

**GUIDELINES ON TRUST DEEDS
SUMMARY OF KEY AMENDMENTS ISSUED ON 23 JULY 2020**

The following table provides a summary of key amendments to the revised *Guidelines on Trust Deeds* (Guidelines) which was issued on 23 July 2020.

A. General amendments	
(i)	Updating the definition section for consistency with other relevant guidelines and acts.
(ii)	Reference to "debenture" is amended to "corporate bond".
(iii)	Reference to "debenture holder" is amended to "bondholder".
(iv)	Editorial amendments including streamlining requirements to enhance clarity and ensure consistency throughout the Guidelines, and rephrasing and renumbering of certain requirements.
(v)	Consequential amendments pursuant to changes in other relevant guidelines and acts.

B. Amendments to Specific Paragraphs		
Prior to 23 July 2020	Issued on 23 July 2020	Remarks
PART A: GENERAL		
Chapter 1: INTRODUCTION		
Paragraph 3.02	Paragraph 1.03	This requirement has been amended to specify that the requirements in these Guidelines shall apply to all issuers of corporate bonds or sukuk, other than issuances exempted under Schedule 8 of the CMSA and, where applicable, Schedule 9 of the CMSA. While the requirements in these Guidelines will not be mandatory for such issuances, they may be applied by the issuer upon considering the due interest of investors.

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B. Amendments to Specific Paragraphs		
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-	Paragraph 1.07	This new paragraph has been inserted to specify that exemptions or variations to the requirements of these Guidelines are granted by the SC under certain circumstances.
Paragraph 1.07	-	This requirement has been deleted as the prescription of Islamic Securities as 'securities' for the purposes of securities laws has already been included under section 316B of the CMSA.
Chapter 2: DEFINITIONS AND INTERPRETATION		
Paragraph 2.01	Paragraph 2.01	<ul style="list-style-type: none"> • Amended definitions of "issuer", "major shareholder", "obligor" and "trustee" to be consistent with other guidelines and applicable laws. • Deleted definitions of "adviser", "borrower", "debenture", "FAST", "Islamic securities", "Minister" and "RENTAS". • Introduced new definitions of "corporate bonds", "development financial institution", "independent adviser", "issuance", "licensed bank", "licensed insurer", "licensed investment bank", "licensed Islamic bank", "licensed takaful operator" and "sukuk".

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B. Amendments to Specific Paragraphs		
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PART B: REQUIREMENTS FOR TRUST DEED		
Chapter 7: ISSUER'S COVENANT TO PAY		
Paragraph 8.02(b)	Paragraph 7.02(b)	This requirement has been amended to specify that the trust deed must state clearly the manner in which approval from bondholders or sukukholders can be obtained (if prior approval is required).
Chapter 11: EVENTS CONSTITUTING DEFAULT AND REMEDY OF SUCH DEFAULT		
Paragraphs 12.01 and 12.01(a)	Paragraph 11.01	This requirement has been amended to combine the old paragraphs 12.01 and 12.01(a).
-	Paragraph 11.03	This new requirement has been inserted to specify that a materiality or substantiality threshold in respect of the event set out in subparagraph 11.01(a) is strictly prohibited. However, remedy periods may be allowed but must not exceed seven business days from the date on which the payment is due.
-	Paragraph 11.04	This new requirement has been inserted to specify that for all other events of default, a materiality or substantiality threshold and/or remedy period may be allowed, provided that the details of the threshold or remedy period are clearly stated in the trust deed.

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Paragraph 12.02	Paragraphs 11.05 and 11.06	<ul style="list-style-type: none"> • The requirement in the new paragraph 11.05 has been expanded to include entities such as licensed insurers, licensed takaful operators, the holding companies of licensed banks, licensed Islamic banks and licensed investment banks, and any other institutions that are required to comply with Bank Negara requirements for regulatory capital. • In addition, corporate bonds and sukuk which are issued on a perpetual basis may also be exempted from the events of default set out in subparagraphs 11.01(a), (d), (e), (f), (g) and (h).
Paragraph 12.03	Paragraph 11.07	This requirement has been amended to specify that the exclusion of events of default as permitted under paragraph 11.05 is subject to the condition that there is proper disclosure to investors that the occurrence of such events does not constitute an event of default. Such disclosure can be made in any document relating to the issuance of the corporate bonds and sukuk which is made available to investors.
Chapter 12: SINKING FUND		
Paragraph 13.01(b)	Paragraph 12.01(b)	This requirement has been amended to specify that the trust deed must provide for the agreed period such payments are required to be made.

