### **Inside cover or first page**

1.03 The inside cover or first page must include the following statements:

#### **Responsibility statements**

- (a) “The directors of the corporation have seen and approved all the documentation relating to this rights issue. They collectively and individually accept full responsibility for the accuracy of the information. Having made all reasonable enquiries, and to the best of their knowledge and belief, they confirm there is no false or misleading statements or other facts which if omitted, would make any statement in this abridged prospectus false or misleading.”;
- (b) “[Name of principal adviser], being the Principal Adviser, acknowledges that, based on all available information, and to the best of its knowledge and belief, this abridged prospectus constitutes a full and true disclosure of all material facts concerning this rights issue.”;
- (c) Where future financial information is provided:

“The directors of the corporation confirm that the bases and assumptions relied on in the preparation of the future financial information included in this abridged prospectus are reasonable.”

“[Name of principal adviser], being the Principal Adviser is satisfied that bases and assumptions relied on in the preparation of the future financial information are reasonable.”;

### **Statement of disclaimer**

- (d) Where applicable:

“The valuation utilised for the purpose of the corporate exercise should not be construed as an endorsement by the Securities Commission Malaysia, on the value of the subject assets.”;

### **Other statements**

- (e) “Investors should note that they may seek recourse under sections 248, 249 and 357 of the *Capital Markets and Services Act 2007* for breaches of securities laws including any statement in the abridged prospectus that is false, misleading, or from which there is a material omission; or for any misleading or deceptive act in relation to the abridged prospectus or the conduct of any other person in relation to the corporation”; and
- (f) “Securities are offered to the public on the premise of full and accurate disclosure of all material information concerning the rights issue, for which any person set out in section 236 of the *Capital Markets and Services Act 2007*, is responsible.”

### **Adviser’s directory**

1.04 The inside cover or first page must also include an adviser’s directory that must contain the following details:

- (a) Names and addresses of the following parties, where applicable:
- (i) Principal adviser;
  - (ii) Legal adviser connected to the rights issue;
  - (iii) Issuing house;
  - (iv) Share registrar;

- (v) Underwriter;
  - (vi) Placement agent;
  - (vii) Shariah adviser; and
  - (viii) Any other person connected to the rights issue.
- 
- (b) Where an Accountants' Report is included, the name, address and professional qualification of the reporting accountant, including membership in any professional body;
  - (c) Name, address, and qualification of an expert whose reports, excerpts or summaries are included or referred to in the abridged prospectus. If the expert is a corporation or a firm, to disclose the name of the individuals responsible for preparing the reports, excerpts or summaries; and
  - (d) Name of the stock exchange where the corporation's securities are listed, where applicable.

**Guidance to paragraph 1.01(f) – Changes to the indicative timetable**

1. Any material change to the timetable after the registration of the abridged prospectus is considered as a significant change affecting a matter disclosed in the abridged prospectus.

## **Chapter 2**

### **SUMMARY OF RIGHTS ISSUE**

2.01 An abridged prospectus must include a Summary of Rights Issue that must not exceed two pages and must be placed at the beginning of the abridged prospectus.

2.02 The Summary of Rights Issue must–

- (a) provide a concise overview of the rights issue and highlights of significant matters disclosed elsewhere in the abridged prospectus;
- (b) give a fair and balanced view of the nature, material benefits and material risks of the rights issue offered; and
- (c) be consistent with the disclosures in other parts of the abridged prospectus.

2.03 At the top of the Summary of Rights Issue, the following warning statement must be disclosed in bold:

**“This Summary of Rights Issue only highlights the key information from other parts of this abridged prospectus. It does not contain all the information that may be important to you. You should read and understand the contents of the whole abridged prospectus.”**

2.04 The Summary of Rights Issue must include the following information:

- (a) Basis of allotment;
- (b) Number of rights to be issued;
- (c) Price of the rights issue;

- (d) Details of the party providing any undertaking and underwriting arrangement including the amount;
- (e) Use of proceeds and timeframe for utilisation;
- (f) Risk factors; and
- (g) Procedures for application for the rights issue and excess rights.

**Guidance to Chapter 2 – Summary of Rights Issue**

1. The Summary of Rights Issue should include appropriate cross-references to the specific sections of the abridged prospectus which set out the full details on the respective matters.

## Chapter 3

### DETAILS OF RIGHTS ISSUE

#### Purpose of rights issue

3.01 An abridged prospectus must provide the following information:

- (a) Details on the purpose of the rights issue;
- (b) The minimum level of subscription in order to satisfy the objectives of the rights issue, and the basis for determining the minimum level of subscription;
- (c) The price of the rights issue and the basis for determining the price;
- (d) Where the share capital of the corporation is divided into different classes of securities, the abridged prospectus must disclose the right of voting at meetings of the corporation conferred by, and the rights in respect of capital and dividends attached to, each class of securities; and
- (e) Where listing is sought for securities which will not be identical with securities already listed:
  - (i) A statement of the rights relating to the securities, including dividends, interests, capital, redemption and voting; and
  - (ii) Where applicable, the rights of the corporation to create or issue further securities to rank in priority or *pari passu* therewith.

#### Use of proceeds

3.02 An abridged prospectus must disclose the estimated gross proceeds of the rights issue categorised into each principal intended use and the timeframe for full utilisation of such proceeds. If the anticipated proceeds will not be

sufficient to fund all the proposed purposes, the order of priority of such purposes must be given, as well as the amount and sources of other funds needed. Disclose also how the proceeds will be used pending their eventual utilisation for the proposed purposes.

3.03 Where the proceeds are being used directly or indirectly to acquire an asset or other businesses, disclose-

- (a) a brief description of the asset or such businesses, its cost and particulars;
- (b) the rationale of the acquisition or proposed acquisition including the benefit which is expected to accrue to the corporation;
- (c) the particulars of all liabilities, including contingent liabilities and guarantees to be assumed as a result of the acquisition;
- (d) the amount payable in cash or securities to the vendor and, where there is more than one vendor, to specify separately the amount payable to each vendor and the premium paid or payable; and
- (e) the status of the acquisition or proposed acquisition.

3.04 Where the proceeds may or will be used to wholly or partly pay for an acquisition or proposed acquisition of any-

- (a) property asset; or
- (b) a company whose principal assets comprise property assets;

by the corporation or any of its subsidiaries, the following must be disclosed-

- (i) market value and valuation date of the assets; and
- (ii) a valuation certificate that complies with the Asset Valuation Guidelines, where applicable.

- 3.05 Where any material part of the proceeds is to be used to discharge, reduce or retire indebtedness, describe the interest rate and maturity of such indebtedness. For indebtedness incurred within the last 12 months, how the proceeds of such indebtedness were used.
- 3.06 An analysis of expenses incurred in connection with the rights issue.

### **Approval and condition**

- 3.07 An abridged prospectus must contain details of approval by any relevant authority in relation to the rights issue including its terms and conditions, date of approval and status of compliance by the corporation of such condition.

For any specific relief obtained from compliance with relevant securities laws, guidelines and other regulatory requirement, to disclose the details of the relief granted.

#### **Guidance on paragraph 3.02 - Use of proceeds**

1. Where the corporation intends to use the proceeds for general working capital, it should clearly explain the specific items of the corporation's general working capital and how the proceeds would be used for each item.

## Chapter 4

### RISK FACTORS

4.01 The corporation must describe risk factors that would have a material adverse effect on the corporation's business operations, financial position and results, and shareholders' investments in the corporation.

#### **Guidance to paragraph 4.01 – Risk factors**

1. Risk factors that relate to each other should be grouped together. Appropriate and meaningful headings and sub-headings should be adopted. For example, headings may include risks relating to the corporation, its business, its industry and its offering.
2. Risk factors should be listed in such manner whereby the risks that would have the highest impact should be prominently disclosed at the beginning of each section.
3. The purpose of risk factors is to provide meaningful cautionary statement to investors. Hence, any disclaimer statement should not be so wide so as to prevent risk factors from having this effect. For example, the use of the following statement should be avoided:  
  
"The risks and investment considerations set out below are not an exhaustive or exclusive list of the challenges that we currently faced or that may develop in future. Additional risks, whether known or unknown, may in the future have a material adverse effect on us or our shares"
4. Risk factors should not be disclosed in a vague and generic manner. It should be specific and tailored to the corporation's risks or uncertainties. This means that the disclosure should not merely disclose the facts or circumstances that give rise to the existence of the risk. Each risk factor should be described to place the risk in context so that investors can understand the nature of, or circumstances giving rise to, the risk or uncertainty as it affects the corporation, its operations and shares, or the rights issue.
5. There should be no mitigating facts that could cause confusion on the nature of the risk or its materiality.

## **Chapter 5**

### **FINANCIAL INFORMATION**

#### **General**

- 5.01 For the purpose of this chapter, unless the context otherwise requires, the corporation includes a group of entities where the corporation is a holding corporation.
- 5.02 This chapter sets out the minimum financial information that a corporation must disclose in an abridged prospectus.
- 5.03 The corporation must ensure that the audited financial statements provided in the abridged prospectus are prepared in accordance with the approved accounting standards.
- 5.04 Unless specified otherwise, all information under this chapter must be as at the latest practicable date available prior to the issue of the abridged prospectus.

#### **Historical financial information**

- 5.05 A corporation must disclose key financial information that may be relevant for the understanding of its business as a whole.
- 5.06 The key financial information under paragraph 5.05 must be extracted from—
- (a) the audited statement of profit or loss and other comprehensive income, the audited statement of financial position and the audited statement of cash flows, for the three most recent financial years or such shorter period that the corporation has been in existence; and
  - (b) the interim statement of profit or loss and other comprehensive income, the interim statement of financial position and the interim statement of cash flows, for the most recent published or announced financial report, where applicable.
- 5.07 A corporation may disclose the key financial information as set out in paragraph 5.06 by way of reference to each annual report and where applicable, the most recent

published or announced interim financial report of the corporation on Bursa Securities' website.

- 5.08 Where the key financial information is incorporated by way of reference, a cross reference list must be provided specifying the page of the respective annual report or most recent published or announced interim financial report where the financial information is set out.

### **Financial performance and industry outlook**

- 5.09 An abridged prospectus must provide an overview of:
- (a) the financial performance of the corporation including significant factors which contributed to exceptional performance during the period; and
  - (b) the industry in which the corporation is involved and its future outlook.
- 5.10 The period covered under paragraph 5.09(a) must be for the most recent financial year and where applicable, the most recent published or announced interim financial period.

### **Accountants' Report**

- 5.11 Where the corporation has undertaken a very substantial transaction, an Accountants' Report must be included in the abridged prospectus.
- 5.12 The Accountants' Report must include–
- (a) the audited financial statements in respect of the three most recent financial years or such shorter period that the corporation has been in existence;
  - (b) an audit opinion expressed by the reporting accountant on the financial statements;
  - (c) a statement that it was prepared in accordance with the relevant standards on auditing approved for application in Malaysia; and
  - (d) a statement that it was prepared for inclusion in the abridged prospectus.

**Pro forma financial information**

- 5.13 An abridged prospectus must disclose pro forma financial information based on the most recent audited financial statements or most recent published or announced interim financial report, whichever is later.
- 5.14 The pro forma financial information must include the following:
- (a) Each line item of the shareholders' fund;
  - (b) Net assets or net liabilities;
  - (c) Net assets or net liabilities per share;
  - (d) Number of shares issued; and
  - (e) Gearing ratio.
- 5.15 In connection with paragraph 5.14, where applicable, the pro forma financial information must be adjusted for:
- (a) the effects arising from—
    - (i) the minimum and maximum number of ordinary shares to be issued in connection with the rights issue;
    - (ii) future exercise of any convertible securities;
  - (b) any restructuring or acquisition relating to the rights issue exercise; and
  - (c) proposed utilisation of the funds.
- 5.16 Where the corporation has undertaken a very substantial transaction, the pro forma consolidated statement of financial position must be accompanied by the reporting accountants' letter.

**Material transaction**

- 5.17 An abridged prospectus must provide a brief description of any transaction which may have a material effect on the operations, financial position and results of the corporation since the date of the most recent annual financial statements and where applicable, since the date of the most recent published or announced interim financial report. Where there was no material transaction, to provide an appropriate statement to that effect.

**Working capital, borrowing, contingent liability and material commitment**

- 5.18 An abridged prospectus must provide the following information:
- (a) Description of the material sources of liquidity, whether internal or external, and a brief discussion of any material unused sources of liquidity, including a statement by the directors as to whether, in their opinion, the working capital available to the corporation will be sufficient for a period of 12 months from the date of the abridged prospectus. If not, how the additional working capital which is deemed to be necessary will be obtained;
  - (b) A statement of total borrowings as at a date no earlier than 60 days prior to the date of the abridged prospectus, classified into long term and short term, interest-bearing and non-interest-bearing. Disclose the details as to whether there has been any default on payments of either interest or principal sums for any borrowing throughout the past one financial year, and the subsequent financial period.  
  
For all foreign borrowings, separately identify with the corresponding foreign currencies amount;
  - (c) A statement of contingent liability as at a date no earlier than 60 days prior to the date of the abridged prospectus; and
  - (d) Any material commitment for capital expenditure, and to indicate the general purpose of such commitments and the anticipated source of funds needed to fulfil such commitments.

