

# ASEAN+3 BOND MARKET GUIDE 2016 MALAYSIA

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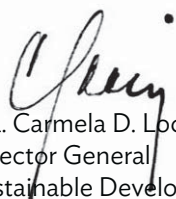
# Foreword

The Asian Development Bank (ADB) is working closely with the Association of Southeast Asian Nations (ASEAN) and the People's Republic of China (PRC), Japan, and the Republic of Korea—collectively known as ASEAN+3—to develop local currency bond markets and facilitate regional bond market integration under the Asian Bond Markets Initiative in order to strengthen the resilience of the region's financial systems.

Thanks to the efforts of member governments, local currency bond markets in the region have grown rapidly, with the total outstanding amount of bonds reaching more than USD8 trillion in 2015. However, financial markets are still relatively less integrated than the region's trade linkages and supply chain networks. If efforts toward harmonization and integration were to succeed, financial markets in ASEAN+3 would benefit from much larger economies of scale and increased efficiencies, while vast savings could be utilized for the region's enormous investment needs. Therefore, the strengthening of bond markets should be pursued in line with a common understanding of what needs to be harmonized and integrated from the early stages of market development.

The ASEAN+3 Bond Market Forum (ABMF) was established with the endorsement of the ASEAN+3 Finance Ministers in 2010 as a common platform to foster standardization of market practices and harmonization of regulations relating to cross-border bond transactions in the region. As an initial step, ABMF published the ASEAN+3 Bond Market Guide in 2012, which was welcomed as the first official information source offering a comprehensive explanation of the region's bond markets.

Since publication of the ASEAN+3 Bond Market Guide, bond markets in the region have continued to develop. ABMF recognizes the need for revisions to the guide to reflect these changes, even though it is never an easy task to keep up with rapid changes in the markets. This report is an outcome of the strong support and kind contributions of ABMF members and experts, particularly from Malaysia. The report should be recognized as a collective good to support bond market development among ASEAN+3 members. It is our hope that the revised ASEAN+3 Bond Market Guide will facilitate further development of the region's bond markets and contribute to increased intraregional bond transactions.



Ma. Carmela D. Locsin  
Director General  
Sustainable Development and Climate Change Department (SDCC)

# Acknowledgments

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The Malaysia Bond Market Guide was first published in 2012 as the initial output of Phase 1 of the ASEAN+3 Bond Market Forum (ABMF).<sup>1</sup> Across the region, domestic bond markets, including the Malaysian bond market, have experienced tremendous development over the past 4 years. Now in Phase 3, ABMF would like to share, in the public domain, information on these developments by publishing an update to the Malaysia Bond Market Guide.

The ABMF Sub-Forum 1 team—comprising Satoru Yamadera (principal financial sector specialist, Asian Development Bank, Sustainable Development and Climate Change Department) and Asian Development Bank consultants Shigehito Inukai and Matthias Schmidt—would like to stress the significance and magnitude of the contributions made by ABMF national members and national experts for Malaysia, including Bank Negara Malaysia, Bond Pricing Agency Malaysia, Bursa Malaysia and its subsidiaries, and the Securities Commission Malaysia. These policy bodies, regulatory authorities, and market institutions generously gave their time for market visit meetings, discussions, and follow-up. They have also reviewed and provided inputs on the draft Malaysia Bond Market Guide over the course of ABMF Phase 3.

The ABMF team would like to express its thanks to CIMB Bank, which contributed significantly to the research and discussions on Malaysian bond market developments, as well as to efforts toward implementing the ASEAN+3 Multi-Currency Bond Issuance Framework in the Malaysian bond market. Thanks also go to law firm Rahmat Lim & Partners and RAM Holdings Berhad for being generous with their time and offering their perspectives on the Malaysian bond market.

The ABMF team would like to acknowledge that the Malaysia Bond Market Guide is also the result of consultations with ABMF international experts who contributed their time and resources, and offered access to their networks in support of the market visits and related discussions.

No part of this report represents the official views or opinions of any institution that participated in this activity as an ABMF member or expert. The ABMF Sub-Forum 1 team bears sole responsibility for the contents of this report.

August 2016

ASEAN+3 Bond Market Forum

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<sup>1</sup> ASEAN+3 refers to the 10 members of the Association of Southeast Asian Nations (ASEAN) plus the People's Republic of China, Japan, and the Republic of Korea.



# Abbreviations

ABMF	ASEAN+3 Bond Market Forum ( <a href="http://asean3abmf.adb.org">asean3abmf.adb.org</a> )	GMRA	Global Master Repurchase Agreement ( <a href="http://www.icmagroup.org/">www.icmagroup.org/</a> )
ACMF	ASEAN Capital Market Forum ( <a href="http://www.theacmf.org">www.theacmf.org</a> )	GST	goods and services tax
ADB	Asian Development Bank ( <a href="http://www.adb.org">http://www.adb.org</a> )	IFRS	International Financial Reporting Standards ( <a href="http://www.ifrs.org">http://www.ifrs.org</a> )
ADI	Authorised Depository Institution	iMTN	Islamic Medium-Term Note
AMBIF	ASEAN+3 Multi-Currency Bond Issuance Framework	IOSCO	International Organization of Securities Commissions ( <a href="http://www.iosco.org/about">www.iosco.org/about</a> )
ASEAN+3	Association of Southeast Asian Nations plus the People's Republic of China, Japan, and Republic of Korea	ISCAP	Institutional Securities Custodian Programme
BMD	Bursa Malaysia Depository Sdn. Bhd. ( <a href="http://www.bursamalaysia.com">www.bursamalaysia.com</a> )	KLIBOR	Kuala Lumpur Interbank Offered Rate (benchmark interest rate)
BMS	Bursa Malaysia Securities Sdn. Bhd. ( <a href="http://www.bursamalaysia.com">www.bursamalaysia.com</a> )	LCY	local currency
BNM	Bank Negara Malaysia ( <a href="http://www.bnm.gov.my">www.bnm.gov.my</a> )	MARC	Malaysian Rating Corporation Bhd. ( <a href="http://www.marc.com.my">www.marc.com.my</a> )
BNMNs	Bank Negara Monetary Notes	MGII	Malaysian Government Investment Issues
BNMNF	Floating-Rate Bank Negara Monetary Notes	MGS	Malaysian Government Securities
BNMNs-i	Islamic Bank Negara Monetary Notes	MITB	Malaysian Islamic Treasury Bills
BNNN	Bank Negara Negotiable Notes	MSS	Millennium Surveillance™ System (surveillance system used by BMS)
CMP2	Capital Market Masterplan II, 2011–2020	MTB	Malaysian Treasury Bills
CMSA	Capital Markets and Services Act	MTN	medium-term note
CMSL	Capital Markets Services License	MYR	Malaysian ringgit (ISO code)
CRA	credit rating agency	OTC	over-the-counter
DTAA	double taxation avoidance agreement	PTC	principal terms and conditions (of a bond issue)
ETBS	Exchange-Traded Bonds and Sukuk	RENTAS	Real-Time Electronic Transfer of Funds and Securities System
ETP	Electronic Trading Platform (in context of debt securities and <i>sukuk</i> trading and reporting)	SAC	Shariah Advisory Council
FAST	Fully Automated System for Issuing/Tendering	SC	Securities Commission Malaysia ( <a href="http://www.sc.com.my">http://www.sc.com.my</a> )
FCY	foreign currency	SF1	Sub-Forum 1 of ASEAN+3 Bond Market Forum (ABMF)
FEA	Foreign Exchange Administration (rules governing foreign exchange and swap transactions)	SRO	self-regulatory organization
FMA	Financial Markets Association of Malaysia (Persatuan Pasaran Kewangan Malaysia)	SBNMI	Sukuk Bank Negara Malaysia Ijarah
		USD	United States dollar (ISO code)
		USD1 = MYR4.292 as of 31 December 2015 (KL Interbank Middle Rate on Bank Negara Malaysia website)	

# Overview

## A. Introduction

The Malaysian bond market is one of the most developed and dynamic bond markets in the region. It is the largest local currency (LCY) bond market in the Association of Southeast Asian Nations (ASEAN).

**Figure 1.1: Local Currency Bond Issuance in Malaysia, 2015—Conventional versus Sukuk**  
(MYR billion)

Issuer	Conventional	Sukuk	Total
Government	58	49	107
Corporate	64	65	129
Total	122	114	236

Source: Bond Pricing Agency Malaysia.

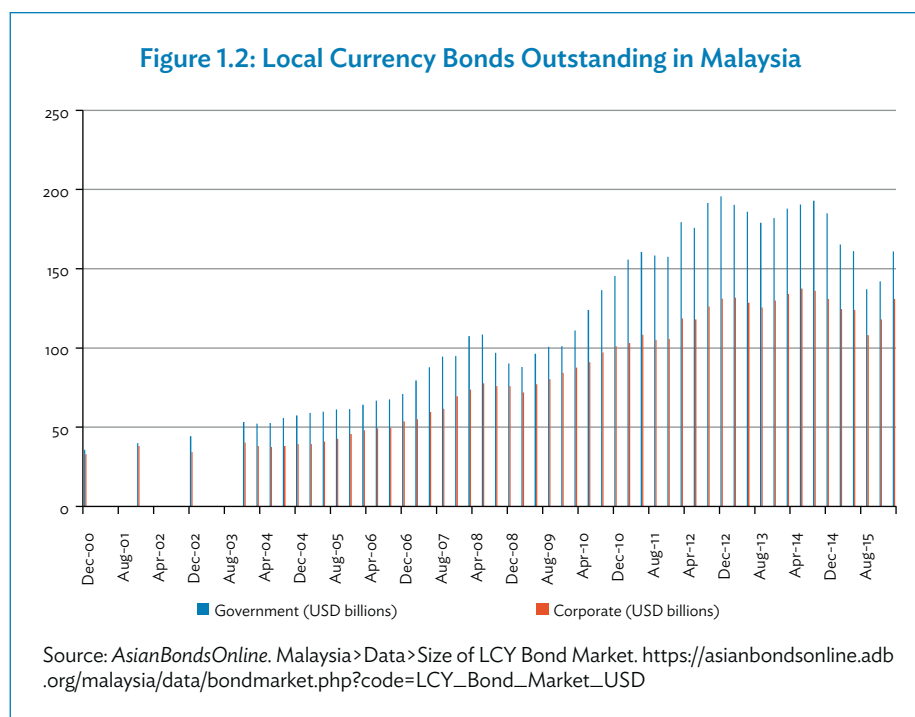
*Sukuk* (Islamic bonds and notes) continued to represent a substantial portion of both government and corporate new issuance, totaling MYR114 billion, or 48% of all new issuance, in 2015. In fact, Malaysia is the global leader in the *sukuk* market, accounting for 66% of global *sukuk* issuance and 57% of global *sukuk* outstanding in 2014.

Figure 1.1 breaks down the total issuance across all market segments and instrument types.

According to data published on *AsianBondsOnline*, total LCY bonds outstanding in Malaysia barely moved in the third quarter of 2015 compared with the previous quarter, standing at MYR1,076 billion at the end of September. In contrast, the fourth quarter of 2015 saw a significant increase in issuance, with more than half occurring in the last month of the year, leading to LCY bonds outstanding of MYR1,127 billion at end-December. Overall, 2015 saw less new issuance than in 2014 as the volatile generic yield environment coupled with weak sentiment in the LCY bond market deterred bond investors and issuers. The primary market for PDS also registered a slowdown in new issuance size in 2015 at MYR72 billion compared with MYR78 billion in the previous year.

*Sukuk* continued to comprise the majority of the LCY bond market with a share of 54% of total bonds outstanding at the end of December 2015.

The development of a vibrant bond market in Malaysia was supported by a facilitative regulatory framework that streamlined the bond, note, and *sukuk* issuance process with the introduction of disclosure-based guidelines for PDS, asset-backed securities, structured products, and *sukuk*. At the same time, the issuance of bonds, notes, and *sukuk* to retail



investors was redefined through specific guidelines. Enhancements to the issuance and rating processes, greater price transparency and an improved discovery process, and a transparent foreign exchange administration framework have attracted a wide range of issuers, including multilateral development banks, foreign multinational corporations, and foreign governments and agencies.

The phenomenal development of the Malaysian bond market over the last decade has largely been driven by the exceptional growth of the corporate bond, note, and *sukuk* markets. There have also been sizable increases in the types and amounts of government securities. Malaysia's well-developed government bond market is complemented by a large corporate bond market, which constituted about 45% of the total bond market at the end of December 2015 (Figure 1.2). The Malaysian bond market is predominantly populated by Sophisticated Investors.<sup>1</sup> Please refer to Chapter II for a comprehensive review of the regulatory framework of the Malaysian bond market.

The Malaysian bond market offers a wide range of instruments and, as mentioned above, it includes the largest *sukuk* market in the world. *Sukuk* have played a major role in Malaysia's capital market development. With the *sukuk* market providing the springboard, the past decade has also witnessed the rapid growth of Malaysia's Islamic capital market. Details on the *sukuk* market are provided in Chapter VIII.

<sup>1</sup> The term "Sophisticated Investor" is referenced in the Guidelines on Unlisted Capital Market Products under the Lodge and Launch Framework, which defines a Sophisticated Investor as "any person who falls within any of the categories of investors set out in Part 1 of Schedules 6 and 7 of the Capital Markets and Services Act, 2007."

A testament to the significance of the Malaysian fixed-income market in the global bond market is its inclusion in a number of global indexes, such as the inclusion of Malaysian Government Securities (MGS) in the World Government Bond Index, which is one of the most referenced benchmark market indexes among the international investing community, as well as in the Barclays Global Aggregate Index, JP Morgan Emerging Market Bond Index, and Market iBoxx Index. Malaysian government *sukuk*, better known as Malaysian Government Investment Issues (MGII), are included in the Dow Jones Citigroup Sukuk Index, the world's first *sukuk* index, as well as in Barclays' Global Aggregate and Asia-Pacific Aggregate Indexes and the Market iBoxx Index.

Malaysia has allowed a diverse group of foreign entities to issue and invest in MYR-denominated bonds, notes, and *sukuk* in the country. At the end of December 2015, about 30% of Malaysian government bonds outstanding were held by foreign investors, compared with about 25% at the end of September 2011 and about 18% at the end of June 2010.<sup>2</sup> Inclusion in global indexes is important as this provides formal international recognition of MYR-denominated *sukuk* and drives international participation as fund managers globally are required to assess MGII for the purposes of performance measurement. At the end of April 2015, foreign holdings of MGII had increased 140.0% year-on-year to MYR10.7 billion.

Bond, note, and *sukuk* trading is conducted either over-the-counter (OTC) or on Bursa Malaysia Securities (BMS), and reported via the Electronic Trading Platform (ETP), which is operated by BMS. All trades, including OTC transactions, are reported via ETP within 10 minutes of execution and distributed to the market at large for information and transparency. Significant data on the bond market are also available to market participants through the websites of regulatory authorities and market institutions.

Secondary market regulations are gradually being eased, while measures introduced in response to the 1997/98 Asian financial crisis have long been repealed. Rules on hedging have been liberalized to allow residents and nonresidents to make hedging arrangements with licensed onshore banks. Credit rating requirements are being reviewed in order to remove the need for the mandatory rating of corporate bonds and *sukuk*. The removal of the credit rating requirement will take effect 1 January 2017. At the same time, the Securities Commission Malaysia (SC) has introduced a Lodge and Launch Framework for the issuance of debt instruments and *sukuk* to Sophisticated Investors, which will exist side by side with the more stringent requirements and approvals for issuances targeting retail investors. The new regulations are reviewed in detail in Chapter II.F.

This regulatory environment is also conducive to the implementation of the proposed ASEAN+3 Multi-Currency Bond Issuance Framework (AMBIF) developed by the ASEAN+3 Bond Market Forum (ABMF) under the guidance of the Asian Development Bank (ADB). The key features of the Malaysian market are further enhanced by the acceptance of governing law other than Malaysian law for professional issuances, and by documentation and disclosure standards that are closer to international market norms. Further details on AMBIF can be found in Chapters IX and X.

<sup>2</sup> Data and information used in this section adapted by ADB Consultants for SF1 from *AsianBondsOnline*. Malaysia > Market Summary. [https://asianbondsonline.adb.org/malaysia/market\\_summary.php](https://asianbondsonline.adb.org/malaysia/market_summary.php)

## **B. Capital Market Masterplan II, 2011–2020**

Efforts under the Capital Market Masterplan II (CMP2), which details plans for the development of the Malaysian capital market from 2011 until 2020, continue to shape and improve the Malaysian bond market. CMP2 efforts are ongoing and set to continue for several more years. Detailed information can be found in Chapter X.B.

## **C. Regional Cooperation**

The Malaysian domestic bond market has also benefited from regional cooperation in East Asia. Local and cross-border impediments have been addressed through the sharing of experiences and technical expertise, as each country strives to add depth and breadth to its own domestic market. Three regional forums have been at the forefront of financial sector development in the region: ASEAN+3, Asia-Pacific Economic Cooperation, and the Executives' Meeting of East Asia-Pacific Central Banks. These three forums have each been focusing on different aspects of the development of domestic bond markets.

In recent years, Malaysia's contributions to regional cooperation have included efforts toward the ASEAN Common Prospectus and ASEAN Disclosure Standards Scheme, both initiatives under the ASEAN Capital Market Forum (ACMF). For more recent initiatives and developments with relevance for the Malaysian bond market, please refer to Chapters IX and X.

Specific information on bond market developments in Malaysia can also be found on the Bond Info Hub website and the SC's website.<sup>3</sup>

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<sup>3</sup> Bank Negara Malaysia. <http://www.bondinfo.bnm.gov.my/portal/server.pt>; Securities Commission Malaysia. <http://www.sc.com.my/bond-market-development-in-malaysia/>



# Legal and Regulatory Framework

## A. Legal Tradition

Malaysia follows the common law legal system, which is guided by the Constitution of Malaysia and expressed through laws referred to as acts. The Malaysian legal system was developed from English law, but has developed its own character since independence.

The application of English law, as may be applicable, is specified in the statutes, including in such cases where English law will prevail if no other law has been specified.

## B. English Translation

Bahasa Malaysia is the official language of Malaysia. While all legislation is issued in Bahasa Malaysia, the majority of the laws, regulations, and notices in Malaysia are also published in English. In many instances, the English text is used in Malaysian courts.

In the event of a dispute or where there is a question of interpretation, by virtue of the Interpretation Acts, 1948 and 1967 (Act 388), the Bahasa Malaysia text shall prevail.

## C. Legislative Structure

Like most countries, Malaysia features a multitiered legislative structure to govern the financial and capital markets, guided by the Constitution of Malaysia.

[1st tier] Constitution of Malaysia

[2nd tier] Acts (key legislation for the securities market)

[3rd tier] Regulations (regulatory authority guidelines)

[4th tier] Guidelines and practice notes (issued by the regulatory authorities)

[5th tier] Rules (issued by market institutions)

Table 2.1 illustrates the legislative structure outlined above by giving examples of relevant securities market legislation for each of the individual tiers.

Table 2.1: Examples of Securities Market Legislation by Legislative Tier

Legislative Tier	Content or Significant Examples
Constitution of Malaysia	Principles, rights, and obligations
Acts (key legislation)	<ul style="list-style-type: none"> <li>• Capital Markets and Services Act, 2007</li> <li>• Securities Commission Malaysia Act, 1993</li> <li>• Securities Industry (Central Depositories) Act, 1991</li> <li>• Financial Services Act, 2013</li> <li>• Islamic Financial Services Act, 2013</li> <li>• Central Bank of Malaysia Act, 2009</li> </ul>
Regulations	<ul style="list-style-type: none"> <li>• Guidelines on Unlisted Capital Market Products under the Lodge and Launch Framework, 2015</li> <li>• Guidelines on Issuance of PDS and Sukuk to Retail Investors, 2015</li> <li>• Prospectus Guidelines, 2012</li> <li>• Guidelines on Registration of Credit Rating Agencies, 2011</li> <li>• Guidelines on Trust Deeds, 2011</li> <li>• Guidelines on Registration of Bond Pricing Agencies, 2006</li> <li>• Notices on Foreign Exchange Administration (FEA) Rules, 2013</li> </ul>
Guidelines and practice notes	<ul style="list-style-type: none"> <li>• Joint Information Note on the Issuance and Subscription of Ringgit- and Foreign Currency-Denominated Sukuk and Bonds in Malaysia, 2013</li> <li>• Practice Note on Registration by the Securities Commission for the Purpose of Acting as a Bond Trustee, 2006</li> <li>• Regulated Short-Selling of Securities in the Wholesale Money Market, 2014</li> </ul>
Rules	<ul style="list-style-type: none"> <li>• Central Securities Depository and Paying Agency Rules, 2015</li> <li>• Bursa Malaysia Listing Requirements</li> <li>• The Rules of Bursa Malaysia Securities</li> <li>• Operational Procedures for Foreign Currency Settlement in RENTAS, 2015</li> </ul>

PDS = private debt securities, RENTAS = Real-Time Electronic Transfer of Funds and Securities System.  
Source: Compiled by ADB Consultants for SF1 and based on publicly available information.

Key legislation is the summary term for laws aimed at a particular market, such as the securities market or capital market. These laws, referred to as acts in Malaysia, establish and govern securities markets or market segments, including the bond market, and related institutions and participants. Acts are enacted by Parliament and take effect upon publication in the government's Gazette. The Capital Markets and Services Act, 2007; Securities Commission Malaysia Act, 1993; and Central Bank of Malaysia Act, 2009 represent key legislation for the Malaysian bond market.

Regulations are issued by the regulatory authorities charged with the overall supervision and governance of the securities and capital markets. Regulations interpret aspects from key legislation and elaborate on the roles and responsibilities of market institutions and their participants.

Guidelines and practice notes are issued by the regulatory authorities of the financial and securities market—BNM and the SC, respectively—for the activities and market participants under their respective purview. Notes are also issued by market institutions under the purview of BNM. These directives and other statements contain descriptions on how regulations should be applied and specific market activities carried out.

Rules are issued by market institutions—including BMS, Bursa Malaysia Depository (BMD), and MyClear—to govern markets and the operations of their members or participants, and to establish market procedures. The Listing Requirements and BM Trading Rules, as well as Operational Procedures for RENTAS, are key examples.

In recent years, both BNM and the SC have adopted a functional regulations approach to capital markets, rather than creating and maintaining an institutional regulatory framework. This is particularly obvious in the changes to the SC Guidelines.

## D. Malaysian Bond and *Sukuk* Market Regulatory Structure

Generally, Malaysia's capital market is governed by the rules and regulations issued and enforced by the SC, as well as by Bursa Malaysia and its subsidiaries.

The Malaysian debt securities and *sukuk* market, however, is supervised by the SC and BNM. Both regulators play a dual role of supervising market intermediaries and the activities in the market, as well as actively supporting and developing the market infrastructure and fostering a conducive environment. As a result of the coordinated and committed efforts of the SC and BNM, the Malaysian debt securities and *sukuk* market has achieved substantial growth over the years.

BNM and the SC entered into a memorandum of understanding, which established a framework of cooperation between the two agencies for the performance of their regulatory responsibilities. The memorandum spells out mechanisms to facilitate cooperation and information exchanges to attain the common objectives of both agencies.<sup>4</sup>

### 1. Bank Negara Malaysia

BNM is the central bank of Malaysia. It was established on 26 January 1959 under the Central Bank of Malaysia Act, 1958, with its objectives extended under the revised Central Bank of Malaysia Act, 2009:

- (a) The principal objective of [BNM] is to promote monetary stability and financial stability conducive to the sustainable growth of the Malaysian economy.
- (b) The primary functions of [BNM] are as follows:
  - (i) formulate and implement monetary policy in Malaysia;
  - (ii) issue currency in Malaysia;
  - (iii) regulate and supervise financial institutions, which are subject to the laws enforced by [BNM];
  - (iv) provide oversight over money and foreign exchange markets;
  - (v) exercise oversight over payment systems;

<sup>4</sup> Adapted with minor edits from Executives' Meeting of East Asia and Pacific Central Banks Report on Payment, Clearing, and Settlement Systems in Malaysia, 2012.

- (vi) promote a sound, progressive, and inclusive financial system;
- (vii) hold and manage the foreign reserves of Malaysia;
- (viii) promote an exchange rate regime consistent with the fundamentals of the economy; and
- (ix) act as financial adviser, banker, and financial agent of the government.
- (c) [BNM] shall have all the powers necessary, incidental, or ancillary to give effect to its objects and carry out its functions.
- (d) [BNM], in giving effect to its objects and carrying out its functions under this [act], shall have regard to the national interest.

BNM focuses on the three pillars of central banking: monetary stability, financial stability, and the payment system. In addition, emphasis is given to the developmental role of BNM with respect to economic management, institution building, and the strengthening of the financial system.

BNM is a statutory body wholly owned by the Government of Malaysia. It reports to the Minister of Finance, Malaysia on matters pertaining to monetary and financial sector policies.

#### *(a) Bank Negara Malaysia as a Regulator*

To enable BNM to meet its objectives, it has been vested with comprehensive legal powers under various acts to regulate and supervise the financial system. These acts include the Central Bank of Malaysia Act, 2009; Financial Services Act, 2013; Islamic Financial Services Act, 2013; and Development Financial Institutions Act, 2002. Collectively, these acts lay the legal foundation to empower the central bank to license and regulate conventional and Islamic banks and investment banks, money brokers, insurance companies, *takaful* (mutual support insurance) operators, and development financial institutions, which constitute the majority of participants in the domestic debt securities and *sukuk* market.

BNM also oversees the key market infrastructure for the Malaysian bond market: the Fully Automated System for Issuing/Tendering (FAST);<sup>5</sup> and the Real-Time Electronic Transfer of Funds and Securities System (RENTAS), which is operated by a wholly owned subsidiary, Malaysia Electronic Clearing Corporation (MyClear).<sup>6</sup> FAST and RENTAS Rules are issued by MyClear under the authority delegated by BNM.

A list of Guidance Notes and Rules issued by BNM and MyClear in relation to the bond market can be found in Appendix 2.<sup>7</sup>

BNM continues to play a pivotal role in supporting the local debt securities and *sukuk* markets through its involvement in infrastructure development and in facilitating foreign exchange administration rules for local and foreign issuers and investors in the Malaysian market.

#### *(b) Bank Negara Malaysia as Issuing Agent of Government Securities*

As the banker of, and advisor to, the government, BNM's role includes managing the liabilities of the government, both in Malaysia and abroad. It advises the government on its loan

<sup>5</sup> See <https://fast.bnm.gov.my/fastweb/public/MainPage.do>

<sup>6</sup> See <http://www.myclear.org.my>

<sup>7</sup> A review in March 2016 showed that the most recent update to this list was made in May 2015.

programs, including planning the auction calendar for government securities, taking into consideration the terms and timing of the loans and the types of securities. BNM participates actively in the monthly Cash Flow Committee meeting, chaired by the Treasury, to discuss the final details of government securities issuances. In addition, BNM is responsible for the issuance process, registration, settlement, and redemption of government securities through its in-house automated issuing–tendering and settlement platforms.

BNM is empowered by several laws to act as the issuing agent on behalf of the Government of Malaysia. Conventional debt instruments such as MGS and Malaysian Treasury Bills (MTB) are issued under the Loan (Local) Act, 1959 (revised in 2004) and the Treasury Bills (Local) Act, 1946 (revised in 1977), respectively. On the other hand, Islamic securities such as MGII and Malaysian Islamic Treasury Bills (MITB) are issued under the Government Funding Act, 1983 (previously known as the Government Investment Act, 1983). Each act sets a different issuance limit for conventional and Islamic instruments, by order of the *Yang di-Pertuan Agong* (constitutional monarch of Malaysia) as published in the Gazette.

The Treasury Bills (Local) Act, 1946 empowers the Minister of Finance to borrow money through the issuance of MTB, while the Loan (Local) Act, 1959 authorizes BNM to raise funds within Malaysia, on behalf of the minister, for the development fund. The Government Funding Act, 1983 provides for raising funds by the Government of Malaysia using instruments that adhere to Shariah principles, as approved by the National Shariah Advisory Council. This act grants the minister the authority to receive investments, by creating and issuing instruments evidencing such investment, on behalf of the Government of Malaysia.

### *(c) Bank Negara Malaysia as Financial Market Participant*

In promoting monetary stability, BNM pursues a monetary policy that serves the interests of Malaysia with the primary objective of maintaining price stability while giving due regard to developments in the economy. As part of its monetary policy operations, BNM may undertake other financial transactions involving currencies, securities, precious metals, or other commodities or financial instruments as approved by the Monetary Policy Committee.

Since 2005, BNM has been allowed to purchase MGS from the primary and secondary markets based on market prices, and to use the purchased securities for its open market operations.

To ensure that these purchases do not unduly influence or distort market prices, BNM's participation in the primary auction is based on the weighted average price of the auction and is limited to a maximum of 10% of the issue size. Similarly, the amount purchased in the secondary market is limited to 10% of the outstanding issued amount. At the end of December 2015, BNM held 0.32% of total MGS outstanding.<sup>8</sup>

BNM is the issuer of BNM Monetary Notes, which are issued to manage liquidity in both the conventional and Islamic financial markets. BNM also conducts repurchase auctions as part of its open market operations.

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<sup>8</sup> For the latest available information, please refer to the BNM Monthly Statistical Bulletin. [http://www.bnm.gov.my/index.php?ch=en\\_publication\\_catalogue&pg=en\\_publication\\_msb&eld=box1&mth=12&yr=2015&lang=en](http://www.bnm.gov.my/index.php?ch=en_publication_catalogue&pg=en_publication_msb&eld=box1&mth=12&yr=2015&lang=en)



#### *(d) Bank Negara Malaysia's Role for Financial Market Development*

BNM also plays a significant developmental role, including the evolution of the domestic financial system's infrastructure with major emphasis placed on building the efficient and secured payment systems as well as the institutions needed to build a comprehensive, robust, and resilient financial system including the SC, BMS (formerly the Kuala Lumpur Stock Exchange), and the Credit Guarantee Corporation.

### **2. Securities Commission Malaysia**

The SC is the primary authority with respect to the regulations and activities of the Malaysian capital market.

The SC was established on 1 March 1993 under the Securities Commission Malaysia Act, 1993 to promote and maintain fair, efficient, secure, and transparent securities and derivatives markets; and to facilitate the orderly development of an innovative and competitive capital market. It is a self-funding statutory body with investigative and enforcement powers. It reports to the Minister of Finance and its accounts are tabled in Parliament annually. The SC's many regulatory functions include

- (i) supervising exchanges, clearinghouses, and central depositories;
- (ii) acting as the registering authority for prospectuses of corporation other than unlisted recreational clubs;
- (iii) acting as the approving authority for corporate bond issues;
- (iv) regulating all matters relating to securities and derivatives contracts;
- (v) regulating the takeover and mergers of companies;
- (vi) regulating all matters relating to unit trust schemes;
- (vii) licensing and supervising all licensed persons;
- (viii) encouraging self-regulation; and
- (ix) ensuring the proper conduct of market institutions and licensed persons.

The SC administers the CMSA and the Securities Industry (Central Depositories) Act, 1991. Collectively, these acts govern a substantial part of the activities in the domestic bond market. It also has the ultimate responsibility of investor protection. Apart from discharging its regulatory functions, the SC is also obliged by statute to encourage and promote the development of the securities and derivatives markets in Malaysia.

Prior to 1993, there was no single authority entrusted with the responsibility of regulating and systematically developing the Malaysian capital market. Supervisory powers were shared between industry organizations such as the stock exchange and government institutions. To streamline the regulatory structure of the capital market, the SC was established as a self-funding statutory body with investigative and enforcement powers.

The SC's commitment to strengthening and broadening the domestic capital market is manifested in the Capital Market Masterplan (CMP1). Launched in 2001, the CMP1 sought to chart the direction of the Malaysian capital market until 2010. Twenty-two of the 152 recommendations in the CMP1 related to developmental initiatives for the debt securities and *sukuk* market. In turn, the CMP2 continues to influence the development of the Malaysian bond market until 2020. For details on the CMP2, please refer to Chapter X.

### *Securities Commission Malaysia's Statement of Principles and Standards*

The purpose of the Statement of Principles and Standards is to facilitate efficient and ethical engagement between the SC and its external stakeholders. Notwithstanding the above, all market participants engaging with the SC are also expected to apply the ethical principles set out in this statement:<sup>9</sup>

- Principle 1: Ethics and Integrity
- Principle 2: Transparency and Disclosure
- Principle 3: Adherence to Client Charters
- Principle 4: Maintaining Confidentiality
- Principle 5: Providing a Safe Environment and Workplace for Staff
- Principle 6: Environmental and Social Responsibilities
- Principle 7: The SC's Expectations of the People with Whom the SC Does Business

### *Securities Commission Malaysia's Guidelines and Practice Notes*

To organize, direct, and govern the capital market, the SC typically issues Guidelines and Practice Notes. The Guidelines cover specific market segments (e.g., PDS and *sukuk*) or dedicated subjects (e.g., Trustees and Trust Deeds). The Practice Notes are focused on the conduct of specific activities within the market segments governed by the Guidelines.

A list of Guidelines and Practice Notes issued by the SC in relation to the bond market can be found in Appendix 2.<sup>10</sup>

## **3. Financial Markets Association of Malaysia**

Although the FMA is not officially a self-regulatory organization (SRO), it has fulfilled a number of significant functions of organizing and certifying participants in the capital market in Malaysia, including for the bond market, since its establishment in 1974. The SC recognizes certification by FMA as one of the bases upon which to license an OTC bond dealer, which is referenced in the SC's licensing regulations. The FMA developed and maintains a code of conduct for the industry, defined quoting and trading conventions for debt securities and *sukuk*, and other rules affecting the financial markets.

For more information on the FMA, including details on its role and functions, membership, and convention and rule-making, please refer to sections H and I in this chapter.

## **4. Bursa Malaysia and Its Subsidiaries**

BM is an exchange holding company approved under Section 15 of the CMSA. BM is the frontline regulator of the Malaysian capital market with responsibility for maintaining a fair and orderly market in the securities and derivatives that are traded through its facilities. As an integrated exchange, BMS also has the duty to ensure orderly dealings in the securities deposited with Bursa Malaysia Depository, and orderly, clear, and efficient clearing and settlement arrangements for transactions cleared and settled through its facilities. BM and its subsidiaries have put in place a comprehensive and effective regulatory and supervisory

<sup>9</sup> Adapted from the SC website at <http://www.sc.com.my/about-us/statement-of-scs-principles-and-standards/>

<sup>10</sup> A review in March 2016 showed that the most recent update to this list was made in May 2015.

framework to regulate the market and its participants, including the listed issuers and their directors and advisers, Participating Organisations, Trading Participants, Clearing Participants, Authorised Depository Agents, and Authorised Direct Members.

In this respect, BM and its subsidiaries have issued various sets of rules to stipulate the requirements that need to be met by the regulated entities either upon admission and/or on a continuing basis. BM and its individual entities administer and monitor compliance with these rules and take strict, prompt, and objective enforcement action for breaches of these rules. BMS actively supervises the listed issuers and brokers. BMS and Bursa Malaysia Bonds (Bursa Bonds) also undertake surveillance over trading activities in their respective marketplaces.

With particular reference to the bond market, Bursa Bonds facilitates, regulates, and supervises the ETP, and BMS governs the Exempt Regime (for profile listing), and trading of Exchange-Traded Bonds and Sukuk (ETBS), respectively.

Some of the listing and trading rules of BMS are discussed in the appropriate chapters and sections of the Malaysia Bond Market Guide.

## 5. Shariah Advisory Council

To ensure that all Islamic capital market products are in compliance with Shariah principles, the Shariah Advisory Council (SAC) was established in 1996 by the SC for the onshore market. The SAC comprises prominent Shariah scholars, jurists, and market practitioners to advise the SC on matters relating to the Islamic capital market and provide Shariah guidance on Islamic capital market transactions and activities.

There are two SACs in Malaysia. In addition to the SAC under the SC, BNM also has a SAC under its purview. The SAC for each regulatory authority is the highest and final authority on all Shariah matters concerning the products under each institutions purview: the SAC of the SC has the mandate to make final decisions on Shariah matters concerning Islamic capital market products, while the SAC of BNM is the sole authoritative body on Shariah matters pertaining to Islamic banking, *takaful*, and areas under the purview of BNM.

The SC also incorporated the Shariah principles and concepts approved by the SAC into the Guidelines on Unlisted Capital Market Products under the Lodge and Launch Framework and the Guidelines on Issuance of PDS and Sukuk to Retail Investors, upon their publication in March and June 2015, respectively, and defined the roles and responsibilities of Shariah Advisers that are expected to observe these principles and concepts, and advise issuers and Principal Advisers on the eligibility and suitability of such principles and concepts when considering the issuance of *sukuk*.

