Statement of the Shariah Advisory Council of Bank Negara Malaysia (SAC) and Standards under Section 29(1) of the Islamic Financial Services Act 2013 (IFSA) and Section 33E(1) of the Development Financial Institutions Act 2002 (DFIA) on Inventory Purchase Product Based on Parallel *Istisna`* Contract

Part I: SAC Statement pursuant to section 52(1)(a) of Central Bank of Malaysia Act 2009

The SAC in its 245th meeting dated 23 January 2025 and 247th meeting dated 29 April 2025, ascertained that the proposed structure of inventory purchase product based on parallel *istisna`* contract is permissible, as follows:

1. Inventory purchase product structure involves two (2) *istisna`* transactions between three (3) contracting parties, the Islamic Financial Institution (IFI), the End Buyer and the Manufacturer which is also the IFI's customer:
    (i) The first *istisna`* contract is between the IFI and the End Buyer, where the IFI is the seller (*sani`*). The Manufacturer acts as the IFI's agent (*wakil*) to execute the first *istisna`* contract with the End Buyer; and
    (ii) The second *istisna`* contract is between the IFI and the Manufacturer, where the IFI is the buyer (*mustasni`*), while the Manufacturer is the seller (*sani`*).

2. The application of the proposed parallel *istisna`* structure must fulfil the following conditions:
    (i) The two (2) *istisna`* contracts must be executed independently of and without any interconditionality. The termination of one *istisna`* contract shall not cause the termination of the other *istisna`* contract;
    (ii) The *wakalah* arrangement between the IFI and the Manufacturer to execute the first *istisna`* contract must be independent of the second *istisna`* contract and without any interconditionality. The termination of the second *istisna`* contract shall not absolve the IFI's obligation in the first *istisna`* contract; and
    (iii) If the parallel *istisna`* contract involves a *kafalah* (guarantee) arrangement from the Manufacturer, the execution of the *kafalah* contract must be independent of the other contracts.

Part II: Legal Provision and Applicability

2.1. Part 1 of this SAC Statement is made pursuant to section 52(1)(a) of the Central Bank of Malaysia Act 2009 (CBA) and section 55(2)(a) of the CBA.

2.2. Bank Negara Malaysia specifies Part 1 of this SAC Statement as standards under section 29(1) of the IFSA and section 33E(1) of the DFIA, effective on 17 October 2025 and applicable to the following IFIs:

a) licensed Islamic banks under the IFSA;

b) licensed banks and licensed investment banks approved under section 15(1) of the Financial Services Act 2013 (FSA) to carry on Islamic banking business; and

c) prescribed institutions approved under section 33B(1) of the DFIA to carry on Islamic financial business.

Part III: Background

3.1. The inventory purchase product based on parallel *istisna`* contract is a Shariah-compliant working capital financing product. It involves the purchase of future inventory by IFI from the Manufacturer based on purchase order from the End Buyer.

3.2. Based on this purchase order, IFI will make partial advance payment to the Manufacturer as working capital to start processing the ordered goods before delivering them to IFI and subsequently to the End Buyer.

3.3. One unique feature offered through this product is that the financing provided to the Manufacturer will not be recorded as short-term debt in the financial statements of the Manufacturer. Instead, it will be recorded as current liabilities in the form of advance payments received from IFI for future asset delivery that reflects a genuine *istisna`* transaction.

Structure of Inventory Purchase Product Based on Parallel Istisna` Contract

3.4. The structure of this product involves two (2) *istisna`* transactions among three (3) contracting parties, namely IFI, the End Buyer, and the Manufacturer who is a customer of IFI.

First Istisna` Transaction

3.5. When there is a purchase order from the End Buyer, the Manufacturer will submit the purchase order to IFI for evaluation and financing approval. If approved, IFI will appoint the Manufacturer as an undisclosed agent to execute the first *istisna`* contract with the End Buyer. Please refer to **Figure 1** for an illustration of the first *istisna`* contract.