**Future financial information**

- 5.19 Where future financial information is included in an abridged prospectus–
- (a) Such information must be prepared based on reasonable bases and assumptions;
  - (b) It must be clear and unambiguous;
  - (c) It must be disclosed that the future financial information is prepared on the bases and accounting policies consistent with those adopted by the corporation; and
  - (d) It must be presented in accordance with the approved accounting standards adopted by the corporation.
- 5.20 Disclose details on the bases and assumptions of the future financial information and any additional information that shareholders would reasonably require, for the purpose of making an informed investment decision.
- 5.21 Where future financial information is disclosed, to state the extent to which projected revenues are based on secured contracts or orders, and the reasons for expecting such projected revenues, and profit or cash flow, as the case may be. A discussion on the impact of any likely changes in business and operating conditions included in the future financial information must also be stated.
- 5.22 The reporting accountants must review and report on the underlying accounting policies and assumptions relied on in the preparation of the future financial information.

**Guidance to paragraph 5.17 – Material transaction**

1. Examples of such material transaction include–
- (a) any material acquisition or material disposal of an entity or business;
  - (b) any agreement to acquire or dispose a material entity or business;

- (c) any significant change to its capital structure, including any material distribution;and
  - (d) any other corporate exercise or scheme entered into by the corporation.
2. The brief description should include such transactions that may be relevant for the understanding of the corporation's business as a whole.

**Guidance to paragraph 5.18 – Working capital, borrowing, contingent liabilities and material commitment**

3. The corporation should identify those income, cash flows or financial position items that should be considered in assessing liquidity, unless it is clear from the discussion.

**Guidance to paragraph 5.19 – Future financial information**

4. In preparing the future financial information, the bases and assumptions used to support such information should–
- (a) draw the shareholders' attention to those uncertain factors which can materially affect the ultimate achievement of such future financial results, and where possible to quantify such factors;
  - (b) be specific rather than vague, avoid generalisations and all embracing assumptions and those relating to the general accuracy of the assumptions made in the future financial information;
  - (c) be clearly stated and reviewed for reasonableness by the directors who are responsible for the future financial information and bases and assumptions; and
  - (d) enable the shareholders to assess–
    - (i) the validity of the assumptions on which the future financial information is based;
    - (ii) the likelihood of the assumptions actually occurring;

- (iii) the effect on the future financial information if the assumptions vary;
  - (iv) whether the future financial information is relevant and reliable, i.e. to enable shareholders to form their own view about how reasonable the grounds are for making the statement; and
  - (v) the facts and circumstances that support future financial information, as well as being able to demonstrate that the information is reasonable;
5. In addition to item 4 above, the corporation and principal adviser should be satisfied that, the bases and assumptions relied on in the preparation of the future financial information, are reasonable. What amounts to reasonable bases and assumptions should be judged by the facts and circumstances of each case. However, in general, the future financial information should assist the shareholders in making an informed investment decision.
6. In deciding whether the bases and assumptions are reasonable, the corporation and principal adviser should have regard to the following indicative factors:
- (a) the information relates to agreements where future expenses and revenue of the corporation can be reasonably assured for the period of that agreement;
  - (b) the information is underpinned by independent industry experts' reports or independent accountants' reports where such experts believe that the future financial information and its bases and assumptions are reasonable; and
  - (c) the information includes reasonable short-term estimates relating to an existing business and based on events that the management of the corporation reasonably expects to take place or actions that the management of the corporation reasonably expects to occur.

The above factors are not necessarily conclusive. Most importantly, in certain circumstances, these factors alone may not be sufficient to establish reasonable bases and assumptions. Hence, in preparing future financial information, the corporation and principal adviser are required to consider other factors that may indicate whether or not the bases and assumptions used are reasonable.

7. Certain factors may indicate that the future financial information has not been prepared on reasonable bases and assumptions. Such factors include where:
- (a) the future financial information is supported only by hypothetical assumptions, and without demonstrating other factors that may support the inclusion of the future financial information;
  - (b) the corporation has made a statement asserting that the bases and assumptions relied on are reasonable, without coming up with verifiable reasons to support such a statement; and
  - (c) the corporation has made a statement along the lines of 'this is the best estimate of the directors'. The bases and assumptions relied on by the corporation in preparing the future financial information has to be objectively reasonable, taking into account among others, the list of factors set out under this Guidance and not made on the basis of genuine but unreasonable beliefs of the directors of the corporation.

The above factors are non-exhaustive. The corporation and principal adviser are strongly encouraged to consult the SC at an early stage should they face any difficulty in determining whether the bases and assumptions to be relied on are reasonable.

## **Chapter 6**

### **SHAREHOLDERS' UNDERTAKINGS AND UNDERWRITING ARRANGEMENTS**

6.01 If there is any irrevocable written undertaking to subscribe for the rights issue, the following information must be disclosed:

- (a) Name of the person providing the undertaking;
- (b) Number of securities and percentage of existing issued and paid-up capital held by the person in the corporation;
- (c) Number and percentage of securities that the person is entitled to under the rights issue; and
- (d) Number and percentage of securities being undertaken by the person.

6.02 For the open portion of the rights issue securities, the abridged prospectus must contain the following information:

- (a) Number and percentage of rights issue securities;
- (b) Any underwriting arrangements including the amount of securities underwritten by each underwriter; and
- (c) Any underwriting commission and the party responsible for payment of the expenses.

## **Chapter 7**

### **SPECIFIC CLASSES OF SECURITIES, WHERE APPLICABLE**

7.01 For a corporation that offers shares to be allotted as partly paid, the abridged prospectus must disclose the following:

- (a) The provisions in the corporation's constituent documents dealing with liability for calls and forfeiture for those shares; and
- (b) A prominent statement to the effect that–

"If the corporation is wound up, members who hold shares which are not fully paid may be liable to contribute an amount up to the amount unpaid on the shares in order to pay the corporation's debts and expenses of the winding up. This may also apply to members who have ceased to be holders of partly-paid shares within one year of commencement of the winding up."

## **Chapter 8**

### **APPLICATION FOR SECURITIES AND EXCESS APPLICATION**

- 8.01 The corporation must disclose the procedures for application for the rights issue and excess rights.
- 8.02 Any allotment of excess rights must be carried out on a fair and equitable basis.
- 8.03 The corporation must set out the basis for the allotment and disclose a statement that all excess rights will be allocated on a fair and equitable basis.
- 8.04 Describe the manner in which–
- (a) the results of the allocation of shares will be made public; and
  - (b) any excess application monies will be refunded.
- 8.05 The contents of the rights subscription and excess application forms must not be contrary to any information that is in the abridged prospectus.

## **Chapter 9**

### **ADDITIONAL INFORMATION ON THE CORPORATION, EXPERT'S REPORT AND DOCUMENTS AVAILABLE FOR INSPECTION**

9.01 Additional information on the corporation to be included in the abridged prospectus:

- (a) Name, age, designation, nationality and address of each director, including whether the director is independent or non-independent;
- (b) Issued and paid-up share capital of the corporation;
- (c) Share prices, if any
  - (i) The monthly highest and lowest share prices of the corporation as transacted on the relevant stock exchange for the 12 months preceding the date of the abridged prospectus;
  - (ii) Last transacted market price–
    - (A) On the market day immediately before the date of announcement of the rights issue;
    - (B) On the market day prior to the ex-rights date; and
    - (C) On the latest practicable date before the date of issue of the abridged prospectus; and
  - (iii) Source of the share prices;
- (d) Where any option to subscribe for the corporation's shares has been granted or is entitled to be granted to any person, to disclose the following information relating to the option:
  - (i) The number, description and amount of such shares;
  - (ii) The period during which the option is exercisable;

- (iii) The price to be paid for shares subscribed for under it;
- (iv) The consideration, where applicable, given or to be given for it or for the right to it; and
- (v) The name of the person to whom the option was granted or agreed to be granted, unless the option was offered to–
  - (A) all existing shareholders;
  - (B) holder of debt securities or any class thereof; or
  - (C) director and employee under a share option scheme.
- (e) Disclose all material contracts, not being contracts in the ordinary course of business, entered into within two years preceding the date of the abridged prospectus. The particulars must be disclosed for each contract:
  - (i) Date;
  - (ii) Parties to the contract;
  - (iii) Subject matter of the contract; and
  - (iv) The consideration and manner it is to be satisfied.
- (f) Disclose all current material litigation and arbitration, including those pending or threatened, and of any fact likely to give rise to any proceeding which might materially affect the business or financial position of the corporation or any of its subsidiaries.

9.02 An abridged prospectus must disclose the following information on substantial shareholders and directors:

- (a) Details of substantial shareholders' direct and indirect interests in the corporation before and after the rights issue; and

- (b) Details of each directors' direct and indirect interests in the corporation before and after the rights issue.

**9.03 Expert's report**

- (a) Where a statement or report attributed to a person as an expert is included in the abridged prospectus, disclose such person's professional experience;
- (b) Where an expert's report is included in the abridged prospectus, such report must be signed and dated;
- (c) Where a valuation of property assets have been carried out by the corporation, for inclusion in this abridged prospectus, a summary of the valuation in the form of a valuation certificate that complies with the Asset Valuation Guidelines must be included in the abridged prospectus; and
- (d) An expert must not make wide disclaimers of responsibility in its report

**Guidance to paragraph 9.03 – Expert's report**

1. The expert's report should be signed and dated within a reasonable time, which generally should not be earlier than the latest practicable date.

**9.04 Documents available for inspection**

To include a statement that a copy of each of the following documents may be inspected, for a period of at least six months from the date of issue of the abridged prospectus at the registered office of the corporation in Malaysia, or if the registered office is not in Malaysia, at a place in Malaysia to be specified by the corporation.

Each document referred to in the abridged prospectus which includes the following:

- (i) Each material contract and, in the case of contracts not in writing, a memorandum which gives full particulars of the contracts;
- (ii) All reports, letters or other documents, valuations and statements by any expert, any part of which is extracted or referred to in the abridged prospectus. Where a summary of the expert's report is included in the abridged prospectus, the corresponding full expert's report must be made available for inspection;
- (iii) Each consent given by parties as disclosed in the abridged prospectus; and
- (iv) Irrevocable undertaking letter in respect of subscription of the rights issue.

## **DIVISION 6**

# **SUPPLEMENTARY AND REPLACEMENT PROSPECTUS**

## **C O N T E N T S**

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## **Chapter 1**

### **GENERAL**

- 1.01 This division shall apply to a supplementary prospectus.
- 1.02 As prescribed under subsection 238(1) of the CMSA, a supplementary/replacement prospectus must be registered with the SC when the issuer becomes aware that–
- (a) a matter has arisen and information on that matter is required to be disclosed in the prospectus if the matter had arisen when the prospectus was prepared;
  - (b) there has been a significant change affecting a matter disclosed in the prospectus;
  - (c) the prospectus contains a material statement or information that is false or misleading; or
  - (d) the prospectus contains a statement or information from which there is a material omission.
- 1.03 The changes requiring a supplementary/replacement prospectus may consist of
- (a) changes to the body of the original prospectus;
  - (b) changes to experts' reports included in the original prospectus; and/or
  - (c) changes to information in supplementary prospectus (including new reports)
- 1.04 If a person applies to subscribe for or purchase securities in a corporation and, before issue of securities, a supplementary prospectus is submitted to the SC for registration, then as soon as practicable after registration, the issuer must–
- (a) give a written notice to the applicant or other notices as may be specified by the SC–
    - (i) advising the applicant that a supplementary/replacement

prospectus has been registered by the SC;

- (ii) giving the applicant no less than 14 days from the date of receipt of the notice an opportunity to withdraw his application; and
- (iii) informing the applicant that, if he withdraws his application, the issuer will immediately pay him any money he has paid to the issuer on account of the application; and

(b) ensure that the written notice is accompanied by a copy of the supplementary/  
replacement prospectus.

1.05 *[Deleted]*

## **Chapter 2**

### **CONTENTS OF A SUPPLEMENTARY PROSPECTUS**

- 2.01 A supplementary prospectus should contain details of any significant change or new matter arising.
- 2.02 A supplementary prospectus should specify the following:
- (a) The full name of the corporation and place of incorporation;
  - (b) Statute under which the corporation was incorporated;
  - (c) Registration number of the corporation;
  - (d) The date of the supplementary prospectus;
  - (e) A statement that it has been registered with the SC and lodged with the Registrar of Companies; and
  - (f) That registration does not indicate that the SC recommends the securities or assumes responsibility for correctness of any statement made or opinion or report expressed in the original prospectus or supplementary prospectus.
- 2.03 Each page of the supplementary prospectus should contain a clear statement in bold type which states that the document is a supplementary prospectus which is to be read in conjunction with the original prospectus (which must be identified in the supplementary prospectus) and any other supplementary prospectuses.
- 2.04 If a supplementary prospectus contains statements or reports by experts not included in the original prospectus–
- (a) it is required to state the date of each statement or report and whether or not it was prepared for incorporation in the supplementary prospectus; and
  - (b) the supplementary prospectus should state that the expert has given and has not withdrawn his consent.
- 2.05 If the information in the supplementary prospectus gives rise to new risk factors not covered in the original prospectus, the supplementary prospectus

should contain a description of those new risk factors.

- 2.06 A supplementary prospectus should contain or be accompanied by a new application form that is reasonably identical to the original application form, except that it must–
- (a) refer to the supplementary prospectus which is to accompany the new application form; and
  - (b) contain a feature, such as marking, lettering, colour or other feature which distinguishes the form from the application forms accompanying the original prospectus or previous supplementary prospectuses.
- 2.07 Disclosure of information in the main body of the supplementary prospectus or reports included in supplementary prospectus must comply with the requirements under division 1-5 to which the significant change or new matter relates.

