

## GUIDELINES ON ISLAMIC CAPITAL MARKET PRODUCTS AND SERVICES

The Guidelines on Islamic Capital Market Products and Services (Guidelines) are issued by the Securities Commission Malaysia (SC) pursuant to section 377 of the Capital Markets and Services Act 2007 (CMSA).

### APPENDIX 7

#### APPROVED SHARIAH PRINCIPLES AND CONCEPTS FOR ISLAMIC CAPITAL MARKET PRODUCTS AND SERVICES

The following are approved Shariah principles and concepts for Islamic capital market products and services:

##### A. Primary principles

**Bai` bithaman ajil (BBA) (Deferred-payment sale)** - A contract that refers to the sale and purchase of assets on a deferred and instalment basis with pre-agreed payment period.

**Bai` 'inah (Sale with immediate repurchase)** - A contract which involves the sale and buy back transaction of an asset by a seller. A seller will sell the asset to a buyer for cash. The seller will immediately buy back the same asset on a deferred payment basis at a price that is higher than the cash price. It could also be applied when a seller sells the asset to a buyer on a deferred basis. The seller will later buy back the same asset for cash at a price which is lower than the deferred price.

**Bai` istijrar (Supply sale)** - A contract between a client and a supplier, whereby the supplier agrees to supply a particular product on an ongoing basis, for example monthly, at an agreed price and on the basis of an agreed mode of payment.

**Bai` salam (Advance purchase)** - A sale and purchase contract whereby the payment is made in cash at the point of contract but the delivery of the asset purchased will be deferred to a predetermined date.

**Bai` wafa' (Sale and repurchase)** - A contract with the condition that when the seller pays back the price of goods sold, the buyer returns the goods to the seller.

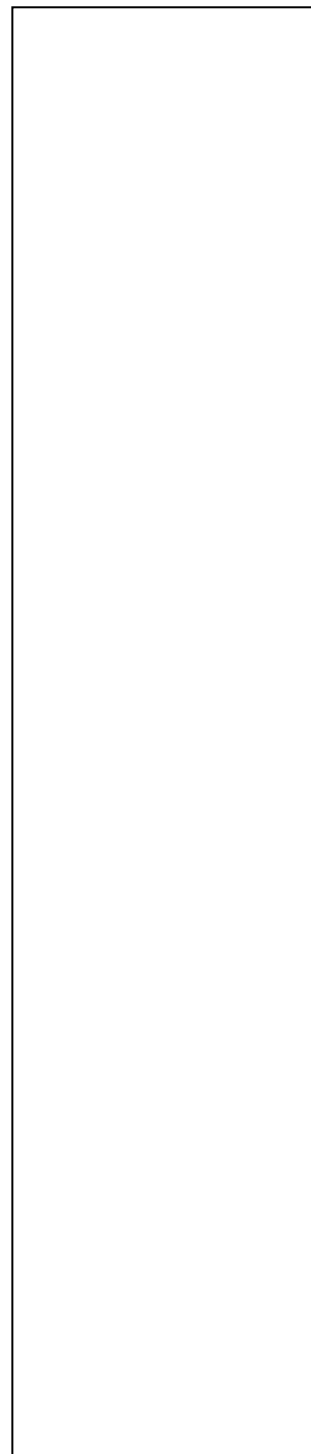
**Ijarah (Leasing)** - A contract whereby a lessor (owner) leases out an asset to a lessee at an agreed lease rental for a predetermined lease period. The ownership of the leased asset shall always remain with the lessor.

**Ijarah thumma bai` (Lease to purchase)** - A contract which begins with an ijarah contract for the purpose of renting out a lessor's asset to a lessee. Consequently, at the end of the lease period, the lessee will purchase the asset at an agreed price from the lessor by executing a purchase contract.

**Istisna` (Purchase order)** - A purchase order contract where a buyer requires a seller or a contractor to deliver or construct the asset to be completed in the future according to the specifications given in the sale and purchase contract. The payment term can be as agreed by both parties in the contract.

