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PART A. INTRODUCTION

1. Overview of the Guidelines

1.1 Developments in the financial market and increasing competition have spurred greater innovation within the insurance and takaful industry with a wider diversity of products and services being made available to consumers. At the same time, trends towards financial convergence have significantly broadened the market segments in which insurers and takaful operators compete.

1.2 Against these developments, the regulatory framework for insurance and takaful products has been reviewed to further enhance consumer protection while according greater flexibility for insurers and takaful operators to respond to changing market conditions, both in managing risks and enhancing their competitiveness.

1.3 The revised regulatory framework set out in these Guidelines for the introduction of new products aims to:-

(i) improve the time-to-market for insurance companies and takaful operators to introduce new products, or to effect changes to existing products;

(ii) promote sound risk management practices in managing and controlling product risk by ensuring the appropriate assessment and mitigation of risk during the product development and marketing stages; and

(iii) further strengthen the duty of care owed to consumers in ensuring that products developed and marketed are appropriate to the needs, resources and financial capability of targeted consumer segments.

1.4 With the increased flexibility provided to insurance companies and takaful operators under these Guidelines, greater responsibility is placed on the board and senior management to ensure that product risks are well managed, and the needs and rights of consumers are respected. These responsibilities will continue to be reinforced by the Bank through its supervisory reviews and enforcement actions taken to protect consumers and promote sound risk management practices.

2. Legal Provisions

2.1 The Guidelines are issued pursuant section 201 of the Insurance Act 1996 (Insurance Act) and section 69 of the Takaful Act 1984 (Takaful Act).

2.2 The Guidelines shall be read together with other guidelines and circulars issued by the Bank on product offerings and disclosure requirements where applicable.

3. Scope

3.1 These Guidelines set out the applicable regulatory procedures and the Bank's expectations regarding the management and control of risk associated with the development, offering and marketing of new insurance/takaful products by insurance companies and takaful operators. It also addresses the responsibilities of the institutions towards consumers in ensuring that products sold or recommended are suitable, and that customers are clearly and fully informed of the nature and risks associated with these products.

3.2 The Guidelines shall be applicable to all insurance companies licensed under the Insurance Act and takaful operators registered under the Takaful Act.

3.3 A reference to 'product' in these Guidelines shall encompass insurance and takaful products offered by an insurance company or a takaful operator respectively, and products of other financial institutions that may be offered by the insurance company or takaful operator under distributorship or outsourcing arrangements[1].

3.4 A **new product** is defined as follows:

(i) An insurance or takaful product that is being offered by the insurance company or takaful operator in Malaysia for the **first time.** For greater clarity, the Guidelines shall apply if the product has never been offered by the institution before in Malaysia, notwithstanding the fact that the product may already be offered by the institution's group outside Malaysia; or

(ii) A combination of, or variation to, existing insurance or takaful products that results in a **material change** to the risk profile/nature of the existing products.

3.5 The appointed actuary shall decide on whether a variation to an existing insurance or takaful product constitutes a material change for the purpose of paragraph 3.4 (ii). The determination of material change shall consider the risk implications of the change both from the insurance company/takaful operator's perspective (as provider) and the customers' perspective (as purchaser). The basis for determination should be documented and readily available for review by the oversight and internal control functions of the insurance company/takaful operator, and the Bank. In the case of general insurers and general takaful operators where there is no appointed actuary, the qualified actuary engaged by the company or a member of senior management

[1] Not including outsourcing agreements under which the insurance company or takaful operator is procuring (rather than providing) a service. This is dealt separately through direct applications to the Bank.

responsible for risk management within the organisation shall decide on whether a variation constitutes a material change.

3.6 For product combinations or variations that do not result in a material change to the risk profile or nature of the existing product as described in paragraph 3.4 (ii), insurance companies and takaful operators should consider the expectations set out within these Guidelines and apply them as appropriate in proportion to the nature and extent of the variation.

3.7 The Guidelines generally do not apply to:-

(i) the introduction of new delivery channels such as the internet, telephone, or mobile delivery platforms; and

(ii) new/improved systems or processes which generally enhance the operations of insurance companies/takaful operators, but which are not directly related to the introduction of products covered under paragraph 3.4 above.

