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Bank Negara Malaysia's Policy Document on *Rahn* (Collateral)

| by Nurul Husna Binti Ahmad and Nur Atiqah Binti Ahmad Zairul |

Bank Negara Malaysia has issued a policy document on *Rahn* (collateral) ("*Rahn* Policy Document"), which aims to:

-) set out the Shariah requirements applicable to *Rahn* contracts;
-) set out the operational requirements for the implementation and operation of *Rahn*; and
-) promote end-to-end compliance with Shariah requirements that further strengthen Islamic financial institutions ("IFIs") and promote sound banking practices.

The *Rahn* Policy Document specifies the Shariah and operational requirements in respect of the application of a *Rahn* contract in banking products and services offered by IFIs.

It will be effective from 1 August 2019, except for the requirements relating to the submission by each IFI of their respective implementation plans to comply with the *Rahn* Policy Document, which takes effect immediately upon issuance of the *Rahn* Policy Document.^[1] The IFIs are required to submit their respective implementation plans to the Islamic Banking & Takaful Department of Bank Negara Malaysia by 19 October 2018.^[2]

Several months prior to the issuance of the *Rahn* Policy Document, and in respect of the collateral recognised by Shariah in a *Rahn* contract, the Shariah Advisory Council of Bank Negara Malaysia had (on 28 November 2017) issued Shariah rulings in respect of the practice of accepting deposits or investment accounts by the IFIs to secure financial obligations ("SAC Rulings"). Such earlier SAC Rulings are now reflected as part of the requirements of the *Rahn* Policy Document in relation to:

-) the type of collateral recognised by Shariah in a *Rahn* contract which include financial assets that are Shariah-compliant, partially Shariah-

compliant or Shariah non-compliant;^[3] and

) the requirement that the liability or obligation owed by the customer to the IFIs does not arise from a loan contract (*qard*).^[4]

Under the *Rahn* Policy Document, the IFIs are required to obtain the consent of the customer or the parties to the collateral in various circumstances^[5] relating to the collateral documentation and changes affecting the collateral. As for existing collateral documentation (i.e. documentation used prior to the issuance of the *Rahn* Policy Document), the IFIs may continue using such existing collateral documentation subject to making any necessary modifications or amendments to comply with the Shariah requirements as stated in the *Rahn* Policy Document.^[6]

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^[1] *Rahn* Policy Document, para. 4.1

^[2] *Ibid*, para 33

^[3] *Ibid*, para 14.1(b)

^[4] *Ibid*, para 15.3(b)

^[5] *Ibid*, para 29.20

^[6] *Ibid*, para. 29.21