

BNM/RH/NT 012-1	Islamic Banking and Takaful Department	Resolutions of the Shariah Advisory Council of Bank Negara Malaysia on Application of <i>Wa'd</i> (promise) in Forward Currency Transaction; and Takaful Benefits Payable from Participants' Risk Fund
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TITLE 1

SUMMARY..... 1

APPLICABILITY 2

ISSUANCE DATE..... 2

BNM/RH/NT 012-1	Islamic Banking and Takaful Department	Resolutions of the Shariah Advisory Council of Bank Negara Malaysia on Application of <i>Wa'd</i> (promise) in Forward Currency Transaction; and Takaful Benefits Payable from Participants' Risk Fund	Page 1/2
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TITLE

Resolutions of the Shariah Advisory Council of Bank Negara Malaysia on Application of *Wa'd* (promise) in Forward Currency Transaction; and Takaful Benefits Payable From Participants' Risk Fund.

SUMMARY

Bank Negara Malaysia wishes to inform that the Shariah Advisory Council (SAC) of Bank Negara Malaysia, in its 102nd meeting held on 22nd June 2010, had decided the following:-

1. Application of *Wa'd* (Promise) in Forward Currency Transaction

Islamic financial institutions are allowed to enter into forward foreign currency transaction for hedging purposes based on unilateral *wa'd* (promise) that carries binding effect on the promisor. Nevertheless, no consideration (or fee) is allowed to be charged on the promisee in view that upfront cash payment for forward currency transaction would lead to a bilateral *wa'd* which is not allowed by Shariah. This is in line with the view of the majority of ulama' who opines that unilateral binding *wa'd* without any consideration is permissible in a forward currency transaction.

2. Takaful Benefits Payable From Participants' Risk Fund

SAC resolved that payment of takaful benefits from Participants' Risk Fund (which pools participants' *tabarru'* (donation) contributions to meet claims by participants), can be made contingent upon specific events beyond those arising from a defined financial loss or a misfortune. This is allowed subject to agreement by the contracting parties i.e. the participants.

The decision is made in line with the feature of takaful contract which is established based on concept of *tabarru'* and *ta'awuni* amongst participants. These two concepts allow participants to agree on the events leading to payment of the takaful benefits.

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The terms and conditions outlining the respective events must be made transparent to all contracting parties in the takaful contract. Thus, with agreement from the participants, the scope of events prompting payment of takaful benefits from Participants' Risk Fund is not only limited to death, disability or calamity, but can also be extended to cover attainment of the contract mandate. The features of takaful product shall be consistent with principles of Shariah and meet the requirements issued by Bank Negara Malaysia.

APPLICABILITY

This notification is applicable to:

- (i) All Islamic banking institutions licensed under Islamic Banking Act 1983;
- (ii) All banking institutions licensed under Banking and Financial Institutions Act 1989 which participate in Islamic Banking Scheme;
- (iii) All takaful and retakaful operators registered under the Takaful Act 1984; and
- (iv) All development financial institutions prescribed under Development Financial Institutions Act 2002 which participate in Islamic Banking Scheme.

ISSUANCE DATE

The issuance date is 25 August 2010.