PART B. FRAMEWORK FOR INTRODUCTION OF NEW PRODUCTS

4. General Conditions

4.1 The following general conditions must be met prior to introducing a new product:-

(i) the insurance company or takaful operator has the capacity to adequately manage and control the risks associated with the product, including the financial capacity to support existing and new product lines;

(ii) adherence to principles relating to the fair treatment of consumers;

(iii) the institution must not knowingly offer a product (including its variations) that has been prohibited in other countries and which could potentially give rise to public concerns; and

(iv) the product must comply with all necessary approvals required for its offer and/or any other applicable regulatory requirements, including other related guidelines issued by the Bank and the Securities Commission (if any).

4.2 Subject to paragraph 5.1 or unless otherwise notified by the Bank, an insurance company or takaful operator that meets the conditions stipulated in paragraph 4.1 may proceed to offer a new product to customers upon complete submission of information as described in **Appendix 1 and Appendix 2**[2]**,** to the Bank. This shall hereafter be referred to as the **'launch-and-file'** system. It is the responsibility of insurance companies and takaful operators to ensure that the information submitted pursuant to this paragraph is complete and accurate.

[2] Appendix 2 is applicable to takaful operators only.

4.3 In the case of general insurers and general takaful operators, the submission requirements under paragraph 4.2 are only applicable to medical and health insurance/takaful products.

4.4 Sections 6 and 7 of the Guidelines set out the Bank's supervisory expectations in relation to the management of product risk and the fair treatment of consumers. Insurance companies and takaful operators should consider these supervisory expectations as a basis to develop appropriate policies and procedures that support a sound product management programme, and to determine if the requirements in paragraph 4.1(i) and (ii) have been met.

5. General Exception

5.1 The 'launch-and-file' system is **not** applicable to the following products:-

(i) insurance and takaful products that are being introduced in the Malaysian market for the first time. For greater clarity, this shall include new insurance or takaful products within an existing product line that contain innovative features being introduced in the market for the first time;

(ii) annuity certain and life/family annuity products;

(iii) general and family takaful products that involve any of the following:

(a) new Shariah contract(s);

(b) changes in the Shariah contract for existing products[3]; or

(c) creation of new sub-funds for existing products.

[3] For example, from mudharabah to wakalah contract.

(iv) investment-linked products invested in financial derivatives for purposes other than hedging of existing exposures.

5.2 With respect to the products stated in paragraph 5.1, insurance companies and takaful operators shall submit the following information to the Bank **prior** to offering the product:

(i) information requirements as per **Appendix 1 and Appendix 2**[4]; and

(ii) proposed capital and accounting treatment for the product.

5.3 An insurance company or takaful operator shall not offer products covered under paragraph 5.1 until the expiry of 30 days from the date of receipt by the Bank of the complete submission of information pursuant to paragraph 5.2.

[4] Appendix 2 is applicable to takaful operators only.

PART C. SUPERVISORY EXPECTATIONS ON PRODUCT RISK MANAGEMENT AND FAIR TREATMENT OF CONSUMERS

6. Product Risk Management

6.1 Insurance companies and takaful operators are expected to develop and implement appropriate policies and procedures to prudently manage risks associated with the products offered by the institution. The policies and procedures should be designed to identify and control product risk across the value chain, including the stages of product development, authorisation, pricing, marketing, sale, distribution, portfolio management, accounting and ongoing service and maintenance.

6.2 It is also important that the management of product risks is well integrated within the insurance company and takaful operator's overall governance framework and risk management system. This is to ensure that product innovation is carried out in a manner that is aligned with the insurance company or takaful operator's business objectives, and consistent with its capability and capacity to manage associated risks.

6.3 The policies and procedures for managing product risk should be formally endorsed by the board and properly documented. These should include policies and procedures on product authorisation and governance throughout the life cycle of the product. Importantly, the policies and procedures must be communicated in a timely manner to all relevant parts and levels of the organisation and periodically reviewed in the light of changing circumstances.

6.4 Insurance companies and takaful operators should also ensure the adequacy and security of the IT systems and infrastructure to support their product suites. Proper assessments should be performed on the

IT-related risks, which include strategic, compliance, system support, operational, security, business resumption and reputation risks.

6.5 The policies and procedures for managing risks and risk mitigation measures and strategies employed by the institution should be commensurate with the complexity of risks associated with the products offered by the institution.

