



# **LAWS OF SARAWAK**

## **Chapter 81**

### **SARAWAK SOVEREIGN WEALTH FUTURE FUND BOARD ORDINANCE, 2022**

SARAWAK LEGISLATIVE COUNCIL

SARAWAK SOVEREIGN WEALTH FUTURE  
FUND BOARD ORDINANCE, 2022

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SARAWAK LAWNET

SARAWAK SOVEREIGN WEALTH FUTURE  
FUND BOARD ORDINANCE, 2022

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SARAWAK LAWNET

## LAWS OF SARAWAK

## Chapter 81

**SARAWAK SOVEREIGN WEALTH FUTURE  
FUND BOARD ORDINANCE, 2022**

*An Ordinance to establish a body corporate to be the custodian of a State Fund to be known as the Sarawak Sovereign Wealth Future Fund, to safeguard and invest monies in the Fund for the sustainable growth thereof in the interests of the State and the future generations of the peoples of Sarawak.*

[ 27<sup>th</sup> July, 2023 ]

(Swk. L.N. 255/2023)

WHEREAS the State Government intends to secure the continued growth of the financial reserves of the State through sound and sustainable investments which will strengthen the financial position of Sarawak and enhance the State's wealth for future generations of the peoples of Sarawak;

AND WHEREAS in pursuance thereof a Board shall be established under Item 14 List IIA of the Supplement to State List for the State of Sabah and Sarawak in the Ninth Schedule of the Federal Constitution to be the custodian of the Fund, to safeguard and invest monies in the Fund so as to secure incomes or returns therefrom for the State and the peoples of Sarawak;

NOW IT IS ENACTED by the Legislature of Sarawak as follows —

## PART I

## PRELIMINARY

**Short title and commencement**

1.—(1) This Ordinance may be cited as the Sarawak Sovereign Wealth Future Fund Board Ordinance, 2022, and shall

come into force on such date as the Minister may, by notification in the *Gazette*, appoint.

(2) The Minister may appoint different dates for the coming into force of different parts or provisions of this Ordinance.

### **Interpretation**

2. In this Ordinance, unless the context otherwise requires—

“Annual Appropriation” means the amount of money authorized by the Dewan Undangan Negeri to be withdrawn from the State Consolidated Fund on an annual basis, to be appropriated to the Fund;

“asset” means any moveable or immoveable property including any rights, estate, interests both legal and equitable, any instrument evidencing such rights estate or interest and any option or assignment over or in respect of property;

“Board” means the Sarawak Sovereign Wealth Future Fund Board established by section 3;

“Chief Executive Officer” means the chief executive officer of the Fund who is to be appointed by the Board pursuant to section 50;

“Critical Event” means conditions or circumstances caused by natural disaster, war, civil unrest, or a financial or market disorder which threaten the economic wellbeing or security of the State and which, in the assessment of the Majlis Mesyuarat Kerajaan Negeri, adversely affect the fiscal position of the State, and which is designated as a “Critical Event” by the Majlis Mesyuarat Kerajaan Negeri;

“derivatives” means any contract, either for the purposes of creating an obligation or a right or any combination of both, of which its market value, delivery or payment obligations are derived from, referenced to or based on, but not limited to, underlying securities or commodities, assets, rates, indices or any



of its combination, whether or not a standardized derivative or an over-the-counter derivative.

“Endowment Fund Account” means the Endowment Fund Account established under section 5(2);

“financial assets” means—

(a) securities;

(b) loans; or

(c) any other assets which are specified as “financial assets” in regulations made by the Majlis Mesyuarat Kerajaan Negeri under section 58,

but does not include any asset that has been specifically prescribed as not to be a “financial asset” for the purposes of this Ordinance in such regulations;

“Fund” means the Sarawak Sovereign Wealth Future Fund established under section 4;

“Government” means the State Government of Sarawak;

“Initial Appropriation” means the sum authorized by the Dewan Undangan Negeri during or at a sitting of the Dewan immediately after the date of commencement of this Ordinance to be withdrawn from the State Consolidated Fund for appropriation to the Fund;

“Independent Guardian” means a Guardian who is not:-

(a) a public officer of the Government or an employee of any body corporate owned or controlled by the Government; or

(b) a holder of a full-time office under a law of the State.

“Internal Audit Committee” means the Audit Committee established under section 26(1);

“Investment” means any mode of application of any monies or financial assets for the purpose of obtaining a gain, whether by way of capital appreciation gains, dividends, profit, other income or any other form of returns;

“Investment Advisory Panel” means the Investment Advisory Panel established under section 33;

“Investment Committee” means the Investment Committee established under section 26(1);

“Investment Fund Account” means the account established under section 5(1);

“Investment Mandate” means the mandate for investment of monies in the Fund specified in the Second Schedule;

“Minister” means the Minister for the time being charged with the responsibility for finance in the State;

“Remuneration Committee” means the Remuneration Committee established under section 26(1);

“Risk Committee” means the Risk Committee to be established under section 26(1);

“securities” has the same meaning assigned to it in the Capital Markets and Services Act 2007 [*Act 671*];

“Shariah Advisory Committee” means the Shariah Advisory Committee established under section 26(1);

“State” means the State of Sarawak; and

“Threshold Value” means the target value of assets held in the Investment Fund Account being—

(a) in any given calendar year specified in the formula contained in the Fourth Schedule, the amount set out opposite such calendar year; or

(b) such other higher value as may, from time to time, be determined by the Majlis Mesyuarat Kerajaan Negeri after consultation with the Board and having considered any advice given by the Investment Advisory Panel,

beyond which income and other returns on investments held in the Investment Fund Account may be transferred to the Endowment Fund Account, provided that for the purposes of determining whether the value of the assets held in the Investment Fund Account have reached the Threshold Value at any point in time, the value of such assets shall be determined by reference to the latest audited accounts published in accordance with section 46.

## PART II

### ESTABLISHMENT OF THE BOARD

#### **Establishment of the Sarawak Sovereign Wealth Future Fund Board**

3.—(1) For the purposes of this Ordinance, a Board is hereby constituted to be the custodian of the Fund established under section 4 of this Ordinance, to safeguard and invest monies in the Fund for the sustainable growth of the Fund in the interests of the State and the future generations of the peoples of Sarawak.

(2) The Board shall be known as “the Sarawak Sovereign Wealth Future Fund Board”.

(3) The Board shall be a body corporate and shall have—

(a) perpetual or continuous succession;

(b) a common seal; and

(c) the legal capacity to enter into contracts and to sue and be sued.

(4) The composition, functions, powers and duties of the Board are specified in Part IV of this Ordinance.

PART III  
ESTABLISHMENT OF THE FUND

**Establishment of the Fund**

4.—(1) For the purposes of this Ordinance, there shall be established a fund to be called the “Sarawak Sovereign Wealth Future Fund” which shall be under the custody of, administered and controlled by the Board in accordance with the provisions of this Ordinance.

- (2) The Fund shall consist of—
- (a) the Investment Fund Account; and
  - (b) the Endowment Fund Account,

including, for the avoidance of doubt, all investments and assets held in such accounts and all dividends, interest, profits or gains, income and other returns earned or arising or accruing on such investments and assets.

(3) The Fund shall be administered, managed, held and operated by the Board in accordance with the provisions of this Ordinance.

**Accounts under the Fund**

5. —(1) For the purposes of this Ordinance, there shall be established under the Fund an account to be called the “Investment Fund Account”, which shall receive and hold—

- (a) the Initial Appropriation, any Annual Appropriation and other appropriations and contributions received under section 6(4) to the Fund;
- (b) dividends, interest, profits, gains, income or other returns earned or arising or accruing on investments or other assets of the Fund, up to the Threshold Value; and

(c) investments or assets of the Fund made with or attributable to the Fund referred to in subsections (a) and (b).

(2) For the purposes of this Ordinance, there shall be established under the Fund an account to be called the “Endowment Fund Account”, which shall receive and hold—

(a) dividends, interest, profits, gains, income or other returns earned or arising or accruing on investments or assets of the Fund, in excess of the Threshold Value;

(b) investments or assets of the Fund made with or attributable to the Fund referred to in subsections (a) and (c); and

(c) dividends, interest, profits, gains, income or other returns earned or arising or accruing on investments or assets of the Fund referred to in subsection (b).

#### **Authorization by the Dewan Undangan Negeri**

6. —(1) Authorization for withdrawal of funds from the State Consolidated Fund by the Dewan Undangan Negeri for appropriation to the Fund shall be by way of resolution passed by the Dewan Undangan Negeri.

