



SHARI'A COMPLIANT CIUs MODULE



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MODULE	SCC: Shari'a Compliant CIUs
CHAPTER	SCC-A: Introduction

SCC-A.1 Purpose

Executive Summary

SCC-A.1.1 This Module sets out the Central Bank of Bahrain's (CBB) requirements for Shari'a Compliant CIUs.

Legal Basis

SCC-A.1.2 This Module contains the CBB's Directive (as amended from time to time) regarding Shari'a Compliant CIUs and is issued under the powers available to the CBB under Article 38 of the Central Bank of Bahrain and Financial Institutions Law 2006 ('CBB Law').

SCC-A.1.3 For an explanation of the CBB's rule-making powers and different regulatory instruments, see Section UG-1.1.



MODULE	SCC: Shari'a Compliant CIUs
CHAPTER	SCC-A: Introduction

SCC-A.2 Module History

Evolution of Module

SCC-A.2.1 This Module was first issued in April 2007, as part of the initial release of the contents of Volume 6 (Capital Markets); it was given an effective date of 1 June 2007, with a one-year transition for existing CIUs.

SCC-A.2.2 The Module was subsequently revised in April 2012, by the addition of several sections catering for the role and responsibilities of relevant persons, the registration and authorisation requirements, corporate governance, and other relevant Chapters and has been reissued as Volume 7.

SCC-A.2.3 A list of recent changes made to this Module subsequent to the April 2012 revision is provided below:

Module Ref.	Change Date	Description of Changes

SCC-A.2.4 Further guidance on the implementation and transition to Volume 7 (Collective Investment Undertakings) is given in Module ES (Executive Summary).

Superseded Requirements

SCC-A.2.5 This Module supersedes the following provisions contained in circulars or other regulatory instruments:

Circular / other reference
Volume 6 Module CIU

SCC-A.2.6 Further guidance on the implementation and transition to Volume 7 (Collective Investment Undertakings) is given in Module ES (Executive Summary).



MODULE	SCC: Shari'a Compliant CIUs
CHAPTER	SCC-B: Scope of Application

SCC-B.1 Requirements for Shari'a Compliant CIUs

Definition

SCC-B.1.1 Shari'a compliant CIUs are CIUs that hold themselves out to be managed in accordance with Shari'a principles.

Application

SCC-B.1.2 This Module applies to all Bahrain domiciled Shari'a compliant CIUs.

SCC-B.1.3 The Rules included in this Module are additional to other applicable Rules contained in other Modules of Volume 7.



MODULE	SCC: Shari'a Compliant CIUs
CHAPTER	SCC-1: General Requirements

SCC-1.1 General Requirements

SCC-1.1.1 Shari'a compliant CIUs must ensure that their prospectus contains provisions describing the Shari'a compliant nature of the CIU, the process for achieving such compliance, and the names of the Shari'a Board Members/Advisor(s) appointed under Rule SCC-2.1.1.

SCC-1.1.2 Shari'a compliant CIUs must comply with all applicable standards issued by the Accounting and Auditing Organisation for Islamic Financial Institutions (AAOIFI).

SCC-1.1.3 All relevant persons of Shari'a compliant CIUs must comply with the provisions of IFSB-6 dealing with "Guiding Principles on Governance for Islamic Collective Investment Schemes".

SCC-1.1.4 Shari'a compliant overseas domiciled CIUs, are authorised/registered in accordance with the requirements outlined in Module ARR.

SCC-1.1.5 In authorising/registering overseas domiciled CIUs which are or purport to be Shari'a compliant CIUs, the CBB requires such CIUs to meet the requirements outlined in this Module. Alternatively, the CBB may accept other specific arrangements as having equivalent effect.

SCC-1.1.6 The operator of Shari'a compliant CIUs must ensure that the operations and investments of the CIU are subject to compliance monitoring and reporting by its Shari'a Board Members/Advisors, in accordance with applicable AAOIFI standards. For products and activities not covered by AAOIFI, International Financial Reporting Standards (IFRS) / International Accounting Standards (IAS) must be followed.

SCC-1.1.7 The financial accounts of a Shari'a compliant CIU must be prepared in accordance with AAOIFI standards. For instances not covered by AAOIFI standards, IFRS must be followed, together with an explanation in the notes to the financials of such deviation.

SCC-1.1.8 The audit of a Shari'a compliant CIU must be carried out in accordance with the relevant AAOIFI standards.



