

**TABLE OF CONTENT**

<b>1</b>	<b>INTRODUCTION.....</b>	<b>2</b>
<b>2</b>	<b>DEFINITION.....</b>	<b>3</b>
<b>3</b>	<b>RESPONSIBILITY.....</b>	<b>4</b>
<b>4</b>	<b>REQUIRED NOTIFICATION.....</b>	<b>5</b>
<b>5</b>	<b>FIT AND PROPER CRITERIA.....</b>	<b>5</b>
<b>6</b>	<b>APPENDICES.....</b>	<b>9</b>

**Interpretation**

*In this Policy, unless the context otherwise requires:*

- a) the Recitals, headings and underlines are for convenience only and do not affect the interpretation of this Policy;*
- b) words and phrases defined in the Act, shall bear the same meanings herein;*
- c) words importing the singular include the plural and vice versa;*
- d) words importing a gender include any gender; and*
- e) an expression importing a natural person includes any corporation or other body corporate, partnership, association, Public Authority, two or more persons having a joint or common interest, or any other legal or commercial entity or undertaking.*

## **1.0 INTRODUCTION**

### **1.1 Overview**

BIMB Holdings Berhad (“**BHB**” or “**Company**”) is committed to meeting its obligation under Sections 56 and 126 of Banking and Financial Institutions Act (“**BAFIA**”), Sections 23 and 53A of Islamic Banking Act (“**IBA**”), Sections 70, 71 and 201 of Insurance Act (“**IA**”), and Sections 31(1) and 69 of Takaful Act (“**TA**”) – Fit and Proper requirements.

Individuals acting as “Key Responsible Persons” are required to possess the competence, character, diligence, honesty, integrity and judgement to perform properly the duties of that position, in tandem with good corporate governance practices. Accordingly the Company must prudently manage the risk to its business or financial standing that persons acting in Key Responsible Person positions are fit and proper.

The purpose of the Guidelines on Fit and Proper for Key Responsible Persons (the “**Guideline**”), is to set out the Company’s approach to the assessment of the fitness and propriety of persons who hold, or who are to be appointed or elected to, a Key Responsible Person position. In addition, the Guideline should be read together with :

- a) The Guidelines on Corporate Governance for Licensed Institutions;
- b) The Guidelines on Corporate Governance for Licensed Islamic Banks;
- c) The Guidelines on Minimum Standards for Prudential Management of Insurers (Consolidated);
- d) The Guidelines on Directorship for Takaful Operators; and
- e) The Shariah Governance Framework for Islamic Financial Institutions.

## 2.0 DEFINITION

2.1	<p><b>Key Responsible Persons</b> Key Responsible Persons in the Guideline refer to key persons that are accountable or responsible for the management and oversight of BHB. These comprise:</p>	<ul style="list-style-type: none"> <li>(i) directors;</li> <li>(ii) members of Shariah Committee;</li> <li>(iii) chief executive officers (CEO) including CEO or Managing Director (MD) of subsidiary companies;</li> <li>(iv) any person performing a senior management function who has primary or significant responsibility for the management and performance of significant business activities of BHB; and</li> <li>(v) any person who has primary or significant responsibility for key control functions.</li> </ul>
2.1.1	<p>For the purpose of paragraph 2.1 (iv), the Key Responsible Persons are defined as a person who:</p>	<ul style="list-style-type: none"> <li>(i) has the authority, makes or has substantial influence in making decisions that affect the whole, or a substantial part of, BHB's business;</li> <li>(ii) is principally accountable or responsible, whether solely or jointly with other persons, for implementing and enforcing policies and strategies approved by the board; or</li> <li>(iii) is principally accountable or responsible, whether solely or jointly with other persons, for developing and implementing systems, internal controls and processes that identify, measure, monitor or control BHB's risks.</li> </ul>
2.1.2	<p>Key Responsible Persons under paragraph 2.1 (v) refers to:</p>	<p>a person who is principally accountable or responsible, whether solely or jointly with other persons, for monitoring the appropriateness, adequacy and effectiveness of BHB's internal controls, risk management and compliance systems and processes, and includes the chief internal auditor, head of risk management, head of compliance, chief financial officer, and appointed or signing actuaries.</p>
2.2	the Bank	means Bank Negara Malaysia
2.3	the Board	means the Board of Directors of BHB
2.4	FI	means Financial Institutions

### **3.0 RESPONSIBILITY**

#### **3.1 The Board's Commitment and Responsibility**

In the application of this Guideline, Board and NAC are primarily responsible for ensuring that all Key Responsible Persons fulfil fit and proper requirements and for conducting assessments of the fitness and propriety of directors and the CEO as well as CEO/MD of subsidiary companies. For other Key Responsible Persons, decisions on appointments and assessments of fit and proper may be made by the CEO or a designated committee under the delegated authority of the Board and NAC.

