



BANK NEGARA MALAYSIA
CENTRAL BANK OF MALAYSIA

Regulated Short-Selling of Securities in the Wholesale Money Market

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PART A OVERVIEW

1 Introduction

- 1.1 The regulated short-selling framework for Malaysian Government Securities (MGS) and Malaysian Government Investment Issue (MGII) is applicable to all resident entities to achieve the following benefits:
- (a) facilitate market making activities for Principal Dealers and Islamic Principal Dealers;
 - (b) facilitate portfolio hedging; and
 - (c) promote repo, securities lending activities and SBBA transactions to enhance potential return.
- By allowing this flexibility, liquidity of the bond and sukuk markets will also be enhanced, facilitating a better price discovery process and correction of any pricing anomalies.
- 1.2 This policy document aims to promote sound risk management practices by the Eligible Market Participants, particularly market risk and settlement risk for the conduct of short-selling transactions.
- 1.3 This policy document reflects the ruling of the Bank's Shariah Advisory Council (the SAC) during the SAC's 177th Meeting on 20th June 2017. The SAC ruled that the concept and mechanism that give similar effect of regulated short-selling using MGII is permissible, subject to the following:
- (a) it is structured based on bilateral binding promise (*muwa'adah mulzimah*) concept to execute the sale contract of MGII in the future;
 - (b) in the event that the promisor failed to fulfil the promise, the promisee has a right to claim only actual loss suffered; and
 - (c) the delivery of MGII and its counter-value shall take place on the agreed contract date.
- 1.4 This policy document applies only to short-selling transactions involving the Eligible Securities in the wholesale money market and does not apply to "When Issued Trade". "When Issued Trade" is permitted and subject to the Participation and Operation Rules for Payments and Securities Services issued by PayNet.

2 Applicability

- 2.1 The policy document is applicable to all Eligible Market Participants as defined in paragraph 5.2 of this policy document.

3 Legal Provisions

- 3.1 The requirements in this policy document are specified pursuant to sections 140 and 143 of the Financial Services Act 2013 (FSA), and sections 152 and 155 of the Islamic Financial Services Act 2013 (IFSA).
- 3.2 The guidance in this policy document is issued pursuant to section 266 of the FSA and section 277 of the IFSA.

4 Effective Date

- 4.1 This policy document comes into effect on 17 November 2017.
- 4.2 The Bank is committed to ensure that its policies remain relevant and continue to meet the intended objectives and outcome. Accordingly, the Bank will review this policy document within 5 years from the date of issuance or the Bank's last review and, where necessary, amend or replace this policy document.

5 Interpretation

- 5.1 The terms and expressions used in this policy document must have the same meanings assigned to them in the FSA and IFSA, unless otherwise defined in this policy document.
- 5.2 For the purpose of this policy document–
- “S”** denotes a standard, obligation, requirement, specification, direction, condition and any interpretative, supplemental and transitional provisions that must be complied with. Non-compliance may result in enforcement action;
- “G”** denotes guidance which may consist of such information, advice or recommendation intended to promote common understanding and sound industry practices which are encouraged to be adopted;
- “Covered Transaction¹”** refers to a transaction under which the Eligible Market Participants obtain the Eligible Securities either by way of –
- (a) securities borrowing and lending;
 - (b) repo;
 - (c) SBBA; or
 - (d) any other transaction which may be approved by the Bank;
- “Eligible Market Participants”** refers to collectively, Eligible Market Participant A, Eligible Market Participant B and Eligible Market Participant C who conduct short-selling transactions for its own account or asset under its management;
- “Eligible Market Participant A”** refers to all licensed banks, licensed investment banks and prescribed development financial institutions approved under section 33B(1)(b) of the Development

¹ For Eligible Market Participant B, the term Covered Transaction must comprise of arrangements or transactions approved which are in compliance with the Shariah.