**Mudharabah (Profit sharing)** - A contract made between two parties to enter into a venture. The parties consist of the rabb al-mal (capital provider) who shall contribute capital to finance the venture, and the mudharib (entrepreneur) who will manage the venture. If the venture is profitable, the profit will be distributed based on a pre-agreed ratio. In the event of a loss, the loss shall be borne solely by the rabb al-mal, unless the loss is due to the negligence or mismanagement of the mudharib in managing the venture.

**Murabahah (Cost-plus sale)** - A contract that refers to the sale and purchase of assets whereby the cost and profit margin (mark-up) are made known.



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**Musawamah (Negotiated sale)** - A contract that refers to the sale and purchase of asset where the selling price of the asset is negotiated between the seller and the buyer, with the cost price not being disclosed or made known to the buyer.

**Musharakah (Profit and loss sharing)** - A partnership arrangement between two or more parties to finance a venture whereby all parties contribute capital either in the form of cash or in kind for the purpose of financing the said venture. Any profit derived from the venture will be distributed based on a pre-agreed profit sharing ratio, but a loss will be shared on the basis of capital contribution.

**Qardh hasan (Benevolent loan)** - A contract of loan between two parties on the basis of social welfare or to fulfil a short-term financial need of the borrower. The amount of repayment must be equivalent to the amount borrowed. It is however legitimate for a borrower to pay more than the amount borrowed as long as it is not stated or agreed at the point of contract.

**Tawarruq (Tripartite sale)** - Purchasing a commodity on a deferred price and then selling it to a third party for cash.

**Tawliyah (Sale at cost price)** - A contract that refers to the sale and purchase of asset at cost price whereby the cost is made known.

**Wadhi`ah (Sale at discounted price)** - A contract that refers to the sale and purchase of asset at discount whereby the cost and the discounted amount are made known.

**Wakalah (Agency)** - A contract where a party authorises another party to act on behalf of the former based on the agreed terms and conditions as long as he is alive.

### B. Supplementary principles and concepts

**Bai` dayn (Debt trading)** - A transaction that involves the sale and purchase of debt. • **Bai` muzayadah (Open-bidding trading)** An action by a person to sell his asset in the open market through a bidding process among potential buyers. The asset for sale will be awarded to the person who has offered the highest bid/price. This is also known as the sale and purchase transaction based on tender.

**Kafalah (Guarantee)** - A contract of guarantee whereby a guarantor underwrites any claim and obligation that should be fulfilled by an owner of the asset. This concept is also applicable to a guarantee provided on a debt transaction in the event a debtor fails to fulfil his debt obligation.

**Haq tamalluk (Ownership right)** - An asset in the form of ownership rights as classified by Shariah which are tradable.

**Hibah (Gift)** - A gift awarded to a person on voluntary basis.

**Hiwalah (Transfer of debt)** - A contract that allows a debtor to transfer his debt obligation to a third party.

**Ibra' (Release of rights)** - An act of releasing absolutely or conditionally one's rights and claims on any obligation against another party which would result in the latter being discharged of his/its obligations or liabilities towards the former. The release may be either partially or in full.

**Ju`alah (Reward)** - Contract of reward; a unilateral contract promising a reward for a specific act or accomplishment.

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**Rahn (Collateral)** - An act whereby a valuable asset is made as collateral for a debt. The collateral will be utilised to settle the debt when a debtor is in default.

**Tanazul (Waiver of rights)** - Waiver of right by one party to another party in musharakah, mudharabah and wakalah bi al-istithmar contracts where the right waived is transferred to other party.

**Ujrah (Fee)** - A financial fee for the utilisation of services or manfa`ah (usufruct). In the context of today's economy, it can be in the form of salary, allowance, commission and any other permissible form of assets.

**Wadi`ah yad amanah (Safekeeping based on trust)** - Goods or deposits kept with a custodian (who is not the owner) for safekeeping based on trust. The custodian is not allowed to use the deposits nor entitled to any share of the profits.

**Wadi`ah yad dhamanah (Safekeeping with guarantee)** - Goods or deposits kept with a custodian (who is not the owner) for safekeeping. When the custodian utilises the deposits, the custodian guarantees the repayment of the whole amount of the deposits or any part of it, when demanded. In this case, the rule of qardh shall apply and the depositors are not entitled to any return on the deposits. However, the custodian may provide rewards to the depositors as a token of appreciation in the form of hibah.