

Bond Market Costs and Taxation

This chapter details the typical types of costs to be incurred by issuers and investors in the Malaysian bond market, with a particular emphasis for costs associated with bond, note, or *sukuk* issuance and settlement.

For ease of reference, the descriptions of the types of costs are given in the context of the actions to be taken by issuers or investors (as explained in this document) and follow the life cycle of a bond, note, or *sukuk* in the Malaysian bond market.

A. Costs Associated with Bond, Note, and *Sukuk* Issuance

1. Submission of Application for Approval to Securities Commission Malaysia (Offers to Retail Investors)

All offers to retail investors of bonds, notes, and *sukuk* in Malaysia require the approval of, and the submission of an application for such approval, to the SC. For details and conditions of the application process, please refer to Chapter III.F.

The SC applies a fee for the application process, payable at the time of submission of the application and in case of any resubmission of amendments to the application or supporting documents. The fee is not refundable in the case of an unsuccessful application.

2. Submission to Securities Commission Malaysia under the Lodge and Launch Framework

Effective 15 June 2015, the offers of bonds, notes, and *sukuk* aimed at Sophisticated Investors (also referred to as wholesale bonds) can take advantage of the Lodge and Launch Framework issued by the SC. Under this streamlined process, the Principal Advisers for such issuance need to only successfully lodge the necessary documents and disclosure items to the SC before launching the products. For details and conditions of the Lodge and Launch Framework, please refer to Chapter III.F.

The SC applies a fee for this Lodge and Launch process, to be paid at the time of lodgement in the SC's Online Submission System. The lodgement is effective, and the launch of the offer may be undertaken, when the payment has cleared. The fee is not refundable if the lodgement was later found to be incomplete and a launch of the issuance may not proceed.

3. Approvals from BNM

In the case of a nonresident (foreign) entity aiming to issue MYR-denominated bonds, notes, and *sukuk*, or any issuer planning FCY-denominated instruments, an approval from BNM is required, under the FEA Rules. For details, please refer to Chapter II.F.

At present, BNM does not levy a fee for any of the applications submitted to BNM.

4. Principal Adviser Fee (Mandatory)

The appointment of a Principal Adviser in the Malaysian bond market is mandatory. The Principal Adviser is, among other roles, responsible for the submission of applications and supporting information to the relevant regulatory authorities.

The Principal Adviser will charge a fee, which should be expected to follow established market practice and may be subject to negotiations between issuer and Principal Adviser.

5. Underwriter Fee (Optional)

Issuers are not required by law to appoint an underwriter in Malaysia; often, the Principal Adviser performs the role of an underwriter as well. However, some offers of bonds, notes, or *sukuk* may require the services of one or more underwriters to place the debt securities or *sukuk* with institutional investors or distribute the issuance to retail investors.

Underwriters charge a fee, typically commensurate with the effort and risk of taking over parts or all of a bond, note, or *sukuk* issue from the issuer. This fee or service charge should be expected to follow established market practice and may be subject to negotiations between the issuer and underwriter(s).

6. Shariah Adviser Fee (Mandatory in Case of Sukuk Issuance)

In the case of a planned *sukuk* issuance, the issuer is required to appoint a Shariah Adviser who will advise the issuer on the suitability of type and structure of a *sukuk* and certify the compliance of the *sukuk* with Shariah principles, which have been approved by the Shariah Advisory Council of the SC.

Shariah Advisers command a service fee, which should be expected to follow established market practice and may be subject to negotiations between the issuer and Shariah Adviser.

7. Agent Fees (Mandatory)

In the Malaysian bond market, the appointment of a number of agents in the context of a bond, note, or *sukuk* issuance is mandated to ensure effective and professional administration of the issue, a division of duties, and the observance of international best practice. The facility agent will administer the issuance process of debt instruments and *sukuk* into the market, while a paying agent is responsible for handling the cash flow at issuance, for benefits arising from the issue, and upon redemption. The trustee holds the fiduciary responsibility toward the bondholder or *sukuk*-holder, and acts in the case of default or distress.

Facility and paying agents, as well as the trustee, are remunerated for their services based on market practice.