	Financial Institutions Act 2002 (DFIA) to carry on Islamic financial business;
“Eligible Market Participant B”	refers to all licensed Islamic banks and prescribed development financial institutions approved under section 33B(1)(a) of the DFIA to carry on Islamic financial business;
“Eligible Market Participant C”	refers to resident entities registered with the Bank pursuant to paragraph 8.3;
“Eligible Securities”	refers to all MGS or MGII with an outstanding nominal amount of at least RM 2 billion;
“ETP”	refers to the Electronic Trading Platform, a centralised price and trade repository and dissemination system maintained by Bursa Malaysia Berhad;
“Global Master Repurchase Agreement (or GMRA)”	refers to the Global Master Repurchase Agreement, an international standard repurchase agreement published by the International Capital Market Association;
“Master Agreement”	refers to the Global Master Repurchase Agreement, Sell and Buy Back Agreement or Securities Borrowing and Lending Agreement, as the case may be;
“<i>muwa`adah mulzimah</i>”	refers to a bilateral promise or undertaking given by two parties to each other to perform certain action(s) in the future based on the same subject matter and condition(s);
“PayNet”	refers to Payments Network Malaysia Sdn Bhd;
“resident entities”	refers to any corporation, statutory body, local authority, society, co-operative, and limited liability partnership incorporated in Malaysia;
“Securities Borrowing and Lending Agreement”	refers to an agreement which governs the borrowing and lending of the Eligible Securities for a limited period of time, in exchange of collateral and lending fee;
“Sell and Buy Back Agreement (or SBBA)”	refers to an Islamic repurchase agreement transaction as governed by the Sell and Buy Back Agreement whereby an Eligible Market Participant buys the Eligible Securities at an agreed price from other market participant and subsequently the Eligible Market Participant and the other market participant enter into

another arrangement whereby the other market participant promises to buy back and the Eligible Market Participant to sell the Eligible Securities on a specified future date and at an agreed price;

“short-selling transaction”

refers to –

- (a) for Eligible Market Participant A and Eligible Market Participant C, a sale of the Eligible Securities where the seller does not have presently exercisable and unconditional right to vest the Eligible Securities in a purchaser at the time of the sale;
- (b) for Eligible Market Participant B, a bilateral binding promise (*muwa`adah mulzimah*) to execute the sale contract of MGII in the future;

“RENTAS”

refers to the Real Time Electronic Transfer of Funds and Securities System which is the real time gross settlement system operated by PayNet;

“prescribed development financial institutions”

refers to development financial institutions that are prescribed by the Minister of Finance under section 2(1) of the Development Financial Institutions Act 2002; and

“Principal Dealers and Islamic Principal Dealers”

refers to appointed Eligible Market Participants which are licensed banks and licensed Islamic banks that have certain obligations in respect of the dealing in specified instruments, by virtue of which are accorded certain incentives.

6 Related Legal Instruments and Policy Documents

6.1 This policy document must be read together with the following:

- (a) Participant and Operation Rules for Payments and Securities Services;
- (b) Operational Procedures for Securities Services;
- (c) Policy Document on Repurchase Agreement Transactions;
- (d) Policy Document on Securities Borrowing and Lending of RENTAS Securities;
- (e) Guidance Notes on Sell and Buy Back Agreement Transactions;
- (f) Policy Document on Code of Conduct for Malaysia Wholesale Financial Markets; and
- (g) Any other relevant legal instruments and policy documents issued pursuant to the laws administered by the Bank from time to time.

7 Policy Documents Superseded

- 7.1 This policy document supersedes the Policy Document on Regulated Short-Selling of Securities in the Wholesale Money Market issued by the Bank on 13 April 2017.

PART B POLICY REQUIREMENTS

8 Short-Selling Transactions

- S** 8.1 Eligible Market Participant A and Eligible Market Participant C are only permitted to conduct short-selling transaction of the Eligible Securities in accordance with this policy document.
- S** 8.2 Eligible Market Participant B are only permitted to conduct short-selling transaction of the MGII based on bilateral binding promise “*muwa`adah mulzimah*” concept in accordance with this policy document.
- S** 8.3 Eligible Market Participant C must register with the Bank by submitting the registration form set out in Appendix I prior to conducting short-selling transaction of the Eligible Securities.

