Summary of The Shariah Advisory Council of Bank Negara Malaysia (SAC) Ruling on Implementation of New Features of Sell and Buy Back Agreement (SBBA)

239th SAC Meeting dated 30 April 2024

Part I: SAC Ruling, Its Effective Date and Applicability

Pursuant to section 52(1)(a) of the Central Bank of Malaysia Act 2009, the SAC ruled that the proposed new features as follows for SBBA instrument is permissible:

1. **Margining –**
   As and when there is a price movement of the underlying securities based on mark-to-market valuation, the promise to provide securities deposit (*wa`d bi hamish jiddiyyah*) will be triggered and the promisor (buyer or seller, as the case may be) is required to transfer a certain amount of cash to the counterparty as securities deposit to secure their commitment to perform the second leg transaction at maturity.

2. **Profit disbursement –**

   (a) Mechanism 1 – Profit reinvestment:

   The profit amount received by the SBBA buyer will be deducted from the price of the second leg transaction at maturity date. The price of the second leg transaction will be mutually agreed at the inception of the SBBA contract; and

   (b) Mechanism 2 – Profit transfer:

   The profits paid by the issuer of securities to the SBBA buyer will be immediately transferred to the SBBA seller based on the SBBA buyer's promise to give *hibah* (*wa`d bil hibah*) to the seller on the profit payment date.

3. **Substitution of asset –**

   Upon occurrence of the triggering event for substitution of asset, the SBBA contracting parties agree to accelerate the execution of the second leg transaction of the SBBA before the maturity date. The contracting parties will subsequently enter into a new SBBA contract based on the original maturity date to replace the existing SBBA contract.

The SAC ruling on the implementation of the new features of SBBA instrument is only applicable to the structure and Shariah contract stated in this ruling. Any proposal to implement new features of SBBA using structure and Shariah contracts other than stated in this SAC ruling must obtain prior approval of the SAC.

1.1. The requirement to comply with this ruling will be made applicable to the following IFIs on 30 June 2025 in accordance to the effective date of the Policy Document on Islamic Collateralised Funding (ICF) issued by the Bank:

(a) licensed Islamic banks under the Islamic Financial Services Act 2013 (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 Development Financial Institutions Act 2002 (DFIA) to carry on Islamic financial business.