(2) Without prejudice to the generality of subsection (1), the Dewan Undangan Negeri may by a single resolution authorize the withdrawal of such amount from the State Consolidated Fund as the Dewan Undangan Negeri thinks fit, for each year within a fixed period not exceeding thirty years from the date of coming into force of this Ordinance.

(3) Any resolution passed by the Dewan Undangan Negeri for withdrawal of funds from the State Consolidated Fund for the purposes of making the Initial Appropriation or any Annual Appropriation shall stipulate the manner, amount, and timing for the transfer of the funds authorized to be appropriated to the Fund.

Provided that any amount so authorized shall be appropriated to and deposited in the Investment Fund Account within the financial

year for which such withdrawal for appropriation is authorized by the Dewan Undangan Negeri.

(4) Where any gift of money or asset is donated to the Government for investment in accordance with this Ordinance, the Minister shall cause such money or asset to be transferred to the Fund and be deposited in the Investment Fund Account.

### **Appropriations to the Fund**

7. The Minister shall procure the withdrawals of the amount of the Initial Appropriation and in each financial year of the Fund after the first financial year, the Annual Appropriation for that financial year, from the State Consolidated Fund and transfer the same to the Investment Fund Account in accordance with the resolution passed by the Dewan Undangan Negeri pursuant to section 6.

### **Withdrawals from the Fund**

8. —(1) Any withdrawals from the Fund shall be made only for the purposes and in the circumstances stipulated under this section.

(2) Withdrawals from the Investment Fund Account may be made—

(a) by way of transfer to the Endowment Fund Account, of dividends, interest, profits, gains, income or other returns derived from the investments or assets of the Fund in the Investment Fund Account, in excess of the Threshold Value;

(b) for the acquisition of investments or assets of the Fund in accordance with the Investment Mandate, which are in turn held in the Investment Fund Account;

(c) for the payment of salaries, fees, remunerations, honorariums or allowances of the Guardians, members of the Investment Advisory Panel, and officers and employees of the Board included in the annual estimate approved by the Majlis Mesyuarat Kerajaan Negeri;

(d) for the payment of the costs incurred for, or incidental to, the acquisition, holding, disposal or realization of any investments or assets of the Fund;

(e) for the payment of any costs incurred for, or incidental to, the proper custody, management and control of the Fund;

(f) to meet any shortfall in provisions in an annual estimates for any particular financial year of the Government consequent upon the occurrence of a Critical Event, provided that—

(i) the amount so withdrawn from the Investment Fund Account shall be paid into the State Consolidated Fund;

(ii) the amount to be withdrawn from the Investment Fund Account for such purpose shall not exceed twenty-five percent of the credit balance in the Investment Fund Account;

(iii) the amount withdrawn under subparagraph (i) shall be repaid into the Investment Fund Account within twelve months after cessation of the Critical Event is declared by the Majlis Mesyuarat Kerajaan Negeri; and

(iv) the notice of such withdrawal under subparagraph (f) shall be laid in the Dewan Undangan Negeri in a sitting immediately after the occurrence of the Critical Event; and

(g) to defray such costs, expenditure, obligations and liabilities as the Board may incur in the proper performance of its functions under this Ordinance or any regulations made hereunder, including but not limited to, the costs of the Investment Advisory Panel or of any advisors, agents, managers and consultants retained by the Board in accordance with this Ordinance.

(3) Where the amount in the Investment Fund Account in the first financial year of the Fund or in any subsequent financial year, is

insufficient to cover all or any of the expenses referred to in subsection (2):

(a) the Board may request the Majlis Mesyuarat Kerajaan Negeri to provide adequate funds to meet the shortfall, provided that, any such funds shall be repaid on such terms and conditions as may be agreed between the Government and the Board; or

(b) the Majlis Mesyuarat Kerajaan Negeri may authorise the payment of management fees of such amount as it deems fit, to the Board to enable the Board to cover all or any of the expenses referred to in subsection (2).

(4) Withdrawals from the Endowment Fund Account may only be made for:

(a) the purposes and in the circumstances specified in subsections (2)(c) to (f) above;

(b) the acquisition of investments or assets of the Fund in accordance with the Investment Mandate, which are in turn held in the Endowment Fund Account; or

(c) the purposes of transfer into the State Consolidated Fund and thereupon to be held under a trust fund established under section 4 of the Financial Procedure (Contingencies and Trust Funds) Ordinance 1963 [*Cap. 37*] for the following purposes:

(i) the education of people of the State in tertiary institutions or such other institutions as may be approved by the Majlis Mesyuarat Kerajaan Negeri;

(ii) the improvement of the standard of living of peoples of Sarawak based on socio-economic needs;

(iii) the development of the talents, expertise and the entrepreneurial skills of the peoples of Sarawak; and

(iv) such other purposes as may be determined by the Majlis Mesyuarat Kerajaan Negeri in a notification to



be published in the *Gazette* and laid before the Dewan Undangan Negeri.

### **Holding of Assets in the Fund**

9. —(1) All movable and immovable properties held by the Board, including but not limited to—

(a) all monies in the Fund, including dividends, interests, gains, profits, income or return derived from investments or assets made under the provisions of this Ordinance; and

(b) all investments or assets held in the Investment Fund Account and the Endowment Fund Account,

shall be held for and on behalf of the Government absolutely, and no dealings in such investment or assets may be undertaken by the Board, save and except in accordance with this Ordinance, and where applicable, any directions issued by the Majlis Mesyuarat Kerajaan Negeri pursuant to section 39.

(2) Where under any written law, disclosure of beneficial ownership of any investment or assets is required, the Board shall disclose that such investment or assets are held for and on behalf of the Government absolutely.

(3) For the purpose of this section, the term “investment” includes the reinvestment of monies derived from dividends, interests, gains, profits, income or returns from the investment of monies held in the Investment Fund Account or the Endowment Fund Account.

### **Money upon Dissolution of Fund**

10.—(1) All monies in the Fund, including monies accrued from the realization of any investments or assets, shall upon a dissolution of the Fund by a resolution of the Dewan Undangan Negeri, belong to the Government absolutely, and the Board shall cause such monies to be transferred to the State Consolidated Fund.

(2) All assets, other than the monies mentioned in subsection (1), shall upon dissolution of the Fund, be conveyed or transferred by

the Board to the State Financial Secretary, a corporation incorporated under the State Financial Secretary (Incorporation) Ordinance, 2000 [Cap. 36].

#### PART IV

#### COMPOSITION, FUNCTIONS, POWERS AND DUTIES OF THE BOARD

##### Composition of the Board

11.—(1) The members of the Board shall be appointed by the Majlis Mesyuarat Kerajaan Negeri and shall comprise the following—

- (a) a Chairman;
- (b) a Deputy Chairman; and
- (c) not less than five and not more than eight other members,

provided that, at all times, at least half of the members of the Board including the Chairman and Deputy Chairman shall be Independent Guardians.

(2) (a) The following persons shall be *ex-officio* members of the Board:

- (i) the State Attorney General or his nominee; and
- (ii) the State Financial Secretary or his nominee.

(b) an *ex-officio* member shall have no voting right in relation to any decision to be made by the Board of Guardians; and

(c) the duty of an *ex-officio* member is to advise the Board on matters relating to the compliance with the provisions of this Ordinance, the Investment Mandate and any direction issued by the Majlis Mesyuarat Kerajaan Negeri under section 39.

(3) The members of the Board are to be known as “Guardians”.

### **Qualifications for the Board membership**

12.—(1) A person shall not be appointed as a Guardian unless the Majlis Mesyuarat Kerajaan Negeri is satisfied that the person has substantial experience or expertise in one or more of the following fields, and has significant standing and credibility in any such fields—

- (a) investment;
- (b) fund management;
- (c) good corporate governance practices;
- (d) financial matters; or

(e) any other expertise or experience which is highly relevant to the effective performance of the functions of the Board.

(2) A person is not eligible for the appointment as a Guardian if the person—

(a) is, at the time of his appointment, a member of a political party or a member of Parliament or the Legislature or local authority of any State in Malaysia;

(b) is of unsound mind or is otherwise incapable of performing his duties;

(c) has been adjudged a bankrupt by a court of competent jurisdiction;

(d) has been convicted of an offence and sentenced to imprisonment for a term of not less than one year; or

(e) has been convicted of an offence under any law relating to fraud, dishonesty, corruption, securities regulation or money laundering.

### **Tenure of office of Guardian**

13. — (1) A Guardian appointed under section 11 shall hold office for a term not exceeding three years but shall be eligible for re-appointment unless he has already served as a Guardian for a period of nine years from the date of his first appointment.

