|  |
| --- |
| **FORMS IN RELATION TO**  **EXCHANGE-TRADED FUND (ETF)** |

|  |  |  |
| --- | --- | --- |
| **Name of ETF** | **:** |  |
| **Management company** | **:** |  |
| **Principal Adviser**  **(if applicable)** | **:** |  |
| **Date of application** | **:** |  |

**Introduction & Instructions:**

1. This document contains the forms for the following:
2. Section A: Application for establishment, listing and quotation of an ETF
3. Section B: Application for exemption, variation or extension of time
4. Section C: Application to act as a management company
5. Section D: Application to register a deed
6. Section E: Application to register a prospectus
7. Where the management company is not an approved management company as listed in the *List of Unit Trust Funds and Approved Management Companies[[1]](#footnote-1)*, please submit Section C: Application to act as a management company.
8. Please complete the relevant forms and submit to the Managed Investment Schemes Department of the Securities Commission Malaysia (SC), together with the supporting documents required.

*Notes:*

1. *You are* ***NOT*** *required to submit the forms not pertaining to your application.*
2. *Please* ***CLICK*** *on the check boxes* () *which are relevant to you, or your ETF.*
3. All applications must be accompanied with a declaration as provided in Section F: Declaration.
4. **Information of the ETF**

*For multiple applications, please fill in this section for each of the ETF separately.*

|  |  |
| --- | --- |
| Name of ETF | : |
|  |  |
| 1. Type of ETF:   Plain-vanilla ETF[[2]](#footnote-2)  Feeder ETF[[3]](#footnote-3) *(Please also complete Appendix I)*  Synthetic ETF  Futures-based ETF  Commodity ETF | |
| 1. The investment strategy(ies) of the ETF:   Full replication strategy  Representative sampling  Synthetic replication | |
| 1. Will the ETF use derivatives for non-hedging purposes?   Yes *(Please also complete Appendix II)*  No | |
| 1. Will the ETF be participating in securities lending or Islamic Securities Selling and Buying – Negotiated Transaction?   Yes *(If yes, please indicate where it is disclosed in the prospectus)*  ………………………………………………………………………………………………..  No | |
| 1. Will the ETF accept collateral?   Yes *(If yes, please indicate where it is disclosed in the prospectus)*  ………………………………………………………………………………………………..  No | |
| 1. Has the SC been consulted prior to submitting this application?   Yes. Please indicate the date of the consultation and the name of the parties involved from the SC:  ………………………………………………………….  No | |

1. **Information on the management company**

|  |
| --- |
| 1. If paragraph 3.06 of the ETF Guidelines does not apply, please select the applicable check box:   The management company is an ultimate holding company which wholly-owns the other management company  The management company is a wholly-owned subsidiary of the other management company  The management companies concerned are wholly-owned subsidiaries of the same ultimate holding company  *Please proceed to Q2 and Q3.* |
| 1. Please state the name of the other management company   ……………………………………………………………………………………………………. |
| 1. Has the other management company notified its unit holders of the director’s appointment in this management company?   Yes  No |
| 1. Please explain the oversight arrangement of this management company.   ……………………………………………………………………………………………………. |
| 1. For paragraph 3.26 of the ETF Guidelines, please provide this management company’s website address.   ……………………………………………………………………………………………………. |
| 1. Where the management company intends to undertake cross trading for the ETF, please indicate where this is disclosed in the prospectus:   ………………………………………………………………………………………………….... |

