



Explanatory Notes

# **SHARIAH PRINCIPLES IN EQUITIES MARGINING**

(ICM/iPO-EM/001)

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## SHARIAH PRINCIPLES IN EQUITIES MARGINING

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### INTERPRETATION

#### 1. INTRODUCTION

#### 2. UNDERLYING SHARIAH PRINCIPLES IN EQUITIES MARGINING

<b><i>“Al-dhamanat”</i></b>	-	Guarantee
<b><i>“Al-kafalah”</i></b>	-	Guarantee
<b><i>“Al-rahn”</i></b>	-	Pledge
<b><i>“Muqasah”</i></b>	-	Settlement of the outstanding debt on the basis of set-off.
<b><i>“Wakalah bil istithmar”</i></b>	-	An agency contract whereby the agent is appointed to invest the principal’s capital for the benefit of the principal.
<b><i>“Wakalah bil ujr”</i></b>	-	Paid Agency
<b><i>“Wakalah fee”</i></b>	-	Agency fee.

## SHARIAH PRINCIPLES IN EQUITIES MARGINING

### Note:

This document should be read together with the following documents:

- (i) Best Practices in the Islamic Stockbroking Services Undertaken by Participating Organisations
- (ii) Rules of Bursa Malaysia Securities Clearing
- (iii) Clearing Guarantee Fund Operational Procedures
- (iv) Equities Margining Operational Procedures

## 1. INTRODUCTION

The purpose of this document is to set out the Shariah principles in relation to the provision by a Trading Clearing Participant (“TCP”) of margin to satisfy the TCP’s margin requirements under the Rules of Bursa Malaysia Securities Clearing (“BMSC”) (“Margin”) where such Margin may be used in the event of a default of the TCP.

The table below sets out the overall view of applied Shariah principles in Equities Margining (“EM”) covering the roles of the various parties, including the provision of Margin by TCP and the application of the EM by BMSC in the event of a default:

TCP Margin	BMSC Management	Default Application of the EM
Cash	Investment Agency ( <i>wakalah bil istithmar</i> )	Set off ( <i>muqasah</i> ) from defaulting TCP’s Margin
Non-cash	Pledge or mortgage ( <i>al-rahn</i> ) or Guarantee ( <i>al-Dhamanat</i> or <i>al-Kafalah</i> )	

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### 2. UNDERLYING SHARIAH PRINCIPLES IN EQUITIES MARGINING

#### 2.1. Margin

TCPs that wish to provide Margin in relation to the EM framework in the form of cash in compliance with Shariah principles are deemed to have appointed BMSC as an agent to manage the investment of the cash by way of *wakalah bil istithmar* (investment agency). For non-cash Margin, the applicable concept would be *al-rahn* (pledge) or *al-kafalah* (guarantee).

#### 2.2. Management of the EM

##### (A) Cash

The management of the cash by BMSC in compliance with Shariah principles applies the principle of investment agency (*wakalah bil istithmar*). TCPs who have provided cash on this basis will have rights over any return from the investment and a certain amount of an agency fee will be made payable to the BMSC under the principle of *wakalah bi al-ujr* (paid agency) and BMSC may deduct the same from the returns on the investment. The agency fee will be paid to BMSC at the same rate as and in lieu of the administrative charges in relation to Margin.

In relation to the return from the investment referred to above, TCPs will have the options of either making a request for the withdrawal of such amount failing which such sums will be considered as additional Margin provided by the TCP to meet their margin requirements under the principle of *wakalah bil istithmar*.

##### (B) Non-Cash

The management of non-cash Margin by BMSC in compliance with Shariah principles applies the principle of pledge or mortgage (*al-rahn*) or guarantee (*al-kafalah/ al-dhamanat*). The *al-rahn* or *al-kafalah* fee will be paid to BMSC at the same rate as and in lieu of the collateral fees in relation to the Margin.

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### 2.3. Application of the EM

A TCP that provides cash to BMSC on the basis of investment agency and pledge or guarantee is deemed to have given upfront consent for BMSC to utilize the Margin in the manner set out in the Rules of BMSC should there be any amount due to the BMSC as a result of a default by a TCP.

The application of the cash and pledge or guarantee provided by the defaulting TCP pursuant to Rule 4.2.1(d) of the Rules of BMSC will be under the principle of set-off (*muqasah*).

(Also to refer to Diagram 1 - Overall EM structure and the applicable Shariah principles)

### 2.4. Requirement

As prescribed under Rules 5.9 and 5.10 of the Rules of BMSC, BMSC shall require additional Margin where necessary.