### **Chapter 3**

#### **CONTENTS OF A REPLACEMENT PROSPECTUS**

- 3.01 A replacement prospectus replaces an original prospectus and should contain details of any significant change or new matter arising.
- 3.02 A replacement prospectus must–
- (a) contain a clear statement (to appear in bold) on the front cover which states that the document is a replacement prospectus and supersedes/replaces the original prospectus; and
  - (b) comply with the requirements under division 1-5 of this part, as applicable.
- 3.03 Each page of a replacement prospectus should contain a clear statement in bold type that states that the document is a replacement prospectus.
- 3.04 *[Deleted]*

**PART III**

**PROCEDURES FOR REGISTRATION**

## **Chapter 1**

### **PROSPECTUS UNDER DIVISION 1 AND 1A OF PART II**

- 1.01 An application to register a prospectus under Division 1 and 1A of Part II must be in accordance with the submission requirements and procedures set out below:
- (i) For a prospectus prepared by a public company where its shares are not seeking listing on the stock exchange, requirements under Part A, Part E, Part F and Part G of this chapter shall be applicable; and
  - (ii) For all other prospectus, requirements under Part A, Part B, Part C, Part D and Part G of this chapter shall be applicable.

#### **Part A: General**

- 1.02 The prospectus and all accompanying documents submitted to the SC must include an electronic copy of such documents in a text-searchable format.
- 1.03 Certified true copies of all reports and letters contained in the prospectus must be included as accompanying documents for the purpose of the application. Where the prospectus contains a summary of an expert's report, the corresponding full report must be submitted.
- 1.04 All reports and letters contained in the prospectus must be dated and signed.
- 1.05 All accompanying documents which are in a language other than Bahasa Malaysia or English, must be accompanied by a Bahasa Malaysia or English translation confirmed by the corporation or the principal adviser as being an accurate translation of the original documents.
- 1.06 Any application for relief from complying with the required disclosure requirements of a prospectus must be submitted at least 14 market days prior to the intended date of submission of the prospectus.

**Part B: Submission of prospectus for registration (Stage 1)**

1.07 *[Deleted]*

1.08 The principal adviser must submit at least three copies of the prospectus in English, accompanied by the following documents:

(a) Cover letter signed by two authorised persons of the principal adviser specifying the following:

(i) Application to register the prospectus together with a checklist of compliance with these Guidelines;

(ii) A confirmation that the prospectus complies with the disclosure requirements as set out in the CMSA and these Guidelines;

(iii) A confirmation that the accompanying documents in the application are complete, duly signed and dated; and

(iv) A confirmation that the electronic copy of documents is the same as the physical copy of documents submitted to the SC.

(b) Registration fee as prescribed by the SC;

(c) Directors' and promoters' responsibility statement for the prospectus and, where applicable, the offerors' responsibility statement;

(d) *[Deleted]*

(e) Certified true copy of the letter of consent from any person who has made a statement included in the prospectus or on which a statement made in the prospectus is based. The letter of consent must be dated, signed and in accordance with the form specified in Appendix 1;

- (f) Certified true copy of each constituent document and the certificate of incorporation. Where the applicant is foreign incorporated, a certified true copy of each certificate of registration and constituent document of the foreign corporation;
- (g) Certified true copies of all material contracts, regardless whether the contracts are in the corporation's ordinary course of business or not, or documents referred to in the prospectus. For contracts not reduced into writing, a memorandum which gives full particulars of the contracts which must be verified by the due diligence legal adviser;
- (h) Certified true copies of the audited financial statements of the corporation for each financial year and period, where applicable, where the audited financial statements of the corporation have been included in the prospectus;
- (i) Certified true copy of any expert's report referred to in the prospectus; and
- (j) Certified true copy of each existing or proposed service contract, which provide for benefits upon termination of employment, referred to in the prospectus;

#### 1.09 **Prospectus Exposure**

Where a prospectus is required to be exposed, the principal adviser must submit an electronic copy of the prospectus for prospectus exposure. The following statement must be prominently displayed on the cover page of the prospectus in bold and a contrasting colour:

**"This document has not been registered by the Securities Commission Malaysia (SC). The information in this document may be subject to further amendments before being registered by the SC. Under no circumstances shall this document constitute an offer for subscription or purchase of, or an invitation to subscribe for or purchase securities."**

**Part C: Submission of prospectus for registration (Stage 2)**

- 1.10 Upon receiving the relevant authority's approval for the corporate proposal, where applicable, the principal adviser must provide all documents required under paragraph 1.12 of Part C, to the SC before 12:30 p.m. at least seven market days prior to the intended date of registration.
- 1.10A Notwithstanding paragraph 1.10, where the financial information has been updated after submission was made to the SC under Part B, the revised prospectus must be submitted to the SC at least 14 market days prior to the intended date of registration.
- 1.11 The principal adviser must submit a copy of the prospectus in Bahasa Malaysia and English, and where applicable, in any other language, for registration by the SC.
- 1.12 The prospectus must be accompanied by:
- (a) A cover letter for application to register the prospectus signed by two authorised persons of the principal adviser specifying the following:
    - (i) A confirmation that all relevant conditions of approval, to be complied with before issuance of the prospectus, have been met;
    - (ii) A confirmation that all requisite approvals from other relevant authorities have been obtained;
    - (iii) A confirmation that the electronic copy of documents is the same as the physical copy of documents submitted to the SC;
    - (iv) A confirmation that the consents from any person who has made a statement included in the prospectus or on which a statement made in the prospectus is based have not been withdrawn; and
    - (v) Where a prospectus is in a language other than Bahasa Malaysia or English, a confirmation by the corporation or the principal adviser that such prospectus is an accurate translation of the Bahasa Malaysia or English prospectus

- (b) *[Deleted]*
- (c) Certified true copy of any material contract, regardless whether the contracts are in the corporation's ordinary course of business or not, report or document referred to in the prospectus, which was entered into or updated after submission was made to the SC under Part B;
- (d) Where the financial information has been updated after submission was made to the SC under Part B, certified true copies of the audited financial statements of the corporation for the updated financial year or period, where applicable;
- (e) Where the corporation is a holding corporation, certified true copies of the audited financial statements of its subsidiaries for each financial year, in electronic form only; and
- (f) For any revision to the prospectus that was cleared by the SC under Part B, the following must be provided to the SC:
  - (i) Marked-up copy of the revised prospectus; and
  - (ii) A confirmation from the principal adviser that –
    - A. the principal adviser has seen and confirmed the revisions made to the prospectus; and
    - B. the prospectus complies with the disclosure requirements of the CMSA and relevant guidelines.

**Part D: Supplementary prospectus and replacement prospectus**

- 1.13 For registration of a supplementary prospectus, the supplementary prospectus must be submitted to the SC before 12:30 p.m. at least three market days prior to the intended date of registration.
- 1.14 For registration of a replacement prospectus, the replacement prospectus must be submitted to the SC before 12:30 p.m. at least seven market days prior to the intended date of registration.
- 1.15 For registration of a supplementary or replacement prospectus, the principal adviser must include–
- (a) the documents required under paragraphs 1.08 of Part B and 1.12 of Part C above, where applicable; and
  - (b) a list highlighting the original statements from the previously registered prospectus and the amended statements.

**Part E: Submission of prospectus for registration by a public company where its shares are not seeking listing on the stock exchange**

- 1.16 The principal adviser must submit a copy of the prospectus in Bahasa Malaysia and English, and where applicable, in any other language, for registration by the SC.
- 1.17 The prospectus must be accompanied by:
- (a) A cover letter for application to register the prospectus signed by two authorised persons of the principal adviser specifying the following:
    - (i) Application to register the prospectus together with a checklist of compliance with these Guidelines;
    - (ii) A confirmation that all relevant conditions of approval, to be complied with before issuance of the prospectus, have been met;
    - (iii) A confirmation that all requisite approvals from other relevant authorities

have been obtained;

- (iv) A confirmation that the accompanying documents in the application are complete, duly signed and dated;
  - (v) A confirmation that the electronic copy of documents is the same as the physical copy of documents submitted to the SC; and
  - (vi) Where a prospectus is in a language other than Bahasa Malaysia or English, a confirmation by the corporation or the principal adviser that such prospectus is an accurate translation of the Bahasa Malaysia or English prospectus;
- (b) Registration fee as prescribed by SC;
  - (c) Directors' and promoters' responsibility statement for the prospectus and, where applicable, the offers' responsibility statement;
  - (d) Certified true copy of the letter of consent from any person who has made a statement included in the prospectus or on which a statement made in the prospectus is based. The letter of consent must be dated, signed and in accordance with the form specified in Appendix 1;
  - (e) Certified true copy of each constituent document and the certification of incorporation;
  - (f) Certified true copy of any material contract, regardless whether the contracts are in the corporation's ordinary course of business or not, report or document referred to in the prospectus. For contracts not reduced into writing, a memorandum which gives full particulars of the contracts which must be verified by the due diligence legal adviser;
  - (g) Certified true copies of the audited financial statements of the corporation for each financial year and period, where applicable, where the audited financial statements of the corporation have been included in the prospectus;
  - (h) Where the corporation is a holding corporation, certified true copies of the audited financial statements of its subsidiaries for each financial year, in electronic form only;

- (i) Certified true copy of any expert's report referred to in the prospectus;
- (j) Certified true copy of each existing or proposed service contract, which provide for benefits upon termination of employment, referred to in the prospectus; and
- (k) For any revision to the prospectus that was cleared by the SC, the following must be provided to the SC:
  - (i) Marked-up copy of the revised prospectus; and
  - (ii) A confirmation from the principal adviser that –
    - A. the principal adviser has seen and confirmed the revisions made to the prospectus; and
    - B. the prospectus complies with the disclosure requirements of the CMSA and relevant guidelines.

#### 1.18 **Prospectus Exposure**

Where a prospectus is required to be exposed, the principal adviser must submit an electronic copy of the prospectus for prospectus exposure. The following statement must be prominently displayed on the cover page of the prospectus in bold and a contrasting colour:

**"This document has not been registered by the Securities Commission Malaysia (SC). The information in this document may be subject to further amendments before being registered by the SC. Under no circumstances shall this document constitute an offer for subscription or purchase of, or an invitation to subscribe for or purchase securities."**

**Part F: Supplementary prospectus and replacement prospectus for a public company where its shares are not seeking listing on the stock exchange**

- 1.19 For registration of a supplementary prospectus, the supplementary prospectus must be submitted to the SC before 12:30 p.m. at least three market days prior to the intended date of registration.
- 1.20 For registration of a replacement prospectus, the replacement prospectus must be submitted to the SC before 12:30 p.m. at least seven market days prior to the intended date of registration.
- 1.21 For registration of a supplementary or replacement prospectus, the principal adviser must include–
- (a) the documents required under paragraph 1.17 of Part B above, where applicable; and
  - (b) a list highlighting the original statements from the previously registered prospectus and the amended statements.

**Part G: Post registration**

- 1.22 The principal adviser must provide the SC with the following:
- (a) On the date of issuance of the prospectus, a confirmation that–
    - (i) the printed prospectus is the same as the prospectus registered by the SC; and
    - (ii) where applicable, the electronic prospectus complies with the requirements under Division 2 of Part IV; and
  - (b) Two copies each of the printed prospectus in Bahasa Malaysia, English and where applicable, in any other language.

**Guidance to Chapter 1 - General**

1. Where any document is amended after submission, marked-up copies (including deletions of information) together with the corresponding electronic copy should be submitted to the SC.
2. The name and designation of the person who has signed the document should be stated below his signature.
3. Where a written consent, a letter or a report submitted to the SC, is issued by a business or professional firm, the signature appearing on such documents should be in the name of the firm and in the personal name of the signatory.
4. Where a copy of the audited interim financial report is not available –
  - (a) the submission of the prospectus for registration (Stage 1) to the SC should not be later than nine months after the end of the most recent financial year referred to in the prospectus; and
  - (b) where the prospectus for registration (Stage 1) is submitted to the SC more than six months after the end of the most recent financial year referred to in the prospectus,
    - (i) a copy of the unaudited interim financial report with the relevant management's discussion and analysis should be submitted to the SC; and
    - (ii) the end of the interim period should be within three months prior to the submission of prospectus to the SC.

**Guidance to paragraph 1.01 of Part A – Right to return prospectus**

5. The SC reserves the right to return the prospectus if in its opinion–
  - (a) the disclosure in the prospectus is incomplete or inadequate;
  - (b) the prospectus is not in its final or complete form; or
  - (c) the prospectus is not accompanied by all relevant materials or documents.

**Guidance to paragraph 1.02 of Part A – Electronic submission**

6. The electronic copy submitted to the SC should be easily identifiable and complete.

**Guidance to paragraph 1.04 of Part A – Reports and letters**

7. All reports and letters should be dated and signed within a reasonable time, which generally should not be earlier than the latest practicable date.

**Guidance to paragraph 1.06 of Part A – Relief application**

8. The relief application should be accompanied with the relevant supporting documents and the prescribed fee.
9. The corporation and its principal adviser are encouraged to consult the SC prior to making a relief application.
10. For relief from disclosing certain clauses of a material contract to be made available for public inspection, specific justification must be provided for each clause of the material contract proposed to be redacted.

**Guidance to paragraph 1.07 of Part B – Completeness of prospectus**

11. The information in the prospectus must be substantially complete except in relation to information that by its nature can only be finalised and incorporated after the relevant authorities' approvals for the corporate proposal. For example, agreements relating to underwriting, cornerstone investors and lock-up arrangements for cornerstone investors.

**Guidance to paragraph 1.08(e) of Part B and paragraph 1.17(d) of Part E – Letter of consent**

12. A letter of consent is not required for a statement made in a prospectus that has been extracted from an official statement by:
  - (a) Malaysian and foreign governments including federal government, state government, province, county or municipality, a statutory or regulatory authority, or any agency or body carrying out a regulatory function; and
  - (b) United Nations and its organisations.

**Guidance to paragraph 1.09 of Part B and paragraph 1.18 of Part E – Prospectus exposure**

13. The following information disclosed in the electronic copy of the prospectus for prospectus exposure may be redacted:
  - (a) Pricing of securities and related disclosures such as amount for utilisation of proceeds and pro forma effects of the issuance of the securities;
  - (b) Indicative timetable for the listing; and
  - (c) Salient terms of agreements relating to underwriting and cornerstone investors, if any.