1. **Documents required to be submitted to the SC**

| **Documents** | **SC’s internal use** |
| --- | --- |
| Cover letter as prescribed under Appendix I, Schedule G of the *Guidelines on Exchange-Traded Funds* (ETF Guidelines) |  |
| Additional content in the cover letter[[4]](#footnote-4)  Concise description on the index i.e. to ascertain the index acceptability |  |
| For synthetic or futures-based ETF, additional content in the cover letter[[5]](#footnote-5)  Concise description on the qualifications and relevant experience in derivatives of the key persons’ employed by the management company  Where the management company delegates its fund management function, or appoints an investment adviser, the key persons’ relevant qualifications and relevant experience in derivatives  Concise description on the systems, procedures and processes in managing the ETF, which includes the risk management process  If applicable, the summary of the group’s relevant experience in derivatives as well as details of oversight, monitoring and supervision systems on the management company  For synthetic ETF, a confirmation that the ETF takes the form of an unfunded structure[[6]](#footnote-6) |  |
| For leveraged or inverse ETF, additional content in the cover letter  Concise description of the management company’s initiative in educating investors on investments in leveraged or inverse ETFs |  |
| For ETF that invests in derivatives or participates in securities lending activities  Documentation of the ETF’s risk management process, i.e. the details of  the risk management framework, including measures in place to monitor,  measure and manage the risks, and detailed contingency plans.[[7]](#footnote-7) |  |
| If applicable, the Shariah pronouncement[[8]](#footnote-8) |  |
| Fee checklist |  |
| Deed  Draft deed  Checklist of compliance for deed of ETF (see part B of Section D: Registration of deed)  Fees for submission of deed |  |
| For SC’s approval-in-principle for the registration of the prospectus under section 233 of the Capital Markets and Services Act 2007 (CMSA)  Documents as required under part A of Section E: Application to register a prospectus |  |

**APPENDIX I**

**Information on feeder ETF**

|  |
| --- |
| 1. Date of clearance by the SC to submit the application for establishment of the feeder ETF:   ……………………………………………………………………………………………………. |
| 1. Rationale for investing in the target ETF   ……………………………………………………………………………………………………. |
| 1. In the case where the target ETF is using or intends to use derivatives for non-hedging purpose, please indicate whether the documentation of the target ETF’s risk management process has been filed with the regulatory authority of the target ETF and where applicable, evidence that the target ETF’s risk management process has been approved by that regulatory authority.   ……………………………………………………………………………………………………. |
| 1. Please indicate where the following details have been disclosed in the feeder ETF’s prospectus: |

| **Information on the target ETF** | **Prospectus of the feeder ETF** | | |
| --- | --- | --- | --- |
| **Item** | **Page** | **Remarks** |
| 1. Name of the target ETF |  |  |  |
| 1. Type of target ETF   Plain-vanilla ETF  Synthetic ETF  Futures-based ETF  Commodity ETF |  |  |  |
| 1. Percentage of the feeder ETF to be invested in the target ETF |  |  |  |
| 1. Investment objective of the target ETF |  |  |  |
| 1. Investment strategy of the target ETF |  |  |  |
| 1. Where the target ETF is using or intends to use derivatives |  |  |  |
| 1. Name of the management company and, where applicable, the fund manager of the target ETF |  |  |  |
| 1. Country of origin of the target ETF |  |  |  |
| 1. Regulatory authority of the target ETF |  |  |  |
| 1. Regulatory authority of the parties responsible for the target ETF |  |  |  |
| 1. Date of establishment of the target ETF |  |  |  |
| 1. Specific risks of the target ETF |  |  |  |
| 1. Permitted or authorised investment and the investment limits and restrictions of the target ETF |  |  |  |
| 1. The applicable legislation in the foreign jurisdiction which applies to the target ETF |  |  |  |
| 1. Impact of fees and charges imposed by the target ETF on the cost of investing in the feeder ETF. Where fees and charges of the target ETF are waived, or where rebates are given, to provide details. |  |  |  |

**APPENDIX II**

**Information on investment in derivatives**

|  |
| --- |
| 1. For an ETF that intends to use derivatives for investment purposes (i.e. non-hedging purposes), has the documentation for risk management process been submitted previously to the SC?   Yes. *Please proceed to Q2.*  No. *Please attach the documentation of the ETF’s risk management process.* |
| 1. Please indicate if the ETF’s risk management process is identical to the documentation previously submitted to the SC.   Yes, the documentation was submitted to the SC on ……………………………………..  No. *Please highlight the differences in the documentation and attach the revised documentation.* |
| 1. If the ETF intends to use an approach that is other than the commitment approach to calculate the ETF’s global exposure, please provide the details on, and the basis for adopting, the said approach.   ……………………………………………………………………………………………………. |

