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PART A OVERVIEW

1. Introduction

- 1.1 Several Islamic banks (IBs) have reached a consensus to facilitate the growth of social finance instruments by maximizing the value of *waqf* and providing channels to collect and manage the *waqf* fund efficiently. In addition, the IBs shall contribute their knowledge and expertise, in collaboration with various State Islamic Religious Councils (SIRCs) in managing the collection, investment, distribution of *waqf* fund and other matters related thereto.
- 1.2 The participating IBs shall collaborate with each other as well as with the participating SIRCs in managing the *waqf* fund project, which will be identified by the Joint Management Committee (JMC), a committee to be established by the respective SIRCs and the appointed IBs thereto.
- 1.3 The collaboration is towards achieving the purpose and objective of the *waqf* fund project wherein the fund collected from the public through the IBs will be channeled to, including but not limited to, the following sectors that intend to empower the economy of individuals and society:
- (a) education;
 - (b) economic empowerment;
 - (c) health; and
 - (d) investment.

2. Objectives

- 2.1 This Code of Governance and Transparency for *Waqf* Fund is formulated to assist and provide guidance to the IBs to adopt good practices in dealing with the management of the *waqf* fund. The objectives of this Code are as follows:
- (a) to facilitate the orderly development and operationalisation of *waqf* fund that are consistent with the Shariah requirements;
 - (b) to establish a strong oversight process in order to safeguard the interest of the participating IBs, SIRC's and other stakeholders;
 - (c) to outline the prudential requirements in order to support sound risk management of *waqf* fund, which is consistent with the IBs risk management policy and strategic intent; and
 - (d) to set out the minimum disclosure requirements that will instill public confidence and facilitate informed decision making by the JMC.

3. Applicability

- 3.1 This Code shall be applicable to all IBs participating in the *waqf* fund initiatives of the Association of Islamic Banking Institutions Malaysia ("AIBIM").

4. Effective Date

- 4.1 This Code comes into effect on 1 December 2017.

5. Interpretation

5.1 For the purposes of this policy document–

“Islamic Banks (“IBs”) refers to the Lead Bank appointed to manage a specified project with a State Islamic Religious Council (SIRC) and Participating Banks who are collectively extending their banking channels to collect *waqf* fund from customers as well as taking efforts to promote the *waqf* projects to their customers. Where there is a need to refer to other banks, the bank will be identified in full, followed subsequently by its abbreviations.

“State Islamic Religious Council (“SIRC”)” refers to the Council established under the respective state’s Administration of Islamic Affairs Enactment to administer Islamic affairs including *waqf* matters. The SIRC’s that are relevant under this document are the strategic partners of the Lead Banks pursuant to execution of *Waqf* Collaboration Agreements.

6. Compliance

7.1 The IBs are required to comply with the requirements of this Code as well as to the requirements of the Islamic Financial Services Act 2013 (IFSA 2013), Development Financial Institutions Act 2002 (DFIA 2002) or/and their relevant internal policies and guidelines, in addition to other regulatory requirements issued by the relevant authorities from time to time.¹

¹ Including Shariah resolutions of the Shariah Advisory Council of Bank Negara Malaysia, the respective IB’s Shariah Committee and Shariah policy documents issued by Bank Negara Malaysia.

7. Suggestion and Amendment

- 8.1 Suggestions on any improvement or addition to this Code are welcomed and should be submitted to the Executive Director of AIBIM via email staff@aibim.com or by mail sent to the following address:

Association of Islamic Banking Institutions Malaysia (AIBIM)
4th Floor, Menara Bumiputra
21 Jalan Melaka
50100 Kuala Lumpur

8. Review

- 8.1 To ensure the Code is current, relevant and up-to-date, the Code will be reviewed once every two years, or as and when there are material changes to its structure, process or procedures.

