

GUIDELINES FOR THE FORMATION OF NOMINEE COMPANIES TO COMPLY WITH FIC GUIDELINES

These guidelines underline the policy adopted following mutual consultations between the Foreign Investment Committee (FIC) of the one part and the Depository in conjunction with the various authorities of the other part in respect of the issue of foreign ownership of publicly quoted shares held by nominee companies under the CDS environment.

The result of this policy decision can be summarised under Rule 33.09 of the Rules of Bursa Malaysia Depository Sdn. Bhd.

In the premises any existing nominee company acting for both Malaysian as well as foreigners will have to choose whether to act for either one or the other in respect of deposited securities. Its present Memorandum and Articles of Association would have to be amended accordingly.

The following points serve as guidelines for the formation of nominee (Tempatan) as well as nominee (Asing) companies-

1. Every nominee company intending to maintain an account with the Depository shall adopt names with either the words (Tempatan) or (Asing) to maintain easy identification. The Registrar of Companies (ROC) has agreed to the proposals to standardise all names of nominee companies such that –

(i) All nominee companies acting for Malaysian only shall be identified with the word “Tempatan” in brackets, eg.

ABC Nominees (Tempatan) Sdn Bhd.

(ii) All nominee companies acting for foreigners shall be identified with the word “Asing” in brackets, eg.

ABC Nominees (Asing) Sdn. Bhd.

2. Note that the existing nominee company may continue to act for both Malaysian and foreign interests in respect of non-prescribed counters, i.e. the restriction on acting for either Malaysian or foreigner is only in respect of deposited securities.
3. The Memorandum of Association of any nominee (Tempatan) Company shall include a provision to the effect that notwithstanding any of the objects specified therein the said nominee company shall, in respect of any deposited security as defined under section 2 of the Securities Industry (Depository) Act 1991, perform all duties and obligations pertaining to such objects only for and on behalf of Malaysians.
4. In respect of any nominee (Tempatan) company, the definition of the word Malaysian shall be included in the Definition section, as the case may be, as stated under the specimen below.

**SPECIMEN PROVISIONS FOR NOMINEE (ASING)
COMPANIES**

SPECIMEN

THE COMPANIES ACT 1965

COMPANY LIMITED BY SHARES

MEMORANDUM OF ASSOCIATION

OF

NOMINEES (ASING) SDN. BHD.

1. The name of the Company is ___ Nominees (Asing) Sdn. Bhd.
2. The registered office of the Company will be situated in ___ Malaysia.
3. The objects for which the Company is established are:-
 - (1) To act as nominees, agents or trustees for foreign beneficial owners of stocks, shares, bonds, debentures, loan stock, obligations, or other securities howsoever issued or created by any company or public or statutory body.
 - (2) To do all things necessary to effect the registration as legal owners of any shares, stocks, bonds, obligations, loan stock, debentures or other securities owned beneficially by foreigners.
 - (3) To collect and, pass on the benefits of any dividends, bonuses and any other rights

associated with any shares, stocks, bonds, obligations, loan stock, debentures or other security to the foreign beneficial owners of such shares, stocks, bonds, debentures, loan stock or other securities.

- (4) To effect the voting rights of the shares owned by the foreign beneficial owners in accordance with the Companies Act 1965, the Securities Industry (Depository) Act 1991 and any Regulations pertaining thereto and with any guidelines established by the Foreign Investment Committee.
- (5) To act as nominees, trustees or agents for the receiving, holding, payment, loan, repayment, transmission, collection and investment of money and for the purchase, sale, improvement, development, holding and management of any personal or real property (movable or immovable) of all kinds, nature, descriptions or tenure or any rights or interest therein, including business concerns and undertakings.
- (6) To open maintain and operate Securities Accounts with the Depository under the Company's name for and on behalf of foreigners and to obtain necessary approvals, if any, for the acquisition or disposal of any shares, stocks, bonds, obligations, loan stock, debentures or other security in such manner as may be required under any Malaysian law or governmental guidelines.
- (7) That the nominee company shall only hold deposited securities for one beneficial owner in respect of each securities account opened by the nominee company with the Depository and that the nominee company shall furnish to the Depository the names of the beneficial owners of the deposited securities.
- (8) To execute and enforce all rights and powers for and on behalf of its foreign

beneficial owners, conferred by or incident to the ownership of any such shares, stock, obligation or other securities and to provide managerial and other executive, supervisory and consultant services for or in relation to any company in which the company is interested upon such terms as may be thought fit.