(2) The appointment of a Guardian shall cease—

(a) upon his death;

(b) if he becomes a member of a political party or a member of Parliament or the Legislature or local authority of any State in Malaysia;

(c) if he has been adjudged a bankrupt by a court of competent jurisdiction;

(d) if because of ill health or unsoundness of mind he is unable to discharge the duties attached to his office as a Guardian;

(e) if he absents himself for three consecutive meetings of the Board without the approval of the Minister;

(f) if he has been convicted of any offence under any law relating to fraud, dishonesty, corruption, securities regulation or money laundering; or

(g) if he resigns by letter addressed to the Minister.

(3) The Majlis Mesyuarat Kerajaan Negeri may at any time by notice addressed to a Guardian suspend his appointment of such Guardian for such period as it deems fit, with or without entitlement to payment of remuneration or other benefits during the period of suspension, or revoke such appointment, if—

(a) the Guardian is guilty of misconduct;

(b) the Guardian has breached any of the provisions of this Ordinance; or

(c) the Guardian is under investigation by any regulatory agency for any offence under any law relating to fraud, dishonesty, corruption, securities, regulation or money laundering.

(4) The proceedings of the Board shall be regulated in accordance with the provisions in the First Schedule.

### **Functions of the Board**

14.—(1) The Board shall have the following functions—

(a) to be custodian of all assets of the Fund;

(b) to manage, maintain and grow the Fund in accordance with this Ordinance;

(c) to invest the monies of the Fund in accordance with the provision of this Ordinance; and

(d) to carry out such other functions or duties not inconsistent with this Ordinance as the Majlis Mesyuarat Kerajaan Negeri may require by direction published in the *Gazette*.

(2) In the discharge of its functions and duties, the Board shall:

(a) act in accordance with the provisions of this Ordinance and any directions of the Majlis Mesyuarat Kerajaan Negeri given in accordance with section 39; and

(b) comply with all other written laws, including but not limited to, those relating to statutory corporations, securities, investment, currencies, banking and prevention of corruption and promotion of integrity and good corporate governance.

### **Powers of the Board**

15.—(1) The Board shall have power to do all things expedient or reasonably necessary for or incidental to the carrying out of its functions.

(2) Without prejudice to the generality of subsection (1), the powers of the Board shall include power to—

(a) enter into contracts;

(b) acquire, purchase, take, hold, and possess movable and immovable property of any kind or any interest in such property;

(c) convey, assign, surrender, lease, transfer or otherwise dispose of or deal with any movable and immovable property of any kind or any interest in such property;

(d) lend, borrow, raise financing, issue and receive guarantees, and create and receive security;

(e) open and maintain one or more accounts with such banks or other financial institutions, whether in Malaysia or elsewhere as the Board thinks fit, and to authorize such officers of the Board or other person as the Board thinks fit to operate such accounts, including to sign orders or cheques against such accounts;

(f) invest the monies in the Fund in accordance with the provisions of this Ordinance and the Investment Mandate specified the Second Schedule;

(g) incorporate or acquire any subsidiaries which are wholly-owned by the Board, or acquire equity interests in any body corporate, partnership, unincorporated body or joint venture provided that the acquisition of such interests in such company, body corporate, partnership or joint venture shall not be inconsistent with the provisions of this Ordinance and any direction issued by the Majlis Mesyuarat Kerajaan Negeri; and

(h) employ and remunerate officers, employees, agents, advisors, valuers, accountants, solicitors, fund managers, investment bankers, and other consultants as may be necessary or desirable for or in connection with the performance of the Board's functions.

(3) The Board may, subject to such conditions or restrictions as it deems fit, delegate to any committee appointed under section 26, or to the Chief Executive Officer or any officer of the Board, or any company incorporated or acquired by the Board and its subsidiaries, all or any of the powers and functions vested in the Board by this Ordinance.

Provided that, the Board may continue to perform any of its functions or exercise any of its power conferred upon it under this Ordinance, notwithstanding such delegation.

(4) The Board shall appoint a Secretary to the Board, on such terms and conditions as the Board deems fit, who shall perform the functions of the Secretary to the Board as specified in the First Schedule, and who shall be a person who fulfils the requirements for appointment as a company secretary under section 235 of the Companies Act, 2016 [*Act 777*]. For the avoidance of doubt, the Secretary to the Board shall be an officer and employee of the Board, and not a Guardian.

#### **Duty of due care and diligence**

16.—(1) A Guardian shall, at all times, perform his functions or duties and exercise his powers—

- (a) in accordance with the provision of this Ordinance;
- (b) for a proper purpose; and
- (c) in good faith in the best interests of the Fund.

(2) A Guardian shall exercise reasonable care, skill and diligence with—

- (a) the knowledge, skill and experience which may reasonably be expected of a person occupying the office held by, and having the same responsibilities within the Board, as the Guardian; and
- (b) any additional knowledge, skill and experience which acquired by the Guardian.

### **Business judgment**

17. A Guardian who makes a business judgment is deemed to meet the requirements of section 16(2) and their equivalent duties at common law and equity, in respect of the business judgment, if he:-

- (a) makes the business judgment in accordance with section 16(1);
- (b) does not have a material personal interest in the subject matter of the judgment;
- (c) informs himself about the subject matter of the judgment to the extent he reasonably believes appropriate in the circumstances;
- (d) reasonably believes that the judgment is in the best interests of performing the functions of the Board; and
- (e) act in good faith in the best interests of the Fund.

### **Reliance on information or advice provided by others**

18. If:

- (a) a Guardian relies on information, or professional or expert advice, given or prepared by—
  - (i) an officer or employee of the Board whom the Guardian believes on reasonable grounds to be reliable and competent in relation to the matters concerned;
  - (ii) a professional adviser, consultant or expert in relation to matters that the Guardian believes on reasonable grounds to be within that person's professional or expert competence;
  - (iii) another Guardian in relation to matters within the Guardian's authority; or
  - (iv) a committee of Guardians on which the Guardian did not serve in relation to matters within the committee's authority; and



- (b) the reliance was made—
  - (i) in good faith; and
  - (ii) after making an independent assessment of the information or professional or expert advice, having regard to the Guardian's knowledge of the Board and the complexity of the structure and operations of the Board,

the Guardian's reliance of the information or professional or expert advice shall be deemed to be reasonable unless the contrary is proved.

#### **Use of position**

19. A Guardian shall not improperly use his position to—
- (a) gain an advantage for himself or someone else;
  - (b) cause detriment to the Board's ability to perform its functions; or
  - (c) cause detriment to another person.

#### **Use of information**

20. A person shall not improperly use information obtained by him in his capacity as a Guardian to—
- (a) gain an advantage for himself or someone else;
  - (b) cause detriment to the Board's ability to perform its functions; or
  - (c) cause detriment to another person.

#### **No derogation from other laws, etc.**

21. Sections 16 to 20 have effect in addition to, and not in derogation of, any other rule of law imposing any duty or liability on a person in relation to his office as a Guardian.

### **Insurance for certain liabilities**

22.—(1) Except as provided in subsection (2), the Board may insure any person who is or has been a Guardian against liabilities incurred by him as a Guardian.

(2) The Board shall not effect any contract of insurance or pay or agree to pay, directly or indirectly, a premium on any contract of insurance to insure any person who is or has been a Guardian against any liability arising out of:-

(a) conduct involving a wilful breach of duty in relation to the Board; or

(b) a contravention of section 19 or 20.

### **Duty to disclose material personal interest**

23. —(1) A Guardian who has a material personal interest in a matter that relates to the affairs of the Board or the Fund shall give the other Guardians notice in writing of his interest.

(2) The notice required to be given under sub-section (1) shall—

(a) specify the details of—

(i) the nature and extent of the interest; and

(ii) the relationship of the interest to the affairs of the Board or the Fund,

which are sufficient to enable the other Guardians to apprise themselves fully as to the nature and extent of any conflict of interest or possible conflict of interest on the part of the Guardian; and

(b) be given to all of the other Guardians personally or during a Board meeting, as soon as practicable, after the Guardian becomes aware of his interest in the matter.

(3) If such notice is given to all of the other Guardians personally, such notice shall be tabled at the subsequent meeting after such notice is given and be recorded in the minutes of meeting.

(4) If such notice is given during a Board meeting, such notice shall be recorded in the minutes of meeting.

(5) A non-compliance of this section by a Guardian does not by itself affect the validity of any *bona fide* transaction by or resolution of the Board.

**No derogation from other laws as to conflicts of interest, etc.**

24. Section 23 has effect in addition to, and not in derogation of, any other rule of law relating to conflicts of interest.

**Restriction on Voting**

25. A Guardian who has a material personal interest in a matter that is being considered at a meeting of the Board or its committee shall not—

(a) be present while such matter is being deliberated at the meeting; or

(b) vote on such matter.