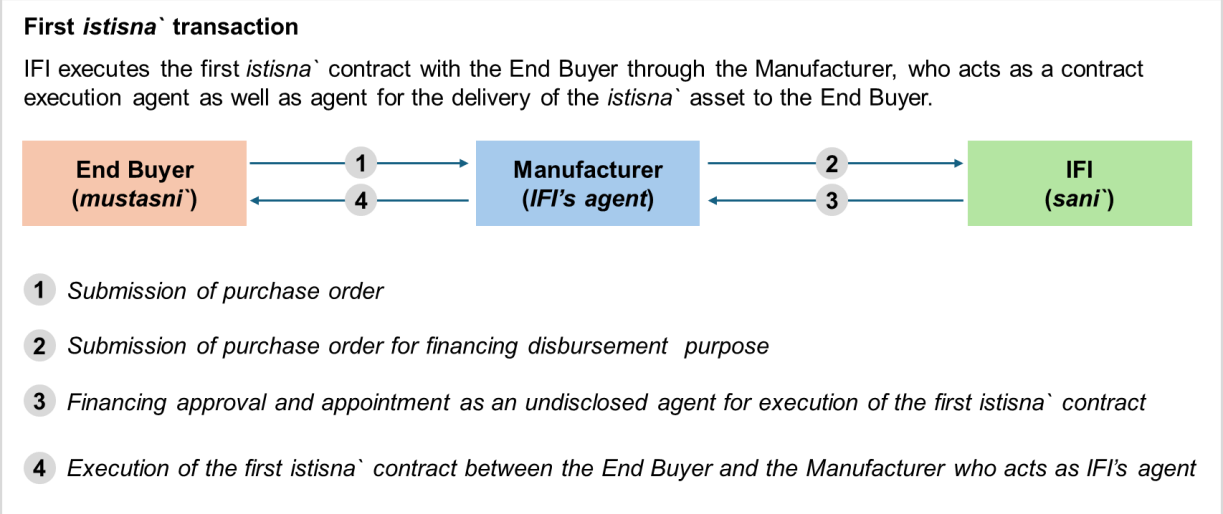

Figure 1: Illustration of the first *istisna`* contract

Second Istisna` Transaction

3.6. Subsequently, IFI will enter into a second *istisna`* contract with the Manufacturer and pay a portion of the price of the second *istisna`* contract in cash as working capital to finance the processing of the *istisna`* asset. Please refer to **Figure 2** for an illustration of the second *istisna`* contract.

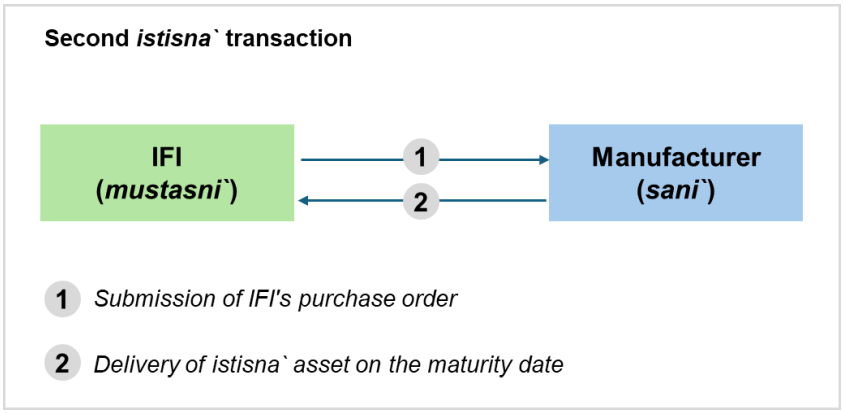

Figure 2: Illustration of the second *istisna`* contract

Delivery of Istisna` Asset upon Completion

3.7. When the *istisna`* asset is completed, the Manufacturer, as IFI's agent, is responsible for informing IFI and inspecting the quality of the asset to ensure it meets the specifications in the purchase order before delivery.

3.8. Once the asset is confirmed to meet the specifications, the Manufacturer will deliver the constructive possession (*qabd hukmi*) of the asset to IFI to fulfil its obligation under the second *istisna`* contract. After obtaining constructive possession of the asset, IFI will once again appoint the Manufacturer as its agent to deliver the *istisna`* asset to the End Buyer to fulfil its obligation under the first *istisna`* contract.

