

GUIDELINES ON TAX EXEMPTION FOR WHOLESALE MONEY MARKET FUNDS

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CONTENTS

	Page
1.0 Introduction	1
2.0 Definitions	2
3.0 Tax exemption	4
4.0 Qualifying criteria	5
5.0 Transitional provisions	7
6.0 Application procedures	9
Appendix 1 – Application Form	10
Appendix 2 – Written Declaration	12

1.0 INTRODUCTION

- 1.01 The *Guidelines on Tax Exemption for Wholesale Money Market Funds* are issued by the SC under section 377 of the *Capital Markets and Services Act 2007*.
- 1.02 These Guidelines is applicable to a wholesale money market fund.
- 1.03 The SC, under paragraph 35A of Schedule 6 of *Income Tax Act 1967* (ITA) has been given the mandate to set out qualifying criteria which must be fulfilled by a wholesale money market fund for the purpose of tax exemption on its income in respect of interest derived from Malaysia and paid or credited by a bank licensed under the *Financial Services Act 2013*, an Islamic bank licensed under the *Islamic Financial Services Act 2013* or a development financial institution prescribed under the *Development Financial Institutions Act 2002*. For this purpose, a certification from the SC confirming the fulfilment of such qualifying criteria is required to be obtained.
- 1.04 These Guidelines set out the qualifying criteria referred to in paragraph 1.03 and the procedures for making an application to obtain such certification.
- 1.05 These Guidelines are in addition to and not in derogation of any other guidelines issued by the SC or any requirements as provided for under securities laws.

2.0 DEFINITIONS

2.01 Unless otherwise defined, all words used in these Guidelines shall have the same meaning as defined in the *Capital Markets and Services Act 2007* (CMSA). In these Guidelines, unless the context otherwise requires—

- family member means spouse, parents, children and siblings;
- licensed bank has the meaning assigned to it in the *Financial Services Act 2013*;
- licensed Islamic bank has the meaning to it in the *Islamic Financial Services Act 2013*;
- related parties in relation to a group of investors or unit holders, means –
- (a) an individual and any of his family member;
 - (b) a corporation, its ultimate shareholder and another corporation in which that ultimate shareholder owns or controls 20 per centum or more of the voting shares. For avoidance of doubt, such ultimate shareholder need not be an investor in the wholesale money market fund;
 - (c) an individual or a corporation and another corporation in which the individual or the first-mentioned corporation owns or controls 20 per centum or more of the voting shares;
 - (d) a corporation and its subsidiary;
 - (e) a trust, the beneficiary of the trust and the trustee or settlor of such trust who is a related party to the beneficiary, where trustee or settlor is —
 - (i) also an investor or a unit holder in the wholesale money market fund; or
 - (ii) a related party of another investor or unit holder in the wholesale money market fund;

short-term	means a period of not more than 365 days;
sophisticated investor	means any person who falls within any of the categories of investors set out in Part 1, Schedules 6 and 7 of the CMSA;
wholesale fund	means a unit trust scheme established where the units are to be issued, offered for subscription or purchase, or for which invitations to subscribe for or purchase the units are to be made, exclusively to sophisticated investors; and
wholesale money market fund	means a wholesale fund whose objective is to invest primarily in short-term money market instrument (including Shariah-compliant money market instrument) and/or placement in short-term deposit.

3.0 TAX EXEMPTION

3.01 Schedule 6 of the ITA sets out the tax exemptions granted by the Inland Revenue Board of Malaysia.

3.02 Paragraph 35A of Schedule 6 of ITA provides that income of a wholesale money market fund in respect of interest derived from Malaysia and paid or credited by–

- (a) a bank licensed under the *Financial Services Act 2013*;
- (b) an Islamic bank licensed under the *Islamic Financial Services Act 2013*; or
- (c) a development financial institution prescribed under the *Development Financial Institutions Act 2002*,

are exempted from tax provided that it complies with the criteria as set out in these Guidelines.

3.03 For the purpose of tax exemption above, a wholesale money market fund must obtain a certification from the SC that it has complied with the criteria set out under these Guidelines.

3.04 For the purpose of paragraph 3.03, a fund management company must submit relevant information and documents set out under these Guidelines.