For the purpose of prospectus exposure, the accountants' report and the pro forma letter need not be signed and dated.

**Appendix 1**

**Letter of Consent under Section 244 of the CMSA**

[date of letter]

Board of Directors, [name of applicant]

Dear Sir

[name of applicant] – [identify the prospectus submitted to the SC] in relation to the [provide brief description of the proposal] (the “Proposal”)

We, [insert name of expert], named as [state capacity of expert in relation to the prospectus] in the [identify the prospectus submitted to the SC] in relation to the Proposal, do hereby consent to act in that capacity in relation to the [identify the prospectus submitted to the SC].

We have given and have not subsequently withdrawn our written consent before the date of issue of the [identify the prospectus submitted to the SC] with the inclusion of the following:

- (i) our name and all references thereto; and
- (ii) [in the case of a report or letter, insert the title of the report or letter].

in the form and context in which they are included in the [identify the prospectus submitted to the SC].

Yours faithfully,

[signature]

[insert name of the authorised persons of the firm or of the individual expert, as the case may be]

## **Chapter 2**

### **PROSPECTUS UNDER DIVISIONS 2 AND 2A OF PART II**

#### **Part A: General**

- 2.01 An application to register a prospectus under Divisions 2 and 2A of Part II must be in accordance with the submission requirements and procedures set out in this chapter.
- 2.02 The prospectus, pricing supplement or pricing statement and all accompanying documents submitted to the SC must include an electronic copy of such documents in a text-searchable Portable Document Format (PDF).
- 2.03 Certified true copies of all reports and letters contained in the prospectus must be included as accompanying documents for the purpose of the application. Where the prospectus contains a summary of an expert's report, the corresponding full report must be submitted.
- 2.04 All reports and letters contained in the prospectus must be dated and signed.
- 2.05 All accompanying documents which are in the language other than Bahasa Malaysia or English must be accompanied by a Bahasa Malaysia or English translation confirmed by the corporation or the principal adviser as being an accurate translation of the original documents.
- 2.06 Any application for relief from complying with the required disclosure requirements of a prospectus must be submitted at least 14 market days prior to the intended date of submission of the prospectus.

#### **Part B: Submission of prospectus for registration (Stage 1)**

- 2.07 The principal adviser must submit at least two physical copies of the prospectus in English, accompanied by the following documents:
  - (a) Cover letter signed by two authorised persons of the principal adviser specifying the following:
    - (i) Application to register the prospectus together with a checklist of compliance with these Guidelines;
    - (ii) A confirmation that the due diligence working group has seen and verified that the prospectus complies with the disclosure requirements as set out in the CMSA and these Guidelines;
    - (iii) A confirmation that the accompanying documents in the application are complete, duly signed and dated; and

- (iv) A confirmation that the electronic copy of documents is the same as the physical copy of documents submitted to the SC;
- (b) Registration fee as prescribed by the SC;
- (c) Directors' responsibility statement for the prospectus;
- (d) Extract of the minutes of the board of directors' meeting that approved the submission of the prospectus to the SC;
- (e) Certified true copy of the letter of consent from any person who has made a statement included in the prospectus or on which a statement made in the prospectus is based;
- (f) Certified true copy of each constituent document and the certificate of incorporation. Where the applicant is foreign incorporated, a certified true copy of each certificate of registration and constituent document of the foreign corporation;
- (g) Certified true copies of all material contracts or documents referred to in the prospectus. For contracts not reduced into writing, a memorandum which gives full particulars of the contracts which must be verified by the due diligence legal adviser;
- (h) Certified true copy of any expert's reports referred to in the prospectus; and
- (i) The electronic copy of the prospectus should include the following statement in bold and a contrasting colour on the cover page:

**“This document has not been registered by the Securities Commission Malaysia (SC). The information in this document may be subject to further amendments before being registered by the SC. Under no circumstances shall this document constitute an offer for subscription or purchase of, or an invitation to subscribe for or purchase securities.”**

**Part C: Submission of prospectus for registration (Stage 2)**

- 2.08 Upon receiving the relevant authority's approval for the offer, where applicable, the principal adviser must provide all documents required under paragraph 2.11 of Part C, to the SC before 12.30 p.m. at least seven market days prior to the intended date of registration.
- 2.09 The principal adviser must submit the following:
  - (a) For registration with the SC, one copy of the prospectus each in Bahasa Malaysia and English; and
  - (b) For lodgement with the Registrar of Companies, one copy of the prospectus each in Bahasa Malaysia and English.

- 2.10 The prospectus must be accompanied by:
- (a) A cover letter for application to register the prospectus signed by two authorised persons of the principal adviser specifying the following:
    - (i) A confirmation that all relevant conditions of approval, to be complied with before issuance of the prospectus, have been met;
    - (ii) A confirmation that all requisite approvals from other relevant authorities have been obtained;
    - (iii) A confirmation that the electronic copy of documents is the same as the physical copy of documents submitted to the SC; and
    - (iv) A confirmation that the consents from any person who has made a statement included in the prospectus or on which a statement made in the prospectus is based have not been withdrawn.
  - (b) Extract of the minutes of the board of directors' meeting that approved the registration and issuance of the prospectus;
  - (c) Certified true copy of any material contract, report or document referred to in the prospectus, which was entered into or updated after submission was made to the SC under Part B; and
  - (d) For any revision to the prospectus that was cleared by the SC under Part B, letter of confirmation from the principal adviser stating that the due diligence working group –
    - (i) has seen and confirmed the revisions made to the prospectus; and
    - (ii) has seen and verified that the prospectus complies with the disclosure requirements of the CMSA and relevant guidelines.

#### **Pricing supplement or pricing statement**

- 2.11 For the registration of pricing supplement or pricing statement, the principal adviser/issuer must ensure that the pricing supplement or pricing statement is accompanied by the following documents:
- (a) Cover letter signed by two authorised persons of the principal adviser specifying the following:
    - (i) Application to register the pricing supplement or pricing statement;
    - (ii) A confirmation that the due diligence working group has seen and verified that the pricing supplement or pricing statement complies with the disclosure requirements as set out in the *Guidelines on Issuance of*

*Corporate Bonds and Sukuk to Retail Investors or the ASEAN Disclosure Standards for Debt Issuance Programme (if applicable); and*

- (iii) A confirmation that the electronic copy of documents is the same as the physical copy of documents submitted to the SC.

**Supplementary prospectus and replacement**

- 2.12 For registration of a supplementary prospectus, the supplementary prospectus must be submitted to the SC as soon as practicable and at least three market days prior to the intended registration date.
- 2.13 For registration of a replacement prospectus, the replacement prospectus must be submitted to the SC before 12.30 p.m. at least seven market days prior to the intended date of registration.
- 2.14 For registration of a supplementary or replacement prospectus, the principal adviser must include the documents required under paragraphs 2.07 of Part B and 2.10 of Part C above, where applicable, and a list highlighting the original statements from the previously registered prospectus and the amended statements.

**Post registration**

- 2.15 The principal adviser should provide the SC with three copies each of the printed prospectuses in English and Bahasa Malaysia upon issuance.

**Guidance to Chapter 2 - General**

1. Where any document is amended after submission, marked-up copies (including deletions of information) together with the corresponding electronic copy should be submitted to the SC.
2. The name and designation of the person who has signed the document should be stated below his signature.
3. Where a written consent, a letter or a report submitted to the SC, is issued by a business or professional firm, the signature appearing on such documents should be in the name of the firm and in the personal name of the signatory.

**Guidance to paragraph 2.01 of Part A – Right to return prospectus**

4. The SC reserves the right to return the prospectus if in its opinion–
  - (a) the disclosure in the prospectus is incomplete or inadequate;
  - (b) the prospectus is not in its final or complete form; or
  - (c) the prospectus is not accompanied by all relevant materials or documents.

**Guidance to paragraph 2.02 of Part A – Electronic submission**

5. The electronic copy submitted to the SC should be easily identifiable and complete.

**Guidance to paragraph 2.04 of Part A – Reports and letters**

6. All reports and letters should be dated and signed within a reasonable time, which generally should not be earlier than the latest practicable date.

**Guidance to paragraph 2.06 of Part A – Relief application**

7. The relief application should be accompanied with the relevant supporting documents and the prescribed fee.
8. The corporation and its principal adviser are encouraged to consult the SC prior to making a relief application.
9. For relief from disclosing certain clauses of a material contract to be made available for public inspection, specific justification must be provided for each clause of the material contract proposed to be redacted.

**Guidance to paragraph 2.07 of Part B – Completeness of prospectus**

10. The information in the prospectus must be substantially complete except in relation to information that by its nature can only be finalised and incorporated after the relevant authorities' approvals for the corporate proposal. For example, agreements relating to underwriting, cornerstone investors and lock- up arrangements for cornerstone investors.

**Guidance to paragraph 2.07(e) of Part B – Letter of consent**

11. A letter of consent is not required for a statement made in a prospectus that has been extracted from an official statement by:
  - (a) Malaysian and foreign governments including federal government, state government, province, county or municipality, a statutory or regulatory authority, or any agency or body carrying out a regulatory function; and
  - (b) United Nations and its organisations.

## **Chapter 3**

### **PROSPECTUS UNDER DIVISION 3 OF PART II**

#### **Introduction**

- 3.01 An application to register a prospectus under Division 3 of Part II must be in accordance with the submission requirements and procedures set out in this chapter.
- 3.02 The SC will not register a prospectus unless it is in its final/complete form and is accompanied by all required materials/documents. The SC reserves the right to refuse registration and return the prospectus if in its opinion–
- the disclosure in the prospectus is incomplete and inadequate;
  - the prospectus is not in its final/complete form; and/ or
  - the prospectus is not accompanied by all relevant materials/ documents.
- 3.03 The original or certified true copies of all reports<sup>1</sup> and letters contained in the registrable prospectus must be included as accompanying documents in the registration file. For certified true copies, state the identity and position of the person certifying the said documents.
- 3.04 All reports and letters, e.g. reporting accountants' reports and letters, directors' report, and other experts' report, contained in the registrable prospectus must be dated and signed. Advisers should ensure that the directors' report included in the prospectus is dated within the maximum stipulated 14 days as at the intended date of registration.
- 3.05 All accompanying documents furnished, which are in the language other than Bahasa Malaysia or English, should be accompanied by a Bahasa Malaysia or English translation confirmed by the corporation or the adviser as being an accurate translation of the original documents.

#### **Submission of registrable prospectus**

- 3.06 A registrable prospectus should be submitted to the SC–
- (a) in relation to an offering and/or listing on the Main Market, concurrently with the corporate proposal seeking approval from the SC under section 212 of the CMSA;

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<sup>1</sup> Where the prospectus contains a summary of an expert's report, the corresponding full report should be submitted.

- (b) in relation to an offering and/or listing on the ACE Market, at a practicable date that allows sufficient time for the SC to vet the registrable prospectus;
  - (c) in relation to an offering and/or listing of structured warrants, at least 14 market days prior to the intended date of registration; or
  - (d) in relation to registrable term sheets, at least one market day prior to the intended date of registration.
- 3.07 Any application for relief from complying with the required disclosure requirements of a prospectus should be submitted:
- (a) concurrently with submission of prospectuses under sub-paragraphs 3.06(a) and (b); and
  - (b) at least 14 market days prior to the intended date of submission of prospectuses under sub-paragraph 3.06(c).

The relief application must be accompanied with the relevant supporting documents and the appropriate fee.

- 3.08 The SC may publish the registrable prospectus on the SC website in order to provide an opportunity for the public to view and provide any comments on the information disclosed in the prospectus (prospectus exposure).
- 3.09 For the registration of a prospectus, the principal adviser must ensure that the registrable prospectus is accompanied by the following documents:
- (a) Cover letter signed by two authorised persons of the principal adviser specifying the following:
    - (i) Application to register the prospectus together with a completed compliance schedule;
    - (ii) A confirmation that the due diligence working group has seen and verified that the prospectus complies with the minimum disclosure requirements as laid down in the CMSA and this guidelines; and
    - (iii) A confirmation that the accompanying documents in the registration file are complete, duly signed and dated;
  - (b) Three registrable copies of the prospectus in English;
  - (c) Submission and registration fees as prescribed by the SC's fees regulations;
  - (d) Directors' responsibility statement for the prospectus and, where applicable, the offerors' and promoters' responsibility statement. In the case of promoters or

offerors which consist of corporations, a board resolution authorising the signatory, who signed on behalf of a corporation, must be submitted together with the promoters' or offerors' responsibility statements. If an agent or alternate director signs the responsibility statement on behalf of a director, there should be clear reference made to the responsibility statement of such fact;

- (e) Original written authorisations by directors appointing any agent to sign the responsibility statement on their behalf;
- (f) Original copies of all letters of consent from any person who has made a statement included in the prospectus or on which a statement made in the prospectus is based. The consent letter is to be addressed to the issuer/offeror;
- (g) Memorandum and Articles of Association (M&A) and the certificate of incorporation. If the original copy is not submitted, a copy of the M&A, certified by the company secretary, is acceptable. Where the issuer is foreign-incorporated, provide a certified copy of the certificate of registration and certified copies of constituent documents of the foreign corporation that may affect shareholders' rights and protection, and directors' powers;
- (h) Certified copies of all material contracts or documents referred to in the prospectus. For contracts not in writing, a memorandum which gives full particulars of the contracts. Copies of all material contracts submitted during registration must be certified by the due diligence lawyers;
- (i) Original or certified copies of the audited financial statements of the corporation and its subsidiaries for the last three to five financial years (or such shorter period that the corporation/group has been in operation), preceding the date of prospectus. Copies of the audited financial statements must be certified by the auditor;
- (j) Original or certified copies of the latest audited financial statements of the corporation and its subsidiaries for the current financial period (where applicable). Copies of the audited financial statements must be certified by the auditor;
- (k) Original or certified copies of any expert's reports disclosed in the prospectus. These reports should be in English and Bahasa Malaysia. Where an expert does not possess the capability to prepare a report in Bahasa Malaysia, the corporation should provide a Bahasa Malaysia translation of the expert's report, subject to the following:
  - (i) The translated report in the Bahasa Malaysia prospectus must be accompanied by a statement that – the translated report is based on the original expert's report in the English prospectus; and
  - (ii) The corporation or the adviser must provide a letter of undertaking to the SC assuming liability for the translated expert's report;

- (l) Copy of the application form in English, for prospectuses submitted under sub- paragraph 3.06(c);
- (m) Letter of confirmation from the principal adviser that the electronic copy of the prospectus is the same as the registrable prospectus submitted to the SC, save for the requirement under sub-paragraph 3.09(n); and
- (n) Soft copy (in English) of the registrable prospectus in pdf' format. For prospectuses submitted under sub-paragraphs 3.06(a) and (b), the soft copy should include the following statement in bold and a prominent colour on the cover page – This document has not been registered by the Securities Commission Malaysia (SC). The information in this document may be subject to further amendments before being registered by the SC. Under no circumstances shall this document constitute an offer for subscription or purchase of, or an invitation to subscribe for or purchase securities.

