

Title

[Transition policy under Islamic Financial Services Act 2013 \(IFSA\)](#)

Issuance Date

14-Feb-2014

Effective Date

14-Feb-2014

Applicability

IFSA

Summary

This policy document aims to clarify and provide policy direction on the implementation of Islamic deposits and investment accounts as defined under the IFSA by an Islamic financial institution (IFI) during the period of transition for purposes of ensuring financial stability and soundness of the Islamic banking system.

Queries may be directed to: tpifsa@bnm.gov.my

Issuing Department

Islamic Banking and Takaful

Attachment

[Attachment_Transition policy report.xls](#)



BANK NEGARA MALAYSIA
CENTRAL BANK OF MALAYSIA

Transition policy under Islamic Financial Services Act 2013 (IFSA)

Issued on: 14 February 2014

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PART A OVERVIEW

1. Introduction

- 1.1 Under the repealed Islamic Banking Act 1983 (IBA), the definition of Islamic deposit provided the Islamic financial institution (IFI) the flexibility to structure Islamic deposit products according to the features of the Shariah contracts. Such flexibility has led to the development of Islamic deposit products based on various Shariah contracts such as *wadi'ah*, *qard and tawarruq* which are principal guaranteed, and *mudarabah* and *wakalah* which are non-principal guaranteed. Following the broad definition of Islamic deposits, the repealed IBA acknowledged the inherent differences in the rights and obligations accrued under the Shariah contracts and accorded different ranking in respect of priority of Islamic deposits upon liquidation of the IFI.
- 1.2 The Islamic Financial Services Act 2013 (IFSA) has provided greater clarity by offering separate definitions of Islamic deposits and investment accounts based on the features of the Shariah contracts applied namely those which provide principal guarantee and those which do not. The IFSA has also strengthened further the rights and obligations accrued under the Shariah contracts by specifying requirements to segregate assets funded by the Islamic deposits and investment accounts to facilitate proper priority of payments upon liquidation of the IFI.
- 1.3 Bank Negara Malaysia (the Bank) recognises the impact of this change in the definitions on the operation of the IFI. Essentially, the IFI is required to reclassify the Islamic deposits under the repealed IBA into either Islamic deposits (which is principal guaranteed) or into investment accounts (which is non-principal guaranteed) under the IFSA. Section 288 of the IFSA empowers the Minister of Finance (MOF) to prescribe (based on the Bank's recommendation) a date on which the new definition of Islamic deposits under the IFSA would come into force. Until

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such prescribed date, the IFI will be allowed to enhance its operational capacity and engage its depositors in order to facilitate seamless transition of the Islamic deposits under the repealed IBA into the respective definitions under section 2 of the IFSA. During this period of transition until such prescribed date, section 288 of the IFSA effectively saves the classification of Islamic deposits under the repealed IBA.

Policy objective

- 1.4 This policy document aims to clarify and provide policy direction on the implementation of Islamic deposits and investment accounts as defined under the IFSA by an IFI during the period of transition for purposes of ensuring financial stability and soundness of the Islamic banking system.

Scope of policy

- 1.5 This policy document sets out the requirements on:
- (i) the offer and acceptance of Islamic deposits under the repealed IBA;
 - (ii) the offer and acceptance of Islamic deposits and investment accounts under the IFSA; and
 - (iii) reporting requirements.

2. Applicability

- 2.1 This policy document is applicable to:
- (i) a licensed Islamic bank under the IFSA; and
 - (ii) a licensed bank and licensed investment bank under the Financial Services Act 2013 (FSA) approved under section 15(1) of the FSA to carry on Islamic banking business.

These institutions hereinafter are referred to in this policy document as an “Islamic financial institution” (IFI).

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3. Legal provisions

- 3.1 The requirements in this policy document are specified pursuant to section 57(1) and section 155 of IFSA and shall be read together with section 288 of the IFSA¹.

4. Effective date

- 4.1 This policy document is effective from 14 February 2014.

5. Interpretation

- 5.1 The terms and expressions used in this policy document shall have the same meanings assigned to it in the IFSA unless otherwise defined in this policy document.