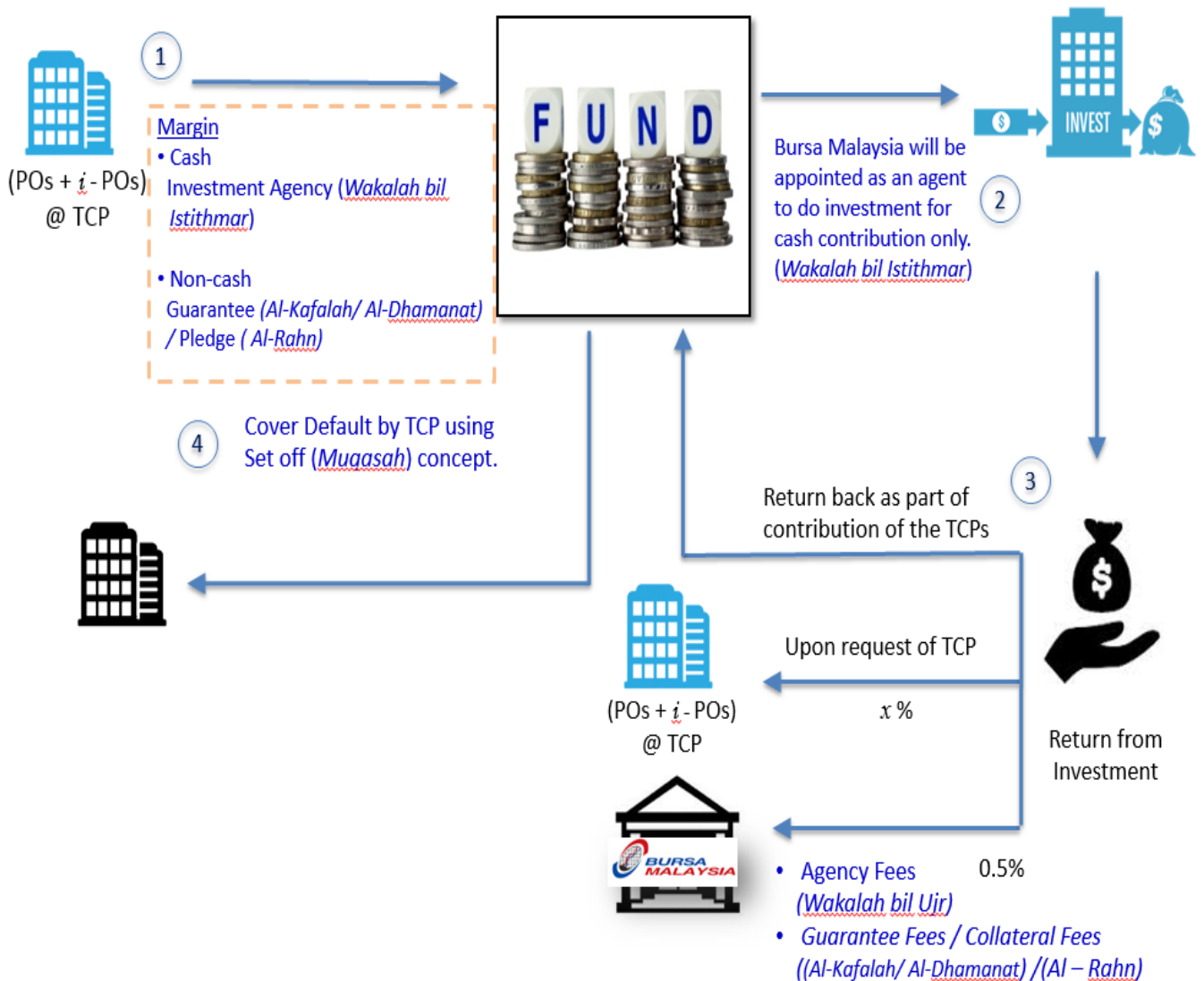
### 2.5. Cessation of Obligation to Provide Margin

A TCP's obligation to provide Margin to the Clearing House, where the Clearing House requires the same, would only cease upon the TCP's termination of participanship pursuant to Rule 2.12 of the Rules and it shall be tantamount to a termination of participation of a particular TCP in the arrangement of *wakalah bil istithmar* in relation to EM.

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**2.6 Rights of the Clearing House not affected**

For the avoidance of any doubt, nothing in these Explanatory Notes shall affect the rights of BMSC to take the actions available to BMSC under the Rules of BMSC or under any law in the event of a breach by the TCP of the Rules of BMSC including in the event of a default as specified in the Rules.



**Diagram 1 - Overall EM structure and the applicable Shariah principles**

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