

Title

Specification on Permitted Business or Activity for Licensed Person under Financial Services Act 2013 (FSA) and Islamic Financial Services Act 2013 (IFSA)

Issuance Date

14-May-2015

Effective Date

14-May-2015

Applicability

FSA
IFSA

Summary

This policy document is a specification on a list of permissible business or activity for licensed person under the FSA and the IFSA, in addition to its licensed business and business in connection with or for the purpose of its licensed business. In addition, this specification also contains a list of business or activity that will continue to be restricted.

Issuing Department

Financial Sector Development
Islamic Banking and Takaful



BANK NEGARA MALAYSIA
CENTRAL BANK OF MALAYSIA

Specification on Permitted Business or Activity for Licensed Person under Financial Services Act 2013 and Islamic Financial Services Act 2013

Issued on: 14 May 2015

BNM/RH/GL 029-3	Islamic Banking and Takaful Department and Financial Sector Development Department	Specification on Permitted Business or Activity for Licensed Person under Financial Services Act 2013 and Islamic Financial Services Act 2013
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Table of Contents

PART A	OVERVIEW.....	1
1.	Introduction	1
2.	Policy objectives.....	1
3.	Applicability	2
4.	Legal provisions	2
5.	Effective date	2
6.	Interpretation	2
7.	Policy document superseded	3
PART B	PERMISSIBLE AND RESTRICTED BUSINESS OR ACTIVITY	4
8.	Permissible business or activity	4
9.	Restricted business or activity	5
PART C	GENERAL REQUIREMENTS.....	6
10.	General Requirements	6

BNM/RH/GL 029-3	Islamic Banking and Takaful Department and Financial Sector Development Department	Specification on Permitted Business or Activity for Licensed Person under Financial Services Act 2013 and Islamic Financial Services Act 2013	Page 1/7
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PART A OVERVIEW

1. Introduction

- 1.1 The licensed business of a licensed person is defined under the Financial Services Act 2013 (FSA) and the Islamic Financial Services Act 2013 (IFSA). However, pursuant to section 14 of the FSA and section 15 of the IFSA, a licensed person is restricted from carrying on any other business or activity in or outside Malaysia, unless the business or activity is -
- (a) its licensed business or is in connection with, or for the purpose of its licensed business;
 - (b) specified by the Bank under section 14(1) of the FSA or section 15(1) of the IFSA; or
 - (c) Islamic banking business, in the case of a licensed bank or licensed investment bank that has obtained an approval from the Bank under section 15(1) of the FSA.
- 1.2 For purposes of paragraph 1.1(b), the Bank may specify a business or activity which may be carried on by a licensed person that is not in connection with or for the purposes of its licensed business. The specification by the Bank is made based on the objectives of ensuring that a licensed person accords greater focus in carrying on its intermediation function effectively and that the carrying on of any other business or activity apart from its licensed business will not pose risks that may affect the safety and soundness of the licensed person.

2. Policy objectives

- 2.1 This policy document is a specification of business or activity which may be carried on by licensed person in addition to their licensed business.
- 2.2 In this policy document, the Bank has also identified certain business or activity that will continue to be restricted.

BNM/RH/GL 029-3	Islamic Banking and Takaful Department and Financial Sector Development Department	Specification on Permitted Business or Activity for Licensed Person under Financial Services Act 2013 and Islamic Financial Services Act 2013	Page 2/7
-----------------	--	---	----------

2.3 The list of business or activity specified under paragraph 8 of this policy document is not exhaustive and may be reviewed by the Bank from time to time.

3. Applicability

3.1 This policy document is applicable to licensed person under the FSA and IFSA excluding licensed international Islamic banks and licensed international takaful operators.

4. Legal provisions

4.1 The business or activity in this policy document are specified by the Bank pursuant to section 14(1) of the FSA and section 15(1) of the IFSA.

5. Effective date

5.1 This policy document comes into effect on 14 May 2015.

6. Interpretation

6.1 The terms and expressions used in this policy document shall have the same meaning assigned to them in the FSA and the IFSA, as the case may be, unless otherwise defined in this policy document.

6.2 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 actions¹;

“G” denotes guidance which may consist of such information, advice or

¹ Except where a standard or specification does not, in itself, impose any obligation or prohibition to be complied with.

BNM/RH/GL 029-3	Islamic Banking and Takaful Department and Financial Sector Development Department	Specification on Permitted Business or Activity for Licensed Person under Financial Services Act 2013 and Islamic Financial Services Act 2013	Page 3/7
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recommendation intended to promote common understanding and sound industry practices which are encouraged to be adopted;

“licensed Islamic bank” excludes a licensed international Islamic bank;

“licensed takaful operator” excludes a licensed international takaful operator;

“money services business” has the same meaning assigned to it in section 2 of the Money Services Business Act 2011 (MSBA).

7. Policy document superseded

- 7.1 This policy document supersedes the Guideline on Permitted Capital Market Activities for Islamic Banks (BNM/RH GL 002-18) and the Guideline on Rationalisation of Operating Structure for Banking Institutions dated 5 June 2000.