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Chapter 13: COVENANTS BY THE ISSUER		
Paragraph 14.01	Paragraphs 13.01 and 13.02	This requirement has been amended to specify the positive and negative covenants, respectively.
Paragraph 14.01(e)	Paragraph 13.01(e)	This requirement has been amended to specify that the issuer will procure the facility agent to notify the trustee if the paying agent does not receive payment from the issuer on the due dates as required.
Paragraph 14.01(g)	Paragraph 13.01(g)	This requirement has been amended to specify that the issuer will ensure that the provisions of an information memorandum relating to the corporate bonds or sukuk do not contain any matter which is inconsistent with the provisions of the trust deed and the terms and conditions of the corporate bonds or sukuk.
-	Paragraph 13.01(h)	<ul style="list-style-type: none"> • This new requirement has been inserted as a new positive covenant to specify that the issuer will ensure that any conditions subsequent in relation to the issuance of the corporate bonds or sukuk are complied with in accordance with the terms and conditions of the corporate bonds or sukuk. • In addition, any request from the issuer to add, extend, vary or otherwise modify any conditions subsequent shall be subject to the approval of bondholders or sukukholders.

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Paragraph 14.01(c)(iii)	-	This requirement has been deleted pursuant to the insertion of the new paragraph 13.04.
-	Paragraph 13.04	This new requirement has been inserted to provide that certain covenants may be excluded for issuers that are required to comply with the applicable listing requirements of Bursa Malaysia in relation to related party transactions, subject to certain conditions.
Paragraph 14.02	Paragraph 13.05	This requirement has been amended to extend the exemption in relation to the negative covenants to corporate bonds and sukuk which are issued by certain entities to meet Bank Negara's requirements for regulatory capital.
Chapter 15: REPORTING COVENANTS BY THE ISSUER		
Paragraph 16.01	Paragraph 15.01	This requirement has been amended to make reference to the requirements under the CMSA, which includes the duty of the borrower to inform the trustee and the SC of the occurrence of material events.
Paragraph 16.01(a)	Paragraph 15.01(a)	This requirement has been amended to include enforcement events.
Paragraphs 16.01(b), (b)(i), (b)(ii), (b)(iii) and (c)	-	These requirements have been deleted as section 267 of the CMSA already sets out these obligations.

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Paragraph 16.01(h)	-	This requirement has been deleted as the issuer is required under the new paragraph 13.03 to obtain the approval of bondholders or sukukholders by way of a special resolution or the written consent of the trustee for any amendment to the utilisation of proceeds.
Paragraph 16.02	Paragraphs 15.02 and 15.03	The new paragraph 15.02 has been amended to specify that the trust deed must include a covenant by the issuer to send to the trustee, within a stipulated timeframe, any other account, report, notice, statement or circular issued to shareholders which are material and substantial to or necessary for bondholders and sukukholders to make informed investment decisions.
Chapter 16: APPLICATION OF MONEYS RECEIVED IN RESPECT OF THE CORPORATE BONDS OR SUKUK		
Paragraph 17.02	Paragraphs 16.02 and 16.03	<p>The new paragraph 16.02 has been amended to specify the following:</p> <ul style="list-style-type: none"> (i) The sum of money to be deposited into the Trustees' Reimbursement Account ("TRA") will be raised from RM30,000 to at least RM100,000 effective from 1 January 2021; and (ii) The issuer may choose their own source for moneys to be deposited into the TRA.

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Chapter 19: POWERS AND DUTIES OF TRUSTEE		
Paragraph 20.01	Paragraph 19.01	This requirement has been amended to specify that the trust deed must contain a statement that the trustee is registered by the SC to act as trustee pursuant to the <i>Guidelines on the Registration and Conduct of Capital Market Services Providers</i> .
Paragraphs 20.02(c)(i) and (c)(ii)	Paragraphs 19.02(c)(i) and (c)(ii)	These requirements have been amended for clarity and to reposition the requirement to inform the registered bondholders and sukukholders of the issuer's request to vary or modify any terms and conditions of the corporate bonds or sukuk or the provisions of the trust deed.
Chapter 21: MEETINGS		
Paragraph 22.04(b)	Paragraph 21.04(b)	This requirement has been amended to include private retirement schemes.
Paragraph 22.04(c) and (d)	Paragraphs 21.04(c), (d), (e), (f), (g) and (h)	These requirements have been amended for consistency in terminology and to include licensed takaful operators.
Chapter 23: MISCELLANEOUS CLAUSES		
Paragraph 24.01(b)	Paragraph 23.01(b)	This requirement has been amended to require that the trust deed stipulate the mode of serving notices and other documents to the issuer, trustee and bondholders or sukukholders.