The Board is committed to ensuring that each person who holds a Key Responsible Person position has the appropriate skill and experience commensurate with the role that they hold, and will make all final determinations on the fitness and propriety of responsible persons.

#### **3.2 Nomination Committee ("NAC") Responsibility**

The NAC (with the assistance of the Company Secretary or Head of Legal and Compliance, where appropriate) is responsible for the assessment of existing directors or candidates for nomination or appointment as a director or senior management of the Company, and making recommendations to the Board on these matters.

#### **3.3 Legal, Secretarial and Compliance Responsibility**

The Company Secretary or Head of Legal and Compliance is responsible for applying this Guideline.

The Company Secretary or Head of Legal and Compliance is responsible for:

- a) Ensuring that appropriate fit and proper assessments are carried out for each responsible person;
- b) Making submissions about any matters that are relevant to a particular assessment of a responsible person's fitness and propriety;
- c) Providing information to the NAC on matters concerning the procedure for fit and proper assessments; and
- d) Ensuring that the Company takes all reasonable steps to protect the information and documents collected for fit and proper assessments from misuse, unauthorized access, modifications or disclosure.

#### **4.0 REQUIRED NOTIFICATION**

The Company Secretary or Head of Legal and Compliance must keep and maintain a current list of all Key Responsible Person position, in addition to details of the competencies and training required for each Key Responsible Person position. The NAC must approve the list of Key Responsible Person position maintained by the Company Secretary or Head of Legal and Compliance, and any changes to that list.

As soon as possible after a person is nominated or proposed for election or appointment to a Key Responsible Person position, the Company will make available to that person a copy of this Guideline and the details of the competencies and training required for the relevant Key Responsible Persons position. This Guideline will also form part of the induction process for all responsible persons.

The Company will also take reasonable steps to ensure that each responsible person is aware of, and fully understands this Guideline, and receives a copy of the Guideline before any assessment of their suitability to hold a Key Responsible Person position is conducted.

#### **5.0 FIT AND PROPER CRITERIA**

For the purpose of establishing whether a person is fit and proper to hold a Key Responsible Person position, the Company shall have regard to the person's:

- (i) **Probity, personal integrity and reputation** - person must have the personal qualities such as honesty, integrity, diligence, independence of mind and fairness.
- (ii) **Competence and capability** - person must have the necessary skills, experience, ability and commitment to carry out the role.
- (iii) **Financial integrity** - person must manage his debts or financial affairs prudently.

The assessment of the above criteria shall have regard to the considerations set out below in paragraph 5.1 to 5.3 of this Guideline.

##### **5.1 Probity, Personal Integrity and Reputation**

In assessing a person's level of probity, integrity and reputation to hold a position of a Key Responsible Person, the NAC of BHB should consider matters including, but not limited to the following:

- (i) whether the person is or has been the subject of any proceedings of a disciplinary or criminal nature, or has been notified of any impending proceedings or of any investigations, which might lead to such proceedings;

- (ii) whether the person has contravened any provision made by or under any written law designed to protect members of the public against financial loss due to dishonesty, incompetence or malpractice;
- (iii) whether the person has contravened any of the requirements and standards of a regulatory body, professional body, government or its agencies;
- (iv) whether the person, or any business in which he has a controlling interest or exercises significant influence, has been investigated, disciplined, suspended or reprimanded by a regulatory or professional body, a court or tribunal, whether publicly or privately;
- (v) whether the person has been engaged in any business practices which are deceitful, oppressive or otherwise improper (whether unlawful or not), or which otherwise reflect discredit on his professional conduct;
- (vi) whether the person has been dismissed, asked to resign or has resigned from employment or from a position of trust, fiduciary appointment or similar position because of questions about his honesty and integrity;
- (vii) whether the person has been associated, in ownership or management capacity, with a company, partnership or other business association that has been refused registration, authorisation, membership or a licence to conduct any trade, business or profession, or has had that registration, authorisation, membership or licence revoked, withdrawn or terminated;
- (viii) whether the person has held a position of responsibility in the management of a business that has gone into receivership, insolvency, or involuntary liquidation while the person was connected with that business;
- (ix) whether the person has been a director of, or directly concerned in the management of, any corporation which is being or has been wound up by a court or other authority competent to do so within or outside Malaysia, or of any licensed institution, the licence of which has been revoked under any written law;
- (x) whether, in the past, the person has acted unfairly or dishonestly in his dealings with his customers, employer, auditors and regulatory authorities;
- (xi) whether the person has at any time shown a strong objection or lack of willingness to cooperate with regulatory authorities and failure to comply with legal, regulatory and professional requirements and standards, including compliance with tax requirements and obligations;
- (xii) whether a person has contributed significantly to the failure of an organisation or a business unit;



