

GUIDELINES ON DIGITAL ASSETS

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CONTENTS

	PAGE
PART A GENERAL	
Chapter 1 Introduction	1
Chapter 2 Definitions	3
PART B REQUIREMENTS FOR DIGITAL TOKEN OFFERING	
Chapter 3 The Issuer	6
Chapter 4 Application for Issuance of Digital Tokens	8
Chapter 5 White Paper	10
Chapter 6 Issuer's Obligations	13
Chapter 7 Reporting and Audit	15
Chapter 8 Marketing and Promotion	16
Chapter 9 Power of the SC in Relation to an Issuer	17
PART C REQUIREMENTS FOR REGISTRATION OF AN IEO OPERATOR	
Chapter 10 General	19
Chapter 11 Financial Requirements	20
Chapter 12 Criteria for Registration	21
Chapter 13 Directors and Responsible Person	23
Chapter 14 Obligations	25
Chapter 15 Cessation of Business or Operations	33
Chapter 16 Withdrawal of Registration	34
Chapter 17 Hosting on Other Platforms	35
Chapter 18 Limit of Funds Raised by the Issuer	36
Chapter 19 Power of the SC in Relation to IEO Operator	38
Chapter 20 Submission of Application	41
Appendix I Fit and Proper Criteria	42

PART A: GENERAL

CHAPTER 1

Introduction

- 1.01 The *Guidelines on Digital Assets* (Guidelines) are issued by the Securities Commission Malaysia (SC) pursuant to section 377 of the *Capital Markets and Services Act 2007* (CMSA).
- 1.02 These Guidelines set out the requirements for–
- (a) an issuer seeking to raise funds through digital token offering; and
 - (b) the registration of a platform operator to operate an Initial Exchange Offering (IEO) platform.
- 1.03 These Guidelines are in addition to and not in derogation of any requirements provided for under securities laws or any other guidelines issued by the SC.
- 1.04 Where an issuer issues a digital asset which is an existing type of securities such as unit trust funds, bonds, warrants and options, the issuer must comply with the existing requirements for such issuance as set out in the relevant SC's guidelines and Bursa rules.
- 1.05 These Guidelines must be read together with other relevant laws and guidelines including payment services and foreign exchange administration laws administered by BNM.
- 1.06 To assist with the interpretation of the requirements under these Guidelines and their application, guidance has been provided, where appropriate. Any action or conduct which departs from the guidance will be taken into account by the SC in determining compliance with these Guidelines.
- 1.07 The SC may, on its own initiative or upon application, grant an exemption from or a variation to the requirements of these Guidelines if the SC is satisfied that–

- (a) such variation, is not contrary to the intended purpose of the relevant provision in these Guidelines; or
- (b) there are mitigating factors which justify the said exemption or variation.

Chapter 2

Definitions

2.01 Unless otherwise defined, all words used in these Guidelines shall have the meaning assigned to them in the CMSA. In these Guidelines, unless the context otherwise requires:

- angel investor refers to an individual–
- (a) who is a tax resident in Malaysia; and
 - (b) whose total net personal assets exceed RM3 million or its equivalent in foreign currencies; or
 - (c) whose gross total annual income is not less than RM180,000 or its equivalent in foreign currencies in the preceding 12 months; or
 - (d) who, jointly with his or her spouse, has a gross total annual income exceeding RM250,000 or its equivalent in foreign currencies in the preceding 12 months;
- controller means a person who–
- (a) is entitled to exercise, or control the exercise of, not less than fifteen per centum (15%) of the votes attached to the voting shares in the company;
 - (b) has the power to appoint or cause to be appointed a majority of the directors of the company; or
 - (c) has the power to make or cause to be made, decisions in respect of the business or administration of the company, and to give effect

to such decisions or cause them to be given effect to;

digital assets	refers collectively to a digital currency and digital token;
digital currency	means a digital currency that is prescribed as securities under the <i>Capital Markets and Services (Prescription of Securities)(Digital Currency and Digital Token) Order 2019</i> ;
digital token	means a digital token that is prescribed as securities under the <i>Capital Markets and Services (Prescription of Securities)(Digital Currency and Digital Token) Order 2019</i> ;
financial statements	has the meaning as set out in the approved accounting standards issued or approved by the Malaysian Accounting Standards Board pursuant to the <i>Financial Reporting Act 1997</i> ;
IEO	means offering of digital tokens by an issuer through an electronic platform;
IEO operator	means an electronic platform operator which is registered under these guidelines to operate an IEO platform;
issuer	means a company seeking to raise fund through offering of digital tokens;
independent director	means a director who— (a) is not an executive director of the IEO operator and its related corporation; (b) is not a major shareholder of the IEO operator or any of its related corporation;