PART B POLICY REQUIREMENTS

9. Governance

Roles and Responsibilities of Islamic Banks

9.1 The Board of Directors, Shariah Committee and Management of the IBs are responsible to undertake the following roles and responsibilities in managing the *waqf* fund:

- a) Board of Directors
 - (i) Responsible to establish an effective governance arrangement to facilitate effective monitoring and control of the overall management and conduct of the *waqf* fund. The adequacy arrangement shall commensurate with the nature, scale, complexity and risk profile associated with the *waqf* fund;
 - (ii) Approve and review the objectives, strategies, policies and procedures of the *waqf* fund; and
 - (iii) Ensure the establishment and appointment of the JMC shall be subjected to the conditions specified in the Code.

- b) Shariah Committee
 - (i) Ensure that the overall operation of the *waqf* fund is in compliance with Shariah requirements;
 - (ii) Endorse the *waqf* fund structure, objectives, investment, policies and procedures; and
 - (iii) Advise and provide clarification to the Board on relevant Shariah rulings, decisions or policies on Shariah matters affecting the operations and activities of the *waqf* fund.

- c) Management
 - (i) Identify supporting functions for the operations of *waqf* fund as well as outline their respective roles and accountabilities e.g. audit, finance, compliance, risk management etc;
 - (ii) Ensure the *waqf* fund operations are performed in accordance to fiduciary duties as stipulated in the agreed terms and conditions of the *waqf* fund, relevant legislations and Shariah rulings;

- (iii) Ensure the management of *waqf* fund is conducted by personnel which possess the necessary expertise in the *waqf* fund activities with the appropriate competency and expertise
- (iv) Develop and implement internal control and risk management policies and procedures as approved by the Board;
- (v) Implement relevant internal systems and infrastructure and adequate mechanisms to identify, measure, control and monitor risk associated with *waqf* fund; and
- (vi) Ensure timely disclosure of relevant information to the Board and the Shariah Committee.

Roles and Responsibilities of States Islamic Religious Councils

9.2 The responsibilities of the SIRC are as stated in the *Waqf* Collaboration Agreement which is signed between the Lead Bank and the respective SIRC.

Roles and Responsibilities of Joint Management Committee

- 9.3 Both parties, IBs and SIRC are expected to identify the project(s) through its JMC and ensure the operation of the project complies with the Shariah requirements in relation to *waqf* management.
- 9.4 The JMC in the course of the managing the *waqf* fund, may exercise powers accorded under the *Waqf* Collaboration Agreements as deemed necessary for the proper administration of the fund as well as engage in any acts or activities that are ancillary or incidental to the objectives of the JMC, provided such acts and activities are in accordance with Shariah requirements on *waqf* fund.
- 9.5 The appointed auditor's, with the approval of the JMC, is assigned to audit the *waqf* fund collection account and to verify the status of the project on annual basis until completion or expiry of the project (whichever is earlier).
- 9.6 Representatives of IBs who are directly involved in *waqf* fund through the appointment of JMC must exercise the highest standard of duty and care in the following:-
- (a) to meet fit and proper requirement to represent the IBs at the JMC;
 - (b) to preserve, protect and develop the *waqf* fund, maximising its benefits for the beneficiaries and honouring the conditions of the *waqf* fund;
 - (c) to demonstrate transparency, accountability and exercise strict control over financial matters of the *waqf* fund; and

- (d) to ensure *waqf* fund is not open to abuse and avoid any situation which may lead to conflict of interest. At minimum:
 - (i) to identify circumstances which constitute or may give rise to conflicts of interest; and
 - (ii) to disclose nature and extent of IB's representative interest.

