



Suruhanjaya Sekuriti
Securities Commission

Guidelines for Islamic Real Estate Investment Trusts

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Introduction

1. These are the guidelines as outlined by the Syariah Advisory Council (SAC) of the Securities Commission to facilitate the establishment of an Islamic real estate investment trust (Islamic REIT).
2. These guidelines must be adhered to by the market players in the process of establishing an Islamic REIT. It must be read together with the *Guidelines on Real Estate Investment Trusts*.

GUIDELINES FOR ISLAMIC REAL ESTATE INVESTMENT TRUSTS

1. RENTAL OF REAL ESTATE BY ISLAMIC REIT FOR BUSINESS PURPOSES¹

1.1 Acquiring real estate with existing tenant(s)

- (a) Syariah-compliant assessments must be carried out by the appointed Syariah committee/Syariah adviser to assess any property to be acquired by an Islamic REIT. In general, an Islamic REIT is a collective investment scheme in real estate, in which the tenant(s) operates permissible activities according to the Syariah. However, in the event that the tenant(s) is found to operate non-permissible activities, the fund manager for the Islamic REIT must perform additional compliance assessments;
- (b) The fund manager must obtain the rental from each non-permissible activity operating at the property to be acquired. Rental from each non-permissible activity must be added to obtain the total rental from non-permissible activities. The list of non-permissible activities, as decided by the Syariah Advisory Council (SAC) of the Securities Commission, is attached in the Appendix;
- (c) Subsequently, the total rental from non-permissible activities will be compared to the total turnover of the Islamic REIT (latest financial year) to obtain the percentage of rental from non-permissible activities. The percentage amount will be referred to the 20% benchmark as determined by the SAC for the criteria on rental from non-permissible activities;
- (d) In the event that the percentage exceeds the benchmark, the Syariah committee/Syariah adviser shall advise the Islamic REIT fund manager not to invest in the said real estate; and

¹ These guidelines are not applicable to real estate used for residential purposes.

- (e) However, an Islamic REIT is not permitted to own real estate, for example, a building, in which all the tenants operate non-permissible activities, even if the percentage of rental from that building to the total turnover of the Islamic REIT is still below the benchmark (20%). This is to protect the image of the Islamic REIT.

1.2 Renting out real estate to a new tenant(s)

The Syariah committee/Syariah adviser must advise the Islamic REIT fund manager not to accept a new tenant(s) whose activities are fully non-permissible.

1.3 Method for calculating the portion of rental of non-permissible activities from the total rental paid by a tenant(s) operating mixed activities (non-permissible and permissible activities)

- (a) Calculation of the rental of non-permissible activities from a tenant(s) operating mixed activities can be based on the ratio of area occupied for non-permissible activities to the total area occupied. The percentage will be used as the basis for determining the ratio of rental of non-permissible activities to total rental paid by the tenant(s); and
- (b) For activities that do not involve the usage of space, such as service-based activities, the calculation method will be based on the *ijtihad*² of the Syariah committee/Syariah adviser of the Islamic REIT.

2. INVESTMENT, DEPOSIT AND FINANCING FOR ISLAMIC REIT

2.1 An Islamic REIT must ensure that all forms of investment, deposit and financing instruments comply with the Syariah principles.

² *Ijtihad* is the process of reasoning by Islamic jurists to obtain legal rulings from the sources of Syariah.

3. INSURANCE

- 3.1 An Islamic REIT must use the *Takaful* schemes to insure its real estate. If the *Takaful* schemes are unable to provide the insurance coverage, then the Islamic REIT is permitted to use the conventional insurance schemes.

4. FORWARD SALES OR PURCHASES OF CURRENCY FOR RISK MANAGEMENT

- 4.1 An Islamic REIT is permitted to participate in forward sales or purchases of currency, and is encouraged to deal with Islamic financial institutions. If the Islamic REIT deals with Islamic financial institutions, then it will be bound by the concept of *wa'd*³ (only one party is obligated to fulfil his promise/responsibility). The party that is bound is the party that initiates the promise. However if the Islamic REIT deals with conventional financial institutions, it is permitted to participate in the conventional forward sales or purchases of currency.

³ *Wa'd* means promise.

Appendix

Rental Activities that are Classified as Non-permissible

- Financial services based on *riba* (interest);
- Gambling/gaming;
- Manufacture or sale of non-*halal* products or related products;
- Conventional insurance;
- Entertainment activities that are non-permissible according to the Syariah;
- Manufacture or sale of tobacco-based products or related products;
- Stockbroking or share trading in Syariah non-compliant securities; and
- Hotels and resorts.

Apart from the activities listed above, the Syariah committee/Syariah adviser can apply *ijtihad* for other activities that may be deemed non-permissible to be included as a criterion in assessing the rental income for the Islamic REIT.