

## TABLE OF CONTENTS

<b>PART A. INTRODUCTION</b> .....	<b>1</b>
1. Overview of the Guidelines .....	1
2. Legal Provisions .....	2
3. Scope .....	2
<b>PART B. FRAMEWORK FOR INTRODUCTION OF NEW PRODUCTS</b> .....	<b>4</b>
4. General Conditions .....	4
5. General Exception .....	7
6. Product Risk Management .....	9
<i>Product management programme</i> .....	10
<i>Product authorisation</i> .....	11
<i>Ongoing monitoring and control of product risk</i> .....	13
<i>Compliance with Shariah principles</i> .....	14
7. Fair Treatment of Consumers.....	16
<i>Customer suitability assessments</i> .....	18
8. Supervisory Action.....	19
<b>PART C. APPENDICES</b> .....	<b>21</b>
<b>Appendix 1: Prescribed/Approved Business of Banking Institutions</b> .....	<b>21</b>
<b>Appendix 2: Additional Conditions and Requirements for Financial Institutions Offering Investments Linked-to-Derivatives (ILD) and Islamic Investments Linked-to-Derivatives (IILD) Products</b> .....	<b>23</b>
<b>Appendix 3: Additional Conditions and Requirements for Financial Institutions Offering Negotiable Instruments of Deposit (NID)/Islamic Negotiable Instruments (INI)</b> .....	<b>24</b>
<b>Appendix 4: Information Requirements for New Products</b> .....	<b>25</b>

<b>Appendix 5: Format of Shariah Research Paper .....</b>	<b>27</b>
<b>Appendix 6: Products and Services Covered under Specific Guidelines Issued by Bank Negara Malaysia.....</b>	<b>28</b>

BNM/RH/GL 008-3	Prudential Financial Policy Department & Islamic Banking & Takaful Department	Guidelines on Introduction of New Products	Page 1/28
-----------------	---	--	-----------

## **PART A. INTRODUCTION**

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

- 1.1 Financial products have become increasingly more complex and diverse in response to competitive pressures and changing consumer demands. The pace of innovation will intensify further with technological advances and the evolution of more developed financial markets. Integral to this is the need for financial institutions to introduce products and services on a timely basis.
- 1.2 Against these developments, the regulatory framework for financial institutions has been reviewed to further enhance consumer protection while according greater flexibility for financial institutions to respond to changing market conditions, both in managing risks and enhancing their competitiveness.
- 1.3 The revised regulatory framework set out in these Guidelines for the introduction of new products aims to:
  - (i) improve the time-to-market for financial institutions to introduce new products, or to effect changes to existing products;
  - (ii) promote sound risk management practices in managing and controlling product risk by ensuring the appropriate assessment and mitigation of risk during the product development and marketing stages; and
  - (iii) further strengthen the duty of care owed to consumers in ensuring that products developed and marketed are appropriate to the needs, resources and financial capability of targeted consumer segments.
- 1.4 With the increased flexibility provided to financial institutions under these Guidelines, greater responsibility is placed on the Board, senior

BNM/RH/GL 008-3	Prudential Financial Policy Department & Islamic Banking & Takaful Department	Guidelines on Introduction of New Products	Page 2/28
-----------------	---	---	--------------

management and Shariah Committee (for Shariah-compliant products) to ensure that product risks are well managed, and the needs and rights of consumers are appropriately addressed. These responsibilities will continue to be rigorously reinforced by the Bank through its supervisory reviews and enforcement actions to enhance consumer protection and promote sound risk management practices.

## **2. Legal Provisions**

2.1 The Guidelines are issued pursuant to the following:

- (i) section 126 of the Banking and Financial Institutions Act 1989 (BAFIA);
- (ii) section 53A of the Islamic Banking Act 1983 (IBA); and
- (iii) section 126 of the Development Financial Institutions Act 2002 (DFIA).

## **3. Scope**

3.1 These Guidelines set out the applicable regulatory procedures and the Bank's expectations regarding the management and control of risk associated with the development, offering and marketing of new financial products and services by financial institutions. It also addresses the responsibilities of financial institutions towards consumers in ensuring that products sold or recommended are suitable, and that customers are clearly and fully informed of the nature and risks associated with these products.

3.2 The Guidelines shall be applicable to all financial institutions. For the purpose of these Guidelines, financial institutions shall refer to banking institutions licensed under the BAFIA and IBA, and DFIs prescribed under the DFIA.

