



NOTICE TO ISLAMIC BANKS

NOTICE NO. BU/N-4/2019/64

ISLAMIC BANKS' RECOVERY PLAN

1. INTRODUCTION

- 1.1. Recovery planning aims to reduce the risks posed by an Islamic bank to the stability of financial system, ensure the continuity of functions that are critical to the economy, and enable a distressed Islamic bank to continue to function or to be restructured.
- 1.2. This Notice sets out the requirements for Islamic banks in developing their recovery plans as well as the assessment processes between Islamic banks and the Authority.
- 1.3. This Notice is issued pursuant to section 66 of the Islamic Banking Order, 2008 and applies to all Islamic banks as defined under section 2 of the same.
- 1.4. This Notice shall take immediate effect.

2. DEFINITIONS

For the purposes of this Notice –

“**affiliate**” means —

- (a) in relation to a substantial shareholder¹ of an Islamic bank incorporated in Brunei Darussalam, any corporation which is an associate² of the substantial shareholder, other than —

¹ “Substantial Shareholder” has the meaning assigned to it under Section 63A of the Companies Act.

² “Associate” in relation to a substantial shareholder, means —

- (a) any corporation in which the substantial shareholder controls the composition of the board of directors;
- (b) any corporation in which the substantial shareholder controls more than half of the voting power;
- (c) any corporation in which the substantial shareholder holds more than half of the issued share capital;
- (d) any corporation which is a subsidiary of any other corporation which is an associate by virtue of paragraph (a), (b) or (c);
- (e) any corporation in which the substantial shareholder or any other corporation which is an associate by virtue of paragraph (a), (b), (c) or (d) has, or the substantial shareholder and such other corporation together have, an interest in shares entitling the beneficial owners thereof the right to cast, whether by proxy or in person, not less than 20% but not more than 50% of the total votes able to be cast at a general meeting of the first-mentioned corporation; or
- (f) any corporation (not being a corporation which is an associate by virtue of paragraph (a), (b), (c), (d) or (e)) the policies of which the substantial shareholder or any other corporation which is an associate by virtue of paragraph (a), (b), (c), (d) or (e) is, or the substantial shareholder together with such other corporation are, able to control or influence materially.



- (i) the Islamic bank and any entity in which the Islamic bank acquires or holds, directly or indirectly, a major shareholding;
 - (ii) the parent bank of the Islamic bank and any entity in which the parent bank acquires or holds, directly or indirectly, a major shareholding;
- (b) in relation to a substantial shareholder of a parent bank, any corporation which is an associate of the substantial shareholder, other than the parent bank and any entity in which the parent bank acquires or holds, directly or indirectly, a major shareholding;

“**Authority**” means Autoriti Monetari Brunei Darussalam;

“**critical functions**” means activities performed by an Islamic bank for third parties where failure would lead to the disruption of services that are vital for the functioning of Brunei Darussalam’s economy and for financial stability due to the Islamic bank’s size or market share, external and internal interconnectedness, complexity and cross-border activities;

“**critical shared services**” refer to activities performed within the group or outsourced to third parties, where failure of such service would lead to the inability of the Islamic bank to perform critical functions;

“**executive officer**”, in relation to an Islamic bank, means any person, by whatever name described, who –

- a) is in the direct employment of, or acting for or by arrangement with, the Islamic bank; and
- b) is concerned with or takes part in the management of the Islamic bank on a day-to-day basis;

“**group**” includes the Islamic bank’s Head Office or parent company, subsidiaries, affiliates, and any entity (including their subsidiaries, affiliates and special purpose entities) that the Islamic bank exerts control over or that exerts control over the Islamic bank;

“**subsidiary**” shall have the same meaning as subsidiary company defined under Section 126 of the Companies Act.