- (c) is not a family member of any officer or major shareholder of the IEO operator or any of its related corporation;
- (d) is not acting as a nominee or representative of any executive director or major shareholder of the IEO operator or any of its related corporation;
- (e) in the last two years, has not been engaged for the provision of services by, or in any business transaction with, the IEO operator or any of its related corporation under such circumstances as may be specified by SC; or
- (f) is not presently a partner, director (except as an independent director) or major shareholder, as the case may be, of a firm or corporation that has engaged in any transaction with the IEO operator or any of its related corporation under such circumstances as may be specified by SC;

payment instrument	has the same meaning assigned to it in the <i>Financial Services Act 2013</i> ;
SC	means the Securities Commission Malaysia established under the <i>Securities Commission Malaysia Act 1993</i> ;
senior management	means members of the senior management including the chief executive officer, chief financial officer, or chief technology officer or any other person having authority and responsibility for the investment strategies or business decisions of the issuer, by whatever name called.

Part B: Requirements for digital token offering

Chapter 3

The Issuer

General

- 3.01 An issuer must be a company incorporated in Malaysia, but does not include an exempt private company and public-listed company.
- 3.02 The issuer must have its main business operations carried out in Malaysia.

Guidance to paragraph 3.01:

An unlisted subsidiary or a special purpose vehicle (SPV) of a public listed company may, however, qualify as an issuer.

Minimum financial requirements

- 3.03 An issuer must have a minimum paid-up capital of RM500,000.
- 3.04 The SC may impose additional financial requirements that commensurate with the nature of the issuer's business.

Issuer's board of directors and senior management

- 3.05 The Board must, at all times, have at least two directors whose principal or only place of residence is in Malaysia.
- 3.06 An issuer must ensure that its Board members and senior management are fit and proper, taking into account the criteria set out in Appendix 1 of these Guidelines.
- 3.07 The issuer must submit to the IEO operator a fit and proper declaration of its Board members and senior management as required under paragraph 4.02 and 6.01 of under these Guidelines.

Moratorium on equity interest

- 3.08 Members of the Board and senior management must, in aggregate, own at least 50% equity holding in the issuer, on the date of the issuance of the digital tokens.
- 3.09 Post issuance of the digital tokens, the initial Board and senior management members may only sell, transfer or assign not more than 50% of their initial equity holding until completion of the digital token's project.
- 3.10 Any new member of the Board or senior management who purchased equity holding in the issuer post issuance of the digital tokens are not allowed to sell, transfer or assign more than 50% of their equity holding until completion of the project for which funding is sought.

Guidance to paragraphs 3.08, 3.09 and 3.10:

On 1 January 2019 (date of issuance of the digital tokens), Melanie who is an initial board member of Company A holds 100,000 unit of equity shares in Company A. On 1 February 2019, Melanie received an offer from Seri to purchase her shares. As the digital token's project has not been completed, Melanie may only sell up to 50,000 of her equity shares to Seri.

Seri, who is now a new shareholder and a newly-appointed Board member, may only sell up to 25,000 of her equity shares until the completion of the project.

Chapter 4

Application for Offering of Digital Tokens

Approval requirement

- 4.01 An issuer must only carry out an offering of digital tokens through an IEO platform and not through any other means.
- 4.02 An issuer must submit its application to an IEO operator for an approval in a form and manner as may be specified by the IEO operator, including a fit and proper declaration of its Board members and senior management and the issuer's Whitepaper which must contain information required in paragraph 5.04.

Offering of digital tokens

- 4.03 An issuer must not offer any digital tokens to any person before the IEO operator's approval has been obtained.

Innovative solution or meaningful digital value proposition

- 4.04 In its application to the IEO operator under paragraph 4.02, the issuer must also demonstrate to the IEO operator that the digital token's underlying business or project provides an innovative solution or a meaningful digital value proposition for Malaysia.

Guidance to paragraph 4.04:

A digital token offering provides an innovative solution or digital value proposition if, among others, the digital token's project–

- (a) provides a solution or addresses an existing market need or problem; or
- (b) improves the efficiency of an existing process or service undertaken by the issuer or the industry,

through the application of distributed ledger technology.

Closed loop

- 4.05 In the case of a digital token that serves as a payment instrument, the digital token may only be used in exchange for the issuer's goods and services as disclosed in the issuer's whitepaper which is approved by the IEO operator.

Chapter 5

White paper

Submission of Whitepaper

- 5.01 An issuer must not offer a digital token to any person unless the offer is also accompanied with a disclosure document ("Whitepaper") that has been approved by the IEO operator.
- 5.02 A copy of the Whitepaper that has been furnished to the IEO operator must also be furnished to the SC in the manner and form as may be specified by the SC.
- 5.03 An issuer must ensure that all information submitted or contained in its Whitepaper is true and accurate and shall not contain any information or statement which is false or misleading or from which there is a material omission.