## E. Regulatory Framework for Debt Securities and Sukuk

The SC has put in place a clear distinction between regulations governing the issuance and transactions in bonds aimed at professional investors and retail bonds. In March 2015, the SC introduced the Lodge and Launch Framework targeting the offer of PDS and *sukuk* to Sophisticated Investors in Malaysia and abroad, and demarcating these wholesale bonds and *sukuk* from offers to retail investors or the general public.

The Guidelines on Unlisted Capital Market Products under the Lodge and Launch Framework, effective June 2015, feature a supplement called the Lodgement Kit, which

includes specifications for documentation and disclosure requirements, reporting, and other obligations. These guidelines and related material are included on the SC's website as illustrated in Box 2.1.

### Box 2.1: Securities Commission Malaysia's Lodge and Launch Framework Regulations



#### Lodge and Launch Framework

- List of Lodged Unlisted Capital Market Products
  - Wholesale Funds
  - Private Debt Securities and Sukuk
  - Structured Products
- Guidelines on Unlisted Capital Market Products under the Lodge and Launch Framework (pdf)
  - (Date Issued: 9 March 2015)
  - (Updated: 15 June 2015)
  - (Effective Date: 15 June 2015)
- Lodgement Kit (pdf)
- Summary of Updates to the Guidelines on Unlisted Capital Market Products under the Lodge and Launch Framework (pdf)
  - (Effective Date: 15 June 2015)
- FAQ on the requirements of the Guidelines on Unlisted Capital Market Products under the Lodge and Launch Framework (pdf)
- LOLA Online Submission System

Archive of Superseded Guidelines

FAQ = frequently asked questions, LOLA = Lodge and Launch Framework.

Source: Securities Commission Malaysia. Lodge and Launch Framework. <http://www.sc.com.my/legislation-guidelines/lodge-and-launch-framework/>

To further distinguish the issuance of retail bonds and *sukuk* from wholesale bonds and *sukuk*, the SC streamlined the relevant regulations on retail bond and *sukuk* issuance in the Guidelines on Issuance of PDS and Sukuk to Retail Investors, effective June 2015.

The overall regulatory framework under the purview of the SC for PDS and *sukuk* issuances, related approvals, and regulations is best demonstrated using the list of legislation and guidelines for bonds on the SC website as shown in Box 2.2.

A list of relevant Guidelines and Practice Notes issued by the SC is also available in Appendix 2.

In addition to the SC Guidelines and subsidiary regulations, BNM also regulates a number of activities that are associated with its supervision of the conventional and Islamic money markets. The regulations include the practices for repurchase agreements (repos), short-selling, and securities lending. In addition, the issuance and settlement infrastructure for debt securities comes under the purview of BNM, and the relevant market institutions issue their own Rules and Notes.

## Box 2.2: Securities Commission Malaysia's Regulatory Framework for Bonds

### LEGISLATION & GUIDELINES / Bond



#### Guidelines and Practice Notes

- Guidelines on Issuance of Private Debt Securities and Sukuk to Retail Investors (pdf)  
(Date Issued: 15 June 2015)
  - FAQ on the requirements of the Guidelines on Issuance of Private Debt Securities and Sukuk to Retail Investors (pdf)
- Guidelines on Trust Deeds (pdf)  
(Revised: 12 July 2011)  
(Effective: 12 August 2011)
- Guidelines on Registration of Credit Rating Agencies (pdf)  
(Date Issued: 30 March 2011)
- Guidelines on Registration of Bond Pricing Agencies (pdf)  
(Effective Date: 25 January 2006)
- Guidelines on Registration of an Electronic Broking System (pdf)  
(Effective Date: 6 January 2006)
- Guidelines on Dealing in Unlisted Debt Securities by a Universal Broker (pdf)  
(Date Issued: 30 October 2002)
  - Practice Note 1 – Application of the Guidelines to Cross-selling of Unlisted Debt Securities to Eligible Individuals by Dealer's Representatives Not Certified by PPKM (pdf)  
(Date Issued: 12 July 2005)
- Guidelines on allowing a person to be appointed or to act as a trustee under subsection 69(2) of the Securities Commission Act 1993 (pdf)  
(Date Issued: 17 September 2001)
- Practice Note on Registration by the Securities Commission for the Purpose of Acting as a Bond Trustee (pdf)  
(Date Issued: 12 October 2006)
- Guidance Note on the Secondary Trading of Foreign Currency Denominated Debentures and Foreign Currency Denominated Islamic Securities (pdf)  
(Date Issued: 15 September 2005)

#### Relevant Acts and Regulations (including amendments)

- Securities Commission Act 1993 (Prescription of Islamic Securities) (Amendment) Order 2005 (pdf)  
(Date Issued: 6 October 2005)
- Securities Commission (Prescription of Islamic Securities) Order 2004 (pdf)  
(Date Issued: 3 July 2004)
- Securities Commission (Non-Application of the Definition of Debenture) Order 2001 (pdf)  
(Date Issued: 19 July 2001)
- Securities Commission (Shelf Registration Scheme for Debentures) Regulations 2000 (pdf)  
(Date Issued: 7 April 2000)

FAQ = frequently asked questions, PPKM = Persatuan Pasaran Kewangan Malaysia (Financial Markets Association of Malaysia).

Source: Securities Commission Malaysia. Legislation and Guidelines > Bond. <http://www.sc.com.my/legislation-guidelines/bond/>

A list of applicable Practice Notes issued by BNM and the Rules issued by the relevant market institutions are available in Appendix 2.

The processes that are relevant for the application (lodgement), approval, and reporting for debt securities and *sukuk* are explained in greater detail in the following section.



## F. Debt Securities and *Sukuk* Issuance Regulatory Processes

Generally, the issuance of corporate bonds and *sukuk* to retail investors in the Malaysian market requires the approval of the SC, unless exempted as stated in Schedule 5 of the CMSA.

In relation to the issuance of bonds and *sukuk* aimed at Sophisticated Investors, effective June 2015, the Lodge and Launch Framework promulgated by the SC allows the lodgement with the SC of the required documentation and disclosure items prior to the bond, note, or *sukuk* issuance within a stipulated time frame.

Foreign issuers intending to issue MYR-denominated bonds, notes, or *sukuk* require prior approval from BNM under the Foreign Exchange Administration (FEA) Rules, regardless whether these are offers to retail investors or aimed at Sophisticated Investors only. BNM may also need to approve the issuance of bonds, notes, or *sukuk* denominated in foreign currency by resident issuers under certain circumstances.

### 1. Regulatory Processes by Issuer Type

Table 2.2 provides an overview of these regulatory processes by corporate issuer type and identifies which regulatory authority is involved. In order to make the issuance process by issuer type more comparable across ASEAN+3 markets, the table features common issuer type distinctions that are evident in regional markets. Not all markets will distinguish all such issuer types. Sovereign issuers are typically exempt from corporate issuance approvals but, at the same time, may be subject to different regulatory processes.

**Table 2.2: Regulatory Processes by Issuer Type**

Type of Corporate Issuer	SC	BNM	BMS
Resident issuer			
Resident nonfinancial institution	X <sup>c</sup>	X <sup>a</sup>	X
Resident financial institution (LOB)		X <sup>a</sup>	
Resident other than LOB issuing FCY-denominated bonds, notes, and <i>sukuk</i>		X <sup>b</sup>	
Nonresident issuer			
Nonresident nonfinancial institution	X <sup>c</sup>	X	X
Nonresident financial institution		X	
Nonresident issuing FCY-denominated bonds, notes, and <i>sukuk</i>			

BMS = Bursa Malaysia Securities, BNM = Bank Negara Malaysia, FCY = foreign currency, LOB = licensed onshore bank, SC = Securities Commission Malaysia.

<sup>a</sup> BNM approval required only if nontradable private debt securities are issued to nonresidents. (Details of the rules are in the Foreign Exchange Administration Notices.)

<sup>b</sup> BNM approval required under specific circumstances only. Please refer to Chapter II.F for details.

<sup>c</sup> SC approval required for issuance of retail bonds and *sukuk* only; offers aimed at Sophisticated Investors follow the prescriptions under the Lodge and Launch framework as explained in Chapter II.F.5.

Notes: X indicates approval required.

Source: ABMF SF1.

## 2. Overview of Regulatory Processes

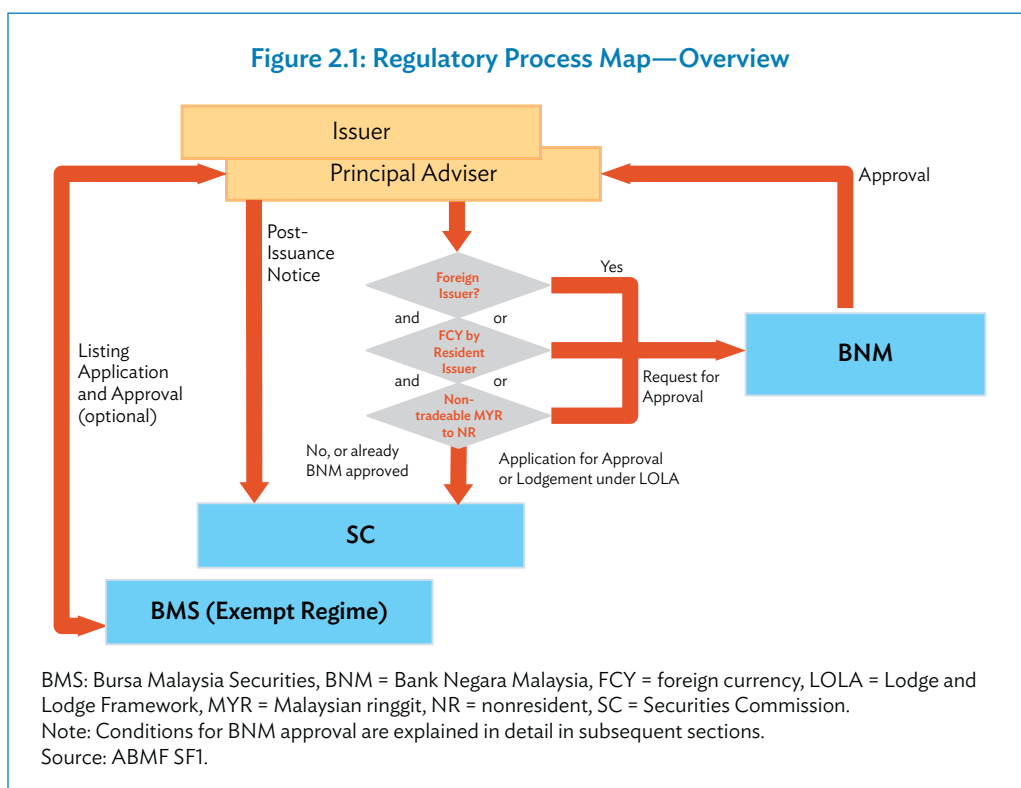
In the Malaysian market, issuers of proposed bonds, notes, or *sukuk* are required to appoint a Principal Adviser responsible for the lodgment with the SC (for offers to Sophisticated Investors) or submission to the SC for approval (for offers to retail investors). A Principal Adviser needs to be licensed by or registered with the SC.<sup>11</sup>

An issuer of bonds, notes, or *sukuk* is expected to submit all approval relevant information and necessary documents to the regulatory authorities via the Principal Adviser.

There is a distinction in the issuance process and related requirements between offers to retail investors (retail bonds) and issuances aimed at Sophisticated Investors. (for details, please refer to sections 4 and 5 in this chapter, respectively).

Foreign issuers may issue bonds, notes, and *sukuk* domestically in both ringgit and foreign currencies. MYR-denominated issuances are subject to approval by BNM prior to submitting an application for approval to the SC (retail bonds) or using the SC's Lodge and Launch Framework (wholesale bonds). BNM does not distinguish between offers to retail investors and Sophisticated Investors. Section 3 of this chapter gives further details on the application and approval process for a nonresident issuer.

The regulatory process map in Figure 2.1 may help with the navigation of the applicable regulatory processes to be applied to a proposed bond, note, or *sukuk* issuance.



<sup>11</sup> Since Principal Adviser is an official term in Malaysia, it is used in the relevant figures in this document.

### 3. Regulatory Process for Nonresident Issuer

A nonresident issuer must obtain approval from BNM before issuing MYR-denominated bonds, notes, or *sukuk* in Malaysia. Nonresident issuers are defined as a corporation under Section 2(1) of the CMSA, or as a foreign government. For the purpose of FEA Rules, nonresidents are defined in Section 213 of the Financial Services Act, 2013 and in the Islamic Financial Services Act, 2013. There are no quotas or allocations of issuance amounts for nonresident issuers.

The requirements for the application itself are set out in the Joint Information Note on the Issuance and Subscription of Ringgit and Foreign Currency-Denominated Sukuk and Bonds in Malaysia issued in July 2013 by both BNM and the SC.

The steps that need to be observed when a nonresident issuer wants to issue bonds, notes, or *sukuk* to retail investors—or to Sophisticated Investors under the Lodge and Launch Framework—are detailed below.

#### Step 1—Submission of Application for Approval to Bank Negara Malaysia

The nonresident issuer, of an MYR-denominated bond, note, or *sukuk* to be issued in Malaysia will need to submit an application for approval to the Foreign Exchange Administration Department at BNM. A submission to BNM may be made directly to BNM or through an adviser or the Principal Adviser to the nonresident issuer.

The application should include, among other items, the information outlined in the Appendix of the Joint Information Note on the Issuance and Subscription of Ringgit- and Foreign Currency-Denominated Sukuk and Bonds in Malaysia issued in July 2013 by both BNM and the SC:<sup>12</sup>

- (1) profile of the issuer (e.g., business activities, country of incorporation, shareholders, board of directors, and financial report);
- (2) credit rating of issuer and name of credit rating agency (credit rating report);
- (3) type of *sukuk* or bonds;
- (4) size of issuance;
- (5) currency of issuance;
- (6) tenure;
- (7) benchmark or interest rate (e.g., fixed or floating) and frequency;
- (8) utilization of proceeds;
- (9) additional information to be provided if proceeds of issuance are to be on-lent wholly or partly (using the exact structure shown in the Appendix):
  - (a) name of borrower;
  - (b) relationship of issuer with borrower (if any);
  - (c) purpose of financing or loan utilization; and
  - (d) terms of financing and loan, including amount, tenure, benchmark or interest rate, repayment period, and prepayment or callable option;
- (10) lead manager, lead arranger, or adviser;
- (11) other manager (if any);

<sup>12</sup> Information provided is current at time of publication. Since BNM regularly reviews and updates the regulations relevant for the bond market, interested parties are asked to access and review the latest versions of these and other detailed information requirements prior to any submission to BNM.

- (12) guarantor or underwriter (if any);
- (13) listing details (if any);
- (14) method of issuance (e.g., open tender, book-building, or private placement);
- (15) past *sukuk* or bonds issuances (if any);
- (16) proposed hedging counterparty (if any); and
- (17) details of contact person in Malaysia or abroad.

The relevant transaction or offering documents accompanying the application for approval must clearly state the applicable governing law.

BNM does not levy a fee for this approval process.

#### Step 2—Approval from Bank Negara Malaysia

The Foreign Exchange Administration Department will review the application and applicable documents and may, at its discretion, require further clarification or additional information. Upon receipt of full information, BNM will respond to the application within 15 working days.

BNM will review the application and issue a formal approval or rejection letter in regard to the bond, note, or *sukuk* issuance. The approval letter contains a number of standard conditions referencing applicable laws and regulations.

The issuer is required to obtain approval from the SC for the issuance of PDS or *sukuk* within 2 years of the BNM approval. SC approval in the context of the issuance of wholesale bonds refers to the issuer having successfully lodged the required information and disclosure items with the SC, and being able to launch the underlying product as a result.

The issuer may use the MYR-denominated proceeds from the bond, note, or *sukuk* issuance in Malaysia, or swap the proceeds into foreign currency. The swap arrangement must be undertaken with a licensed onshore bank, or back to back with a licensed onshore bank in Malaysia. There is no restriction on the tenure of the swap transaction provided that it does not exceed the maturity date of the underlying transaction.

#### 4. Regulatory Process for Offers to Retail Investors

Section 212 of the CMSA states that all offers of debt securities and *sukuk* in the Malaysian market require the prior approval of the SC, with the exception of government securities and offers made to Sophisticated Investors. This approval requirement applies regardless of the domicile of the issuer.

Section 232 of the CMSA specifies the need for a prospectus for an offer for sale or subscription for debt securities or *sukuk*, unless such issuance would be exempt under Schedule 6 of the CMSA (equivalent to wholesale bonds, also see Section 5), or if prescribed by the Minister upon recommendation of the SC pursuant to Section 229 of the CMSA.

The format and contents of the prospectus itself is subject to the specifications by the SC in the Prospectus Guidelines, 2012 (updated as of 1 April 2013).<sup>13</sup> The provisions for

<sup>13</sup> Details from the Prospectus Guidelines, 2012 adapted for this document by ADB Consultants for SF1 and edited for context. The full document is available at [http://www.sc.com.my/wp-content/uploads/eng/html/resources/guidelines/prospectus/130104/guidelines\\_prospectus\\_130401.pdf](http://www.sc.com.my/wp-content/uploads/eng/html/resources/guidelines/prospectus/130104/guidelines_prospectus_130401.pdf)

minimum contents requirements in the Guidelines complement the prescriptions in Section 235 of the CMSA.

Please note that if the retail debt securities or *sukuk* are offered under an initiative of the ACMF, the prospectus must comply with the prescribed ASEAN Disclosure Standards, which are also detailed in the Guidelines.

The following steps describe the actions to be undertaken by the relevant parties in the course of the issuance application and approval process.

### Step 1—Submission of Application for Approval to the Securities Commission Malaysia

The Principal Adviser to an issuer of an offer to retail investors in Malaysia will need to submit an application for approval to issue to the SC. Both hardcopy and electronic submissions are accepted; in fact, a hard-copy submission of documents and correspondence is to be accompanied by text-searchable PDF files via email or removable media. The process is regulated in Part B of the Guidelines on Issuance of PDS and Sukuk to Retail Investors. The content requirements for applications for the respective types of bond, note, or *sukuk* issuance being applied for are detailed in Appendix 1. The key document to be submitted to the SC is the prospectus, which must be complete and fully comply with the requirements of Division 2 of the Prospectus Guidelines. The other key elements of the submission to the SC have to include

- application letter, containing
  - (a) background information on the issuer;
  - (b) profile of directors of issuer, including
    - (i) National Registration Identity Card numbers for Malaysian directors, and
    - (ii) passport numbers for non-Malaysian directors;
  - (c) description of the transaction and structure of the facility (one-time issue) or program, specifying whether it is a one-time issue or a debt program;
  - (d) details of the utilization of proceeds, including its schedule where applicable;
  - (e) primary and secondary sources of repayment;
  - (f) detailed breakdown of all upfront and recurring fees and expenses for the facility or program;
  - (g) waivers from complying with these Guidelines and other relevant guidelines of the SC obtained for the facility or program, if any;
  - (h) conflict-of-interest situations and appropriate mitigating measures, if any;
  - (i) detailed information on the existing PDS or *sukuk* issue or loans and financing to be refinanced by the facility or program, if applicable;
  - (j) details of approval from other relevant regulatory authorities, if any;
  - (k) any other material information in relation to the issuer, facility, or program;
  - (l) name, telephone number, facsimile number, and e-mail address of the officer-in-charge for the facility or program;
  - (m) name, designation, and contact details of the contact person of the issuer; and
  - (n) name, designation, and contact details of the contact person of the key management personnel of the issuer;



- principal terms and conditions of the proposal;
- parties to the transaction;
- rating letter;
- latest audited financial statements in accordance with accepted standards;
- copies of approval from all other relevant regulatory authorities, if any;
- compliance checklist with the Guidelines;
- Declaration by Issuer;
- Declaration by Trustee (if so appointed);
- Shariah pronouncement (including detailed reasoning or justification);
- diagram illustrating the flow of monies in the designated account(s), if applicable; and
- any other documents.

The requirements for the principal terms and conditions (PTC) of the proposal are outlined in Part 2 of Appendix 1. No specific format is prescribed for the PTC. In contrast, a specific format for the Declaration by Issuer is provided in Part 3 of Appendix 1.

The application for approval from the SC needs to be accompanied by the payment for the respective charges.

#### Step 2—Approval from Securities Commission Malaysia

The SC reviews the issuance application and information and documents provided, and may provide feedback as necessary. The SC may, at its discretion, ask the issuer or the Principal Adviser for additional documents or information.

The time frame for approval of retail PDS or *sukuk* is 40 business days, inclusive of the registration of the prospectus, counted from receipt of complete application documents and information.

The SC may approve the application, or approve it with revisions or under certain terms and conditions. The SC may also refuse the application for reasons stated under Section 214A of the CMSA, including false or misleading statements or if the approval might be detrimental to investors.

Provided that the documents are in order and the necessary information has been provided and the review is satisfactory, the SC will issue an approval letter to the issuer or Principal Adviser that the prospectus has been registered and the approval is effective, and state any conditions that may apply.

The issuance approval from the SC is valid for a period of 1 year for bullet issuances, or 2 years for debt programs.

Any revisions made to the principal terms and conditions of a proposed bond, note, or *sukuk* issuance that has already been approved by the SC, but not yet been issued, requires a fresh approval of the SC. In contrast, if a bond, note, or *sukuk* previously approved by the SC has already been issued, any change to the PTC will not require additional approval by the SC.

## 5. Regulatory Process for Wholesale Bonds and *Sukuk* under the Lodge and Launch Framework

Offers of bonds, notes, or *sukuk* aimed at Sophisticated Investors represent the wholesale, or professional, bond market in Malaysia. Sophisticated Investors are expected to be able to make their own informed investment decisions on the basis of available disclosure information. Hence, the SC has afforded the issuers of such instruments concessions from the regulatory process that would apply to retail offers.

Since 15 June 2015, issuers have been able to issue bonds, notes, or *sukuk* aimed at Sophisticated Investors once they have lodged the required documents and information with the SC. A formal approval from the SC is not required, provided all documentation and disclosure requirements specified in the Lodgement Kit, a supplement to the Lodge and Launch Guidelines, have been observed. The lodgement of necessary documents and information is to be done electronically, via the SC's dedicated Online Submission System.

The provisions of the Lodge and Launch Framework are also applicable for PDS and *sukuk* issued in Malaysia and offered only to investors outside Malaysia.

If a resident issuer intends to issue nontradable PDS or *sukuk* to nonresident investors, prior approval from BNM would need to be obtained. The process of issuance approval from BNM is comparable to the corresponding approval described in section 3 of this chapter.

The following steps will need to be observed when a corporate issuer wants to issue under the Lodge and Launch Framework in Malaysia.

### Step 1—Online Submission to Securities Commission Malaysia (Lodgement)

One of the prerequisites is the approval from other regulatory authorities, including BNM prior to lodgement. An approval from BNM may be taken up to 2 years prior to lodgement with the SC.

In the case of *sukuk* intended to be issued under the Lodge and Launch Framework, prior approval from the SC's Islamic Capital Market Department (Shariah Advisory Council) is required on the Shariah aspects of the *sukuk* before a lodgement may be done.

The lodgement is to be completed by the issuer (in the case of a multilateral development bank) or the Principal Adviser. This role is designated as the Lodgement Party. There must be a Lodgement Party at all times during the life cycle of PDS or *sukuk* issued under this framework.

The Lodgement Party is required to identify other Responsible Parties, which are the parties involved in the issuance, and their roles and responsibilities in the context of the product issuance.

Part 3, Section 1 of the Lodgement Kit supplement to the Lodge and Launch Guidelines lays out the detailed information requirements to be lodged via the SC Online Submission System. The Lodgement Kit specifies information depending on the nature of an instrument, since not all information requirements may be applicable for all types of instruments. In addition, the Lodgement Kit contains a number of prescribed forms

for submission, including a Declaration by the Issuer in the format prescribed by the SC.<sup>14</sup> The SC is expected to review and update the Lodgement Kit on a regular basis.

Since the actual lodgement is done via the SC Online Submission System, the prescribed documents need to be scanned and uploaded via the system.

For ease of reference, the complete regulatory process, including detailed documentation and disclosure requirements for issuances under the Lodge and Launch Framework is described in the AMBIF Implementation Guidelines for Malaysia, available on the *AsianBondsOnline* website. The AMBIF Implementation Guidelines also describe additional features of this professional bond market segment in Malaysia.

The lodgement may be done at any time prior to the launch of the product. For *sukuk*, the initial lodgement is prescribed to be done at least 10 business days prior to the targeted launch date, since it involves the approval of the Shariah aspects of the *sukuk* prior to the acceptance of the lodgement by the SC.

Any revision to the documents or disclosure information after an initial lodgement but prior to the launch would result in the need to resubmit the full set of documentation and disclosure information, and the timeline would reset.

Each lodgement must be accompanied by the relevant fees prescribed by the SC.

#### Step 2—Launch of Products under the Lodge and Launch Framework

Under the Lodge and Launch Framework, no formal approval for the issuance of debt instruments or *sukuk* is required from the SC. Instead, provided that all documents and disclosure items required for a lodgement have been submitted online and were accepted by the system, the issuer and its Principal Adviser may launch the product, in this case debt securities or *sukuk*, for which the documents and information have been lodged with the SC.

In this context, the launch refers to (i) making available, (ii) offering for subscription or purchase of, or (iii) issuing of an invitation to subscribe for or purchase PDS or *sukuk*. This includes any issuance, publication, or release of any information, notice, or advertisement with respect to any of the activities specified above.

The debt securities and *sukuk* must be launched within 60 business days from lodgement date; otherwise, the launch authorization will be null and void, and another lodgement would have to be made. In the case of a debt or *sukuk* program, the first issuance under the program must be launched within 60 business days.

The ability to launch PDS and *sukuk* commences after the fee payment to SC has cleared.

<sup>14</sup> Information provided is current at the time of publication. Since the SC regularly reviews and updates its Guidelines, interested parties are asked to access the latest version of the Lodgement Kit to ensure they are aware of the effective information and disclosure requirements in force. The Lodgement Kit is available on the SC website at [http://www.sc.com.my/wp-content/uploads/eng/html/resources/guidelines/lola/lodgementKit\\_lola\\_150615.pdf](http://www.sc.com.my/wp-content/uploads/eng/html/resources/guidelines/lola/lodgementKit_lola_150615.pdf)

## 6. Obligations after Approval and after Issuance

The post-issuance obligations that apply to both offers to retail investors and issuances under the Lodge and Launch Framework are detailed below.

### (a) *Offers to Retail Investors*

In the case of offers to retail investors (retail bonds), the issuer is required to submit to the SC, through the Principal Adviser, documents and information after the SC approval has been obtained and before the issuance itself (or in the case of a debt program, the first issuance under the program). The requirements for this post-issuance notice, which are specified in Appendix 2 of the Guidelines on Issuance of Private Debt Securities and Sukuk to Retail Investors, include the following items listed below.<sup>15</sup>

In the form of a softcopy via email, the following details:

- (a) date, size, and tenure of issue; and
- (b) documents (clean version in PDF format), including
  - (i) information memorandum, where applicable;
  - (ii) global medium-term note base prospectus and disclosure document, where applicable, if the information memorandum or offering circular is to be read together with the base prospectus;
  - (iii) executed trust deed, where applicable; and
  - (iv) PTC (in specified format).

The Principal Adviser must also submit in hard copy prior to the issue date documents that include the following information:

- (a) issue date;
- (b) maturity date;
- (c) issue amount (nominal value);
- (d) issue price (cash raised);
- (e) interest, coupon, profit, or rental rate;
- (f) yield-to-maturity;
- (g) mode of issue;
- (h) list of subscribers or successful tender panel members and amounts subscribed;
- (i) utilization of proceeds raised from the issue:
  - (i) purpose;
  - (ii) amount utilized;
  - (iii) details of condition imposed on the utilization, including conditions imposed by the Shariah Advisory Council, if any; and
  - (iv) confirmation from the Shariah Adviser that the conditions imposed on the utilization have or will be met;

<sup>15</sup> Information provided is current at the time of publication. Since the SC regularly reviews and updates its Guidelines, interested parties are asked to access the latest version of the Guidelines on Issuance of Private Debt Securities and Sukuk to Retail Investors to ensure they are aware of the effective information and disclosure requirements in force. The Guidelines are available on the SC website at the following link: [http://www.sc.com.my/wp-content/uploads/eng/html/resources/guidelines/bondmkt/guidelines\\_retailsPDS\\_sukuk\\_150615.pdf](http://www.sc.com.my/wp-content/uploads/eng/html/resources/guidelines/bondmkt/guidelines_retailsPDS_sukuk_150615.pdf)

- (j) clearing and settlement platform;
- (k) a copy of the rating report;
- (l) a certified true copy of the executed trust deed, where applicable; and
- (m) names of all parties involved in the life cycle of the PDS or *sukuk* and their roles and responsibilities.

Additionally, a confirmation from the Principal Adviser that

- (a) designated accounts, if any, have been opened, the authorized signatories are signatories of the respective accounts, and the accounts are administered according to the terms;
- (b) prospective investors and relevant parties have been informed of any instance where a conflict of interest situation may arise together with the relevant mitigating measures, including the agreement from the Board of Directors of the issuer to proceed with such arrangements;
- (c) the Principal Adviser(s) have notified the SC of any variation to or substitution or replacement of the underlying assets, and confirmed to the SC that the Shariah Adviser has given its approval for the variation or the substitution or replacement;
- (d) the Principal Adviser(s) have undertaken the necessary internal measures that prior to each issuance or drawdown under the proposed *sukuk* program, the issuance or drawdown is in full compliance with Shariah principles; and
- (e) all other conditions of approval that have been or may be imposed by the SC have been or will be complied with.

#### *(b) Offers under the Lodge and Launch Framework*

Under the Lodge and Launch Framework, the Lodgement Party (issuer) must submit a post-issuance notice (as prescribed in the Lodgement Kit) to the SC within 7 business days from the date of issuance. In the case of a debt or *sukuk* program, the submission of the post-issuance notice would apply to each issuance under the program.

The contents requirements for the post-issuance notice are prescribed in the Lodgement Kit, Part 3, Section 2. As the SC is expected to review and update the Lodgement Kit on a periodic basis, interested parties are encouraged to visit the SC website for the latest version.<sup>16</sup>

The Lodgement Party also needs to advise the SC of all parties involved in the transaction and through the life cycle of the PDS or *sukuk*, and their roles and responsibilities. In the case of a *sukuk*, the Lodgement Party will also need to attach any necessary confirmation by the Shariah Adviser under the regulations.

The issuer must also update the SC of any revision to the PTC after issuance through the Lodgement Party within 14 business days of the proposed revision coming into effect. Such updates must follow specific information and format requirements stipulated in Appendix 4 of the Lodge and Launch Guidelines.

<sup>16</sup> Securities Commission Malaysia. [http://www.sc.com.my/wp-content/uploads/eng/html/resources/guidelines/lola/lodgementKit\\_lola\\_150615.pdf](http://www.sc.com.my/wp-content/uploads/eng/html/resources/guidelines/lola/lodgementKit_lola_150615.pdf)

In addition, the issuer must ensure that the actual utilization of proceeds is consistent with the proposed use of proceeds advised at the time of lodgement.

## **7. No Specific Issuance Process for a Domestic Financial Institution**

The regulatory processes for resident financial institutions, in case of both an offer to retail investors and an offer to Sophisticated Investors, are the same as shown in the previous sections.

This is mentioned here as a clarification since other markets may have specific approval requirements under banking or other relevant prudential regulations.

## **8. Regulatory Process for Foreign-Currency-Denominated Debt Instruments and Sukuk**

The regulatory process for foreign-currency (FCY)-denominated debt instruments and *sukuk* is distinguished by the place of issuance for the instrument.

### *(a) Debt Instruments and Sukuk Issued in Malaysia*

In principle, the regulatory process for the issuance of FCY-denominated bonds, notes, or *sukuk* by a resident issuer is similar to the one for an MYR-denominated issuance by a resident issuer; in most cases, there is no requirement for approval from BNM.

At the same time, should a nonresident issuer wish to issue FCY-denominated bonds, notes, or *sukuk* in Malaysia, no additional or special approval is required. As such, the regulatory process would follow the description of the issuance approval detailed in sections 4 or 5 earlier, depending on the nature of the offer.

However, should a resident issuer wish to issue FCY-denominated bonds, notes, or *sukuk* to nonresident (professional) investors in an amount exceeding the prudential limit on foreign currency borrowing from nonresidents (MYR100 million equivalent based on the aggregate borrowing of the resident issuer and other resident entities within its group of entities with a parent-subsidiary relationship), the issuer will need to seek approval from BNM.

### *(b) Debt Instruments and Sukuk Not Issued in Malaysia (Offer for Sale through a Roadshow)*

In case a nonresident issuer plans to offer for sale or subscription FCY-denominated PDS or *sukuk* issued in another jurisdiction (and offered to investors in at least one economy other than Malaysia), the issuance of FCY-denominated PDS or *sukuk* to Malaysian investors has to follow a specific process prescribed by the SC in the Lodge and Launch Guidelines and in other regulations relating to FCY-denominated PDS or *sukuk* through a roadshow. The roadshow concept is not available for offers to retail investors.

The regulatory process itself—and the necessary information and disclosure items—largely follows the process for wholesale bonds outlined in section 5. At the same time, the issuer, through its Principal Adviser, is expected to make a number of additional representations to the SC. Based on the Lodgment Form for Foreign Currency-Denominated Private Debt Securities or Sukuk through a Roadshow under the Lodge and Launch Framework, the Principal Adviser needs to confirm that the issuance satisfies the roadshow requirements as follows:



- (a) issued by a foreign issuer and the issuer is either a corporation within the meaning of Section 2(1) of the CMSA or a foreign government who is eligible to issue, offer, or make an invitation to subscribe or purchase *sukuk*;
- (b) not originated in Malaysia;
- (c) issued or offered to investors in Malaysia and at least one other country; or
- (d) an invitation to subscribe or purchase made to investors in Malaysia and at least one other country.

FCY-denominated debt securities and *sukuk* may be deposited and settled in RENTAS. In addition, an adviser or lead arranger or facility agent who is a RENTAS member shall be appointed to facilitate the process of depositing the debt securities and *sukuk* in RENTAS. Exemptions from the requirement to appoint a trustee and draw up a trust deed may apply (e.g., if a foreign issuer is rated AAA).

## G. Continuous Disclosure Requirements in the Malaysian Market

Continuous disclosure requirements for debt securities and *sukuk* issued in Malaysia are prescribed in the CMSA and further detailed in the SC Guidelines. Distinctions are made between offers of bonds, notes, or *sukuk* to retail investors and offers to Sophisticated Investors under the Lodge and Launch Framework.

The issuance documentation (e.g., a prospectus or Information Memorandum) and selected disclosure items are also available on the website of the SC. To access such information, market participants and interested institutional investors must register via the website. Institutional investors, including foreign investors, may register as long as their business falls under the definition of Sophisticated Investors (please refer to Chapter III.N).

In this context, please also refer to the SC's post-approval and post-issuance reporting requirements, which are detailed in section F.6 of this chapter.

### 1. Offers to Retail Investors

Obligations on issuers, or their agents, for the continuous disclosure of relevant information relating to offers to retail investors (retail bonds) are defined in Part 6, Division 4 of the CMSA, as well as Part C, Chapter 12 of the Guidelines on Issuance of Private Debt Securities and Sukuk to Retail Investors. This chapter of the guidelines also lists a number of specific events that are expected to be made public immediately upon occurrence, including the provision of an audited financial statement, typically via the trustee. If the issuer is a foreign entity, the filing of the audited financial statement may follow the same intervals as filings to applicable regulators in the home market of the issuers, but should not exceed 180 days since the end of the financial year.

Where PDS or *sukuk* are to be offered OTC, the issuer must disclose any information that might have a material effect on the price or value of the PDS or *sukuk*—or an investor's decision on whether to invest in that PDS or *sukuk*—on the platform on which it was issued, typically FAST.

Where PDS or *sukuk* are to be offered on the stock exchange, the issuer must also comply with the continuous disclosure obligations set out in the Listing Requirements of BMS. If the issuer is a company already listed in Malaysia, no separate financial statement needs to be submitted to the SC.

In the case of a debt or *sukuk* program approved by the SC, the issuer must ensure that a pricing supplement is made available to the holders of its bonds or *sukuk* prior to each issuance under the debt or *sukuk* program.

## 2. Wholesale Bonds (under the Lodge and Launch Framework)

For debt securities and *sukuk* issued under the Lodge and Launch Framework, or wholesale bonds, the SC prescribes few specific continuous disclosure obligations. At the same time, the obligations prescribed in Part 6, Division 4 of the CMSA still apply.