BNM/RH/GL 008-3	Prudential Financial Policy Department & Islamic Banking & Takaful Department	Guidelines on Introduction of New Products	Page 3/28
-----------------	---	--	-----------

- 3.3 Where applicable, the Guidelines shall also be read in conjunction with relevant regulations on criteria for determining insured deposits issued by Perbadanan Insurans Deposit Malaysia (PIDM).
- 3.4 A reference to ‘product’ in these Guidelines shall encompass products and services offered by a financial institution, including services provided as a distributor of products offered by other financial institutions, or in relation to outsourcing arrangements<sup>1</sup>.
- 3.5 A **new product** is defined as follows:
- (i) A product that is being offered by the financial institution in Malaysia for the first time. For greater clarity, the Guidelines shall apply if the product has never been offered by the institution before in Malaysia, notwithstanding the fact that the product may already be offered by the financial institution’s group outside Malaysia; or
  - (ii) A combination of or variation to an existing product that results in a **material change** to the structure, features or risk profile of the existing product.
- 3.6 The chief risk officer or other designated senior risk officer identified by the financial institution shall be responsible for determining whether a variation to an existing product constitutes a material change for the purpose of paragraph 3.5 (ii). This determination of material change shall consider the risk implications of the change both from the financial institution’s perspective (as provider) and the customers’ perspective (as purchaser). For Shariah-compliant products, the identified officer shall consult Shariah Committee in assessing whether the proposed change gives rise to any Shariah issues that are yet to be deliberated

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<sup>1</sup> Not including outsourcing arrangements under which the financial institution is procuring (rather than providing) a service. This is dealt with under “Guidelines on Outsourcing of Banking Operations” (effective 14 April 2000) and “Guidelines on Outsourcing of Islamic Banking Operations” (effective 23 June 2003).

BNM/RH/GL 008-3	Prudential Financial Policy Department & Islamic Banking & Takaful Department	Guidelines on Introduction of New Products	Page 4/28
-----------------	---	--	-----------

by the Shariah Advisory Council (SAC) of the Bank. The basis for the risk officer's determination should be documented and readily available for review by the financial institution's oversight and internal control functions, and the Bank.

3.7 The Guidelines generally do not apply to:

- (i) stockbroking and capital/fund raising activities of an investment or Islamic bank;
- (ii) the introduction of new delivery channels such as internet, telephone or mobile banking and payment gateway services<sup>2</sup>; and
- (iii) new/improved systems or processes which generally enhance the operations of financial institutions, but which are not directly related to the introduction of products covered under paragraph 3.5 above.

## **PART B. FRAMEWORK FOR INTRODUCTION OF NEW PRODUCTS**

### **4. General Conditions**

4.1 The following general conditions must be met prior to introducing a new product:

- (i) the product must fall within the ambit of prescribed/approved business activities of the banking institution as set out in Appendix 1 or other permitted activities specifically approved by the Bank. In the case of DFIs, the product must fall within the ambit of the institutions' respective prescribed business activities

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<sup>2</sup> Refers to secure platforms that process merchant payments by providing an interface between the merchant's website and the acquirer's financial processing system. It acts as a bridge between the merchant's website and the financial institutions that process the transaction. Payment gateways allow online merchants to process and manage payments directly from their website in real time.

BNM/RH/GL 008-3	Prudential Financial Policy Department & Islamic Banking & Takaful Department	Guidelines on Introduction of New Products	Page 5/28
-----------------	---	--	-----------

as outlined in the lending specification issued by the Bank pursuant to subsection 28 (1) of the DFIA;

- (ii) the financial institution has the capacity to adequately manage and control the risks associated with the product, including the financial capacity to support existing and new product lines.
- (iii) adherence to principles relating to the fair treatment of consumers;
- (iv) the institution must not knowingly offer a product (including its variations) that has been prohibited in other countries and which could potentially give rise to public concerns<sup>3</sup>;
- (v) the product must comply with all necessary approvals required for its offer and/or any other applicable regulatory requirements, including other related guidelines issued by the Bank as well as guidelines issued by the Securities Commission;
- (vi) the institution that offers Shariah-compliant products shall ensure a sound and robust Shariah governance framework that includes comprehensive end-to-end Shariah-compliant product development and implementation process is in place; and
- (vii) the new Shariah-compliant product or variation must meet the following conditions:
  - (a) the product (including its accompanying documentations) must be approved by the financial institution's Shariah Committee (SC);
  - (b) the product's underlying Shariah contract, structure and features must be similar to the products that have been approved by the SAC; and

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<sup>3</sup> The condition does not cover products that have been approved by the SAC of the Bank.

BNM/RH/GL 008-3	Prudential Financial Policy Department & Islamic Banking & Takaful Department	Guidelines on Introduction of New Products	Page 6/28
-----------------	---	--	-----------

(c) the product must be consistent with the SAC resolutions.

4.2 Financial institutions offering investments linked-to-derivatives (ILD) or Islamic ILD, and negotiable instruments of deposit (NID) / Islamic Negotiable Instruments (INI) shall additionally comply with the conditions stipulated in Appendices 2 and 3 respectively.

4.3 Subject to paragraph 5.1 or unless otherwise notified by the Bank, a financial institution that meets the conditions stipulated in paragraph 4.1 may proceed to offer the product to customers upon complete submission of information as shown in Appendix 4<sup>4</sup> to the Bank. This shall hereafter be referred to as the 'launch-and-file' system. The submission shall be signed off by the senior management, namely Chief Executive Officer, Chief Risk Officer or Chief Operating Officer. It is the responsibility of the signatory to ensure that the information submitted pursuant to this paragraph is complete and accurate. Supervisory actions will be taken against financial institutions that repeatedly failed to ensure complete submission to the Bank as required.

4.4 The information submission requirements as described in paragraph 4.3 are not applicable to the following:

- (i) products and services that are covered under specific guidelines issued by the Bank, as listed in Appendix 5. For these products and services, financial institutions should comply with the submission requirements (if any) as well as any additional regulatory requirements provided under those guidelines; and
- (ii) situations where the financial institution is engaged in the distribution of financial products originated by other licensed financial institutions and prescribed DFIs under a permitted

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<sup>4</sup> Paragraph 7 of Appendix 4 is applicable to Shariah compliant products only.

BNM/RH/GL 008-3	Prudential Financial Policy Department & Islamic Banking & Takaful Department	Guidelines on Introduction of New Products	Page 7/28
-----------------	---	--	-----------

outsourcing arrangement or strategic partnership that has been approved by the Bank.

- 4.5 Sections 6 and 7 of these Guidelines set out the Bank’s supervisory expectations in relation to the management of product risk and the fair treatment of consumers. Financial institutions should consider these supervisory expectations as a basis to develop appropriate policies and procedures that support a sound product management programme, and to determine if the requirements in paragraphs 4.1(ii) and (iii) have been met.

## 5. General Exception

- 5.1 The ‘launch-and-file’ system is **not** applicable to the following products:
- (i) products involving innovative structures that are being introduced in the Malaysian market for the first time;
  - (ii) Shariah-compliant products that require the SAC resolution:
    - (a) products that involve application of new Shariah contract<sup>5</sup> in the Malaysian market; or
    - (b) combination of two or more products that were previously approved on a stand-alone basis or variation in existing product that attract Shariah issues that have not been deliberated by the SAC.
  - (iii) investment products that could potentially expose the investor to losses exceeding the principal amount invested; and

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<sup>5</sup> Refers to a Shariah contract that has never been introduced in Malaysian market and there is no current SAC resolution on such contract.

BNM/RH/GL 008-3	Prudential Financial Policy Department & Islamic Banking & Takaful Department	Guidelines on Introduction of New Products	Page 8/28
-----------------	---	--	-----------

- (iv) designated payment instruments (DPI)<sup>6</sup> requiring the Bank's approval pursuant to section 25 of the Payment Systems Act 2003.

5.2 With respect to the products stated in paragraphs 5.1 (i) to (iii), financial institutions shall submit the following information to the Bank prior to offering the product:

- (i) information requirements as per Appendix 4;
- (ii) proposed capital and accounting treatment for the product; and
- (iii) For Shariah-compliant products, **in addition** to the information required under (i) and (ii), financial institutions shall also submit information requirements as prescribed in paragraph 7 of Appendix 4<sup>7</sup>. However, for Shariah compliant products that require SAC resolution (as defined in paragraph 5.1 (ii)), submission of the information required under (i) and (ii) should only be carried out **after obtaining approval from the SAC**. Therefore, financial institutions are required to submit information as prescribed in Appendix 5 three weeks before the next SAC meeting. This is to facilitate an effective Shariah compliance review process in respect of the product. Submissions for these products application shall be via the 'Product Approval and Repository System' (PARS)<sup>8</sup>.

5.3 For products covered in paragraph 5.1 (iv), financial institutions shall submit the information as required under the Payment Systems

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<sup>6</sup> The following instruments are prescribed as DPI in the Payment Systems (Designated Payment Instruments) Order 2003;

- (a) charge card;
- (b) credit card;
- (c) electronic money; and
- (d) any combination of the payment instruments prescribed in (a) to (c).

<sup>7</sup> Paragraph 7 of Appendix 4 is not applicable to Shariah compliant products that require the SAC resolution

<sup>8</sup> Excluding submissions by DFIs where hardcopy submission to the Bank is required.

BNM/RH/GL 008-3	Prudential Financial Policy Department & Islamic Banking & Takaful Department	Guidelines on Introduction of New Products	Page 9/28
-----------------	---	--	-----------

(Submission of Documents and Information) Order 2003 and items 5 and 6 under Appendix 4.

- 5.4 A financial institution shall not offer products (includes Shariah-compliant products) covered under this section until:
- (i) the expiry of 14 days from the date of receipt by the Bank of the complete submission of information pursuant to paragraph 5.2; or
  - (ii) for DPI, the receipt of the Bank's approval pursuant to section 25 of the Payment Systems Act 2003.

## **6. Product Risk Management**

- 6.1 Financial institutions are expected to develop and implement appropriate policies and procedures to prudently manage risks associated with the products offered by the institution. The policies and procedures should be designed to identify and control product risk across the value chain, including the stages of product development, authorisation, pricing, marketing, sale, distribution, portfolio management, accounting and ongoing service and maintenance.
- 6.2 It is also important that the management of product risks is well integrated within the financial institution's overall governance framework and risk management system. This is to ensure that product innovation is carried out in a manner that is aligned with the financial institution's business objectives, and consistent with its capability and capacity to manage associated risks.
- 6.3 The policies and procedures for managing product risk should be formally endorsed by the Board and properly documented. These should include policies and procedures on product authorisation and governance throughout the life cycle of the product. Importantly, the

BNM/RH/GL 008-3	Prudential Financial Policy Department & Islamic Banking & Takaful Department	Guidelines on Introduction of New Products	Page 10/28
-----------------	---	--	------------

policies and procedures must be communicated in a timely manner to all relevant parts and levels within the organisation and periodically reviewed in the light of changing circumstances.

- 6.4 Financial institutions should also ensure the adequacy and security of the IT systems and infrastructure to support their product suites. Proper assessments should be performed on the IT-related risks, which include strategic, compliance, system support, operational, security, business resumption and reputation risks.
- 6.5 The policies and procedures for managing risks and risk mitigation measures and strategies employed by the institution should commensurate with the complexity of risks associated with the products offered by the institution.

### ***Product management programme***

- 6.6 Articulating a product management programme provides a sound basis for developing appropriate policies and procedures for managing product risk. A good product management programme should:-
- (i) clearly set out policies regarding the institution's product design and pricing philosophy, including product lines which the institution will offer, or are restricted from offering. The policies should reflect the institution's corporate strategy, competitive positioning, risk/reward philosophy and financial capacity to absorb losses;
  - (ii) relate the product strategy (e.g. considerations that influence the nature and timing of new product innovations) to the institution's customer relationship philosophy;

BNM/RH/GL 008-3	Prudential Financial Policy Department & Islamic Banking & Takaful Department	Guidelines on Introduction of New Products	Page 11/28
-----------------	---	--	------------

- (iii) define parameters for the authorisation of new products or material variations to existing products, including the circumstances under which authority may be delegated;
- (iv) establish restrictions and/or prudent concentration limits for exposures to geographic regions, product lines, distribution channels, economic sectors, customer groups or any other relevant risk dimension;
- (v) establish lines of responsibility for managing related risks; and
- (vi) establish internal communication flows to ensure that new product offerings are fully integrated throughout the institution's line functions.

### ***Product authorisation***

- 6.7 All new products and material variations to existing products must be authorised by senior management and/or the board as appropriate.
- 6.8 Approving authorities within the institution should be clearly defined and documented, setting out the scope of authority given, to whom the authority is given and whether the authority may be further delegated. The levels of authority established should appropriately reflect the nature and complexity of the institution's range of product offerings, the market segments which the institution competes in and the capacity of the institution to manage related risks.
- 6.9 The authorisation should be supported by a process that is objective and consistently applied. This will entail provisions for documentation requirements and internal reviews that are necessary for approving authorities to ensure that:
  - (i) the product proposal is consistent with the financial institution's product management programme;

BNM/RH/GL 008-3	Prudential Financial Policy Department & Islamic Banking & Takaful Department	Guidelines on Introduction of New Products	Page 12/28
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- (ii) systems and procedures are in place to manage related risks and customer expectations;
- (iii) both frontline and back-end staff are adequately trained to support the product; and
- (iv) product illustrations and marketing strategies are appropriate and not misleading.

6.10 Information that is relevant to support a request for authorisation of a new product includes, but is not limited to:

- (i) the objective of introducing the product, target customers and a description of strategic alliance arrangements (if any);
- (ii) the key features of the product, method of distribution and samples of the term sheet and promotional material;
- (iii) a quantification of the product's financial impact, including financial projections based on the target take-up rate and expected market share, risk-adjusted returns, sensitivity of projections to changes in market conditions, and whether adequate capital has been provided for the product, for both internal and regulatory capital purposes;
- (iv) an assessment of the potential risks associated with the product, including exposures to money-laundering risk, and how these risks will be measured, monitored and controlled;
- (v) an assessment of the appropriateness of the product for the targeted customer groups;
- (vi) an assessment of the skills, expertise and resources required to sell and manage the product throughout the pre-, during and post-contractual stages. The assessment should address whether these elements are already fully present within the

BNM/RH/GL 008-3	Prudential Financial Policy Department & Islamic Banking & Takaful Department	Guidelines on Introduction of New Products	Page 13/28
-----------------	---	--	------------

institution, and if not, the actions that will be taken to ensure that the necessary elements are met prior to the launch of the product;

- (vii) a description of related accounting and tax implications attached to the product, highlighting in particular accounting or tax treatments on which the success of the product will hinge, or which will materially alter the product's risk-return profile; and
- (viii) whether the product complies fully with applicable legal and regulatory requirements or restrictions, including a description of any unresolved legal or regulatory issues.

### ***Ongoing monitoring and control of product risk***

6.11 Financial institutions should ensure that adequate procedures are in place **and** operating effectively to monitor and control product risks on an ongoing basis. The procedures should provide for the ongoing identification, measurement and mitigation of existing and potential risks inherent in the institution's product offerings. This includes but is not limited to:

- (i) clearly defined responsibilities within business lines for managing product risks within approved parameters/limits. Business lines should also be responsible for ensuring continuous adherence to approved policies and procedures. The accountability of business lines should be clearly established notwithstanding the presence of other control functions dedicated to compliance and risk management;
- (ii) clearly delineated lines of responsibility for monitoring and controlling risk by control functions that are independent of business lines;

BNM/RH/GL 008-3	Prudential Financial Policy Department & Islamic Banking & Takaful Department	Guidelines on Introduction of New Products	Page 14/28
-----------------	---	--	------------

- (iii) adequate systems for measuring risk on a continuing basis;
- (iv) regular reviews of identified risk exposures in the light of changing market conditions not previously factored in to ensure that all material risks are identified and monitored;
- (v) adequate coverage of the internal audit function to ensure the timely identification of internal control weaknesses, adherence to regulatory requirements and internal policies and procedures, and proper accounting and capital treatment. The internal audit function should be independent of the product management and control functions that it reviews; and
- (vi) comprehensive and regular reports to the senior management and board on:
  - (a) the overall effectiveness of policies and procedures for managing product risks,
  - (b) current assessment of product risks and any change in the direction of risk (please refer to paragraphs 6.10 (iii) and (iv));
  - (c) material changes in market conditions that may impact the product risk profile going forward; and
  - (d) internal control breaches and weaknesses.

### ***Compliance with Shariah principles***

6.12 For Shariah-compliant products, financial institutions should ensure that the product development process<sup>9</sup> is comprehensive and robust to

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<sup>9</sup> This covers both pre-product approval (i.e. process of product structuring and developing prior to introduction to the market) and post-product approval process (i.e. process after the product has been offered to the customers and transactions have been carried out).

BNM/RH/GL 008-3	Prudential Financial Policy Department & Islamic Banking & Takaful Department	Guidelines on Introduction of New Products	Page 15/28
-----------------	---	--	------------

minimise the possibilities of the new product to be later nullified on Shariah grounds. In particular, financial institutions should ensure that:

- (i) appropriate processes have been established to ensure proper Shariah governance and compliance with all Shariah requirements as prescribed under the “Shariah Governance Framework for Islamic Financial Institutions”<sup>10</sup> issued by the Bank. Specifically, all product proposals should be endorsed and validated by **all members**<sup>11</sup> of the Shariah Committee, including the terms and conditions contained in proposal forms, offer letters, agreements and other legal documents used in the transaction. Similarly, all product manuals, advertisement or marketing materials, product illustrations and brochures used to describe the product shall be endorsed by the Shariah Committee;
- (ii) all Shariah issues are thoroughly researched prior to the deliberation of the Shariah Committee and certification by the Shariah Committee must be backed by the relevant *fiqh* literature, evidence and reasoning; and
- (iii) there is an effective process in place to monitor Shariah compliance of products on an ongoing basis. This includes ensuring that all operational decisions concerning the product are conducted in a Shariah-compliant manner, for instance, only accepting collaterals that are Shariah-compliant for Islamic financing products.

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<sup>10</sup> Financial institutions should note that a product which complies with Shariah Governance Framework for Islamic financial institutions may not necessarily qualify as an insured deposit under PIDM’s “Guidelines on the Criteria for Determining Insured Deposits”.

<sup>11</sup> All members of SC are required to assess and validate new product/ variation applications but approval by majority of SC members is deemed sufficient in complying with the condition.

BNM/RH/GL 008-3	Prudential Financial Policy Department & Islamic Banking & Takaful Department	Guidelines on Introduction of New Products	Page 16/28
-----------------	---	--	------------

## **7. Fair Treatment of Consumers**

- 7.1 Financial institutions are expected to give due regard to the interests of consumers in the development, marketing and sale of new products. The board should approve policies and procedures that describe the appropriate parameters and guidance for the fair treatment of consumers which should serve to avoid the potential for mis-selling, terms and conditions that are inherently unfair to consumers, and business practices that restrict the freedom of choice to consumers.
- 7.2 Policies and procedures regarding product offerings and sales activities should be aimed at mitigating reputational risk and safeguarding the financial institution from liability under applicable anti-fraud and fair practice laws and regulations. More specifically, the policies and procedures should ensure that:
- (i) an explicit consideration of consumer-related issues and implications is incorporated within the product development and authorisation stages;
  - (ii) customers are fully informed through appropriate disclosures of the key features, terms, conditions, relevant Shariah principles (where applicable) and risks associated with the product;
  - (iii) the product is appropriate for the target group of consumers taking into consideration their broad needs and risk appetite;
  - (iv) fees and charges imposed on the consumer are equitable and in the case of Islamic financial products, the basis for determining the fees complies with Shariah rulings;
  - (v) staff involved in sales are suitably trained in the products offered, in particular investment products, to properly advise consumers;

BNM/RH/GL 008-3	Prudential Financial Policy Department & Islamic Banking & Takaful Department	Guidelines on Introduction of New Products	Page 17/28
-----------------	---	--	------------

- (vi) compensation arrangements for sales staff do not induce an excessive bias towards high revenue-generating products that are likely to result in unsuitable product recommendations or sales to customers;
- (vii) customer information is adequately safeguarded; and
- (viii) an adequate and effective system for resolving and monitoring customer complaints is put in place, and customers are provided with information on where and how to lodge a complaint. Regular reports should be provided to senior management on trends in the volume and nature of complaints against the institution, and actions as well as the time taken to deal with complaints. The reports should provide a basis for senior management to assess the effectiveness of the complaints management process, and to identify areas in which interventions are required (e.g. products which need to be enhanced in terms of their features or disclosures or inappropriate selling practices). Such reports should be escalated to the board as appropriate, in the form and at frequencies determined by the board, to facilitate its effective oversight of the institution's product offering and customer relationships.

7.3 The policies and procedures should comply with relevant principles and guidance issued by the Bank as may be applicable. This includes, but is not limited to, principles concerning product transparency, proper advice, and fees and charges<sup>12</sup>. Financial institutions should also, where applicable, ensure that accurate representations and the timely

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<sup>12</sup> Including the guideline on the "Imposition of Fees and Charges on Banking Products and Services" (effective 1 September 2007 for banking institutions under BAFIA and IBA and 1 October 2007 for DFIs), "Credit Card Guidelines" (effective June 2004) and "Credit Card-i Guidelines" (effective 1 August 2004) or any subsequent updates on these guidelines that the Bank may issue from time to time.

BNM/RH/GL 008-3	Prudential Financial Policy Department & Islamic Banking & Takaful Department	Guidelines on Introduction of New Products	Page 18/28
-----------------	---	--	------------

dissemination of information concerning deposit insurance as required under relevant regulations issued by PIDM are adhered to.

### ***Customer suitability assessments***

7.4 Financial institutions that include investment products within the product range, in particular non-conventional and sophisticated investment products, should develop and implement internal customer suitability procedures aimed at ensuring that these products are only sold to suitable customers. Customer suitability procedures should be designed to seek sufficient knowledge about the customer to establish that:

- (i) the customer has a **practical** understanding of the features of the product and the investment risks assumed;
- (ii) the product would meet the customer's investment objectives and horizon; and
- (iii) the product is consistent with the customer's appetite for risk.

7.5 Components of effective customer suitability procedures include:

- (i) processes that clearly describe the types of consumers that a product would generally be suitable for;
- (ii) clear lines of authority for approving transactions with customers that do not meet generic customer suitability categorisations;
- (iii) sales personnel who are suitably trained to properly analyse customers' needs and risk appetites;
- (iv) effective supervision of personnel involved in sales; and
- (v) appropriate documentation and record keeping to facilitate reviews of compliance with approved procedures.

BNM/RH/GL 008-3	Prudential Financial Policy Department & Islamic Banking & Takaful Department	Guidelines on Introduction of New Products	Page 19/28
-----------------	---	--	------------

7.6 Financial institutions should not recommend products to customers unless the institution is reasonably satisfied that the product is suitable for the particular customer on the basis of information sought and obtained from the customer. Greater due diligence is expected for new and retail customers.

## **8. Supervisory Action**

8.1 It is the responsibility of the senior management to ensure that the conditions and requirements set out in these Guidelines are adhered to at all times, with effective oversight by the board. For this purpose, the Board is required to submit an annual attestation to the Bank by 30 June of each year that the conditions and requirements of the Guidelines have been met throughout the reporting period. In addition, upon request, financial institutions shall submit information on policies and procedures for managing product risk (including specific information on the institution's IT system) and ensuring the fair treatment of consumers to the Bank.

8.2 Financial institutions that fail to meet the conditions and requirements under these Guidelines, or to satisfactorily manage product risks and responsibilities to consumers, will be subject to appropriate supervisory action by the Bank, which can include:

- (i) subjecting any new products introduced by the institution to the prior review or specific approval of the Bank before the products may be offered;
- (ii) directing the institution to recall any product offered;
- (iii) directing the institution to compensate consumers that have suffered losses;

BNM/RH/GL 008-3	Prudential Financial Policy Department & Islamic Banking & Takaful Department	Guidelines on Introduction of New Products	Page 20/28
-----------------	---	---	---------------

- (iv) directing the institution to modify the terms and conditions of any products offered, including any excessive or unreasonable fees and charges imposed, based on a consideration of factors set out in part 7;
- (v) imposing additional capital charges to provide for additional risks that are not satisfactorily managed by the institution;  
and
- (vi) publishing details of corrective actions taken against the institution.

## PART C. APPENDICES

### Appendix 1: Prescribed/Approved Business of Banking Institutions

Commercial Banks	Investment/Merchant Banks	Islamic banks
<b>Prescribed Business</b>		<b>Approved Business</b>
<ul style="list-style-type: none"> <li>Receiving deposits on current account, deposit account, savings account or other similar account</li> </ul>	<ul style="list-style-type: none"> <li>Receiving deposits on deposit accounts</li> </ul>	<ul style="list-style-type: none"> <li>Any Islamic banking business that are approved under a license issued pursuant to the Islamic Banking Act 1983</li> </ul>
<ul style="list-style-type: none"> <li>Paying or collecting cheques drawn by or paid in by customers</li> </ul>	<ul style="list-style-type: none"> <li>Business of consultancy and advisory services relating to corporate and investment matters</li> </ul>	
<ul style="list-style-type: none"> <li>Leasing business</li> </ul>	<ul style="list-style-type: none"> <li>Provision of finance</li> </ul>	
<ul style="list-style-type: none"> <li>Business of hire purchase, including that which are subject to Hire Purchase Act 1967</li> </ul>	<ul style="list-style-type: none"> <li>Provision of financial guarantees to any persons</li> </ul>	
<ul style="list-style-type: none"> <li>Business of acquiring rights and interest in hire purchase, leasing or other similar transactions</li> </ul>	<ul style="list-style-type: none"> <li>Dealing in foreign currencies</li> </ul>	
<ul style="list-style-type: none"> <li>Provision of finance</li> </ul>	<ul style="list-style-type: none"> <li>Transacting in any form of derivatives subject to compliance with the Bank's guidelines</li> </ul>	
<ul style="list-style-type: none"> <li>Provision of financial guarantees to any persons</li> </ul>	<ul style="list-style-type: none"> <li>Business of making or managing investment on behalf of any person</li> </ul>	

<b>Commercial Banks</b>	<b>Investment/Merchant Banks</b>	<b>Islamic banks</b>
<b>Prescribed Business</b>		<b>Approved Business</b>
<ul style="list-style-type: none"> <li>• Dealing in foreign currencies and gold</li> </ul>	<ul style="list-style-type: none"> <li>• Dealing in securities</li> </ul>	
<ul style="list-style-type: none"> <li>• Transacting in any form of derivatives subject to compliance with the Bank's guidelines</li> </ul>	<ul style="list-style-type: none"> <li>• Future broking business</li> </ul>	
<ul style="list-style-type: none"> <li>• Money remittance services</li> </ul>	<ul style="list-style-type: none"> <li>• Fund management business</li> </ul>	
<ul style="list-style-type: none"> <li>• Agents for unit trust or property trust and insurance</li> </ul>	<ul style="list-style-type: none"> <li>• Unit trust schemes business</li> </ul>	
<ul style="list-style-type: none"> <li>• Issuers of credit card</li> </ul>		
<ul style="list-style-type: none"> <li>• Factoring business</li> </ul>		
<ul style="list-style-type: none"> <li>• Ancillary services arising from the provision of credit facilities such as will writing, wealth management and estate planning</li> </ul>		
<ul style="list-style-type: none"> <li>• Provision of safe deposit box facilities</li> </ul>		
<ul style="list-style-type: none"> <li>• Intermediation role e.g. payment intermediation</li> </ul>		

BNM/RH/GL 008-3	Prudential Financial Policy Department & Islamic Banking & Takaful Department	Guidelines on Introduction of New Products	Page 23/28
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## **Appendix 2: Additional Conditions and Requirements for Financial Institutions Offering Investments Linked-to-Derivatives<sup>13</sup> (ILD) and Islamic Investments Linked-to-Derivatives (IILD) Products**

### **1. Conditions for the Offering of ILD/IILD products**

- 1.1 Financial institutions must market and term all ILD/IILD products in the contract agreement as “investments” instead of “deposits” to reflect the yield enhancing nature of the product<sup>14</sup>. These products would, however, continue to be subjected to the statutory reserve requirements.
- 1.2 For leveraged ILD/IILD products containing multipliers, the product term sheet must contain cautionary statements that prominently highlight the multiplier elements, and clear illustrations of the multiplier effects on the risk/return components of the product, including illustrations of worst case scenarios. The multiplier effects and illustrations should be clearly explained to customers during the sales process.

### **2. Notification Requirements to BNM**

- 2.1 Financial institutions are also required to notify the Bank of any ILD/IILD products that have been submitted by the financial institutions but which have not been offered to investors within 6 months from the date of the submission to the Bank.

<sup>13</sup> An investments linked to derivative (ILD)/ Islamic investments linked to derivative (IILD) is a structured product with an embedded derivative (e.g. options). These embedded derivatives are normally linked to the performance of an underlying asset such as interest rates, equities, foreign currency rates, etc. An ILD/IILD may be principal-protected or non-principal protected. ILD/IILD products denominated in Ringgit and/or foreign currency may be linked to onshore and/or overseas rates, indices and asset prices.

<sup>14</sup> These products may nevertheless continue to qualify as an insured deposit as determined under relevant regulations on criteria for determining insured deposits issued by PIDM.

BNM/RH/GL 008-3	Prudential Financial Policy Department & Islamic Banking & Takaful Department	Guidelines on Introduction of New Products	Page 24/28
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### **Appendix 3: Additional Conditions and Requirements for Financial Institutions Offering Negotiable Instruments of Deposit (NID)/Islamic Negotiable Instruments (INI)**

1. Financial institutions must ensure that all NID/INI issued comply with the following conditions, in which no deviations are allowed:-
  - (i) issue size shall be more than RM60,000, or its equivalent amount if the NID/INI is denominated in foreign currency;
  - (ii) the investment's principal is protected if held to maturity for NID and for INI that are based on sale contract;
  - (iii) all floating rate NID/INI must be linked to an underlying asset(s) or index (indices);
  - (iv) underlying asset(s) used for sale and purchase of INI based on sale contract must be permissible according to the Shariah principle. The underlying asset(s) must be identifiable asset(s) owned by issuer and used for a single transaction at any particular time; and
  - (v) all NID/INI structures shall enable it to be tradable in the secondary market.
2. Financial institutions must ensure that NID/INI products with investment tenure exceeding 5 years comply with relevant regulatory requirements issued by the Securities Commission.
3. For greater clarity, financial institutions may refer to the Explanatory Notes on NID which serves as a general guide and reference for the financial institutions on the issuance, trading and general procedures for NID and INI in the Malaysian market.

BNM/RH/GL 008-3	Prudential Financial Policy Department & Islamic Banking & Takaful Department	Guidelines on Introduction of New Products	Page 25/28
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#### **Appendix 4: Information Requirements for New Products**

1. A detailed product description, including its features, structure, target market or customers, and distribution channel. Financial institutions should also include product illustrations where appropriate.
2. Sample product term sheet.
3. Details of any arrangements (including distribution arrangements) with other parties/strategic alliances (if any) in offering the new product, including information about the strategic partner, associated risks and actions taken to minimise or mitigate the identified risks.
4. Description of the product's key inherent risks from both the financial institution and consumers' perspectives and the systems and/or processes in place to manage the risks.
5. For new products that involve enhancements to the internet or wireless or other forms of electronic banking platforms, financial institutions must also submit the following:
  - (i) an assessment of the IT-related risks<sup>15</sup> and measures put in place to mitigate the risks;
  - (ii) detailed description on application security and application architecture diagram;
  - (iii) detailed IT and network security infrastructure arrangements; and
  - (iv) detailed network diagram (where applicable) depicting external linkages and control checkpoint.

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<sup>15</sup> Examples of IT-related risks include (but not limited to) strategic, compliance, system support, operational, security, business resumption and reputation.

BNM/RH/GL 008-3	Prudential Financial Policy Department & Islamic Banking & Takaful Department	Guidelines on Introduction of New Products	Page 26/28
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6. Information Submission Checklist for Revision or Introduction of Fees and Charges, as required under the Bank's circular on "Imposition of Fees and Charges on Banking Products and Services" effective 1 September 2007 or any subsequent updates on the guidelines which may be issued by the Bank from time to time.
7. For Shariah-compliant products<sup>16</sup>, in addition to the information required under items (1) to (6), financial institutions shall also submit the following information requirements;
- (i) Product description, including name and features;
  - (ii) Product structure, including transaction flows;
  - (iii) Types of Shariah contract used;
  - (iv) Relevant SAC resolution that approved the product structure or the variation of existing product;
  - (v) Verification by all Shariah Committee members that the product structure or variation does not attract any Shariah issue that has not been deliberated by SAC. The statement should be signed off by the Chairman of the Shariah committee and the signatory is responsible in ensuring that financial institutions comply with Shariah requirements, particularly concerning SAC resolution. In addition, it should include any dissenting views from any member of the Shariah Committee and the deliberation and rationale that support such view.

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<sup>16</sup> The above submission format is applicable to Shariah-compliant product application that have been approved by SAC.

BNM/RH/GL 008-3	Prudential Financial Policy Department & Islamic Banking & Takaful Department	Guidelines on Introduction of New Products	Page 27/28
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## Appendix 5: Format of Shariah Research Paper

Institusi:

Nama Produk/ Isu:

1. Tujuan Produk Diperkenalkan/ Isu Dibangkitkan
2. Latar Belakang Produk/ Isu
3. Huraian Struktur Produk/ Isu (sertakan gambarajah jika ada)
4. Prinsip/ Konsep/ Jenis Akad Syariah yang diguna pakai
  - 4.1 Nama prinsip/ konsep/ akad
  - 4.2 Definisi\*
  - 4.3 Pandangan ulama berhubung prinsip yang dicadangkan\*
5. Aplikasi Prinsip/ Konsep/ Jenis Akad Syariah\*
  - 5.4 Nyatakan isu-isu Syariah yang timbul daripada struktur yang dicadangkan
  - 5.5 Bahaskan isu-isu tersebut berdasarkan takyif fiqhi (penyesuaian fikah) yang jelas\*
  - 5.6 Nyatakan fatwa semasa mengenainya atau/ dan mana-mana piawaian (standard) Syariah yang muktabar (jika ada)
6. Lampiran
  - 6.7 Surat pengesahan yang ditandatangani oleh pengerusi jawatankuasa penasihat Syariah (termasuk pandangan yang berbeza oleh mana-mana penasihat Syariah bersama hujah-hujah dan rasional yang menyokong pendapat tersebut)
  - 6.8 Dokumen-dokumen yang relevan bagi membantu penghuraian konsep dan struktur produk atau isu yang dibangkitkan

\* Sila nyatakan sumber rujukan Syariah

## Appendix 6: Products and Services Covered under Specific Guidelines Issued by Bank Negara Malaysia

Instrument/Mechanism	Applicable Circular	Effective Date <sup>17</sup>
<ul style="list-style-type: none"> <li>Bankers acceptances</li> </ul>	Guidelines on Bankers Acceptances  Guidelines on Accepted Bills-i	1 April 2004  15 February 2003
<ul style="list-style-type: none"> <li>Repurchase transactions</li> </ul>	Guidance Notes on Repurchase Agreement Transactions  Sell and Buy Back Agreement Transactions	July 2006  15 August 2002
<ul style="list-style-type: none"> <li>Securities borrowing and lending programs under RENTAS</li> </ul>	Guidelines on Securities Borrowing and Lending (SBL) Programme under RENTAS	10 December 2001
<ul style="list-style-type: none"> <li>Asset-backed securities</li> </ul>	Prudential Standards on Asset-Backed Securitisation	10 March 2003

<sup>17</sup> Financial institutions should also refer to any subsequent updates on these guidelines which the Bank may issue from time to time.