For prospectuses submitted under sub-paragraph 3.06(c), only the English version is required for the documents referred to in sub-paragraphs (b) and (k) above. In addition, the following documents under sub -paragraphs 3.12(e) and (h) (English newspaper only) are required to be submitted at this stage.

**Confirmation of registration for prospectuses submitted under sub-paragraphs 3.06(a) and (b)**

- 3.10 The principal adviser should provide a confirmation of registration together with any relevant updated pages and the documents required under paragraph 3.12 to the SC before 12.30 p.m. at least seven market days prior to the intended date of registration.
- 3.11 Prior to providing the confirmation of registration, the following must be clearly resolved:
  - (a) Any outstanding issue regarding applications for relief from and/or clarification under Division 3; and
  - (b) Any pending matters arising from the section 212 approval, including among others, application for variation to the terms/ conditions of approval, extension of time, etc.
- 3.12 The following documents are to be submitted to the SC upon confirmation of registration:
  - (a) A confirmation that all relevant conditions of approval, to be complied with before issuance of the prospectus, have been met;
  - (b) Registrable copies of the prospectus (printer's proof) (two copies each in Bahasa Malaysia and English and in two separate registration files) for registration with the SC and lodgement with the Registrar of Companies respectively, together with a confirmation from the principal adviser that the

printer's proof is an accurate reproduction of the registrable prospectus and any required amendments;

- (c) Letter of confirmation from the principal adviser that the printed copy of the prospectus is the same as the registrable prospectus registered with the SC;
- (d) Letter of confirmation from the principal adviser that the consents provided under paragraph 3.09(f) have not been withdrawn;
- (e) Copy of letter of approval from any other relevant authority (e.g. Ministry of International Trade and Industry, Bursa Malaysia Securities and Bank Negara Malaysia);
- (f) Certified copy of the underwriting agreement;
- (g) Copy of the application form in English and Bahasa Malaysia;
- (h) For any revision to the registrable prospectus including the incorporation of comments received from prospectus exposure, the following are to be provided to the SC:
  - (i) Soft copy of the revised and final and complete form of the registrable prospectus in pdf format;
  - (ii) Letter of compliance from the principal adviser stating that the due diligence working group is aware of all comments raised and that the group has seen and confirmed the revisions made to the registrable prospectus; and
  - (iii) Letter of confirmation (updated) from the principal adviser that the electronic copy of the prospectus is the same as the registrable prospectus registered with the SC.

### **Term sheets**

- 3.13 Any application for relief from complying with the required disclosure requirements should be resolved prior to the intended date of submission of the registrable term sheets.
- 3.14 For the registration of term sheets, the principal adviser/issuer must ensure that the registrable term sheets is accompanied by the following documents:
  - (a) Cover letter signed by two authorised persons of the principal adviser specifying the following:
    - (i) Application to register the term sheets together with a completed compliance schedule;
    - (ii) A confirmation that the due diligence working group has seen and

verified that the term sheets complies with the minimum disclosure requirements as laid down in the CMSA and the *Prospectus 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 issuance of the term sheets, have been met.
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- (b) Registrable copies of the term sheets (two copies in English and in two separate registration files) for registration with the SC and lodgment with the Registrar of Companies respectively;
  - (c) Directors' responsibility statement for the term sheets;
  - (d) Original written authorisations by directors appointing any agent to sign the responsibility statement on their behalf;
  - (e) Original copies of all letters of consent from any person who has made a statement included in the term sheets or on which a statement made in the term sheets is based. The consent letter is to be addressed to the issuer;
  - (f) Copy of letter of approval from any other relevant authority (e.g. Ministry of International Trade and Industry, Bursa Malaysia Securities and Bank Negara Malaysia);
  - (g) Certified copies of all material contracts or documents referred to in the term sheets. For contracts not in writing, a memorandum which gives full particulars of the contracts. Copies of all material contracts submitted during registration must be certified by the due diligence lawyers;
  - (h) Original or certified copies of any expert's reports disclosed in the term sheets;
  - (i) Letter of confirmation from the principal adviser that the electronic copy of the term sheets is the same as the registrable term sheets submitted to the SC;
  - (j) Soft copy (in English) of the registrable term sheets in pdf' format; and
  - (k) Copy of the application form in English, if applicable.

**Supplementary prospectus and replacement prospectus**

- 3.15 For registration of a supplementary prospectus, the registrable prospectus should be submitted to the SC as soon as practicable and at least three market days prior to the intended registration date.
- 3.16 For registration of a replacement prospectus, paragraph 3.10 should apply.
- 3.17 For registration of a supplementary or replacement prospectus, the principal adviser should include the documents required under paragraph 3.09 and 3.14 above and a list highlighting the original statements from the previously registered prospectus and the amended statements.

**Post registration**

- 3.18 The principal adviser should provide the SC with three printed copies each of the English and Bahasa Malaysia prospectuses upon issuance.

## Chapter 4

### PROSPECTUS UNDER DIVISION 4 OF PART II

#### Introduction

- 4.01 An application to register a prospectus under Division 4 of Part II of these guidelines must be in accordance with the submission requirements and procedures set out in this chapter.
- 4.02 The SC will not register a prospectus unless it is in its final/complete form and is accompanied by all required materials/documents. The SC reserves the right to refuse registration and return the prospectus if in its opinion–
- the disclosure in the prospectus is incomplete and inadequate;
  - the prospectus is not in its final/complete form; and/ or
  - the prospectus is not accompanied by all relevant materials/ documents.
- 4.03 The original or certified true copies of all reports<sup>1</sup> and letters contained in the registrable prospectus must be included as accompanying documents in the registration file. For certified true copies, state the identity and position of the person certifying the said documents.
- 4.04 All reports and letters, e.g. reporting accountants' reports and letters, directors' report, and other experts' report, contained in the registrable prospectus must be dated and signed. Advisers should ensure that the directors' report included in the prospectus is dated within the maximum stipulated 14 days as at the intended date of registration.
- 4.05 All accompanying documents furnished, which are in the language other than Bahasa Malaysia or English, should be accompanied by a Bahasa Malaysia or English translation confirmed by the corporation or the adviser as being an accurate translation of the original documents.

#### Submission of registrable prospectus

- 4.06 A registrable prospectus should be submitted to the SC–
- (a) in relation to an offering and/or listing on the Main Market, concurrently with the corporate proposal seeking approval from the SC under section 212 of the CMSA;

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<sup>1</sup> Where the prospectus contains a summary of an expert's report, the corresponding full report should be submitted.

- (b) in relation to an offering and/or listing on the ACE Market, at a practicable date that allows sufficient time for the SC to vet the registrable prospectus;

- (c) in relation to an offering and/or listing of structured warrants, at least 14 market days prior to the intended date of registration; or
  - (d) in relation to registrable term sheets, at least one market day prior to the intended date of registration.
- 4.07 Any application for relief from complying with the required disclosure requirements of a prospectus should be submitted:
- (a) concurrently with submission of prospectuses under sub-paragraphs 4.06(a) and (b); and
  - (b) at least 14 market days prior to the intended date of submission of prospectuses under sub-paragraph 4.06(c).

The relief application must be accompanied with the relevant supporting documents and the appropriate fee.

- 4.08 The SC may publish the registrable prospectus on the SC website in order to provide an opportunity for the public to view and provide any comments on the information disclosed in the prospectus (prospectus exposure).
- 4.09 For the registration of a prospectus, the principal adviser must ensure that the registrable prospectus is accompanied by the following documents:
- (a) Cover letter signed by two authorised persons of the principal adviser specifying the following:
    - (i) Application to register the prospectus together with a completed compliance schedule;
    - (ii) A confirmation that the due diligence working group has seen and verified that the prospectus complies with the minimum disclosure requirements as laid down in the CMSA and this guidelines; and
    - (iii) A confirmation that the accompanying documents in the registration file are complete, duly signed and dated;
  - (b) Three registrable copies of the prospectus in English;
  - (c) Submission and registration fees as prescribed by the SC's fees regulations;
  - (d) Directors' responsibility statement for the prospectus and, where applicable, the offerors' and promoters' responsibility statement. In the case of promoters or offerors which consist of corporations, a board resolution authorising the signatory, who signed on behalf of a corporation, must be submitted together with the promoters' or offerors' responsibility statements. If an agent or alternate director signs the responsibility statement on behalf of a director, there should be clear reference made to the responsibility statement of such fact;

- (e) Original written authorisations by directors appointing any agent to sign the responsibility statement on their behalf;
- (f) Original copies of all letters of consent from any person who has made a statement included in the prospectus or on which a statement made in the prospectus is based. The consent letter is to be addressed to the issuer/offeror;
- (g) Memorandum and Articles of Association (M&A) and the certificate of incorporation. If the original copy is not submitted, a copy of the M&A, certified by the company secretary, is acceptable. Where the issuer is foreign-incorporated, provide a certified copy of the certificate of registration and certified copies of constituent documents of the foreign corporation that may affect shareholders' rights and protection, and directors' powers;
- (h) Certified copies of all material contracts or documents referred to in the prospectus. For contracts not in writing, a memorandum which gives full particulars of the contracts. Copies of all material contracts submitted during registration must be certified by the due diligence lawyers;
- (i) Original or certified copies of the audited financial statements of the corporation and its subsidiaries for the last three to five financial years (or such shorter period that the corporation/group has been in operation), preceding the date of prospectus. Copies of the audited financial statements must be certified by the auditor;
- (j) Original or certified copies of the latest audited financial statements of the corporation and its subsidiaries for the current financial period (where applicable). Copies of the audited financial statements must be certified by the auditor;
- (k) Original or certified copies of any expert's reports disclosed in the prospectus. These reports should be in English and Bahasa Malaysia. Where an expert does not possess the capability to prepare a report in Bahasa Malaysia, the corporation should provide a Bahasa Malaysia translation of the expert's report, subject to the following:
  - (i) The translated report in the Bahasa Malaysia prospectus must be accompanied by a statement that the translated report is based on the original expert's report in the English prospectus; and
  - (ii) The corporation or the adviser must provide a letter of undertaking to the SC assuming liability for the translated expert's report;
- (l) Copy of the application form in English, for prospectuses submitted under sub-paragraph 4.06(c);
- (m) Letter of confirmation from the principal adviser that the electronic copy of the prospectus is the same as the registrable prospectus submitted to the SC, save for the requirement under sub-paragraph 4.09(n); and

- (n) Soft copy (in English) of the registrable prospectus in pdf<sup>1</sup> format. For prospectuses submitted under sub-paragraphs 4.06(a) and (b), the soft copy should include the following statement in bold and a prominent colour on the cover page – This document has not been registered by the Securities Commission Malaysia (SC). The information in this document may be subject to further amendments before being registered by the SC. Under no circumstances shall this document constitute an offer for subscription or purchase of, or an invitation to subscribe for or purchase securities.

For prospectuses submitted under sub-paragraph 4.06(c), only the English version is required for the documents referred to in sub-paragraphs (b) and (k) above. In addition, the following documents under sub-paragraphs 4.12(e) and (h) (English newspaper only) are required to be submitted at this stage.

**Confirmation of registration for prospectuses submitted under sub-paragraphs 4.06(a) and (b)**

- 4.10 The principal adviser should provide a confirmation of registration together with any relevant updated pages and the documents required under paragraph 4.12 to the SC before 12.30 p.m. at least 7 market days prior to the intended date of registration.
- 4.11 Prior to providing the confirmation of registration, the following must be clearly resolved:
  - (a) Any outstanding issue regarding applications for relief from and/or clarification under Division 4; and
  - (b) Any pending matters arising from the section 212 approval, including among others, application for variation to the terms/ conditions of approval, extension of time, etc.
- 4.12 The following documents are to be submitted to the SC upon confirmation of registration:
  - (a) A confirmation that all relevant conditions of approval, to be complied with before issuance of the prospectus, have been met;
  - (b) Registrable copies of the prospectus (printer's proof) (two copies each in Bahasa Malaysia and English and in two separate registration files) for registration with the SC and lodgement with the Registrar of Companies respectively, together with a confirmation from the principal adviser that the printer's proof is an accurate reproduction of the registrable prospectus and any required amendments;
  - (c) Letter of confirmation from the principal adviser that the printed copy of the prospectus is the same as the registrable prospectus registered with the SC;
  - (d) Letter of confirmation from the principal adviser that the consents provided under paragraph 4.09(f) have not been withdrawn;
  - (e) Copy of letter of approval from any other relevant authority (e.g. Ministry

of International Trade and Industry, Bursa Malaysia Securities and Bank Negara Malaysia);

- (f) Certified copy of the underwriting agreement;
- (g) Copy of the application form in English and Bahasa Malaysia; and
- (h) *[Deleted]*
- (i) For any revision to the registrable prospectus including the incorporation of comments received from prospectus exposure, the following are to be provided to the SC:
  - (i) Soft copy of the revised and final and complete form of the registrable prospectus in pdf format;
  - (ii) Letter of compliance from the principal adviser stating that the due diligence working group is aware of all comments raised and that the group has seen and confirmed the revisions made to the registrable prospectus; and
  - (iii) Letter of confirmation (updated) from the principal adviser that the electronic copy of the prospectus is the same as the registrable prospectus registered with the SC.