4.0 QUALIFYING CRITERIA

Initial certification

- 4.01 The SC may consider granting a certification for tax exemption under paragraph 3.03 where it is satisfied that a wholesale money market fund is not established specifically for a particular investor, or a group of investors which are related parties.
- 4.02 For the purpose of paragraph 4.01, for the initial application for tax exemption, a wholesale money market fund must submit a declaration to the SC confirming the following:
- (a) The wholesale money market fund is not established specifically for a particular investor, or a group of investors which are related parties; and
 - (b) The wholesale money market fund will be made available to any sophisticated investor, and will be actively marketed in the wholesale market.

Certification for subsequent years of assessment

- 4.03 For the subsequent years of assessment, the application for certification of the wholesale money market fund must be submitted to the SC on the second business day of the last month of the preceding year of assessment. The application must be accompanied by a declaration to the SC confirming the following:
- (a) The wholesale money market fund has an average of at least 15 unit holders for the past 12 months;
 - (b)
 - (i) Each unit holder does not hold more than 10% of net asset value of the wholesale money market fund, or
 - (ii) No particular unit holder or group of unit holders which are related parties, holds more than 33% of the net asset value of the wholesale money market fund; and
 - (c) Any breach of subparagraph (b) above caused by redemptions has been or will be rectified within three months from the date of the breach.

- 4.04 Notwithstanding paragraph 4.03, a wholesale money market fund which has been launched for a period of less than one year at the point of declaration, may instead provide a confirmation that, at the point of declaration, the wholesale money market fund has at least 15 unit holders.
- 4.05 In addition to the criteria set out in paragraphs 4.01 to 4.04 above, the SC may impose additional requirements, as may be notified in advance from time to time.

5.0 TRANSITIONAL PROVISION

- 5.01 This section applies to a wholesale money market fund which have been approved, authorised, recognised or complied with the requirements of the Lodge and Launch Framework specified in the SC's guidelines, before the effective date of these Guidelines.
- 5.02 Any income in respect of interest earned or accrued up to 31 December 2016 derived from Malaysia and paid or credited before or after 31 December 2016 by-
- (a) a bank licensed under the *Financial Services Act 2013*;
 - (b) an Islamic bank licensed under the *Islamic Financial Services Act 2013*; or
 - (c) a development financial institution prescribed under the *Development Financial Institutions Act 2002*,
- is exempted from tax.
- 5.03 For income in respect of interest earned from 1 January 2017, the wholesale money market fund must obtain a certification from the SC prior to 1 January 2017.
- 5.04 For the purpose of paragraph 5.03, the wholesale money market fund must submit a declaration to the SC confirming the following:
- (a) The wholesale money market fund is not established specifically for a particular investor, or a group of investors which are related parties;
 - (b) The wholesale money market fund will be made available to any sophisticated investor, and will be actively marketed in the wholesale market; and
 - (c) The wholesale money market fund has at least 15 unit holders as at 30 November 2016 or an average of at least 15 unit holders in the 12 months up to 30 November 2016.
- 5.05 For wholesale money market funds whose year of assessment 2018 commences 1 February 2017 up to 1 July 2017, the application for certification for year of assessment 2018 can be submitted concurrently with the application for initial certification.

5.06 For the subsequent years of assessment, the wholesale money market fund must comply with the criteria under paragraph 4.03 of these Guidelines.

6.0 APPLICATION PROCEDURES

6.01 An application seeking certification for tax exemption in relation to paragraph 35A of Schedule 6 of the ITA must be made to the SC by completing and submitting the application form as set out in Appendix 1 of these Guidelines and the written declaration as set out in Appendix 2 of these Guidelines.

6.02 The application must be addressed to:

Chairman

Securities Commission Malaysia

3 Persiaran Bukit Kiara

Bukit Kiara

50490 Kuala Lumpur

(Attention: Head, Managed Investment Scheme)

6.03 For a new wholesale money market fund, an application for the certification for tax exemption must be made and certification is obtained prior to making a lodgement for the establishment of the new wholesale money market fund.

6.04 Once the applicant has obtained a certification from the SC, the applicant must attach the letter of certification to the income tax return form for submission to the Inland Revenue Board.