9 Prerequisite Agreement

- S** 9.1 Prior to conducting short-selling transactions, an Eligible Market Participant must execute the Master Agreement with at least two (2) other market participants other than the Bank to ensure reasonable access to the Covered Transaction of the Eligible Securities to cover short positions and mitigate settlement risk.

10 Short-Selling Period and Limit

- S** 10.1 A short-selling transaction must not exceed 12 months from the trade date.
- S** 10.2 An Eligible Market Participant’s short position must not exceed 10% of the outstanding nominal amount of each Eligible Securities issue.

11 Internal Controls

- S** 11.1 Eligible Market Participants must establish internal guidelines for short-selling transaction, taking into account the risks involved and their financial capacity to assume such risks prior to conducting short-selling transactions.
- S** 11.2 The internal guidelines of the Eligible Market Participants referred to in paragraph 11.1 must consist of internal control systems and procedures for the supervision and monitoring of covered short-selling transactions by the Eligible Market Participants to ensure compliance with this policy document.
- S** 11.3 Upon request from the Bank, the Eligible Market Participants must submit the internal guidelines referred to in paragraph 11.1.
- G** 11.4 The Bank may revoke the eligibility of any Eligible Market Participant to conduct short-selling transactions where the Bank is of the view that the Eligible Market Participant has weak internal controls systems and procedures.

12 Reporting Requirement

- S** 12.1 Eligible Market Participant A and Eligible Market Participant B must report the following in ETP or any other system specified by the Bank:
- (a) all short-selling transactions reported as part of securities sale transactions on the short-selling trade date;
 - (b) all Covered Transactions to cover the short-selling transactions on the trade date of the Covered Transactions; and
 - (c) all close out transactions to the short positions when conducting the offsetting deals at a later date.
- S** 12.2 In addition to paragraph 12.1, Eligible Market Participant A and Eligible Market Participant B must report the following to the Bank:
- (a) on a weekly basis, the daily volume and outstanding short positions, categorised by stock code based on the trade date in the format set out in Appendix II; and
 - (b) immediately report any short position of 5% or more of any Eligible Securities in the format set out in Appendix III.
- S** 12.3 Eligible Market Participant C must report the following to the Bank:
- (a) on a weekly basis, all outstanding short-selling transactions, all Covered Transactions to cover the short-selling transactions and all close out transactions to the short positions when conducting the offsetting deals in the format provided in Appendix IV; and
 - (b) immediately report any short position of 5% or more of any Eligible Securities in the format provided in Appendix III.

13 Delivery and Settlement

- S** 13.1 All short-selling transactions and respective Covered Transactions must be or cause to be initiated and confirmed through RENTAS on the respective trade dates. Trade date and value date of short-selling transactions must be keyed-in correctly.
- S** 13.2 Eligible Market Participants must ensure delivery of the Eligible Securities on the value date of the short sale.
- G** 13.3 In the event of a failure on the part of the Eligible Market Participants to deliver the Eligible Securities on the value date, the procedure for such unsettled transactions must be in accordance with the procedure specified in Part VI “Settlement Principles and Procedures for Compensation of Delayed or Failed Settlement of Securities Transaction and Procedures for Buy-In or Sell-Out Arising From Unsettled Transactions” of the Operational Procedures for Securities Services under the purview of PayNet.

14 Dispute Resolution

- S** 14.1 Any dispute, difference, controversy, breach, termination or claim arising from the Covered Transactions, must be settled in accordance with the Master Agreement executed by both parties.

15 Suspension of Short-Selling Transactions

- G** 15.1 If market conditions warrant it, the Bank may exercise the following to safeguard market stability:
- (a) suspension or revocation of an Eligible Market Participant's eligibility to conduct further short-selling transactions;
 - (b) suspension of or from the securities borrowing and lending, repo or SBBA with the Bank or any other facilities to be provided by the Bank;
 - (c) suspension of short-selling transactions for specific Eligible Securities; and
 - (d) any other action that the Bank deems appropriate.