8. FAST Fees

FAST is the official issuance or tendering platform for debt securities and *sukuk* in the Malaysian market. FAST is operated by MyClear, a subsidiary of BNM, on behalf of BNM. The announcement and processing of an issuance on FAST is chargeable in the form of a

service fee. Typically, the FAST service fee is incurred as part of the service provision of the facility agent and charged to the issuer as an out-of-pocket expense.

B. Ongoing Costs for Issuers of Corporate Bonds, Notes, and Sukuk

Resident and nonresident (foreign) issuers in the Malaysian market tend to appoint a commercial bank as the facility agent to handle all corporate actions for their corporate bonds, notes, and *sukuk*. This service provision may result in charges, such as interest payments and redemption fees.

1. Interest Payments and Redemption Fees

The facility agent will deal with BNM as the paying agent for corporate bonds, notes, and *sukuk* for interest or coupon payments and redemptions. While BNM does not charge the facility agent for the processing of interest or coupon and redemption payments, the facility agent may charge for related efforts.

MyClear, as the central securities depository for debt securities and *sukuk*, charges an annual fee for all debt securities deposited with it (for more details, please see next section).

C. Costs for Deposit and Withdrawal of Bonds, Notes, and Sukuk

On behalf of BNM, MyClear acts as the central securities depository and settlement center for all government and corporate bonds, notes, and *sukuk* in the Malaysian market. The service provision by MyClear in RENTAS includes the following charges:

1. Depository Fee

The Malaysian market is scripless for debt securities and *sukuk*. As such, a deposit of a securities certificate into MyClear's book-entry system RENTAS does not apply.

For newly issued debt securities or *sukuk*, the issuer is charged a one-time depository fee. All debt securities deposited in RENTAS are charged an annual depository fee throughout the tenure of the debt securities.

2. Withdrawal Fee

The Malaysian market is scripless for debt securities and *sukuk*. As such, a withdrawal of securities certificates in physical form from RENTAS is no longer applicable.

Redemption of debt securities or *sukuk* does not count as a withdrawal, but is instead treated as a cancellation.

D. Costs for Account Maintenance at MyClear

1. Account Maintenance Fee at MyClear

MyClear collects maintenance fee on accounts maintained in RENTAS on the basis of the remaining securities in the depository account at the end of a given month. MyClear charges

the fees for all depository accounts of underlying investors to the participant members (brokers and custodians) who maintain these accounts under their nominee name. Brokers and custodians in turn tend to defray these costs as part of their custody or safekeeping charges to their clients.

E. Costs Associated with Bond, Note, and Sukuk Trading

1. Brokerage Fees

Licensed bond dealers trading in debt securities and *sukuk* charge a brokerage fee or commission on the buying or selling of these securities to their clients, including for trades on BMS and the ETP, and in the OTC market.

Brokerage fees or commissions in the Malaysian market are fully liberalized, and may be freely negotiated between broker and client. As of April 2015, brokerage fees or commissions are subject to a Goods and Services Tax (GST).

F. Costs for Settlement and Transfer of Bonds, Notes, and Sukuk

MyClear's service provision as the central securities depository and settlement center for government issues and corporate bonds, notes, and *sukuk* in the Malaysian market includes charges for the following activities:

1. Transaction Fee (Transfer Fee)

MyClear collects a transaction fee (transfer fee) for each settlement transaction in the RENTAS book-entry system through the accounts maintained by RENTAS participants. MyClear charges the transaction fee, as well as an annual membership fee, to participant members (brokers and custodians) who in turn tend to defray these costs as part of their periodic transaction fees charged to their clients.

G. Taxation Framework and Requirements

Residents and nonresidents investing in the Malaysian market are subject to few duties and taxes on debt securities and *sukuk* (Table 6.1). The applicability of and practices for the relevant taxes are explained in subsequent sections.

1. Business Income Tax

Interest from debt securities are subject to business income tax for resident investors in Malaysia (unless there are specific tax exemption orders under tax incentives or concessions).

Consideration or profit paid from *sukuk* may be exempt from income tax, depending on the underlying structure of the *sukuk* and other possible concessions.