#### **Term sheets**

- 4.13 Any application for relief from complying with the required disclosure requirements should be resolved prior to the intended date of submission of the registrable term sheets.
- 4.14 For the registration of term sheets, the principal adviser or issuer must ensure that the registrable term sheets is accompanied by the following documents:
  - (a) Cover letter signed by two authorised persons of the principal adviser specifying the following:
    - (i) Application to register the term sheets together with a completed compliance schedule;
    - (ii) A confirmation that the due diligence working group has seen and verified that the term sheets comply with the minimum disclosure requirements as laid down in the CMSA and the *Prospectus 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 issuance of the term sheets, have been met.
- (b) Registrable copies of the term sheets (two copies in English and in two separate registration files) for registration with the SC and lodgment with the Registrar of Companies respectively;
- (c) Directors' responsibility statement for the term sheets;
- (d) Original written authorisations by directors appointing any agent to sign the responsibility statement on their behalf;
- (e) Original copies of all letters of consent from any person who has made a statement included in the term sheets or on which a statement made in the term sheets is based. The consent letter is to be addressed to the issuer;
- (f) Copy of letter of approval from any other relevant authority (e.g. Ministry of International Trade and Industry, Bursa Malaysia Securities and Bank Negara Malaysia);
- (g) Certified copies of all material contracts or documents referred to in the term sheets. For contracts not in writing, a memorandum which gives full particulars of the contracts. Copies of all material contracts submitted during registration must be certified by the due diligence lawyers;
- (h) Original or certified copies of any expert's reports disclosed in the term sheets;
- (i) *[Deleted]*
- (j) Letter of confirmation from the principal adviser that the electronic copy of the term sheets is the same as the registrable term sheets submitted to the SC;
- (k) Soft copy (in English) of the registrable term sheets in pdf' format; and
- (l) Copy of the application form in English, if applicable.

#### **Supplementary prospectus and replacement prospectus**

- 4.15 For registration of a supplementary prospectus, the registrable prospectus should be submitted to the SC as soon as practicable and at least three market days prior to the intended registration date.
- 4.16 For registration of a replacement prospectus, paragraph 4.10 should apply.

- 4.17 For registration of a supplementary or replacement prospectus, the principal adviser should include the documents required under paragraph 4.09 and 4.14 above and a list highlighting the original statements from the previously registered prospectus and the amended statements.

**Post registration**

- 4.18 The principal adviser should provide the SC with three printed copies each of the English and Bahasa Malaysia prospectuses upon issuance.

## **Chapter 5**

### **PROSPECTUS UNDER DIVISION 5 OF PART II**

#### **Part A: General**

- 5.01 An application to register an abridged prospectus under Division 5 of Part II of these Guidelines must be in accordance with the submission requirements and procedures set out in this chapter.
- 5.02 The abridged prospectus and all accompanying documents submitted to the SC must include an electronic copy of such documents in a text-searchable format.
- 5.03 Certified true copies of all reports and letters contained in the abridged prospectus must be included as accompanying documents for the purpose of registration. Where the abridged prospectus contains a summary of an expert's report, the corresponding full report must be submitted.
- 5.04 All reports and letters contained in the abridged prospectus must be dated and signed.
- 5.05 All accompanying documents which are in a language other than English, must be accompanied by an English translation confirmed by the corporation or the principal adviser as being an accurate translation of the original documents.
- 5.06 Any application for relief from complying with the required disclosure requirements of an abridged prospectus must be submitted at least 14 market days prior to the intended date of submission of the abridged prospectus.

#### **Part B: Submission of abridged prospectus for registration**

- 5.07 The principal adviser must notify the SC of the intention to submit the abridged prospectus for registration on the day of the book closure date is announced on the stock exchange. The abridged prospectus must be submitted to the SC before 12:30 p.m. at least three market days prior to the ex-rights date.

5.08 The principal adviser must submit a copy of the abridged prospectus in English, accompanied by the following documents:

- (a) Cover letter signed by two authorised persons of the principal adviser specifying the following:
  - (i) Application to register the abridged prospectus together with a checklist of compliance with these Guidelines;
  - (ii) A confirmation that the abridged prospectus complies with the disclosure requirements as set out in the CMSA and these Guidelines;
  - (iii) A confirmation that the accompanying documents in the application are complete, duly signed and dated;
  - (iv) A confirmation that all relevant conditions of approval, to be complied with before issuance of the abridged prospectus, have been met;
  - (v) A confirmation that all requisite approvals from other relevant authorities have been obtained;
  - (vi) A confirmation that the electronic copy of documents is the same as the physical copy of documents submitted to the SC; and
  - (vii) Where an abridged prospectus is in any other language in addition to English, a confirmation by the corporation or the principal adviser that such abridged prospectus is an accurate translation of the English abridged prospectus;
- (b) Registration fee as prescribed by the SC;
- (c) Directors' responsibility statement for the abridged prospectus;
- (d) *[Deleted]*

- (e) Certified true copy of the letter of consent from any person who has made a statement included in the abridged prospectus or on which a statement made in the abridged prospectus is based. The letter of consent must be dated, signed and in accordance with the form specified in Appendix 1;
- (f) Certified true copies of all material contracts disclosed or documents referred to in the abridged prospectus. For contracts not reduced into writing, a memorandum which gives full particulars of the contracts which must be verified by a due diligence legal adviser;
- (g) Certified true copy of any expert's report referred to in the abridged prospectus;
- (h) Certified true copy of the underwriting agreement; and
- (i) A copy of the circular to shareholders;

**Part C: Supplementary abridged prospectus and replacement abridged prospectus**

5.09 For registration of a supplementary or replacement abridged prospectus, the supplementary or replacement abridged prospectus must be submitted to the SC before 12:30 p.m. at least three market days prior to the intended date of registration.

5.10 For registration of a supplementary or replacement abridged prospectus, the principal adviser must include-

- (a) the documents required under paragraph 5.08 of Part B above; and
- (b) a list highlighting the original statements from the previously registered abridged prospectus and the amended statements.

**Part D: Post registration**

5.11 The principal adviser must provide the SC with the following:

- (a) On the date of issuance of the abridged prospectus, a confirmation that–
  - (i) the printed abridged prospectus is the same as the abridged prospectus registered by the SC; and
  - (ii) where applicable, the electronic prospectus complies with the requirements under Division 2 of Part IV of these Guidelines; and
- (b) Two copies of the printed abridged prospectus.

5.12 The principal adviser must submit the following information to the SC within two market days before the listing of the rights shares:

- (a) Summary information on the total number of excess shares available for allocation, total number of applicants and list of the successful applicants; and
- (b) In relation to item (a) above, an electronic spread-sheet of the summary information together with underlying formula and explanations on the formula applied.

### **Guidance to Chapter 5 - General**

1. Where any document is amended after submission, marked-up copies (including deletions of information) together with the corresponding electronic copy should be submitted to the SC.
2. The name and designation of the person who has signed the document should be stated below his signature.
3. Where a written consent, a letter or a report submitted to the SC, is issued by a business or professional firm, the signature appearing on such documents should be in the name of the firm and in the personal name of the signatory.

### **Guidance to paragraph 5.01 of Part A – Right to return abridged prospectus**

4. The SC reserves the right to return the abridged prospectus if in its opinion:
  - (a) the disclosure in the abridged prospectus is incomplete or inadequate;
  - (b) the abridged prospectus is not in its final or complete form; or
  - (c) the abridged prospectus is not accompanied by all relevant materials or documents.

### **Guidance to paragraph 5.02 of Part A – Electronic submission**

5. The electronic copy submitted to the SC should be easily identifiable and complete.

### **Guidance to paragraph 5.04 of Part A – Reports and letters**

6. All reports and letters should be dated and signed within a reasonable time, which generally should not be earlier than the latest practicable date.

### **Guidance to paragraph 5.06 of Part A – Relief application**

7. The relief application should be accompanied with the relevant supporting documents and the prescribed fee.
8. The corporation and its principal adviser are encouraged to consult the SC prior to making a relief application.

9. For relief from disclosing certain clauses of a material contract available for public inspection, specific justification must be provided for each clause of the material contract proposed to be redacted.

**Guidance to paragraph 5.07 of Part B - Notification of submission**

10. The notification of intention to submit the abridged prospectus should be accompanied by the following information:
  - (a) Registration number of the corporation;
  - (b) Name, national registration identity card or passport number and nationality of each director and substantial shareholder of the corporation; and
  - (c) Name and signatory of each expert, and licence number or registration number, where applicable.

**Guidance to paragraph 5.08(e) of Part B – Letter of consent**

11. A letter of consent is not required for a statement made in a prospectus that has been extracted from an official statement by:
  - (a) Malaysian and foreign governments including federal government, state government, province, county or municipality, a statutory or regulatory authority, or any agency or body carrying out a regulatory function; and
  - (b) United Nations and its organisations.

**Guidance to paragraph 5.12 of Part B – Summary information**

12. The summary information should include, among others, the following information:
  - (a) Name of shareholder and its shareholding as at the entitlement date;
  - (b) Number of excess rights shares applied for; and
  - (c) Number of excess shares allotted in each round and the basis of allotment.

**PART IV**

**PROSPECTUS RELATED GUIDELINES**

## **Division 1**

# **Plain Language Guide for Prospectus**

### **PURPOSE**

This division seeks to provide guidance on the usage of plain language in preparing a prospectus under these guidelines.

### **1.0 INTRODUCTION**

The language and readability of disclosure documents, such as prospectuses, can be improved. This guide provides tips on how to create simple and friendly prospectuses using plain English. Prospectuses that are written in plain English will be easier for investors to understand. It is important that investors are able to grasp the vital information in prospectuses so that they can use that information to make informed investment decisions. Investors will be encouraged to read prospectuses written in a clear, concise manner, using language that is simple and easily understood.

By using plain English, preparers of prospectuses will be able to get their message across more easily and in a friendlier way. Therefore, we need to move away from the current prospectus drafting style which uses a legalistic approach, and contains too much jargon and too many long sentences, while still ensuring that information is fully disclosed.

The shift to plain English requires a new style of thinking and writing. This may take some time and effort but the benefits will be worthwhile. When drafting, keep the audience in mind and remember that not everyone is legally or financially trained. The language used should be pitched at a level the intended audience can understand.

### **2.0 LIABILITY FOR PROSPECTUS CONTENTS**

Section 3.0 provides examples to illustrate the principles of plain English. These examples are not exhaustive and you may use your own style of drafting plain English documents. However, always bear in mind that prospectuses are offer documents and you, as a party involved in the preparation of prospectuses and/or member of the due diligence working group, must ensure that these prospectuses meet all regulatory requirements, namely the CMAA and the *Prospectus Guidelines*.

The use of plain English should not reduce your liability or obscure your responsibility to investors. Your duty to disclose relevant and important information remains paramount as does your role to ensure that there is no false or misleading statement, or material omission that would make any statement false or misleading in a prospectus.

### 3.0 PROPOSED NEW STYLE

#### 3.01 Overview

Here, we highlight some common problems in the current style of drafting prospectuses.

<b>Current Style</b>	<b>New Style</b>
Reference to generic names such as -the Company  or the name of the company	Use personal pronouns
Long sentences	Draft clear and concise sentences
Abstract words	Use common everyday words
Superfluous words	Avoid superfluous words
Passive voice	Use active voice
Nouns	Change nouns to verbs
Legal and financial jargon	Use less legal and financial jargon

<b>Current Style</b>	<b>New Style</b>
Negative sentences	Use positive sentences and not multiple negatives
Numerous defined terms	Use defined terms sparingly
Unreadable design and layout	Use an effective layout

You may wish to refer to other websites given at the end of this document for a more comprehensive understanding of the use of plain English.

#### 3.02 Use personal pronouns

The current style of drafting a prospectus is in the third party where reference is made to -the Company| or the name of the company. Instead, the prospectus should be drafted as if the issuer is speaking directly to the potential investor using personal pronouns, such as -we|, -us| and -our| and referring to the investors as -you|. In other words, the prospectus should come across as a medium for

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the issuer to communicate directly with the investors. Adopting personal pronouns for the issuer does not reduce the liability of the parties involved in the preparation of the prospectus.

The pronouns should be used consistently to ensure that readers are clear about the identities of the parties mentioned in a prospectus. To avoid confusion, explain at the outset who or whom the pronouns refer to. For example, -we|| should refer only to the issuer, i.e. the company, and not the group of companies, promoters, directors or advisers.