Product management programme

6.6 Articulating a product management programme provides a sound basis for developing appropriate policies and procedures for managing product risk. A good product management programme should:-

(i) clearly set out policies regarding the institution's product design and pricing philosophy. These should address the institution's profit expectations for the products offered, and policies on insurance/takaful product lines which the institution will offer, or is restricted from offering. The policies should reflect the institution's corporate strategy, competitive positioning, risk/reward philosophy and financial capacity to absorb losses;

(ii) relate the product strategy (e.g. considerations that influence the nature and timing of new product innovations) to the institution's customer relationship philosophy;

(iii) define parameters for the authorisation of new products or material variations to existing products, including the circumstances under which authority may be delegated;

(iv) establish restrictions and/or prudent concentration limits for exposures, for example, to geographic regions, product lines, distribution channels, economic sectors, customer groups or any other relevant risk dimension;

(v) establish procedures to identify, assess and mitigate risks associated with products offered by the institution (for example, through reinsurance, underwriting and diversification);

(vi) establish lines of responsibility for managing related risks, including responsibilities in monitoring adherence to approved policies and procedures; and

(vii) establish internal communication flows to ensure that new product offerings and the management of associated risks are fully integrated throughout the institution's business line and control functions.

Product authorisation

6.7 All new products and material variations to existing products must be authorised by senior management and/or the board as appropriate.

6.8 Approving authorities within the institution should be clearly defined and documented, setting out the scope of authority given, to whom the authority is given and whether the authority may be further delegated. The levels of authority established should appropriately reflect the nature and complexity of the institution's range of product offerings, the market segments which the institution competes in and the capacity of the institution to manage related risks.

6.9 The authorisation should be supported by a process that is objective and consistently applied. This will entail provisions for documentation requirements and internal reviews that are necessary for approving authorities to ensure that:-

(i) the product proposal is consistent with the insurance company or takaful operator's product management programme;

(ii) systems and procedures are in place to manage related risks and customer expectations;

(iii) frontline, back-end staff as well as the agents are adequately trained to support the product; and

(iv) sales/product illustrations and marketing strategies are appropriate and not misleading.

6.10 Information that is relevant to support a request for authorisation of a new product includes, but is not limited to:

(i) the objective of introducing the product, target customers and a description of strategic alliance arrangements (if any);

(ii) the key features of the product, method of distribution and samples of the term sheet and promotional material;

(iii) a quantification of the product's financial impact, including financial projections based on the target take-up rate and expected market share, risk-adjusted returns, sensitivity of projections to changes in market conditions, and whether adequate capital has been provided for the product, for both internal and regulatory capital purposes;

(iv) an assessment of the potential risks associated with the product, including exposures to money-laundering risk, and how these risks will be measured, monitored and controlled;

(v) an assessment of the appropriateness of the product for the targeted customer groups;

(vi) an assessment of the skills, expertise and resources required to sell and manage the product throughout the pre, during and post contractual stages. The assessment should address whether

these elements are already fully present within the institution, and if not, the actions that will be taken to ensure that the necessary elements are met prior to the launch of the product;

(vii) a description of related accounting and tax implications attached to the product, highlighting in particular accounting or tax treatments on which the success of the product will hinge, or which will materially alter the product's risk-return profile; and

(viii) whether the product complies fully with applicable legal and regulatory requirements or restrictions, including a description of any unresolved legal or regulatory issues.

Ongoing monitoring and control of product risk

6.11 Insurance companies and takaful operators should ensure that adequate procedures are in place **and** operating effectively to monitor and control product risks on an ongoing basis. The procedures should provide for the ongoing identification, measurement and mitigation of existing and potential risks inherent in the institution's product offerings. This includes but is not limited to:

(i) clearly defined responsibilities within business lines for managing product risks within approved parameters/limits. Business lines should also be responsible for ensuring continuous adherence to approved policies and procedures. The accountability of business lines should be clearly established notwithstanding the presence of other control functions dedicated to compliance and risk management;

(ii) clearly delineated lines of responsibility for monitoring and controlling risk by control functions that are independent of business lines;

(iii) adequate systems for measuring risk on a continuing basis;

(iv) regular reviews of identified risk exposures in the light of changing market conditions not previously factored in to ensure that all material risks are identified and monitored in a timely manner, including risks arising from the external environment, market fluctuations, anti-selection, misrepresentations, catastrophes, litigations and changes in the regulatory and legal environment;

(v) adequate coverage of the internal audit function to ensure the timely identification of internal control weaknesses, adherence to regulatory requirements and internal policies and procedures, and proper accounting and capital treatment. The internal audit function should be independent of the product management and control functions that it reviews; and

(vi) comprehensive and regular reports to the senior management and board on:-

(a) the overall effectiveness of policies and procedures for managing product risks;

(b) current assessment of product risks and any change in the direction of risk (please refer to paragraphs 6.10 (iii) and (iv));

(c) material changes in market conditions that may impact the product risk profile going forward; and

(d) internal control breaches and weaknesses.