Administration and Control of *Waqf* Fund

- 9.7 In ensuring proper administration and control of the *waqf* fund, the IBs shall:
- (a) ensure the *waqf* fund remains solvent and intact, ring-fenced and not commingled with any other assets;
 - (b) avoid undertaking activities that will place the *waqf* funds, assets and reputation of the *waqf* fund at risks, including but not limited to the risk of *waqf* fund being misused for terrorist financing, money laundering or other illegal purposes;
 - (c) ensure the arrangement to solicit *waqf* fund have adequate control measures to prevent any loss or theft of donations including watch out for 'red flags' that serve as a warning of suspicious donations and possible issues on AMLA/CFT;
 - (d) establish whistle-blowing avenues to channel any doubt or unauthorised fundraising, or any fraudulent activities;
 - (e) establish a clear dispute resolution process; and
 - (f) protect the *waqf* fund image i.e. name, logo and intellectual property.
- 9.8 The IBs shall collect, manage and distribute the *waqf* fund in accordance with the *Waqf* Collaboration Agreements. Both parties are strictly to follow these procedures:-
- (a) determine collection and distribution manners of the *waqf* fund;
 - (b) exercise appropriate due diligence on beneficiaries, partners and donors;
 - (c) monitor the progress and financial performance of the *waqf* fund;
 - (d) identify and agree on any cost relating to the administration of the *waqf* fund between contracting parties; and
 - (e) establish clear selection criteria for beneficiaries, ideally documented in a policy and to be made publicly available.

10. Investment of the *Waqf* Fund

- 10.1 The investment of the *waqf* fund shall require the approval of the JMC. The choice of investment should commensurate with a particular risk mitigation strategy, specific to the particular investment account fund.
- 10.2 The JMC must take reasonable care to ensure that investment of the *waqf* funds are not exposed risks which may compromise the value of the *waqf* fund.
- 10.3 Any deviation from the approved investment shall require JMC's approval.

11. Risk Management, Compliance and Control

- 11.1 The IBs shall have in place and be able to demonstrate, the effective functioning of systems and processes, including risk management and internal control review processes, for ensuring compliance with this Code.
- 11.2 The IBs are ultimately responsible to ensure that appropriate actions are taken to address any deficiencies in the conduct of the IBs which would expose the IBs to financial and reputational risks.
- 11.3 Any material non-compliance with the requirements should be escalated to Management and the Board of the Lead Bank (where relevant) together with action plans to rectify the non-compliance.
- 11.4 Any Shariah non-compliance in the operation of the *waqf* fund operation must be reported in compliance with the Operational Risk Integrated Online Network (ORION) Policy issued by Bank Negara Malaysia (BNM).

12. Information and Financial Disclosure

- 12.1 The IBs and SIRC shall disclose and advise the donors on the objectives of *waqf* fund during the engagement stage, which will instill confidence of the donors.

12.2 An IBs shall :-²

- (a) maintain proper accounting and other records for the reporting of *waqf* fund performance in a timely manner;
- (b) disclose accurate information on :-
 - (i) governance structure of the JMC;
 - (ii) *waqf* fund collection;
 - (iii) details of the projects involved such as objective, cost target group and timeline; and
 - (iv) disbursement of the *waqf* fund and qualitative and quantitative impact to the community
- (c) If the fund-raising is done together with causes other than *waqf* fund purposes, advertising materials must disclose proportion of total proceeds that will go to the *waqf* fund.
- (d) disclose information on *waqf* fund in the suitable platform such as annual report and website.
- (e) ensure that information relating to donors is kept confidential, unless required otherwise by the donor. No information relating to a donor should be given to any person without the consent of the donor.

13. Remuneration and Conflict of Interest

- 13.1 No member of the JMC is entitled to receive any pecuniary profit from the operations of the *waqf* fund except compensation for services in affecting one or more of its objectives as may be specified by the JMC. This shall be covered under the *Waqf* Collaboration Agreement between the Lead Bank and respective SIRC.

² The minimum expectation of information that need to be disclosed is illustrated in Appendix 1

Appendix 1

Disclosure template

Details of waqf projects to be involved								
Project Title	Objective	Goal	Audience	Project Timeline	Description	Legal form of waqf receiver	Geography of target beneficiaries	Total commitment amount
Collection								
Collection per month		Lead bank		Participating Bank				
Total								
Disbursement by type of project and qualitative and quantitative impact to community								
List of beneficiaries		Type of project		Type of specific aid			Value in ringgit	
a)								
b)								
Total								