3.9. The Manufacturer will issue an invoice to the End Buyer on behalf of IFI, and the End Buyer must pay the price of the first *istisna`* contract directly to IFI. IFI will then pay the remaining balance of the second *istisna`* price to the Manufacturer.

Arrangement of Guarantee Contract (Kafalah) by the Manufacturer on Behalf of the End Buyer

3.10. The implementation of this inventory purchase product may also involve a guarantee contract (*kafalah*) from the Manufacturer to guarantee the payment of the first *istisna`* price by the End Buyer to IFI. In this case, IFI and the Manufacturer will execute a separate *kafalah* contract for this purpose.

Part IV: Key Discussion

Implementation Mechanism of the First and Second *Istisna`* Contracts Accompanied by a *Wakalah* Contract with the Same Party (Manufacturer)

4.1. As stated in paragraph 3.5, for the purpose of executing the first *istisna`* contract between IFI *(sani`*) and the End Buyer (*mustasni`),* the Manufacturer will act as an undisclosed agent of IFI. The scope of the Manufacturer's duties as an agent also includes the responsibility to deliver the *istisna`* asset to the End Buyer on the maturity date.

4.2. At the same time, IFI will also execute the second *istisna`* contract with the Manufacturer as the buyer (*mustasni`*), which obliges the Manufacturer as the seller (*sani`*) to deliver the *istisna`* asset to IFI in the future. Failure of the Manufacturer to deliver the *istisna`* asset on the maturity date may affect IFI's ability to deliver the asset to the End Buyer as required under the first *istisna`* contract.

4.3. In this regard, the question arises as to whether there is interdependence between the first and second *istisna`* contracts due to the *wakalah* arrangement. In principle, Shariah stipulates that the contracting parties in an *istisna`* transaction must bear the risks related to the production and delivery of the *istisna`* asset to the buyer.

4.4. In this case, to reflect the actual transaction, IFI must bear the risk as the seller in the first *istisna`* contract. Therefore, if the Manufacturer fails to deliver the *istisna`* asset on the maturity date, it does not absolve the IFI of its obligation as the seller under the first *istisna`* contract.

4.5. In addition, the obligations and liabilities of the contracting parties in each contract executed must be clearly stated and separated to avoid interdependence that could affect the inherent nature of the contracts.

Arrangement of *Kafalah* and *Istisna`* Contracts

4.6. In principle, there is no Shariah prohibition for a third party to guarantee a payment commitment in a sale transaction between two contracting parties.

4.7. However, a Shariah issue may arise if the guarantee is provided by the Manufacturer, who acts as IFI's agent in the first *istisna`* contract and also as the seller in the second *istisna`* contract. This is because it may appear as though all transactional risks are transferred to the Manufacturer which could compromise the inherent nature of the *istisna`* contract.

4.8. Therefore, to avoid Shariah issues, the arrangement of the parallel *istisna`* and *kafalah* contracts must be implemented separately.

Part V: Basis of the SAC Statement

Shariah Requirement in Implementing the Two *Istisna`* Transactions Separately and Without Interdependence

5.1. Based on several Shariah sources, there is a clear prohibition regarding the execution of two transactions within a single contract that causes interdependence between the two contracts. This is as stated in the hadith of the Prophet (peace be upon him) as follows:

عن أبي هريرة رضي الله عنه قال: نهى رسول الله صلى الله عليه وسلم عن بيعتين في بيعة.

"*From Abu Hurairah: The Messenger of Allah (peace be upon him) forbade two sales in one (contract) of sale."* [1]

5.2. In addition, executing two *istisna`* transactions separately also ensures that the risks and responsibilities of each contracting party are clearly defined and that each party fulfils its respective obligations. This element of risk-bearing is important because it forms the basis for recognising the eligibility of contracting parties to earn profit from a transaction. This is as stated in the hadith of the Prophet (peace be upon him) and the *fiqh* principles as follows:

عن عمرو بن شعيب عن أبيه عن جده قال: قال رسول الله صلى الله عليه وسلم: نهى عن سلف وبيع وعن شرطين في بيع واحد وربح ما لم يضمن.