Content Requirements

- 5.04 A Whitepaper must contain such information that would enable an investor to make an informed assessment of the digital token before subscribing to the digital tokens, including the following:
- (a) Brief description of the directors, senior management, key personnel and advisers including name, designation, nationality, address, professional qualifications and related experience;
 - (b) The objective or purpose of the digital token offering, including detailed information on the underlying business or project to be managed and operated by the issuer;
 - (c) The key characteristics of the digital token;
 - (d) Detailed description of the sustainability and scalability of the underlying business or project;
 - (e) The business plan of the issuer;

- (f) The targeted amount to be raised through the digital token offering, and subsequent use and application of the proceeds thereafter illustrated in a scheduled timeline for drawdown and utilisation of proceeds (“schedule of proceeds”);
- (g) Any rights, conditions or functions attached to digital tokens including any specific rights attributed to a token holder;
- (h) Discussion on the determination of the accounting and the valuation treatments for the digital token including all valuation methodology and reasonable presumptions adopted in such calculation;
- (i) Associated challenges and risks as well as mitigating measures thereof;
- (j) In relation to the distribution of the digital tokens and where applicable, the distribution policy of the issuer;
- (k) A detailed technical description of the protocol, platform and, or application of the digital token, as the case may be, and the associated benefits of the technology; and
- (l) Audited financial statements of the issuer, and where audited financial statements are unavailable, certified financial statements or information by the issuer’s senior management.

5.05 In addition to paragraph 5.04 above, a Whitepaper must also contain the following statement:

“Investors are reminded that Bank Negara Malaysia (the Bank) does not recognise digital tokens as a legal tender nor as a form of payment instrument that is regulated by the Bank and that the Bank will not provide any avenues of redress for aggrieved token holders”.

Supplementary Whitepaper

5.06 Where a Whitepaper has been furnished to the IEO operator and the SC under paragraph 5.02 but before the closing of the offer period, and the issuer becomes aware that–

- (a) a matter has arisen and information in respect of that matter would have been required by these Guidelines to be disclosed in the Whitepaper if the matter has arisen at the time the Whitepaper was prepared;
- (b) there has been a significant change affecting a matter disclosed in the Whitepaper;
- (c) the Whitepaper contains a statement or information that is false and misleading; or
- (d) the Whitepaper contains a statement or information from which there is a material omission,

the issuer shall forthwith notify the IEO operator and, as soon as practicable, furnish a supplementary Whitepaper to the IEO operator and the SC.

Chapter 6

Issuer's Obligations

General

6.01 An issuer must–

- (i) comply with the requirements of these Guidelines at all times;
- (ii) ensure that the minimum capital requirement as set out under Chapter 3 are met at all times;
- (iii) immediately notify the IEO operator and SC of any failure to comply with any requirement of these Guidelines; and
- (iv) submit to the IEO operator the fit and proper declaration of any subsequent member appointed to its Board or senior management team within three (3) business days from his appointment to the Board or senior management. This is in addition to the fit and proper declaration provided by the issuer as required in paragraph 4.02 above.

6.02 An issuer must retain all relevant documents and agreements related to the digital token offering for a period of seven (7) years.

6.03 The issuer must provide to the SC any information or assistance as the SC deems necessary relating to the digital tokens.

Utilisation of proceeds

6.04 An issuer must provide a confirmation to the SC that the drawdowns have been utilised for the purposes stated in the Whitepaper in such form and manner as the SC may specify.

6.05 An issuer must not make any changes to the drawdown and utilisation of proceeds post the issuance of the digital tokens that affects the token holder's rights unless prior approval of the majority of the token holder representing 75% of the total amount of tokens held by all token holders present and voting has been obtained.

Managing conflict of interest

- 6.06 An issuer must establish a framework which sets out the policies and procedures to effectively and efficiently manage issues of conflict of interest including potential conflicts of interest and any related party transactions which may arise in the course of the digital token's project.

Material changes

- 6.07 Where a material change occurs affecting the digital token's project or the issuer, the issuer must, not later than fourteen (14) days after the occurrence of the event, inform the IEO operator of such change for purposes of announcement on the IEO platform.

Chapter 7

Reporting and Audit

Reporting requirements

- 7.01 An issuer must prepare and cause to be published on the IEO platform an annual report and semi-annual report which contain necessary information to enable token holders to evaluate the performance of the issuer.
- 7.02 The issuer's reports must contain information on the performance of the underlying business or project, including–
- (a) the total amount of digital tokens issued and in circulation;
 - (b) the status of the utilisation of the digital token's proceeds by the issuer;
 - (c) the status of the project; and
 - (d) audited financial statements for the latest financial year.