Compliance with Shariah principles

6.12 For takaful products, takaful operators should ensure that effective Shariah compliance review processes are in place during the pre- and post-launch stages of a new product offering. In particular, takaful operators should ensure that:-

(i) appropriate processes have been established to ensure proper Shariah governance and compliance with all Shariah requirements as described under the "Guidelines on the Governance of Shariah Committee for Islamic Financial Institutions" issued by the Bank. Specifically, all product proposals should be endorsed and validated by the Shariah Committee, including the terms and conditions contained in proposal forms, offer letters, agreements and other legal documents used in the transaction. Similarly, all product manuals, advertisements or marketing materials, product illustrations and brochures used to describe the product shall be endorsed by the Shariah Committee;

(ii) all Shariah issues are thoroughly researched prior to the deliberation of the Shariah Committee; and

(iii) there is an effective process in place to monitor Shariah compliance of products on an ongoing basis. This includes ensuring that all operational decisions concerning the product are conducted in a Shariah-compliant manner, for instance, ensuring that invested assets or risks to be covered under takaful products are Shariah-compliant.

7. Fair Treatment of Consumers

7.1 Insurance companies and takaful operators are expected to give due regard to the interests of consumers in the development, marketing and sale of new products. The board should approve policies and procedures that describe the appropriate parameters and guidance for the fair treatment of consumers which should serve to avoid the potential for mis-selling, terms and conditions that are inherently unfair to consumers, and business practices that restrict the freedom of choice to consumers.

7.2 Policies and procedures regarding product offerings and sales activities should be aimed at mitigating reputational risk and safeguarding the insurance companies and takaful operators from liability under applicable anti-fraud and fair practice laws and regulations. More specifically, the policies and procedures should ensure that:-

(i) an explicit consideration of consumer-related issues and implications is incorporated within the product development and authorisation stages;

(ii) customers are fully informed through appropriate disclosures (such as in benefit illustrations and marketing materials provided to customers) of the key features, terms and conditions, relevant Shariah principles (where applicable) and risks associated with the product;

(iii) products offered by the institution are appropriate for the target group of consumers taking into consideration their broad needs and risk appetite;

(iv) fees and charges imposed on the consumer are equitable, and comply with Shariah rulings in the case of takaful products;

(v) staff and agents involved in sales are suitably trained in the products offered, in particular investment and savings products, to properly advise consumers;

(vi) compensation arrangements for sales staff and agents do not induce an excessive bias towards high revenue-generating products that are likely to result in unsuitable product recommendations or sales to customers;

(vii) customer information is adequately safeguarded; and

(viii) an adequate and effective system for resolving and monitoring customer complaints is put in place, and customers are provided with information on where and how to lodge a complaint. Regular reports should be provided to senior management on trends in the volume and nature of complaints against the institution, and actions as well as the time taken to deal with complaints. The reports should provide a basis for senior management to assess the effectiveness of the complaints management process and to identify areas in which interventions are required (e.g. products which need to be enhanced in terms of their features or disclosures or inappropriate selling practices). Such reports should be escalated to the board as appropriate, in the form and at frequencies determined by the board, to facilitate its effective oversight of the institution's product offering and customer relationships.

7.3 The policies and procedures should comply with relevant principles and guidance issued by the Bank as may be applicable. This includes, but is not limited to, principles concerning product transparency, proper advice, and fees and charges.

Customer suitability assessments

7.4 Insurance companies and takaful operators should develop and implement internal customer suitability assessment procedures aimed at ensuring that products offered, in particular products with investments and savings components, are only marketed to suitable customers. Customer suitability procedures should be designed to seek sufficient knowledge about the customer to establish that:-

(i) the customer has a **practical** understanding of the features of the product and the risks assumed;

(ii) the product would meet the customer's investment objectives and horizon; and

(iii) the product is consistent with the customer's appetite for risk.

7.5 Components of effective customer suitability procedures include:-

(i) processes that clearly describe the types of consumers that a product would generally be suitable for;

(ii) clear lines of authority for approving transactions with customers that do not meet generic customer suitability categorisations;

(iii) sales personnel and agents who are suitably trained to properly analyse customers' needs and risk appetites;

(iv) effective supervision of personnel and agents involved in sales; and

(v) appropriate documentation and record keeping to facilitate reviews of compliance with approved procedures.