**Documents required to be submitted to the SC**

| **Documents** | **SC’s internal use** |
| --- | --- |
| Cover letter consisting of the following:  The requirement of the guidelines being sought for a relief or extension of time  Details of the relief or extension of time  Justifications for the relief |  |
| Statement from the trustee that the relief or extension of time does not jeopardise unit holders’ interest *(except for an application for extension of time to launch an ETF)* |  |
| Fee checklist |  |

**Documents to be submitted to the SC**

| **Documents** | **SC’s internal use** |
| --- | --- |
| Cover letter as prescribed under Appendix II, Schedule G of the ETF Guidelines |  |
| Statutory declaration that the management company is independent from of the trustee |  |
| Fee checklist |  |

1. **Documents to be submitted to the SC**

|  |  |
| --- | --- |
| **Documents** | **SC’s internal use** |
| Cover letter as prescribed under Appendix III, Schedule G of the ETF Guidelines |  |
| Checklist of compliance for deed of an ETF and accompanying declaration (see part B and C below) |  |
| Fee checklist |  |
| Two copies of the executed and stamped deed |  |
| For supplemental or replacement deed  A unit holders’ resolution sanctioning the modification of the deed, or a statement from trustee and management company as prescribed under section 295(4)(b) of the CMSA  A list highlighting the original provisions from the principal deed and the amended provision, and the rationale for such amendments |  |

1. **Checklist of compliance for deed of an ETF**

*Please provide a checklist of compliance with the requirements of the relevant laws and guidelines for the deed in the format provided herein, stating the relevant provisions of the laws and guidelines, and where the provisions have been provided for in the deed by indicating the relevant clause and page number of the deed.*

*Where a provision does not apply to the deed, please include it in the checklist, indicating “N/A” and state the reason in the “Remarks” column provided.*

| **No.** | **Provisions of the laws or guidelines** | **Deed** | | |
| --- | --- | --- | --- | --- |
| **Clause** | **Page** | **Remarks** |
| *e.g. CMSA* | | | | |
|  | *e.g. Section 297(1)(a)* | *4.36* | *12* | *-* |
|  |  |  |  |  |
|  |  |  |  |  |
| *e.g. ETF Guidelines* | | | | |
|  | *e.g. Paragraph 3.06(a)* | *4.15* | *6* | *-* |
|  | *e.g. Schedule A – Name of ETF* |  |  |  |
|  |  |  |  |  |

1. **Declaration**

We hereby declare that we have inspected the deed and verified to the best of our knowledge and belief, that the contents of the deed are true, complete and accurate. We are aware of all our obligations under the relevant laws and guidelines.

We acknowledge the following:

1. The registration of this deed should not be taken to indicate that the SC assumes responsibility for the accuracy, correctness or completeness of any provisions contained in this deed;
2. The SC is not liable for any omission on the part of the management company and the trustee, and expressly disclaims any liability whatsoever arising from, or in reliance upon, the whole part or any part of its contents.

|  |  |
| --- | --- |
| Signature:  Name of authorised signatory:  Name of management company:  Designation:  Date: | Signature:  Name of authorised signatory:  Name of principal adviser (if applicable):  Designation:  Date: |
|  |  |
| Signature:  Name of authorised signatory:  Name of trustee:  Designation:  Date: |  |

