

FAQs on IFSB 6:

Guiding Principles on Governance for Islamic Collective Investment Schemes

Q1. What is the rationale behind publishing IFSB 6?

Answer: In order to further strengthen the governance in the Islamic financial services industry (IFSI) and promote soundness and stability in the Islamic financial system, the IFSB Council, during its meeting in Jeddah in December 2005 approved the members' proposal to develop the second tier of the IFSB governance standards to focus on the collective investment schemes (CIS) that are claimed to be Sharī'ah compliant. CIS have existed and implemented in some jurisdictions with various terms such as Islamic unit trusts, Islamic mutual funds or Islamic investment funds.

Q2. How can we define Islamic Collective Investment Schemes (ICIS)?

Answer: ICIS is defined as any financial scheme which, fundamentally meets all the following terms and conditions:

- Investors pool their capital contributions in a fund (whether that fund is in a separate legal entity or is held pursuant to a contractual arrangement) by subscribing to units or shares of equal value as claims of investors' ownership to the undivided assets of the fund (which can consist of financial or non-financial assets), and give rise to the right or obligation to share in the profits or losses derived from the assets;
- The fund must be established and managed in accordance with Sharī'ah rules and principles.
- ICIS is separately and financially accountable from the managing institutions because it has its own asset-and-liabilities profile.

Q3. Can we consider Sukuk as Islamic Collective Investment Schemes (ICIS)?

Answer: In fact, Sukūk may fit into ICIS description. Nevertheless, it primarily serves certain economic purposes that may be different from the ICIS. In this regard, Sukūk is excluded from the scope of this standard. Where appropriate, regulatory and supervisory authorities (RSAs) may wish to apply certain economic tests before imposing the governance structure and processes under the Guiding Principles on Sukūk, bearing in mind that Sukūk primarily serve as a Sharī'ah-compliant alternative to conventional bonds.

Q4. What are the possible forms of ICIS?

Answer: An ICIS may take the forms of: (i) open-ended funds that will redeem their units or shares, whether on a continuous basis or periodically; (ii) closed-end funds, whether those units or shares are tradable (in regulated or unregulated securities market) or untradable; (iii)

a unit investment trust, whether on a contractual model or that of a European UCITS model; (iv) an individual fund, or an umbrella fund that comprises various sub-funds; or (v) a profit-sharing investment account (whether restricted or unrestricted), which is pooled in the form of a CIS and whereby each of the investment account holders (IAH) participate equally in income (whether profit or loss) and is generally governed by the same terms and conditions.

Q5. What are the funds that do not fall within the definition of ICIS?

Answer: The definition of ICIS shall exclude: (i) funds that are not pooled in the form of ICIS; (ii) funds established by Islamic insurance/Takāful operators (if they are attached to any Islamic insurance/Takāful policy such as retirement or education plans that are irredeemable until a certain period of maturity), as they constitute a different segment of the Islamic financial services industry and will be addressed by the IFSB in specific standards for Islamic insurance/Takāful operators; (iii) pension funds, as they are arguably a different species from ordinary CIS; and (iv) investment accounts that are not divided into units or shares.

Q6. What is the scope of ICIS Governance?

Answer: The operation of CIS potentially involves conflicts between the interests of those who invest in CIS (CIS Investors) and those who organise and operate the CIS (CIS Insiders or CIS Operators). It must be borne in mind that the general goal is not to insulate investors from suffering any market-driven loss, but rather to enable them to understand the risks pertaining to investments in specific CIS. This would reduce the CIS Investors' exposure to any loss due to misleading, manipulative, and fraudulent practices, as well as malfeasance or negligence on the part of the CIS Insiders. Indeed, the Sharī'ah itself clearly prohibits the abuse of a position of privilege and promotes integrity and fair dealing.

Q7. What are the main guiding principles of IFSB 6?

Answer: The Guiding Principles of ICIS are divided into four parts:

I. General Governance Approach of ICIS

The ICIS's highest governing body (GB) shall establish a comprehensive governance policy framework which protects the independence and integrity of each organ of governance and sets out mechanisms for proper control and management of conflicts of interest and duty.

II. Transparency in Disclosure

ICIS Insiders shall ensure that disclosure of material information is not only done with appropriate accuracy and timeliness, but also presented in an investor-friendly manner.

III. Compliance with Sharī'ah Rules and Principles

ICIS's GB shall ensure that appropriate systems and mechanisms for monitoring ex-ante and ex-post Sharī'ah compliance are in place and are effective.

IV. Additional Protection for ICIS Investors

The ICIS's GB shall ensure that any movement of the ICIS's funds or assets, to the extent that such is lawful, will be carried out in conformity with the ICIS's investors' objectives and their best interests and always supported by appropriate and objective valuations. Furthermore, ICIS Insiders shall be transparent in the imposition of any fees, creation of any reserves and the smoothing of any dividend payments.