**Establishment of Committees**

26.—(1) The Board shall establish and maintain the following committees of the Board:

(a) the Investment Committee;

(b) the Risk Committee;

(c) the Remuneration Committee;

(d) the Internal Audit Committee; and

(e) the Shariah Advisory Committee.

(2) Notwithstanding subsection (1), the Board may establish such other committees as may be necessary, and having such other functions as the Board thinks appropriate, for the proper discharge of the functions and duties of the Board.

(3) The committees established under subsection (1) shall have the duties and responsibilities specified under this Ordinance and such additional duties and responsibilities as may be determined by the Board from time to time.

(4) The committees established by the Board shall report to the Board at every meeting of the Board on all decisions, recommendations or proposals made by the committees for the endorsement, direction or information of the Board.

#### **Composition and proceedings of Committees**

27.—(1) The Board shall determine the composition of each committee established by the Board, and the persons to be appointed to such committee provided that—

(a) the members of the committees established by the Board pursuant to section 26(1) shall be from among the Guardians; and

(b) the Board may appoint any person to be a member of any committee established under section 26(2) provided that such committee established includes at least one Guardian and, unless otherwise determined by the Board, the Chief Executive Officer.

(2) A committee established under section 26 may regulate its own procedure and, in the exercise of its powers under this section, such committee shall be subject to and act in accordance with any directions given to the committee by the Board which is not inconsistent with this Ordinance.

(3) Meetings of a committee established under section 26 shall be held at such times and places as the chairman of such committee may, subject to subsection (2), determine.

(4) A committee may invite any person, for the purpose of advising it on any matter under consideration to attend any meeting of the committee but the person so invited shall not be entitled to vote at any such meeting.

(5) Members of a committee or any person invited to attend any meeting of a committee may be paid such allowances and other expenses as the Board may determine.

(6) A member of a committee shall hold office for such term as may be specified in his instrument of appointment and is eligible for re-appointment.

(7) The appointment of any member of a committee may at any time be revoked by the Board without assigning any reason thereto.

(8) A member of a committee may at any time resign his office by a written notice addressed to the Chairman of the Board.

#### **The Investment Committee**

28. The Investment Committee shall, without derogating from the general duties of the Board in relation to such matters, be responsible for—

- (a) oversight of the investments of the Fund;
- (b) implementation of the Fund's investment management framework;
- (c) making recommendations to the Board on the investment policies of the Fund as well as in relation to specific investments;
- (d) making recommendations to the Board on the engagement of investment and fund managers;
- (e) reviewing all investments and transactions that could adversely affect the return on the investments of the Fund that are brought to the Investment Committee's attention, whether by officers of the Board or otherwise; and

- (f) other matters pertaining to investments of the Fund.

### **The Risk Committee**

29. The Risk Committee shall, without derogating from the general duties of the Board in relation to such matters, be responsible for—

- (a) oversight of the Fund's investment, financial, operational and reputational risks;
- (b) implementation of the Fund's enterprise risk management framework; and
- (c) making recommendations to the Board on the key risk policies relating to the Fund and its investments.

### **The Remuneration Committee**

30. The Remuneration Committee shall, without derogating from the general duties of the Board in relation to such matters, be responsible for—

- (a) reviewing and making recommendations to the Board on:-
  - (i) the remuneration and allowances of the Guardians and members of the Investment Advisory Panel; and
  - (ii) the policies and practices on salaries or grades, performance appraisals and incentives schemes for all officers and employees of the Board; and
- (b) oversight of the implementation of such remuneration policies and practices once approved by the Board.

### **The Internal Audit Committee**

31. The Internal Audit Committee shall, without derogating from the general duties of the Board in relation to such matters, be responsible for:-

- (a) receiving, evaluating or examining all reports of internal and external auditors of the Board;
- (b) oversight of the Fund's audit framework, internal audit plan and audit reports, and management actions to address material findings;
- (c) oversight of the Board's internal controls and compliance with legal and regulatory requirements;
- (d) the integrity and accuracy of the accounts and financial statements of the Fund; and
- (e) reviewing and approving the Board's annual financial statements and reporting to the Board before the statements are approved by the Board.

#### **The Shariah Advisory Committee**

32. The Shariah Advisory Committee shall, without derogating from the general duties of the Board in relation to such matters, be responsible for:-

- (a) oversight of the Fund's investment framework and policies in relation to Shariah compliant investments;
- (b) advising the Board on any matter relating to the Shariah, and the application of Shariah principles to any matter relating to any investment or prospective investment of the Fund; and
- (c) reviewing, and advising the Board as to, the Shariah compliant nature of the Fund's investments that are expressed to be Shariah compliant.

PART V  
THE INVESTMENT ADVISORY PANEL

**Establishment of the Investment Advisory Panel**

33.—(1) There shall be established an Investment Advisory Panel to advise the Board in the management and administration of the Fund including—

(a) to advise the Board on general trends relating to investment and fund management relevant to the Fund and the Threshold Value at any material time;

(b) to advise the Board on general economic and industry-specific developments and emerging trends relevant to the Fund;

(c) to review the performance of the investments of the Fund and of the management of the Fund from time to time, and to suggest changes in investment strategy and policy to be considered by the Board, as required or desirable from time to time;

(d) to report to the Board on an annual or more frequent basis, as may be necessary or desirable for the purposes of this Ordinance;

(e) to advise the Minister on measures to be considered to prevent any diminishing in value of or adverse effect on, any investment made without compliance with the Investment Mandate;

(f) to perform such other functions as are required of the Investment Advisory Panel under this Ordinance; and

(g) to do anything incidental to or desirable for the performance of any of the above functions, including but not limited to the appointment of advisors, valuers, accountants, solicitors and other consultants to the Investment Advisory Panel.

(2) For the avoidance of doubt, the Investment Advisory Panel is not a body corporate and does not have separate legal personality.



(3) The proceedings of the Investment Advisory Panel shall be regulated in accordance with the provisions in the Third Schedule.

(4) The Board shall, at the request of the Investment Advisory Panel and at the cost and expense of the Board, promptly provide the Investment Advisory Panel with—

(a) such administrative, secretarial, book-keeping, logistics, information technology, research and other resources; and

(b) access to such officers and employees of the Board, and to such information, accounts and records of the Board,

as may reasonably be required by the Investment Advisory Panel for the performance of its functions under this Ordinance.

#### **Composition of the Investment Advisory Panel**

34. —(1) The Investment Advisory Panel shall consist of the following members—

(a) a chairman; and

(b) not fewer than two and not more than four other members,

who shall be appointed by the Board with approval of the Majlis Mesyuarat Kerajaan Negeri.

(2) A person may not be appointed as a member of the Investment Advisory Panel unless the Board is satisfied that he has substantial experience or expertise and reputable standing in one or more of the following fields:-

(a) dealing in securities;

(b) the provision of investment advice, as defined in the Capital Markets & Services Act 2007 [*Act 671*];

(c) fund management, as defined in the Capital Markets and Services Act 2007 [Act 671];

(d) fund management or investments in the international capital markets; or

(e) any other field which is highly relevant to the effective performance of the functions of the Investment Advisory Panel.

(3) A person is not eligible for appointment as a member of the Investment Advisory Panel if he is:-

(a) a Guardian;

(b) a public officer of the State Government or employee of any body corporate owned or controlled by the State Government; or

(c) the holder of a full-time office under a State law.

(4) A person shall be disqualified from the appointment as a member of the Investment Advisory Panel if the person:-

(a) is of unsound mind or is otherwise incapable of performing his duties;

(b) has been adjudged a bankrupt by a court of competent jurisdiction;

(c) has been convicted of an offence and sentenced to imprisonment for a term of not less than one year; or

(d) has been convicted of an offence under any law relating to fraud, dishonesty, corruption, securities regulation or money laundering.

#### **Term of appointment of Panel member**

35.—(1) A member of the Investment Advisory Panel shall hold office on such terms and conditions and shall be paid such remuneration and allowances as may be determined by the Minister

from time to time, having regard to the recommendation of the Board, and as approved by the Majlis Mesyuarat Kerajaan Negeri.

(2) The appointment of a member of the Investment Advisory Panel shall be for an aggregate period of not exceeding six years from the date of his first appointment.

### **Resignation and removal of Panel member**

36.—(1) A member of the Investment Advisory Panel may resign his appointment at any time by giving a resignation letter to the Board.

(2) The Board may, at any time, and with the approval of the Majlis Mesyuarat Kerajaan Negeri, suspend or revoke the appointment of a member of the Investment Advisory Panel if:-

- (a) the member is guilty of misconduct;
- (b) the member has breached any of the provisions of this Ordinance;
- (c) the member is under investigation by any regulatory agency for any offence involving dishonesty, fraud or under any law relating to corruption or corrupt practices, or has been convicted of any such offence; or
- (d) because of ill health or unsoundness of mind he is unable to discharge the duties attached to his office as a member of the Panel.