"From `Amru bin Shuaib, from his father, from his grandfather, he said: The Messenger of Allah (peace be upon him) said: "He forbade combining a loan with a sale, two conditions in one sale, and profit without bearing liability (without taking risk)." [2]

عن عائشة رضي الله عنها أن رسول الله صلى الله عليه وسلم قضى أن الخراج بالضمان

"From Aishah: The Messenger of Allah (peace be upon him) judged: revenue (or profit) is earned along with bearing the risk."[3]

الغرم بالغنم

""Liability is (proportional) to the reward."[4]

[1] Abu Dawud, *Sunan Abi Dawud*, Dar al-Risalah al-'Alamiyyah, 2009, vol. 5, p. 329; al-Tirmidhi, *Sunan al-Tirmidhi*, Dar al-Gharb al-Islami, 1996, vol. 2, p. 513; and al-Nasa'i, *Sunan al-Nasa'i*, Maktab al-Matbu'at al-Islamiyyah, 1986, vol. 7, p. 295. Al-Tirmidhi classified this hadith as hasan sahih.

[2] Al-Nasa'i, *Sunan al-Nasa'i,* Maktab al-Matbu`at al-Islamiyyah, 1986, j. 7, h. 295 dan Ibn Majah, *Sunan Ibn Majah,* Dar al-Jil, 1998, j. 3, h. 541. Al-Albani classified this hadith as *hasan sahih*.

[3] Abu Daud, *Sunan Abi Daud,* Dar al-Risalah al-`Alamiyyah, 2009, j. 5, h. 368, al-Tirmidhi, *Sunan al-Tirmidhi,* Dar al-Gharb al-Islami, 1996, j. 2, h. 56, al-Nasa'i, *Sunan al-Nasa'i,* Maktab al-Matbu`at al-Islamiyyah, 1986, j. 7, h. 255 dan Ibn Majah, *Sunan Ibn Majah,* Dar al-Jil, 1998, j. 3, h. 576. Al-Tirmidhi classified this hadith as hasan sahih.

[4] *Majallah al-Ahkam al-`Adliyyah,* p. 26.

Permissibility of arranging a *kafalah* contract with *istisna`*

5.3. In principle, *kafalah* is a widely accepted contract for guaranteeing a liability, including liabilities arising from a sale transaction. There are several evidences that indicate its permissibility, such as the following:

وَلِمَن جَآءَ بِهِۦ حِمْلُ بَعِيرٍ وَأَنَا۠ بِهِۦ زَعِيمٌ

"And whoever brings it shall have a camel-load, and I am responsible for it." [5]

عن أبي إمامة الباهلي رضي الله عنه قال: سمعت رسول الله صلى الله عليه وسلم يقول: الزعيم غارم، والدين مقضي

"*From Abu Umamah al-Bahili: I heard the Messenger of Allah (peace be upon him) said: A guarantor is responsible for the debt guaranteed and the debt must be discharged.*"[6]

Part VI: Implication of the SAC Statement

6.1. This SAC Statement provides clarity on the arrangement of parallel *istisna`* in Islamic financial products that meet Shariah requirements.

6.2. This SAC Statement must also be read together with the *Istisna` Policy Document* issued on 23 December 2015.

In the event there are any inconsistencies between the English and Bahasa Melayu versions, the Bahasa Melayu version shall prevail.

[5] Surah Yusuf, verse 72.

[6] Abu Dawud, *Sunan Abi Dawud*, Dar al-Risalah al-'Alamiyyah, 2009, vol. 5, p. 41; al-Tirmidhi, *Sunan al-Tirmidhi*, Dar al-Gharb al-Islami, 1996, vol. 2, p. 544; and Ibn Majah, *Sunan Ibn Majah*, Dar al-Jil, 1998, vol. 4, p. 67. Authenticated by Ibn Hibban and al-Albani.