MODULE	SCC: Shari'a Compliant CIUs
CHAPTER	SCC-2: Shari'a Supervisory Board

SCC-2.1 Appointment of Shari'a Supervisory Board Members/Advisor(s)

SCC-2.1.1 The operator of Shari'a compliant CIUs must appoint a Shari'a Supervisory Board/Shari'a Advisor(s). The Sharia Board must comprise of a minimum of three Shari'a scholars as members, approved by the board of the CIU and acceptable to the CBB, prior to their appointment and on an on-going basis subsequently. Alternatively, the operator may appoint a Sharia Advisor(s). In both cases, the arrangement must be in line with the prospectus of the CIU.

SCC-2.1.2 The role of a Shari'a Supervisory Board Member/Advisor requires an appropriate level of knowledge of Islamic finance and related rules and their application to the industry and a good understanding of the industry. Therefore, the CBB will normally consider a proposed Shari'a Supervisory Board Member/Advisor(s) to be suitable if he is highly experienced in this field and is a specialised jurist in Fiqh Al-Mua'malat (Islamic commercial jurisprudence) and familiar with Islamic finance.

SCC-2.1.3 The operator of Shari'a compliant CIUs must ensure the following:

- (a) Appointments, dismissals or other changes in respect of Shari'a Board Members/Advisor(s) are approved by the governing body of the CIU (i.e. its board of directors or trustees, as appropriate);
- (b) The Shari'a Board Members/Advisor(s) are independent of the CIU – amongst other things, a Shari'a Board Member/Advisor(s) must not be a director, trustee or controller of any relevant persons of the CIU or any of its relevant persons, including Sharia Advisors on the payroll of the operator;
- (c) The Shari'a Board Members/Advisor(s) are suitably qualified and experienced for their role; and
- (d) The Shari'a Board Members/Advisor(s) are given sufficient resources and access to information and personnel, in order to undertake effectively their role as Shari'a Advisors to the CIU.

SCC-2.1.4 Subsequent to the initial appointment, Shari'a compliant CIUs (retail and expert) must report without delay to the CBB and to the CIU participants, changes to their Shari'a Board Members/Advisor(s), together with an explanation for the change. All such changes must be subject to the CBB's prior written approval and reflected in an update to the CIU's prospectus (and simplified prospectus where applicable).



MODULE	SCC: Shari'a Compliant CIUs
CHAPTER	SCC-2: Shari'a Supervisory Board

SCC-2.1 Appointment of Shari'a Supervisory Board Members/Advisor(s) (continued)

SCC-2.1.5 Subsequent to the initial appointment, Shari'a compliant exempt CIUs must report without delay to the CBB and to the CIU participants, changes to their Shari'a Supervisory Board Members/Advisor(s), together with an explanation for the change. All such changes must be notified to the CBB and reflected in an update to the CIU's prospectus (and simplified prospectus where applicable).



MODULE	SCC: Shari'a Compliant CIUs
CHAPTER	SCC-2: Shari'a Supervisory Board

SCC-2.2 Role and Responsibilities of Shari'a Supervisory Board Members/Advisor(s)

SCC-2.2.1 The Shari'a Supervisory Board/Advisor(s) must ensure that the CIU's activities and the underlying investments comply with Shari'a principles.

SCC-2.2.2 The Shari'a Supervisory Board/Advisor(s) must review and approve the prospectus and documents of the CIU initially and on an ongoing basis, to ensure compliance with Shari'a standards. In doing so, they must ensure that certain prescribed additional disclosure relating to Shari'a compliance is stated in the prospectus of the CIU.

SCC-2.2.3 The Shari'a Supervisory Board/Advisor(s) must ensure, on an ongoing basis, that the underlying investments of the CIU are Shari'a compliant and that all restrictions related to the investment strategy are met.

SCC-2.2.4 The Shari'a Supervisory Board/Advisor(s) must undertake a Shari'a review of the CIU in accordance with AAOIFI standards and prepare an annual report in accordance with AAOIFI to be incorporated within the annual audited financial statements of the CIU. The annual audited financial statements of the CIU must contain a report and opinion from the CIU's Shari'a Supervisory Board/Advisor(s):

- (a) Explaining the work undertaken by them to verify compliance by the CIU with the Shari'a standards; and
- (b) Giving an opinion on the extent of the CIU's compliance with Shari'a standards.