### (a) MTN or iMTN Program

The issuer must ensure that a pricing supplement is made available to all bond- or *sukuk*-holders prior to each issuance under a medium-term note (MTN) or Islamic medium-term note (iMTN) program. This does not apply if the issuance is tendered through FAST, or if it is issued or offered on a primary subscription basis (under a bought-deal or private placement basis).

### (b) Call Option or Early Redemption

The issuer needs to ensure that immediate announcements will be made in the case of an early redemption or exercise of a defined call option on a debt securities or *sukuk* issue. Such announcements can be made via FAST, through BMS in case of Exempt Regime-listed debt securities or *sukuk*, or by any other means that the issuer or trustee deem appropriate.

The key disclosure document for a wholesale bond is the Information Memorandum or Offering Memorandum, which contains provisions agreed among parties involved (issuer, Principal Adviser, investors, and intermediaries) on terms and conditions, governing law and jurisdiction, as well as relevant supporting documentation and disclosure items. At the same time, the provision or use of an Information Memorandum is not mandatory and the SC does not prescribe a specific format for it.

Continuous disclosure for a wholesale bond or *sukuk* primarily depends on the conditions set in the Information Memorandum or Offering Memorandum, and may be based on market expectations among investors. In the Malaysian market, it is customary for the issuers of wholesale bonds to provide updated audited financial statements to the Sophisticated Investors on an annual basis.

There is no need to file an annual audited financial statement with the SC for wholesale bonds. Other than providing the pricing supplement, issuers are required to inform the SC of any revision made to the terms of the bond. In addition, under the Lodge and Launch Framework, any Responsible Party is also liable to inform the SC if they are aware of any change that may render any information or document to be false, misleading, or contain any material omission.

## H. Self-Regulatory Organizations in the Malaysian Market

The following SROs and quasi-SROs with relevance for the bond market are evident in Malaysia.

## 1. Financial Markets Association of Malaysia

The FMA is a market association for institutions and individuals involved in financial markets in Malaysia. The FMA is registered with the Registrar of Societies and was formerly known as the Forex Association of Malaysia before being renamed, effective 21 November 2014, to better reflect its significant responsibilities for financial market development, minimum standards setting, and member education in line with the typical remit of financial markets associations in other markets globally.

The FMA does not have official SRO status. At the same time, its role and functions in the Malaysian market come very close to those of a typical SRO. Several of the FMA's present functions have become an integral part of the bond market and the activities of its participants, and are referenced or relied upon in the regulations for the bond market. As such, the FMA is included in this section.

The FMA was established in 1974 with the objective of providing an association for those who are actively engaged in the wholesale financial markets in Malaysia. Besides offering a platform for social and friendly contact among its members, the FMA is also actively involved in education to develop and enhance the knowledge and skills of its members. The FMA has adopted a code of conduct for the industry and certifies market participant members to become bond dealers (for details, please refer to section I). The FMA also organizes talks, seminars, conferences, meetings, and related gatherings for its members and the general public to improve and update their knowledge.

### (a) Key Objectives

The FMA's key objectives are to

- (i) promote and develop any scheme that may elevate the status and/or advance the interests of the association;
- (ii) afford opportunities for social and friendly contact among members;
- (iii) establish liaison with associations or bodies overseas having similar objectives and seek their participation in any seminar, forum, conference, meeting, or gathering organized by the association overseas;
- (iv) organize talks, seminars, conferences, meetings, and similar gatherings for members and the public to improve and update their knowledge of financial markets;
- (v) educate, train, and assess by examination or otherwise members of the association; and award certificates to those who successfully complete the examinations, and prizes to outstanding candidates in examinations; and
- (vi) establish and maintain libraries and collections of publications, research papers, papers delivered at seminars and conferences, and other documents and effects whether in written form or otherwise.<sup>17</sup>

The other main objective of the FMA is to constantly review techniques and practices in the financial markets to develop, improve, and maintain high standards comparable to international practices and standards.

<sup>17</sup> Objectives of Persatuan Pasaran Kewangan Malaysia in Pasaran Kewangan Malaysia Certificate. Available at <http://www.ppkm.net/wp-content/uploads/2014/11/121228-PKMC.pdf>

### (b) Membership

The FMA's membership comprises dealers and trading staff from commercial banks; Islamic banks; investment banks; and the treasury operations of Malaysia's financial institutions, including insurance companies. There are six categories of membership:

- Provisional
- Broker
- Ordinary
- International
- Associate
- Honorary Member

As of May 2015, the total number of FMA members stood at 6,819.

## 2. Bursa Malaysia

BM is an exchange holding company approved under Section 15 of the CMSA.

It operates a fully integrated exchange, BMS, and offers a complete range of exchange-related services—including trading, clearing, settlement, and depository services—through its subsidiaries. BMS is one of the largest bourses in Asia with just under 1,000 listed companies offering a wide range of investment choices to the world. Companies are either listed on the BMS Main Market or the ACE Market. Debt securities and *sukuk* may also be listed for profiling on BMS under the Exempt Regime.

BM sets regulations for its members as well as listing and trading rules for the exchange markets as a whole (for details, please refer to section J). In this, BM is guided by a number of principles aimed at achieving regulatory goals and ensuring a consistent and cohesive approach to its actions and decisions. These principles are also embedded in the rules and regulatory framework of BM to ensure greater parity of regulatory actions across different market segments and parties, and to improve overall regulatory effectiveness. The following are the regulatory principles:<sup>18</sup>

- (1) Clear and easily accessible rules and requirements
- (2) No more regulation than necessary
- (3) Principles-based approach where appropriate
- (4) Outcome-focused
- (5) Innovative and competitive
- (6) Risk-based approach
- (7) Values-based approach
- (8) Transparency
- (9) Benchmarked and globally collaborative
- (10) Consultative approach

More information on BMS and its trading boards, with a focus on the bond market, can be found in other sections of this chapter as well as Chapters III and IV.

<sup>18</sup> See <http://www.bursamalaysia.com/market/regulation/regulatory-approach-philosophy/regulatory-principles/>

## I. Financial Markets Association Rules Related to Certification and Trading Conventions

Although not officially an SRO, the FMA awards the necessary certification to market participants and this certification is a prerequisite for the granting of the relevant license by the SC. The FMA also sets rules, market practices, and conventions for its members.

### (a) *Capital Market Services License*

In an effort to upgrade members' knowledge and skills, the FMA has imposed qualifying examinations for its new members since December 1995. Members must now pass the four modules of the FMA Certificate Examinations before they are licensed to participate in financial markets.

This certification by the FMA is the basis to be awarded a Capital Market Services Representative License for individual market participants. This license is an SC requirement and a prerequisite for an FMA member to participate in the bond market and be a bond dealer under the provisions of the SC. This is to ensure that all market participants comply with the same rules and standards as defined by the FMA and accepted in the market.

### (b) *Rules and Market Conventions*

The FMA sets rules and market conventions for its members (and the market at large) on, for example, trading hours, quoting and trading of debt securities, and interest calculations for the bond and money markets. At the same time, the FMA defines the documentation requirements for dealer-to-dealer and dealer-to-client trades in the bond and money markets, including telephone-recording conventions to avoid any misunderstandings in voice trading or brokering.

### (c) *Code of Conduct*

The FMA has issued a code of conduct for its members to ensure fairness and efficiency in all securities trading, including debt securities and sukuk. The code of conduct was issued as an addendum to BNM's Malaysian Code of Conduct for Principals and Brokers in the Wholesale Money and Foreign Exchange Markets. Misconduct can be addressed by the FMA or referred to BNM and other authorities. The FMA code of conduct also provides for a mechanism for dispute resolution between members.

## J. Bursa Malaysia Rules Related to Bond and Sukuk Listing, Disclosure, and Trading

BM, through its subsidiaries, issues and maintains clear, comprehensive, and accessible rules that govern, for example, the listing of issuers and products on its markets; obligations of issuers post-listing; trading, clearing, and settlement of products; and admission and post-admission obligations of its participants.<sup>19</sup>

BM sets rules and regulations with regard to the following segments in the Malaysian bond market.

<sup>19</sup> Information in this section adapted by ADB Consultants for SF1 and edited for context and relevance.

### (a) *Bursa Malaysia Securities (Main Board)*

The Rules of BMS, as amended from time to time, govern the participation (of Participating Organisations and Registered Persons), dealing, trading, clearing, settlement, and delivery practices for the securities listed and traded on BMS, including ETBS.<sup>20</sup>

### (b) *Electronic Trading Platform (Bursa Bonds)*

Bursa Bonds, a subsidiary of BM, governs the participants in the OTC trading of debt securities and *sukuk* on ETP. These participants are referred to as Bond Members under the Rules of Bursa Bonds, which include eligibility criteria for participants and trading conventions, as well as practices for announcement and selected disclosure.<sup>21</sup>

### (c) *Exempt Regime (Profile Listing)*

The Exempt Regime of BMS, which pertains to the profile listing of debt securities and *sukuk* that are aimed at Sophisticated Investors and not traded on BMS, is governed under Section 4B (Listing of Sukuk and Debt Securities) of the BMS Listing Requirements.<sup>22</sup> In addition to the Listing Requirements, BMS issues Amendments to the Listing Requirements (e.g., on the introduction of a Goods and Services Tax), Practice Notes, and Directives or Clarifications for details on specific subjects.

The Listing Requirements also contain provisions for Continuing Listing Obligations and Continuing Disclosure in Sections 8 and 9, respectively.

For further details on individual market segments for the listing and trading of debt securities and *sukuk* mentioned above, please refer to Chapter IV.

## K. Market Entry Requirements (Nonresidents)

### 1. Nonresident Issuers

There are no specific market entry requirements for nonresident issuers in the Malaysian bond market. There is no quota for the issuance of an MYR- or FCY-denominated debt instruments or *sukuk* by a nonresident issuer. Foreign issuers may issue debt securities or *sukuk* denominated in ringgit or foreign currency in Malaysia, subject to the approval of the relevant authorities (for details, please refer to section F). The ringgit and foreign currency funds raised from such issuance may be used either in Malaysia or overseas. Nonetheless, the remittance of such funds overseas must be made in a foreign currency other than the currency of Israel. There is no restriction for foreign issuers to open and maintain ringgit or foreign currency accounts with licensed onshore banks in Malaysia.

<sup>20</sup> See <http://www.bursamalaysia.com/market/regulation/rules/bursa-malaysia-rules/securities/rules-of-bursa-malaysia-securities/>

<sup>21</sup> See <http://www.bursamalaysia.com/market/regulation/rules/bursa-malaysia-rules/bonds-otc/rules-of-bursa-malaysia-bonds/>

<sup>22</sup> See <http://www.bursamalaysia.com/market/regulation/rules/listing-requirements/main-market/listing-requirements>



Foreign issuers may also manage their foreign exchange and interest or profit rate exposures arising from the bond or *sukuk* issuance with licensed onshore banks or nonresident financial institutions. Nevertheless, all ringgit exposures shall be managed only with licensed onshore banks or through an appointed overseas office of a licensed onshore bank with a back-to-back arrangement.

## 2. Foreign Investors

There are no specific market entry requirements for foreign investors in the Malaysian bond market.

Foreign investors are free to invest in Malaysia in any form, including the purchase of debt securities or *sukuk* denominated in ringgit or foreign currency. Investment in ringgit debt securities and *sukuk* by foreign investors may be funded from

- the conversion of foreign currency into ringgit with a licensed onshore bank (excluding licensed international Islamic banks) or through an appointed overseas office of a licensed onshore bank with a back-to-back arrangement; or
- the conversion of foreign currency borrowings obtained from a licensed onshore bank into ringgit undertaken with the licensed onshore banks. Relevant details on the applicable FEA Rules are discussed in section M.

## L. Market Exit Requirements (Nonresidents)

### 1. Foreign Issuers

There are no specific market exit requirements for foreign issuers.

The required funds for redemption of, or interest or profit payments on, bonds, notes, or *sukuk* issued in Malaysia may be remitted into Malaysia without limitations. Any purchase of Malaysian ringgit must be transacted with, or conducted back to back with, a licensed onshore bank or through an appointed overseas office of a licensed onshore bank with a back-to-back arrangement. Cross-currency swaps undertaken at the time of bond, note, or *sukuk* issuance may be undertaken without restriction.

### 2. Foreign Investors

There are no specific market exit requirements for foreign investors.

There are no restrictions for foreign investors to repatriate funds from divestment of ringgit assets or profits and dividends arising from the investments. However, repatriation must be made in a foreign currency other than the currency of Israel. Foreign exchange conversions from Malaysian ringgit must be transacted with a licensed onshore bank or an appointed overseas office of a licensed onshore bank with a back-to-back arrangement.

## M. Regulations Relevant for Nonresidents

The FEA Rules issued by BNM stipulate a few notable requirements to be observed with regard to transactions in Malaysian ringgit for residents and nonresidents alike, and a limitation for the borrowing of Malaysian ringgit by residents from nonresidents. The salient

requirements are detailed by topic below and are also available in more detail on a dedicated FEA microsite of BNM.<sup>23</sup>

### 1. No Foreign Currency Restrictions

There is no restriction on the amount of foreign currency that may be remitted into or out of Malaysia by nonresidents. Any person receiving foreign currencies from abroad may deposit the funds into a foreign currency account maintained with a licensed onshore bank. Nonresidents may also carry into or out of Malaysia any amount of foreign currency in notes.

The purchase or sale of foreign currency or hedging involving foreign currency is widely available with licensed onshore banks where a genuine underlying current or capital transaction exists.

### 2. Local Currency Restrictions

Outbound remittance of ringgit must be converted into foreign currency other than the currency of Israel with a licensed onshore bank prior to remittance.

Any person traveling to or from Malaysia may carry ringgit up to an equivalent of USD10,000.

### 3. Foreign Currency Funding

Nonresidents are free to obtain foreign currency financing from licensed onshore banks. Proceeds of the borrowing can be utilized in or outside Malaysia. Nonresidents are also allowed to issue FCY-denominated debt securities and *sukuk* in Malaysia to any investors for use of proceeds in or outside Malaysia.

### 4. Local Currency Funding

Nonresidents other than financial institutions may obtain ringgit financing from licensed onshore banks in any amount for the purpose of financing real-sector activities in Malaysia such as manufacturing, other commercial activities, or trade.

Foreign (global) custodians or brokers acting on behalf of foreign institutional investors may obtain ringgit overdraft financing from licensed onshore banks for the purpose of facilitating the settlement of shares or MYR-denominated instruments traded on BMS or through RENTAS to avoid settlement failure due to inadvertent delays of payment by the nonresident. The overdraft facility shall not exceed 2 business days and shall not include a rollover option.

## N. Regulations on Credit Rating Agencies

This section covers the regulations and requirements applicable to credit rating agencies (CRAs) operating in Malaysia. For the actual credit rating requirements in Malaysia and the application of such credit ratings in the issuance process of bonds, notes, and *sukuk*, please refer to Chapter III.N.

<sup>23</sup> Please see [http://www.bnm.gov.my/index.php?ch=en\\_newfea&pg=en\\_newfea\\_overview&ac=355&lang=en](http://www.bnm.gov.my/index.php?ch=en_newfea&pg=en_newfea_overview&ac=355&lang=en)

Malaysia was one of the first countries in the world in which the securities market regulator required the recognition of a CRA for rating a bond, note, or *sukuk* issue. This requirement is an acknowledgment of the vital role of CRAs in evaluating the probability of default of debt securities or *sukuk*, and the importance investors place on ratings for their investment decisions despite the fact that all rating reports carry a disclaimer expressly stating that “a rating is not a recommendation to purchase, sell or hold a security’s market price or its suitability for a particular investment, nor does it involve any audit by the rating agency.”

CRAs are required to be registered with the SC for rating debt instruments or *sukuk* in Malaysia, pursuant to the Guidelines on Registration of Credit Rating Agencies, which was issued as a Practice Notice in 2006 and revised into Guidelines in March 2011. With the introduction of the CMSA as the comprehensive securities market legislation in September 2007, CRAs are regulated as registered persons pursuant to Section 76(1)(a) of the CMSA.

In the abovementioned Guidelines, the SC requires that CRAs adhere to international standards and best practices in all their business activities. A CRA is required to adopt the International Organization of Securities Commissions (IOSCO) CRA Code in its own code of conduct, and to disclose this on its website. Where the CRA’s code of conduct differs in substance from the provisions of the IOSCO CRA Code, the rating agency must explain where and why these differences exist, and fully disclose such explanation on its website.

Other than the need for robust and systematic rating methodologies and policies and their consistent application, the SC Guidelines also specify minimum capital requirements and a conducive shareholding structure. Provisions on transparency, objectivity, and independence prescribe full disclosure of approaches and processes and a sound governance structure in line with the Malaysian Code of Corporate Governance.

The registration criteria for credit rating agencies contain a number of specific expectations for the rating review of bonds (Section 2, VI). In addition, the CRA is expected to maintain and report to the SC a list of defaults by rating category on an annual basis.

Pursuant to the abovementioned Guidelines, the SC has approved two domestic CRAs for the conduct of credit rating business in Malaysia: Rating Agency Malaysia (now known as RAM Holdings [RAM]) was established in November 1990, and Malaysian Rating Corporation (MARC) was incorporated in October 1995.

# Characteristics of the Malaysian Bond Market

Under the guidance of the SC, the Malaysian bond market is rapidly evolving. Since this Bond Market Guide was first issued in 2012, there have been and continue to be substantial changes in market characteristics that are not limited only to the regulatory environment.

Since 2012, the SC has announced and set into motion plans to liberalize credit rating requirements for the issuance of debt instruments and *sukuk*, and revised its regulatory framework to give greater emphasis to issuance avenues for retail-oriented and wholesale debt instruments and *sukuk*. The transformation of the wholesale bonds issuance process was completed with the introduction of the Lodge and Launch Framework in June 2015, and further credit rating changes will take effect in 2017. In addition, BMS now offers ETBS aimed at the retail sector.

These and many other characteristics of the Malaysia bond market are described in this chapter and (to a certain degree) in subsequent chapters.

## A. Definition of Securities

The definition of securities in Malaysia is anchored in the CMSA and also referenced in other pertinent laws and regulations as detailed below.

### 1. Definition in the Capital Markets and Services Act, 2007

Under Part I, Section 2(1), Interpretation, of the CMSA, in the version that includes amendments up to 15 September 2015, securities are defined verbatim as

- (a) debentures, stocks, or bonds issued or proposed to be issued by any government;
- (b) shares in or debentures of a body corporate or an unincorporated body; or
- (c) units in a unit trust scheme or prescribed investments, and includes any right, option, or interest in respect thereof.

While this definition represents a slightly amended version from the one reflected in earlier instances of the CMSA, particularly under (b) and (c), there is no impact on the relevance for the Malaysian bond market or for purposes of this Bond Market Guide.

In turn, the term debenture is further interpreted in the same Section 2(1) verbatim as including debenture stock, bonds, notes, and any other evidence of indebtedness of a corporation for borrowed monies, whether or not constituting a charge on the assets of the corporation, but shall not be construed as applying to any of the following:

- (a) any instrument acknowledging or creating indebtedness for, or for money borrowed to defray the consideration payable under, a contract for sale or

- supply of goods, property, or services or any contract of hire in the ordinary course of business;
- (b) a cheque, banker's draft, or any other bill of exchange or a letter of credit;
- (c) a banknote, guarantee, or an insurance policy;
- (d) a statement, passbook, or other document showing any balance in a current, deposit, or savings account;
- (e) any agreement for a loan where the lender and borrower are signatories to the agreement and where the lending of money is in the ordinary course of business of the lender, and any promissory note issued under the terms of such an agreement; or
- (f) any instrument or product or class of instruments or products as the Minister may, on the recommendation of the Commission, prescribe by order published in the Gazette.

## 2. Debentures in the Companies Act 1965

Reference to debentures and their issuance is also made in the Companies Act, 1965. The version that includes amendments up to 1 January 2006 reads

“debenture” includes debenture stock, bonds, notes, and any other securities of a corporation whether constituting a charge on the assets of the corporation or not.

## B. Types of Bonds, Notes, and *Sukuk*

The Malaysian bond market is very active for both conventional and Islamic bonds and notes, and features a large variety of issuance forms and formats, reflecting the needs of different issuer and investor types for both ringgit and foreign currencies.

There is no specific definition in the CMSA or other laws for bonds relative to notes; instead, Malaysian laws and regulations tend to refer to debenture(s). For all intents and purposes, the use of the term “debentures,” or sometimes “debt instruments,” subsumes all forms of bonds and notes, regardless of tenure.

*Sukuk* are structured to comply with Shariah principles. Malaysian policy bodies and regulatory authorities have taken the lead in developing and innovating new Islamic securities structures and in pioneering the Islamic capital market.

### 1. Public Sector Securities

In Malaysia, public sector securities include debt securities issued by the Malaysian government, BNM as the central bank, statutory boards, and other government-linked entities.

The issuance of MGS and MGII by the government is governed under the Loan (Local) Ordinance, 1959 and Government Funding Act 1983, respectively. In the context of MGS and other government securities issuance, BNM acts as an agent of the government under Section 5(2)(i) of the Central Bank of Malaysia Act, 2009.<sup>24</sup>

<sup>24</sup> Adapted by ADB Consultants for SF1 from a BNM presentation.

Public sector securities issued in Malaysia feature a range of forms and formats:

*(a) Malaysian Government Securities*

MGS are long-term bonds issued by the Government of Malaysia to raise funds from the domestic financial market. These coupon-bearing bonds pay interest on a semiannual basis and are the most actively traded bonds in the Malaysian bond market.

The Government of Malaysia is committed to regularly issue 3-, 5-, 7-, and 10-year MGS as benchmark securities as part of efforts to develop a benchmark yield curve. Benchmark issues may be reopened to enlarge outstanding issue sizes in order to promote market liquidity. In addition, 15- and 20-year MGS have also been issued to lengthen the benchmark yield curve. The standard transaction lot size for MGS is MYR10 million.

Aside from conventional MGS, callable MGS have also been issued since 2006 to provide the government with an opportunity to redeem such bonds ahead of their maturity dates. Callable MGS are redeemed at par and may be called with notice to bondholders of 5 business days.

*(b) Malaysian Treasury Bills*

Malaysian Treasury bills (MTB) are short-term securities issued by BNM on behalf of the Government of Malaysia. Treasury bills are used for the effective management of the short-term funding needs of the government.

MTB are issued at discount via competitive auction and carry original tenures of 3 months, 6 months, and 1 year. Redemption of MTB is at par. The standard transaction lot size for MTB is MYR5 million.

*(c) Malaysian Islamic Treasury Bills*

MITB are short-term securities based on Islamic principles issued by BNM on behalf of the Government of Malaysia. MITB are usually issued on a weekly basis, with an original maturity of up to 1 year.

MITB are tradable on a yield basis (discounted rate), based on bands of remaining tenure (e.g., Band 4 = 68–91 days to maturity). The standard trading amount is MYR5 million and MITB are actively traded in the secondary market based on the *bai al-dayn* (debt trading) principle.

*(d) Malaysian Government Investment Issues*

MGII are non-interest-bearing government securities based on Islamic principles issued by the Government of Malaysia and placed via competitive tender with maturities of 3, 5, 7, 10, 15, and 20 years. The MGII issuance program is preannounced in the official auction calendar with the issuance size ranging from MYR1.5 billion to MYR4 billion. Funds from MGII are typically used for development expenditures.

Effective 22 July 2013, MGII are issued based on the *murabahah* concept, which is essentially a certificate of indebtedness arising from the deferred mark-up sale transaction of an asset, such as a commodity (mainly crude palm oil), that complies with Shariah principles. MGII



issued under a *murabahah* contract involve commodity transactions to create indebtedness between the *sukuk* issuer and the investors.

MGI issued prior to 22 July 2013 were based on a *bai al-inah* contract, which is essentially a trust certificate arising from the sale and buy back of an asset. Under this Islamic principle, the government will sell a specified nominal value of its assets and subsequently buy back the assets at the nominal value plus profit through a tender process.

(e) *Sukuk 1Malaysia 2010*

Sukuk 1Malaysia 2010 is an investment instrument based on Shariah principles for Malaysian citizens who are aged 21 years and above. Sukuk 1Malaysia 2010 has a resale feature that allows investors to sell and purchase the *sukuk* before the maturity date.

(f) *Sukuk Perumahan Kerajaan*

Sukuk Perumahan Kerajaan are Shariah-compliant, long-term, profit-based government securities. In the primary market, they are issued under the *sukuk* structure of commodity *murabahah* (cost-plus sale) via the Principal Dealers network. In the secondary market, they are tradable under the *bai al-dayn* principle. Sukuk Perumahan Kerajaan pay a periodic profit payment on a semiannual basis and are redeemable at par upon maturity.

Sukuk Perumahan Kerajaan are issued by the Government of Malaysia under the Housing Loan Fund Act 1971 to refinance funding for housing loans to government civil servants and to extend new government housing loans. The funding of this scheme was previously raised through loans but has since shifted to *sukuk* issuances, consistent with the government's support for the development of an Islamic capital market in Malaysia.

(g) *Sukuk Simpanan Rakyat*

Sukuk Simpanan Rakyat, issued on a scripless basis by BNM on behalf of the Government of Malaysia, are an investment instrument for Malaysian citizens who are aged 21 years and above.

(h) *Merdeka Savings Bonds*

These are scripless bonds issued by the Government of Malaysia structured on Shariah principles. These bonds represent an additional savings instrument for Malaysian citizens who are aged 56 years and above. Merdeka Savings Bonds offer slightly higher returns than the market interest rate and benefit from an exemption from tax on profit-sharing benefits paid to bondholders. The purpose of this specialized issuance is to provide an income alternative to retirees who may depend primarily on interest income from deposits placed with banking institutions.

Merdeka Savings Bonds are unique among the Government of Malaysia's debt securities in that they are based on the Islamic banking concept of *bai al-inah* (sell and buy back).

## 2. Bank Negara Malaysia Instruments

(a) *Bank Negara Monetary Notes*

Bank Negara Monetary Notes (BNMN) are discounted or coupon-bearing government securities issued by BNM with maturities of 91, 182, and 364 days, and 1–3 years. BNMN

are issued for the purpose of managing liquidity in both conventional and Islamic financial markets. BNMN are placed with primary dealers via competitive auction. BNMN replaced the previously issued Bank Negara Bills and Bank Negara Negotiable Notes.

*(b) Bank Negara Monetary Notes-i*

Bank Negara Monetary Notes-Islamic (BNMN-i) are Islamic securities issued by BNM replacing the existing Bank Negara Negotiable Notes (BNNN) for purposes of managing liquidity in the Islamic financial market. The maturity of these issuances has been lengthened from 1 year to 3 years.

BNMN-i may be issued on a discounted or coupon-bearing basis depending on investors' demand. Discount-based BNMN-i will be traded using the same market convention as the existing BNNN and MITB, while profit-based BNMN-i adopt the market convention of MGII.

*(c) Floating-Rate Bank Negara Monetary Notes*

Floating-Rate Bank Negara Monetary Notes (BNMNF) are instruments used for implementing monetary policy and to manage liquidity in the financial market. BNMNF issuance is conducted through competitive Dutch auction (uniform price, bids on spread) via Principal Dealers.

*(d) Sukuk Bank Negara Malaysia Issues*

Sukuk Bank Negara Malaysia Ijarah (SBNMI) are zero-coupon Islamic bonds with a maturity of 1–2 years. SBNMI are based on the *al-ijarah* (sell and lease back) principle. A special purpose vehicle has been established to issue SBNMI.

### **3. Government-Related Bonds**

*(a) Khazanah Bonds*

Khazanah bonds are issued by Khazanah Nasional, the investment holding arm of the Government of Malaysia. These unsecured zero-coupon bonds are based on the Islamic principle of *murabahah* and carry maturities of 3, 5, 7, and 10 years.

The composition of government and government-related issuances in Malaysia are set to change significantly between 2015 and 2019 (Figure 3.1). At the same time, the total issuance volume is not expected to change drastically.

### **4. Corporate Bonds, Notes, and Sukuk (Private Debt Securities)**

Bonds, notes, or *sukuk* issued by corporates in the private sector in Malaysia are generally collectively described as PDS, in contrast to government issuances, including in the SC's guidelines and in the notices of other regulatory authorities. Issuers include Cagamas and may be listed or nonlisted Malaysian companies, including the local subsidiaries, branches, or affiliates of regional or global corporates. Foreign corporates may also directly issue bonds, notes, or *sukuk* in Malaysia, subject to specific approvals (for details, please refer to Chapter II).

PDS issued in the Malaysian capital market take many forms, including short-term notes and long-term straight or convertible bonds, Islamic bonds, bonds with warrants or floating-rate bonds, zero coupon bonds, asset-backed and mortgage-backed securities, secured and unsecured bonds, and guaranteed bonds.

Other than straight bonds, the typically observed issuance forms include

(a) *Cagamas Bonds*

Securities issued by Cagamas, the national mortgage corporation established in 1986 to promote the secondary mortgage market in Malaysia, are called Cagamas bonds in the domestic market. Cagamas bonds are unsecured bearer bonds. Cagamas issues debt securities and *sukuk* to finance the purchase of housing loans and other consumer receivables from financial institutions, selected corporations, and the government. It is the second largest issuer of securities after the Government of Malaysia, and the major issuer of asset-backed securities in Malaysia. Various types of Cagamas bonds are available in the market:

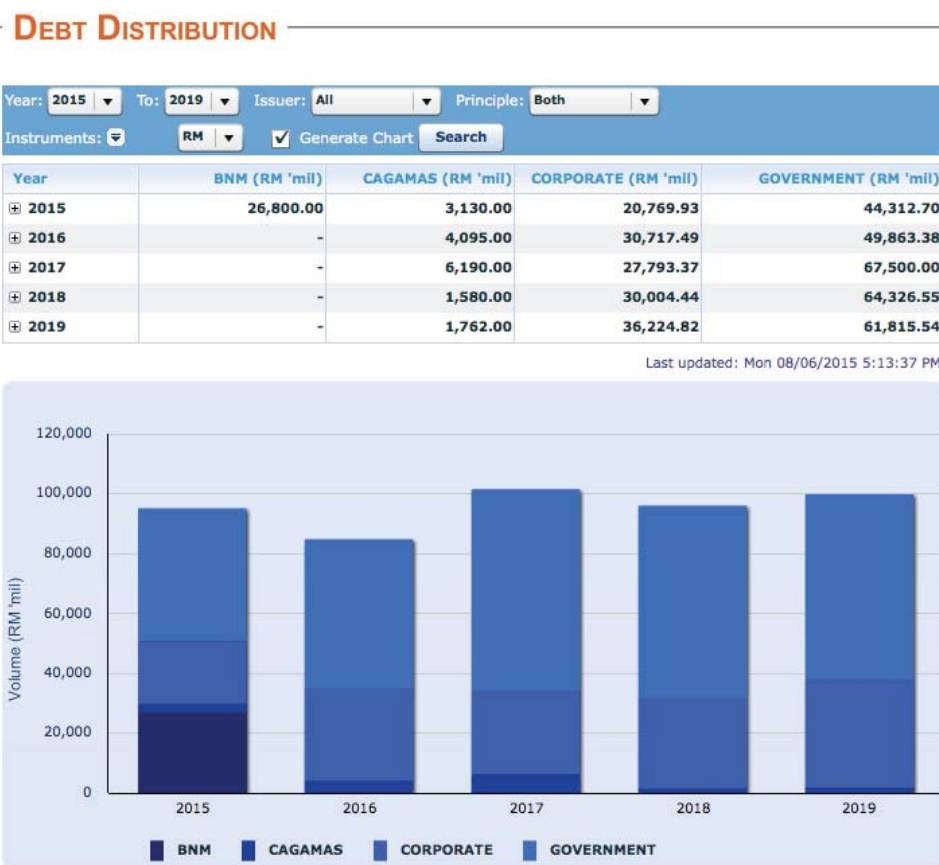
- (i) **Cagamas fixed-rate bonds** have tenures of 1.5–10 years with fixed coupon rates determined through tenders submitted by Principal Dealers. Interest is paid semiannually.
- (ii) **Cagamas floating-rate bonds** have tenures of up to 10 years and an adjustable interest rate pegged to the 3- or 6-month Kuala Lumpur Interbank Offered Rate. The interest rate is reset either every 3 or 6 months, with interest paid in those intervals.
- (iii) **Cagamas notes** are short-term instruments with maturities of 1–12 months and are issued at a discount to reflect the implied interest rate.
- (iv) **Sanadat Mudharabah Cagamas** are Islamic bonds issued under the Islamic principle of *mudharabah* (profit sharing) to finance the purchase of Islamic home-financing debts, granted on the basis of *bai bithaman ajil* and the purchase of Islamic hire–purchase debts, which are allowed under the principle of *ijarah thumma al-bai*. They are redeemable at par at maturity unless there is principal diminution. Tenures extend up to 10 years.
- (v) **Cagamas Bithaman Ajil Islamic Securities** are securities formerly known as Sanadat ABBA Cagamas, which are Islamic bonds issued under the Islamic principle of *bai bithaman ajil* to finance the purchase of Islamic home-financing debts and Islamic hire–purchase debts. The bonds are redeemable at par together with the dividend due on maturity date. They also have tenures of up to 10 years.

(b) *Medium-Term Notes (MTN Programs)*

As the name implies, MTN are debt paper with a medium-term maturity, generally tenures of more than 1 year that are redeemable at par on maturity. This type of instrument was introduced to bridge the gap between short-term commercial paper and long-term corporate bonds.

MTN are often issued in the form of a program, meaning that a number of MTN may be issued under one prospectus or issuance document and granted approval by the SC over a certain period, allowing the issuer to tap the market in line with capital needs and beneficial market conditions. The SC's Guidelines on Issuance of Private Debt Securities and Sukuk to Retail Investors and the Guidelines on Unlisted Capital Market Products under the Lodge

Figure 3.1: Change in Composition of Government Issuances, 2015–2019



Source: Bond Info Hub. Debt Distribution. <http://bondinfo.bnm.gov.my/portal/server.pt?open=514&objID=41920&parentname=CommunityPage&parentid=2&mode=2>

and Launch Framework, both of which were issued in June 2015, refer to such note issuance programs as debt programs. If a debt program involves an issuance of commercial paper or a combination of MTN and commercial paper, the tenure for such programs must not exceed 7 years. For a standalone MTN program, the 7-year tenure restriction does not apply.

MTN and MTN programs may carry fixed- or floating-rate coupons, and may be issued both in conventional form and under Islamic principles by direct placement or tender.

Nonresident issuers may also issue MTN or MTN programs; a number of nonresident issuers have done so already.

### (c) *Islamic Medium-Term Notes (iMTN Note Programs)*

Islamic MTN and iMTN programs principally function just like MTN and MTN programs but follow Islamic principles. Instead of interest, iMTN pay semiannual dividends, depending on the structure used.

#### (d) *Floating-Rate Notes*

Floating-rate notes (FRN) are debt securities with variable (floating) interest rates that are linked to those in the money market. Their tenures range from 3 to 7 years. FRN are usually pegged at a fixed spread to interbank rates corresponding to the maturity periods of the notes. In contrast to a coupon rate that is fixed for the entire life of the bonds, the coupon rate for FRNs is pegged to an agreed benchmark. It is periodically reset at a stated margin over a reference rate, usually the KLIBOR (e.g., the 6-month KLIBOR for semiannual coupons or the 12-month KLIBOR for coupons payable annually).

FRN investors are usually financial institutions with floating-rate liabilities. Other investors use FRN as substitutes for money market instruments and as hedges against rising interest rates.

#### (e) *Notes Issuance Facility*

Under this facility, a borrower can issue short-term notes with a maturity of less than 1 year, with common tenures being 1, 3, and 6 months. The tenure of the facility typically range from 3 to 5 years. The notes are issued in specific denominations and sold at a discount to their face value. The total amount of outstanding notes is capped by the approved facility amount.

The notes are subscribed by participating investors, normally financial institutions. Upon maturity, the notes are either redeemed at par or the principal is rolled over with the issuance of new notes. In the latter scenario, the discounted interest is paid to note holders at the time of the rollover.

The notes issuance facility is a low-cost substitute for syndicated bank loans since its rates are pegged to the KLIBOR and not to the base lending rate as in the case of bank loans.

#### (f) *Revolving Underwritten Facility and Revolving Underwritten Notes Issuance Facility*

When the notes issuance facility includes underwriting services, the arrangement takes the form of a revolving underwritten facility or a revolving underwritten notes issuance facility. In the event that the notes are undersubscribed, the underwriters are committed to take up the unsold portion at a predetermined rate.

#### (g) *Foreign-Currency-Denominated Bonds and Sukuk*

Both resident and nonresident issuers are able to issue bonds, notes, or *sukuk* in a foreign currency. At the end of December 2015, the total outstanding amount of FCY-denominated bonds and *sukuk* in US dollars, Chinese renminbi, and Singapore dollars stood at USD90 billion, CNY1.5 billion, and SGD900 million, respectively. Information on FCY-denominated bonds is available from the FAST website (where they are listed as FX-BONDS and FX-IBONDS), in selected statistics on the Bond Info Hub website, and on *AsianBondsOnline*.