- (9) To undertake and execute any trust the undertaking whereof may seem desirable and also to undertake the office of custodian, receiver, manager, treasurer, auditor, trustee, executor or administrator or any other office of trust or confidence and to perform execute and discharge the duties and obligations of and incidental to any such office.
- (10) To undertake, transact or carry on all kinds of agency business and to render services of all kinds and in relation thereto to manage, supervise or control the business, property, operations or obligations of or belonging to any company or any charitable or other institutions or any public or statutory or private body or person or any principal or the Company.
- (11) To make deposits, enter into recognisances, bonds, guarantees, indemnities or otherwise give security for the due execution, performance or discharge (whether by the Company or any syndicate or officer of the company or by any other person or persons) of the duties of or relating to any office which the Company has undertaken to execute perform or discharge.
- (12) To take or otherwise acquire and hold or to buy, sell, exchange, surrender, convert, dealing or otherwise dispose of and turn to account shares, stock (whether such shares or stock are fully paid or have an uncalled liability), debentures, debentures stock, annuities, bonds, notes, obligations,

securities and investments of any other Company or options or rights in respect thereof.

- (13) To keep for any principal of the Company registers and other records relating to shares, stock, debentures, debenture stock, bonds, funds, securities or other obligations of any kind or to personal or real property (movable or immovable) of all kinds, nature, description or tenure or any rights or interest therein and to undertake any duties in relation thereto or the registration of transfers, assignments, mortgages, debentures, charges and other dealings, cautions, deeds, documents, instruments or things or the issue of certificates or otherwise.
- (14) To receive deeds or documents of title, securities or other valuables or property on deposit or for safe custody or management.
- (15) To negotiate or pay in advance coupons and interest on public loan or securities.
- (16) To tender and to farm revenues, taxes, privileges, dues, customs and duties of any government or authority, supreme, municipal, local or other wise.
- (17) To accept or take transfers of mortgages, charges, pledges or other securities on real or personal property (movable or immovable) of all kinds, nature, description or tenure or any rights or interest therein and to transfer or assign the same and to exercise all rights and powers as mortgagee or chargee or pledgee,
- (18) To hold, maintain, improve and deal with as may be expedient any property which the Company may become entitled to by foreclosure or otherwise and for the purpose of better realising any security to purchase the equity or redemption of or

any share or other interest in any property upon which or upon any interest in which the Company may have a charge.

- (19) To undertake and execute all or any of the things specified in this clause either gratuitously or for any reward or consideration of such amount or value to be paid or satisfied in such manner as the Company shall think fit or to appoint and remunerate any directors, accountants or other experts or agents for undertaking and executing any of the things aforesaid.
- (20) To carry on any other trade or business whatsoever which can, in the opinion of the Company be advantageously or conveniently carried on by the Company by way of extension of or in connection with, or is calculated directly or indirectly to develop any branch office of the Company's business or to increase the value of or turn to account any of the Company's assets, property or rights.
- (21) To subscribe for, underwrite, buy or otherwise acquire and hold, and to sell, exchange or otherwise dispose of stocks, shares, funds, bonds, debentures, debenture stock, obligations, securities and investments, however constituted and wherever issued, and in any options or rights in respect thereof.
- (22) To underwrite, obtain options over, purchase or otherwise acquire, hold, grant options over and sell securities of all kinds, including shares stocks, debentures, debenture stock bond and other obligations issued or guaranteed by any government, state public body, company or corporation whatsoever in any part of the world and to exercise or enforce all rights and powers conferred by or incident to the ownership or holding of any such securities.

- (23) To advance and lend money give credit to or subsidise any person or persons firm or company on such terms as any from time to time be considered expedient and with or without security.
- (24) To do all such other things as in the opinion of the Company or its Directors are incidental or conducive to the attainment or any of the above objects of a like or similar nature.

