

CAPITAL MARKETS AND SERVICES ACT 2007

CAPITAL MARKETS AND SERVICES (PRESCRIPTION OF SECURITIES AND ISLAMIC SECURITIES)(INVESTMENT NOTE AND ISLAMIC INVESTMENT NOTE) ORDER 2016

IN exercise of the powers conferred by section 5 of the Capital Markets and Services Act 2007 [Act 671], the Minister, on the recommendation of the Commission, makes the following order:

Citation and commencement

1. (1) This order may be cited as the **Capital Markets and Services (Prescription of Securities and Islamic Securities)(Investment Note and Islamic Investment Note) Order 2016**.

(2) This Order comes into operation on 16 May 2016.

Interpretation

2. In this Order—

“investment note” means any contract, agreement, note or other document evidencing a monetary loan, executed or offered, on or through an electronic platform, where an investor expects a financial return, but does not include—

- (a) any right, option or interest in respect of such contract, agreement, note or other document;
- (b) a cheque, banker’s draft or any other bill of exchange or a letter of credit;
- (c) a banknote, guarantee or an insurance policy; or

- (d) a statement, passbook or other document showing any balance in a current, deposit or savings account;

“Islamic investment note” means any contract, agreement, note or other document evidencing undivided ownership or investment in any assets in compliance with Shariah principles endorsed by *Shariah Advisory Council*, and is executed or offered, on or through an electronic platform, where an investor expects a financial return, but does not include—

- (a) any right, option or interest in respect of such contract, agreement, note or other document;
- (b) a cheque, banker’s draft or any other bill of exchange or a letter of credit;
- (c) a banknote, guarantee or a takaful policy; or
- (d) a statement, passbook or other document showing any balance in a current, deposit or savings account.

Investment note prescribed to be securities

- 3. An investment note is prescribed to be securities for the purposes of securities laws.

Islamic investment note prescribed to be Islamic securities

- 4. An Islamic investment note is prescribed as Islamic securities for the purposes of securities laws.

Non-application of sections 212 and 232

- 5. Sections 212 and 232 of the Act shall not apply to such investment note and Islamic investment note that is executed or offered, on or through a recognized market.

Investment note not share, etc.

6. For the purposes of securities laws, an investment note that is executed or offered, on or through a recognized market is not—

- (a) a share in, or debenture of, a body corporate or an unincorporated body; or
- (b) a unit in a unit trust scheme or prescribed investment scheme.

Islamic investment note not share, etc.

7. For the purposes of the securities laws, an Islamic investment note that is executed or offered, on or through a recognized market is not—

- (a) a share in a body corporate or an unincorporated body, which are classified as Shariah-compliant by the *Shariah* Advisory Council;
- (b) a unit in a unit trust scheme or prescribed investment scheme structured in compliance with Shariah principles;
- (c) an Islamic structured product; or
- (d) a sukuk structured in compliance with Shariah principles.

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DATO' SERI AHMAD HUSNI MOHAMAD HANADZLAH
Second Minister of Finance