BNM/RH/GL 029-3	Islamic Banking and Takaful Department and Financial Sector Development Department	Specification on Permitted Business or Activity for Licensed Person under Financial Services Act 2013 and Islamic Financial Services Act 2013	Page 4/7
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PART B PERMISSIBLE AND RESTRICTED BUSINESS OR ACTIVITY

8. Permissible business or activity

- S** 8.1 A licensed bank and licensed Islamic bank are permitted to-
- (a) subject to paragraph 9.2, carry on activities which it is permitted to carry on as a registered person under Schedule 4 of the Capital Market and Services Act 2007 (CMSA);
 - (b) carry on money services business²;
 - (c) carry on custodial and clearing services for securities;
 - (d) carry on merchant acquiring services; and
 - (e) subject to paragraph 9.3, sell insurance or takaful products on behalf of a licensed insurer or licensed takaful operator, as the case may be.
- S** 8.2 A licensed bank, licensed investment bank and licensed Islamic bank are permitted to-
- (a) provide services for any related corporation, in or outside Malaysia, which carries on financial services;
 - (b) subject to paragraph 9.3, sell financial products on behalf of a related licensed person or other related corporation in Malaysia which carries on financial services; and
 - (c) provide estate planning and administration services.
- S** 8.3 A licensed bank is permitted to carry on hire purchase business.
- S** 8.4 A licensed insurer and licensed takaful operator are permitted to-
- (a) carry on activities which it is permitted to carry on as a registered person under Schedule 4 of the CMSA; and
 - (b) provide services for any related corporation, in or outside Malaysia, which carries on financial services.

² Section 1(3) of the MSBA provides that the MSBA does not apply to a licensed bank or licensed Islamic bank.

BNM/RH/GL 029-3	Islamic Banking and Takaful Department and Financial Sector Development Department	Specification on Permitted Business or Activity for Licensed Person under Financial Services Act 2013 and Islamic Financial Services Act 2013	Page 5/7
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S 8.5 A licensed insurer (other than a professional reinsurer) and licensed takaful operator (other than a professional retakaful operator) are permitted to issue bonds pursuant to the Guidelines on “Pengeluaran Bon/ Jaminan Kewangan oleh Penanggung Insurans” and any other standards as may be specified by the Bank from time to time.

S 8.6 A licensed insurer is permitted to sell products on behalf of a related licensed takaful operator.

9. Restricted business or activity

S 9.1 A licensed bank and licensed investment bank are not permitted to engage in wholesale and retail trade including import and export trade, whether on its own account or on a commercial basis, and whether alone or with others, except in connection with the realization of security given to or held by it for the purpose of carrying on its licensed business.

S 9.2 A licensed bank is not permitted to carry on underwriting of equities.

S 9.3 A licensed Islamic bank is not permitted to sell non-Shariah compliant products.

S 9.4 A licensed takaful operator is not permitted to sell non-Shariah compliant products.

S 9.5 A licensed insurer and licensed takaful operator are not permitted to sell the products of any licensed bank or licensed Islamic bank.

BNM/RH/GL 029-3	Islamic Banking and Takaful Department and Financial Sector Development Department	Specification on Permitted Business or Activity for Licensed Person under Financial Services Act 2013 and Islamic Financial Services Act 2013	Page 6/7
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PART C GENERAL REQUIREMENTS

10. General Requirements

- S** 10.1 In carrying on any of the businesses or activities stated in paragraph 8 of this policy document, a licensed person must, among others, ensure that the following requirements are met:
- (a) the licensed person has adequate capacity and sufficient resources with relevant capabilities and expertise to carry on such business or activity;
 - (b) the business or activity is not detrimental to the interest of its depositors, creditors, investment account holders, policy owners, takaful participants, users, the financial system or the public generally;
 - (c) such business or activity is carried on in a manner that is consistent with the standards of good governance and integrity;
 - (d) in respect of the provision of services under paragraphs 8.2(a) and 8.4(b), the licensed person has undertaken adequate measures to preserve the customers' data integrity and confidentiality, and to ensure adequate segregation of data between the licensed person as the service provider and the entity receiving such services;
 - (e) the licensed person has the ability and capacity to maintain effective internal controls, and to meet current as well as future changes to regulatory requirements; and
 - (f) the licensed person complies with relevant policy documents specified by the Bank or any requirements imposed by any other relevant authority that regulates such business or activity.
- S** 10.2 A licensed person which intends to carry on any of the business or activity stipulated in paragraph 8.2(a) or 8.4(b) shall-
- (a) submit a notification to the Bank in writing at least two weeks **prior to** the commencement of such business or activity; and
 - (b) comply with any condition which the Bank may impose in respect of such business or activity.

BNM/RH/GL 029-3	Islamic Banking and Takaful Department and Financial Sector Development Department	Specification on Permitted Business or Activity for Licensed Person under Financial Services Act 2013 and Islamic Financial Services Act 2013	Page 7/7
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- S** 10.3 A licensed person carrying on any business or activity stipulated in paragraph 8 of this policy document (excluding activities stipulated in paragraphs 8.2(a) and 8.4(b)) shall submit a written notification to the Bank within two weeks from the date of commencement of such business or activity.