- Risk Management
  - IT
  - Human Resource
  - Other relevant function / expertise
- (iii) The person must possess the **relevant working experience** in a senior position of not less than 10 years.

### **5.3 Financial Integrity**

Financial integrity is demonstrated by a person who manages his own financial affairs properly and prudently.

In assessing a person's financial integrity, the NAC must consider all relevant factors, including but not limited to the following:

- (i) whether the person has been and will be able to fulfil his financial obligations, whether in Malaysia or elsewhere, as and when they fall due; and
- (ii) whether the person has been the subject of a judgement debt which is unsatisfied, either in whole or in part, whether in Malaysia or elsewhere.

The fact that a person may be of limited financial means does not in itself, affect the person's ability to satisfy the financial integrity criteria.

**6.0 APPENDICES**

**APPENDIX 1**



**STRICTLY CONFIDENTIAL**

**Declaration Form for Key Responsible Person of BHB**

I, \_\_\_\_\_

NRIC No: \_\_\_\_\_

residing at \_\_\_\_\_

do hereby solemnly affirm and declare the followings:-

		YES	NO
<b>Probity, Personal Integrity and Reputation</b>			
(i)	whether you are or have been the subject of any proceedings of a disciplinary or criminal nature, or has been notified of any impending proceedings or of any investigations, which might lead to such proceedings;  For example provisions from Whistle Blower Protection Act 2010 or any breach of trust.		
(ii)	whether you have contravened any provision made by or under any written law designed to protect members of the public against financial loss due to dishonesty, incompetence or malpractice;  For example provisions from the Criminal Procedure Code or Capital Market Services Act 2007		

YES	NO
-----	----

(iii)	<p>whether you have contravened any of the requirements and standards of a regulatory body, professional body, government or its agencies;</p> <p>For example provisions from Bursa Malaysia Listing Requirements</p>		
(iv)	<p>Whether you or any business in which you have a controlling interest or exercises significant influence, has been investigated, disciplined, suspended or reprimanded by a regulatory or professional body, a court or tribunal, whether publicly or privately;</p>		
(v)	<p>whether you have been engaged in any business practices which are deceitful, oppressive or otherwise improper (whether unlawful or not), or which otherwise reflect discredit on your professional conduct;</p>		
(vi)	<p>whether you have been dismissed, asked to resign or has resigned from employment or from a position of trust, fiduciary appointment or similar position because of questions about your honesty and integrity;</p>		
(vii)	<p>whether you have been associated, in ownership or management capacity, with a company, partnership or other business association that has been refused registration, authorisation, membership or a licence to conduct any trade, business or profession, or has had that registration, authorisation, membership or licence revoked, withdrawn or terminated;</p>		
(viii)	<p>whether you have held a position of responsibility in the management of a business that has gone into receivership, insolvency, or involuntary liquidation while you were connected with that business;</p>		
(ix)	<p>whether you have been a director of, or directly concerned in the management of, any corporation which is being or has been wound up by a court or other authority competent to do so within or outside Malaysia, or of any licensed institution, the licence of which has been revoked under any written law;</p> <p>For example provisions from Companies Act 1965</p>		
(x)	<p>whether, in the past, you have acted unfairly or dishonestly in his dealings with his customers, employer, auditors and regulatory authorities;</p> <p>For example provisions from Banking and Financial Institution Act 1989</p>		

		YES	NO
(xi)	whether you have at any time shown a strong objection or lack of willingness to cooperate with regulatory authorities and failure to comply with legal, regulatory and professional requirements and standards, including compliance with tax requirements and obligations;		
(xii)	whether you have contributed significantly to the failure of an organisation or a business unit;		
(xiii)	whether you have at any time shown strong objection or a lack of willingness to maintain effective internal control systems and risk management practices; and		
(xiv)	whether you are free from any business or other relationship which could materially pose a conflict of interest or interfere with the exercise of his judgement when acting in the capacity of a key responsible person which would be disadvantageous to BHB or BHB's interest.		
<b>Financial Integrity</b>			
(i)	whether you have been and will be able to fulfil his financial obligations, whether in Malaysia or elsewhere, as and when they fall due;		
(ii)	whether you have been the subject of a judgement debt which is unsatisfied, either in whole or in part, whether in Malaysia or elsewhere.  For example have you been adjudged as a bankrupt or involved in a bankruptcy proceeding		

I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declaration Act, 1960.

.....  
(Signature of Key Responsible Person making the declaration)

Name:

Date:

in the presence of

.....  
(Signature of Company Secretary of BHB)

Name:

Date:

**APPENDIX 2**

1.	Section 126 of BAFIA states:	<i>The Bank or the Minister may generally in respect of this Act, or in respect of any particular provision of this Act, or generally in respect of the conduct of all or any of the licensed or scheduled businesses, issue such guidelines, circulars, or notes as the Bank or the Minister may consider desirable.</i>
2	Section 53A of IBA	<i>The Central Bank or the Minister may, from time to time, issue such guidelines, circulars or notes as the Central Bank or the Minister may deem expedient or necessary for carrying into effect the objects of this Act</i>
3	Section 201 of IA states :	<i>The Bank may issue guidelines, circulars, or notices in respect of this Act relating to the conduct of the business and affairs of a licensee.</i>
4	Section 69 of TA states :	<i>The Director General or the Minister may, from time to time, issue such guidelines, circulars or notes as the Director General or the Minister may deem expedient or necessary for carrying into effect the objects of this Act.</i>
5	Section 56 of BAFIA states :	<p><i>1) No person shall be appointed or elected, or accept appointment or election, as a director, manager, secretary, or other officer concerned in the management, of a licensed institution:-</i></p> <p><i>(a) if he is a bankrupt, has suspended payments, or has compounded with his creditors, whether within or outside Malaysia;</i></p> <p><i>(b) without prejudice to paragraph (c), if a charge for a criminal offence relating to dishonesty, fraud or violence under any written law punishable with imprisonment for one year or more, whether by itself, or in lieu of, or in addition to, a fine, has been proved against him in any court within or outside Malaysia;</i></p> <p><i>(c) if a charge for any offence under this Act has been proved against him;</i></p> <p><i>(d) if there has been made against him any order of detention, supervision, restricted residence, banishment or deportation, or if there has been imposed on him any form of restriction or supervision by bond or otherwise, under any law relating to</i></p>

		<p><i>prevention of crime, or to preventive detention for prevention of crime or drug trafficking, or to restricted residence, or to banishment or immigration; or</i></p> <p><i>(e) if he has been a director of, or directly concerned in the management of, any corporation which is being or has been wound up by a court or other authority competent to do so within or outside Malaysia, or of any licensed institution, the licence of which has been revoked under this Act.</i></p>
6	Section 23 of IBA states:	<p>1) <i>Without prejudice to anything contained in the Companies Act 1965, any person who is a director, manager, secretary or other officer concerned in the management of an Islamic bank shall cease to hold office:-</i></p> <p><i>(a) if he becomes a bankrupt, suspends payment or compounds with his creditors; or</i></p> <p><i>(b) if he is convicted of an offence involving dishonesty or fraud...</i></p>
7	Section 70 states:	<p>1) <i>No licensee, and no controller of a licensee, shall appoint a person as director or chief executive officer unless it has obtained the prior written approval of the Bank for the proposed appointment.</i></p>
8	Section 31(1) of TA states :	<p>1) <i>Without prejudice to anything contained in the Companies Act 1965, any person who is a managing director, director, chief executive, principal officer or controller of an operator shall cease to hold office:-</i></p> <p><i>(a) if he becomes bankrupt;</i></p> <p><i>(b) if he assigns his estate for the benefit of his creditors or makes an arrangement with his creditors pursuant to any law relating to bankruptcy; or</i></p> <p><i>(c) if he is convicted of an offence involving dishonesty or fraud</i></p>