### **Vacation of office of Panel member**

37. The office of a member of the Investment Advisory Panel shall be deemed vacated:-

- (a) upon his death;
- (b) if he fails to attend three consecutive meetings of the Investment Advisory Panel without the leave in writing of the Chairman of the Board; or

(c) if he becomes subject to any of the disqualifications referred to in section 34(4).

### **Duties of the Investment Advisory Panel**

38. Sections 16 to 24 shall apply to members of the Investment Advisory Panel *mutatis mutandis*.

## **PART VI**

### **POWER OF MAJLIS MESYUARAT KERAJAAN NEGERI TO ISSUE DIRECTIONS**

#### **Power of Majlis Mesyuarat Kerajaan Negeri**

39.—(1) The Majlis Mesyuarat Kerajaan Negeri may issue directions not inconsistent with the provisions of this Ordinance to the Board and such directions shall be binding upon the Board.

Provided that the Majlis Mesyuarat Kerajaan Negeri shall not issue any direction which is for the purpose, or has or is likely to have, the effect of directly or indirectly requiring the Board to—

(a) invest an amount standing to the credit of the Fund in a particular financial asset; or

(b) allocate financial assets to or make an investment in:

(i) a particular business entity;

(ii) a particular activity; or

(iii) a particular business.

(2) The Board shall furnish to the Majlis Mesyuarat Kerajaan Negeri such information, accounts and records of its activities, dealings and financial affairs, as it may require from time to time.

PART VII  
INVESTMENTS

**Investments by the Board**

40.—(1) The Board shall invest amounts standing to the credit of the Fund in the name of the Board in accordance with the Investment Mandate and the provisions of this Ordinance.

(2) The Board, in investing the monies of the Fund, shall—

(a) have regard to maximizing the returns earned on the investments of the Fund over the long term without undue risk of loss, consistent with international best practices for institutional investments;

(b) periodically review and set risk-adjusted targets for returns on the investments of the Fund, with a view to ensuring, as far as reasonably possible, that the value of the assets held in the Investment Fund Account grows at a higher rate than the prevailing inflation rate as published by Bank Negara Malaysia from time to time;

(c) periodically review the Threshold Value of the Fund for the determination of Majlis Mesyuarat Kerajaan Negeri after having considered any advice given by the Investment Advisory Panel; and

(d) comply with the Investment Mandate specified in the Second Schedule.

**Management of investments of the Fund**

41.—(1) All income derived from any investment of the Fund and any return of capital or other financial distribution relating to any investment of the Fund shall be credited accordingly to the Investment Fund Account or the Endowment Fund Account in accordance with section 5.

(2) The Board may realize any investment of the Fund and the proceeds of the realization shall be credited to the Investment Fund Account.

(3) At any time before an investment of the Fund matures, the Board may authorize the re-investment of the proceeds upon maturity in a financial asset investment with the same entity.

### **Non-compliance with Investment Mandate**

42. —(1) If the Board becomes aware of any non-compliance with the Investment Mandate, it shall immediately give written notice to the Minister specifying —

(a) the failure to comply with the Investment Mandate; and

(b) the action which the Board proposes to take in order to remedy such non-compliance.

(2) Without prejudice to subsection (3), if the Minister is satisfied that the Investment Mandate has not been complied with, whether or not he has received any notice issued pursuant to subsection (1), he may give a direction to the Board requiring the Board to—

(a) give the Minister and the Majlis Mesyuarat Kerajaan Negeri, within the period specified in the direction, a written explanation for the failure to comply with the Investment Mandate; and

(b) take the action specified in the direction, within the period specified in the direction, in order to comply with the Investment Mandate.

(3) In the circumstances specify in subsection (2), the Minister may, after—

(a) reviewing the Board's written explanation;

(b) consultation with the Investment Advisory Panel; and

(c) having prior written approval of the Majlis Mesyuarat Kerajaan Negeri, direct the Board to:

(i) ratify the investment in question;

(ii) take such measures as may be appropriate to prevent the value thereof being diminished;

(iii) adversely affected by market conditions.

(4) The Minister may, if he deems fit and proper, direct the Board to take such action, including but not limited to disciplinary action and recovery of loss or damage sustained by reason of any failure to comply with the Investment Mandate.

(5) Any action taken by the Minister under subsection (2), (3) or (4) shall not have the effect of releasing any Guardian, officer, employee or agent of the Board from any liability which such person may be subject in relation to his office, his employment or the performance of his duties under this Ordinance, or under any other rule of law.

### **Raising Finance**

43.—(1) Subject to section 11 of the Statutory Bodies (Financial and Accounting Procedure) Ordinance, 1995 [*Cap. 15*], the Board may, raise financing from the Government or any financial institutions including but not limited to any banks, dealers in securities and other financial intermediaries which are duly licensed, registered, or approved to carry on the relevant financing business in the jurisdictions in which they carry on business, provided that—

(a) the purpose of the borrowing or financing is to enable the Board to settle a transaction for the acquisition of one or more financial assets;

(b) the period of the borrowing or the financing does not exceed ninety days;

(c) if the borrowing or financing was to take place, the total amount borrowed or utilised by the Board would not exceed one percent of the balance in the credit of the Investment Fund Account; and

(d) such borrowing or financing transaction complies with all applicable laws relating to such borrowing or financing.

### **Restrictions on Derivatives**

44. The Board shall not acquire or trade in derivatives.

## **PART VIII**

### **FINANCIAL PROCEDURE AND ACCOUNTS**

#### **Annual Estimates**

45. —(1) The financial year of the Board shall commence on the 1st of January and end on the 31<sup>st</sup> December of each calendar year.

(2) The expenses of the Board as specified in sections 8(2)(c) and 8(2)(e) up to such amount as may be approved by the Majlis Mesyuarat Kerajaan Negeri for any one year shall be defrayed out of the Fund pursuant to section 8.

(3) Before the beginning of 1<sup>st</sup> of September each year, the Board shall submit to the Minister an estimate of such expenses for the following year in such form and with such particulars as may be required for the approval of the Majlis Mesyuarat Kerajaan Negeri, on or before the beginning of 31<sup>st</sup> October of that year, Minister shall notify the Board of the amount authorized for such expenses generally or of the amount authorized for each description of expenditure.

(4) The Board may, at any time, submit to the Minister a supplementary estimate for any one year for the approval of the Majlis Mesyuarat Kerajaan Negeri which may allow the whole or any part of the expenditure included therein.

(5) The Board may transfer all or any part of the monies assigned to one expenditure item into another expenditure item solely



for the purpose of capital and operating expenditure, subject to the approval of the Majlis Mesyuarat Kerajaan Negeri.

### **Accounts and audit**

46.—(1) The Board shall keep or cause to be kept proper accounts and other records in respect of each of:-

(a) the investments and other assets of the Fund, and the costs and expenses directly associated with the acquisition, holding and disposal of the same, maintained for and on behalf of the Government; and

(b) all other activities, costs and expenses of the Board,

and shall cause to be prepared statements of accounts in respect of such matters in each financial year.

(2) Without prejudice to the generality of subsection (1), the Board shall keep separate accounts relating to the investments and assets of the Fund held at any time during the financial year under subsection (1)(a), showing:

(a) a statement of the investments and assets of the Fund in its portfolio;

(b) the amount for which each investment was acquired, if acquired within that financial year, including the acquisition costs directly relating to such investment;

(c) the book value of each investment;

(d) the market value of each investment and the information required to verify such value;

(e) the amount for which each investment was realized, if realized within that financial year;

(f) the performance of such investment, including all dividends, interest, profits, gains, income or other returns earned or arising or accruing on such investment; and

(g) the compliance of this Ordinance and its regulations.

(3) The Board shall ensure that the relevant accounts, records and systems are kept and maintained in a safe and secure environment.

(4) The statements of account prepared pursuant to subsections (1)(a) and (b) above shall:-

(a) include a balance sheet, a profit and loss account, a statement of change in net assets for the financial year and a cash-flow statement; and

(b) contain such information as is necessary to give a fair presentation of the financial position of the Board and the investments of the Fund maintained for and on behalf of the Government, in accordance with accounting principles which generally accepted in Malaysia.

(5) The accounts prepared pursuant to subsections (1)(a) and (b) shall be audited annually by the Auditor General or such auditor as may be appointed by the Board.

(6) After the end of such financial year, and as soon as the relevant accounts have been audited, the Board shall cause a copy of each of the statements of accounts to be transmitted to the Majlis Mesyuarat Kerajaan Negeri together with a copy of any opinion of and observations made by the Auditor General or other auditor appointed under subsection (5) on any statement or on such accounts.

