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New Framework to Facilitate Offering of Islamic Funds With *Waqf* Features [UPDATE]

Recently, the Securities Commission Malaysia (**SC**) launched the *Waqf*-Featured Fund Framework (***Waqf* Framework**) aimed at developing the Islamic social finance segment in the Islamic capital markets space. The *Waqf* Framework is envisioned to broaden the range of innovative Islamic capital market products and provide the public access to Islamic funds that fully or partly allocate the fund's returns towards socially impactful activities via *waqf*.

The *Waqf* Framework, which came into force on 12 November 2020, is applicable to existing and newly launched Islamic unit trust and Islamic wholesale funds. The details of the *Waqf* Framework are set out in the revised Guidelines on Unlisted Capital Market Products under the Lodge and Launch Framework (for Islamic wholesale funds) and the revised Guidelines on Unit Trust Funds (for Islamic unit trust funds).

(A) ***Waqf* in Islamic Wholesale Funds — Guidelines on Unlisted Capital Market Products under the Lodge and Launch Framework (LOLA Guidelines)**

To accommodate the *Waqf* Framework for Islamic wholesale funds, the LOLA Guidelines are amended by incorporating a new Chapter 6 in Part 1 of Section B (relating to specific requirements of wholesale fund). The new Chapter 6 sets out additional requirements for an Islamic wholesale fund with *waqf* features to comply before it can hold itself as a fund with *waqf* features, as follows:

- (1) the distribution policy of the wholesale fund must include the percentage of distribution to be channelled for *waqf* purposes.
- (2) the wholesale fund may only channel the distribution declared for *waqf* purposes to any state Islamic religious council (**SIRC**) or any institutions or

organisations authorised by the SIRC to act as *mutawalli* (*waqf* administrator) or collection agent for *waqf* purposes.

- (3) the disclosure document, information memorandum or product highlights sheet of the wholesale funds must disclose information on the *waqf* as follows:
 - (a) investment objective allowing the unit holders to channel all or part of the income distribution for *waqf* purposes;
 - (b) percentage of income distribution that is channelled for *waqf* purposes and the amount to be paid to the unit holders;
 - (c) *waqf* arrangements, such as details of the *waqf* recipients and the *waqf* initiatives;
 - (d) how investors can get further information on the *waqf* recipients and the progress of the *waqf* initiatives; and
 - (e) policies and processes relating to the selection, replacement and/or addition of/to the *waqf* recipients and the *waqf* initiatives.
 - (f) the fund management company of the wholesale fund must publish in its website the details of the *waqf* recipient and the hyperlink to the *waqf* recipient's website.
- (4) The wholesale fund's report must include a detailed breakdown of the total amount distributed to the *waqf* recipient(s) (and if applicable, further breakdown of payment to each *waqf* recipient) and the unit holders.

(B) **Waqf in Islamic Unit Trust Funds — Guidelines on Unit Trust Funds (Unit Trust Funds Guidelines)**

Changes to accommodate *waqf* for Islamic unit trust funds are found in the Unit Trust Funds Guidelines via a new Chapter 14 (Additional Requirement for Islamic Funds with *Waqf* Feature). Just like the requirements under the LOLA Guidelines, only an Islamic unit trust fund that complies with the requirements under this Chapter 14 of the Unit Trust Funds Guidelines can hold itself out as a fund with *waqf* feature. The *waqf* requirements are as follows:

- (1) the distribution policy of the unit trust fund must include the percentage of distribution that will be channelled for *waqf* purposes.
- (2) the unit trust fund may only channel the distribution of the fund declared for *waqf* purposes to any SIRC or any institutions or organisation authorised by the SIRC to act as *mutawalli* (*waqf* administrator) or collection agent for *waqf* purposes.
- (3) the prospectus and the product highlights sheet of the fund must disclose the information on the *waqf* as follows:

- (a) *waqf* arrangements, such as details of the *waqf* recipients and the *waqf* initiatives;
 - (b) how investors can get further information on the *waqf* recipients and the progress of the *waqf* initiatives;
 - (c) policies and processes relating to the selection, replacement and/or addition of/to the *waqf* recipients and the *waqf* initiatives.
 - (d) the fund management company of the unit trust fund must publish in its website the details of the *waqf* recipient and the hyperlink to the *waqf* recipient's website.
- (4) The unit trust fund's report must include a detailed breakdown of the total amount distributed to the *waqf* recipient(s) (and if applicable, further breakdown of payment to each *waqf* recipient) and the unit holders.

As can be seen from the above, the *waqf* requirements for Islamic wholesale funds (in Chapter 6 (Part 1) of the LOLA Guidelines) and Islamic unit trust funds (in Chapter 14 of the Unit Trust Funds Guidelines) are similar to one another, in order to assist the SC in monitoring and regulating the Islamic wholesale funds and Islamic unit trust funds under the *Waqf* Framework. It is hoped that the revised guidelines will help towards promoting the development of social finance in Malaysia, particularly in view of the current economic outlook and the COVID-19 pandemic.

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