Table 6.1: Duties and Taxes on Debt Securities and *Sukuk* in Malaysia

Duties and Tax	Type of Bond	Tax Rate (%)
Withholding Tax	Government	Not applicable
	Corporate	Not applicable
Capital Gains Tax	Government	Not applicable
	Corporate	Not applicable
Stamp Duty	Government	Not applicable
	Corporate	Not applicable
GST	Universal	6

GST = Goods and Services Tax.

Source: Compiled by ADB Consultants for SF1 from public domain sources.

2. Withholding Tax

Most income or consideration from debt securities and *sukuk* in the Malaysian market is not subject to withholding tax due to various exemptions. These include tax exemptions on the following:

- Interest income from bonds received by nonresident companies (Schedule 6, Paragraph 33A of the Income Tax Act,1967) with the condition that it is
 - (a) MYR-denominated *sukuk* and debentures (other than convertible loan stocks) approved by the SC, or
 - (b) securities issued by the Government of Malaysia.
- Interest income from bonds received by any person with respect to *sukuk* originating in Malaysia (other than convertible loan stocks) (Schedule 6, Paragraph 33B of the Income Tax Act,1967) with the condition that it is
 - (a) issued in any currency other than ringgit and approved by the SC or the Labuan Financial Services Authority.
- Interest or discount paid or credited to any nonresident individual (Schedule 6, Paragraph 35 of the Income Tax Act,1967), with respect to
 - (a) securities or bonds issued or guaranteed by the Government of Malaysia,
 - (b) debentures (other than convertible loan stocks) approved by the SC, and
 - (c) Bon Simpanan Malaysia issued by Bank Negara Malaysia.

3. Capital Gains Tax

There is no capital gains tax applicable on debt securities and *sukuk* offered for sale in Malaysia.

4. Stamp Duty

Bonds and *sukuk* approved by or lodged with the SC are exempted from stamp duty.

5. Goods and Services Tax

A GST was introduced in Malaysia on 1 April 2015, replacing the previous sales and service taxes levied on businesses and consumers.

In principle, all fees and charges for services provided by intermediaries in the Malaysian bond market to their resident market participants and investors are subject to GST. Some exemptions apply. The distinction of the GST in Malaysia is, however, that not all fees and charges are shown to include the GST when displayed in price lists or on websites. Therefore, the final cost to the client or investor may be higher than indicated.

Nonresidents do not pay GST; hence, invoices to foreign issuers and investors for service provisions by domestic bond market institutions do not include GST on such services.

6. Double Taxation Avoidance Agreements

Double taxation avoidance agreements (DTAAs) are bilateral tax treaties signed by Malaysia with other countries that specify the taxing right of each contracting state, while ensuring the income will only be taxed at one jurisdiction. The scope of Malaysian DTAAs is limited to direct taxes and only covers persons who are residents of the contracting states.

Malaysia has an extensive network of DTAAs, with 75 DTAAs signed and a few others in the pipeline.

7. Tax Exemption for Nonresident Investors

Tax exemptions for nonresident investors are not applicable, since Malaysia does not apply capital gains and withholding taxes on the income or considerations from debt securities and *sukuk*, respectively.

This is notwithstanding specific provisions for preferential tax treatment in prevailing DTAAs. If in doubt, investors are encouraged to seek the advice of professional tax advisors with regard to their own specific tax situation.

ASEAN+3 Bond Market Guide 2016 Malaysia

ASEAN+3 Bond Market Guide is a comprehensive explanation of the region's bond markets. It provides various information such as the history, legal and regulatory framework, specific characteristics of the market, trading and transaction including settlement systems, and other relevant information. The Bond Market Guide 2016 for Malaysia is an outcome of the strong support and kind contributions of ASEAN+3 Bond Market Forum members and experts, particularly from Malaysia. The report should be recognized as a collective good to support bond market development among ASEAN+3 members.

About the Asian Development Bank

ADB's vision is an Asia and Pacific region free of poverty. Its mission is to help its developing member countries reduce poverty and improve the quality of life of their people. Despite the region's many successes, it remains home to half of the world's extreme poor. ADB is committed to reducing poverty through inclusive economic growth, environmentally sustainable growth, and regional integration.

Based in Manila, ADB is owned by 67 members, including 48 from the region. Its main instruments for helping its developing member countries are policy dialogue, loans, equity investments, guarantees, grants, and technical assistance.