### C. Money Market Instruments

Money market instruments are short(er)-term debt instruments issued by either the Government of Malaysia, BNM, or private sector. Money market instruments are generally limited to instruments with a maturity of less than 1 year.

The money market instruments observed in the Malaysian capital market comprise both conventional and Islamic instruments, and can be categorized based on issuance by either the government or a government entity, or the private sector.

## **1. Issued by the Government or Government Entities**

### *(a) Malaysian Treasury Bills and Malaysian Islamic Treasury Bills*

In addition to their nature as short-term government funding instruments, Treasury bills, both conventional and Islamic, may also be issued as practical instruments to absorb money market liquidity as part of BNM's open market operations (for details, please refer to section B.1).

MTB and MITB are also used as liquidity instruments by financial institutions or asset managers to place excess funds for short periods of time.

### *(b) Bank Negara Monetary Notes*

Both conventional and Islamic BNMN may be issued and used as practical instruments to absorb or invest money market liquidity, either through BNM's open market operations or in dealings between financial market participants (for details, please refer to see section B.2).

## **2. Issued by the Corporate Sector**

### *(c) Commercial Paper*

Commercial paper is a short-term revolving promissory note, either conventional or in line with Islamic principles, with original tenures from 1 month to 1 year. In practice, commercial paper is often rolled over upon maturity until the expiry of an issuance program. Most investors hold commercial paper until maturity, as these instruments are short-term in nature.

### *(d) Bankers Acceptance*

A bankers acceptance is a bill of exchange, in effect a bank draft requiring the issuing bank to pay to the holder the amount specified on the instrument. Bankers acceptances have a typical tenure of 90 days, but may also be issued with tenures of up to 180 days.

### *(e) Negotiable Instruments of Deposit*

Negotiable instruments of deposit (NID) are issued by financial institutions, in both ringgit and foreign currency. NID are issued and traded in the Malaysian market can be based on either a fixed rate, zero coupon, or floating rate, or a combination of the three. NID are to be issued with a nominal value of more than MYR60,000 (or the equivalent in a foreign currency) per account and per customer. NID may be issued at par, at a discount, or at a premium. The issuer may act as the authorized depository for the NID.

### *(f) Islamic Negotiable Instruments*

Islamic negotiable instruments of deposit are the Islamic money market equivalent of NID. Islamic Negotiable Instruments are structured under the concept of *bai' bithaman*

*ajil* (deferred payment sale) for Negotiable Islamic Debt Certificates and the concept of *mudharabah* (profit-sharing) for Islamic Instruments of Deposits.

#### (g) Repurchase Agreements

A repo is a contract to sell and, subsequently, repurchase securities at a specified date and price. It is also known as a buyback arrangement. Details on the Malaysian repo market and its practices are provided in Chapter IV.

## D. Segmentation of the Market

To provide a better illustration of the segmentation of the different types of debt securities issued in the Malaysian market, Table 3.1 provides an overview of the outstanding values of the types of securities detailed above. Table 3.2 shows the outstanding values of these securities by type of issuer.

More information on outstanding bond, note, and *sukuk* issues and statistics on the Malaysian bond market can be found on the websites of BNM; Bond Info Hub; and the Bond Pricing Agency Malaysia (BPAM); as well as on *AsianBondsOnline*, a bond information portal operated by ADB under an initiative of ASEAN+3. At the same time, detailed information on Malaysian public debt can be obtained primarily from the BNM and Bond Info Hub websites. Relevant links are provided in this Bond Market Guide in both Chapter VII and Appendix 2.

**Table 3.1: Segmentation of the Market—Outstanding Value by Type of Bond, Note, or Sukuk**

Type of Instrument	Conventional (MYR million)	Islamic (MYR million)	Outstanding Amount (MYR million)	% of Total
<b>Government</b>				
MGS, MGII	340,063	242,400	582,463	51.67
MTB, MITB	3,000	1,700	4,700	0.42
Quasi-Government	16,319	131,332	147,651	13.10
BNMN, BNMNI	24,000	500	24,500	2.17
<b>PDS: Long-Term Instruments</b>				
AAA	21,698	81,163	102,861	9.12
AA	73,708	103,680	177,388	15.73
A	3,719	3,887	7,606	0.67
BBB	4,264	5,442	9,706	0.86
No Rating	24,278	36,837	61,115	5.42

*continued on next page*



Table 3.1 continued

Type of Instrument	Conventional (MYR million)	Islamic (MYR million)	Outstanding Amount (MYR million)	% of Total
<b>PDS: Short-Term Instruments</b>				
P1	6,255	1,685	7,940	0.70
P2	0	0	0	0.00
P3	0	0	0	0.00
NP	80	922	1,002	0.09
No Rating	400	40	440	0.04
<b>TOTAL</b>	<b>517,784</b>	<b>609,588</b>	<b>1,127,372</b>	<b>100.00</b>

BNMN = Bank Negara Monetary Notes, BNMNI = Bank Negara Monetary Notes Islamic, GII = Government Investment Issues (Islamic), MGS = Malaysia Government Securities (Conventional), MTB = Malaysia Treasury Bills, MITB = Malaysia Islamic Treasury Bills, PDS = private debt securities.

Notes: Data as of end of December 2015. An entity rated NP has doubtful capacity to meet its short-term financial obligations.

Source: Bond Pricing Agency Malaysia.

Table 3.2: Segmentation of the Market—Outstanding Value by Type of Issuer

Issuer Classification	Conventional (MYR million)	Islamic (MYR million)	Outstanding Amount (MYR million)	% of Total
Government	343,063	244,100	587,163	52.08
Quasi-Government	16,319	131,332	147,651	13.10
Bank Negara Malaysia	24,000	500	24,500	2.17
Financial	63,815	18,225	82,040	7.28
Corporate-Guaranteed	14,873	34,710	49,583	4.40
Corporate	47,517	176,478	223,995	19.87
Asset-Backed Securities	8,197	4,243	12,440	1.10
<b>TOTAL</b>	<b>517,784</b>	<b>609,588</b>	<b>1,127,372</b>	<b>100.00</b>
Government	383,382	375,932	759,314	67.35
PDS	134,402	233,656	368,058	32.65
<b>TOTAL</b>	<b>517,784</b>	<b>609,588</b>	<b>1,127,372</b>	<b>100.00</b>

PDS = private debt securities.

Note: Data as of end of December 2015.

Source: Bond Pricing Agency Malaysia.

As a result of the broad availability of current bond market statistics for Malaysia, this Bond Market Guide no longer carries a chapter on statistics since the shelf life of said statistics is limited and may not be of use to the reader soon after publication.

## E. Methods of Issuing Bonds, Notes, and *Sukuk* (Primary Market)

There are a number of different methods to issue debt securities and *sukuk* in the Malaysian bond market for both government and private sector instruments.

### 1. Government Securities Offering

Most MGS and other debt instruments issued by the Government of Malaysia and BNM are issued through the auction method. Auctions for government securities are conducted by BNM with the participants being Principal Dealers. Non-Principal Dealer market participants may submit their bids through a Principal Dealer. Investors are not able to participate directly at auction but instead need to use the services of a licensed bond dealer to make their investment in bonds, notes, or *sukuk*.

#### (a) Competitive Auction by BNM

BNM issues government bonds, notes, and *sukuk* on behalf of the government via competitive auction. MGS auctions are open to Principal Dealers only, while MGII auctions are open to both Principal Dealers and Islamic Principal Dealers. The tender basis would be yield (or price in case of reopenings) for conventional debt securities and profit rate for Islamic debt securities. Successful bidders are determined according to the lowest yields (price) offered, and the coupon rate is fixed at the weighted average yield (price) of successful bids (for details on the auction or tender process, please refer to section 3).

#### (b) Noncompetitive Auction Involving BNM

BNM may itself participate in MGS auctions for the purpose of obtaining securities for its open market operations. Bidding is conducted in a noncompetitive manner, with BNM being allotted at the weighted-average yield (price for reopenings) of the successful bids of other market participants to ensure fairness and market transparency. The maximum allotment limit for BNM is currently capped at 10% of the total issue amount.

#### (c) When-Issued Trading

When-issued trading is a specific feature of the Malaysian bond market. When-issued trading covers the period from formal announcement of a government issuance to the actual issue date and, basically, serves as a price discovery mechanism for both the issuer and Primary Dealers.

The value date for settlement of when-issued trades must be on or after the government securities issue date but the standard value date is 2 business days (value spot).

Bids are submitted by the Principal Dealers via FAST (see section 3). Non-Primary Dealers or other institutions can also submit bids via a Primary Dealer with a maximum allotment limit of 30% per bidder. If bids are successful, Real Time Electronic Transfer of Funds and Securities (RENTAS) will allot the securities to the bidder by lodging the securities with their appointed Authorized Depository Institutions (ADIs). Settlement would then take place automatically in RENTAS on a delivery-versus-payment basis.

## 2. Corporate Bond, Note, and Sukuk Offering Methods

Bonds, notes, and *sukuk* issued by other statutory bodies and government-owned corporations, as well as corporate debt securities and *sukuk* (PDS), can be issued via direct placement or tender. Direct placements are subject to an appropriate lodgement of issuance documentation and disclosure information with the SC. Tender offers of corporate debt securities and *sukuk* in the Malaysian market are subject to issuance approval by the SC. The regulatory framework and the relevant regulatory processes for these offering methods are described in Chapter II.

### (a) Tender Offers to Retail Investors

Tender offers of debt securities and *sukuk* in Malaysia are conducted via FAST (for details, please refer to section 3). The tender basis for government issuances would be yield (or price in case of reopenings) for conventional debt securities and profit rate for *sukuk*. Similarly, the tender basis for PDS would be yield (or price in case of reopenings) for conventional debt securities and profit rate for *sukuk*.

Bonds, notes, and *sukuk* offered to retail investors may be listed as ETBS on BMS or traded OTC.

### (b) Book Building

Book building is a method used to achieve suitable price discovery and a realistic picture of the demand of investors for a particular bond, note, or *sukuk* issue or program. It is used only for corporate bonds since the possible investor universe is not limited to Principal Dealers and their account holders only. Usually, the issuer appoints a major bank to act as a book runner.

The book runner collects bids from investors, both institutional and retail, over a limited subscription period at various prices. The actual issue price is determined once the book has closed and is based on specific criteria set out in the offer documentation.

### (c) Private Placement

Private placement is not defined as a specific issuance type in Malaysian regulations with distinct features (as is the case in other markets); instead, private placement in Malaysia is simply an issuance method.

In a private placement, a bond, note, or *sukuk* is issued or offered to a limited target group of investors. In Malaysia, private placements are often undertaken for wholesale bonds aimed at Sophisticated Investors—including institutional investors and high net worth investors—such as banks, insurance companies, unit trusts, and pension or provident funds.

A bond, note, or *sukuk* offered through a private placement is negotiated and traded in the OTC market and settled via RENTAS (for details, please refer to section I or refer to Chapter IV).

## 3. Bond, Note, and Sukuk Issuance Procedure (via FAST)

FAST is the prescribed platform for the issuance and tendering of debt securities and *sukuk* in the Malaysian market. Auctions are also conducted using FAST facilities. FAST is directly connected to the settlement system RENTAS.

The listing of debt securities and *sukuk* upon issuance is not covered by FAST. For details on the listing process, please refer to section H in this chapter.

An issuer, through their Principal Adviser, announces via FAST the issuance details (e.g., issuance size and date) at least 5 business days prior to the actual issuance date so that participants can conduct their own assessment. The same information will also be transmitted from FAST to information providers such as Bloomberg and Reuters. A sample screenshot for an announcement can be found in Figure 3.2.

Bids are entered into FAST by participants through their dedicated FAST terminal access, via login on the website or approved interfaces.

Successful bids are automatically allotted in RENTAS to the bidder by lodging the securities with the bidder's appointed ADIs. Settlement takes place in RENTAS on a delivery-versus-payment basis.

**Figure 3.2: Fully Automated System for Issuing/Tendering Website—  
Sample Announcement**

**BANK NEGARA MALAYSIA**  
CENTRAL BANK OF MALAYSIA

14 March 2016 1:12:59 PM AEDT

**FAST**  
FULLY AUTOMATED SYSTEM FOR ISSUING/ TENDERING

HOME • MALAYSIA BOND MARKET • RULES & GUIDELINES • ALL ANNOUNCEMENTS • CONTACT US • FAQ

**LOGIN**  
User ID  
Password  
LOGIN  
Forgot Your Password?

**FACTS & FIGURES**  
- Consolidated IYTM  
- Individual IYTM  
- MGS Indicative Price  
- Outstanding Amount  
- Historical Outstanding Amount  
- Facility Information  
- List of Membership  
- List of Issuer  
- List of Instrument

**MGS YIELD CURVE**  
1 YEAR  
3 YEARS  
5 YEARS  
7 YEARS  
10 YEARS  
MORE

**AUCTION CALENDAR**  
Last Update: 11 March 2016  
MORE

**HYPERLINKS**  
- BNM Website  
- Ministry of Finance  
- Bursa Malaysia  
- Securities Commission

**Latest Announcement**  
News ID : 2016030100036  
Subject : Tanjong Bin Energy Issuer Berhad (TBEI)

**Tanjong Bin Energy Issuer Berhad (TBEI)**

<b>Organisation Name:</b>	HSBC BANK MALAYSIA BERHAD
<b>News Type:</b>	NEWS FROM MEMBERS
<b>Reference Site:</b>	None
<b>Embargo Date:</b>	09/03/2016
<b>Embargo Time:</b>	09:00 AM
<b>Expiry Date:</b>	09/04/2016
<b>Priority:</b>	Medium
<b>Summary:</b>	Sukuk Murabahah under the Islamic principle of Tawarruq (Commodities Murabahah) of up to RM4,500 million in nominal value
<b>Attachments:</b>	No attachment available.
<b>Disclaimer:</b>	The user, including a user who is also a FAST Participant, expressly agrees that the use of this website which is accessible at <a href="https://fast.bnm.gov.my/">https://fast.bnm.gov.my/</a> is at the user's sole risk. The information contained in this FAST website is compiled by MyClear Sdn. Bhd. (MyClear) and is provided on an "as is" basis without any representations or warranties of any kind, either expressed or implied. While MyClear makes every effort to ensure that information contained in the FAST website are accurate and disseminated in a timely and efficient manner, the user acknowledges that delays, errors, omissions or inaccuracies may occur. MyClear disclaims any liability pertaining to the consequences of any delays, errors, omissions or inaccuracies arising out of or relating to the FAST website or information, including but not limited to, any decision made or action taken by a user in reliance upon such information, or for damages suffered, whether direct, consequential, special, punitive, indirect or otherwise, notwithstanding having been advised of the possibility of such damages. In the event of any dispute, the official records of MyClear shall prevail. MyClear, Bank Negara Malaysia or any of its affiliates, officers, directors, agents or any other party involved in creating, producing or delivering the FAST website, shall not be liable for any direct, consequential, special, punitive, indirect, incidental or other damages arising out of or in any way connected with the use or inability to use the FAST website or information, whether based on contract, tort, liability or otherwise, even if advised on the possibility of any such damages.

Source: Fully Automated System for Issuing/Tendering (FAST). <https://fast.bnm.gov.my/fastweb/public/MainPage.do>

## F. Governing Law and Jurisdiction (Bond, Note, and *Sukuk* Issuance)

The governing law and jurisdiction for a bond, note, or *sukuk* issuance is of significance since potential issuers may consider issuing under the laws or jurisdiction of a country or market other than the place of issuance. The choice of governing law and the contractual preferences of stakeholders can affect the accessibility to a specific investor universe that may otherwise not be accessible if a bond, note, or *sukuk* was issued under the laws of the place of issuance.

Malaysian law permits the use of governing law other than Malaysian law and jurisdictions other than Malaysia in contracts provided that such provisions do not contravene any existing Malaysian laws. The decision on the governing law and jurisdiction for bonds, notes, or *sukuk* issued to investors in Malaysia tends to be investor driven; offers aimed at Sophisticated Investors may be more flexibly considered.

The key question in the setting of the underlying law or jurisdiction is the enforcement in case of a dispute arising. For example, in the case of a secured bond or note, regulations prescribe that the governing law must follow the jurisdiction in which the underlying assets are located. In this manner, governing law and jurisdiction provisions in bond, note, and *sukuk* issuance documentation follow the standard practices in common loan documents.

In the case of issuance of MYR-denominated bonds, notes, or *sukuk* in Malaysia, even in cases when the contracting parties choose a governing law other than Malaysian law for the contract, it is expected that Malaysian law would prevail with respect to issuance- and settlement-related matters.

Should the parties involved in a bond, note, or *sukuk* issuance choose to use Malaysian law, the jurisdiction of the issuance would fall to Malaysian courts by default. If, in contrast, parties involved in the issuance agree on another governing law, the parties would also have to specifically determine the jurisdiction of a court in which provisions of the bond, note, or *sukuk* issuance could be enforced and any disputes would be heard and decided.

In any case, the actual use of governing laws or jurisdictions other than those of Malaysia may be subject to clarification or legal advice from a qualified law firm, as may be necessary.

## G. Language of Documentation and Disclosure Items

Contracts or agreements in the context of a bond, note, or *sukuk* issuance; the issuance documentation and disclosure items; and all applications, approvals, and correspondence with regulatory authorities and market institutions can be in English in Malaysia.

## H. Registration of Debt Securities and *Sukuk*

There is no concept of registration of debt securities or *sukuk* in the Malaysian market. The typical functions associated with a registration concept—such as provision of bond information, continuous disclosure, and the determination of a fair market price—are carried out by institutions that are mandated for such functions, including BNM through a number of related institutions, BMS and its subsidiaries, and BPAM. Their roles and the corresponding functions are explained elsewhere in this document.

## I. Listing of Debt Securities and *Sukuk*

A listing of debt securities or *sukuk* is possible in Malaysia for the purpose of quoting and trading (similar to equities) or for the purpose of profile listing (e.g., to achieve visibility or to reach out to a different or larger investor universe).

The listing of a bond, note, or *sukuk* is not a regulatory requirement of the SC or BNM for either domestic and foreign issuers, including in the event of an offer to retail investors.

### 1. Exchange-Traded Bonds and *Sukuk*

ETBS are debt instruments and *sukuk* authorized to be quoted and traded on BMS' main board. For that, the issuer or its agent needs to obtain approval under the BMS Main Market Listing Requirements. In Malaysia, only certain types of offered government and some corporate bonds or *sukuk*, which are offered to retail investors, are quoted and traded on an exchange.

Once a government bond or *sukuk* is tendered or issued through FAST (for details, please refer to section D), these instruments can be quoted on BMS and traded in the secondary market. In contrast, bonds or *sukuk* not offered to retail investors, including those issued under the Lodge and Launch Framework, are not quoted and traded on BMS.

More information on rules related to bonds, notes, and *sukuk* quoting and trading can be found on the BM website.<sup>25</sup>

### 2. Profile Listing under the Exempt Regime

To promote the Malaysian debt securities and *sukuk* market, while enhancing the breadth and depth of investment options in the Malaysian capital market, the debt securities and *sukuk* of both listed and nonlisted issuers can also be listed for profiling on BMS under the Exempt Regime.

The Exempt Regime refers to debt securities or *sukuk* that will be listed, but not quoted or traded, on BMS. The Exempt Regime is specifically for issuers intending to list debt securities or *sukuk* to obtain listing status and for profiling purposes, and where the targeted group of investors comprises Sophisticated Investors. Debt securities or *sukuk* listed on the exchange may be denominated in foreign currencies but must have an original maturity of more than 1 year. The trading of debt securities and *sukuk* under the Exempt Regime takes place in the OTC market and is inaccessible to retail investors.<sup>26</sup>

The listing application and approval process for the Exempt Regime is described in the following.

<sup>25</sup> Bursa Malaysia. <http://www.bursamalaysia.com/market/securities/bonds/products/exchange-traded-bonds-and-sukuk-etbs/>

<sup>26</sup> Reference is made to an FAQ document in relation to the BMS Listing Requirements, from which part of the text has been adapted. See <https://www.fimm.com.my/wp-content/uploads/latest-news/Appendix%20-%20Q&As%20in%20relation%20to%20Bursa%20Malaysia%20Securities%20Berhad%20Listing%20Requirements%20for%20The%20Main%20Market.pdf>



### Step 1—Listing Application to Bursa Malaysia Securities

In the event an issuer wishes to list its bonds, notes, or *sukuk* for profiling in Malaysia, BMS offers the Exempt Regime listing feature (for more details, please refer to Chapter I).

Issuers already listed as entities on BMS, as well as nonlisted entities, may list bonds, notes, or *sukuk* under the BMS Exempt Regime. An issuer may submit an application before or after the issuance of the bonds, notes, or *sukuk*. For a pre-issuance submission, an issuer may submit its listing application to BMS at the same time it lodges its documentation with the SC under the requirements of the Lodge and Launch Framework. However, BMS approval for listing, if granted, will be conditional upon the ability to actually launch products under the framework.

Any issuer intending to list under the BMS Exempt Regime will need to submit, through their Principal Adviser, a Listing Application, accompanied by the prescribed documentation and disclosure items.

The Exempt Regime market-specific documentation and initial disclosure requirements, which differ significantly from the requirements for retail offers on the BMS main board, need to be observed when submitting the application. These requirements are defined in Chapter 4B (Part D) of the BMS Listing Rules, as well as in Part B of BMS Practice Note 26-A.

BMS charges initial and annual listing fees, as per the prevailing tariff in the Listing Rules and related conditions, which are accessible via its website (for a link, please refer to Appendix 2).

### Step 2—Listing Approval from Bursa Malaysia Securities

BMS will check the listing application, following the submission of the relevant information in documentation and disclosure items. BMS may, at its discretion, request from the issuer or Principal Adviser supplementary information, if so required. BMS is committed to provide a response to a listing application to the issuer or Principal Adviser within 5 business days.

Provided that the information in the listing application and enclosed documents is in order and the review is satisfactory, BMS will issue an approval letter to the issuer or Principal Adviser, indicating that the listing has been approved or stating any conditions that may apply.

The listing approval from BMS does not have an expiry date since the listing becomes effective once approved.

## 3. Other Listing Places

In principle, bonds or notes issued in the Malaysian market may also be listed outside Malaysia. Some issuers may take the step of obtaining a profile listing, or additional profile listing, of their bonds, notes, or *sukuk* in regional markets in ASEAN+3, with the intention to access different or larger investors universes in this manner.

The process of such a listing is beyond the purview of SC Malaysia and is subject to separate, applicable approvals and listing rules and regulations at the listing place.



At the same time, SC regulations specify that if a bond, note, or *sukuk* issued in Malaysia is offered for sale or subscription in other markets, the issuer and the Principal Adviser must ensure that all laws, regulations, and application provisions under the jurisdiction of the listing place market must be complied with.

## J. Methods of Trading Bonds, Notes, and *Sukuk* (Secondary Market)

Investors in the Malaysian bond market may choose from a number of secondary bond market trading methods. In addition to the traditional OTC market, the ETP provides an alternative through the execution of OTC trades on a market platform. At the same time, specific bonds, notes, and *sukuk* can also be traded on BMS. The potential investors' focus, market participants, and choice of instruments distinguish these trading methods.

The individual methods are briefly described in the sections below and are further detailed in the applicable sections of Chapter IV.

### 1. Over-the-Counter Market

The OTC market is the main trading venue for bonds, notes, and *sukuk* issued or offered for sale in Malaysia. OTC market participants, or bond dealers, require a Capital Markets Services License (institutions) or Capital Markets Services Representative License (individuals) for the dealing of debt securities and *sukuk*. The governing body for bond dealers is the FMA, which administers the certification of bond dealers and defines and enforces the Code of Conduct for all entities engaged in securities trading. Market participants seeking to transact in the OTC market are required to be FMA members (for more details, please refer to Chapter I.H.1).

Bonds, notes, and *sukuk* are traded in the OTC market between dealers, using large denominations, with the buyer and seller negotiating either via trading systems, directly over the telephone, or through a money broker. All trades concluded between participants in the OTC market need to be captured in the ETP, which is operated as a market service by Bursa Bonds, a subsidiary of BM. This trade reporting feature is further explained in Chapter IV.

### 2. Exchange-Traded Bonds and *Sukuk*

The trading of debt securities and *sukuk* for retail investors is also available on BMS. These retail bonds or *sukuk*, referred to as ETBS, are listed on the main board of the exchange and traded in small denominations more suitable for retail investors. ETBS are quoted and reported in real-time on BMS, giving investors a continuous update on the value of their securities.<sup>27</sup>

Trading is facilitated by participants of the exchange, being securities firms only, who are governed by the trading rules of BMS.

## K. Bond, Note, and *Sukuk* Pricing

To boost the transparency and quality of price discovery mechanisms and valuation practices in the Malaysian bond market, BPAM was established in 2004 and mandated pursuant to

<sup>27</sup> See [http://www.bursamalaysia.com/misc/system/assets/4105/Market\\_Securities\\_Bonds\\_ETBS\\_The\\_Marketplace.pdf](http://www.bursamalaysia.com/misc/system/assets/4105/Market_Securities_Bonds_ETBS_The_Marketplace.pdf)

the SC Guidelines on Registration of Bond Pricing Agencies, 2006. BPAM is currently the only bond pricing agency registered with the SC.

BPAM provides bond pricing and data for MYR-denominated fixed-income instruments and *sukuk* (Figure 3.3).

Figure 3.3: Bond Pricing Agency Malaysia Homepage



Source: Bond Pricing Agency Malaysia. <http://www.bpam.com.my>

BPAM provides daily evaluated prices on bonds, notes, and *sukuk* on the basis of information obtained from FAST (primary market and tender results) and RENTAS (settled trades), broker quotes, and actual traded prices as reported via the ETP. In the event that a bond,

note, or *sukuk* issued in the Malaysian market is inactive or not frequently traded, BPAM will use valuation methodologies in line with global standards to determine fair market value.

BPAM provides evaluated prices for more than 2,000 MYR-denominated unlisted debt instruments on a daily basis, across both conventional and Islamic instruments, including rated and unrated long-term bonds, *sukuk*, and short-term paper (e.g., commercial paper, bills, and notes). Historical prices are available dating back to August 2005.

BPAM prices are widely used by market participants for portfolio valuation, trading guidance, risk management, and determination of collateral values and haircuts. For unit trusts (or mutual funds) investing in debt instruments, the prices published by BPAM are used to calculate the net asset value of the funds.

In addition, BPAM generates a comprehensive set of bond and *sukuk* indexes that are widely used in the market for benchmarking purposes. BPAM also supports issuers and their agents in the price discovery process for new issues via the Reference Pricing Service.

The data provided by BPAM are disseminated to registered users via the BPAM website and *BondStream* (a proprietary data mining application). Real-time market data are also available on BPAM's free mobile applications. For casual viewers, the BPAM website carries examples of the data and charts available, as well as descriptions of BPAM's approach and processes.

Starting in 2013, BPAM has also been publishing the Malaysia Bond and Sukuk Almanac, a compendium of useful information and historical prices and data on unlisted bonds, notes, and *sukuk* in the Malaysian market and their performance in a given calendar year. Past and present editions of the Malaysia Bond and Sukuk Almanac are available for free download from the BPAM website.<sup>28</sup> In addition, BPAM offers a wide range of supplementary research publications, including quarterly credit rating default studies.

Through its applications and its website, BPAM also provides access for registered users to current and historical data of its ASEAN partner institutions: the Indonesia Bond Pricing Agency, a subsidiary of the Indonesia Stock Exchange; PDS Group, the operator of the Philippine exchange-like bond market; and the Thai Bond Market Association, the SRO supervising and servicing the Thai OTC bond market as a pricing agency.

## L. Transfers of Interest in Bonds, Notes, and Sukuk

### 1. General Rule

Malaysian government debt securities and *sukuk*, as well as corporate debt securities and *sukuk*, are scripless, which results in the securities transfer being electronic. In RENTAS, which is operated by MyClear, a wholly owned subsidiary of BNM, transfer instructions are processed on a delivery-versus-payment or trade-by-trade basis, with the transfer of securities running simultaneous to the transfer of funds for payment.

<sup>28</sup> Bond Pricing Agency Malaysia. Bond and Sukuk Almanac. <http://www.bpam.com.my>

## 2. Actual Registration and Transfer Process

BNM has appointed MyClear as its agent in carrying out BNM's functions as the operator of RENTAS and FAST, and the central securities depository and paying agent for scripless, unlisted securities deposited in RENTAS. These securities include bonds issued by the government, BNM, and corporates that are denominated in either ringgit, renminbi, or US dollars. At the end of May 2015, the total amount of outstanding debt securities in RENTAS stood at MYR1.08 trillion. Securities from a settled purchase can be redelivered on settlement date.

ETBS are settled through the Institutional Settlement Service and safekept by BMD since they are traded and cleared on BMS and BMS Clearing, respectively, and subject to BMS limits and procedures.

Securities are held on behalf of investors by intermediaries who are participants of either MyClear or BMD, and are registered under a combination of the nominee name of the participant and the investor. For debt securities and *sukuk*, participants are able to maintain omnibus accounts based on investor type. Accounts are differentiated between residents and nonresidents. Any transfer of securities will be reflected both in the seller (reduced holdings) and buyer (increased holdings) securities accounts, respectively, regardless of investor type or status.

## 3. Custodian Point of View

Participants in MyClear (ADIs) and BMD (Authorised Depository Agents [ADA] and Authorised Depository Members), typically commercial banks and brokers acting as custodians, recognize only the owner of the securities as reflected in their books. For the transfer of securities, custodian banks only act upon the instruction of their clients as registered in their books.

## M. Market Participants

### 1. Issuers

The Malaysian market comprises a very wide range of issuers and a large variety of debt instruments from these issuers.

#### (a) Government

The Malaysian federal government, its statutory bodies, and BNM are the main issuers of public debt. Issuances cover both conventional debt securities and instruments under Islamic principles and are mostly denominated in ringgit.

#### (b) Corporate

Financial institutions, nonbank financial institutions, listed and unlisted corporations, and government-linked or -related institutions such as Khazanah and Cagamas issue straight bonds and notes as well as asset-backed securities, commercial paper, and MTN under conventional and Islamic principles and in both ringgit and foreign currencies.

### (c) *Multilateral Development Banks*

Multilateral development banks, including ADB, issue debt securities in the Malaysian market, both conventional and under Islamic principles, to finance long-term loans and very long-term development projects in their areas of coverage.

## 2. **Investors**

Institutional investors dominate the Malaysian bond market. Institutional refers to juristic person investors, while individuals are designated retail investors, unless they qualify as high net worth investors. Institutional (professional) investors and their participation in the Malaysian bond market are further explained in section N.

Government investment issues are bought mostly by banks and Islamic banks investing on behalf of Islamic funds. The key investors in MTB are banks, finance companies, and insurance companies. BNM is the largest holder of Cagamas bonds and *sukuk*, which are also held by commercial banks, finance companies, and merchant banks.

Significant investors in the Malaysian bond market include the following:

### (a) *Pension Funds*

The Malaysian pension system comprises a series of provident funds. The Employee Provident Fund is the largest provident fund in Malaysia, accounting for over 85% of the total assets of the Malaysian provident fund system. It is a significant investor in the bond market and is required to invest 30% of its assets in MGS.

The Social Security Organisation, which provides benefits to workers through the Employment Injury Insurance Scheme and the Invalidity Pension Scheme, invests at least 40% of its funds in government bonds and bonds issued by government-linked organizations. The Pension Trust Fund, which was transformed into the Retirement Fund under the Retirement Fund Act of 2007, also invests considerable amounts in Malaysian government bonds and other types of fixed-income securities.

### (b) *Insurance Companies*

Private insurance companies dominate Malaysia's nonbank financial sector. After the 1997/98 Asian financial crisis, a merger program reduced the number of insurers to 39 by the end of 2010.

The *takaful* sector has also experienced rapid growth. *Takaful* adheres to Islamic principles in offering insurance, with participants mutually agreeing to guarantee each other against defined loss or damage through donations to *takaful* funds. The number of *takaful* operators had increased to 11 at the end of 2014 from only 3 in 2003. The total amount of *takaful* fund assets reached MYR22.7 billion at the end of 2014, up from MYR4.4 billion in 2003.

### (c) *Asset Management Institutions*

The SC began liberalizing Malaysia's unit trust industry in 1997. Since then, the investment management industry has expanded significantly and now features 75 licensed fund management companies. The SC reported that as of 31 December 2015, total

funds managed by licensed fund management companies in Malaysia amounted to MYR668 billion, compared with MYR377 billion at the end of 2010.<sup>29</sup>

#### *(d) Retail Investors*

While comparatively small as a proportion of the total market, retail investment in the Malaysian bond market has grown in recent years, spurred by the increased number of bond, note, and *sukuk* offerings aimed at the retail market, particular from the government and BNM. In addition, the introduction of ETBS in 2013 has given retail investors the ability to actively trade and follow their investments' price development.

Retail investors may also participate in the government and corporate bond market by, for example, investing in unit trusts with a focus on debt securities.

At the end of December 2015, the Employee Provident Fund, other social security institutions, insurance companies, and banks and nonbank financial institutions comprised approximately 67% of all holders of MGS (including MGII), while approximately 32% of MGS (including MGII) were held by foreign investors.<sup>30</sup>

### **3. Parties Involved in Debt Securities and *Sukuk* Issuance**

A number of intermediaries provide services to issuers and investors in the context of issuance of debt securities or *sukuk* in the Malaysian market. The following provides a brief description of the type of intermediaries and their specific functions:

#### *(a) Principal Dealers and Islamic Principal Dealers*

The Principal Dealer system in Malaysia was introduced in 1989 as part of initiatives to develop the primary and secondary markets of public debt securities. This includes building a stable demand for government and BNM issuances, and trading these debt securities and *sukuk* in the secondary market to create liquidity.

The increasing importance of Islamic finance and the prominent role played by Islamic banks in supporting this development prompted BNM to introduce the Islamic Principal Dealer system in July 2009 to complement the role played by Primary Dealers. Under both systems, BNM appoints selected banking institutions as either Primary Dealers or Islamic Primary Dealers based on a set of criteria, including their ability to handle large-volume transactions as measured by their participation in the primary auctions, secondary market trading volumes, and overall risk management capabilities.

Primary Dealers and Islamic Primary Dealers have the obligation of bidding for all government and BNM paper in the primary market (Islamic Primary Dealers are required to bid for only Islamic government and BNM paper), and to provide two-way price quotations for benchmark securities under all market conditions to ensure liquidity in the secondary

<sup>29</sup> Securities Commission Malaysia. <http://www.sc.com.my/data-statistics/statistics-for-fund-management-industry/>

<sup>30</sup> Bank Negara Malaysia. Monthly Statistical Bulletin May 2015. Sections 3.1.5 and 3.2. [http://www.bnm.gov.my/index.php?ch=en\\_publication\\_catalogue&pg=en\\_publication\\_msb&mth=4&yr=2015&lang=en](http://www.bnm.gov.my/index.php?ch=en_publication_catalogue&pg=en_publication_msb&mth=4&yr=2015&lang=en)



market. Primary Dealers, however, are also required to bid for the money market and repo auctions conducted by BNM from time to time.

For the obligations that Primary Dealers or Islamic Primary Dealers undertake, they are accorded certain privileges which, among others, include the ability to deduct the entire holdings of government and BNM paper based on acquisition cost from the eligible liabilities base for statutory reserve requirement computation, and the eligibility to participate as both borrower and lender for securities that are specified by BNM under its securities borrowing and lending (SBL) program.<sup>31</sup>

#### (b) *Principal Adviser*

Principal Adviser is the term used in the Malaysian market and in the prevailing Guidelines issued by the SC—as well as in other regulations, in particular the Principal Adviser Guidelines (issued on 8 May 2009)—for the key adviser to and issuer of a bond, note, or *sukuk*. Only institutions registered with the SC, and listed in the Principal Adviser Guidelines can act as Principal Adviser.<sup>32</sup> The appointment of a Principal Adviser is mandatory under Malaysian law, including for foreign issuers aiming to offer debt instruments issued in other markets to Malaysian investors through a roadshow.

The Principal Adviser may not necessarily be an underwriter or arranger themselves, although they often are in practice. The Principal Adviser will structure the debt securities or *sukuk* proposal, together with any other arrangers or underwriters, and submit the application for issuance approval, or effect the lodgement of relevant documentation and disclosure information under the Lodge and Launch Framework, to the SC.

The categories of Principal Advisers and the types of corporate proposals they are permitted to submit to the SC are detailed in the Principal Adviser Guidelines and shown in Table 3.3.

#### (c) *Underwriter(s)*

Investment banks and commercial banks, as well as their Islamic counterparts, are the main underwriters of debt securities and *sukuk* in the Malaysian market. An underwriter is appointed by the Principal Adviser. The lead arranger or Principal Adviser of an issue, besides inviting licensed financial institutions to subscribe to or underwrite the issue, can themselves be an underwriter.

The CMSA defines underwriter as a licensed institution or licensed person—a party holding a Capital Markets Services License (CMSL) or a Capital Markets Services Representative's License (for details, please refer to Chapter II). Underwriters in the context of a bond, note, or *sukuk* issuance can be banks, brokers, or securities firms.

The appointment of an underwriter is not mandatory under Malaysian law, including for an offer of debt securities to retail investors. The SC does not maintain a list of approved underwriters on its website.

<sup>31</sup> Adapted by ADB Consultants for SF1 from information provided on Bond Info Hub.

<sup>32</sup> The Principal Adviser Guidelines, an FAQ document, and a current list of Principal Advisers are available on the SC website at <http://www.sc.com.my/legislation-guidelines/principal-advisers/>



Table 3.3: Categories of Principal Advisers and Types of Corporate Proposals

Categories of principal advisers	Types of Corporate Proposals
Investment banks, licensed merchant banks, and universal brokers	All types of corporate proposals
1+1 brokers	All types of corporate proposals except for those involving private debt securities, Islamic securities and structured products
Special scheme brokers	<b>Issue of Structured Warrants</b> Proposals for the issue of structured warrants  <b>Offering of Foreign Securities</b> Proposals for the offering of equity securities, private debt securities or Islamic securities of listed or unlisted foreign issuers to investors identified under Schedules 6 and 7 of the Capital Market and Services Act, 2007
Islamic banks	All types of corporate proposals in respect of Islamic products
Licensed banks	<b>Offering of Private Debt Securities</b> All proposals for the offering of private debt securities, except for any of the following: <ul style="list-style-type: none"> <li>private debt securities of Malaysian-incorporated public companies or foreign corporations that are capable of being converted into equity; and</li> <li>private debt securities of Malaysian-incorporated public companies or foreign corporations that are issued together with warrants</li> </ul> <b>Offering of Islamic Securities</b> All proposals for the offering of Islamic debt securities, except for any of the following: <ul style="list-style-type: none"> <li>Islamic securities of Malaysian-incorporated public companies or foreign corporations that are capable of being converted into equity; and</li> <li>Islamic securities of Malaysian-incorporated public companies or foreign corporations that are issued together with warrants</li> </ul> Offering of Structured Products Proposals for the offering of structured products.
Bank Pembangunan Malaysia	Proposals on infrastructure project companies for the purposes of listing such companies or otherwise

Source: Securities Commission Malaysia.

#### (d) Facility Agent

The facility agent is responsible for all administrative matters pertaining to the bond, note, or *sukuk* issuance, such as facilitating the creation of the issue and the stock code in FAST. Facility agents are licensed investment banks, commercial banks, Islamic banks, and other institutions approved by regulatory authorities. In many cases, the Principal Adviser also acts as the facility agent. BNM acts as the facility agent for both the government and its own issues.

A facility agent receives debit notifications from RENTAS and payment instructions from issuers, and then sends payment instruction to the paying agent, who will carry out the interest and redemption payments.

(e) *Paying Agent*

The paying agent is responsible for the cash flow involved in a bond, note, or *sukuk* transaction, specifically in receiving the proceeds from the issuance on behalf of the issuer and remitting the proceeds to the issuer, as well as the payment of interest or consideration and redemption amounts to investors. The function includes the withholding of taxes and duties, as may be applicable.

BNM acts as the paying agent for securities and *sukuk* deposited in RENTAS

(f) *Shariah Adviser*

A Shariah Adviser will advise the issuer on the appropriate and acceptable Islamic concept(s) and principle(s) to be used in the issuance of a *sukuk*. The Shariah concepts and principles to be used must be approved by the Shariah Advisory Council (SAC) of the SC. The Shariah Adviser is appointed by the issuer in concurrence with the Principal Adviser.

The appointment process and the roles and responsibilities of Shariah Advisers are set out in the SC Guidelines for retail bonds and the Lodge and Launch Framework, respectively, depending on the type of issuance. In addition, the Registration of Shariah Advisers Guidelines (issued and effective on 10 August 2009) set out the general functions, eligibility criteria, academic qualifications, and experience requirements for Shariah Advisers.<sup>33</sup>

For a detailed description of the role and functions of the SAC, please refer to Chapter II.D.

(g) *Bond Trustee*

The CMSA (Section 258 and subsequent sections) stipulates the appointment of a trustee for any issuance of bonds, notes, or *sukuk* in the Malaysian market, and the drawing up of a Trust Deed. Certain exceptions to this requirement exist, such as government bonds and BNM issues, and in cases the bond, note, or *sukuk* is offered exclusively to foreign investors, or other entities or circumstances specifically mentioned in Schedule 8 of the CMSA.

The Bond Trustee is to be appointed by the issuer, typically on the advice of the Principal Adviser. Bond Trustees must be registered with the SC and are licensed trust companies or public companies. Bond Trustees are expected to be actively involved in the bond, note, or *sukuk* issuance and documentation process.

The SC, in its Guidelines on Issuance of Private Debt Securities and Sukuk to Retail Investors and the Lodge and Launch Framework, prescribes the need for a Trust Deed unless an exemption is applicable (see above). At the same time, the minimum content requirements of a Trust Deed are detailed in the separate Guidelines on Trust Deeds.

For a detailed description of the role and functions of the Bond Trustee, please refer to section Q in this chapter.

<sup>33</sup> See <http://www.sc.com.my/legislation-guidelines/shariah-advisers/>

(h) *Authorised Depository Institution(s) and Authorised Depository Agent(s)*

To subscribe to or trade in debt securities and *sukuk*, an investor must open an account with an ADI, which are licensed financial institutions that are members of RENTAS and/or are allowed by BNM to hold securities on behalf of investors that are not members of RENTAS. For members of RENTAS, BNM—represented by its subsidiary, MyClear—is the authorized depository, transferring scripless bonds, notes, and *sukuk* among account holders according to the Code of Conduct and Market Practices for Scripless Trading, and recording the holdings and transactions of each RENTAS member institution.

ADIs are required to segregate their securities account in RENTAS between their own holdings and investors (residents and nonresidents). ADIs are also required to maintain a separate account for each investor client in their books.

ADIs, as custodians, distribute payments of interest, consideration (profit), and redemption proceeds received from BNM as the paying agent via RENTAS. Custodians may also offer a range of value-added products and services in relation to the bond market, such as securities or repo lending.

An ADA, the term for custodian or broker participants at BMD, is the settlement agent for ETBS. The roles and functions of an ADA are, for all intents and purposes, equivalent to those of an ADI on MyClear. In fact, many domestic intermediaries are participants in both settlement systems. ADAs are governed by the Rules of Participating Organisations of BMD.

(i) *Legal Adviser (Legal Counsel)*

Before the finalization of debt securities or *sukuk* issues, a legal due diligence exercise is conducted on the issuer, related projects, and project information pertaining to the debt securities issue or *sukuk*. This is done by legal counsel appointed by the issuer, which in the Malaysian market is also referred to as a legal adviser. In the case of a planned *sukuk* issuance, a legal adviser has to certify that a Trust Deed for the trust underlying the *sukuk* is enforceable under Malaysian law.

Law firms involved in the bond, note, or *sukuk* issuance process in Malaysia are not required to obtain a specific license or accreditation with the SC. There is no positive or negative list for law firms maintained or published by the SC.

A limited financial due diligence exercise is also undertaken to ascertain the credibility of the financial projections and financial data of the issue. The primary purpose of these due diligence exercises is to ensure that no misleading and/or inaccurate information is furnished to the regulatory authorities and investors in general.

The SC issued a set of guidelines on the standards expected from such due diligence exercise, the Guidelines on Due Diligence Conduct for Corporate Proposals, which came into effect on 1 February 2008.

(j) *Accounting Firms*

Accounting firms involved in the bond, note, or *sukuk* issuance process in Malaysia are not required to obtain a specific license or accreditation with the SC. However, where the issuer is a Public Interest Entity or a Schedule Fund as categorized under Schedule 1 of the CMSA,

the accounting firm and individual auditor involved in the issuance of the bonds is required to be registered with the Audit Oversight Board.

## N. Definition of Professional Investors

The professional investor concept in Malaysia is commonly referred to as Sophisticated Investors in the market and its definition include the definition of Accredited Investors. Accredited Investors are referenced in Schedule 7 of the CMSA, which stipulate the exemptions from prospectus (full disclosure) requirements for these investors and related transactions. Section 229 of the CMSA defines excluded offers or excluded invitations, and Section 230 defines excluded issues. Schedules 6 and 7 both specify certain provisions that a prospectus shall not apply to “excluded offers” or “excluded invitations” and “excluded issues.”

The definition of Sophisticated Investors and its relevance for the bond market fall under the purview of the SC. As promulgated in the Guidelines on Unlisted Capital Market Products under the Lodge and Launch Framework, the term Sophisticated Investors refers to any person who falls within any of the categories of investors set out in Part 1, Schedules 6 and 7 of the CMSA.

Sophisticated Investors is a collective term and includes the following types of investors:

- High Net Worth Individuals
- High Net Worth Entities
- Accredited Investors

Accredited Investors are further defined in the SC Guidelines as

- Central Bank of Malaysia [...]
- a holder of a Capital Markets Services License
- an executive director or chief executive officer of a holder of a Capital Markets Services License
- a unit trust scheme or a prescribed investment scheme
- a closed end fund approved by the SC
- a licensed institution as defined in the Financial Services Act, 2013 or an Islamic bank as defined in the Islamic Financial Services Act, 2013
- a Labuan bank as defined under the Labuan Financial Services and Securities Act, 2010
- an insurance company registered under the Insurance Act, 1996
- an insurance licensee licensed under the Labuan Financial Services and Securities Act, 2010
- a *takaful* licensee licensed under the Labuan Islamic Financial Services and Securities Act, 2010
- a *takaful* operator registered under the Takaful Act, 1984
- a private retirement scheme as defined in the CMSA

There is no distinction in the CMSA, Guidelines on Issuance of Private Debt Securities and Sukuk to Retail Investors, Lodge and Launch Framework, or in the Guidelines on Sales Practices of Unlisted Capital Market Products between domestic and foreign investors. At the same time, foreign investors who wish to invest in the Malaysian market, tend to fall under the definitions and provisions for High Net Worth Entities or High Net Worth

Individuals. There are many foreign institutional investors already investing in Malaysia and holding their assets with domestic custodians (ADIs). For more detailed information, please refer to BNM's official statistics on foreign holdings of ringgit bonds, including government versus corporate issues, and conventional versus *sukuk* issues.<sup>34</sup>

Professional investors who are residents in Malaysia may invest in overseas markets. But investments in FCY-denominated assets abroad by residents are subject to the prevailing FEA Rules and subject to review and approval by BNM.

The professional investor definitions for Sophisticated Investors are particularly significant in relation to the investment in debt securities and *sukuk* exempt from full disclosure requirements (wholesale bond offers listed in Schedules 6 and 7 of the CMSA). Such offers for the sale or subscription of bonds, notes, and *sukuk* to Sophisticated Investors constitute the professional bond market in Malaysia. Such offers are eligible for issuance under the Lodge and Launch Framework introduced by the SC and effective 15 June 2015. Details and descriptions of the regulatory processes for bond, note, and *sukuk* issuance under both the Guidelines on Issuance of Private Debt Securities and Sukuk to Retail Investors and the Lodge and Launch Framework can be found in Chapter II.

## O. Credit Rating Requirements

This section covers the applicable credit rating requirements for bonds, notes, and *sukuk* issued in the Malaysian bond market. For details on the underlying regulations for the registration of credit rating agencies, please refer to Chapter I.N.

### 1. Present Requirements

In principle, bonds, notes, or *sukuk* issued in Malaysia in Malaysian ringgit, including those issued to Sophisticated Investors, require a credit rating from a credit rating agency registered with the SC (for details, please refer to Chapter II.N), unless an exemption mentioned in the respective SC Guidelines for retail or wholesale bonds can be applied.

Under the Lodge and Launch Guidelines (Chapter 2), FCY-denominated issuances do not require a credit rating. Since January 2015, the SC has given issuers the flexibility not to have MYR-denominated issuances aimed at Sophisticated Investors rated (for details, please refer to section 2). The complete removal of the mandatory credit rating requirements for bonds, notes, and *sukuk* issued in the Malaysian market will take effect in 2017.

Private debt securities and *sukuk* offered to retail investors are to be rated by a credit rating agency registered by the SC.

At present, domestic credit ratings are available from Malaysian Rating Corporation (MARC) and RAM Holdings (RAM), formerly Rating Agency Malaysia. Both MARC and RAM are registered with the SC, pursuant to the Guidelines on Registration of Credit Rating Agencies, 2011.

<sup>34</sup> Bank Negara Malaysia. Monthly Statistical Bulletin April 2015. Section 3.2. [http://www.bnm.gov.my/index.php?ch=en\\_publication\\_catalogue&pg=en\\_publication\\_msb&mth=4&yr=2015&lang=en](http://www.bnm.gov.my/index.php?ch=en_publication_catalogue&pg=en_publication_msb&mth=4&yr=2015&lang=en)

Although international ratings are accepted, domestic investors seem to favor a domestic credit rating for MYR-denominated bonds, notes, and *sukuk*. The credit rating of a bond, note, or *sukuk* must be made available to the SC upon an application to issue, offer, or invite to subscribe or purchase PDS. Where a final credit rating is not available, an indicative credit rating must be advised to the SC. In the case of a debt program with a partial rating, the first issuance under such a program must be rated while the PTC of the debt program must give sufficient information for the investors to form an opinion on the creditworthiness of the rest of the program.

In cases where prior approval by BNM of a bond, note, or *sukuk* issuance is required, such as in the case of a foreign issuer, a credit rating requirement for the issuer applies in every case. For BNM approval, corporate foreign issuers are expected to enjoy an international credit rating of equal to or better than AA to qualify for issuance approval.

## 2. Concessions Announced by Securities Commission Malaysia

In August 2014, the SC announced the complete removal of the present mandatory credit rating requirements for bonds, notes, and *sukuk* issued in the Malaysian market beginning in 2017. The current requirements will be replaced by new guidelines closer to the effective date.

At the same time, the SC has been giving issuers the flexibility since January 2015 not to obtain a credit rating for Malaysian ringgit issuances aimed at Sophisticated Investors only. The concessions granted by the SC include the following:

- (i) existing PDS and *sukuk* that are nontradable or transferable and have been in the market for 2 years can now be tradable and transferable without having to obtain a credit rating; and
- (ii) existing PDS and *sukuk* that have a rating (and therefore have been tradable and transferable) and have been in the market for 2 years can now discontinue the credit rating, while still maintaining the tradable and transferable status subject to certain conditions.

## P. Financial Guarantee Institution

Danajamin Nasional (Danajamin), Malaysia's first financial guarantee insurer, was established in May 2009 to provide financial guarantee insurance for bonds and *sukuk* issuances, which enabled access to the PDS market to viable Malaysian companies.

As a financial guarantee institution, Danajamin helps raise the credit ratings of bond, note, and *sukuk* issues that otherwise would normally be below investment grade to a level deemed investment grade by investors by lending their own sterling ratings to these bond issues.

Jointly owned by the Minister of Finance (Incorporated) (50%) and the Credit Guarantee Corporation Malaysia (50%), Danajamin is rated AAA by both RAM and MARC. Danajamin has issued and paid-up capital of MYR1 billion and another MYR1 billion of callable capital. Its underwriting capacity is up to MYR15 billion.

## Q. Market Features for Investor Protection

This section reviews a number of topics that have a bearing on the protection of investors in the Malaysian bond market, particularly retail or nonprofessional investors.

### 1. Investors Complaints

The SC will look into any complaint relating to market misconduct or other irregularities involving activities regulated by the SC under the CMSA. The SC welcomes all types of related complaints since the complaints can assist in alerting the SC of irregular activities occurring within the industry or new trends involving investment scams and public money.<sup>35</sup>

Investor complaints should be addressed to and will be handled by the Investor Affairs and Complaints Department of the SC, which will inquire into complaints on improper conduct and other irregularities in the securities and derivatives markets to assess whether they disclose offences under the securities laws. If a complaint relates to capital market services or products of a licensed intermediary, the investor is encouraged to first raise the complaint with the intermediary concerned. If the investor is unable to resolve the issues raised in the complaint with the intermediary, the investor may forward the complaint to the Securities Industry Dispute Resolution Center, a dispute resolution body approved by the SC, if the investor is seeking redress. This does not preclude the investor from forwarding the complaint to the SC.

When submitting a complaint to the SC, information should be included regarding the name and contact details of the complainant; details of the party or parties mentioned in the complaint; and specific details on how, why, and when the matter of the complaint arose.

Each complaint will be reviewed and possible breaches of securities laws referred to the relevant department of the SC for further action. All investigations are kept confidential and are not disclosed.

Complaints regarding a monetary dispute not exceeding MYR250,000 against a relevant licensed intermediary may be resolved with the assistance of the Securities Industry Dispute Resolution Center.

### 2. Retail Investors

Retail investors (or, in fact, any investors) interested in obtaining detailed knowledge and a better understanding of bonds, notes, and *sukuk*; the Malaysian bond market as a whole; market infrastructure and institutions; licensed persons and intermediaries; and products and services in the capital market have a wide choice of available resources and websites.

The SC details on its website a comprehensive list of legislation and regulations for the Malaysian bond market, including provisions on debt instruments and *sukuk*, the market and its participants, and the criteria for their licensing.

BNM maintains a number of websites for investor education aimed at their protection, with a particular focus on the conventional and Islamic bond market segments. Recommended is

<sup>35</sup> This section has been adapted from the SC website at <http://www.sc.com.my/lodge-complaints-2/lodge-complaints/>



the use of Bond Info Hub (<http://bondinfo.bnm.gov.my>), which hosts most comprehensive introductions, explanations, and detailed information on the Malaysian bond market, including considerations for foreign investors and issuers.

In addition, the websites of the market institutions and market infrastructure providers also offer detail on their purpose, regulatory environment, operational capabilities, and information provision. Most market institutions offer investor education seminars or tutorials. Interested parties are encouraged to visit the websites of the BPAM, BM and its subsidiaries, FAST, MyClear (including RENTAS), and credit rating agencies.

Links for all websites referred to above can be found in Appendix 2 and are also frequently referenced in a specific context in the course of this document.

Last but not least, most financial institutions in Malaysia provide a comprehensive set of services and education measures for retail investors interested in buying and selling bonds, notes, or *sukuk*.

### 3. Foreign Investors

Foreign investors as creditors have the same rights as local creditors under Malaysian law (for details, see section 4).

Due to the publication in the Malaysian market of issuance documentation, disclosure items, credit ratings, and pricing information for debt securities and *sukuk* in English through a variety of public domain websites, foreign investors enjoy the same access to relevant data as local investors. Where websites require a subscription to receive information, such subscriptions are also available to foreign investors.

### 4. Bondholder Rights

Bondholder rights are protected under the Companies Act, 1965; CMSA; and their various amendments. Under the Companies Act, 1965, creditors, including bondholders, can file a winding-up petition for a company when debtors are unable to pay their debts. When a winding-up order is made, the court appoints a liquidator who oversees the liquidation process.

### 5. Bond Trustee and Trust Deed

Under the CMSA, all bond, note, and *sukuk* issuers are required to enter into a Trust Deed with an appointed Bond Trustee, unless an exemption for the type of issuance applies (e.g., Schedule 8 of the CMSA). The Trust Deed contains bond provisions, covenants, and other requirements set by the SC. The Trustee's role is to safeguard the interests of the bondholders as set out in the Trust Deed and in the CMSA, and the roles, responsibilities, and eligibility criteria for Bond Trustees are explained further in section R of this chapter.

Issuance and disclosure documents (e.g., prospectus, term sheets) also contain covenants and relevant default clauses specific to a bond, note, or *sukuk* issue that provide additional protection to bondholders. The trustee is mandated by law to participate in the drawing up of these documents and to ensure that all documents contain specific requirements for the protection of investors. The SC's website provides copies of the PTC of debt instruments and *sukuk* issuances.

For information on bankruptcy protection and event of default provisions, please refer to sections S and T of this chapter, respectively.

## 6. Prevention of Fraud

The SC imposes laws on securities trading offenses such as false trading, manipulation, and fraud, which are liable to result in fines and imprisonment under Part V of the CMSA.

The SC also publishes on its website details on enforcement actions and pending court cases, and provides updates on internet scams for products and services under its purview.

## 7. Ethics

In addition to the regulatory framework put in place by and the everyday activities of the policy bodies and regulatory authorities to ensure a fair and orderly bond market, the FMA fulfils a critical function to maintain the integrity of the Malaysian bond market.

Although not an SRO, the FMA has been conferred the authority to certify bond dealers and define a code of conduct and ethics standards for all bond and money market participants.

Bond dealers are required to be licensed by the SC. The certification for individuals, obtained after a four-module course study, is jointly awarded by the FMA and the Institute of Bankers Malaysia, and aims to ensure that the Malaysian wholesale financial markets will continue to uphold the highest standards of professionalism and integrity, and grow in an orderly manner. The syllabus includes units on the code of conduct and market practices, investor protection guidelines, and fit and proper requirements.<sup>36</sup>

In addition to the abovementioned requirements, licensed intermediaries that are participants of Bursa Malaysia will have to abide by the exchange's trading rules. BM is also responsible for marketplace surveillance across its subsidiaries, and supervising and enforcing disclosure standards for listed companies. It provides and enforces essential processes or systems for safe and sound securities trading and crucial post-trade infrastructure, such as clearinghouse and central securities depository functions.

## 8. Capital Markets and Services Act, 2007

The CMSA came into force on 28 September 2007 and was last amended on 15 September 2015. The CMSA provides strong protection for investors, and enhances corporate governance of listed companies and market transparency, with particular references and provisions in the following areas:

- (a) Part V (Market Misconduct and Other Prohibited Conduct) stipulates false trading, market manipulation, and insider trading offenses and their pursuit, for both securities and derivatives business;
- (b) Part VI (Issues Of Securities and Take-Over and Mergers) outlaws false or misleading statements or documents and information when issuing securities, whether conventional or Islamic in nature; and

<sup>36</sup> Detailed information is available at <http://www.ppkmm.net/wp-content/uploads/2014/11/121228-PKMC.pdf>

- (c) Part XII (General) provides for SC actions against falsification of records, reports, and other misconduct in the market.

## 9. The Capital Market Compensation Fund

The Capital Market Compensation Fund was established under provisions in the 2012 amendment of the CMSA. Part IV of the CMSA now stipulates the establishment and functions of the Capital Market Compensation Fund and its governing body, the Capital Market Compensation Fund Corporation. The fund is intended to protect investors against cases in which a relevant CMSL holder cannot satisfy payments due to, and claims from, investors arising from fraud, defalcation, or mis-selling by the CMSL holder or its representatives.

The fund is administered by the Capital Market Compensation Fund Corporation and has the powers to pursue or petition the winding up of a holder of a CMSL to obtain proceeds to satisfy rightful claims. The fund's assets are contributed by relevant holders of a CMSL in an amount determined by the regulated activity carried out.

## R. Bond Trustee and Trust Deed

### 1. Bond Trustee

In principle, the issuance or offer for sale or subscription of all bonds, notes, and *sukuk* in Malaysia requires the appointment of a trustee and the establishment of a Trust Deed, unless bonds, notes, or *sukuk* are specifically exempted from such requirements under Schedule 8 of the CMSA (for details, please refer to section 3). The trustee is appointed by the issuer for the benefit of the bondholders.

The trustee for a bond, note, or *sukuk* issue or offer for sale or subscription (in Malaysian market practice referred to as Bond Trustee) has the responsibility of safeguarding the interests of the debenture or *sukuk*-holders. The Bond Trustee is expected to be part of the issuance team and is expected to review the issuance documentation of a bond, note, or *sukuk* issue to ensure, to the best of his or her ability, the following:

- (i) there are no inconsistencies or conflicts of interest between the provisions of the Trust Deed and the conditions stated in the SC's letter of approval, and in the term sheet approved by the SC;
- (ii) there are no provisions in any of the transaction documents that are inconsistent or in conflict with, or may lead to inconsistency or conflict with, the trustee's duties; and
- (iii) the SC Guidelines on Trust Deeds (effective 12 August 2011) have been complied with.

The Bond Trustee oversees bondholder rights, including the filing of claims and demand of payments from the issuer or guarantors, as well as the compliance with applicable covenants and terms and conditions of the debenture or *sukuk*. Under the fiduciary nature of the bond trustee function, bondholders may have recourse against the Bond Trustee in cases when the Bond Trustee acts with gross negligence or causes damages to bondholders.

The Bond Trustee is responsible for a resolution of a meeting of bondholders, where applicable. Meetings may be convened at the request of the issuer, Bond Trustee, or an

agreed percentage of debenture holders. Meetings of the bondholders are provided for under Clause 22 of the Guidelines on Trust Deeds (effective 12 August 2011) issued by the SC.

## 2. Trust Deed

The Bond Trustee is to draw up the Trust Deed for the bond, note, or *sukuk* issuance. The Trust Deed shall contain the minimum provisions, covenants, requirements, information, and particulars that have been specified by the SC under its powers conferred in the CMSA, Division 4 of Part IV and further detailed in the SC Guidelines on Trust Deeds, 2011.

In addition to the minimum requirements referred to above, parties to a Trust Deed are free to include provisions, covenants, and terms and conditions into the Trust Deed, as long as those additions do not contravene said minimum requirement stipulated by the SC. If a company is listed, or the debentures or *sukuk* to be issued are to be listed, the trust deed may also need to include provisions stipulated under the listing rules of the respective listing place or exchange.

## 3. Exemptions from Appointment of Bond Trustee and Trust Deed

Exempted debentures or *sukuk* include, among others, issues by the government, BNM, and statutory boards, as well as issues or offers for sale or subscription to foreign investors or Sophisticated Investors only, or certain debentures or *sukuk* denominated in a foreign currency. The complete list of exemptions from the appointment of a bond trustee and the need for a trust deed is contained in Schedule 8 of the CMSA, as amended from time to time.

In this context, the appointment of a Bond Trustee and the entering into a trust deed is not mandatory for the issuance of private placements aimed at Sophisticated Investors, given the ability of Sophisticated Investors to make their own decisions and the expectation of safeguarding their investments.

## 4. Bond Trustee Registration

In view of the important role of trustees in a debt securities or *sukuk* issue, the SC has introduced a set of registration guidelines to ensure that only fit and proper trustee companies can act as Bond Trustee and that they discharge their fiduciary duties in a proper manner. For this purpose, a Bond Trustee for the issuance or offer for sale or subscription of debentures or Islamic securities approved by the SC on or after 2 January 2007 must be registered with the SC pursuant to the Practice Note on Registration by the Securities Commission for the Purpose of Acting as a Bond Trustee, 2006. The issuance of the registration criteria for trust companies to act as Bond Trustees dovetails with the requirement for a corporate bond, note, or *sukuk* issuer to appoint a trustee and enter into a Trust Deed under the CMSA.

The higher standards of professionalism among Bond Trustees will translate into greater protection for investors. Among others, the SC will evaluate the financial resources and track record of the trustee company as well as its expertise, independence, and avoidance of conflicts of interest to ensure that only fit and proper trustee companies are registered. A list of companies registered with the SC to act as Bond Trustees—consisting of 15 companies at the time of the compilation of this document—is available on the SC website.<sup>37</sup>

<sup>37</sup> Securities Commission Malaysia. Registered Bond Trustees. <http://www.sc.com.my/registered-bond-trustees/>

## S. Bankruptcy Procedures

Malaysia's procedures on bankruptcy were established under the Companies Act, 1965; Bankruptcy Act, 1967; and their respective rules and amendments. The Companies Act, 1965 contains provisions for insolvency, rehabilitation, appointment of receivers, and winding-up procedures for companies. Specific laws governing industries may also have provisions governing the insolvency of a company (e.g., the Banking and Financial Institutions Act, 1989 for banks). The Bankruptcy Act, 1967 covers bankruptcy provisions for individuals.

Further details on the restructuring and insolvency frameworks of Malaysia and other economies in Asia and the Pacific can be found in The Asia-Pacific Restructuring and Insolvency Guide 2006 and in A Guide to Asia-Pacific Recovery and Insolvency Procedures.<sup>38</sup>

## T. Event of Default and Cross Default

### 1. Event of Default

Generally, the occurrence of event(s) of default is defined in the terms and conditions of a debenture. While descriptions of events of default are usually negotiated, the SC's Trust Deed Guidelines prescribe the minimum contents requirements for any such trust deed.

Clause 12 of the Trust Deed Guidelines issued by the SC in August 2011 provides for events constituting default and the remedy of such default.<sup>39</sup> The Trust Deed and the terms and conditions of debentures must provide for, but should not be limited to, the following:

- (1) A list of all events, the occurrence of any of which would entitle or oblige the trustee to declare the debentures immediately due and repayable (to the extent appropriate and subject to any materiality thresholds and provision for remedy or period of grace which may be negotiated), including
  - (a) where there is any default in payment of any principal, premium or interest, or profit under the debentures or *sukuk*;
  - (b) where a winding-up order has been made against the issuer;
  - (c) where a resolution to wind up the issuer has been passed;
  - (d) where a scheme of arrangement under Section 176 of the Companies Act, 1965 has been instituted against the issuer;
  - (e) where a receiver has been appointed over the whole or a substantial part of the assets of the issuer;
  - (f) where there is a breach by the issuer of any term or condition in the debentures or *sukuk*, or provision of the trust deed or of any other document relating to the issue, offer or invitation in respect of the debentures or *sukuk*;

<sup>38</sup> C. Chance. 2013. A Guide to Asia-Pacific Recovery and Insolvency Procedures. <http://financialmarketstoolkit.cliffordchance.com/en/financial-markets-resources/resources-by-type/guides/restructuring-and-insolvency-guide-asia-pacific.html>

<sup>39</sup> See [http://www.sc.com.my/wp-content/uploads/eng/html/resources/guidelines/bondmkt/trustDeed\\_110812.pdf](http://www.sc.com.my/wp-content/uploads/eng/html/resources/guidelines/bondmkt/trustDeed_110812.pdf)

- (g) where any other indebtedness of the issuer becomes due and payable prior to its stated maturity, or where the security created for any other indebtedness becomes enforceable; and
  - (h) where there is a revocation, withholding, invalidation or modification of a license, authorization or approval that impairs or prejudices the issuer's ability to comply with the terms and conditions of the debentures or *sukuk*, or the provisions of the trust deed or any other document relating to the issue, offer, or invitation in respect of the debentures or *sukuk*.
- (2) The powers of the trustee in any of the events described in paragraph (1) include
- (a) the powers of the trustee to declare the debentures or *sukuk* immediately due and payable at its discretion;
  - (b) the powers of the trustee to declare the debentures or *sukuk* immediately due and payable as directed by a special resolution;
  - (c) the powers of the trustee to enforce the provisions of the trust deed;
  - (d) the circumstances under which the trustee shall be bound to enforce the provisions of the trust deed; and
  - (e) the circumstances under which the holders of the debentures or *sukuk* are entitled to pursue their rights and remedies.

Malaysian law does not specifically state whether a default happens during a given day or at the end of that day. However, it is accepted practice that a default immediately occurs when the trustee (in the case of retail bonds) or debenture-holder(s) (in the case of private placements or offers under the Lodge and Launch Framework) declare an event of default.

The precedent of a default of debentures or *sukuk* normally occurs on the grounds that the debenture issuer fails to pay interest, or the *sukuk* issuer fails to pay consideration or profit, and to repay the principal to the debenture or *sukuk*-holder(s) when due.

## 2. Cross Default

Debentures and *sukuk* issued in Malaysia, including those issued by government linked entities and large corporates may carry in their issuance documentation and PTC a cross-default clause that allocates the right for debenture and *sukuk*-holders to seek immediate repayment of all debt securities by the same issuer held by them in case an event of default would be declared on a single debenture or *sukuk* of such issuers.

According to Paragraph 12.01 (a) of the SC's Guidelines on Trust Deeds, a cross-default would entitle or oblige the trustee to declare the debentures or *sukuk* immediately due and payable (where a provision for a period of grace will not be allowed while provision for remedy may be negotiated to the extent appropriate).<sup>40</sup>

<sup>40</sup> See [http://www.sc.com.my/wp-content/uploads/eng/html/resources/guidelines/bondmkt/trustDeed\\_110812.pdf](http://www.sc.com.my/wp-content/uploads/eng/html/resources/guidelines/bondmkt/trustDeed_110812.pdf)

## Bond, Note, and *Sukuk* Transactions and Trading Market Infrastructure

### A. Trading of Bonds, Notes, and *Sukuk*

In Malaysia, bonds, notes, and *sukuk* can be traded either OTC (in the case of unlisted debt securities) or on exchange (listed debt securities only). In contrast to equities, bonds, notes, and *sukuk* are typically traded in big lots and less frequently. As such, most bonds, notes, and *sukuk* transacted in the secondary market are traded OTC via negotiations between buyer and seller. Most transactions take place over the telephone or via voice broker. In addition, in Malaysia, market participants can make use of the ETP operated by Bursa Bonds (a subsidiary of BM) to view, research, and execute OTC trades. At the same time, the trading on an exchange of listed bonds, notes, or *sukuk* is also possible, directly on the main board of BMS.

The dealing of unlisted debt securities is regulated under the CMSA. In this regard, only bond dealers who are certified by the FMA are eligible under the CMSA to deal or transact such securities with Sophisticated Investors in Malaysia and are to confine the dealing to Sophisticated Investors as required by the CMSA. On BMS alone, there are presently 57 so-called Bond Members who are dealing in debt securities.<sup>41</sup> Background information on the types of licenses for dealing in securities, and licensing requirements can be found in the Licensing Handbook published by SC Malaysia. (for more details, please refer to Chapter II.H and I).<sup>42</sup>

The trading of listed debt securities is subject to the Listing Requirements and BMS Trading Rules. More information can be found in the individual sections of this chapter that follow.

### B. Issuance and Tendering Platform

In the Malaysian market, the primary market segment is facilitated by BNM in the form of FAST, a system designed to facilitate the primary issuance of all debt securities and money market instruments approved by BNM and/or relevant authorities that are either issued via tender or on a private placement basis. It provides information on issue terms, real-time prices, completed trade details, and other relevant news about debt securities.

FAST was first launched by BNM in September 1996 to automate the tendering procedure of government securities or BNM paper, which are issued through the Principal Dealer network. In July 1997, FAST was further enhanced to include commercial paper and MTN, which are issued via tender or private placement.

<sup>41</sup> For a full list, please see <http://www.bursamalaysia.com/market/securities/bonds/brokers/list-of-bond-members>

<sup>42</sup> See <http://www.sc.com.my/wp-content/uploads/eng/html/cmsa/Licensinghandbook.pdf>



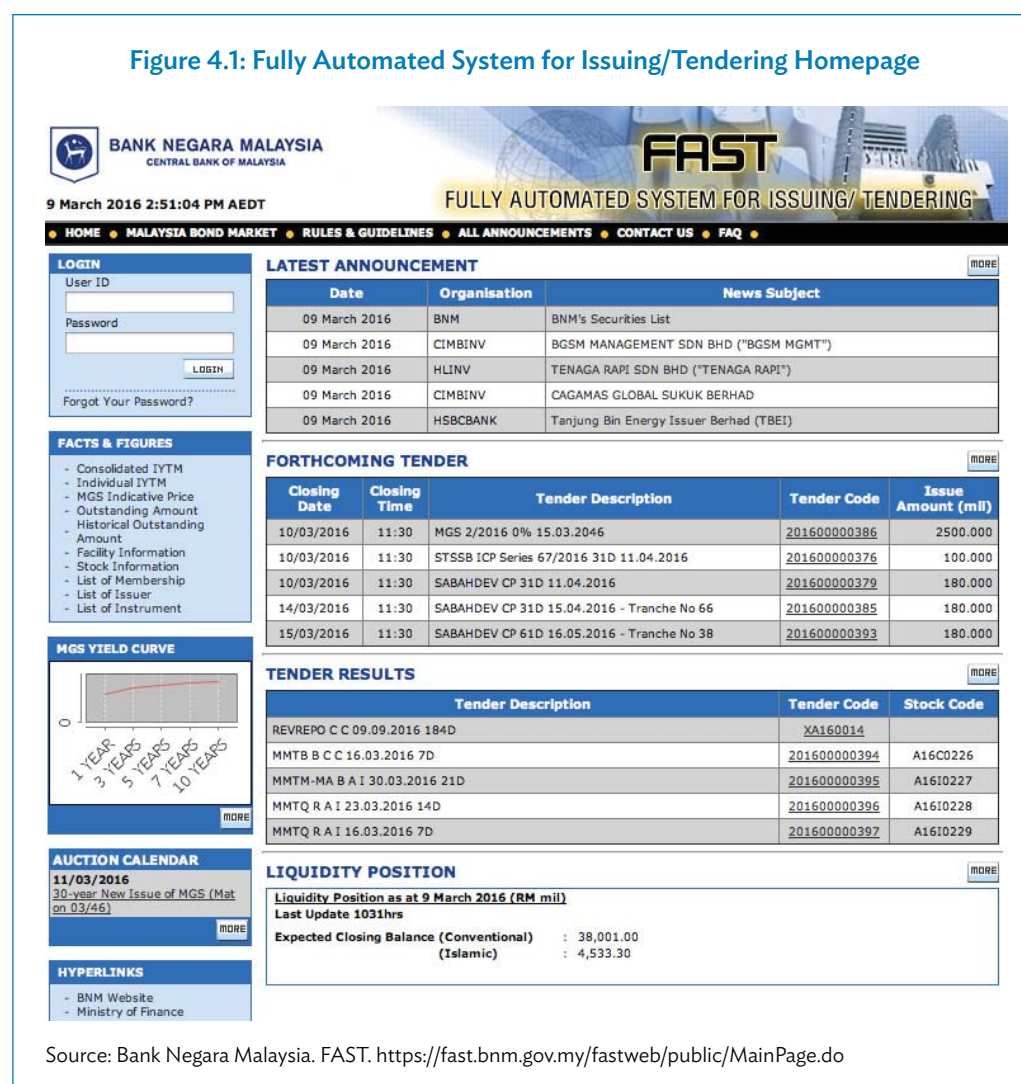
Information in FAST is available to its members via terminal access and includes

- daily indicative yield to maturity for government and BNM paper,
- weekly indicative yield to maturity for PDS, and
- MGS indicative prices.