Your audience comes from diverse backgrounds, and they may view and understand things differently. When you use personal pronouns, there is greater clarity in your message in addition to sounding more personal and friendly. This is because:

- Personal pronouns aid your reader’s comprehension, as they clarify what applies to your reader and what applies to you;
- They allow you to directly address your reader, creating an appealing tone that will keep your reader reading;
- They help you to avoid abstractions and to use common everyday words;
- They keep your sentences short; and
- First- and second-person pronouns are not gender-specific, allowing you to avoid the -he|| or -she|| pronouns. The pronouns to use are first-person plural (we, us, our/ours) and second-person singular (you, your/yours).

For example, a common qualification found in prospectuses is:

The following prospectus summary is only a summary of the salient information about the company and the public issue. Investors should read and understand the entire prospectus prior to deciding whether to invest in the public issue shares. The following information is qualified in its entirety and should be read in conjunction with the more detailed information and financial statements appearing elsewhere in this prospectus.

The above paragraph may be drafted in plain English as:

This is a summary of the salient information in the prospectus. It does not contain all the information that may be important to you. You should read and understand the entire prospectus carefully before you decide to invest in this public issue of shares.

### 3.03 Draft clear and concise sentences

For example, a common disclaimer found in prospectuses is:

No person is authorised to give any information or to make any representation not contained herein in connection with the Issue/Offer and if given or made, such information or representation must not be relied upon as having been authorised by the Company and/or the Offerors. Neither the delivery of this prospectus nor any Issue/Offer in connection with this prospectus shall, under any circumstances, constitute a representation or create any implication that there has been no change in the affairs of the Company since the date hereof.

The above paragraph may be drafted in plain English as:

We have not authorised any person to give any information or represent us in relation to this Issue/Offer. Bear in mind also that this prospectus shall not represent or imply that there have been no change in the Company's affairs since the issuance of this prospectus.

### 3.04 Use common everyday words

*-Foray*, *-peripherals*, *-paraphernalia*, *-excitation*, *-sequential*, *-miniaturisation*  
... when you read these words, can you understand them immediately? Do you try to form a picture of what they mean but at the end, they remain vague? Most people may have no idea what these words mean. Furthermore, such uncommon words may have different meanings for different people.

As such, use common everyday words in your examples so that your reader is not perplexed but can better digest the complex information important for making investment decisions.

Replace unnecessary complex words with simpler ones, for example–

- –end instead of –terminate;
- –explain rather than –elucidate; and
- –use instead of –utilise.

When a shorter and simpler synonym exists, use it.

### 3.05 Avoid superfluous words

There is a tendency to use superfluous words. Such words may lend an air of importance, but in fact, are less precise. You can often find a simpler word to use, for example:

<b>Superfluous</b>	<b>Simple</b>
In the event that	If
Despite the fact that	Although
In light of	Because, since

Sometimes, superfluous words are used when one is unsure of a more concise alternative word. The tendency is to let loose several words, hoping at least one of them conveys the intended meaning. This may work sometimes, but more often it only confuses the reader. Therefore, identify and use a single word or phrase to capture an intended meaning.

For example, a statement that normally appears at the beginning of the Information Summary section of prospectuses is:

The following summary information is only a summary of the salient information about ABC Berhad.

A simpler way to say this is:

This summary highlights some salient information about us.

### 3.06 Use active voice

Readers tend to understand sentences that are written in the active voice more quickly and easily as compared to those written in the passive voice. The passive voice often fails to emphasise who will take the action.

Examples include:

<b>Passive</b>	<b>Active</b>
The stock is bought by the investors.	The investors buy the stock.
The application for the public issue will close at the time and date as stated above or such other date or dates as the Directors of the Company and the Managing Director may in their absolute discretion mutually decide.	Our Managing Director and Directors may mutually decide, at their absolute discretion, to extend the closing time and date that are stated above to any later date or dates.

### 3.07 Change nouns to verbs

These examples show how substituting nouns with strong verbs can enhance sentences:

<b>Nouns</b>	<b>Verbs</b>
An application will be made to Bursa Malaysia Securities within 3 market days.	We will apply to Bursa Malaysia Securities within 3 market days.
The Court's decision will be obtained on 29 February 2004.	The Court will decide on 29 February 2004.

### 3.08 Use less legal and financial jargon

-Notwithstanding, -*ab initio*, -*inure*, -*res gestae*, -*herein* ... such jargon confuses readers. Instead, use common words to get your points across. Where there is no plain English alternative, explain what the term means when you first use it.

For example, this is commonly found in prospectuses:

The Managing Underwriter and Underwriters as defined and referred thereto in Section 1 of this Prospectus have thereby agreed to undertake to underwrite the 7,000,000 Public Issue Shares to be issued to the following parties, namely the Malaysian Public, the Directors, eligible employees and business associates of ABC Berhad, as well as the 18,000,000 Offer Shares to be offered to the Malaysian Public and Identified Placees. Save and as otherwise provided hereafter in this Prospectus, all capitalised terms shall bear the same meanings as prescribed in the Underwriting Agreement referred thereto.

You may draft it in plain English as follows:

The Managing Underwriter and Underwriters have agreed to underwrite the 7,000,000 Public Issue Shares to be issued to the Malaysian Public, the Directors, eligible employees and business associates of ABC Berhad, as well as the 18,000,000 Offer Shares to be offered to the Malaysian Public and Identified Places. Unless otherwise stated, all capitalised terms have the same meanings as defined in the Underwriting Agreement.

If you have been in the financial or legal industry for some time, you may not realise that you are using legal or financial jargon, and it may take time to change. Of course, it is quite impossible to eliminate all legal and financial terms in drafting an offer document. In instances where there is no plain English alternative, consider explaining the term to aid investors' comprehension. Elaboration of technical terms would also help to enhance investor education.

### **3.09 Use positive sentences and not multiple negatives**

Positive sentences are normally shorter and easier to understand, as compared to their negative counterparts.

For example, a negative sentence is:

Persons other than preference shareholders may not receive these dividends.

The above sentence may be written in a positive way as:

Only preference shareholders may receive these dividends.

You should also try to avoid multiple negative phrases, especially when a single word that means the same thing can be used.

For example, such a sentence is:

Our services are **not unlike** that of multinational corporations providing the same services.

The above sentence may be written as:

Our services are **similar** to those of multinational corporations providing the same type of services.

### 3.10 Use defined terms sparingly

Use defined terms sparingly. Often found in legal documents, terms are usually defined and listed down in the –definition section at the beginning of a document. Although this is customary, it may discourage readers from getting beyond the first page. The need to memorise the terms and to flip through pages over and over again is overwhelming and some readers eventually give up reading. As a plain English expert says,

*–Do not let a shortcut for the writer become a roadblock for the reader.*

### 3.11 Use an effective layout

Use tables, bulleted lists, diagrams and graphs to reduce text and increase clarity.

Tables are often clearer and quicker in conveying information than long text.

For example:

Our consultancy services cover the European market, Middle East market, Australian market, North American market and the local domestic market. The marketing team handling the European market and Middle East market is located in our Penang office, and for the Australian market, North American market and the local domestic market, our marketing team based in KL is responsible.

Our Penang marketing team accounts for 60% of our revenue, whilst the remaining 40% is derived from the KL marketing team.

A more effective layout is:

Details of our consultancy services are:

<b>Marketing teams</b>	<b>Markets covered</b>	<b>% of revenue</b>
Penang	Europe and Middle East	60
KL	Australia, North America and local domestic	40

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Where possible and appropriate, use bullets to list information. Such a format makes it easier for readers to absorb a large amount of information at a glance, rather than perusing long and often repetitive sentences.

For example:

The criteria of allocation for eligible employees is based on the job position of the employee, his length of service with the Company, whether he is a union member and that he has attained the age of 18 years.

A more effective presentation is:

The criteria for allocation for eligible employees is:

- job position;
- length of service;
- whether a union member; and
- at least 18 years old.

The use of charts and graphs are encouraged as it enhances the depth of investor analysis and enables an investor to make better investment decisions.

For example:

RM'000/Year	2001	2002	2003	2004	2005(F)
Revenue	20,000	25,000	34,000	43,000	55,000
PAT after MI	4,200	5,400	7,600	8,900	12,400

The following graph, which is plotted using the figures above, clearly shows the widening gap between revenue and profit after tax and minority interest (PAT after MI). In addition, other graphs which indicate the trend in profit margins or operating expenses can also be used to confirm the above finding.

Most, if not all, prospectuses are printed in black and white. You can improve visual appearance and avoid monotony by the clever use of layout tools such as–

- different fonts and font sizes; and
- borders and shadings.

However, such graphic enhancements should not distract the reader's attention or reduce the legibility of the text.

#### **4.0 REFERENCES**

We see easy-to-read offering documents in many international financial markets, such as in the United States of America, Canada and Hong Kong. For reference and to further understand the use of plain English, we encourage you to browse through international websites such as–

- <http://www.sec.gov>  
(US Securities and Exchange Commission);
- <http://www.sfc.hk/sfc/html/EN/>  
(Securities and Futures Commission, Hong Kong); and
- <http://www.bcsc.bc.ca>  
(British Columbia Securities Commission, Canada).

## **Division 2**

# **ELECTRONIC PROSPECTUS AND ELECTRONIC APPLICATION**

### **Chapter 1**

#### **INTRODUCTION**

1.01 This division sets out the requirements for any person who intends to provide one or more of the following services:

- (a) issue, circulate or distribute electronic prospectus; or
- (b) electronic application.

#### **ELECTRONIC PROSPECTUS**

##### **Issuance, circulation or distribution of electronic prospectus**

1.02 The issuance, circulation or distribution of the electronic prospectus by the e-host must be accompanied by a notice that investors should read the electronic prospectus prior to making an investment decision and should make the investment decision based on the electronic prospectus rather than on advertising or promotional materials.

##### **Form and content of electronic prospectus**

1.03 The e-host must ensure that the electronic prospectus issued, circulated or distributed is text-searchable and identical in content and format as the physical copy of the corresponding prospectus that has been registered by the SC.

1.04 Notwithstanding paragraph 1.03, the following enhancements or differences in the electronic prospectus are permitted, including the use of–

- (a) hyperlinks within the electronic prospectus;
- (b) zoom facility to allow enlargement or reduction of the information displayed;
- (c) prompts to assist the investor to use and find information in the electronic prospectus. Such prompts must only contain information that appears in the physical copy of the corresponding prospectus that has been registered by the SC;
- (d) audio version of the prospectus;

- (e) 'pop-ups' that explain definitions in place of standard glossaries;
- (f) formatting changes required as a result of compatibility issues such as font and type size, page margin or spacing; and
- (g) facility to print or download the electronic prospectus.

### **Hyperlinks within the electronic prospectus**

- 1.05 The electronic prospectus must not contain hyperlinks to direct investors to information not forming part of the electronic prospectus such as advertising or promotional material, other than in the circumstances permitted under paragraph 1.06.
- 1.06 Hyperlinks within the electronic prospectus are permitted to be used in the following ways:
- (a) To navigate within the electronic prospectus itself;
  - (b) From the electronic prospectus to the website of electronic application provider where the investor may apply for the securities; and
  - (c) From the electronic prospectus to educational materials issued by the SC or the stock exchange.

### **Hyperlink to the electronic prospectus**

- 1.07 The issuance, circulation and distribution of the electronic prospectus may include hyperlink to such electronic prospectus.
- 1.08 Hyperlink to the electronic prospectus must direct the investor to the cover page, or a webpage or website on which the electronic prospectus in respect of the offer is posted.

### **Access to the electronic prospectus**

- 1.09 The electronic prospectus must be easily accessible by the investor for viewing online and easily downloaded, printed and saved in order for the investor to refer to in the future.

### **Complete and unaltered electronic prospectus**

- 1.10 The e-host must take adequate and appropriate measures to ensure that the electronic prospectus is complete and secured from unauthorised tampering or alteration.
- 1.11 In the event of any tampering or alteration of the electronic prospectus, the affected e-host must report to the SC immediately of such tampering or alteration.

- 1.12 Copy of the format and information displayed to the investor when accessing the electronic prospectus must be retained by the e-host in a durable and legible medium for at least seven (7) years from the date of the prospectus.

**Availability of physical copy of the prospectus**

- 1.13 The issuer must make available a physical copy of the prospectus, including any supplementary or replacement prospectus, upon request by the investor.
- 1.14 The physical copy of the prospectus must be made available at no cost, within one (1) business day upon request, at any specified location during the offer period.

**Advertising and promotional material**

- 1.15 The e-host must clearly demarcate the electronic prospectus from the advertising or promotional material to avoid confusion as to which information can be relied upon by the investor to make an informed investment decision.

**Supplementary or replacement prospectus**

- 1.16 Where a supplementary prospectus is registered by the SC, a copy of the electronic supplementary prospectus must be made available to the investor in addition to the original electronic prospectus.
- 1.17 Where a replacement prospectus is registered by the SC, a copy of the electronic replacement prospectus must be made available to the investor in place of the original electronic prospectus which it replaces.
- 1.18 Notwithstanding paragraph 1.05, where a supplementary prospectus is issued, circulated or distributed, any hyperlinks within the electronic supplementary prospectus must direct the investor to the relevant section of the original electronic prospectus.

**Notices**

- 1.19 The issuance, circulation or distribution of electronic prospectus must be accompanied by the following notices.

**A. Notice of availability and location of physical copy of the prospectus**

- 1.20 The notice must clearly set out that the physical copy of the prospectus is also available upon request at any specified location during the offer period.

**B. Notice as to the person responsible for the issuance, circulation or distribution of the electronic prospectus**

- 1.21 The notice must inform the investor as to–

- (a) the person responsible for the digital platform or electronic storage medium in which the electronic prospectus is available; or
- (b) the person responsible for the digital platform providing a hyperlink to the electronic prospectus.

If that person is not the issuer, the notice must also state the person's relationship to the issuer.