(7) The statements of accounts prepared pursuant to subsections (1)(a) and (b) above together with the opinion and observations of the Auditor General or the auditor appointed by the Board for any financial year shall be laid on the table of the Dewan Undangan Negeri not later than the 31<sup>st</sup> of December of the following financial year.

### **Annual report**

47.—(1) The Board shall, as soon as practicable after the end of each financial year, cause to be made and transmitted to the Majlis Mesyuarat Kerajaan Negeri a report dealing generally with the

activities and affairs of the Board and all the committees established under section 26 during the preceding financial year and containing such information relating to the proceedings and policies of the Board as the Minister may, from time to time, direct.

(2) Without prejudice to the generality of subsection (1), such report shall include—

(a) a report on the performance of the investments of the Fund in that financial year, highlighting any economic and other factors which had a material impact on such investments;

(b) a report on the investment strategies and policies adopted by the Board in that financial year;

(c) a report on the proposed investment strategies and policies to be adopted by the Board and a copy of the proposed budget for the next financial year; and

(d) a report on any breaches or non-compliance of this Ordinance by any person.

(3) The Investment Advisory Panel shall, at the same time as the annual report is submitted to the Majlis Mesyuarat Kerajaan Negeri pursuant to subsection (1), issue and deliver to the Board and the Majlis Mesyuarat Kerajaan Negeri a report specifying—

(a) the analysis of the performance of the Fund and the management of the Fund in the financial year which is the subject-matter of the annual report of the Board;

(b) general economic and industry-specific developments and emerging trends on a regional and global basis as at the date of the report; and

(c) the recommendations for any changes in investment strategy and policy for the Fund for the next financial year.

(4) The Minister shall cause a copy of every such report referred under this section to be laid before the Dewan Undangan Negeri.

### **Quarterly report**

48.—(1) The Board shall, as soon as practicable after the end of each financial quarter, cause to be made and transmitted to the Minister, a report dealing generally with the activities and affairs of the Board and all the committees established by it under section 26 containing such information relating to the proceedings and policies of the Board as the Minister may, from time to time, direct.

(2) Without prejudice to the generality of subsection (1), such report shall include—

(a) a report on the performance of the investments of the Fund in that financial quarter, highlighting any economic and other factors which had a material impact on such investments;

(b) a report on the investment strategies and policies adopted by the Board in that financial quarter;

(c) a report on the proposed investment strategies and policies to be adopted by the Board and a copy of the proposed budget for the next financial quarter; and

(d) a report on any breaches or non-compliance of this Ordinance by any person.

### **Special Audit**

49.—(1) The Minister may, at any time, if he considers it necessary in the public interest, appoint in writing an auditor or any other qualified person to conduct a special audit on the Board or on any investment made or the administration or management of the Fund.

(2) The scope of the special audit shall be stated in the letter of appointment by the Minister.

PART IX  
OFFICERS AND EMPLOYEES OF THE BOARD

**Appointment and duties of the Chief Executive Officer**

50.—(1) The Board in consultation with the Minister shall appoint a Chief Executive Officer on such terms and conditions as the Board may determine.

(2) The Chief Executive Officer shall be responsible for the proper administration and management of the Board and be primarily responsible for the control and operation of the Fund in accordance with the provisions of this Ordinance and directions, policies and decisions of the Board.

(3) The Chief Executive Officer shall, at the request of the Board, attend meetings of the Board and any committee of the Board established by the Board pursuant to section 26(1), but shall have no right to vote on any issue, matter or resolution before, or under consideration, by the Board or any such committee.

(4) If the Chief Executive Officer is temporarily unable to perform his duties by reason of illness or otherwise, another person may be appointed by the Chairman to act in the place of the Chief Executive Officer during any such period of absence from duty.

**Secretary to the Board**

51.—(1) The Chief Executive Officer, in consultation with the Board, shall appoint a Secretary to the Board, on such terms and conditions as the Board deems fit, who shall perform the functions of the Secretary to the Board as set out in the First Schedule, and who shall be a person who fulfils the requirements for appointment as a company secretary under section 235 of the Companies Act 2016 [*Act 777*]. For the avoidance of doubt, the Secretary to the Board shall be an officer and employee of the Board, and not a Guardian.

(2) The Secretary shall maintain and keep at the principal office of the Board all documents which a company incorporated under the Companies Act 2016 [*Act 777*] is required to keep and maintain under section 46 of the Act.

(3) The Secretary may resign from his office by giving a notice in writing to the Board.

(4) A person shall be disqualified to act or continue to act as Secretary if—

(a) he is an undischarged bankrupt;

(b) he is convicted of any offence under any law relating to fraud, dishonesty, corruption, securities regulation and money laundering; or

(c) he ceases to be registered as a company secretary under section 241(1) of the Companies Act 2016 [*Act 777*].

#### **Other Officers and Employees of the Board**

52.—(1) The Board may, from time to time, appoint such other officers, employees and agents as it thinks fit for the effective discharge of its functions and powers on such terms and conditions as it may determine.

(2) For the purposes of subsection (1), the Board may create or establish such number of posts, either permanent or temporary, as the Majlis Mesyuarat Kerajaan Negeri may approve, as is necessary to enable the Board to perform its functions, discharge its duties and exercise its powers under this Ordinance and for the efficient management and administration of its affairs and activities.

#### **Conduct and disciplinary control**

53. —(1) The Board shall, as soon as reasonably practicable after its establishment, draw up and issue a written code of conduct and discipline which shall upon such code being approved by the Majlis Mesyuarat Kerajaan Negeri, apply to the Chief Executive Officer, the Secretary to the Board and all officers and employees appointed under section 52.

(2) The Board may, from time to time, with the prior approval of the Majlis Mesyuarat Kerajaan Negeri, vary, amend or substitute the written code of conduct and discipline issued by it pursuant to subsection (1), or any substitute code issued by it pursuant to this subsection (2).

(3) For the avoidance of doubt, the Statutory Bodies (Conduct and Discipline) Ordinance, 2004 [*Cap. 57*], shall not apply to the Chief Executive Officer, the Secretary to the Board or any officers or employees of the Board appointed under section 52.

(4) Without prejudice to subsection (1) above, every officer and employee of the Board in exercising his powers and discharging his responsibilities shall act—

(a) in accordance with this Ordinance;

(b) for a proper purpose;

(c) in good faith in the best interests of the Fund; and

(d) with the knowledge, skill and experience which may reasonably be expected of a person in the position of such officer or employee, and with any additional knowledge, skill and experience which that officer and employee in fact has.

#### **Personal immunity and liability**

54.—(1) No Guardian, Chief Executive Officer, panel, committee, or any officer, employee or agent of the Board appointed under this Ordinance shall be made personally liable for any loss or damage caused by any act or omission in connection with the Fund except to the extent that such loss or damage is caused by or materially contributed to by his reckless or negligent act or omission, or a breach of his duty under this Ordinance or any other written law.

(2) A Guardian, Chief Executive Officer, panel, committee or any officer, employee or agent of the Board who causes or materially contributes to loss or damage to the Board or the Fund by reason of his reckless or negligent act or omission, or a breach of his duty under this Ordinance or any other written law, commits an offence and shall

be liable to compensate the Board or the Fund for such loss and damage.

(3) Subsection (2) does not derogate from any other rule of law imposing any liability on any member of the Board, panel, committee or any officer, employee or agent of the Board, in relation to his office, his employment, or his duties under this Ordinance.

### **Public servants**

55. All Guardians, Chief Executive Officer, officers, employees and agents of the Board while performing their functions or discharging their duties under this Ordinance shall be deemed to be “public servants” within the meaning of the Penal Code [*Act 574*].

### **Public Authorities Protection Act 1948**

56. The Public Authorities Protection Act 1948 [*Act 198*] shall apply to any action, suit, prosecution, or proceedings against the Board or against any Guardians, Chief Executive Officer, officer, employee or agent of the Board or any member of the Investment Advisory Panel or any committee members in respect of any act, neglect or default done or committed by him in such capacity.

### **Obligation of Secrecy**

57.—(1) Except for the purpose of this Ordinance or of any criminal proceedings under this Ordinance, no Guardians, Chief Executive Officer, officer or employee and agent of the Board or any member of the Investment Advisory Panel or any committee members shall disclose any information which has been obtained by him in the course of his duties and which has not been published in pursuance to this Ordinance, save and except when disclosure is authorized by direction given by the Majlis Mesyuarat Kerajaan Negeri.

(2) Any person contravening the provisions of subsection (1) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or imprisonment for a term not exceeding three years, or to both.



