

**Effective Date**

14 February 2008

**Applicability**

The Guideline is applicable to banks licensed under the Islamic Banking Act 1983

**Summary**

The objective of the Guideline is to inform that banks licensed under the Islamic Banking Act 1983 are allowed to undertake wider scope of business in the context of Islamic capital market activities with the enforcement of relevant provisions in the Capital Market Services Act (CMSA) in 2007. The Guideline provides guidance on permitted capital market activities as prescribed under Schedule 4 of the CMSA

**Issuing Department**

Islamic Banking and Takaful Department

[Guideline Info](#)

BNM Circular

Received on .....

For Action / Information

1.	Chief Financial Officer, M'sia	✓
2.	Country Head of Consumer Banking	✓
3.	MD, Origination & Client Coverage, WB	✓
4.	Head Financial Markets	✓
5.	Chief Risk Officer	✓
6.	Head Islamic Banking	✓
7.	Head Human Resources	
8.	Head Corporate Affairs	
9.	Head Legal & Compliance	✓
10.	Head GSBC M'sia / CIO	✓
	<i>Company Sec</i>	

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## **PART A. INTRODUCTION**

### **1. Overview of the Guidelines**

- 1.1 The scope of banking business under the Islamic Banking Act (IBA) 1983 is universal in nature. Islamic banks are allowed to undertake wide spectrum of banking business encompassing Shariah compliant retail banking, commercial banking, investment banking and capital market activities.
- 1.2 With the recent legislation of the Capital Market and Services Act (CMSA) by Parliament in 2007, the requirements of the Act are being enforced gradually, beginning September last year. The CMSA recognises the universal nature of Islamic banking businesses and activities as prescribed under Schedule 4 of the CMSA. With the coming into effect of the CMSA, Islamic banks are expected to discharge its responsibility as other capital markets services providers who are governed under the CMSA.
- 1.3 With the expanded scope of Islamic banks' businesses under the CMSA, the Board and senior management is responsible to ensure that the risk management framework of the Islamic banks is sufficiently robust to cater for the expanded scope of activities.

### **2. Applicability**

- 2.1 The Guideline is applicable to:
- (i) Domestic and foreign Islamic banks licensed under subsection 3(4) of the IBA to carry on Islamic banking business; and
  - (ii) International Islamic Banks licensed under subsection 30B(3) of the IBA to carry on Islamic banking business in currencies other than ringgit. In this regard, the activities permitted to be conducted shall be confined to those transacted or denominated in currencies other than ringgit.

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2.2 In this Guideline, Islamic bank means a bank licensed under the IBA.

### **3. Legal Provisions**

3.1 The Guideline is issued pursuant to section 69 of the IBA 1983.

3.2 The Guideline shall be read (where applicable) together with the CMSA 2007, other relevant guidelines issued and to be issued by the Securities Commission (SC) in respect of issuance of securities, guidelines on advisers and any other guidelines concerning Islamic banks.

### **4. Scope**

4.1 The Guideline sets out the parameters for permitted capital market activities for Islamic banks which are deemed as "registered person" under Part 1 of Schedule 4 of the CMSA.

**PART B. PERMITTED CAPITAL MARKET ACTIVITIES****5. Permissible Capital Market Activities by Islamic Banks**

5.1 As outlined in Part 1, Schedule 4 of the CMSA, Islamic banks are allowed to undertake the following capital market activities:-

(i) Dealing in securities:

- Quoting two way prices for and dealing in debentures, stocks or bonds of Federal Government, any State Government or statutory body; and corporate debentures or other instruments which are not listed for trading in any stock exchange;
- Arranging for the sale or purchase of securities issued by, belonging to or on behalf of, customers through the holders of a Capital Markets Services Licence who carries on the business of dealing in securities; and for sale or purchase of securities that are not listed on a stock market of a stock exchange, issued by, belonging to or on behalf of customers;
- Underwriting of securities and placement out of such underwritten securities whether through the holder of a Capital Markets Services Licence who carries on the business of dealing in securities or otherwise;
- Private placement of primary issues of securities on behalf of customers;
- Arranging or offering for sale or purchase as agents for any person, any interests in unit trust schemes;
- Acting or offering to act as agent for any issuing house in relation to the issue or listing of any securities;
- Lending or borrowing of securities on own account or for customers in respect of unlisted debt securities pursuant to the Guidelines on Securities Borrowing and Lending Programme or other equivalent guidelines issued by Bank Negara Malaysia;

- (ii) Providing corporate finance advise
  - In relation to:
    - a) Islamic debentures,
    - b) Islamic securities as specified in the SC's guidelines in respect of Islamic securities,
    - c) Islamic structures products as provided under the SC's guidelines in respect of structured products and
    - d) Islamic structured warrants as provided under the SC's guidelines for the issue of structured warrants;
  - Act as principal advisers and make submissions to the SC on corporate proposals in relation to Islamic products under the Policies and Guidelines on Issues/Offer of Securities (Issue Guidelines) issued by the SC;
  - Issuing any document which is or is deemed to be a prospectus under the relevant securities laws and the Companies Act 1965.
  
- (iii) Investment advice
  - Carrying on a business of advising others concerning securities or futures contracts; or as part of a business, issues or promulgates analyses or reports concerning securities or futures contracts.
  
- (iv) Fund management
  - Acting or offering to act as portfolio managers for customers or as investment or co-investment manager of country funds, trust funds, venture capital funds, unit trust funds or other funds including the provision of investment advice and acquisition or disposal through a holder of Capital Markets Services Licence in relation to such activity.

5.2 For the purpose of this Guideline and the CMSA, Islamic product is defined as any capital market products that comply with the principles of Shariah as approved by the Shariah Advisory Council of Bank Negara Malaysia and/or the Shariah Advisory Council of the SC.

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- 5.3 In the course of undertaking the above permitted capital market activities, Islamic banks shall ensure that any dealings in Islamic products are conducted at arms length and the investors' protection requirements as outlined under section 76 of the CMSA are observed at all times.
- 5.4 In its capacity as principal advisers and making submission to the SC, Islamic banks shall also ensure that Islamic products fulfil the eligibility criteria imposed pursuant to Part VI of the CMSA in respect of the requisite level of resources, competencies and corporate finance expertise. In addition, Islamic banks are expected to exercise due care and diligence in ensuring completeness and accuracy of information in the corporate proposals submissions in accordance to the due diligence standards of the SC.