At the same time, a significant amount of current and historical data—including announcements and bond-, note-, or *sukuk*-related information—are available on the FAST website (Figure 4.1). The PTC of every issuance is also viewable to registered participants.

The majority of debt securities issued or tendered via FAST continue to be traded in the OTC market.

Figure 4.1: Fully Automated System for Issuing/Tendering Homepage



Source: Bank Negara Malaysia. FAST. <https://fast.bnm.gov.my/fastweb/public/MainPage.do>

## C. Trading Platforms

Trading of bonds, notes, or *sukuk* in the Malaysian market can be done in the OTC market, on the ETP, or on exchange.

### 1. Over-the-Counter Market

The traditional OTC market itself is less a trading platform and more an organized market. Trades in bonds, notes, and *sukuk* are concluded directly between institutional counterparties via phone or using the services of a voice broker or inter-dealer broker. Individual dealers may also use Bloomberg or similar global trading system providers, and/or an in-house trading system.

Participants in the OTC market for debt securities must be dealers certified by the FMA (for details, please refer to Chapter II .I).

While there is no common trading platform as such in the OTC market in Malaysia, market participants tend to draw on the information (e.g., issuance, prices, yields) available in FAST (see section B) and execution capabilities of ETP (see section C.2) for their trading and decision-making activities in the bond market.

At the same time, all debt securities trades executed in the OTC market will need to be captured in ETP at the end of the trading day under SC regulations.

### 2. Registered Electronic Facilities

Pursuant to Section 34 of the CMSA, the SC requires that providers register all electronic trading platforms—the official term is recognized market operator—used in or accessed by trading participants in Malaysia, including those for bond, note, and *sukuk* trading.

ETP is an electronic trade reporting and trading platform for the domestic bond market. It is operated Bursa Bonds (a subsidiary of BM). ETP acts as the centralized price and trade information repository as it interfaces with FAST and information vendors.

Among other features, ETP provides

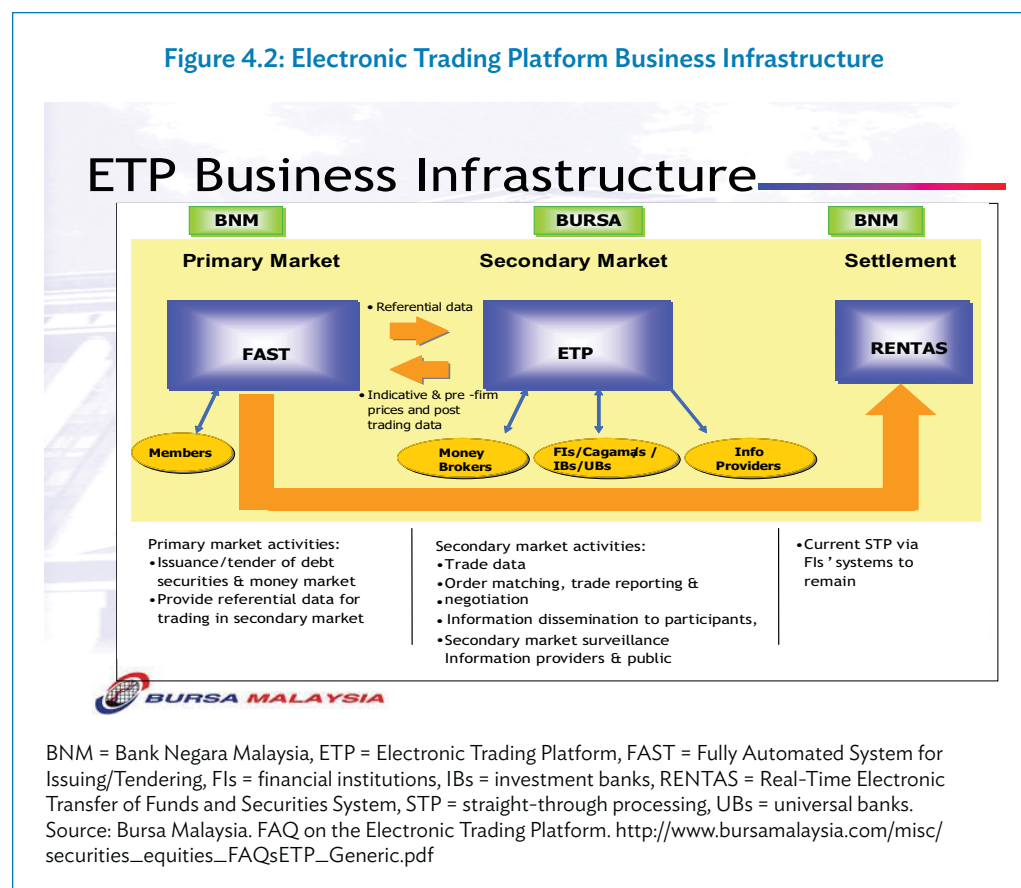
- mandatory reporting of all secondary bond market transactions;
- an electronic order matching platform for the matching of bid and ask quotes for MGS, MGII, and corporate issues; and
- an advertisement and a negotiation platform where dealers can advertise and negotiate for one-to-one deals for all debt securities and *sukuk*.

The key business components of ETP include the provision of

- a central order book for matching, trade reporting, and negotiation;
- a comprehensive system for price, yield, and trade information dissemination;
- data storage for market historical data; and
- a real-time market surveillance system.

More detailed descriptions of, and additional information on, the above features and functions can be obtained through the BM website.<sup>43</sup>

Figure 4.2 illustrates the structure of ETP in the context of the bond market in Malaysia.



Any person may apply to Bursa Bonds to access information on the ETP. Membership to deal securities on ETP is open only to money brokers and applicants registered with the FMA for the purpose of dealing in debt securities.

There are three categories of membership on ETP:

- (i) Trading Participant Members can trade on their own or on behalf of their customers on ETP;
- (ii) Executing Participant Members can only trade on behalf of a Trading Participant Member; only money brokers can be Executing Participant Members; and
- (iii) General Participant Members can only view and, where permitted, make announcements on ETP.

<sup>43</sup> See <http://www.bursamalaysia.com/market/securities/bonds/trading/electronic-trading-platform/>

Potential members must fulfill the eligibility criteria in Chapter 3 of the Rules of Bursa Bonds.<sup>44</sup> If eligibility is confirmed, an application for membership must be completed and submitted to BM's Intermediary Affairs Department for processing.

Members of ETP can avail themselves of the trading and reporting hours listed in Figure 4.3.

**Figure 4.3: Electronic Trading Platform Trading and Reporting Hours**

Activities \ Sessions	Morning Session	Afternoon Session
Auto Matching	9 a.m.-12:30 p.m.	2:30 p.m.-5 p.m.
Negotiation	9 a.m.-12:30 p.m.	2:30 p.m.-5 p.m.
Trades Reporting - Initiation	9 a.m.-12:30 p.m.	2:30 p.m.-5:15 p.m.
Trades Reporting - Confirmation	9 a.m.-12:30 p.m.	2:30 p.m.-5:30 p.m.
Trades Reporting by BNM	9 a.m.-8 p.m.	

BNM = Bank Negara Malaysia.

Source: Bursa Malaysia. FAQ on the Electronic Trading Platform. [http://www.bursamalaysia.com/misc/securities\\_\\_equities\\_FAQsETP\\_Generic.pdf](http://www.bursamalaysia.com/misc/securities__equities_FAQsETP_Generic.pdf)

In addition to ETP, Bloomberg and Reuters have also been offering registered electronic facilities for the OTC bond market.<sup>45</sup>

### 3. Trading on Exchange

Trading of debt securities is also available on BMS. These debt securities are referred to as ETBS and are quoted and traded on the main board of the exchange. ETBS on BMS were announced in September 2012 and include fixed- and floating-rate instruments, hybrids, and convertibles, issued by both the government and corporate sectors. The first ETBS was launched in January 2013.<sup>46</sup>

The trading of ETBS and their features are geared more toward retail investors. ETBS are traded in minimum board lots of 10 units; given that the principal amount of a unit is MYR100, each board lot will represent MYR1,000, excluding transaction costs. ETBS are

<sup>44</sup> See <http://www.bursamalaysia.com/market/regulation/rules/bursa-malaysia-rules/bonds-otc/rules-of-bursa-malaysia-bonds/>

<sup>45</sup> Securities Commission Malaysia. [http://www.sc.com.my/wp-content/uploads/eng/html/resources/guidelines/rep/ref\\_application\\_150410.pdf](http://www.sc.com.my/wp-content/uploads/eng/html/resources/guidelines/rep/ref_application_150410.pdf)

<sup>46</sup> See [http://www.bursamalaysia.com/misc/system/assets/4105/Market\\_Securities\\_Bonds\\_ETBS\\_The\\_Marketplace.pdf](http://www.bursamalaysia.com/misc/system/assets/4105/Market_Securities_Bonds_ETBS_The_Marketplace.pdf)

quoted and reported real-time on BMS, giving investors a continuous update on the value of their securities.

Access to trading ETBS on BMS is available only to Bond Members: brokers, commercial and Islamic banks, and investment banks with a license to deal in debt securities. Retail investors can trade ETBS via their appointed Bond Member intermediary. The trading hours for ETBS follow the normal exchange schedule from opening to closing, but are divided into distinct segments, as shown in Figure 4.4. ETBS are subject to the same trading, payment, and settlement rules as equities.

**Figure 4.4: Exchange-Traded Bonds and Sukuk Trading Hours**

Trading Phases		Normal Market and Odd Lot Market
1st Session	Pre-Opening	8:30 am
	Opening and Continuous Trading	9:00 am
	Closing	12:30 pm
Lunch		
2nd Session	Pre-Opening	2:00 pm
	Opening and Continuous Trading	2:30 pm
	Pre-Closing	4:45 pm
	Trading at Last	4:50 pm
	Closing	5:00 pm

Source: Bursa Malaysia. FAQ on the Exchange-Traded Bonds and Sukuk. <http://www.bursamalaysia.com/market/securities/education/faqs-on-exchange-traded-bonds-and-sukuk-etbs>

Participants on BMS can execute bond transactions via two distinct methods:

- (1) **Order Matching.** Orders placed by the buyer and seller will be automatically matched by a matching mechanism with a set of predefined matching principles. Once matched, an acknowledgement will automatically be sent to both parties.

There are two types of transactions under Order Matching:

- (i) **Outright Buy and Sell.** Outright Buy and Sell occurs in a typical secondary market transaction when a bond is bought or sold under standard trading terms and conditions; and
  - (ii) **When-Issued.** When-Issued is a primary market transaction where trading commences on the tender announcement date after the debt instrument is available for subscription or purchase, and the bond, note, or *sukuk* is traded either on price or yield, and trading continues until the tender results are announced to the market.
- (2) **Trade Negotiation.** A trader may advertise quotes to selected participants who may respond and negotiate electronically with the initiator to reach a favorable and agreeable price and volume.

In addition to the outright buy and sell and when-issued transactions, trade negotiation is also available for repo sell and buyback transactions.

Trading on BMS is done via two daily sessions on trading days (Table 4.1). Please note that in addition to Malaysian national holidays, a number of nontrading days may be observed that coincide with public holidays specific to the Federal Territory of Kuala Lumpur where BMS is located.

**Table 4.1: Bursa Malaysia Securities Trading Hours**

Session	Start	End
Morning Session	9 a.m.	12:30 p.m.
Afternoon Session	2:30 p.m.	5 p.m.

Source: Adapted by ADB Consultants for SF1 from Bursa Malaysia. Regulations. <http://www.bursamalaysia.com/market/regulation/rules/bursa-malaysia-rules/securities/rules-of-bursa-malaysia-securities>

Further information on the bond trading procedures, practices, and conventions is best accessed on the BM website at <http://www.bursamalaysia.com/market/regulation/rules/bursa-malaysia-rules/securities/rules-of-bursa-malaysia-securities>.

## **D. Mandatory Trade Reporting (via Electronic Trading Platform)**

The key function of ETP in the present day is to facilitate the mandatory reporting of all secondary market transactions in bonds, notes, and *sukuk* in Malaysia, across both OTC and exchange trades. This practice of reporting is made pursuant to the ETP rules, which are administered by Bursa Bonds.

The initiating party of the bond, note, or *sukuk* trade reporting is the selling dealer, who enters OTC trade details via their ETP access point or a direct interface of the dealer's own trading system with ETP as soon as possible after the trade and at latest by the end of the trading day. The buyer of the bond, note, or *sukuk* will confirm the trade from their end during the ETP operating hours (for details, please refer to section C.2). Trades matched and executed on ETP itself are automatically considered reported, and trades on BMS are automatically interfaced with ETP.

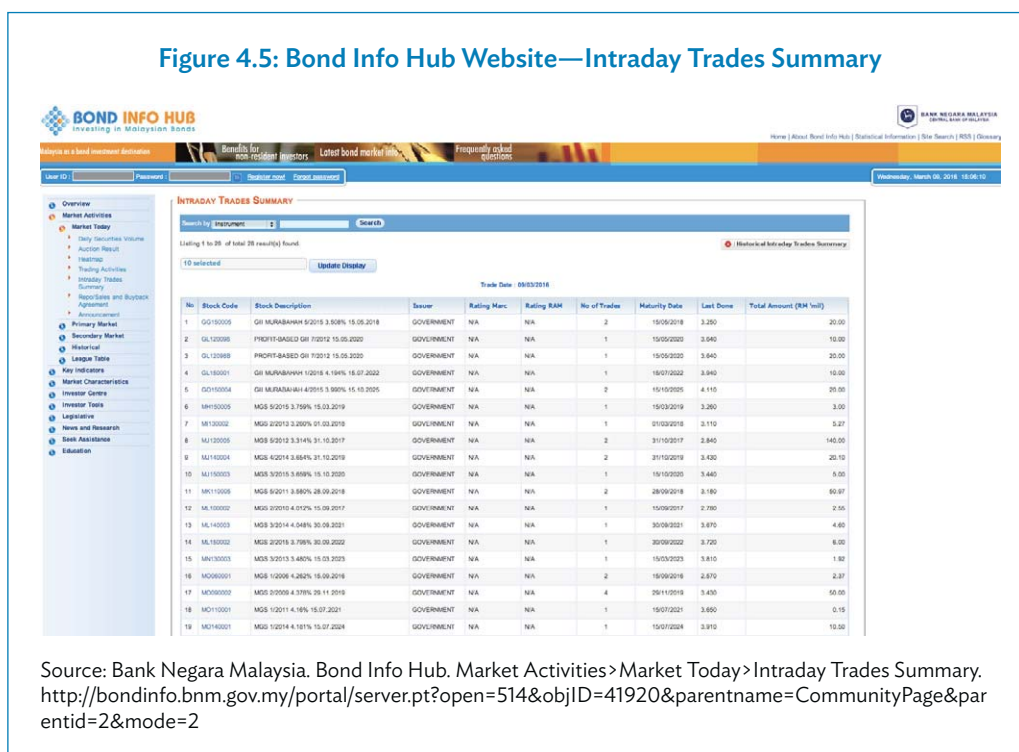
ETP and its trade capture mechanism replaced the original trade reporting function under the Bond Information and Dissemination System effective 10 March 2008.

To provide transparency in the bond market, the bond, note, and *sukuk* transactions reported via ETP are disseminated through Bond Info Hub website under an initiative by BNM. For illustration, Figure 4.5 shows a screenshot of the Intraday Trade Summary. More information on Bond Info Hub is provided in section F of this chapter.

## **E. Market Monitoring and Surveillance in the Secondary Market**

BNM and the SC carry out secondary market surveillance, taking in the respective instruments and market participants in the OTC market under their purview.

Figure 4.5: Bond Info Hub Website—Intraday Trades Summary



Source: Bank Negara Malaysia. Bond Info Hub. Market Activities>Market Today>Intraday Trades Summary.  
<http://bondinfo.bnm.gov.my/portal/server.pt?open=514&objID=41920&parentname=CommunityPage&parentid=2&mode=2>

As for the exchange market, both the ETP and the outright trading of listed bond, notes, or *sukuk* on BMS are subject to market monitoring and surveillance activities by the BM Market Surveillance Department.

Effective 31 December 2012, BM has been using the Millennium Surveillance™ System (MSS) for its equity, bonds, and derivatives markets. MSS is a multi-asset, cross-market, flexible platform, which allows for swifter implementation of changes in response to trading behavior and regulatory developments. MSS allows BM to identify trading-behavior patterns rapidly at both the broker and investor levels. It also includes a comprehensive market replay capability to promptly reconstruct trading activities in the market as they have occurred, allowing each transaction and its effects on the market to be closely reviewed.<sup>47</sup>

The implementation of this market surveillance system is part of BM's commitment to investor protection and to ensure a fair and orderly market. It is also in line with BMS' broader effort to create a more facilitative trading environment for investors.

Potential trading breaches may be subject to further investigation and enforcement action by BM on the errant trading participant under the BMS Rules and by the SC in the case of a breach of the CSMA and related securities regulations.

<sup>47</sup> For further information, please see <http://www.bursamalaysia.com/market/regulation/market-surveillance/overview/>

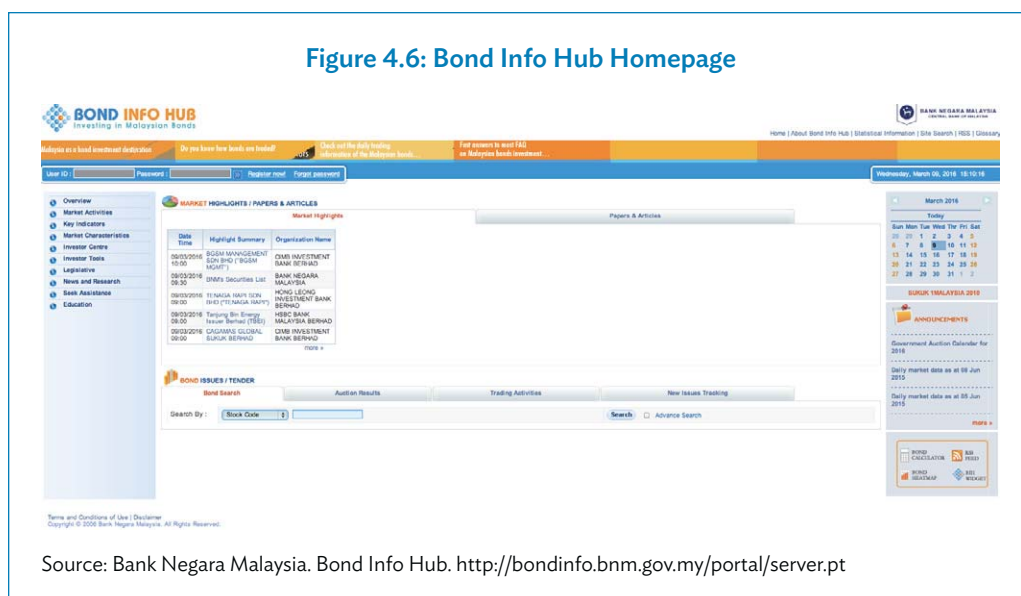


## F. Bond Info Hub (Bank Negara Malaysia Initiative)

Bond Info Hub was established in 2006 as an initiative under the financial sector development and financial market infrastructure measures of BNM. Bond Info Hub is an engaging, informative, and comprehensive investor-centric hub that serves as a single source of information on the Malaysian bond market for the global investment community (Figure 4.6). Bond Info Hub serves as a one-stop source of information to rapidly yet comprehensively assess the viability and risk-reward of investing in the Malaysian domestic bond market.

While being a key initiative to promote the domestic bond market, Bond Info Hub also acts as a conduit to correct misperceptions, especially among foreign investors, about the state of bond market development in Malaysia. The website contains explanations of the eligibility and requirements for investing in Malaysian debt securities, details taxation procedures, and outlines the relevant regulatory framework given the considerations of foreign issuers.

Bond Info Hub is accessible by any party free of charge and provides traded prices and comprehensive primary market and secondary market facts and data.<sup>48</sup>



Bond Info Hub is supplied with bond, note, and *sukuk* information and market data from FAST, ETP, and BMS for their respective market segments and issued and traded debt instruments.

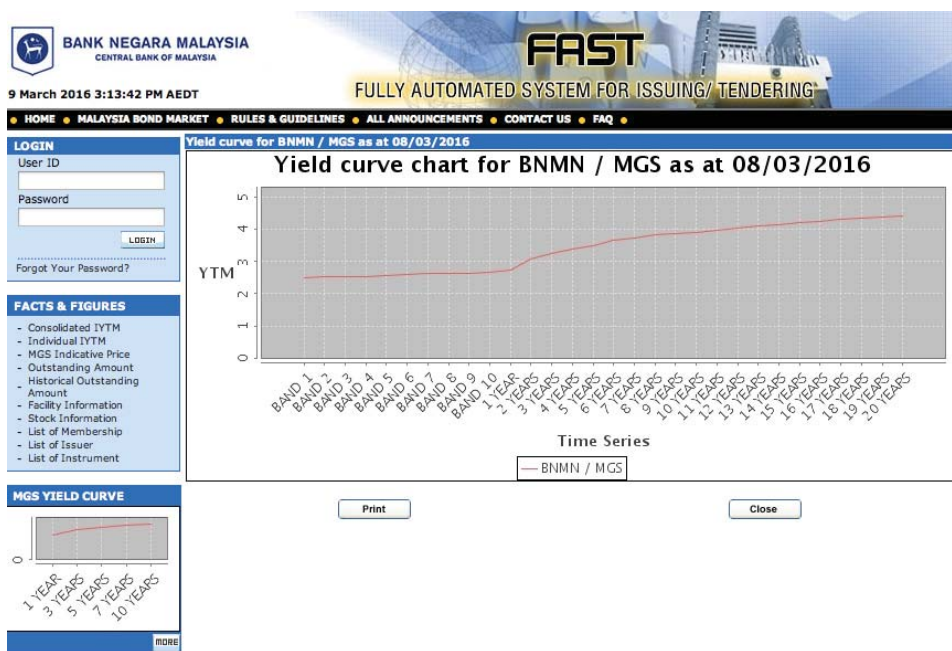
<sup>48</sup> See [http://bondinfo.bnm.gov.my/portal/server.pt/community/malaysian\\_bonds\\_market\\_information,\\_malaysia\\_bonds,\\_islamic\\_bonds,\\_ringgit\\_bonds,\\_asian\\_bonds,\\_bond\\_info\\_hub/313/attribute\\_link\\_\\_\\_\\_home\\_page](http://bondinfo.bnm.gov.my/portal/server.pt/community/malaysian_bonds_market_information,_malaysia_bonds,_islamic_bonds,_ringgit_bonds,_asian_bonds,_bond_info_hub/313/attribute_link____home_page)

## G. Yield Curves and Bond and Sukuk Indexes

### 1. Government Bond and Sukuk Yield Curves

For Malaysian government bonds, notes, and *sukuk*, yield curves are calculated by BNM and made available via FAST and Bond Info Hub. In addition to an aggregate yield curve, a number of subsets of bond, note, and *sukuk* yields can be accessed using either website. Examples of the yield curves and available styles of display are shown in Figures 4.7 and 4.8. The yield curves are also readily available from a number of information vendors.

**Figure 4.7: Fully Automated System for Issuing/Tendering—Government Bond Yield Curve**



BNMN = Bank Negara Malaysia Notes, MGS = Malaysian Government Securities.

Source: Bank Negara Malaysia. FAST. MGS Yield Curve >BNMN/MGS. <https://fast.bnm.gov.my/fastweb/public/MainPage.do>

Figure 4.8: Bond Info Hub Website—Government Bond Yield Curve



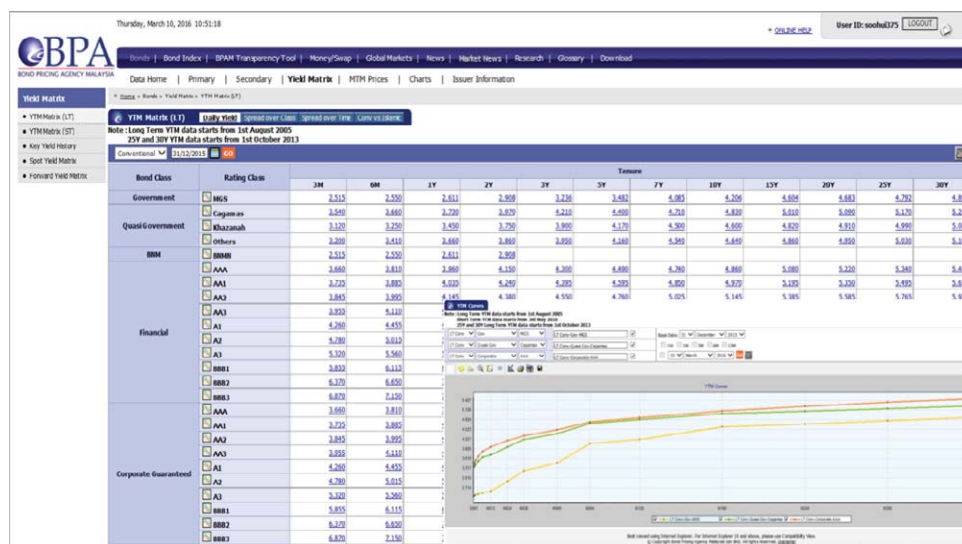
## 2. Other Bond and Sukuk Yield Curves

BPAM generates the most comprehensive set of yield curves for the Malaysian market. BPAM features a total of 194 yield curves based on type of bond (conventional or Islamic), issuer class, rating, and tenure buckets for long-term and short-term instruments. A snapshot of bond yield curves in Malaysian market is provided to the viewer via its website, which requires user registration and may be subject to commercial consideration. Figure 4.9 gives an example of the yield curve display and the range of yield curve and other data available on the BPAM website.

## 3. Bond and Sukuk Indexes in Malaysia

In conjunction with Thomson Reuters, BPAM calculates and disseminates the Thomson Reuters BPA Malaysia Ringgit Bond Index Series on the basis of the price and yield information provided by BPAM in its role as the Malaysian market's bond pricing agency (for more details, please refer to Chapter II.J.) The indexes combine BPAM's extensive experience of consistent and market neutral valuations with years of index calculation experience at Thomson Reuters.

Figure 4.9: Bond Pricing Agency Malaysia Website—Bond Yields in Malaysia



Source: Bond Pricing Agency Malaysia. <http://www.bpam.com.my/#>,

The Thomson Reuters BPA Malaysia All Bond Index Series contains a total of 369 subindexes, which focus on market movements by issuer type, rating, and maturity bands, and which cover

- conventional bond and *sukuk* indexes,
- government bond indexes,
- corporate bond indexes,
- maturity band and rating subindexes.

In addition, nine indexes are available under the Thomson Reuters BPA Malaysia Liquid Index Series, focusing on the five bonds (and notes and *sukuk*) with the highest volume and liquidity in each segment and which feature a greater sensitivity to market movements.

Thomson Reuters BPA Malaysia Indexes are viewable on desktop products such as Thomson Reuters Eikon, Datastream, and BPAM BondStream. A snapshot version is also accessible via mobile devices. In addition, BPAM provides the service of creating and calculating a range of custom indexes that may follow specific requirements or mirror existing or target portfolios.

Among the Thomson Reuters BPA Malaysia Indexes, the Sukuk Index, TR BPAM SUK (ticker sign <TRBPAMALLI>), which covers MYR-denominated, long-term, investment-grade Islamic bonds, is being widely used, including by the Malaysia International Islamic Financial Centre (Figure 4.10).

Figure 4.10: Malaysia Islamic Financial Centre Website— Thomson Reuters Bond Pricing Agency Malaysia Sukuk Index



Source: Malaysia Islamic Financial Centre. Capital Markets>TR BPAM SUK. [http://www.mifc.com/index.php?ch=ric&pg=ric\\_heatmap&ac=519&tp=1](http://www.mifc.com/index.php?ch=ric&pg=ric_heatmap&ac=519&tp=1),

## H. Repo Market

### 1. Repo Market Overview<sup>49</sup>

There are two market segments for repo transactions in the Malaysian market: an interbank (or OTC) market segment and the bilateral repo segment that comprises transactions between BNM and the Primary Dealers who are appointed by BNM. Based on feedback from market participants, the majority of repo transactions are concluded between BNM and the Primary Dealers.

<sup>49</sup> Part of the information contained herein has been adapted by ADB Consultants for SF1 from a 2014 ASEAN+3 SRO Working Group case study on the repo markets with the kind permission of the author, Ryuichi Shiina of the Japan Securities Dealers Association.

Bilateral repo is mostly used for open market operations by BNM to manage or provide liquidity to the banking system and financial market, and by Primary Dealers to obtain liquidity. On the other hand, OTC or private repos are transacted between Primary Dealers and bond dealers, or between a dealer and a client, without BNM participation. Both bilateral and OTC repo practices are governed by BNM under its supervision of the money market in accordance with its Policy Document on Repurchase Agreement Transactions issued in December 2014.<sup>50</sup>

The Policy Document on Repurchase Agreement Transactions covers the scope of repo transactions that can be conducted by licensed banks and investment banks, and promotes sound risk management practices by all participants. Repos can be done using MYR- or FCY-denominated debt securities; cross-currency repos, in which repo securities and cash are denominated in different currencies, are permitted. Both bilateral and private repo transactions involve conventional and Islamic securities.

Price discovery for repo transactions is available through the ETP and OTC quotes in generally accessed trading platforms, and divided into benchmark MGS and other securities. All repo transactions executed in the Malaysian market are to be captured in the ETP within 10 minutes of execution, upon which the data become available to the market at large. Repos are also to be reported via BNM's STATSmart system under participants' regular reporting obligations.

Repo transactions can be settled in RENTAS on a delivery-versus-payment basis for both bilateral and OTC repo. As a service to participants, the second leg of a repo transaction can be automatically settled at maturity, without the need for further instructions. The value date for repo transactions is typically T+1.

The total volume of repo transactions in 2014 was MYR197 billion (USD56 billion). An indication of daily repo volumes, including the types of underlying debt securities, is available from Bond Info Hub (Figure 4.11).

Repo market activities in Malaysia started in the 1980s with hold-in-custody repo, where financial institutions primarily used certificates of deposits and bankers acceptances as collateral to source funding from corporate clients. Since then the types of collateral used have expanded to include sovereign bonds and PDS, in line with the development of the ringgit bond market.

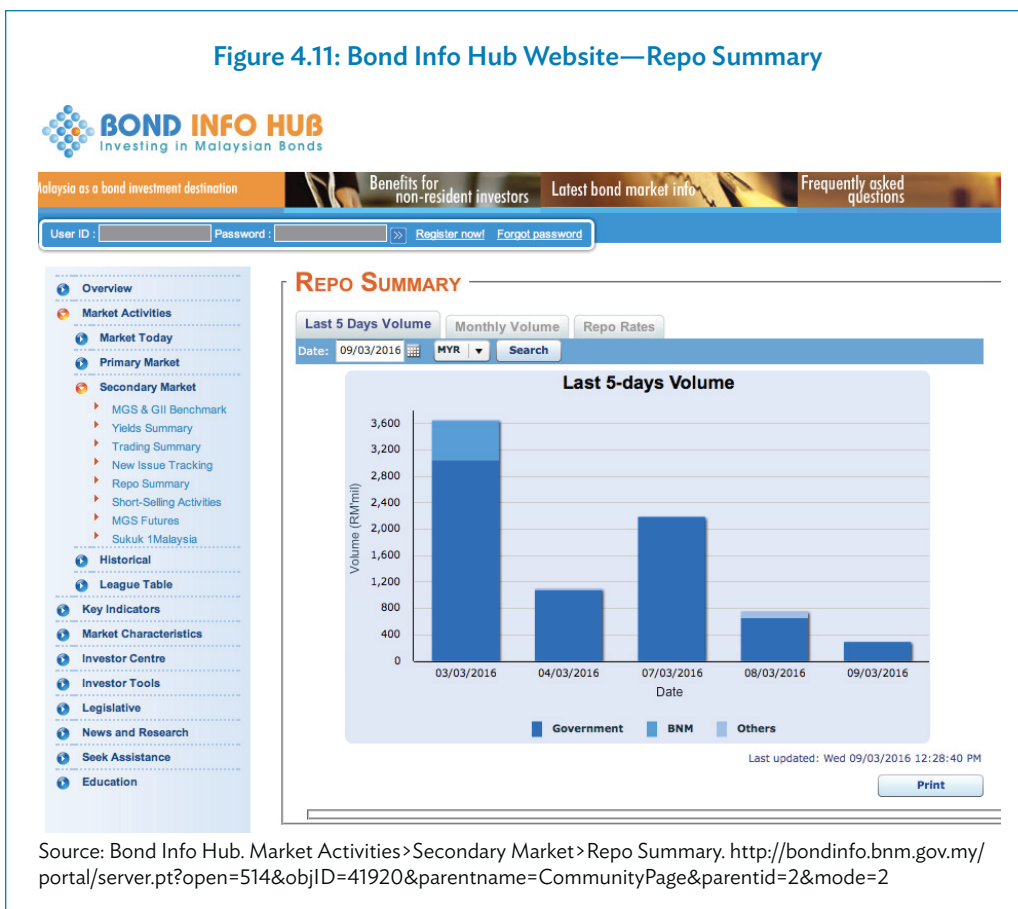
Repo transaction volume increased significantly in 2005 and peaked in 2006 at MYR665 billion. This followed measures taken by BNM to enhance liquidity in the ringgit bond market, including the active use of repo as a monetary policy instrument, introduction of the Institutional Securities Custodian Programme to enable borrowing and lending of securities, and a securities lending facility for Principal Dealers. The use of repo as a monetary policy instrument has helped BNM to manage liquidity in the banking system as well as to recirculate securities back into the market. In 2012, 15% of BNM's monetary operations were conducted via repo and BNM plans to increase its use of repo in its market operations.<sup>51</sup>

<sup>50</sup> See [http://www.bnm.gov.my/guidelines/01\\_banking/04\\_prudential\\_stds/Repurchase\\_Agreement\\_Transactions.pdf](http://www.bnm.gov.my/guidelines/01_banking/04_prudential_stds/Repurchase_Agreement_Transactions.pdf)

<sup>51</sup> This excerpt and other selected details on the repo market in Malaysia were taken from the Executives' Meeting of East Asia and Pacific Central Banks (EMEAP) Working Group on Financial Markets. 2014. *EMEAP Repo Markets: State of Play Report*. Available at [http://www.emeap.org/wp-content/uploads/2015/04/Publications\\_EMEAP\\_Working\\_Group\\_on\\_FinancialMarkets\\_-\\_Report\\_on\\_EMEAP\\_Repo\\_Markets\\_.pdf](http://www.emeap.org/wp-content/uploads/2015/04/Publications_EMEAP_Working_Group_on_FinancialMarkets_-_Report_on_EMEAP_Repo_Markets_.pdf)



Figure 4.11: Bond Info Hub Website—Repo Summary



## 2. Acceptance of Standards

In its Policy Document on Repurchase Agreement Transactions, BNM prescribes that all ringgit and non-ringgit repo transactions shall be subject to the Global Master Repurchase Agreement (GMRA), which specifies all terms of the transaction and duties and obligations between the parties involved. In particular, repo transactions with ringgit securities shall adopt the GMRA Malaysian Annex. The annex is based on the GMRA 2000 and was issued by the FMA in 2006.

