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Securities Commission's Regulation of Property Crowdfunding Platforms

On 17 May 2019, the Securities Commission released a new framework for property crowdfunding platforms (**PCF**) by introducing a new **Chapter 16** to its **Guidelines on Recognized Markets**.

The framework is aimed at promoting an alternative source of financing for first-time homebuyers in Malaysia, who often find it challenging to obtain bank loans. Through this initiative, the government is looking to spur the property market in Malaysia.

This amendment is part of a series of amendments to the Guidelines which were recently introduced by the Securities Commission to cater for new forms of trading venues, marketplaces and facilities — namely, Digital Asset Exchanges (DAX), Equity Crowdfunding Platforms (ECF) and Peer-to-Peer Financing Platforms (P2P).

A PCF is defined in the Guidelines as an electronic platform that facilitates:

(i) crowdfunding for residential property; and

(ii) secondary trading of the investment note or Islamic investment note.[1]

Any person who is interested in operating a PCF must apply to the Securities Commission to be registered as a recognised market operator.

To be eligible, the applicant must be locally incorporated and have a minimum RM10 million in shareholders' funds, of which RM5 million must be set aside and maintained in a segregated bank account at all times throughout the operation of the platform, and only utilised to facilitate and ensure the exit certainty of the investment notes or Islamic investment notes hosted on its platform.[2]

The Guidelines prescribe rules governing recognised market operators in general, which include rules on the safeguarding of client assets, record-keeping and qualifying criteria for key personnel responsible for its operations or financial management.[3]

Chapter 16 of the Guidelines prescribes rules governing PCF specifically which are aimed at protecting the interests of investors and also homebuyers. For example, the PCF operators must have in place policies and procedures for managing conflict of interest, risk management, transparency and exit certainty.[4]

In addition to PCF operators, Chapter 16 also prescribes eligibility criteria and obligations of the homebuyers.[5] The properties that may be hosted on a PCF are also subject to eligibility criteria, which are as follows:[6]

(a) completed residential property located in Malaysia;

(b) with a valid and effective legal title with no encumbrances attached;

(c) been issued a certificate of completion and compliance by the relevant authority; and

(d) valued at RM500,000 or below.

A homebuyer may use the PCF platform to seek residential property financing of up to a limit of 90% of the value of the residential property.[7] Notwithstanding this, it is important for homebuyers to note that they are not allowed to retain any amount raised during the tenor of the property crowdfunding scheme which exceeds the target financing amount.[8]

While some member states of ASEAN, such as Indonesia and Singapore, have issued crowdfunding regulations, Malaysia is the first to issue crowdfunding regulations tailored specifically for the real estate sector and, in particular, individual homebuyers.

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[1] Chapter 16 of the Guidelines, para 16.01

[2] Chapter 16 of the Guidelines, paras 16.03 and 16.04

[3] Parts B to E of the Guidelines

[4] Chapter 16 of the Guidelines

[5] Chapter 16 of the Guidelines, para 16.14 to para 16.16

[6] Chapter 16 of the Guidelines, para 16.17

[7] Chapter 16 of the Guidelines, para 16.19

[8] Chapter 16 of the Guidelines, para 16.20