PART X  
GENERAL

**Regulations**

58.—(1) The Majlis Mesyuarat Kerajaan Negeri may make such regulations not inconsistent with the provisions of this Ordinance, as may be expedient or necessary for the better carrying out of the provisions of this Ordinance.

(2) Without prejudice to the generality of subsection (1), regulations may be made for the following purposes—

(a) prescribing the procedures to be followed for the administration and management of the Fund;

(b) prescribing the procedures to be followed for investment activities carried out pursuant to this Ordinance;

(c) regulating any of the activities or prescribing any procedures of the Board and generally the performance of the functions, the exercise of the powers and discharge of the duties of the Board under this Ordinance; and

(d) providing for such other matters as are contemplated by, or necessary for giving full effect to the provisions of this Ordinance and for their due administration.

(3) Such regulations may provide that the contravention of any particular rules shall constitute an offence and may provide for the punishment of any such offence by penalties not exceeding a fine of fifty thousand ringgit and imprisonment not exceeding three years, or to both.

**Offences**

59. Any person who with reckless disregard breaches any requirement under this Ordinance or any of his duties under this Ordinance commits an offence.

### **General Penalty**

60. Any person who commits an offence under this Ordinance, for which no penalty is expressly provided, shall on conviction, be liable to a fine not exceeding thirty thousand ringgit or to imprisonment for a term not exceeding one year, or to both.

### **Power to amend the Schedules**

61. The Schedules of this Ordinance may be amended by direction issued by the Majlis Mesyuarat Kerajaan Negeri which shall be laid before the Dewan Undangan Negeri and be published in the *Gazette*.

SARAWAK LAWYERS

*SCHEDULES*

## FIRST SCHEDULE

## PROCEEDINGS OF THE BOARD

**Leave of absence**

1.—(1) A Guardian shall apply for leave in writing to the Minister specifying the ground of his absence to any meeting of the Board at least seven days before the commencement of the meeting.

(2) The Minister may, forthwith, grant such application for leave in writing to the Guardian.

**Appointment as Temporary Chairman**

2. The Minister may appoint any Guardian or any other person to act as temporary Chairman:

(a) during any period when there is a vacancy in the office of Chairman; or

(b) during any period when the Chairman is on a leave of absence or is temporarily incapacitated or otherwise unable to perform his duties as Chairman.

**Meetings**

3.—(1) All meetings of the Board shall be presided over by the Chairman or in his absence, by any Guardian or any other person appointed for that purpose by the Chairman.

(2) The quorum of any meeting of the Board shall be five including the Chairman.

(3) If for any question to be determined by the Board there is an equality of votes, the Chairman shall have a casting vote.

(4) Subject to subparagraphs (1), (2), (3) and the provisions of this Ordinance, the Board shall regulate its own procedures.

(5) Meetings of the Board shall be called by the Chairman and notice of such meetings shall be signed by the Secretary or any person authorized by the

Secretary and be issued to all Guardians at least seven days before the date of the meeting.

(6) Notice of meeting shall specify the date, venue and the agenda of the meeting.

#### **Frequency of meetings**

4. —(1) The Board shall hold such meetings as are necessary for the proper performance of its functions.

(2) Except with the written approval of the Minister, the Board shall hold at least three meetings in every calendar year.

#### **Board may invite others to meetings**

5. The Board may request any person not being a Guardian to attend any meeting or deliberation of the Board for the purpose of advising it on any matter under discussion, but such person so attending shall have no right to vote at the said meeting or deliberation.

#### **Minutes**

6.—(1) The Secretary shall record, maintain and keep all minutes of meetings in a proper form.

(2) Any minutes of meetings of the Board shall, if duly signed by the Chairman or by the Guardian or any person presiding in his absence, as the case may be, be admissible in evidence in all legal proceedings without further proof and every meeting of the Board in respect of the proceedings of which minutes have been so made shall be deemed to have been duly convened and held and all Guardians there at to have been duly qualified to act.

(3) The Guardians and, unless otherwise directed by the Board, the Chief Executive Officer, are entitled to copies of such minutes but shall not, without the permission of the Chairman, transmit, distribute or permit access thereto, to any person who is not a Guardian.

(4) The minutes of the Board, its common seal and all its statutory and accounting records shall be kept at the principal office.

**Principal office**

7. The Board shall have a principal office and no change in the principal office may be effected without the prior written approval of the Minister.

**Voting**

8.—(1) Decisions of the Board shall be made by a majority of votes of Guardians.

(2) In the event of any equality of votes, the Chairman presiding at the meeting shall have a casting vote in addition to his original vote.

**Virtual meetings**

9.—(1) Meetings of the Board may be held by way of tele-conferencing, video-conferencing or other technological means, which allow each participant to hear and be heard by each other participant.

(2) Where a Board meeting is held virtually in accordance with subparagraph (1), the meeting shall be deemed to be held at the location at which the Guardian presiding at the meeting is present, or if such Guardian is physically outside the State, at the principal office of the Fund.

(3) For the purposes of this Ordinance, all Guardians attending such meeting shall be deemed to be present at the place at which the meeting is held, regardless of their actual physical location.

(4) Any meeting held virtually under this paragraph shall comply with all rules and procedures of meetings specified under this Ordinance.

**Circular resolutions**

10. A resolution of the Board may be passed without a meeting of the Board being convened if the resolution is:-

(a) circulated in writing to all Guardians together with all documents and other information necessary or desirable, and with sufficient time, for the Guardians to make an informed decision on the subject-matter of the resolution;

(b) approved in writing by a majority of the Guardians, which would have constituted a quorum at a meeting of the Board; and

(c) of a type that the Board has determined may be passed in accordance with this paragraph.

### **Record-keeping**

11.—(1) The Board shall ensure that accurate and complete records of all of its meetings, of all circular resolutions passed in accordance with paragraph 10, and of all of the meetings of committees established by the Board, are kept and maintained.

(2) The records shall be kept by the Secretary at the principal office of the Fund, and shall be available for inspection by the Minister or any Guardian on written request.

### **Internal regulations**

12.—(1) The Board may from time to time make regulations that are consistent with this Ordinance to govern the conduct and management of the Board's business and affairs, including regulations relating to—

(a) the acquisition, management, review, and realisation of investments of the Fund;

(b) the administration, management and control of the Board's property;

(c) the establishment, constitution and proceedings of committees of the Board; and

(d) the functions, duties and remuneration of the officers and employees of the Board.

(2) Any internal regulations made by the Board pursuant to sub-paragraph (1) shall be subject to the provisions of this Ordinance, and in the event of any conflict, the provisions of this Ordinance shall prevail.

(3) The Board may revoke or vary any internal regulations made by the Board pursuant to sub-paragraph (1).

(4) The Board shall:-

(a) provide a copy of any internal regulations made by the Board, and any variation to any internal regulations; and

(b) provide written notification of the revocation of any internal regulations,

to the Minister within seven days after the internal regulations are made, varied or revoked.

### **Common seal**

13.—(1) The common seal of the Board shall bear such impression as the Board may approved.

(2) The Board may remake or change the common seal of the Board from time to time.

(3) Until a seal is provided by the Board, a stamp bearing the description “Sarawak Sovereign Wealth Future Fund” may be used in place of the common seal.

(4) The common seal or the stamp referred to in sub-paragraph (3) shall be kept in the custody of the Secretary at the principal office of the Board.

(5) The affixation of the common seal to any instrument or other document shall be authenticated by the Chairman or any other person authorised by the Board in writing.

### **Execution of instruments *etc.* not requiring common seal**

14. For avoidance of doubt, any instrument or other document which:-

(a) is not required under any law to be executed under seal; and

(b) is of a type that, if executed by a natural person, need not be under seal,

may be executed for and on behalf of the Board by two Guardians or one Guardian and the Secretary or any person authorized to do so by a resolution of the Board.

## SECOND SCHEDULE

### INVESTMENT MANDATE

#### **Approach to investment**

1.—(1) The investment philosophy is to deliver long-term risk-balanced real growth in the invested assets. It should be initially based on investing into liquid, exchange-traded equities, bonds and collective investment schemes (*e.g.* REITs), and eventually, into alternative asset classes through the use of appointed fund managers and/or which are directly managed by the Board of Guardians.

(2) The initial investment allocation should have a target of ensuring capital preservation during the first 5 years, with a more growth-oriented target thereafter.

(3) The approach should seek to naturally hedge the invested assets against key financial risks faced by Sarawak and Malaysia, by considering the sectors and geographies for investment. The Board of Guardians should consider carefully whether to invest in any country subject to (i) sanctions or (ii) any other material issues which may result in the Board of Guardians having difficulty accessing investments of the Fund. Any investment in such countries should be justified by a risk assessment analysis. All risk assessment analyses must also be made available to the Investment Advisory Panel for reference.