For the purposes of this Memorandum of Association the word-

“company”, except where used in reference to the Company, shall be deemed to include any partnership or other body or persons, whether incorporated or not incorporated and government or authority, supreme or municipal and whether local or otherwise;

“foreign” or “foreigner” shall mean any entity other than a Malaysian;

“Malaysian” shall mean-

- (a) a Malaysian citizen; or
- (b) a nominee company incorporated in Malaysia which is identified with the word “(Tempatan)” in its name and performs the services of a nominee, agent or trustee solely for or on behalf of legal or beneficial owners of securities who are Malaysians;
- (c) a company incorporated in Malaysia other than the company referred to in paragraph (b) above and Malaysians are entitled to exercise or control the exercise of fifty per centum or more of the voting rights of such company; or
- (d) any other legal entity incorporated or created under any Malaysian law.

IT IS DECLARED that the objects specified in each of the paragraphs of this clause shall be regarded as independent

main objects and accordingly shall be in no way limited or restricted by reference to or inference from the objects indicated in any other paragraph or the name of the Company or the juxtaposition of two or more objects and general words shall not in any way be restricted in their meaning by the use of particular words, and in the event of ambiguity, this clause and every paragraph thereof shall be construed in such a way as to widen and not to restrict the powers of the Company.

NOTWITHSTANDING anything specified in the aforesaid objects, it is hereby declared that the Company shall, in respect of any deposited security as defined under section 2 of the Securities Industry (Central Depositories) Act 1991, perform all duties and obligations pertaining to such objects only for and on behalf of foreigners and in so far as the Company shall be in compliance with any guidelines or requirements issued, from time to time, by the Foreign Investment Committee (Jawatan Pelaburan Asing).

4. The liability of the members is limited.
5. The capital of the Company is _____ Thousand Ringgit (RM __.00) divided into __ shares of RM 1.00 each, with such rights, privileges and conditions attached thereto as are provided by the Articles of Association of the Company for the time being with power to increase and reduce the capital of the Company and to divide the shares in the capital for the time being into several classes and to attach thereto respectively such preferential, deferred, qualified or special right, privileges or conditions as may be determined by or in accordance with the Articles of Association of the Company for the time being and to vary, modify or abrogate any such rights privileges or conditions in such manner as may be permitted by Companies Act 1965 (or any statutory modification or re-enactment thereof for the time being in force) or provided by the Articles of Association of the Company for the time being.

**SPECIMEN PROVISIONS FOR NOMINEE (TEMPATAN)
COMPANIES**

SPECIMEN

THE COMPANIES ACT 1965

COMPANY LIMITED BY SHARES

MEMORANDUM OF ASSOCIATION

OF

NOMINEES (TEMPATAN) SDN. BHD.

1. The name of the Company is__Nominees (Tempatan) Sdn. Bhd.
2. The registered office of the Company will be situated in __ Malaysia.
3. The objects for which the Company is established are:-
 - (1) To act as nominees, agents or trustees for Malaysian beneficial owners of stocks, shares, bonds, debentures, loan stocks, obligations, or other securities howsoever issued or created by any company or public or statutory body.
 - (2) To open maintain and operate securities accounts with the Depository under the Company's name for and on behalf of Malaysians and to obtain necessary approvals, if any, for the acquisitions or disposal of any shares, stocks, bonds, obligations, loan stock, debentures or other security in such manner as may be required under any Malaysian law or governmental guidelines.
 - (3) that the nominee company shall only hold deposited securities for one beneficial owner in respect of each securities account opened by the nominee company with the Depository and that the nominee company

shall furnish to the Depository the names of the beneficial owners of the deposited securities.

For the purposes of this Memorandum of Association the word-

“foreign” or “foreigner” shall mean any entity other than a Malaysian;

“Malaysian” shall mean-

- (a) a Malaysian citizen; or
- (b) a nominee company incorporated in Malaysia which is identified with the word “(Tempatan)” in its name and performs the services of a nominee, agent or trustee solely for or on behalf of legal or beneficial owners of securities who are Malaysians; or
- (c) a company incorporated in Malaysia other than the company referred to in paragraph (b) above and Malaysians are entitled to exercise or control the exercise of fifty per centum or more of the voting rights of such company; or
- (d) any other legal entity incorporated or created under any Malaysian law.

NOTWITHSTANDING anything specified in the aforesaid objects, it is hereby declared that the Company shall, in respect of any deposited security as defined under section 2 of the Securities Industry (Central Depositories) Act 1991, perform all duties and obligations pertaining to such objects only for and on behalf of Malaysians and in so far as the Company shall be in compliance with any guidelines or requirements issued, from time to time, by the Foreign Investment Committee (Jawatan Pelaburan Asing).

