

Response to Feedback Received

Principles for a Fair and Effective Financial Market for the Malaysian Financial Market

Introduction

The Bank today publishes the final document on Principles for a Fair and Effective Financial Market for the Malaysian Financial Market (Principles), which outlines five universal principles as guidance, and serves as an anchor to promote the fair and effective functioning of the Malaysian financial market. This document also includes amendments to the concept paper published on 13 April 2017 where appropriate, after taking into account responses received during the consultation period.

The Bank received written responses from commercial banks, Islamic banks, investment banks, insurance companies, takaful operators, development financial institutions, market associations and other market participants during the consultation period.

The Bank appreciates the responses and suggestions received during the consultation process. Key responses and the Bank's feedback are provided in the following sections. Other comments and suggestions for clarification have been incorporated in the final document where appropriate.

Bank Negara Malaysia

17 October 2017

1. Applicability and coverage of the Principles

- 1.1. Several market participants expressed their concerns over the applicability of the Principles for smaller and less-complex, as well as Shariah-compliant institutions. First, the Principles were seen as too broad in scope for smaller and less-complex institutions, especially pertaining to the setting of minimum standards needed to uphold the Principles. Second, applying Principles that are benchmarked to international standards may not be suitable for Shariah-compliant market players as these standards mainly cater to conventional market players. The Bank would like to clarify that given the diversity of market participants, proportionality should be considered when applying the Principles. Market participants should also apply their best judgement on how to adopt existing or other market standards of best practices in order to uphold the Principles within their institutions. They should also tailor these standards in a manner that best suits their application of the Principles. However, proportionate application should not compromise the highest level of market standards and best practices.
- 1.2. There were also suggestions to include a wider range of acts, organisations, associations and professional bodies that engage with and have an impact on the financial market under Table 1 from the main document (Financial Market Ecosystem). The Bank agrees with most of the suggestions. The Bank would also like to highlight that Table 1 may not necessarily be fully representative of the entire ecosystem and merely serves to illustrate the position of the Principles in relation to the various acts, bodies and participants that exist in the Malaysian financial market.

2. Legal power of the Principles

- 2.1. Market participants queried on whether the Principles would take precedence over existing law and regulations in Malaysia. The Bank would like to clarify that the Principles is not meant to take precedence over any existing laws and regulations in Malaysia. However, the Principles will be the foundation on which more detailed and legally-binding requirements issued by the Bank

(such as the Code of Conduct for Malaysia Wholesale Financial Markets) are based upon and interpreted. Market participants are therefore encouraged to read the Principles alongside, rather than separately of, existing laws, regulations, rules and codes in the Malaysian financial market.

- 2.2. A related query pertains to which should take precedence if there are contradictions between the Principles and other conduct-related guidelines such as the Code of Conduct for Malaysia Wholesale Financial Markets. The Code of Conduct for Malaysia Wholesale Financial Markets was drawn based on these Principles and hence there should be no contradictions. Similarly, market participants are also strongly encouraged to adopt these Principles and establish or update their own internal codes to align with the Principles. The broad nature of the Principles allows it to be applied universally while mitigating any potential contradictions.

3. Guidance and clarification on implementation

- 3.1. The Bank notes that there were many requests for clarification and details on the implementation, particularly on the specific actions accompanying the Principles. Examples of queries from respondents include:

3.1.1. What are the minimum standards required to uphold the Principles;

3.1.2. What constitutes the breaking of fair market practices; and

3.1.3. How should the signing of a document stating the accountability of employees be executed (as per paragraph 9.4(a) in the main document)?

- 3.2. The Bank would like to clarify that the Principles are purposefully broad and non-prescriptive for the reason that this allows market participants to define and adopt the Principles based on their own needs and circumstances. The specific actions outlined under each Principle are to be read as a form of guidance which is not exhaustive. It is recognised that minimum standards may vary to reflect the size and activities of market players. On the signing of a document stating employee accountability (accountability document), some

market participants may have already embedded an accountability clause in the employment contract, whereas others may require it to be signed more explicitly or on a regular basis. The Bank would like to emphasise that what is more important is that market participants strive to achieve the outcomes expressed in the five Principles through measures that are most effective, having regard to the participant's specific context.

- 3.3. Several market participants also suggested that the minimum training and qualification for employees as well as the accountability document be standardised and issued by a single body. While the final document for the Principles do not draw this out in detail due to the reasons stated in paragraph 3.2 above, the Bank certainly encourages market participants and market associations to formulate an industry-wide solution, where appropriate. Market associations and training and accreditation bodies can play a major role as drivers of best practices and standard-setting.
- 3.4. With regards to queries made on the formation of regulator-market platforms, the Bank, in line with the Principles, has been actively engaging the market to obtain feedback on various policies formulated by the Bank. The Bank also encourages market participants and market associations to constructively engage market authorities on any issues and challenges faced.