**Guidance to paragraph 1.06(a) – Hyperlinks within the electronic prospectus**

1. A hyperlink may be provided within the electronic prospectus to enable investors to navigate from page to page or section to section. For example, between a contents page and each section of the electronic prospectus, or between defined expressions and the places where the expressions are used.

**Guidance to paragraph 1.06(c) – Educational materials**

2. The educational materials may include information about investing in capital market products, which may assist the investor in deciding whether or not a particular investment suits their needs.

**Guidance to paragraphs 1.13 and 1.14 – Availability of physical copy of the prospectus**

3. The physical copy of the prospectus may be a copy in black and white or grey scale. The issuer must be satisfied that such black and white or grey scale copy provides equivalent information to investors as a coloured prospectus.

## **Chapter 2**

### **ELECTRONIC APPLICATION**

- 2.01 Save for automated teller machine, the electronic application provider must ensure that the electronic application is accompanied by or includes hyperlink to the electronic prospectus.
- 2.02 The electronic application provider must ensure that the electronic application allows the investor to make an electronic payment after the investor has confirmed having read and understood the electronic prospectus.

### **Notices**

- 2.03 The electronic application must be accompanied by the following notices. Such notices must be displayed before the investor is given access to the electronic application.

#### **A. Notice as to the risk of conducting transaction electronically**

- 2.04 The notice must inform the investor of the risks associated with conducting transaction electronically and that the investor assumes such risks.

#### **B. Notice as to alternative method of securities application**

- 2.05 The notice must inform the investor that they may apply for securities by submitting the completed physical application form.

#### **C. Notice as to the basis of securities offered in electronic prospectus**

- 2.06 The notice must inform the investor that the securities are offered solely on the basis of the information contained in the electronic prospectus.

#### **D. Notice on security of system**

- 2.07 The notice must inform the investor that measures have been taken to protect the confidentiality and security of the information provided by the investor.

### **Submission of electronic application and confirmations**

- 2.08 The electronic application provider must ensure that the investor provides the following confirmations prior to submitting an application electronically:
- (a) The investor has read and understood the contents of the prospectus;
  - (b) The investor has read and agreed to be bound by the terms and conditions of the electronic application;
  - (c) This is the only application that the investor is submitting;

- (d) The investor is eligible to apply for the securities in Malaysia or in jurisdictions where the securities offering is intended to be available; and
- (e) The investor agrees to give consent to the electronic application provider to disclose information pertaining to the investor to the relevant entities involved in the application process.

The requirement under paragraph 2.08(c) shall not be applicable to rights issue.

- 2.09 Upon receipt of such application, the electronic application provider must provide a confirmation of receipt of the application to the investor immediately.
- 2.10 No application or monies can be accepted electronically in respect of the securities offered once the offer closes.
- 2.11 Where a supplementary or replacement prospectus has been registered by the SC, the electronic application provider must ensure that the electronic application:
  - (a) contains a mechanism by which the application made in relation to an original prospectus can be withdrawn by the investor in the circumstances referred to in paragraph 1.04 of Part II, Division 6 of the *Prospectus Guidelines*; or
  - (b) is accompanied by a notice informing the investor of the procedures for the withdrawal of application resulting from the issuance of a supplementary or replacement prospectus.

## Chapter 3

### SYSTEMS SECURITY AND INTEGRITY

- 3.01 The electronic application provider must put in place adequate and appropriate systems and security measures to ensure the availability, integrity and confidentiality of the electronic application.
- 3.02 In the event of breach of security or systems failure, the affected electronic application provider must report to the SC immediately of such breach. Such breach includes but is not limited to the inability to access the electronic prospectus or the electronic application.
- 3.03 The electronic application provider must not accept an application if it has reason to believe that the electronic prospectus or the processes for collection and handling of application have been tampered with.
- 3.04 The electronic application provider shall allow the SC to–
- (a) conduct an examination on or an audit of the electronic application and related systems;
  - (b) have access to or be provided with copies of the audit logs on all application; and
  - (c) have access to or be provided with any other information.

#### **Guidance to Chapter 3 – Systems security and integrity**

1. This Chapter should be guided by the *Guidelines on Management of Cyber Risk*.

## **CHAPTER 4**

### **SUBMISSION TO THE SC**

- 4.01 The director or authorised person of the e-host and electronic application provider must provide the SC with a written declaration in accordance with Appendix 1.
- 4.02 Relevant details must be provided to the SC for registration of the prospectus, including:
- (a) The name of the digital platform or the address of the webpage or website on which the electronic prospectus will be made available; and
  - (b) The date on which the electronic prospectus will be first posted on the digital platform or webpage or website, or will be first issued, circulated or distributed.

## Appendix 1

### DECLARATION BY DIRECTOR OR AUTHORISED PERSON

The Chairman  
Securities Commission Malaysia

Dear Sir

[name of the e-host or electronic application provider]

#### **Declaration Letter for the [\*\*Electronic Prospectus or Electronic Application]**

\*\*We, [name of the e-host], hereby declare that we have exercised due diligence and made reasonable enquiries to ensure that the systems and controls providing for the issuance, circulation or distribution of the electronic prospectus comply with *Part IV Division 2: Electronic Prospectus and Electronic Application*.

\*\*We, [name of the electronic application provider], hereby declare that we have exercised due diligence and made reasonable enquiries to ensure that the systems and controls providing for the issuance, circulation or distribution of the electronic prospectus and electronic application, comply with *Part IV Division 2: Electronic Prospectus and Electronic Application*.

We, [name of the e-host or electronic application provider], hereby declare that we shall ensure that the electronic prospectus provided on the [name of the digital platform or website] at [address of the website] is identical in content and format as the physical copy of the corresponding prospectus that has been registered by the SC.

We also undertake to immediately provide the SC all such information or confirmation as the SC may from time to time require.

We declare that we will ensure continuous compliance with the requirements and conditions imposed by the SC under these guidelines, as well as any other requirements as may from time to time be specified by the SC.

The above declaration has been signed by me as the [\*\*director/authorised person] of [name of the e-host or electronic application provider].

Yours faithfully,

For and on behalf of [name of e-host or electronic application provider]

---

[Name of signatory]

[Designation]

[NRIC or Passport No.]

[Date]

\*\*delete where appropriate

## Division 3: Advertising Guidelines

### 1.0 PURPOSE

1.01 This division sets out the policy of the SC on the advertising of securities offerings regulated under section 241 of the CMSA. This division is to be read together with section 241 of the CMSA.

1.02 Section 241 of the CMSA and this division sets a clear distinction between pre-prospectus and post-prospectus advertising. The pre-prospectus period is before a prospectus is registered with the SC and covers two periods—

- (a) before submission of a prospectus to the SC; and
- (b) after submission of the prospectus until registration by the SC;

The post-prospectus period refers to a period after registration of a prospectus by the SC.

1.03 The restrictions in advertising contained in the CMSA are aimed for the prospectus, and not advertising, to be the primary basis of investment decisions. Pre-prospectus advertising campaigns should not encourage investors to make investment decisions before a prospectus is available. Once an investment decision is made, the influence of a subsequent prospectus is diminished.

1.04 Standard disclosures such as company profiles or corporate matters and information on directors of the company, are not subjected to the advertising provisions of the CMSA and this division. The guiding principle is that this division will apply to notices that issue, offer to subscribe for or purchase securities, or refer to a prospectus or an issue, intended issue, offer, intended offer, invitation or intended invitation in respect of securities, or another notice that refers to a prospectus.

### 2.0 PRE-PROSPECTUS ADVERTISING

2.01 Subsection 241(4) of the CMSA provides that, in pre-prospectus advertising, notices which seek to carry out any of the acts referred to in subsection 241(1) will—

- (a) require the consent of the SC; and
- (b) be required to contain no more than the information listed in subsection 241(4)(b)(i) to (ix) of the CMSA.

2.02 These restrictions essentially require that the SC's consent be obtained before any information can be disseminated for any proposed offering of securities.

2.03 Pre-prospectus advertising may be divided into two main periods:

- (a) Before submission of a prospectus to the SC; and
- (b) After submission of the prospectus until registration by the SC.

### **Before submission of a prospectus to the SC**

2.04 During this period, an impending offer of securities can be referred to but the provisions of subsection 241(4)(b)(i) to (ix) of the CMSA must be adhered to very closely. No other information may be disseminated during this period, either verbally or in writing.

### **After submission of a prospectus until registration by the SC**

2.05 The SC recognises the need for issuers to carry out preparatory work associated with a proposed offer of securities. During this period, issuers may disclose a wider range of information. In this regard, the consent of the SC is deemed to be given in the following circumstances:

#### ***(a) Presentations***

- (i) The presentations, both oral and written, are to be made by the issuer;
- (ii) Any other person (such as the principal adviser or the lead manager) making the presentation must be authorised by the issuer to conduct the presentation;
- (iii) The relief is not available to licensed dealers, exempt dealers, licensed investment advisers, licensed fund managers, exempt fund managers and their representatives acting on their own behalf;
- (iv) The presentations may be attended only by the categories of persons set out in Schedules 6 and 7 of the CMSA, members of the press and financial analysts;
- (v) Any written material circulated at these presentations may contain the information set out in subsection 241(4)(b)(i) to (ix) of the CMSA and information on the profiles of the promoters, directors and issuer; and
- (vi) Information provided in oral form may include, in addition to the information set out in sub-paragraph (v) above, the proposed utilisation of funds, statistics about the offering including pro forma net tangible assets/net assets, earnings per share, price-earnings ratio, the historical performance of the issuer and forward looking statements backed by proper assumptions.

#### ***(b) Announcements made upon obtaining underwriting mandate***

- (i) The persons who can make such announcements are the parties to the underwriting agreement;
- (ii) The announcements shall pertain to agreements which are to be or have been signed; and

- (iii) Any written information on the offer may contain the information set out in subsection 241(4)(b)(i) to (ix) of the CMSA and information on the profiles of the promoters, directors and issuer.

**(c) *Announcements made upon the joint signing of underwriting agreements***

- (i) The persons who can make such announcements are the parties to the agreement;
- (ii) The announcements shall be confined to agreements which are to be or have been signed; and
- (iii) Any written information relating to the offer may contain the information set out in subsection 241(4)(b)(i) to (ix) of the CMSA and information on the profiles of the promoters, directors and issuer.

**(d) *Concise statements***

Any notice which refers to a proposed issue of, offer for subscription or purchase of, or invitation to subscribe for or purchase, securities may contain the information set out in subsection 241(4)(b)(i) to (ix) of the CMSA and information on the profiles of the promoters, directors and issuer.

- 2.06 It is not intended for such pre-prospectus restrictions to inhibit the free flow of non-promotional information to raise public awareness of a securities offering.
- 2.07 In granting the SC's blanket consent on the abovementioned activities, it is crucial that these activities are not conducted in a way that encourage retail investors to make investment decisions without the benefit of a prospectus.

Therefore, issuers should not attempt to induce such investors into investing in proposed offers of securities without adequate disclosures being made. For this reason, the prospectus, rather than the advertising campaign of the issuer, should be treated as the source of all relevant information for the proposed issue or offer of securities.

### **3.0 POST-PROSPECTUS ADVERTISING**

- 3.01 The post-prospectus period refers to the time after the prospectus has been registered with the SC and lodged with the Registrar of Companies.
- 3.02 Any information disseminated after the registration of the prospectus, either verbally or in writing, is allowed if the information is contained in the prospectus. However, the condition is that in the interest of investor protection, an issue of, offer for subscription or purchase of, or invitation to subscribe for or purchase, securities must be accompanied by a prospectus together with a set of application forms to be completed by the investor.

## **4.0 GENERAL PRINCIPLES**

4.01 [Deleted]

4.02 [Deleted]

4.03 [Deleted]

4.04 [Deleted]

4.05 [Deleted]

4.06 [Deleted]

4.07 [Deleted]

## **5.0 RESTRICTIONS IN RELATION TO SOPHISTICATED INVESTORS**

5.01 Section 241 of the CMSA which contains restrictions in advertising is not intended to apply to sophisticated investors (please refer to Schedule 6, Part B and Schedule 7, Part B of the CMSA). Therefore, issuers may be able to carry out certain activities in preparation for or in view of a placement exercise which may otherwise not be in compliance with the advertising restrictions under section 241 of the CMSA, provided that the notices are directed towards the persons who are set out in Schedules 6 or 7 of the CMSA. For example, in the case of a bond issue, where the bonds are issued on a when issued basis and the issuer or the adviser/lead manager wants to obtain a certain degree of feedback from potential investors to determine the level of pricing or potential investors' level of commitment. Such an exercise, if directed at Schedule 6 or Schedule 7 categories of investors, will not be regarded as falling within the advertising restrictions under section 241 of the CMSA.

## **6.0 POST-BALLOTING SPEECHES**

- 6.01 Announcements by principal advisers or issuers as to whether the issue was undersubscribed or oversubscribed, and the extent of the undersubscription or oversubscription is allowed to be made without having to obtain the SC's prior approval.

## **7.0 REPORTS ON AFFAIRS OF LISTED CORPORATION**

- 7.01 The restrictions in relation to advertising set out in subsection 241(1) of the CMSA do not apply to a number of situations which include those set out in paragraph 241(7)(a) of the CMSA which states the following:

—Subsection 241(1) shall not apply to the issuing or publishing of a report that relates to the affairs of a corporation, a unit trust scheme or a prescribed investment scheme, that is listed on a stock exchange which is or has been published only to that stock exchange by or on behalf of the corporation, unit trust scheme or prescribed investment scheme.

Therefore, it should be noted that announcements, reports and notices made to the relevant stock exchange in compliance with its listing requirements, for purposes of dissemination to the public, will be regarded as exempt from the advertising restrictions under section 241 of the CMSA.