7.6 Insurance companies and takaful operators should not recommend products to customers unless the institution is reasonably satisfied that

the product is suitable for the particular customer on the basis of information sought and obtained from the customer. Greater due diligence is expected for new customers.

8. Supervisory Action

8.1 It is the responsibility of the senior management to ensure that the conditions and requirements set out in these Guidelines are adhered to at all times, with effective oversight by the board. For this purpose, the board is required to submit an annual attestation to the Bank at the end of each financial year that the conditions and requirements of the Guidelines have been met throughout the reporting period. In addition, upon request, insurance companies and takaful operators shall submit information on policies and procedures for managing product risk (including specific information on the institution's IT system) and ensuring the fair treatment of consumers to the Bank.

8.2 Insurance companies and takaful operators that fail to meet the conditions and requirements under these Guidelines, or to satisfactorily manage its product risks and responsibilities to consumers, will be subject to appropriate supervisory action by the Bank, which can include:-

(i) subjecting any new products introduced by the institution to the prior review or specific approval of the Bank before the products may be offered;

(ii) directing the institution to recall any product offered;

(iii) directing the institution to compensate consumers that have suffered losses;

(iv) directing the institution to modify the terms and conditions of any product offered, including any excessive or

unreasonable fees and charges imposed, based on a consideration of factors set out in part 7;

(v) imposing additional capital charges to provide for additional risks that are not satisfactorily managed by the institution; and

(vi) publishing details of corrective actions taken against the institution.

Appendix 1: Information Requirements for New Products

1. Information requirements as provided under the following guidelines and circulars on insurance and takaful products (where applicable):-

   (i) JPI/GPI 23 (Revised) – Submission of Actuarial Certificate under Section 142 of the Insurance Act 1996 issued on 9 November 2006;

   (ii) JPI/GPI 34 - Code of Good Practice for Life Insurance Business issued on 9 November 2006;

   (iii) For medical and health insurance or takaful products:-

   - Minimum Standard on Product Disclosure and Transparency in the Sale of Medical and Health Insurance Policies issued on 5 May 2003;
   - Minimum Standard on Product Disclosure and Transparency in Marketing of Medical and Health Takaful Plans issued on 19 January 2004;
   - Guidelines on Medical and Health Insurance Business issued on 26 August 2005;
   - Guidelines on Medical and Health Takaful Business issued on 17 September 2007;

   (iv) For takaful products:-

   - Guidelines on Family Takaful Products issued on 11 August 2006;
   - Guidelines on International Currency Business Unit (Takaful Operator) issued on 25 September 2008;

(v) For investment-linked products:-

- Guidelines on Investment-Linked Business issued on 29 September 2005.

2. Details of any arrangements (including distribution arrangements) with other parties/strategic alliances (if any) in offering the new product, including information about the third party strategic alliance, associated risks and actions taken to minimise or mitigate the identified risks.

3. Description of the product's key inherent risks from both the insurance companies/takaful operators and consumers' perspectives, and the systems and/or processes in place to manage the risks.

4. For new products distributed through internet, wireless or other electronic channels, insurance companies/takaful operators must submit the following:-

   (i) an assessment of the IT-related risks[5] and measures put in place to mitigate the risks;

   (ii) detailed description on application security and application architecture diagram;

   (iii) detailed IT and network security infrastructure arrangements; and

   (iv) detailed network diagram (where applicable) depicting external linkages and control checkpoint.

[5] Examples of IT-related risks include strategic, compliance, system support, operational, security, business resumption and reputational risk.

Appendix 2: Shariah Information Requirements[6]

1. Product description, including name and features.

2. Product structure, including diagrams/transaction flows.

3. Type of Shariah contract used.

4. Shariah Committee's deliberation, including :-

   (i) Shariah issues arising from the proposed structure;

   (ii) issues on takyif fiqhi (fiqh confirmation) [7]; and

   (iii) the appropriate current Shariah ruling and/or recognised Shariah standard (if any).

5. Validation by all Shariah committee members.

6. Other relevant supporting documents.

[6] The above format shall be used for the submission of information on new products and services, and presentation of takaful product proposals to the Bank and the Bank's Shariah advisory council.

[7] To state Shariah reference source.