Chapter 8

Marketing and promotion

- 8.01 An issuer must ensure that all information disseminated for marketing or promotion is consistent with the contents of its Whitepaper for investors are appropriately displayed in all marketing and promotional materials including its website.

- 8.02 An issuer must not engage any third party individual(s) or entity, other than an IEO operator, to endorse or represent the issuer with the intended purpose of marketing, promoting, gaining publicity or soliciting funds for its digital token offering.

Chapter 9

Power of the SC in Relation to an Issuer

Power of the SC to issue directions

9.01 The SC may at any time issue a direction to the issuer, the issuer's Board, the issuer's senior management or any other person, if the SC—

- (a) is of the view that it is necessary or expedient for the—
 - (i) purposes of ensuring fair and orderly markets; or
 - (ii) purposes of the protection of the token holders, or in the public interest; or
- (b) is of the opinion that the underlying project or business is no longer viable or sustainable.

9.02 A direction issued under paragraph 9.01 may include a direction—

- (a) not to deal or transfer monies or properties to any other person;
- (b) not to solicit business from any person;
- (c) to cease or refrain from committing an act or pursuing a course of conduct or activity;
- (d) to do any act, in relation to its business, affairs, property or digital token as the SC deems necessary;
- (e) to give effect to any requirement of the securities laws and these Guidelines;
- (f) to remove any person from the Board or senior management, where—
 - (i) any grounds in Appendix 1 is applicable to such person; or
 - (ii) it would be contrary to public interest for such person to continue to hold the office of a director or be a member of the senior management; and

(g) on any other matter as the SC considers necessary.

9.03 A direction issued under this Chapter must be complied with and nothing in this Chapter shall preclude the SC from exercising its powers under securities laws.

PART C: REQUIREMENTS FOR REGISTRATION OF AN IEO OPERATOR

Chapter 10

General

10.01 A person who wish to operate an IEO platform must be registered under these Guidelines.

10.02 Where the person also wishes to facilitate the trading of digital assets on its platform, the person must also be registered as a DAX operator under the *Guidelines on Recognized Market*.

Registration

10.03 The SC may register a person as an IEO operator, subject to the person satisfying the requirements set out in this Part.

10.04 An IEO operator must be a locally incorporated company unless specified otherwise by the SC.

10.05 The company that seeks to be an IEO operator must make the application for registration to the SC by itself.

10.06 An IEO operator registered under these guidelines shall be deemed to be registered as a recognised market operator for the purposes of section 34 of the CMSA.

Application

10.07 The application for registration as an IEO operator must be made in the form specified in these Guidelines and must be accompanied with the prescribed fees.

10.08 The application must also be accompanied with relevant documents specified in these Guidelines and with any other information as may be required by the SC for the purpose of registering the applicant.

Chapter 11

Financial Requirements

- 11.01 An IEO operator must have a minimum paid-up capital of RM5,000,000.

- 11.02 The SC may at any time impose additional financial requirements or other terms and conditions on an IEO operator that commensurate with the nature, operation and risks posed by the operator on the market.

Chapter 12

Criteria for Registration

12.01 The SC may register an applicant as an IEO operator if the SC is satisfied that–

- (a) the applicant will be able to carry out its obligations as set out under these Guidelines;
- (b) the information or document that is furnished by the applicant to the SC is not false or misleading nor does it contain any material omission;
- (c) the applicant is not in the course of being wound up or otherwise dissolved;
- (d) no receiver, receiver and manager or an equivalent person has been appointed within or outside Malaysia, or in respect of any property of the applicant;
- (e) the applicant has not, whether within or outside Malaysia, entered into a compromise or scheme of arrangement with its creditors, being a compromise or scheme of arrangement that is still in operation;
- (f) the applicant, applicant's directors, chief executive, controller, and any person who is primarily responsible for its operations or financial management are fit and proper, taking into account the criteria in Appendix 1;
- (g) there are no other circumstances which are likely to lead to the improper conduct of business by the applicant or by any of its directors, chief executive, controller or any person who is primarily responsible for the business of the applicant;
- (h) the applicant will appoint at least one responsible person as required under chapter 13 of these guidelines;

- (i) the applicant will be able to manage risks associated with its business and operation including demonstrating the processes and contingency arrangement in the event the applicant is unable to carry out its operations;
- (j) the applicant has sufficient financial, human and other resources for its operation at all times; and
- (k) the applicant has appropriate security arrangements which include maintaining a secured environment pursuant to the *Guidelines on Management of Cyber Risk* and other relevant guidelines.