(4) The Board of Guardians, in consultation with the Investment Advisory Panel, must promptly prepare and adopt a policy on Diversification and Risk Management which sets out guidelines for the Fund and its appointed fund managers in order to ensure an appropriate balance of risk and exposure to sectors, asset classes and geographies.

#### **Environmental, Social and Governance (“ESG”) and Syariah compliance policies**

2.—(1) The Board of Guardians may, from time to time, develop ESG and Syariah compliance policies. However, the Board of Guardians should carefully analyse such policies to ensure the target returns are achievable and to fully understand any potential side effects which may negate the objectives of such policies. All such policies must be approved by the Majlis Mesyuarat Kerajaan Negeri before adoption.



**Mechanisms for managing investment**

3.—(1) The approach to managing the funds should be:

(a) Years 1-5: Cash in bank accounts and fixed deposits may be controlled directly by the Board of Guardians. All other investments must be made through licensed, reputable fund managers selected through a transparent, competitive procurement process who shall manage such investments on a discretionary basis in accordance with the Board's policy on Diversification and Risk Management. Not more than 33% of the Assets of the Fund should be held through any one fund manager.

(b) Years 6-10: In parallel with the use of discretionary fund managers, the Board of Guardians may directly invest in investments other than cash in bank accounts and fixed deposits. During this initial stage the direct investments should be limited to 40% of the Assets of the Fund and not more than 33% of the remaining Assets of the Fund should be held through any one fund manager.

(c) Years 11 onwards: The Board of Guardians shall have complete discretion as to whether to use fund managers or to manage the Assets of the Funds directly, taking into account the costs of doing so, the capabilities required and the track record of the internal team responsible for fund management.

(2) The Board of Guardians in consultation with the Investment Advisory Panel, must promptly produce and adopt a policy on management of investments in line with this mandate. This policy may be revised from time to time.

(3) The policy on Diversification and Risk Management of the Fund must specify how foreign exchange forward contracts or options which are excluded from the definition of derivatives will be used, monitored and controlled.

## THIRD SCHEDULE

### PROCEEDINGS OF THE INVESTMENT ADVISORY PANEL

#### **Meetings**

1.—(1) All meetings of the Investment Advisory Panel shall be presided over by the chairman of the Investment Advisory Panel or in his absence, by any member appointed for that purpose by the chairman.

(2) The quorum of any meeting of the Investment Advisory Panel shall be three including the chairman.

(3) Decisions of Investment Advisory Panel shall be made by a majority of votes of members. If for any question to be determined by the Investment Advisory Panel there is an equality of votes, the chairman shall have a casting vote.

(4) Subject to subparagraphs (1), (2), (3) and the provisions of this Ordinance, the Investment Advisory Panel shall regulate its own procedures.

(5) Meetings of the Investment Advisory Panel shall be called by the chairman of the Investment Advisory Panel and notice of such meetings shall be signed by the chairman or any person authorized by the chairman and be issued to all members of the Investment Advisory Panel at least seven days before the date of the meeting.

(6) Notice of meeting shall specify the date, venue and the agenda of the meeting.

#### **Frequency of meetings**

2.—(1) The Investment Advisory Panel shall hold such meetings as are necessary for the proper performance of its functions.

(2) Except with the written approval of the Ministry, the Board shall hold at least three meetings in every calendar year.

#### **Panel may invite others to meetings**

3. The Investment Advisory Panel may request any person not being a member of the Investment Advisory Panel to attend any meeting or deliberation of the Investment Advisory Panel for the purpose of advising it on any matter under

discussion, but such person so attending shall have no right to vote at the said meeting or deliberation.

### **Minutes**

4.—(1) The chairman of the Investment Advisory Panel shall appoint one of the members of the Investment Advisory Panel or any person or persons made available to the Investment Advisory Panel by the Board for such purpose as the secretary of the Investment Advisory Panel to record, maintain and keep all minutes of meetings in a proper form.

(2) Any minutes of meetings of the Investment Advisory Panel shall, if duly signed by the chairman or by the member presiding in his absence, as the case may be, be admissible in evidence in all legal proceedings without further proof and every meeting of the Investment Advisory Panel in respect of the proceedings of which minutes have been so made shall be deemed to have been duly convened and held and all members thereat to have been duly qualified to act.

(3) Members are entitled to copies of such minutes but shall not, without the permission of the chairman, transmit, distribute or permit access thereto, to any person who is not a member of the Investment Advisory Panel.

### **Virtual meetings**

5.—(1) Meetings of the Investment Advisory Panel may be held by way of teleconferencing, video-conferencing or other technological means, which allow each participant to hear and be heard by each other participant.

(2) Where a meeting is held virtually in accordance with subparagraph (1), the meeting shall be deemed to be held at the location at which the Investment Advisory Panel member presiding at the meeting is present, or if such Investment Advisory Panel member is physically outside the State, at the principal office of the Fund.

(3) For the purposes of this Ordinance, all members of the Investment Advisory Panel attending such meeting shall be deemed to be present at the place at which the meeting is held, regardless of their actual physical location.

(4) Any meeting held virtually under this paragraph shall comply with all rules and procedures of meetings specified under this Ordinance.

### **Circular resolutions**

6. A resolution the Investment Advisory Panel may be passed without a meeting of the Investment Advisory Panel being convened if the resolution is:-

(a) circulated in writing to all Panel members together with all documents and other information necessary or desirable, and with sufficient time, for the Panel members to make an informed decision on the subject-matter of the resolution;

(b) approved in writing by a majority of the Panel members, which would have constituted a quorum at a meeting of the Investment Advisory Panel; and

(c) of a type that the Investment Advisory Panel has determined may be passed in accordance with this paragraph.

## FOURTH SCHEDULE

## THRESHOLD VALUE

1.—(1) To calculate the actual Threshold Value in any year, the formula is:

$$\text{Threshold Value of year } X = (\text{Threshold Value of year } (X-1) + \text{Injected capital of year } X + \text{Target Return of year } X - \text{Cost of Investment of year } X) * ((1 + \text{Actual CPI rate of year } X) / (1 + 3\% \text{ assumed inflation rate}))$$

(2) The definition of the elements of the formula is contained in the note of this Schedule.

**Illustrative Threshold Value table**

The table below illustrates the Threshold Value in the event that inflation is 3% per annum.

RM (in billions)				
Year	Initial Appropriation	Annual Appropriation	Net Return	Threshold Value
1	8.00		0.40	8.40
2		0.30	0.44	9.14
3		0.30	0.47	9.91
4		0.30	0.51	10.72
5		0.30	0.55	11.57
6		0.55	0.61	12.72
7		0.55	0.66	13.94

8		0.55	0.94	15.43
9		0.55	1.04	17.02
10		0.55	1.14	18.71
11		0.65	1.26	20.62
12		0.65	1.38	22.65
13		0.65	1.51	24.82
14		0.65	1.68	27.15
15		0.65	2.67	30.46
16		0.65	2.99	34.10
17		0.65	3.34	38.09
18		0.65	3.72	42.46
19		0.65	4.14	47.24
20		0.65	4.60	52.49
<b>Total</b>	<b>8.00</b>	<b>10.45</b>	<b>34.04</b>	

*Notes:*

- **Threshold Value** has the meaning ascribed to it in this Ordinance.
- **Net Return** in relation to any year referred to above, means the Target Return for that year minus the Estimated Costs of Investment for that year.

- The Net Return in relation to any year shall be calculated on the assumption that the Initial Appropriation or Annual Appropriation occurs on the first day of such year. If the relevant appropriation occurs after the first day of such year then the Net Return should be adjusted according to the number of days after the first day of such year on which it occurs.
- **Target Return** in relation to any year, means the target return on investments in that year, before adjusting for the prevailing inflation rate (“CPI”) as published by Bank Negara Malaysia. Such target return shall be as follows:
  - Years 1 to 7: 5.5% per annum
  - Years 8 to 14: 7% per annum
  - Years 15 to 20: 10% per annum
- The Threshold Value table set out above has been prepared on the basis that the base inflation rate in each year is 3%, however the Threshold Value each year shall be adjusted for the actual prevailing inflation rate as published by Bank Negara Malaysia.
- **Estimated Costs of Investment** means the estimated costs to be incurred per annum in relation to the management of the Assets of the Fund.
- The Threshold Value each year will be adjusted for the actual cost incurred in relation to the management of the assets of the Fund.

SARAWAK LAWNET



DICETAK OLEH PERCETAKAN NASIONAL MALAYSIA BERHAD, KUCHING, SARAWAK  
BAGI PIHAK DAN DENGAN KUASA PERINTAH KERAJAAN SARAWAK