APPENDICES**Appendix I***(Please use institution's letter head)***Regulated Short-Selling Participation Form**

To: Director
 Investment Operations & Financial Markets
 Bank Negara Malaysia
 Jalan Dato' Onn, 50480 Kuala Lumpur

Legal Name: _____

Date of Incorporation: _____

Registered Address: _____

Contact Persons:

Designation		Name	Telephone	Email
Dealer	1			
	2			
Officer-in-Charge of reporting	1			
	2			

Participant's Category:

Insurance Company

Asset Manager

Pension Fund

Others: (Please Specify)

Participant's Covered Transaction Counterparties:

1. _____ 2. _____

On behalf of [insert institution's legal name], I -

1. confirm all information provided in this form is correct and complete;
2. undertake to comply with the Policy Document on Regulated Short-Selling of Securities in the Wholesale Money Market;
3. undertake to comply with the Policy Document on Code of Conduct for Malaysia Wholesale Financial Markets;
4. agree that the information provided will be processed and kept by BNM on a confidential basis; and
5. acknowledge that BNM may disclose such information in its compliance with any legal or regulatory requirements, including any order of court.

Authorised Signatory:

Name:

Designation & Department:

Date:

Company Stamp:

Appendix II**WEEKLY REPORTING REQUIREMENTS FOR SHORT-SELLING TRANSACTIONS OF THE ELIGIBLE SECURITIES**

(Attention: Monetary Policy Implementation Section, Investment Operations and Financial Market Department, Bank Negara Malaysia)

Institution Name: _____

Reporting Period: _____

(Figures in RM million)

	Stock Code	Day 1	Day 2	Day 3	Day 4	Day 5
Volume						
Outstanding						
Total Amount:						

Note:

- I. Weekly reporting must reflect the daily volume and outstanding short position according to stock code.
- II. Report must be reported on excel spreadsheets and are to be submitted to the following email addresses latest by Monday or first business day of the following week-
 - a. sou@bnm.gov.my
 - b. irmu@bnm.gov.my
 - c. immu@bnm.gov.my

Authorised by:

(Signature of Authorised Officer)

NAME:

DESIGNATION:

Appendix III**REPORTING OF SHORT POSITIONS EXCEEDING 5% OF ANY ELIGIBLE SECURITIES ISSUE**

(Attention: Monetary Policy Implementation Section, Investment Operations and Financial Market Department, Bank Negara Malaysia)

Institution Name: _____

Reporting Period: _____

(Figures in RM million)

No.	Trade Date of Sale	Value Date of Sale	Stock Code	Maturity Date	Total Short Amount	Stock Outstanding Nominal Amount	% of Outstanding Nominal Amount

Note:

- I. Report must be submitted by the end of the business day to the following email addresses-
 - a. sou@bnm.gov.my
 - b. irmu@bnm.gov.my
 - c. immu@bnm.gov.my

Authorised by:

(Signature of Authorised Officer)

NAME:

DESIGNATION

Appendix IV

REPORTING OF OUTSTANDING SHORT-SELLING TRANSACTIONS BY ELIGIBLE MARKET PARTICIPANT C

(Attention: Monetary Policy Implementation Section, Investment Operations and Financial Market Department, Bank Negara Malaysia)

Institution Name: _____

Reporting Period: _____

(Figures in RM million)

No.	Short-selling Transaction					Covered Transaction					Close-out Transaction			
	Trade Date	Value Date	Stock Code	Nominal Amount	Counterparty	Trade Date	Value Date	Maturity Date	Nominal Amount	Counterparty	Trade Date	Value Date	Nominal Amount	Counterparty

Note:

- I. Weekly reporting must reflect the outstanding short position of the institution.
- II. Report must be reported on excel spreadsheets and are to be submitted to the following addresses latest by next Monday or first business day of the following week:-
 - a. sou@bnm.gov.my
 - b. irmu@bnm.gov.my
 - c. immu@bnm.gov.my

Authorised by:

(Signature of Authorised Officer)

NAME:

DESIGNATION:

Issued on: 20 November 2017