As a result, the GMRA is widely adopted among market participants in Malaysia and typically executed with the official Malaysian Annex. The original adoption of the GMRA Malaysian Annex in 2006, and the subsequent discipline acquired by market participants, caused the volume of repo market transactions to decline for a period of time. However, the longer-term positive effects of the adopted standard ultimately increased confidence in the market as well as trading volumes.

Currently, FMA is working in conjunction with BNM to standardize rules and market practices aimed at developing a well-functioning domestic currency repo market. In this regard, FMA completed the drafting of the Country Annex for Malaysia for the 2011 GMRA and submitted the document to BNM for consideration. For now, the 2011 GMRA Country Annex for Malaysia is to be used as a standard template for dealings in repo between



Malaysian banks for ringgit bonds and shall minimize the need for banks to bilaterally negotiate with each other. It will then be rolled out to institutional investors holding bonds so that they can get cash readily and at cheaper rates of financing, and reduce their need for large cash holdings incurring negative carry to cater for redemptions.

### 3. Specific Repo Practices

This section summarizes a number of relevant practices in the repo market in Malaysia.

#### (a) Type of Repo

In Malaysia, the repo practice follows the classic repo type (outright sale and purchase). Under the guidance of BNM, the legal agreement should provide for the absolute transfer of title of the eligible securities, including any eligible securities transferred through substitution or mark-to-market adjustment.

From a legal perspective, securities are transferred to the lender so the lender can sell the securities in the market. In case of default, the lender can liquidate the bonds in the market to settle any obligations of the borrower.

#### (b) Size and Tenure

The standard lot size for ringgit repo transactions is MYR1 million, with the minimum market lot set at MYR100,000. Repos denominated in a foreign currency are expected to follow the conventions usually practiced in the market of the respective currency.

The maximum tenure of a repo is 365 days. Interbank repo transactions tend to be between 3 months and 1 year, while bilateral repo transactions focus on tenures of 2 weeks to 6 months.

#### (c) Eligible Debt Securities or Sukuk as Collateral

Eligible debt securities for repo transactions in the interbank market include all specified RENTAS securities, both conventional and Islamic. The BNM Policy Document (Section 9) further prescribes the following eligible securities:

- (i) MYR-denominated securities
  - (a) securities issued by the Government of Malaysia;
  - (b) securities issued by BNM;
  - (c) PDS with ratings from domestic credit rating agencies RAM and MARC of at least BBB, P3, or MARC-3;
  - (d) NID; and
  - (e) bankers acceptances;
- (ii) Non-MYR-denominated securities
  - (a) securities issued by the Government of Malaysia;
  - (b) securities issued by the International Islamic Liquidity Management Corporation;
  - (c) securities (both sovereign and corporate issuances) with a rating from international credit rating agencies Fitch Ratings; Standard & Poor's Rating Services; and Moody's Investor Services of at least Baa, BBB, F3, A-3, or P-3;

- (d) PDS with ratings from domestic credit rating agencies RAM and MARC of at least BBB, P3, or MARC-3; and
- (e) NID.

The MYR- and non-MYR-denominated debt securities and *sukuk* that are eligible as collateral to be transacted under repurchase operations with BNM are as per the list of collateral in the Guidelines on Standing Facilities issued by BNM.<sup>52</sup>

The securities used for repo transactions must not be convertible at the inception of the repo transaction.

#### (f) *Margin*

Variation margin over the tenure of the repo is typically determined in cash. If there is interest payable on the cash margin, such interest will be included in the calculation of the cash margin.

#### (g) *Accounting and Tax Treatment*

In principle, under the definition of this type of repo transaction (classic repo), the securities are still booked in the borrower's balance sheet even if the securities are already transferred to the lender. Hence, the securities remain in the accounts of the borrower.

The income from the repo fee is subject to the normal business income tax. There is no capital gain on the repo because there is no real trade in the debt securities used as collateral. There is no capital gains tax or withholding tax in Malaysia.

#### (h) *Market Participants*

Market participants in private repo transactions include licensed (CMSL) banks and investment banks, as defined under the Financial Services Act, 2013, subject to the requirement that at least one principal to the repo transaction must be a licensed bank or investment bank.

In practice, however, most repo transactions are bilateral agreements between BNM and Principal Dealers who are banks.

Foreign banks or brokers with representation in Malaysia may participate in private repo transactions through their subsidiaries (since incorporation is required). At the same time, foreign investors may only participate in the repo market by conducting repo transaction with a licensed onshore intermediary.

The participation of nonresidents in the repo market has grown after the liberalization of the FEA Rules in April 2004. The liberalization also allows nonresidents to obtain ringgit financing through repo, subject to a limit of MYR10 million, in accordance with the FEA Rules on ringgit funding by nonresidents.

<sup>52</sup> See [http://www.bnm.gov.my/index.php?ch=en\\_reference&pg=en\\_reference\\_index&ac=584&lang=en](http://www.bnm.gov.my/index.php?ch=en_reference&pg=en_reference_index&ac=584&lang=en)

## I. Securities Borrowing and Lending

SBL is possible in Malaysia, including for debt instruments and *sukuk*, and conducted either using the BNM Institutional Securities Custodian Programme (ISCAP), the services of BM (via a subsidiary), or directly between trading counterparties.

### 1. Under the Institutional Securities Custodian Programme

Under ISCAP, institutional investors (mainly pension funds and insurance companies) and financial institutions are able to lend securities, particularly debt securities and *sukuk*, to BNM for a lending fee. ISCAP was announced by BNM in 2004, under an initiative to increase liquidity in the bond market and has been operational since 2005.

The objective of ISCAP has been to unlock the held-to-maturity positions in bonds, notes, and *sukuk* of institutional and other investors in order that these holdings may be reutilized by BNM in the market via repo transactions (e.g., support the Principal Dealers' market-making activities). In turn, investors with long-term holdings are able to enhance the return on their portfolio or defray costs associated with maintaining a securities portfolio. Institutional investors are the major participants of ISCAP, comprising more than 90% of total securities lent.

The rules and conditions of ISCAP follow BNM's operational guidelines for the repo business.

### 2. Eligible Debt Securities

Eligible debt securities to be lent under ISCAP follow the prescriptions in the Policy Document on Repurchase Agreement Transactions issued by BNM (for details, please refer to see section H.3.c).

The eligible securities for CLA transactions via BM are stated in a list which can be downloaded from the BM website.<sup>53</sup> Counterparties in Negotiated Transaction trades may only use debt securities declared eligible by MyClear.

### 3. Tax Treatment

Tax Guidelines on Securities Borrowing and Lending issued by the Inland Revenue Board of Malaysia are not relevant for ISCAP transactions. There are no specific tax treatment provisions for debt securities borrowing and lending.

## J. Interest Rate Futures

Bursa Malaysia Derivatives (BM Derivatives) offers interest rate futures for the hedging of exposures in underlying MGS as well as futures contracts based on the KLIBOR.

BM Derivatives, formerly known as Malaysia Derivatives Exchange Bhd., is a 75%-owned subsidiary of BM and provides, operates, and maintains a futures and options exchange. The remaining 25% of BMD is held by the Chicago Mercantile Exchange. BM Derivatives was

<sup>53</sup> Download from <http://www.bursamalaysia.com/market/products-services/securities-borrowing-lending-sbl/sbl-eligible-securities/>

established on 17 April 1993; is governed by the relevant provisions of the CMSA (Part II– Securities and Derivatives Markets); and is supervised as an approved derivatives exchange by the SC.

At present, BM Derivatives offers two contracts for medium-term (3-year) and long-term (5-year) MGS futures, known as FMG3 and FMG5, respectively. Eligible MGS can have a remaining time to maturity of 2.5–3.5 years for the FMG3 and 4.5–5.5 years for the FMG5 contract and must be new or reissued with a minimum issuance size of MYR500 million.

To trade on BM Derivatives, investors need to place orders with a Trading Participant (Futures Broker) licensed by the SC and who are BM Derivatives members. The investor may place voice orders directly with the broker or through Internet orders which are then routed to BM Derivatives via the Trading Participant. The trading hours of the FMG5 contract are reflected in the contract specifications as reflected in Figure 4.12.

**Figure 4.12: Bursa Malaysia Derivatives Website—Malaysian Government Securities Futures**

**Products**

Bursa Malaysia Derivatives (BMD) offers 3 categories of derivatives: Commodity Derivatives, Equity Derivatives and Financial Derivatives.

**Financial Derivatives**

3 Month Kuala Lumpur Interbank Offered Rate Futures 吉隆坡银行同业3个月拆借利率 (KLIBOR) 期货 (FKB3)

3-Year Malaysian Government Securities Futures 马来西亚3年期国债期货 (FMG3)

**5-Year Malaysian Government Securities Futures 马来西亚5年期国债期货 (FMG5)**

To Access BMD product prices / code on CME GLOBEX® Electronic Trading Platform

Example:

FGLD:	BMDIFGLDIOCT14 Please type BMDIFGLD/relevant contract month code
FKLI:	BMDIFKLIIDec14 Please type BMDIFKLI/relevant contract month code
FCPO:	BMDIFCPOIMAR15 Please type BMDIFCPO/relevant contract month code
FPOL:	BMDIFPOLIMAR15 Please type BMDIFPOL/relevant contract month code
KLIBOR:	BMDIFKB3IMAR15 Please type

**5-Year Malaysian Government Securities Futures 马来西亚5年期国债期货 (FMG5)**

**Contract Specification**

Contract Code	FMG5 马来西亚5年期国债期货
Underlying Instrument	5-Year Malaysian Government Securities.
Contract Size	RM100,000
Minimum Price Fluctuation	0.01 or RM10
Contract Months	Four Nearest Quarterly cycle months (March, June, September and December).
Trading Hours	<ul style="list-style-type: none"> <li>First trading session: Malaysian Time 9:00 a.m. to 12:30 p.m.</li> <li>Second trading session: Malaysian Time 2:30 p.m. to 6:00 p.m.</li> </ul>
Final Trading Day	Trading ceases at 6:00 p.m. (Malaysian time) on the 3rd Wednesday of the delivery month or the 1st Business Day immediately following the 3rd Wednesday of the delivery month if the 3rd Wednesday of the delivery month is not a Business Day.
Final Settlement	Cash Settlement Method.
Cash Settlement Method	<p>The Final Settlement Price shall be calculated from the prices for the eligible MGS in the basket.</p> <p>From the prices reported to the Electronic Trading Platform (ETP) for each MGS in the basket, volume weighted average prices (VWAP) shall be calculated for the Final Trading Day from 9:00 a.m. to 6:00 p.m., after discarding the transactions with value less than RM10 million and converted to yield in percentage, rounded to the nearest four (4) decimal places.</p> <p>The final yield is derived from the yield for each MGS in the basket after weighting the yield of the benchmark bond by sixty percent (60%) or such other weighting as may be prescribed by the Exchange. The remaining weighting shall be equally distributed over the remaining yields.</p> <p>The final settlement price shall then be calculated from the final yield derived above in accordance with the following formula rounded to the nearest two (2) decimal places:</p>

Source: BMD. <http://www.bursamalaysia.com/market/derivatives/products/financial-derivatives/5-year-malaysian-government-securities-futures-5fmg5/>

The value of a contract is MYR100,000 with a minimum fluctuation of 0.01% or MYR10. The coupon rate is 6% per annum, payable semi-annually. The speculative position limit for the FMG3 and FMG5 contracts is 10,000 contracts in any single quarterly month or all months combined. (The contracts' quarterly cycle months are March, June, September, and December).

BM Derivatives traded contracts can be accessed on the CME GLOBEX® Electronic Trading Platform. To access, participants need to enter <BMD\FMG3\relevant contract month code> (e.g., BMD\FMG3\MAR15) or <BMD\FMG5\relevant contract month code> (e.g., BMD\FMG5\MAR15).



## Description of the Securities Settlement System

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This chapter, as included in the original ASEAN+3 Bond Market Guide published in 2012, has been discontinued in favor of a more comprehensive and updated description in the Phase 2 Report of the ABMF Sub-Forum 2 (SF2), Information on Transaction Flows and Settlement Infrastructures, dated 13 June 2014. The SF2 Phase 2 report contains information on the post-trade features of the Malaysian bond market, its market infrastructure and settlement systems, interest payment and redemption practices, as well as market and message standards (pp. 203–215). In addition, the SF2 Phase 2 report contains detailed infrastructure and transaction flow diagrams for Malaysia (pp. 517–537).

The SF2 report is available on a dedicated ADB website, as well as through a number of mirror sites.<sup>54</sup>

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<sup>54</sup> See <http://www.adb.org/publications/asean3-information-transaction-flows-and-settlement-infrastructures>

# Bond Market Costs and Taxation

This chapter details the typical types of costs to be incurred by issuers and investors in the Malaysian bond market, with a particular emphasis for costs associated with bond, note, or *sukuk* issuance and settlement.

For ease of reference, the descriptions of the types of costs are given in the context of the actions to be taken by issuers or investors (as explained in this document) and follow the life cycle of a bond, note, or *sukuk* in the Malaysian bond market.

## A. Costs Associated with Bond, Note, and *Sukuk* Issuance

### 1. Submission of Application for Approval to Securities Commission Malaysia (Offers to Retail Investors)

All offers to retail investors of bonds, notes, and *sukuk* in Malaysia require the approval of, and the submission of an application for such approval, to the SC. For details and conditions of the application process, please refer to Chapter III.F.

The SC applies a fee for the application process, payable at the time of submission of the application and in case of any resubmission of amendments to the application or supporting documents. The fee is not refundable in the case of an unsuccessful application.

### 2. Submission to Securities Commission Malaysia under the Lodge and Launch Framework

Effective 15 June 2015, the offers of bonds, notes, and *sukuk* aimed at Sophisticated Investors (also referred to as wholesale bonds) can take advantage of the Lodge and Launch Framework issued by the SC. Under this streamlined process, the Principal Advisers for such issuance need to only successfully lodge the necessary documents and disclosure items to the SC before launching the products. For details and conditions of the Lodge and Launch Framework, please refer to Chapter III.F.

The SC applies a fee for this Lodge and Launch process, to be paid at the time of lodgement in the SC's Online Submission System. The lodgement is effective, and the launch of the offer may be undertaken, when the payment has cleared. The fee is not refundable if the lodgement was later found to be incomplete and a launch of the issuance may not proceed.

### 3. Approvals from BNM

In the case of a nonresident (foreign) entity aiming to issue MYR-denominated bonds, notes, and *sukuk*, or any issuer planning FCY-denominated instruments, an approval from BNM is required, under the FEA Rules. For details, please refer to Chapter II.F.



At present, BNM does not levy a fee for any of the applications submitted to BNM.

#### 4. Principal Adviser Fee (Mandatory)

The appointment of a Principal Adviser in the Malaysian bond market is mandatory. The Principal Adviser is, among other roles, responsible for the submission of applications and supporting information to the relevant regulatory authorities.

The Principal Adviser will charge a fee, which should be expected to follow established market practice and may be subject to negotiations between issuer and Principal Adviser.

#### 5. Underwriter Fee (Optional)

Issuers are not required by law to appoint an underwriter in Malaysia; often, the Principal Adviser performs the role of an underwriter as well. However, some offers of bonds, notes, or *sukuk* may require the services of one or more underwriters to place the debt securities or *sukuk* with institutional investors or distribute the issuance to retail investors.

Underwriters charge a fee, typically commensurate with the effort and risk of taking over parts or all of a bond, note, or *sukuk* issue from the issuer. This fee or service charge should be expected to follow established market practice and may be subject to negotiations between the issuer and underwriter(s).

#### 6. Shariah Adviser Fee (Mandatory in Case of *Sukuk* Issuance)

In the case of a planned *sukuk* issuance, the issuer is required to appoint a Shariah Adviser who will advise the issuer on the suitability of type and structure of a *sukuk* and certify the compliance of the *sukuk* with Shariah principles, which have been approved by the Shariah Advisory Council of the SC.

Shariah Advisers command a service fee, which should be expected to follow established market practice and may be subject to negotiations between the issuer and Shariah Adviser.

#### 7. Agent Fees (Mandatory)

In the Malaysian bond market, the appointment of a number of agents in the context of a bond, note, or *sukuk* issuance is mandated to ensure effective and professional administration of the issue, a division of duties, and the observance of international best practice. The facility agent will administer the issuance process of debt instruments and *sukuk* into the market, while a paying agent is responsible for handling the cash flow at issuance, for benefits arising from the issue, and upon redemption. The trustee holds the fiduciary responsibility toward the bondholder or *sukuk*-holder, and acts in the case of default or distress.

Facility and paying agents, as well as the trustee, are remunerated for their services based on market practice.

#### 8. FAST Fees

FAST is the official issuance or tendering platform for debt securities and *sukuk* in the Malaysian market. FAST is operated by MyClear, a subsidiary of BNM, on behalf of BNM. The announcement and processing of an issuance on FAST is chargeable in the form of a

service fee. Typically, the FAST service fee is incurred as part of the service provision of the facility agent and charged to the issuer as an out-of-pocket expense.

## **B. Ongoing Costs for Issuers of Corporate Bonds, Notes, and Sukuk**

Resident and nonresident (foreign) issuers in the Malaysian market tend to appoint a commercial bank as the facility agent to handle all corporate actions for their corporate bonds, notes, and *sukuk*. This service provision may result in charges, such as interest payments and redemption fees.

### **1. Interest Payments and Redemption Fees**

The facility agent will deal with BNM as the paying agent for corporate bonds, notes, and *sukuk* for interest or coupon payments and redemptions. While BNM does not charge the facility agent for the processing of interest or coupon and redemption payments, the facility agent may charge for related efforts.

MyClear, as the central securities depository for debt securities and *sukuk*, charges an annual fee for all debt securities deposited with it (for more details, please see next section).

## **C. Costs for Deposit and Withdrawal of Bonds, Notes, and Sukuk**

On behalf of BNM, MyClear acts as the central securities depository and settlement center for all government and corporate bonds, notes, and *sukuk* in the Malaysian market. The service provision by MyClear in RENTAS includes the following charges:

### **1. Depository Fee**

The Malaysian market is scripless for debt securities and *sukuk*. As such, a deposit of a securities certificate into MyClear's book-entry system RENTAS does not apply.

For newly issued debt securities or *sukuk*, the issuer is charged a one-time depository fee. All debt securities deposited in RENTAS are charged an annual depository fee throughout the tenure of the debt securities.

### **2. Withdrawal Fee**

The Malaysian market is scripless for debt securities and *sukuk*. As such, a withdrawal of securities certificates in physical form from RENTAS is no longer applicable.

Redemption of debt securities or *sukuk* does not count as a withdrawal, but is instead treated as a cancellation.

## **D. Costs for Account Maintenance at MyClear**

### **1. Account Maintenance Fee at MyClear**

MyClear collects maintenance fee on accounts maintained in RENTAS on the basis of the remaining securities in the depository account at the end of a given month. MyClear charges

the fees for all depository accounts of underlying investors to the participant members (brokers and custodians) who maintain these accounts under their nominee name. Brokers and custodians in turn tend to defray these costs as part of their custody or safekeeping charges to their clients.

## E. Costs Associated with Bond, Note, and Sukuk Trading

### 1. Brokerage Fees

Licensed bond dealers trading in debt securities and *sukuk* charge a brokerage fee or commission on the buying or selling of these securities to their clients, including for trades on BMS and the ETP, and in the OTC market.

Brokerage fees or commissions in the Malaysian market are fully liberalized, and may be freely negotiated between broker and client. As of April 2015, brokerage fees or commissions are subject to a Goods and Services Tax (GST).

## F. Costs for Settlement and Transfer of Bonds, Notes, and Sukuk

MyClear's service provision as the central securities depository and settlement center for government issues and corporate bonds, notes, and *sukuk* in the Malaysian market includes charges for the following activities:

### 1. Transaction Fee (Transfer Fee)

MyClear collects a transaction fee (transfer fee) for each settlement transaction in the RENTAS book-entry system through the accounts maintained by RENTAS participants. MyClear charges the transaction fee, as well as an annual membership fee, to participant members (brokers and custodians) who in turn tend to defray these costs as part of their periodic transaction fees charged to their clients.

## G. Taxation Framework and Requirements

Residents and nonresidents investing in the Malaysian market are subject to few duties and taxes on debt securities and *sukuk* (Table 6.1). The applicability of and practices for the relevant taxes are explained in subsequent sections.

### 1. Business Income Tax

Interest from debt securities are subject to business income tax for resident investors in Malaysia (unless there are specific tax exemption orders under tax incentives or concessions).

Consideration or profit paid from *sukuk* may be exempt from income tax, depending on the underlying structure of the *sukuk* and other possible concessions.

**Table 6.1: Duties and Taxes on Debt Securities and *Sukuk* in Malaysia**

Duties and Tax	Type of Bond	Tax Rate (%)
Withholding Tax	Government	Not applicable
	Corporate	Not applicable
Capital Gains Tax	Government	Not applicable
	Corporate	Not applicable
Stamp Duty	Government	Not applicable
	Corporate	Not applicable
GST	Universal	6

GST = Goods and Services Tax.

Source: Compiled by ADB Consultants for SF1 from public domain sources.

## 2. Withholding Tax

Most income or consideration from debt securities and *sukuk* in the Malaysian market is not subject to withholding tax due to various exemptions. These include tax exemptions on the following:

- Interest income from bonds received by nonresident companies (Schedule 6, Paragraph 33A of the Income Tax Act,1967) with the condition that it is
  - (a) MYR-denominated *sukuk* and debentures (other than convertible loan stocks) approved by the SC, or
  - (b) securities issued by the Government of Malaysia.
- Interest income from bonds received by any person with respect to *sukuk* originating in Malaysia (other than convertible loan stocks) (Schedule 6, Paragraph 33B of the Income Tax Act,1967) with the condition that it is
  - (a) issued in any currency other than ringgit and approved by the SC or the Labuan Financial Services Authority.
- Interest or discount paid or credited to any nonresident individual (Schedule 6, Paragraph 35 of the Income Tax Act,1967), with respect to
  - (a) securities or bonds issued or guaranteed by the Government of Malaysia,
  - (b) debentures (other than convertible loan stocks) approved by the SC, and
  - (c) Bon Simpanan Malaysia issued by Bank Negara Malaysia.

## 3. Capital Gains Tax

There is no capital gains tax applicable on debt securities and *sukuk* offered for sale in Malaysia.

## 4. Stamp Duty

Bonds and *sukuk* approved by or lodged with the SC are exempted from stamp duty.

## 5. Goods and Services Tax

A GST was introduced in Malaysia on 1 April 2015, replacing the previous sales and service taxes levied on businesses and consumers.

In principle, all fees and charges for services provided by intermediaries in the Malaysian bond market to their resident market participants and investors are subject to GST. Some exemptions apply. The distinction of the GST in Malaysia is, however, that not all fees and charges are shown to include the GST when displayed in price lists or on websites. Therefore, the final cost to the client or investor may be higher than indicated.

Nonresidents do not pay GST; hence, invoices to foreign issuers and investors for service provisions by domestic bond market institutions do not include GST on such services.

## 6. Double Taxation Avoidance Agreements

Double taxation avoidance agreements (DTAAs) are bilateral tax treaties signed by Malaysia with other countries that specify the taxing right of each contracting state, while ensuring the income will only be taxed at one jurisdiction. The scope of Malaysian DTAAs is limited to direct taxes and only covers persons who are residents of the contracting states.

Malaysia has an extensive network of DTAAs, with 75 DTAAs signed and a few others in the pipeline.

## 7. Tax Exemption for Nonresident Investors

Tax exemptions for nonresident investors are not applicable, since Malaysia does not apply capital gains and withholding taxes on the income or considerations from debt securities and *sukuk*, respectively.

This is notwithstanding specific provisions for preferential tax treatment in prevailing DTAAs. If in doubt, investors are encouraged to seek the advice of professional tax advisors with regard to their own specific tax situation.

## Market Size and Statistics

The original ASEAN+3 Bond Market Guide was published in April 2012 and included 11 pages of Malaysian bond market statistics, including historical data such as bondholdings, bondholder distribution, outstanding amounts, and trading volumes. Not surprisingly, this data became stale soon after publication.

Since the ASEAN+3 Bond Market Guide is most likely to be updated on a biannual basis, it is not the best channel for the dissemination of market statistics. Hence, the chapter comprising bond market statistics has been discontinued with this edition and replaced with a list of recommended sources for detailed, accurate, and current information on the Malaysian bond market. These sources are listed below in alphabetical order.

- *AsianBondsOnline* (an ASEAN+3 initiative lead by ADB)  
<http://www.asianbondsonline.adb.org/malaysia.php>
  - Market-at-a-Glance
  - Data (yields, indicators, ratings, and historical data)
- Bank Negara Malaysia (BNM)  
[http://www.bnm.gov.my/index.php?ch=en\\_publication\\_catalogue&pg=en\\_publication\\_msb&mt=4&yr=2015&lang=en](http://www.bnm.gov.my/index.php?ch=en_publication_catalogue&pg=en_publication_msb&mt=4&yr=2015&lang=en)
  - Monthly Statistical Bulletin (including tender, issuance, and foreign holding info)
- Bond Info Hub (BNM Initiative)  
<http://bondinfo.bnm.gov.my/portal/server.pt>
  - Market Highlights
  - Bond Issues and Tenders (not limited to government bonds)
  - Auction Results
  - Trading Activities
  - Daily Market Data
  - Articles and Publications
  - Historical Data
- Bond Pricing Agency Malaysia  
<http://www.bpam.com.my>
  - Bond Prices
  - Yield Matrices
  - Bond Indexes
  - Charts
  - Monthly Analysis
  - Issuer Information
  - Bond-Related News
  - Indonesian and Thai Bond Prices
  - Commentary and Research Information

- Bursa Malaysia Securities  
<http://www.bursamalaysia.com/market/securities/bonds/market-statistics/>
  - Securities Turnover (Monthly)
  - Summary of Outstanding Amount Issuers of MGS (Daily)



# The Malaysian *Sukuk* Market

## A. Current Status of the *Sukuk* Market in Malaysia

Malaysia is at the forefront in the development of Islamic banking, an Islamic capital market, and *takaful* insurance. It has a strong and comprehensive Islamic financial system with a robust business-driven regulatory regime and legal framework. Malaysia has emerged as the largest *sukuk* market in the world, with total outstanding *sukuk* valued at MYR173.5 billion, or 57% of the global market, as of March 2015. The *sukuk* market has become an integral part of the Malaysian capital market.

The increasing popularity of Islamic bonds is attributable to several factors. First, *sukuk* provide an avenue for Islamic investors who need to invest in Shariah-compliant instruments. Second, *sukuk* also appeal to conventional investors who are constantly looking for liquid, attractively priced instruments to obtain capital gains and income. The strong demand by investors also provides the opportunity for issuers to raise funds at a lower cost. Third, the Government of Malaysia has been actively involved in creating an efficient price-discovery process for Islamic securities through its issuance of MITB and MGII, which has led to the establishment of an Islamic benchmark yield curve. This has been complemented by *sukuk* indexes published by BPAM..

Over the years, Islamic capital market products have garnered universal acceptance as viable alternatives to conventional products. There has been clear evidence of the acceptability of the products to non-Muslim issuers and investors alike. As an indication of the success of Malaysia's Islamic capital market, 35% of funds raised (MYR62 billion) through all ringgit bond issuances in 2014 were through *sukuk*. The success of mainstreaming *sukuk* can be replicated internationally, considering the estimated size of the global Islamic financial system and the latent demand for Shariah-compliant financial instruments.

## B. The Nature of *Sukuk*

In their simplest form, *sukuk* are certificates of equal value that represent an undivided interest (proportional to the investor's interest) in the ownership of an underlying asset (both tangible and intangible), usufruct, services, or investments in particular projects or special investment activities. Unlike conventional debt securities that mirror debts or loans on which interest is paid, *sukuk* can be structured based on innovative applications of Islamic principles and concepts. Nonetheless, *sukuk* share some similarities with conventional debt securities in that they are similarly structured based on the ability of the issuer to pay the periodic distribution and principal repayment.

A prerequisite for *sukuk* is the compliance with Islamic or Shariah principles. A *sukuk* is structured so that it involves an exchange of Shariah-compliant assets for financial consideration that allows investors to earn profits and rentals from transactions in the future.

There are various types of *sukuk*, given that a number of different Shariah principles are used for the creation of *sukuk*. The more prominent types are the sale and purchase of an asset based on *bai' bithaman ajil* (deferred payment), the leasing of specific *ijarah* (assets), and a *musyarakah* (profit and loss-sharing scheme). There are also a number of innovative instruments pioneered by market participants involving the gamut of Islamic financial principles, including *istisna* (project finance), *murabahah* (cost-plus sale), *mudharabah* (profit sharing), and *qard* (interest-free loan). In Malaysia, the majority of *sukuk* are debt-based instruments (*murabahah* and *bai' bithaman ajil*).

### C. Legal Implications for Investors

*Sukuk* represent ownership claims on a pool of assets, or rights to receivables or participation. *Sukuk* may be issued as offers to retail investors, private placements, or under the Lodge and Launch Framework, as well as by nonresident (foreign) entities.

The various transaction contracts that form the genesis of a *sukuk* issue have different legal implications for investors. *Sukuk* investors should therefore be fully apprised of and knowledgeable about their rights and obligations under the various underlying Islamic concepts and principles, which are explained as follows.

#### 1. Rights to an Underlying Asset and Its Cash Flow

For *sukuk* that represent the ownership of assets, their usufruct or services (the underlying asset), the claim embodied in the *sukuk* is not just a claim on the underlying asset used in the *sukuk* transaction, but also the right to the cash flow and proceeds from the sale of the asset. For example, in *sukuk ijarah*, the *sukuk* are akin to trust certificates establishing undivided ownership of the leased asset and the right to the cash flow arising from it.

#### 2. Rights to Cash Flow from the Contract of Exchange but not the Asset

For *sukuk* issued as evidence of indebtedness arising from the sale of the asset based on contracts of exchange other than *ijarah*—such as those originating from *bai' bithaman ajil*, *murabahah*, and *istisna*—the claim is on the obligations stemming from the applied contract of exchange, and not ownership of the physical asset, as ownership has been transferred to the obligor.

#### 3. Rights to Undivided Interest in Specific Investments

For special investment activities funded through *musyarakah* (loss-sharing scheme) or *mudharabah*, the *sukuk* represent the holder's undivided interests in the specific investments. *Sukuk musyarakah* is used to raise funds for projects on the basis of partnership contracts. *Sukuk musyarakah* holders or investors then become the owners of the project, in proportion to their respective shares. Profits are distributed according to a preagreed proportion while losses are prorated according to their equity share. Each *sukuk mudharabah* holder or investor, on the other hand, holds equal value in the *mudharabah* equity. Profits will be shared on a preagreed ratio between the *mudharabah* investors and the *sukuk* shared equally among the *mudharabah* investors.

## D. Sukuk Issuance in Malaysia

Conventional government bonds have counterpart Islamic bonds in Malaysia. These include

- (i) **Bank Negara Monetary Notes-i** (BNMN-i), which replaced Bank Negara Negotiable Notes, are Islamic securities issued by BNM to manage liquidity in the Islamic financial market.
- (ii) **Malaysian Islamic Treasury bills** (MITB) are short-term securities based on Islamic principles issued by BNM on behalf of the government. The structure of MITB is based on the *bai al-inah* (sell-and-buy back) principle and are actively traded based on the *bai al-dayn* (debt trading) principle in the secondary market.
- (iii) **MGII** are non-interest-bearing government securities based on Islamic principles issued by the government and placed on a competitive tender with maturities of 3–20 years. Like MGS, MGII are issued by BNM on behalf of the government and the funds are used for development expenditures.
- (iv) **Sukuk Bank Negara Malaysia Issues** (SBNMI) are zero-coupon bonds with maturities of 1–2 years. SBNMI are based on *al-ijarah* (sale and lease back) principle.
- (v) **Merdeka Savings Bond** is a bond structure based on Shariah principles with the purpose of assisting retirees who depend primarily on interest income from deposits placed with banking institutions.
- (vi) **Sukuk 1Malaysia 2010**, which is based on Shariah principles, is an additional investment instrument for Malaysian citizens who are at least 21 years old. Sukuk 1Malaysia 2010 has a resalable feature that provides flexibility for investors to sell and purchase the *sukuk* before maturity date.

Corporates also issue *sukuk*. In fact, the corporate *sukuk* market has grown significantly in recent years, with average annual growth of corporate *sukuk* outstanding of 25% between 2010 and 2014. At the end of June 2015, corporate *sukuk* accounted for 64% of total outstanding corporate debt securities issued in Malaysia.

## E. Regulations for Sukuk

The SC supervises the Islamic capital market, which operates parallel to the conventional capital market. The SC originally issued the Guidelines on Sukuk, which contained provisions specific to the nature and types of *sukuk*, and their inherent practices. These provisions have by now been folded into the SC Guidelines for retail bonds and issuances under the Lodge and launch Framework. The SC Guidelines, and related Practice Notes and Technical Notes, contain detailed documentation requirements, approval and issuance processes, and other relevant provisions for *sukuk*, alongside those for conventional debt securities. For additional details, please refer to Chapter II.

Additional provisions for *sukuk* include the need for a particular type of *sukuk*, or iMTN, to conform to Islamic principles. For that purpose, the SC established the Shariah Advisory Council (SAC) in 1996 to ensure all Islamic domestic capital market products are in compliance with Shariah principles. The SAC comprises prominent Shariah scholars and jurists, as well as market practitioners, who advise the SC on matters relating to the Islamic capital market and provide Shariah guidance on Islamic capital market transactions and activities. BNM also features a SAC for the governance of debt and money market instruments under its purview.

On the basis that a *sukuk* type is principally acceptable in the market, a Shariah Adviser then has to certify whether the structure of a particular *sukuk* is Shariah-compliant. The Shariah Adviser must be registered with the SC under the Registration of Shariah Adviser Guidelines. In addition, a legal advisor has to certify that a Trust Deed for the trust underlying the *sukuk* is enforceable under Malaysian law.

## F. Infrastructure for *Sukuk*

In Malaysia, the market infrastructure is the same for *sukuk* and conventional bonds and notes. *Sukuk* are traded OTC on the same registered electronic facilities as conventional debt securities, or as ETBS on BMS. Trades are captured in the ETP and cleared and settled via RENTAS.

BNM maintains an information portal dedicated to Malaysia, the International Islamic Financial Centre, and provides online access to information on the Islamic interbank money market. BPAM calculates and publishes the BPAM Sukuk Index in conjunction with Thomson Reuters.

For details on these domestic websites and market features, please refer to Chapter IV.

Malaysia is also host to the Islamic Financial Services Board, an international standard-setting organization that promotes and enhances the soundness and stability of the Islamic financial services industry by issuing global prudential standards and guiding principles for the industry, which is broadly defined to include banking and insurance sectors, and the capital market.<sup>55</sup>

The International Islamic Liquidity Management Corporation (the IILM) is an international institution established by central banks, monetary authorities, and multilateral organizations to create and issue short-term, Shariah-compliant financial instruments to facilitate effective cross-border Islamic liquidity management. The corporation is hosted by Malaysia and headquartered in Kuala Lumpur. As an international institution, it enjoys a range of privileges and immunities conferred by the International Islamic Liquidity Management Corporation Act, 2011<sup>56</sup>

In order to further spur the development of Islamic finance, in February 2016 Malaysia developed the marketplacelF, which provides access to the global community seeking financial solutions and services by linking them with Malaysia's Islamic financial institutions and professional ancillary services.<sup>57</sup>

<sup>55</sup> See Islamic Financial Services Board at <http://www.ifsb.org>

<sup>56</sup> For more information, please see <http://www.iilm.com>

<sup>57</sup> For more information, please see [www.marketplacelF.com](http://www.marketplacelF.com)

# Malaysian Bond Market Challenges and Opportunities

This chapter discusses some of the real or perceived challenges facing the Malaysian bond market and its participants, and describes potential mitigating factors and market developments that could address these challenges in an appropriate manner.

## A. Challenges in the Malaysian Bond Market

### 1. Concentration of Investor Base

Public domain reports often cite the concentration of investors in the Malaysian bond market as a challenge to be addressed by policy bodies and regulatory authorities. Reference was made in Chapter III.M to the significant investments of pension funds and other statutory entities in MGS based on their appetite for safe instruments. In addition, bonds, notes, and *sukuk* are often traded and held within a small group of major institutional investors other than pension funds. At the same time, retail investors lack deep knowledge or understanding of the bond market, and are easily content with commercial bank deposits rather than with other products for investment.