1. **Documents to be submitted to the SC for approval-in-principle for registration of prospectus**

|  |  |
| --- | --- |
| **Documents** | **SC’s internal use** |
| Cover letter as prescribed under Chapter 3, Part V of the Prospectus Guidelines for Collective Investment Schemes (Prospectus Guidelines for CIS) |  |
| Two copies of prospectus in English |  |
| Checklist of compliance for prospectus of an ETF (see part C below) |  |
| Fee checklist |  |
| Director’s responsibility statement for the prospectus |  |
| Copies of all consents required under subsection 244(1) of the CMSA |  |
| Where applicable, copy of letter of approval from any other relevant authority |  |
| Copies of all material contracts referred to in the prospectus |  |
| Copies of reports or letters from experts disclosed in the prospectus and where applicable, translated report |  |
| Where applicable, copy of the underwriting agreement |  |

1. **Documents to be submitted for registration of prospectus (after approval of the ETF)**

|  |  |
| --- | --- |
| **Documents** | **SC’s internal use** |
| Cover letter as prescribed under Chapter 3, Part V of the Prospectus Guidelines for CIS |  |
| A copy of the prospectus in Bahasa Malaysia and English, and where applicable, in any other language |  |
| Checklist of compliance for prospectus of an ETF (see part C below) |  |
| Copies 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 A of this section |  |
| For any revision to the prospectus that was cleared by the SC under part A of this section  The marked-up copy of the revised prospectus  Letter of confirmation from the submitting party as required under subparagraph 3.09(d)(ii) of the Prospectus Guidelines for CIS |  |
| Electronic copy of the prospectus for prospectus exposure which comply with paragraph 3.12, Part V of the Prospectus Guidelines for CIS |  |
| For supplementary or replacement prospectus  A list highlighting the original statements from the previously registered prospectus and the amended statements, and the reasons for such amendment |  |

1. **Checklist of compliance for prospectus of an ETF**

*Please provide a checklist of compliance with the requirements of the relevant laws and guidelines for the prospectus in the format provided herein, stating the relevant provisions of the laws and guidelines, and where the provisions have been provided for in the prospectus by indicating the relevant clause and page number of the prospectus.*

*Where a provision does not apply to the prospectus, please include it in the checklist, indicating “N/A” and state the reason in the “Remarks” column provided.*

| **No.** | **Provisions of the laws or guidelines** | **Prospectus** | | |
| --- | --- | --- | --- | --- |
| **Item** | **Page** | **Remarks** |
| *e.g. CMSA* | | | | |
|  | *e.g. Section 235(1)(a)* | *5* | *12* | *-* |
|  |  |  |  |  |
|  |  |  |  |  |
| *e.g. Part III, Prospectus Guidelines for CIS* | | | | |
|  | *e.g. Paragraph 1.01(a)* | *1* | *6* | *-* |
|  | *e.g. Paragraph 13.05* |  |  |  |
|  |  |  |  |  |

We confirm that all information contained in this form and the accompanying documents are true, complete and accurate.

|  |  |
| --- | --- |
| Signature:  Name of authorised signatory:  Name of management company:  Designation:  Date: | Signature:  Name of authorised signatory:  Name of principal adviser (if applicable):  Designation:  Date: |

1. Available at www.sc.com.my [↑](#footnote-ref-1)
2. “Plain-vanilla ETF” is an ETF that does not fall under Schedule B of the *Guidelines on Exchange-traded Funds* (ETF Guidelines) [↑](#footnote-ref-2)
3. “Feeder ETF” is one which invest all its assets (unless for liquidity purpose) in a single collective investment scheme [↑](#footnote-ref-3)
4. Paragraph 6.11 of the ETF Guidelines [↑](#footnote-ref-4)
5. Paragraph 3.03 of the ETF Guidelines [↑](#footnote-ref-5)
6. Paragraph 1(c), Appendix I, Schedule B of the ETF Guidelines [↑](#footnote-ref-6)
7. Paragraph 3, Appendix I, Schedule G of the ETF Guidelines [↑](#footnote-ref-7)
8. Paragraph 4, Appendix I, Schedule G of the ETF Guidelines [↑](#footnote-ref-8)