- (4) The liability of the members is limited
- (5) The capital of the Company is _____ Thousand Ringgit (RM _ .00) divided into ___ shares of RM

1.00 each, with such rights, privileges and conditions attached thereto as are provided by the Articles of Association of the Company for the time being with power to increase and reduce the capital of the Company and to divide the shares in the capital for the time being into several classes and to attach thereto respectively such preferential, deferred, qualified or special right, privileges or conditions as may be determined by or in accordance with the Articles of Association of the Company for the time being and to vary, modify or abrogate any such rights privileges or conditions in such manner as may be permitted by Companies Act 1965 (or any statutory modification or re-enactment thereof for the time being in force) or provided by the Articles of Association of the Company for the time being.

Note:

The clauses above shall be incorporated into the existing Memorandum of Association of nominee companies who hold deposited securities for beneficial owners who are Malaysians.

SPECIMEN

The Companies Act, 1965

PRIVATE COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION

OF

**CLAUSES TO BE INCLUDED IN THE ARTICLES OF
ASSOCIATION OF NOMINEE (ASING) COMPANY**

INTERPRETATION

Interpretation Clause

In these Articles the following expressions shall where the context admits have the following meanings:-

Words	Meanings
Bank Shares	shares issued by any Bank or Financial Institution licensed under section 6 (3) of

the Banking and Financial Institutions Act 1989

Depositor	a Securities Account holder
Depository	Bursa Malaysia Depository Sdn. Bhd.
Deposited Security	shall have the same meaning as that assigned to it in section 2 of the Securities Industry (Central Depositories) Act 1991
FIC	Foreign Investment Committee of the Economic Planning Unit of the Prime Minister's Department, Jalan Dato Onn, 50502 Kuala Lumpur.
FIC guidelines	guidelines issued from time to time by the FIC and includes any guidelines amendments thereto
Foreigner	person other than a Malaysian
Issuer	shall have the same meaning as that assigned to it in section 2 of the Securities Industry (Central Depositories) Act 1991
Malaysian	shall mean- <ul style="list-style-type: none">(a) a Malaysian citizen; or(b) a nominee company incorporated in Malaysia which is identified with the word "(Tempatan)" in its name and performs the services of a nominee, agent or trustee solely for or on behalf of legal or beneficial owners of securities who are Malaysian; or(c) a company incorporated in Malaysia other than the company referred to in paragraph (b) above and Malaysians are entitled to exercise or control the exercise of

fifty per centum or more of the voting rights of such company; or

- (d) any other legal entity incorporated or created under any Malaysian law.

Prescribed Securities securities prescribe by the Stock Exchange to be deposited with the Depository under and in accordance with section 14 of the Securities Industry (Central Depositories) Act 1991

Restricted restricted shares of a local counter quoted separately local shares the official list of the Stock Exchange which has been separated from the foreign counter of the same share also quoted on the official list upon attainment of the quota or restriction limit expressed in the Memorandum and Articles of Association of the Issuer.

Restricted shares shares in respect of which a quota or restriction limit has been imposed by the FIC, whether expressed in the Memorandum and Articles of Association of the Issuer or otherwise, pertaining to the percentage of the issued share capital of the issuing company which may be held or maintained by foreigners (and includes restricted local shares)

Rules the Rules of Bursa Malaysia Depository Sdn. Bhd.

Securities Account shall have the same meaning as that assigned to it under section 2 of the Securities Industry (Central Depositories) Act 1991

X.0 COMPANY PROCEDURES IN RESPECT OF DEPOSITED SECURITIES

X.1 Company to comply with Rules

The Company, in respect of opening, operating and maintaining of Securities Accounts with the Depository shall comply with the provisions of the Rules relating to nominee companies under chapter 33.0 thereof.

X.2 Company to act only for foreigners

The Directors of the Company shall ensure that the Company shall, in respect of Prescribed Securities, only act for foreigners (and not Malaysian) and shall treat itself as a foreigner for the purposes of compliance with the FIC guidelines.

X.3 Company to act only for one beneficial owner

That the nominee company shall only hold deposited securities for one beneficial owner in respect of each securities account opened by the nominee company with the Depository and that the nominee company shall furnish Depository the names of the beneficial the deposited securities.