Chapter 13

Directors and Responsible Person

Independent director

- 13.01 In the case where a IEO Operator is a public company, at least one member of the board must be an independent director

Directors and Senior Management

- 13.02 An IEO operator must ensure that members of its board members, chief executive, controller, and any person who is primarily responsible for its operations or financial management are fit and proper, taking into account the criteria in Appendix 1, and are suitably qualified.
- 13.03 An IEO operator must notify the SC in writing of any appointment or reappointment of a director, within such time as specified by the SC or prior to any public announcement on the appointment or reappointment of a director, whichever is earlier.
- 13.04 Where a member of the board becomes subject to any disqualification or becomes otherwise unfit to hold office, the IEO operator must ensure that such person vacates the position immediately.
- 13.05 The IEO operator must immediately notify the SC of a director's disqualification and when the position is vacated.

Appointment of responsible person

- 13.06 An IEO operator must have at least one (1) responsible person who is fit and proper, taking into account the criteria in Appendix 1.
- 13.07 A person appointed as a responsible person must be a chief executive of the IEO operator or any person who is primarily responsible for its operations.

- 13.08 The responsible person(s) must have a minimum five (5) years' experience in carrying out due diligence, assessment on business proposals and fundraising or any other relevant experience.
- 13.09 At all times, the responsible person must be the main contact person for the purpose of liaising with the SC and must perform any duty as may be directed by the SC.
- 13.10 Any vacancy in relation to the position of a responsible person shall be filled within three months from the date of such vacancy.

Chapter 14

Obligations

Board's obligations

14.01 The Board must ensure the IEO operator complies with all the requirements under these Guidelines including any direction issued or any term or condition imposed by the SC.

IEO operator's obligations

- 14.02 An IEO operator, in determining whether to approve a digital token offering, must–
- (a) carry out due diligence and critical assessment on an issuer including–
 - (i) understanding and verifying the business of the issuer to ensure that the issuer does not engage in any business practices appearing to be deceitful, oppressive or improper, whether unlawful or not;
 - (ii) assess the fit and properness of the issuer's Board and senior management; and
 - (iii) understand the features of the digital token to be issued by the issuer and the rights attached to it;
 - (b) exercise its own judgment and carry out critical assessment on the issuer's compliance with the requirements in these Guidelines including as to whether the issuer will be able to satisfy the requirement to provide an innovative solution or a meaningful digital value proposition for Malaysia; and
 - (c) assess the issuer's Whitepaper furnished to it. In approving the issuer's Whitepaper, the IEO operator must ensure that the contents of the Whitepaper include the information required under these Guidelines and that

its contents are fair, accurate, clear, not misleading and there are no material omission.

- 14.03 In addition to the obligations set out in paragraph 14.02, an IEO operator must–
- (a) make the issuer’s Whitepaper accessible to investors through its electronic platform;
 - (b) must make available through its electronic platform all relevant information relating to an issuer including any material changes that are affecting the IEO project or the issuer and the issuer’s annual and semi-annual report;
 - (c) take reasonable steps in monitoring the drawdowns by issuer and that it has been utilised for the purposes stated in the Whitepaper;
 - (d) ensure that its electronic platform is operating in an orderly, fair and transparent manner;
 - (e) have in place rules and procedures for the offering of digital tokens on its electronic platform;
 - (f) ensure that all fees and charges payable are fair, reasonable and transparent;
 - (g) carry out continuous awareness and education programmes;
 - (h) take all reasonable measures to avoid situations that are likely to involve a conflict of interest with the issuer;
 - (i) disclose any information or provide any document to the SC as it may require;
 - (j) ensure the responsible person carries out his responsibilities and duties;
 - (k) ensure that all disclosures are fair, accurate, clear and not misleading;

- (l) identify and manage risks associated with its business and operations, including having in place an effective business continuity plan;
- (m) establish and maintain policies and procedures to–
 - i. effectively and efficiently manage actual and potential conflicts of interest, including the management of non-public material information and conflicts with the issuer; and
 - ii. ensure compliance with all relevant laws, regulations and guidelines including the *Anti-Money Laundering and Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001* and *Personal Data Protection Act 2010*; and
- (n) immediately notify the SC–
 - (i) of any breach of the terms and conditions imposed by the SC, any provisions of the securities laws, guidelines or its rules, including any alleged or suspected violations of any relevant laws or guidelines referred to in paragraph 14.03 (n) (ii);
 - (ii) when it becomes aware of any matter which adversely affects or is likely to adversely affect its ability to meet its obligations or to carry out its functions under these Guidelines;
 - (iii) of any material adverse change to the issuer’s proposal including any of the following matters:
 - A. The discovery of a false or misleading statement in any disclosures in relation to the offer;
 - B. The discovery of any material omission of information that may affect token holders;
 - C. There is a material change or development in the circumstances relating to the offering or the issuer; and

- (iv) of the occurrence of any event which would trigger the activation or execution of the business continuity plan, in such form and manner as may be specified by the SC.

14.04 Notwithstanding subparagraph 14.03 (f), any proposed rules of an IEO operator or any proposed amendments to its existing rules shall not have effect unless it has been approved by the SC.

Risk management

14.05 An IEO Operator should identify possible sources of operational risk, both internal and external, and mitigate their impact through the use of appropriate systems, policies, procedures, and controls. Systems should be designed to ensure a high degree of security and operational reliability including having adequate capacity.

14.06 An IEO operator must, among others–

- (a) establish a robust operational risk-management framework with appropriate systems, policies, procedures, and controls to identify, monitor, mitigate and manage operational risks;
- (b) have in place clearly defined roles and responsibilities for addressing operational risk;
- (c) have in place clearly defined operational reliability objectives and have policies in place that is designed to achieve those objectives;
- (d) ensure that it has adequate capacity proportionate to stress volumes to achieve its service-level objectives; and
- (e) have a comprehensive physical and information security policy that addresses all potential vulnerabilities and threats.

- 14.07 An IEO operator must have a business continuity plan that addresses events posing a significant risk of disrupting operations, including events that could cause a wide-scale or major disruption.
- 14.08 The business continuity plan should incorporate the use of a secondary site and should be designed to ensure that critical information technology systems can resume operations within reasonable recovery time objectives (RTO) following disruptive events.
- 14.09 An IEO operator must carry out periodic reviews, audits and testing on systems, operational policies, procedures, and controls relating to risk management and its business continuity plan.

Managing conflict of interest

- 14.10 An IEO operator, including its individual directors and shareholders, must disclose to the public on its platform if–
- (a) it holds any shares in any of the issuers hosted on its platform; or
 - (b) it pays any referrer or introducer, or receives payment in whatever form, including payment in the form of shares, in connection with an issuer hosted on its electronic platform.
- 14.11 Notwithstanding paragraph 14.10, an IEO operator’s shareholding in any of the issuers hosted on its platform shall not exceed thirty (30) per cent.
- 14.12 An IEO operator is prohibited from providing direct or indirect financial assistance to investors, to invest in the digital tokens of an issuer hosted on its platform.

Operation of trust account

- 14.13 An IEO operator must–

- (a) establish systems and controls for maintaining an accurate and up to date records of investors and any monies or digital assets held in relation to the investor;
- (b) ensure investors monies and digital assets are properly safeguarded from conversion or inappropriate use by any person, including but not limited to implementing multi-signature arrangements;
- (c) establish and maintain with a licensed Malaysian financial institution one or more trust accounts, designated for the monies received from investors;
- (d) ensure that the trust accounts under paragraph 14.13(c) are administered by an independent trustee registered with the SC under *Guidelines on Registration and Conduct of Capital Market Services Providers*;
- (e) only release the funds to the issuer after the following conditions are fulfilled:
 - (i) The targeted amount sought to be raised has been met; and
 - (ii) There is no material adverse change relating to the offer during the offer period;
- (f) establish and maintain a sufficiently and verifiably secured storage medium designated to store digital assets from investors; and
- (g) in relation to investors' digital tokens, have arrangements and processes in place to protect against the risk of loss, theft or hacking.

14.14 For the purpose of subparagraph 14.13(e)(ii), a material adverse change may include any of the following matters:

- (a) The discovery of a false or misleading statement in any disclosures in relation to the offer;

- (b) The discovery of any material omission of information that may affect investors; or
- (c) There is a material change or development in the circumstances relating to the offering or the issuer.

14.15 Notwithstanding paragraph 14.13(e), an IEO operator may impose any other additional condition precedent before releasing the fund, provided that they serve the investors' interest.

Supplementary Whitepaper

14.16 Where a supplementary Whitepaper has been furnished by an issuer to the IEO operator and the SC, the IEO operator must notify the subscribers for the digital token that–

- (a) a supplementary Whitepaper is available on the platform; and
- (b) the subscriber may withdraw his subscription for the digital token within fourteen (14) business days from the date of receipt of the notice

14.17 If the applicant withdraws his application pursuant to paragraph 14.16(b) above, the IEO operator must, within fourteen (14) business days, repay the applicant any amount that the applicant has paid for the purposes of the digital token offering.

Register of initial token holders

14.18 An IEO operator must maintain a register of initial token holders who subscribed for the digital tokens during the offer period and enter into the register–

- (a) in the case of an investor who is a Malaysian, the name, address and identity card number. In the case of a non-Malaysian investor the name, address and passport;

- (b) in the case of an investor who is a corporation, the name, registered address and registration number of the corporation, including details of its directors and shareholders;
- (c) total amount of digital tokens subscribed by each investor; and
- (d) any other relevant information or particulars of the investor required by the SC.

Outsourcing obligations

- 14.19 An IEO operator's Board remains accountable for all outsourced functions.
- 14.20 An IEO operator's Board must establish effective policies and procedures for its outsourcing arrangement including a monitoring framework to monitor the service delivery and performance reliability of the service provider.
- 14.21 An IEO operator must ensure that the service provider has adequate policies and procedures to monitor the conduct of any appointed sub-contractor.
- 14.22 An IEO operator must perform periodic assessment of its service provider as part of its monitoring mechanism and a report of that assessment must be provided to its Board and senior management.
- 14.23 An IEO operator must also ensure that its service provider and its subcontractor if any, provides to the SC a letter of undertaking which will grant the SC access to all information, records and documents relating to the material outsourced arrangements.
- 14.24 An IEO operator must notify the SC of any adverse development arising in the outsourcing arrangement of any outsourced function that could significantly affect the IEO operator, within fourteen (14) days from the occurrence of the event.

Chapter 15

Cessation of Business or Operations

- 15.01 An IEO operator shall not cease its business or operations without prior engagement with the SC.
- 15.02 The SC may issue a direction or impose any term or condition for the purposes of ensuring the orderly cessation of the business or operations of the IEO operator.
- 15.03 The cessation of business or operations will not take effect until the SC is satisfied that all the requirements stated in the securities laws, relevant guidelines issued by the SC and any other relevant laws or requirements, have been fulfilled.

Chapter 16

Withdrawal of Registration

- 16.01 The SC may withdraw the registration of an IEO operator if–
- (a) the IEO operator fails to meet the requirements as provided in these Guidelines;
 - (b) the IEO operator fails or ceases to carry on the business or activities for which it was registered for a consecutive period of six months;
 - (c) the IEO operator contravenes any obligation, condition or restriction imposed under these Guidelines; or
 - (d) fails to pay any fee prescribed by the SC.
- 16.02 An IEO operator may, by notice in writing, apply to the SC to withdraw its registration and provide reasons for its withdrawal.
- 16.03 The withdrawal of its registration made under paragraph 16.01 shall not–
- (a) take effect until the SC is satisfied that adequate arrangements have been made to meet all the liabilities and obligations of the IEO operator that are outstanding at the time when the notice of the withdrawal is given; and
 - (b) operate so as to–
 - (i) avoid or affect any agreement, transaction or arrangement entered into by the IEO operator, whether the agreement, transaction or arrangement was entered into before or after the withdrawal of the registration; or
 - (ii) affect any right, obligation or liability arising under any such agreement, transaction or arrangement.

Chapter 17

Hosting on Other Platforms

- 17.01 An issuer must not be hosted concurrently on multiple IEO platform or on an equity crowdfunding platform.

Chapter 18

Limit of Funds Raised by the Issuer

18.01 An IEO operator must ensure that an issuer may only raise funds subject to the following limit:

Issuer's shareholders' funds * Multiple (20) = Maximum quantum of funds permitted to be raised within any continuous 12-month period, subject to a ceiling of RM100 million.

18.02 The issuer must demonstrate to the IEO operator that the gross proceeds to be raised from the digital token offering would be sufficient to undertake the project or business as proposed in the Whitepaper.

18.03 The digital tokens issued by an issuer must be fully subscribed, with no permitted over-subscription of such digital tokens, to be effective.

18.04 In the event an issuer is unable to comply with the requirements of paragraph 18.03 above, the IEO operator must return any monies collected from token holders within fourteen (14) days from the date of the closure of the digital token offering.

Investment limits

18.05 A person may invest in digital token offerings subject to the following limits:

- (a) For sophisticated investors: no restriction on investment amount;
- (b) For angel investors: a maximum of RM500,000 within a 12-month period; and
- (c) For retail investors: a maximum of RM2,000 per issuer with a total investment limit not exceeding RM20,000 within a 12-month period.

Cooling-off right

- 18.06 A cooling-off right must be given to an investor who is investing in a digital token offering, except for where such investor is a staff of the issuer.
- 18.07 The cooling-off period must be no fewer than six (6) business days commencing from the date of receipt of the investor's investment.
- 18.08 An investor exercising their cooling-off right pursuant to paragraph 18.07 shall be entitled to a refund amounting to the sum equivalent of–
- (a) the purchase price paid for the digital token; and
 - (b) any other charges imposed on the day the digital token was purchased.
- 18.09 When an investor notifies the IOE operator of his intention to exercise his cooling-off right, the IOE operator must refund the token holder the quantum provided in paragraph 18.08 above within five (5) business days of receiving such notification.

CHAPTER 19

Power of the SC in Relation to IEO Operator

Power of the SC to impose term or condition

19.01 The SC may, in registering an IEO operator, impose any term or condition, and at any time vary, add or remove any term or condition.

