

## SECURITIES COMMISSION ACT 1993

### Securities Commission (Prescription of Islamic Securities) Order 2004

IN exercise of the powers conferred by sections 2B and 124 of the Securities Commission Act 1993 [Act 498], the Minister, on the recommendation of the Commission, makes the following order:

#### Citation and commencement

1. (1) This order may be cited as the **Securities Commission (Prescription of Islamic Securities) Order 2004**.

This Order comes into operation on 3<sup>rd</sup> July 2004.

#### Interpretation

2. In this Order –

“Guidelines” means the Guidelines on the Offering of Islamic Securities issued by the Commission;

“Islamic securities” means –

any product or instrument made available, offered for subscription or purchase, or issued pursuant to the Syariah principles of *Mudharabah* or *Musyarakah*; or

any *sukuk* issued pursuant to any Syariah concept or principle; and

which are specified as Islamic securities under the Guidelines on the Offering of Islamic Securities issued by the Commission.

#### Application of Division 4 of Part IV of the Act

3. (1) Subject to subparagraph (2), the Minister prescribes Islamic securities as “securities” for the purposes of applying the provisions of Division 4 of Part IV of the Act to such Islamic securities.

(2) Any invitation, offer or issue of Islamic securities shall comply with the requirements of the Guidelines.

(3) For the avoidance of doubt, any reference to the term “borrower” in Division 4 of Part IV of the Act shall be construed as a reference to the issuer of Islamic securities for the purposes of the application of those provisions to Islamic securities.

## **Disapplication of Division 5 of Part IV of the Act**

4. Where an arrangement of a unit trust scheme or a prescribed investment scheme involves the issuance of Islamic securities, the Minister, on the recommendation of the Commission, prescribes that such Islamic securities shall not be subject to the provisions of Division 5 of Part IV of the Act.

Made 2 July 2004  
[(8.02)248/23-49(SJ.18); PN (PU2)523/11]



TAN SRI NOR MOHAMED YAKCOP  
*Second Minister of Finance*

## AKTA SURUHANJAYA SEKURITI 1993

### Perintah Suruhanjaya Sekuriti (Penetapan Sekuriti Islam) 2004

PADA menjalankan kuasa yang diberikan oleh seksyen 2B dan 124 Akta Suruhanjaya Sekuriti 1993 [*Akta 498*], Menteri, atas syor Suruhanjaya, membuat perintah yang berikut:

#### Nama dan permulaan kuat kuasa

1. (1) Perintah ini bolehlah dinamakan **Perintah Suruhanjaya Sekuriti (Penetapan Sekuriti Islam) 2004**.
- (2) Perintah ini mula berkuat kuasa pada 3 Julai 2004.

#### Tafsiran

2. Dalam Perintah ini –

“Garis Panduan” ertinya Garis Panduan Tawaran Sekuriti Islam yang dikeluarkan oleh Suruhanjaya;

“sekuriti Islam” ertinya –

- (a) mana-mana produk atau surat cara yang disediakan, ditawarkan untuk langganan atau pembelian, atau diterbitkan menurut prinsip Syariah *Mudharabah* atau *Musyarakah*; atau
- (b) mana-mana *sukuk* yang diterbitkan menurut apa-apa konsep atau prinsip Syariah; dan

yang telah ditetapkan sebagai sekuriti Islam di bawah Garis Panduan Sekuriti Islam yang dikeluarkan oleh Suruhanjaya.

#### Pemakaian Penggal 4 Bahagian IV Akta

3. (1) Tertakluk kepada subperenggan (2), Menteri menetapkan sekuriti Islam sebagai “sekuriti” bagi maksud pemakaian peruntukan Penggal 4 Bahagian IV Akta bagi sekuriti Islam itu.


(2) Apa-apa pelawaan, tawaran atau terbitan sekuriti Islam hendaklah mematuhi kehendak Garis Panduan.

(3) Bagi mengelakkan keraguan, apa-apa sebutan tentang terma "peminjam" dalam Penggal 4 Bahagian IV Akta hendaklah dikira sebagai sebutan tentang penerbit sekuriti Islam bagi maksud pemakaian peruntukan itu bagi sekuriti Islam.

#### **Ketidakpakaian Penggal 5 Bahagian IV Akta**

4. Jika suatu perkiraan skim amanah saham atau skim pelaburan yang ditetapkan melibatkan penerbitan sekuriti Islam, Menteri, atas syor Suruhanjaya, menetapkan bahawa sekuriti Islam itu tidak tertakluk kepada peruntukan Penggal 5 Bahagian IV Akta.

Dibuat 2 Julai 2004  
[(8.02)248/23-49(SJ.18); PN (PU2)523/11]



TAN SRI NOR MOHAMED YAKCOP  
*Menteri Kewangan Kedua*