### 2. Issuance by Large Companies Only

The lack of lower-rated, medium-sized companies in the bond market appears to be the result of a high degree of investor risk aversion. Bonds issued by government-linked companies and infrastructure issuers backed by government-linked contracts represented a significant portion of the market. While investors are more likely to be risk takers in their equity investments, they will tend to compensate by taking a very conservative approach in their fixed-income portfolios. There is concentration in the high-grade segment—possibly as well due to default experience following the 1997/98 Asian financial crisis and the recent global financial crisis—such that they demand very high yield from lower-grade issuers or second-tier companies.<sup>58</sup>

### 3. Hedging No Longer a Challenge

Regulators have significantly eased both access to the market and enabled many investment activities, particularly for foreign investors. Hedging of exposure to the Malaysian bond market is available with licensed onshore banks.

<sup>58</sup> World Bank. 2013. Malaysia—Bond Market Development: Technical Note. Financial Sector Assessment Program. Washington, DC. <http://documents.worldbank.org/curated/en/2013/01/18639187/malaysia-bond-market-development-technical-note>

BM Derivatives trades 3-year and 5-year MGS futures as well as a contract based on the KLIBOR benchmark interest rate. Details on BM Derivatives and its offerings are available in Chapter IV.

#### 4. Malaysian Financial Reporting Standards

Research by ABMF indicates that issuers, intermediaries, and listing places in ASEAN+3 are spending considerable energy mapping and understanding financial reporting standards in each other's jurisdictions in anticipation of an increase in cross-border bond issuance and investment activities in the region. ABMF research has also proved that the treatment and disclosure of relevant information is often the same or very similar across markets, particularly with respect to bond, note, or *sukuk* issuance.

At the same time, however, it was found that the financial reporting standards in some markets have not yet fully adopted the International Financial Reporting Standards (IFRS).<sup>59</sup> This may result, for example, in issuers seeking to list or profile list their bonds, notes, or *sukuk* in specific listing places needing to convert their financial reporting information into a format acceptable to such listing place if their domestic financial reporting standard does not converge with IFRS.

In November 2011, the Malaysian Accounting Standards Board<sup>60</sup> issued the Malaysian Financial Reporting Standards (MFRS) Framework, which became effective on 1 January 2012 and is word-for-word in agreement with all IFRS provisions.<sup>61</sup> The Malaysian Accounting Standards Board's plan is to maintain the identity of MFRS and IFRS by adopting all new or amended IFRS. Hence, there should be no challenge stemming from financial reporting standards for either Malaysian issuers seeking a listing outside Malaysia, or foreign issuers seeking a profile listing on BMS.

At the same time, foreign issuers have, for their ringgit issuances, been able to elect whether to submit and report financial and disclosure information according to MFRS-IFRS or United States Generally Accepted Accounting Principles.

## B. Opportunities in the Malaysian Bond Market

### 1. General Regulatory Environment

Since the global financial crisis, regulators across the globe have been strengthening laws and regulations in many areas of the capital and financial markets. Of particular interest have been banking regulations and risk-weighted capital. The outcome for the financial markets include a limitation of what banks can or are willing to lend, to whom, and under what circumstances. A number of these regulatory initiatives may, in consequence, lead to a rebalancing of funding options for the corporate sector from bank loans to the capital market.

<sup>59</sup> ABMF published its Phase 2 Report in April 2014, *Proposal on ASEAN+3 Multi-Currency Bond Issuance Framework*, which included an overview of financial reporting standards in ASEAN+3 in relation to IFRS. The report is available at <http://www.adb.org/publications/proposal-asean3-multi-currency-bond-issuance-framework-ambif>

<sup>60</sup> See <http://www.masb.org.my>

<sup>61</sup> The IFRS application profile for Malaysia is available at <http://www.ifrs.org/Use-around-the-world/Documents/Jurisdiction-profiles/Malaysia-IFRS-Profile.pdf>

While not unique to Malaysia, this development might just positively influence the interest of potential domestic issuers to consider raising funds via bond, note, or *sukuk* issuance, and to diversify their debt portfolio. This increased interest, coupled with a broader and deeper investor base (see below), might also have a beneficial impact on funding costs.

## 2. Specific Regulatory Developments Drive the Market

A number of specific policy and regulatory initiatives have added clarity and flexibility to the Malaysian bond market and its participants in recent years. BNM is encouraging investors to utilize their long-term holdings with BNM to unlock liquidity. The SC will no longer stipulate a mandatory credit rating for professional issuances (conditions apply) beginning in 2017, and has introduced a Lodge and Launch approach, instead of a required approval, for bond, note, and *sukuk* issuances aimed at Sophisticated Investors. BMS introduced ETBS and offers an Exempt Regime for the profile listing of debt instruments and *sukuk*, without trading, to achieve higher visibility to investor groups and the market at large.

## 3. ASEAN+3 Multi-Currency Bond Issuance Framework

The implementation of the AMBIF is expected to benefit not only AMBIF issuances but also the Malaysian bond market at large. The ASEAN Bond Market Initiative and Malaysian policy bodies and regulatory authorities focus on a suitable balance between bank loan and capital market funding opportunities for corporates. AMBIF has been created to provide an additional bond, note, or *sukuk* issuance avenue for corporates. AMBIF in Malaysia focuses on the issuance of private placements to Sophisticated Investors, which was further supported by the introduction by the SC of concessions for professional issuance under the Lodge and Launch Framework in June 2015.

At the same time, Malaysia as a market generates some of the strongest interest from potential AMBIF bond, note, and *sukuk* issuers who may already have substantial commercial operations in the country, and would like to issue bonds, notes, and *sukuk* to use ringgit proceeds, diversify Malaysian ringgit funding options, eliminate foreign exchange risk, or more effectively manage their debt portfolio. The nature of AMBIF and its specific limitation to professional investors is likely to attract the attention and opportunity to invest in AMBIF bonds, notes, and *sukuk* from new institutional (professional) investor types in Malaysia and from other regional markets.





# Recent Developments and Future Direction

## A. Recent Major Developments

### 1. Introduction of Exchange Traded Bonds and Sukuk

Effective January 2013, the Government of Malaysia introduced the ETBS concept as part of its drive to develop key economic areas of the country, including the financial market. For reference, a descriptive article from the World Exchanges website is included in this guide as Box 10.1.

#### **Box 10.1: Bursa Malaysia Securities Introduces Rule to Facilitate Exchange-Traded Bonds and Sukuk (26 September 2012)**

Bursa Malaysia Securities (BMS) today introduced the rules to facilitate Exchange-Traded Bonds and Sukuk (ETBS) to be listed, and traded on Bursa Securities. This marks the first step toward providing wider access for this asset class to BMS investors.

In the past, bonds have been primarily accessible to institutional and high net worth individuals. With the introduction of these rules, issuers now can list bonds or *sukuk* on the Bursa Securities market, and thus tap into the liquidity provided by retail investors.

Dato' Tajuddin Atan, Chief Executive Officer of BMS, expressed the significance of the initiative introduced by BMS that will promote greater price transparency and disclosure of these instruments to investors especially retail investors: "The introduction of [ETBS] on [BMS] complements our goal to offer a diverse range of tradable products on the Exchange. We are creating an environment that provides something for every type of investor. In this case, bonds and *sukuk* from a wider issuer base will be listed and traded on our Exchange and these complement the diverse selection of stocks, exchange-traded funds, and [real estate investment trusts] already listed on BMS as well as our complete range of derivatives and futures products."

ETBS, a project under the National Key Economic Areas, is aimed at offering greater choices for investors who are seeking products that yield stable returns with capital protection. Aside from enhancing the diversity of products offered to investors, this initiative is also expected to attract a new segment of investors into the market and provide issuers with greater flexibility in their fundraising exercises. This initiative is also a major step toward broadening and deepening the bond and *sukuk* markets, with the advantage of converging a whole spectrum of bond and *sukuk* market players.

The relevant rule changes to the Listing Requirements, [BMS] Rules, and [BMD] Rules have been made available for reference at the Exchange's website, [www.bursamalaysia.com](http://www.bursamalaysia.com). BMS is working with issuers for potential listing and trading and will inform the market accordingly.

Source: Adapted by ADB Consultants for SF1 from Mondo Visione. Worldwide Exchange Intelligence. <http://www.mondovisione.com/media-and-resources/news/bursa-malaysia-introduces-rule-to-facilitate-exchange-traded-bonds-and-sukuks/>

## 2. ASEAN Disclosure Standards Scheme

Effective 1 April 2013, the securities market regulators in Malaysia, Singapore, and Thailand implemented the ASEAN Disclosure Standards Scheme (the Scheme) for multijurisdictional offerings to retail investors or the general public of equity and plain debt securities in ASEAN.

The Scheme aims to facilitate fundraising activities as well as to enhance investment opportunities within ASEAN capital markets. Issuers offering equity and plain debt securities in multiple jurisdictions within ASEAN will only need to comply with one single set of disclosure standards for prospectuses, known as the ASEAN Disclosure Standards, bringing about greater efficiency and cost savings to issuers. The Scheme is benchmarked against IOSCO disclosure standards on cross-border offerings. In addition, the Scheme fully adopts IFRS and the International Standards on Auditing.

The Scheme operates on an opt-in basis and ASEAN members will adopt the Scheme as and when they are ready to do so. Malaysia is among the first ASEAN jurisdictions to implement the Scheme.

## 3. BPAM Pricing Unrated Debt Securities and Sukuk

On 28 August 2014, the SC announced changes regarding the transferability and tradability of unrated bonds and *sukuk*. The provisions have subsequently been included in the Guidelines on Unlisted Capital Market Products under the Lodge and Launch Framework.

Following the tradability of unrated bonds and *sukuk*, BPAM responded to strong market demand to expand its pricing services to cover unrated bonds and *sukuk* effective 2 January 2015. At present, there are about 500 unrated bonds and *sukuk* with a total outstanding of approximately MYR50 billion.<sup>62</sup>

## 4. BPAM releases 2015 BPAM Almanac on Bonds and Sukuk

In February 2016, BPAM published the third edition of its annual *Malaysia Bond and Sukuk Almanac* for 2015, on the back of the success of the original almanac in 2013 and its follow-up in 2014.

This latest edition contains information on 326 issuers and their active unrated bonds, *sukuk*, and short-term paper outstanding as of the end of 2015. This includes 646 additional securities valued at MYR59.8 billion for a total market size of 2,659 active securities and MYR1,119.4 billion as of 31 December 2015.

## 5. Introduction of the Lodge and Launch Framework

Effective 15 June 2015, the SC introduced a new regulatory framework with a particular focus on the professional bond market. The Lodge and Launch Framework will allow issuers to issue bonds, notes, and *sukuk* aimed at Sophisticated Investors once they have lodged the required documents and information with the SC. In consequence, prior approval from the SC is not required provided that all documentation and disclosure requirements have been observed for such bonds, notes, and *sukuk*. The lodgement of documents and information can be conducted via the SC's dedicated online system.

<sup>62</sup> Text adapted from information on BPAM website. <http://www.bpam.com.my> (accessed May 2015).

This new regime significantly streamlines the issuance process for professional bonds, notes, and *sukuk* in the Malaysian market, doing away with approval and improving time to market, and is expected to stimulate such issuance and attract additional attention from foreign issuers intending to tap the Malaysian market.

The features and requirements of the new Lodge and Launch Framework are reviewed in detail in Chapter II.

## B. Future Direction

Malaysia is participating in a number of regional initiatives that are expected to have a beneficial impact on the domestic bond market and the regional bond market at large.

### 1. ACMF Facilitates Cross-Border Fundraising and Investment

The SC signed a memorandum of understanding with the Monetary Authority of Singapore; Singapore Exchange; and Securities and Exchange Commission, Thailand to establish a streamlined review framework for the ASEAN Common Prospectus. The framework, which is an initiative under the ACMF Implementation Plan endorsed by the ASEAN Finance Ministers, will facilitate cross-border offerings of equity securities and plain debt securities in ASEAN.<sup>63</sup>

This initiative aimed at securities, whether they are being offered to retail investors or the general public, is expected to stimulate cross-border investment into the debt securities of the participating markets since investors will find the documentation and disclosure information increasingly familiar.

### 2. ASEAN+3 Multi-Currency Bond Issuance Framework

The introduction of AMBIF in regional markets in the course of 2015 signals additional opportunity for bond and note issuance activities in the Malaysian market. Potential issuers have identified Malaysia as one of the markets of particular interest, largely due to the increased focus on decentralized funding for the support of domestic business operations by ASEAN+3 based corporates.

Aimed particularly at the issuance of bond, note, and *sukuk* issuances to Sophisticated (professional) Investors in Malaysia, AMBIF encourages domestic and regional issuers to take advantage of streamlined issuance approval processes not only in Malaysia, but also other regional markets. For additional information on AMBIF, please refer to Chapter IX.5.

The key advantage of AMBIF lies in the ability of regional issuers to tap multiple markets, including Malaysia, using the same or similar approval processes. This additional issuance avenue is seen as offering an alternative for corporate issuers to issue bonds, notes, and *sukuk* across markets instead of (or in addition to) relying on other forms of funding.

<sup>63</sup> Adapted by ADB Consultants for SF1 from Monetary Authority of Singapore. 2015. *Facilitating Cross-Border Capital Raising in ASEAN*. 3 May. <http://www.mas.gov.sg/News-and-Publications/Media-Releases/2015/Facilitating-Cross-Border-Capital-Raising-in-ASEAN.aspx>

### 3. Announcement on Changes to Credit Rating Regime

In his speech to mark Invest Malaysia 2014 on 9 June 2014, the Prime Minister announced a number of measures to liberalize the domestic credit rating regime, including the shareholding requirements of credit rating agencies operating in Malaysia. The following is an excerpt from the Prime Minister's speech that offers background information and details planned changes:<sup>64</sup>

We seek to broaden the risk spectrum for corporate bonds. Market-based financing avenues must be accessible to smaller, more innovative ventures—the enterprises that can grow into the corporate titans of the future.

For such businesses to tap into the capital market, there must be a critical mass of investors willing and able to invest in this asset class. Secondary market liquidity and credit risk assessment capacity are vital for building investor risk appetite. Although it is heartening to see our institutional investors expanding into a much broader range of asset classes, we want even greater participation.

So to build that capacity—and to further promote investment in a broader spectrum of assets—I am pleased to announce the following liberalization measures:

First, the mandatory requirement for credit ratings will be removed, effective 1st January 2017. This will broaden the corporate bond market, and enable investors to further diversify their portfolios.

A gradual approach is being adopted to provide industry players sufficient time to further refine mechanisms necessary to operate under the new regime. From 1st January 2015, flexibilities will be accorded with regards to credit ratings and the tradability of unrated bonds and *sukuk*.

Secondly, the equity shareholding for credit rating agencies will be liberalized, and international credit rating agencies with full foreign ownership will be allowed in the Malaysian market from 1st January 2017.

The entry of international agencies will further enhance the quality and standard of rating services, introduce a more competitive fee structure, and widen both expertise and the range of credit rating services on offer. Ultimately, this liberalization will enable the Malaysian bond market to become a more cost-effective and attractive long-term financing platform.

### C. Excerpt from the Capital Market Masterplan II, 2011–2020

The CMP2, which details plans for the development of the Malaysian capital market from 2011 until 2020, continues to shape and improve the market segments, including the bond market and the Islamic capital market. Since the efforts are set to continue for several more years, some relevant commentary is provided in this section.

<sup>64</sup> The full text of the speech is available from the website of the Office of the Prime Minister of Malaysia at [http://www.pmo.gov.my/home.php?menu=speech&page=1676&news\\_id=724&speech\\_cat=2](http://www.pmo.gov.my/home.php?menu=speech&page=1676&news_id=724&speech_cat=2)

## 1. Growth to 2020

The Malaysian capital market has significant growth prospects. The SC estimates the size of Malaysia's capital market—comprising stock market capitalization and debt securities—will more than double from MYR2.0 trillion in 2010 to MYR4.5 trillion by 2020.

The baseline forecast is predicated on annual real gross domestic product (GDP) growth of 6.5% and historical market benchmarks, and is subject to prevailing economic and market conditions. Overall, the long-range forecasts provide a reasonable reflection of baseline growth prospects based on extrapolation of historical trends. Further analysis indicates there are strong upside prospects for the Malaysian capital market. The structural reforms and high-impact investment projects under the new economic model and economic transformation program can accelerate economic growth momentum with a significant impact on the upside for the long-term growth of the capital market. Based on benchmarks for regional financial centers, it is estimated that internationalization of the stock market can increase the potential size of the Malaysian capital market by another 30% to MYR5.8 trillion in 2020. Higher levels of internationalization will also have positive growth effects on the bond market and the Islamic capital market, which is projected to increase from MYR1.1 trillion in 2010 to MYR2.9 trillion in 2020. In addition, the investment management industry is expected to see assets under management rise from MYR377.4 billion in 2010 to MYR1.6 trillion in 2020. The most important effect of achieving critical mass is the facilitation of volume strategies and higher efficiency from increased economies of scale.

Based on historical trends, the growth of the investment management industry is likely to outpace the growth of equity assets between 2011 and 2020. This is a feature typical of an economy in transition from middle-income to developed status. Projections indicate that the penetration rate for unit trusts is likely to almost double from 18% in 2010 to 34% in 2020, which is closer to levels usually seen in developed markets. The annual notional value of derivatives trading of MYR512.1 billion in 2010 is currently largely based on crude palm oil futures contracts. There is a substantial upside from further expansion of derivative products and this will deepen liquidity across market segments through positive spillover effects from higher levels of intermarket trading, hedging, and arbitrage.

With the core intermediation industries reasonably developed, the developmental focus will shift toward nurturing future growth segments, particularly in ancillary layers supporting intermediation activities. The development of more competitive niches will foster higher productivity and value-added activities with the supporting clusters providing positive growth feedback effects. The CMP2 offers a broad set of strategies that are aimed at addressing key structural challenges and critical linkages to create an environment conducive to private sector intermediation and expanding the growth boundaries of the capital market. These will be complemented with strategies to ensure effective governance arrangements to sustain confidence in the integrity of Malaysia's capital market and to maintain strong regulatory oversight to safeguard the interests of investors.

## 2. Wider Access to the Bond Market

The development of the bond market has provided critical long-term financing to many large-sized and catalytic economic projects. This has resulted in Malaysia having one of the best infrastructures in the region, ranging from international airports and highways to power plants and telecommunications. The bond market has also been a source of financing support for banks and corporations, and provided liquidity to balance sheets through the securitization of mortgages and other receivables.

In tandem with economic transformation plans, there is a need to broaden the capability and capacity of the bond market to supply financing to a wider base of industries and projects, particularly in supporting the structural shift toward services and knowledge-based industries. The ability to widen access to bond financing for more sophisticated ventures is critically dependent on broadening the investor base and increasing the appetite for a wider array of debt products and credit risks. Widening the credit spectrum therefore requires strengthening investor confidence, increasing the participation of the public and private investment management industry, expanding product range, and enhancing market infrastructure. Toward this end, market standards and practices will be enhanced through improving documentation and disclosure standards, as well as clarifying post-issuance disclosure obligations and requirements.

The CRA framework will be further enhanced to converge with new international standards and best practices covering key areas such as the transparency of rating criteria and policies, rating reviews, and the governance structure of CRAs. The default process for bonds will also be reviewed to provide greater clarity and certainty to investors. In tandem with this, efforts will be made to promote a more active market for the pricing of distressed issues. The participation of the public and private sector segments of the investment management industry in fixed-income investments needs to be further strengthened. This will require building their fixed-income investment capabilities to enable participation in a broader spectrum of structures and credits. There is also a need to increase transparency and liquidity in the secondary market to match the growth in primary issuance. This will be achieved through strengthening the environment for electronic trading and infrastructure in the areas of bond lending, market-making, trading, clearing, settlement, and custodian services. Efforts will also be made to promote greater retail participation in the bond market through developing a framework to facilitate the offering of corporate bonds to retail investors that covers the eligible issuer base, mode of offering, format of offering documents, price transparency, investor protection, and education activities. In addition, distribution channels will be widened to enable greater retail investment.

The availability of a broad range of interest-rate-sensitive products is required for the application of sophisticated fixed-income investment strategies and to promote active trading and arbitrage in the bond market. In conjunction with increasing institutional investment in fixed-income instruments, the product range will be broadened to include fixed-income indexes and inflation-linked products.

Additional mechanisms will be considered to widen participation and deepen liquidity in the bond market. The establishment of Danajamin Nasional provides a means for less-established companies to gain access to the bond market and to establish their track record for creditworthiness, while a review will be undertaken to assess the viability of establishing facilities to mitigate illiquidity risks of bond funds.

### **3. Growth Prospects for the Bond Market through 2020**

The Malaysian bond market is relatively well developed with outstanding bond issuances equivalent to about 97% of GDP. Market depth is reflected by an average weighted bond tenure of 16 years and an average issuance size of MYR670 million, while market width is reflected by the diversified range of conventional and Islamic instruments.

The bond market is expected to sustain reasonable growth during the decade under review. The economic transformation plans have already identified several major infrastructure projects that will underpin strong domestic issuance. Demand growth will be driven by

the increasing participation of the investment management industry in fixed-income investments and through growing international participation in Malaysia's bond and *sukuk* market. Further improvements in the legal, regulatory, and institutional framework will support the continued deepening and broadening of the bond market. The growing pool of fixed-income professionals will provide the necessary expertise to originate debt and *sukuk* structures to match the financing requirements for infrastructure projects and the investment needs of both the private and public sectors.

#### 4. Expansion of International Intermediation Capabilities

Malaysia has also strengthened the positioning of its bond market with the removal of the withholding tax coupled with a facilitative approval framework. These developments have resulted in Malaysia being recognized as an important hub for cross-border investments and issuances in the region. Since 2004, foreign issuers have issued MYR18.6 billion worth of bonds and *sukuk*. Foreign investments in LCY bonds amounted to MYR208 billion at the end of May 2015, up from MYR121 billion at the end of December 2010. Further improvements will be made to enhance the connectivity of the clearing and settlement infrastructure, while friction costs will be reduced to attract more active international investor trading in the secondary equity, bond, and derivative markets.

Domestic intermediaries have already been preparing to operate in a more open and competitive environment. They have strengthened their presence in the regional markets and advised on international transactions. SC surveys dating back to 2009 show that intermediaries have embarked on the distribution of international products to domestic clients.

The SC will continue to pursue cross-border regulatory arrangements to facilitate the expansion of domestic intermediaries and distribution of products in other markets. In addition, intermediary standards and capabilities will be strengthened across a broad range of industry segments to facilitate their participation in international markets.

Apart from its core industry segments, Malaysia has natural strengths in many parts of the value chain for capital market transactions. Internationalization will be an important catalyst to unlock hub opportunities in a broad range of middle and back office functions covering advisory services, research, risk management, compliance, settlement, custodian services, trustee services, and other services. In this regard, Malaysia is well positioned to attract international participants as it offers an attractive choice of locations in Kuala Lumpur, Labuan, and Iskandar, with each possessing its own advantages.

These efforts need to be complemented with strategies to attract talent with knowledge of international practices related to the capital market, law, accounting, tax, and Shariah principles to build an ecosystem that provides cost-effective support for the structuring and processing of international capital market transactions.



# Appendix 1

## Group of Thirty Compliance

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The Group of Thirty Recommendations were originally conceived as the Group of Thirty's Standards on Securities Settlement Systems in 1989, detailing in a first-of-its-kind report nine recommendations for efficient and effective securities markets and covering legal, structural, and settlement process areas. The recommendations were subsequently reviewed and updated in 2001, under the leadership of the Bank for International Settlements, and through the efforts of a joint task force of the Committee on Payment and Settlement Systems and the Technical Committee of the International Organization of Securities Commissions.

While use of the Group of Thirty Recommendations may appear dated, with the most recent update having occurred in 2001, compliance with, or the assessment against, the Group of Thirty Recommendations in individual markets continues to be an integral part of the due diligence process of securities industry participants, such as intermediaries and their investor clients. In fact, regulations in a number of countries may have specific references to an adequate coverage of the Group of Thirty Recommendations for its domiciled institutions to be able to access any securities market.

Hence, the Group of Thirty Recommendations, and the assessment of the Malaysian capital market in relation to them, are being included in this Bond Market Guide as a matter of practical reference.

Table A1: Group of Thirty Compliance

Recommendation		Implemented
1	Eliminate paper and automate communication, data capture, and enrichment.	Yes All unlisted debt securities are dematerialized, except for some CP/MTN programs issued before April 2006.
2	Harmonize messaging standards and communication protocols.	No CSD and most local market participants do not use SWIFT message formats.
3	Develop and implement reference data standards.	Yes ISIN codes are available for all local bond issues and are available at the time of issue.
4	Synchronize timing between different clearing and settlement systems and associated payment and foreign exchange systems.	Yes
5	Automate and standardize institutional trade matching.	Yes
6	Expand the use of central counterparties.	No
7	Permit securities lending and borrowing to expedite settlement.	
8	Automate and standardize asset servicing processes, including corporate actions, tax relief arrangements, and restrictions on foreign ownership.	
9	Ensure the financial integrity of providers of clearing and settlement services.	Yes
10	Reinforce the risk management practices of users of clearing and settlement service providers.	Yes
11	Ensure final, simultaneous transfer and availability of assets.	Yes
12	Ensure effective business continuity and disaster recovery planning.	
13	Address the possibility of failure of a systematically important institution.	
14	Strengthen assessment of the enforceability of contracts.	Yes
15	Advance legal certainty over rights to securities, cash, or collateral.	Yes
16	Recognize and support improved valuation methodologies and closeout netting arrangements.	Yes
17	Ensure appointment of appropriately experienced and senior board members (of the boards of securities clearing and settlement infrastructure providers).	Yes
18	Promote fair access to securities clearing and settlement networks.	Yes
19	Ensure equitable and effective attention to stakeholder interests.	Yes
20	Encourage consistent regulation and oversight of securities clearing and settlement service providers.	Yes

CP = commercial paper, CSD = central securities depository, ISIN = International Securities Identification Number, MTN = medium-term, SWIFT = Society for Worldwide Interbank Financial Telecommunication

Source: Group of Thirty. 2003. *Global Clearing and Settlement—A Plan of Action*. Available at <http://newsite.group30.org/publications/detail/123>

## Appendix 2

# List of Guidelines (Regulations)

This appendix contains a list of the applicable Guidelines and Practice Notes of the regulatory authorities governing the Malaysian bond market, and the market institutions under its purview. These Guidelines and Practice Notes represent the bond market regulations. For ease of reference, the presentation is arranged in alphabetical order.

### A. List of Guidelines on Debt Securities and Sukuk Issued by Securities Commission Malaysia

**Table A2.1: Guidelines and Practice and Other Notes—Securities Commission Malaysia**

Guidelines	Last Revised	Effective Date
Guidelines on Unlisted Capital Market Products under the Lodge and Launch Framework	15 Jun 2015	15 Jun 2015
Guidelines on Issuance of Private Debt Securities and Sukuk to Retail Investors	15 Jun 2015	15 Jun 2015
Guidelines on allowing a person to be appointed or to act as a trustee under subsection 69(2) of the Securities Commission Act 1993	17 Sep 2001	17 Sep 2001
Guidelines on Dealing in Unlisted Debt Securities by a Universal Broker	30 Oct 2002	30 Oct 2002
Guidelines on Registration of an Electronic Broking System	6 Jan 2006	6 Jan 2006
Guidelines on Registration of Credit Rating Agencies	30 Mar 2011	30 Mar 2011
Guidelines on Registration of Bond Pricing Agencies	25 Jan 2006	25 Jan 2006
Guidelines on the Offering of Structured Products	27 Apr 2007	27 Apr 2007
Guidelines on Trust Deeds	12 Jul 2011	12 Aug 2011
Prospectus Guidelines	1 Apr 2013	28 Dec 2012
Securities Borrowing and Lending Guidelines	4 Aug 2009	17 Aug 2009
Practice Notes		Issue Date
Guidance Note on the Secondary Trading of Foreign Currency-Denominated Debentures and Foreign Currency Denominated Islamic Securities		15 Sep 2005
Joint Information Note on the Issuance and Subscription of Ringgit and Foreign Currency-Denominated Sukuk and Bonds in Malaysia		1 Jul 2013

*continued on next page*

Table A2.1 continued

Practice Note on Registration by the Securities Commission for the Purpose of Acting as a Bond Trustee	12 Oct 2006
Practice Notes	Issue Date
Practice Note 1 – Application of the Guidelines to Cross-selling of Unlisted Debt Securities to Eligible Individuals by Dealer’s Representatives Not Certified by the FMA	12 Jul 2005
Practice Note 1 – Specific Requirements and Disclosure of Information on Primary Collateralised Loan Obligations Transaction	28 Jan 2008

SC = Securities Commission Malaysia.

Note: The List of Guidelines and Notes is current as of the date of publication of this Bond Market Guide. However, the SC continuously reviews its regulatory framework and may revise or issue new or revised Guidelines as the need arises. For the latest list and updated versions, please refer to the SC website at <http://www.sc.com.my/legislation-guidelines/bond/>

Source: Securities Commission Malaysia.

## B. List of Guidelines and Practice Notes on Debt Securities and Sukuk Issued by Bank Negara Malaysia and MyClear

Table A2.2: Guidelines and Practice and Other Notes—Bank Negara Malaysia and MyClear

Name	Last Revised	Version
Foreign Exchange Administration Notices	30 June 2013	n.a.
Central Securities Depository and Paying Agency Rules	20 May 2015	1.4
Explanatory Notes on Negotiable Instruments of Deposit and Islamic Negotiable Instruments	30 June 2009	n.a.
Guidance Notes on Sell and Buy Back Agreement	28 Jun 2013	n.a.
Guidelines on Bankers Acceptances	May 2007	n.a.
Operational Procedures for Cross Border Securities Custody Services in RENTAS	1 Aug 2014	1.4
Operational Procedures for Foreign Currency Settlement in RENTAS	20 May 2015	1.7
Operational Procedures for Malaysian Ringgit Settlement in RENTAS	20 May 2015	2.1
Operational Procedures for Securities Services	19 Jan 2015	2.0
Participation and Operation Rules for Payments and Securities Services	20 May 2015	2.1
Policy Document on Repurchase Agreement Transactions	31 July 2015	n.a.
Regulated Short-Selling of Securities in the Wholesale Money Market	29 Aug 2014	n.a.

n.a. = not applicable, RENTAS = Real-Time Electronic Transfer of Funds and Securities System.

Notes: Version number applicable to MyClear documents only. The List of Guidance Notes and Rules is current as of the date of publication of this Bond Market Guide. However, Bank Negara Malaysia and MyClear continuously review their regulatory and operational frameworks and may revise or issue new or revised Guidance Notes or Rules as the need arises. For the latest list and updated versions, please refer to the respective websites at [http://www.bnm.gov.my/index.php?ch=en\\_reference&pg=en\\_reference\\_index&ac=584&lang=en](http://www.bnm.gov.my/index.php?ch=en_reference&pg=en_reference_index&ac=584&lang=en), <https://fast.bnm.gov.my/fastweb/public/MainPage.do>, or <http://www.myclear.org.my/references.html>

Sources: Bank Negara Malaysia and MyClear.

## Appendix 3

# Practical References

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For easy access to further information about the Malaysian regulatory framework and bond market features—including information on the policy bodies, regulatory authorities, and securities market-related institutions—interested parties are encouraged to utilize the following links (all websites available in English):

AMBIF Implementation Guideline for Malaysia  
<http://tinyurl.com/AMBIF-Impl-GL-for-MAL>

AMBIF—Single Submission Form (as accepted by Malaysian regulatory authorities)  
<http://tinyurl.com/AMBIF-Single-Submission-Form>

AsianBondsOnline (an initiative of the Asian Development Bank)  
<https://asianbondsonline.adb.org/malaysia.php>

Bank Negara Malaysia  
<http://www.bnm.gov.my>

Bank Negara Malaysia—Joint Information Note (with the Securities Commission Malaysia)  
<http://www.bnm.gov.my/microsites/fxadmin/notices/Jointinfonote.pdf>

Bank Negara Malaysia—Monthly Statistical Bulletin  
[http://www.bnm.gov.my/index.php?ch=en\\_publication\\_catalogue&pg=en\\_publication\\_msb&mth=4&yr=2015&lang=en](http://www.bnm.gov.my/index.php?ch=en_publication_catalogue&pg=en_publication_msb&mth=4&yr=2015&lang=en)

Bond Info Hub (an initiative of Bank Negara Malaysia)  
<http://bondinfo.bnm.gov.my/portal/server.pt>

Bond Pricing Agency Malaysia Sdn. Bhd.  
<http://www.bpam.com.my>

Bursa Malaysia—General  
<http://www.bursamalaysia.com>

Bursa Malaysia Securities—Exempt Regime  
<http://www.bursamalaysia.com/market/securities/bonds/products/listed-under-exempt-regime-copy/overview/>

International Islamic Liquidity Management Corporation  
<http://www.iilm.com>

Malaysia International Islamic Financial Centre (an initiative of Bank Negara Malaysia)  
<http://www.mifc.com>

Malaysian Rating Corporation Berhad  
<http://www.marc.com.my>

MyClear (Malaysian Electronic Clearing Corporation) Sdn. Bhd.  
<http://www.myclar.org.my>

RAM Holding Berhad  
<http://www.ram.com.my>

Securities Commission Malaysia  
<http://www.sc.com.my>

Securities Commission Malaysia—Guidelines and Practice Notes on Bonds  
<http://www.sc.com.my/legislation-guidelines/bond/>

Securities Commission Malaysia—Lodge and Launch Framework  
<http://www.sc.com.my/legislation-guidelines/lodge-and-launch-framework/>

Securities Commission Malaysia—List of Principal Advisers  
<http://www.sc.com.my/approved-list-of-principal-advisers/>

## Appendix 4

# Glossary of Technical Terms

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Accredited Investors	Professional investors definition in Malaysia
Bhd.	Berhad (Bhd.) means “private” in Malaysia; equivalent to a private limited company
Bond Members	Brokers eligible to trade in debt securities on Bursa Malaysia Securities
Bursa Bonds	Bursa Malaysia Bonds (bond trading platform of Bursa Malaysia Securities)
Cagamas	National Mortgage Corporation of Malaysia ( <a href="http://www.cagamas.com.my">http://www.cagamas.com.my</a> )
Khazanah	National, the investment holding arm of the Government of Malaysia
Listing	Typically, action of submitting a bond, note, or <i>sukuk</i> to an exchange for the purpose of price finding, disclosure, or profiling
Lodgement Party	Party who is lodging the necessary documents under the Lodge and Launch Framework, typically the Principal Adviser
Moody’s	Credit rating agency ( <a href="https://www.moodys.com/">https://www.moodys.com/</a> )
MyClear	Malaysian Electronic Clearing Corporation ( <a href="http://www.myclear.org.my">http://www.myclear.org.my</a> )
Offering Memorandum	Synonymous with Information Memorandum; term typically used for key documentation for a private placement mainly to professional investors
PDS	private debt securities (collective term used in Malaysia for nongovernment securities, not equivalent to private placements)
Principal Adviser	Specific term in Malaysia for underwriter in regulations
Prospectus	Term generally used for the key disclosure document in offers of securities to retail investors
RAM	RAM Holdings formerly Rating Agency Malaysia ( <a href="http://www.ram.com.my">http://www.ram.com.my</a> )
Registration	Action of registering a bond issue, as may be applicable
Responsible Party	Party to a debt instrument and <i>sukuk</i> issuance under the Lodge and Launch Framework
Sdn. Bhd.	<i>Sendirian Berhad</i> (equivalent to “incorporated” in Malaysia)
Sophisticated Investors	Professional investor definition in Malaysia



Standard & Poor's	Credit rating agency ( <a href="http://www.standardandpoors.com/">www.standardandpoors.com/</a> )
<i>sukuk</i>	Islamic bonds structured in such a way as to generate returns to investors without infringing on Islamic law
<i>sukuk ijarah</i>	Type of <i>sukuk</i> in the Malaysian market
<i>takaful</i>	Islamic insurance

Source: AMBF SF1.

## **ASEAN+3 Bond Market Guide 2016 Malaysia**

ASEAN+3 Bond Market Guide is a comprehensive explanation of the region's bond markets. It provides various information such as the history, legal and regulatory framework, specific characteristics of the market, trading and transaction including settlement systems, and other relevant information. The Bond Market Guide 2016 for Malaysia is an outcome of the strong support and kind contributions of ASEAN+3 Bond Market Forum members and experts, particularly from Malaysia. The report should be recognized as a collective good to support bond market development among ASEAN+3 members.

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**ASIAN DEVELOPMENT BANK**

6 ADB Avenue, Mandaluyong City

1550 Metro Manila, Philippines

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