3. RECOVERY PLANNING

- 3.1. A recovery plan serves as a guide to the recovery of a distressed Islamic bank and outlines actions the Islamic bank can take to stabilize and restore its financial strength and viability under situations of severe stress.
- 3.2. An Islamic bank shall **prepare** a recovery plan, which includes, but is not limited to the following:
 - 3.2.1. a framework of recovery triggers that identifies the points at which appropriate recovery options may be taken;



- 3.2.2. an escalation process upon the occurrence of a trigger event, to facilitate prompt assessment of the impact, and decision on the appropriate course of action;
- 3.2.3. a menu of recovery options which are present for situations of severe stress in order to address capital shortfalls and liquidity pressures; and
- 3.2.4. a communication plan to ensure timely communication with internal and external stakeholders;
- 3.3. An Islamic bank shall ensure that the recovery plans are **approved or endorsed** by the board of directors (for Islamic banks incorporated in Brunei Darussalam) or by the group/regional or its equivalent oversight function for the operations in Brunei Darussalam (for Islamic banks registered in Brunei Darussalam).
- 3.4. An Islamic bank shall appoint an executive officer as the key person to **oversee** the recovery planning process which includes the maintenance and submission of the Islamic bank's recovery plan, and to inform the Authority of the appointment;
- 3.5. For the year 2020, Islamic banks shall **submit** their recovery plans to the Authority no later than 30 September 2020. Thereafter, submissions are to be made no later than 30 September for every two years.
- 3.6. An Islamic bank shall establish a framework to regularly **test** the feasibility and effectiveness of its recovery plan.
- 3.7. The recovery plan shall be subject to periodic **review** every two years, and upon the occurrence of an event that could materially impact the recovery plan. This includes any changes in circumstances facing the Islamic bank, group or the financial system.
- 3.8. An Islamic bank shall immediately inform the Authority in the event that the Islamic bank assesses that its viability is, or potentially is, threatened or upon the occurrence of any event that may necessitate the implementation of its recovery plan;
- 3.9. An Islamic bank shall maintain management information systems that are able to produce, in a timely manner, information required for such recovery planning.
- 3.10. An Islamic bank shall put in place adequate measures such that outsourcing arrangements which support critical functions and critical shared services can be maintained in crisis situations and in resolution.
- 3.11. An Islamic bank shall notify and engage the Authority in discussions if it plans to make material changes to its recovery plan.



4. SUPERVISORY ASSESSMENT OF RECOVERY PLANS

- 4.1. The Authority has the responsibility of reviewing Islamic banks' recovery plans on a regular basis. This supervisory assessment process generally involves a review of the documentation of the Islamic bank's recovery plan, discussions between the Authority and the board and/or senior management of the Islamic bank, on-site examinations and other methods the Authority may identify as appropriate for evaluating the robustness of the Islamic bank's recovery plan.
- 4.2. In reviewing and evaluating an Islamic bank's recovery plan, the Authority will have regard to the following key factors, amongst others:
 - 4.2.1. the degree of integration of the recovery planning process into the Islamic bank's risk management framework;
 - 4.2.2. the robustness of the Islamic bank's governance framework, including the level of understanding and involvement of the Islamic bank's board and/or senior management in the recovery plan;
 - 4.2.3. the clarity of the escalation process and decision making mechanism upon the trigger of a recovery plan, and the communication plan with stakeholders;
 - 4.2.4. the capability of the Islamic bank's management information system to enable timely monitoring of recovery triggers, and to provide full sets of information in a timely manner;
 - 4.2.5. the appropriateness of recovery triggers, stress scenarios and recovery options developed in respect of the recovery plan;
 - 4.2.6. the credibility of the assumptions underpinning the recovery plan;
 - 4.2.7. the comprehensiveness of the recovery plan, in particular whether a suitably broad range of recovery options has been considered;
 - 4.2.8. the execution readiness and feasibility of each recovery option; and
 - 4.2.9. whether the recovery planning process is adequately resourced by the Islamic bank in terms of staffing and expertise, with sufficient board and senior management ownership and oversight.



- 4.3. An Islamic bank shall furnish to the Authority such other information relating to the Islamic bank's recovery planning, as may be requested by the Authority.

MANAGING DIRECTOR
AUTORITI MONETARI BRUNEI DARUSSALAM

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