Power of the SC to issue directions

19.02 The SC may issue a direction to the IEO operator, the Board, senior management or any other person if the SC–

- (a) is satisfied that it is necessary or expedient for;
 - (i) ensuring fair and orderly markets;
 - (ii) the protection of investors, or in the public interest; or
- (b) is of the opinion that the underlying project or business of an issuer is no longer viable or sustainable.

19.03 A direction under paragraph 19.02 may include a direction–

- (a) not to deal or transfer monies or properties of the token holders to any other person;
- (b) not to solicit business from any person;
- (c) to cease or refrain from committing an act or pursuing a course of conduct;
- (d) to do any act, in relation to its business, affairs, property or digital token as the SC deems necessary;
- (e) to give effect to any requirement of the securities laws and these Guidelines;
- (f) to remove any Board member or senior management, if–

- (i) any grounds in Appendix 1 is applicable; or
 - (ii) it would be contrary to public interest for the person to continue to hold the office of a director or a senior management; or
 - (g) on any other matter as the SC considers necessary.
- 19.04 The SC may conduct periodic assessment of a IEO operator’s compliance with any or all of its regulatory obligations and request documents or other assistance as required.
- 19.05 Notwithstanding the approval granted by an IEO operator to the issuer, the SC may, at any time before the amount raised is released to the issuer, do any or all of the following:
- (a) Revoke an approval granted by an IEO operator;
 - (b) Issue a direction to suspend the digital token offering; or
 - (c) Issue a direction to defer the implementation of the digital token offering;
- 19.06 The SC may exercise its powers under paragraph 19.05 if the SC becomes aware of any of the following:
- (a) The issuer has breached any requirement under securities laws, these Guidelines or any other guidelines issued by the SC;
 - (b) The issuer has failed to comply with any terms or conditions imposed by the IEO operator on the issuer;
 - (c) The application, including the Whitepaper, contains any statement or information that is false or misleading or from which there is a material omission;
 - (d) There is a concern with the issuer’s corporate governance record or with the integrity of any of the issuer’s directors and senior management; or

(e) The SC has reason to believe that the approval of the application would be contrary to public interest.

19.07 The SC shall not revoke an approval granted by an IEO operator to an issuer unless the SC has given a reasonable opportunity to be heard to any affected person as to whether such an order should be made.

19.08 Nothing in this Chapter shall preclude the SC from exercising its powers under securities laws.

CHAPTER 20

Submission of Application

20.01 All registration forms, periodic reports and other additional documents as required in these Guidelines shall be submitted to the SC at the following address:

Chairman
Securities Commission Malaysia
3 Persiaran Bukit Kiara
Bukit Kiara
50490 Kuala Lumpur
(Attention: Market and Corporate Supervision)

Tel: (603) 6204 8000
Fax: (603) 6201 5282
Email: rmo@seccom.com.my

FIT AND PROPER CRITERIA

An issuer or an IEO operator, as the case may be, must ensure that its directors and senior management are fit and proper, taking into account the following:

- (a) They are suitably qualified to assume the position including having the relevant experience and track record in managing the business and affairs of the company;
- (b) They are not disqualified to be a director under *Companies Act 2016* or securities laws;
- (c) There is no pending criminal charge against the person in any court of law, whether within or outside Malaysia, for an offence involving fraud, dishonesty, mismanagement of a company or violence;
- (d) They have not had any civil enforcement action initiated against them in any court of law, whether within or outside Malaysia;
- (e) They have not–
 - (i) been convicted, whether within or outside Malaysia, of an offence involving fraud or other dishonesty or violence or the conviction of which involved a finding that he acted fraudulently or dishonestly;
 - (ii) been convicted of an offence under the securities laws or any law within or outside Malaysia relating to the capital market;
 - (iii) been subjected to any action taken by the SC under sections 354, 355 or 356 of the CMSA;
 - (iv) contravened any rules of an approved exchange, approved clearing house, central depository or a recognised self-regulatory organisation;

- (v) contravened any provision made by or under any written law whether within or outside Malaysia appearing to the SC to be enacted for protecting members of the public against financial loss due to dishonesty, incompetence or malpractice by persons concerned in the provision of financial services or the management of companies or against financial loss due to the conduct of discharged or undischarged bankrupts;
- (vi) engaged in any business practices appearing to the SC to be deceitful, oppressive or otherwise improper, whether unlawful or not, or which otherwise reflect discredit on his method of conducting business;
- (vii) engaged in or has been associated with any other business practices or otherwise conducted himself in such a way as to cast doubt on his competence and soundness of judgement; or
- (viii) engaged in or has been associated with any conduct that cast doubt on his ability to act in the best interest of investors, having regard to his reputation, character, financial integrity and reliability.