**APPLICATION FORM FOR CERTIFICATION OF TAX EXEMPTION FOR THE
WHOLESALE MONEY MARKET FUND**

(Please use separate form for each fund)

1. Applicant Details	
(a) Name of the wholesale money market fund	
(b) Name of fund management company	
(c) Name of contact person	
(d) Full address of the principal place of business of the fund management company	
(e) Is the applicant a resident in Malaysia within the meaning of resident under the <i>Income Tax Act 1967</i> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
(f) Financial Year End	
(g) Date Established	
(h) Date of Commencement of Operations	
(i) Type of fund	<input type="checkbox"/> Conventional <input type="checkbox"/> Islamic
2. Details for Tax Purposes	
(a) Year of assessment	

(b) Please indicate the year of the first certification granted by the SC, if this is NOT your first time applying for a tax certification	
(c) Income Tax Reference Number	
(d) LHDN Office	

I hereby certify and declare that all the particulars furnished in this form are true and correct.

..... (Signature).....

Name of director:

NRIC No:

Company Seal or Stamp:

Date:

WRITTEN DECLARATION

Note to Applicant:

Please ensure that the application form is accompanied with the following written declaration (whichever applicable):

- (a) For the initial certification of a wholesale money market fund approved, authorised, recognised or lodged and launched before 1 January 2017, a written declaration as set out in Part A of Appendix 2;*
- (b) For the initial certification of a new wholesale money market fund, a written declaration as set out in Part B of Appendix 2;*
- (c) For subsequent certification, a written declaration as set out in Part C of Appendix 2.*

PART A: INITIAL CERTIFICATION FOR WHOLESALE MONEY MARKET FUND APPROVED, AUTHORISED, RECOGNISED OR LODGED AND LAUNCHED BEFORE 1 JANUARY 2017

[date]

The Chairman
Securities Commission Malaysia

Dear Sir

APPLICANT ...(Name of wholesale money market fund)...

Declaration under Paragraph 5.03 of the Guidelines on Tax Exemption for Wholesale Money Market Funds

1. This is a declaration accompanying an application for certification for tax exemption on income in respect of interest under Paragraph 35A of Schedule 6 of *Income Tax Act 1967*.
2. *[name of the fund management company]* on behalf of *[name of wholesale money market fund]* (the Fund) declare that–
 - (a) the Fund is not established specifically for a particular investor, or a group of investors which are related parties;
 - (b) the Fund would be made available to any sophisticated investor, and would be actively marketed in the wholesale market; and
 - (c) the Fund had at least 15 unit holders as at 30 November 2016 or an average of at least 15 unit holders in the 12 months up to 30 November 2016.

Yours faithfully

..... (Signature).....

Name of director:

NRIC No:

Name of applicant:

Date:

PART B: INITIAL CERTIFICATION FOR NEW WHOLESALE MONEY MARKET FUND

[date]

The Chairman
Securities Commission Malaysia

Dear Sir

APPLICANT ...(Name of wholesale money market fund)...

Declaration under Paragraph 4.02 of the Guidelines on Tax Exemption for Wholesale Money Market Funds

1. This is a declaration accompanying an application for certification for tax exemption on income in respect of interest under Paragraph 35A of Schedule 6 of *Income Tax Act 1967*.
2. ***[name of the fund management company]*** on behalf of ***[name of wholesale money market fund]*** (the Fund) declare that—
 - (a) the Fund is not established specifically for a particular investor, or a group of investors which are related parties; and
 - (b) the Fund would be made available to any sophisticated investor, and would be actively marketed in the wholesale market.

Yours faithfully

..... (Signature).....

Name of director:

NRIC No:

Name of applicant:

Date:

PART C: SUBSEQUENT CERTIFICATION

[date]

The Chairman
Securities Commission Malaysia

Dear Sir

APPLICANT ...(Name of wholesale money market fund)...

Declaration under Paragraph 4.03 of the Guidelines on Tax Exemption for Wholesale Money Market Funds

1. This is a declaration accompanying an application for certification for tax exemption on income in respect of interest under Paragraph 35A of Schedule 6 of *Income Tax Act 1967*.

2. *[name of the fund management company]* on behalf of *[name of wholesale money market fund]* (the Fund) declare that–

(a) The Fund had an average of at least 15 unit holders for the past 12 months and currently has _____ unit holders; and

(b) ** Each unit holder did not hold more than 10% of net asset value of the wholesale money market fund, save for when the 10% limit was breached due to redemption which were or will be rectified within three months from the date of the breach.

** No particular unit holder or a group of unit holders which are related parties holds more than 33% of net asset value of the wholesale fund, save for when the 33% limit was breached due to redemption which were or will be rectified within three months from the date of the breach.

Yours faithfully

..... (Signature).....

Name of director:

NRIC No:

Name of applicant:

Date:

** delete where appropriate