- 5.2 For the purpose of this policy document:

“S” denotes a standard, requirement or specification that must be complied with. Failure to comply may result in one or more enforcement actions; and

“G” denotes guidance which may consist of such information, advice or recommendation intended to promote common understanding and sound industry practices which are encouraged to be adopted.

¹ A gazette order on the prescribed date will be made by the MOF on the recommendation of the Bank.

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PART B POLICY REQUIREMENTS

6. Offer and acceptance of Islamic deposits saved under section 288 of the IFSA

- S** 6.1 Pursuant to section 288 of the IFSA, an IFI shall be allowed to continue offering and/or accepting Islamic deposits on current account, deposit account, savings account or other similar accounts under any Shariah contract which is non-principal guaranteed (hereinafter referred to as “investment deposit products”) until 30 June 2015² save for investment deposit products referred to in paragraph 6.5, provided that such investment deposit products have been approved by the Bank prior to 30 June 2013 and subject to the requirements specified in this policy document. These accounts shall for the purposes of reporting requirements to the Bank and the financial statements be reported as Islamic deposits under the IFSA.
- S** 6.2 With effect from 1 July 2015, an IFI shall have transitioned all of its investment deposit products either into Islamic deposits or investment accounts as defined in section 2(1) of the IFSA.
- S** 6.3 An IFI shall complete the transition of all applicable accounts of investment deposit products either into Islamic deposits or investment accounts under the IFSA by the following dates (according to the type of investment deposit products):
- (a) 30 June 2014, for demand deposits (savings and current accounts) and term deposits with a maturity period of less than 6 months; and
 - (b) 30 June 2015, for term deposits with a maturity period of more than 6 months.

² This is a date to be prescribed by the Minister pursuant to section 288 of the IFSA.

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- S** 6.4 An IFI which is transitioning its investment deposit products into Islamic deposits under the IFSA shall:
- (a) by 31 March 2014, have in place substitute Islamic deposit products which apply Shariah contract that is principal guaranteed and, if applicable, has obtained an approval of the Bank for the introduction of the new Islamic deposit products; and
 - (b) immediately cease any offering and/or acceptance of any investment deposit products once the substitute Islamic deposit product is available.
- S** 6.5 Notwithstanding paragraphs 6.3 and 6.4, an IFI shall continue to classify the following investment deposit products as Islamic deposits until their maturity and shall for the purposes of any reporting requirements to the Bank and the financial statements, be reported as Islamic deposits under the IFSA:
- (a) any term deposit accepted which has a maturity period beyond 30 June 2015; or
 - (b) any term deposit held as security against another financing facility until the settlement of the facility.
- The above investment deposit products shall be immediately transitioned to either Islamic deposits or investment accounts after the maturity period or settlement of the financing facility.
- S** 6.6 In respect of the requirements specified in paragraphs 6.3 to 6.5, the IFI shall establish appropriate transition plan³ and adequate policies and procedures including monitoring and reporting mechanisms to ensure compliance with this policy document. The IFI must notify either Jabatan Penyeliaan Konglomerat Kewangan or Jabatan Penyeliaan Perbankan of the Bank, immediately if the IFI identifies any cause that will affect full compliance.

³ Refer to letter issued on 9 October 2013 by Jabatan Perbankan Islam dan Takaful, Bank Negara Malaysia.

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7. Offer and acceptance of Islamic deposits and investment accounts under section 2 of the IFSA

- S** 7.1 Where the offering and acceptance of new financial products do not fall under section 288 of the IFSA, an IFI is required to ensure compliance with the definition in section 2(1) of the IFSA.
- S** 7.2 Any IFI that will be introducing new investment account products under the IFSA shall communicate its plan to Jabatan Perbankan Islam dan Takaful prior to submitting its product application via the “Product Approval and Repository System” (PARS).

8. Reporting requirements

- S** 8.1 In addition to STATsmart reports, the IFI is required to submit the reporting requirements specified in the Attachment 1 at every month end. The deadline of the submission shall be 10 days from the month end. The IFI is required to submit the soft copy of the reporting form through e-Survey.
- S** 8.2 For its first submission, the IFI shall provide 3 separate reports for the month ending 31 December 2013, 31 January 2014 and 28 February 2014. The IFI shall submit the reports no later than 10 days after the month ending 28 February 2014.