X.4 Company to monitor limitations on foreign equity ownership

In respect of any Restricted share which have become a Prescribed Security, the Company shall, at its own initiative, monitor the FIC Guidelines pertaining to foreign equity ownership or participation limit or quota, if any, imposed upon the issuing company of such shares as may be stated in the Memorandum and Articles of Association of such issuing company and keep itself, as well as any foreigner for whom the Company is acting for or on behalf of, informed of such limit or quota.

X.5 Acquisition of Restricted shares

Where, in respect of any Restricted share which has become a Prescribed security the Company intends to acquire for or on behalf of any single foreign client more that Ringgit five million (RM5,000,000.00) or five (5%) percent of the issued share capital of the issuer whichever is the

lesser, the Company shall give notice to the issuing company or its company registrars, as the case may be in writing and, where the FIC guidelines require such foreign client to seek FIC approval before making such acquisition, apply to the FIC for such approval for and on behalf of its client.

X.6 Seeking of approval for acquisition of Restricted local shares

Notwithstanding anything in this Articles of Association where the Restricted share which has become a Prescribed Security belongs to a counter which has been split into two counters, one of which is foreign and the other local, the Company shall, immediately upon acquiring any Restricted local share, seek approval from the issuer or its company registrar, as the case may be, to re-register the Restricted local share as a foreign share.

X.7 Voting rights

Where, in respect of any Restricted local share which have become a Prescribed Security and where such share has been placed in suspense in accordance with section 41 of the Securities Industry (Central Depositories) Act 1991 or any regulations made thereto, it shall be the responsibility of the Company before acquiring such security for or on behalf of any foreigner to inform the foreigner that notwithstanding any previous arrangement or agreement made between the foreigner and the Company or any of its parent or affiliated subsidiaries, the Company shall not be able to accept any instructions from him in respect of the voting rights underlying such share since it has been placed in suspense. Where the foreigner intends to give instructions to the Company to exercise his voting rights, whether by proxy or otherwise, the Company shall only be able to do so when its application to the issuer or its company registrar, as the case may be, for permission to transfer the restricted local share in suspense to become a foreign share has been approved whereupon the issuer or its company

registrar, as the case may be, may approve any application on a "first come first serve" basis depending on whether the quota or limit placed on the Restricted share has already been reached.

X.8 Assistance to the Issuer on the part of the Company

Notwithstanding anything in this Memorandum and Articles of Association, where the FIC has recommended the issuer to restructure its composition of shareholders whereupon the issuer has requested the Company to reduce or dispose of such portion of the Restricted shares, whether Restricted local shares in suspense or otherwise, held under its securities accounts, the Company shall do all acts and things necessary to meet the issuer's request to enable the issuer to comply with the recommendations made by the FIC.

X.9 Acquisition of Bank shares

Notwithstanding clause X.4 hereof where, in respect of any Bank share which has become a Prescribed security, the Company shall not acquire at all any of the issued share capital of the issuing bank when the quota for such shares to be held by foreigners has already been reached, whether from the stock market of the Stock Exchange or through any off-market transfers or deposits, in the form of Deposited Securities credited into any of the Company's Securities Accounts without prior approval in writing from the issuing company or its company registrars, as the case may be.

CLAUSES TO BE INCLUDED IN THE ARTICLES OF ASSOCIATION OF NOMINEE (TEMPATAN) COMPANY

INTERPRETATION

Interpretation Clause

In these Articles the following expressions shall where the context admits have the following meanings:-

Words	Meanings
Central Depository	Bursa Malaysia Depository Sdn. Bhd.
Depositor	a Securities Account holder
Deposited Security	shall have the same meaning as that assigned to it in section 2 of the Securities Industry (Central Depositories) Act 1991
FIC	Foreign Investment Committee of the Economic Planning Unit of the Prime

Minister's Department, Jalan Dato Onn,
50502 Kuala Lumpur.

FIC guidelines	Guidelines issued from time to time by the FIC and includes any guidelines amendments thereto.
Foreigner	person other than a Malaysian
Malaysian	shall mean-
	(a) Malaysian citizen; or
	(b) a nominee company incorporated in Malaysia which is identified with the word "(Tempatan)" in its name and performs the services of a nominee, agent or trustee solely for or on behalf of legal or beneficial owners of securities who are Malaysian;
	(c) a company incorporated in Malaysia other than the company referred to in paragraph (b) above and Malaysia are entitled to exercise or control the exercise of fifty per centum or more of the voting rights of such company; or
	(d) any other legal entity incorporated or created under any Malaysian law as Malaysians.
Prescribed Securities	prescribed by the Stock Exchange to be deposited with the Depository under and in accordance with section 14 of the Securities Industry (Central Depositories) Act 1991
Rules	The Rules of Bursa Malaysia Depository Sdn. Bhd.
Securities Account	shall have the same meaning as that assigned to it under section 2 of the Securities Industry (Central Depositories) Act 1991

X.0 COMPANY PROCEDURES IN RESPECT OF DEPOSITED SECURITIES

X.1 Company to comply with Rules

The Company, in respect of opening, operating and maintaining of Securities Accounts with the Depository shall comply with the provisions of the Rules relating to nominee companies under chapter 33.0 thereof.

X.2 Company to act only for Malaysians

The Directors of the Company shall ensure that the Company shall, in respect of Prescribed Securities, act only for Malaysians (and not Foreigners) and shall treat itself as Malaysians for the purposes of compliance with the FIC guidelines.

X.3 Company to act only for one beneficial owner

that the nominee company shall only hold deposited securities for one beneficial owner in respect of each securities account opened by the nominee company with the Depository and that the nominee company shall furnish Depository the names of the beneficial the deposited securities.

APPENDIX III

UNDERTAKING BY [name of issuer of unlisted securities]

To :

Bursa Malaysia Depository Sdn. Bhd.
9th Floor Exchange Square
Bukit Kewangan
50200 Kuala Lumpur

Compliance with the Rules of Bursa Malaysia Depository Sdn. Bhd. (“the Rules of the Depository”)

In consideration of the Depository approving the application of [name of issuer of unlisted securities] (“the Company”) for the deposit of the Company’s securities [describe the securities] (“the unlisted securities”) with the Depository and for utilisation of the services and facilities made available by the Depository to the Company as an issuer of unlisted securities **WE HEREBY ACKNOWLEDGE** that the unlisted securities of the Company can remain deposited with the Depository and utilisation of any of such services and facilities by the Company as an issuer of unlisted securities can continue only during the pleasure of the Depository and **WE HEREBY UNDERTAKE AND AGREE** to comply with the Rules of the Depository which shall be in force from time to time, insofar as the same shall apply to the Company (“the Applicable Rules of the Depository ”) and amend the Articles of Association of the Company (“the Articles”) accordingly wherever necessary to ensure that the Articles give effect to or are consistent with the Applicable Rules of the Depository.

The above Undertaking has been signed by me for and on behalf of the Company as [title] of the Company pursuant to authority granted to me by resolution of the board of directors of the Company on

Date :

Signature :

Name :

NRIC No. :

APPENDIX IV

**Undertaking by (name of the trustee of an exchange traded fund)
(Rule 17.01(2))**

To

Bursa Malaysia Depository Sdn. Bhd.
9th Floor, Exchange Square
Bukit Kewangan
50200 Kuala Lumpur.

Compliance with the Rules of Bursa Malaysia Depository Sdn. Bhd. ("the Depository")

In consideration of the Depository allowing the deposit of(name of the exchange traded fund) exchange traded fund ("ETF") units with the Depository and for utilisation of the services and facilities made available by the Depository to the ETF, WE, [name of trustee]("the Trustee") HEREBY ACKNOWLEDGE that the ETF units shall remain deposited with the Depository and utilisation of any such services and facilities by the ETF shall continue only during the pleasure of the Depository and WE HEREBY UNDERTAKE AND AGREE to comply with the Rules of the Depository, the Procedures Manual, the provisions of the Securities Industry (Central Depositories) Act 1991 ("SICDA"), the regulations made under SICDA and any directions issued by the Depository, which shall be in force from time to time, insofar as the same shall apply to the ETF.

The above Undertaking has been signed by me for and on behalf of the Trustee as(title) of the Trustee pursuant to the authority granted to me by resolution of the board of directors of the Trustee on

Date:

Trustee:

Signature:

Name:

NRIC No.: