

PRINCIPAL TERMS AND CONDITIONS

MALAYAN BANKING BERHAD PROPOSED ESTABLISHMENT OF SUBORDINATED NOTE PROGRAMME OF UP TO RM3.0 BILLION IN NOMINAL VALUE

1. BACKGROUND INFORMATION OF THE ISSUER

- (a) **Name** : Malayan Banking Berhad (“**Maybank**” or “**Issuer**”)
- (b) **Address** : 14th Floor, Menara Maybank
100, Jalan Tun Perak
50050 Kuala Lumpur
- (c) **Business registration no.** : 3813-K
- (d) **Date/Place of Incorporation** : 31 May 1960 / Malaysia
- (e) **Date of Listing (in the case of a public listed company)** : 17 February 1962
- (f) **Status**
- **Resident / non-resident controlled company** : Resident controlled company
 - **Bumiputera / non-Bumiputera controlled company** : Bumiputera controlled company
- (g) **Principal Activities** : Maybank is the holding company and the major operating entity of the Maybank group.

Maybank is principally engaged in the business of banking and finance in all its aspects. The subsidiaries of Maybank are principally engaged in the businesses of banking and finance, Islamic banking, investment banking including stock broking, general and life insurance, general and family takaful, trustee and nominee services, asset management and venture capital.

(h) Board of Directors : The Board of Directors of Maybank as at 31 March 2011 are as follows:

1. Tan Sri Dato' Megat Zaharuddin Megat Mohd Nor (Chairman)
2. Dato' Mohd Salleh Haji Harun
3. Dato' Sri Abdul Wahid Omar
4. Tan Sri Datuk Dr. Hadenan A. Jalil
5. Dato' Seri Ismail Shahudin
6. Dato' Dr. Tan Tat Wai
7. Zainal Abidin Jamal
8. Alister Maitland
9. Cheah Teik Seng
10. Dato' Johan Ariffin
11. Sreesanthan Eliathamby

(i) Structure of shareholdings and names of shareholders or, in the case of a public company, names of all substantial shareholders : The substantial shareholders (with shareholding of 5% and above) as at 31 March 2011 are as follows:

Name	No. of shares held	% of shareholding
Amanah Raya Trustees Berhad (B/O: Skim Amanah Saham Bumiputera)	3,345,515,967	45.69
Citigroup Nominees (Tempatan) Sdn Bhd (B/O: Employees Provident Fund Board)	827,673,980	11.30
Permodalan Nasional Berhad	392,887,334	5.37

(j) Authorised and paid up capital : Authorised and paid-up capital of the Issuer as at 31 March 2011:

Authorised Share Capital

RM10,000,000,000 comprising 10,000,000,000 ordinary shares of RM1.00 each.

Issued and Fully Paid-up Share Capital

RM 7,322,240,391 comprising 7,322,240,391 ordinary shares of RM1.00 each

2. PRINCIPAL TERMS AND CONDITIONS

(a) Names of parties involved in the proposed transaction (where applicable)

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|--------|---|--|
| (i) | Principal Adviser(s) / Lead Arranger(s) | : Maybank Investment Bank Berhad (" Maybank IB " or the " Lead Arranger ") |
| (ii) | Arranger(s) | : Not applicable |
| (iii) | Valuers | : Not applicable |
| (iv) | Solicitors | : Zul Rafique & partners |
| (v) | Financial Adviser | : Not applicable |
| (vi) | Technical Adviser | : Not applicable |
| (vii) | Guarantor | : Not applicable |
| (viii) | Trustee | : Pacific Trustees Berhad |
| (ix) | Facility Agent | : Maybank IB |
| (x) | Primary Subscriber(s) and amount subscribed (where applicable) | : Not applicable |
| (xi) | Underwriter(s) and amount underwritten | : Not applicable |
| (xii) | Central Depository | : Bank Negara Malaysia (" BNM ") |
| (xiii) | Paying Agent | : BNM |
| (xiv) | Reporting Accountant | : Not applicable |
| (xv) | Others (please specify) | : <u>Lead Manager</u>
Maybank IB |

- (b) **Facility description** : Up to RM3.0 billion in nominal value Subordinated Notes ("**Subordinated Notes**") under the Subordinated Note Programme ("**Subordinated Note Programme**").

The Subordinated Notes issued under the Subordinated Note Programme will qualify as Tier 2 capital of Maybank subject to compliance with the requirements as specified in the Risk

Weighted Capital Adequacy Framework and Capital Adequacy Framework for Islamic Banks (General Requirements and Capital Components) published by BNM.

- (c) **Issue size (RM)** : Up to RM3.0 billion in nominal value. The aggregate nominal value of outstanding Subordinated Notes issued pursuant to the Subordinated Note Programme shall not exceed RM3.0 billion at any one point in time.
- (d) **Issue price (RM)** : The Subordinated Notes will be issued at par or at a discount or at a premium, to be determined prior to issuance in accordance with the MyClear Rules and Procedures (as defined in item (n)).
- (e) **Tenor of the facility/issue** : Tenor of the Subordinated Note Programme

Up to twenty (20) years from the date of first issue of Subordinated Notes under the Subordinated Note Programme. The first issue shall be done within twenty four (24) months from the date of approval by the Securities Commission (“SC”).

Tenor of the Subordinated Notes

Each Subordinated Note issued under the Subordinated Note Programme shall have a tenor of either the following:

- (i) 10-year non-callable basis; or
- (ii) 15 years on a 15 non-callable 10 basis (“**15NC10**”); or
- (iii) 12 years on a 12 non-callable 7 basis (“**12NC7**”); or
- (iv) 10 years on a 10 non-callable 5 basis (“**10NC5**”);

subject to the Call Option as described below, if applicable, and provided that the maturity of the Subordinated Notes shall not extend beyond the expiry of the Subordinated Note Programme.

Call Option

Each issuance of Subordinated Notes under the Subordinated Note Programme, save and except for Subordinated Notes issued on a 10-

year non-callable basis, shall have a callable option (“**Call Option**”) to allow the Issuer to redeem (in whole, but not in part) that tranche of Subordinated Notes on the Call Date.

“**Call Date**” is defined as any coupon payment date in the five (5) years prior to the maturity date of that tranche of Subordinated Notes.

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| (f) Interest / Coupon or equivalent rate (%) | : To be determined prior to each issuance of the Subordinated Notes. |
| | The coupon rate shall be applicable from the issue date of the respective Subordinated Notes up to (but excluding) the date of early redemption or the maturity date of that tranche of Subordinated Notes, whichever is earlier. |
| | The coupon rate shall be applicable throughout the tenor of each issue of the Subordinated Notes. |
| (g) Interest / Coupon payment frequency and basis | : <u>Coupon payment frequency</u> |
| | Payable semi-annually in arrears from the issue date of that tranche of Subordinated Notes with the last coupon payment to be made on the date falling on the maturity date or on the date of early redemption of that tranche of Subordinated Notes, whichever is earlier. |
| (h) Interest / Coupon payment basis | : Actual number of days over 365 days basis. |
| (i) Yield to maturity (%) | : To be determined prior to each issuance of the Subordinated Notes. |
| (j) Security/collateral (if any) | : None. |
| (k) Details on utilisation of proceeds | : The net proceeds from the Subordinated Notes will be utilised to fund Maybank’s working capital, general banking and other corporate purposes. |
| (l) Sinking fund (if any) | : None |
| (m) Rating | : AA1 |
| <ul style="list-style-type: none"> • Credit rating assigned [Please specify if this is an indicative rating] | : AA1 |

- **Name of rating agency** : RAM Rating Services Berhad (Company No. 763588-T) (**“RAM Rating”**)
- (n) **Form and denomination** : The Subordinated Notes shall be issued in accordance with:
- (i) the “Participation and Operational Rules for Payments and Securities Services” issued by Malaysia Electronic Clearing Corporation Sdn Bhd (**“MyClear”**) (**“MyClear Rules”**); and
 - (ii) the “Operational Procedures for Securities Services” and “Operational Procedures for Real Time Electronic Transfer of Funds and Securities (RENTAS)” both issued by MyClear (**“MyClear Procedures”**),
- or their replacement thereof (collectively the **“MyClear Rules and Procedures”**) applicable from time to time.
- The Subordinated Notes shall be represented by a global certificate to be deposited with BNM, and is exchanged for definitive bearer certificates only in certain limited circumstances.
- The Subordinated Notes shall be issued in bearer form in the minimum denomination of RM1,000 or in multiples of RM1,000 at the time of issuance or such other denomination as determined/allowed by BNM.
- (o) **Mode of issue** : The Subordinated Notes shall be issued via book-building on a best effort basis and/or private placement on a best effort basis without prospectus in accordance with the MyClear Rules and Procedures.
- (p) **Selling restrictions** : Selling Restrictions at Issuance
- The Subordinated Notes shall not be offered, sold, transferred or otherwise disposed, directly or indirectly in Malaysia other than to persons falling within any of the categories of persons or in the circumstances specified under:
- (i) Schedule 6 (or Section 229(1)(b)); or
 - (ii) Schedule 7 (or Section 230(1)(b)); and
 - (iii) Schedule 9 (or Section 257(3))
- of the Capital Markets and Services Act, 2007

(“**CMSA**”), as amended from time to time.

Selling Restrictions After Issuance

The Subordinated Notes shall not be offered, sold, transferred or otherwise disposed directly or indirectly in Malaysia other than to persons falling within any of the categories of persons or in the circumstances specified under

- (i) Schedule 6 (or Section 229(1)(b)); and
- (ii) Schedule 9 (or Section 257(3))

of the CMSA, as amended from time to time.

- (q) Listing status** : The Subordinated Notes may be listed on Bursa Malaysia Securities Berhad under an Exempt Regime pursuant to Chapter 4B of Bursa Malaysia Securities Berhad’s Main Market Listing Requirements. The SC will be notified accordingly in the event of such listing.
- (r) Minimum level of subscription (RM or %)** : 5% of that tranche of Subordinated Notes to be issued if the issuance is via book-building.

100% of that tranche of Subordinated Notes to be issued if the issuance is via private placement.
- (s) Other regulatory approvals required in relation to the issue, offer or invitation and whether or not obtained** : (i) BNM’s approval for the proposed issuance of Subordinated Notes of up to RM3.0 billion under the Subordinated Note Programme. BNM’s approval (upon terms and conditions imposed by BNM) has been obtained via its letter dated 14 April 2011. BNM’s approval is subject to, inter-alia, Maybank obtaining the approval from BNM prior to subsequent issuance of the Subordinated Notes under the Subordinated Note Programme.

(ii) SC’s approval on the waiver from having to comply with specific clauses in the SC’s Guidelines on the Minimum Contents Requirements for Trust Deeds in respect of the Subordinated Note Programme. SC’s approval was obtained via its letter dated 14 April 2011.

- (t) **Conditions precedent** : Conditions precedent usual and customary for an issuance of such nature, which shall include but not limited to the following:-

Condition Precedent For First Issue of Subordinated Notes

A. Main Documentation

- (i) The Transaction Documents (as defined below) have been signed and, where applicable, stamped and endorsed as exempted from stamp duty.

B. The Issuer

- (i) Certified true copies of the Certificate of Incorporation and the Memorandum and Articles of Association of the Issuer;
- (ii) Certified true copies of the latest Forms 24 and 49 of the Issuer;
- (iii) A certified true copy of a board of directors' resolution, authorising, amongst others, the execution of the Transaction Documents;
- (iv) A list of the Issuer's authorised signatories and their respective specimen signatures;
- (v) A report of the relevant company search of the Issuer; and
- (vi) A report of the relevant winding up search or the relevant statutory declaration in relation thereto.

C. General

- (i) Written approval from the SC for the establishment of the Subordinated Note Programme;
- (ii) Written approval from BNM for the issuance of the Subordinated Notes under the Subordinated Note Programme;
- (iii) Evidence that the Subordinated Note Programme has been accorded a minimum rating of AA1 by RAM Rating;

- (iv) The Lead Arranger has received from the Solicitors a legal opinion addressed to it with respect to, amongst others, the legality, validity and enforceability of the Transaction Documents and a confirmation addressed to it that all the required conditions precedent have been fulfilled;
- (v) The duly completed Securities Lodgement Form (substantially in the form set out in Appendix 1 of the Central Securities Depository and Paying Agency Rules issued by MyClear) has been delivered to the Facility Agent; and
- (vi) Such other conditions precedent as advised by the Solicitors and agreed by the Issuer.

Condition Precedent For Subsequent Issue of Subordinated Notes

Written approval from BNM for issue of that tranche of Subordinated Notes under the Subordinated Note Programme.

(u) Representations and warranties

: Representations and warranties usual and customary for an issuance of such nature, which shall include but not limited to the following:-

- (i) The Issuer (a) has been duly incorporated and validly exists under the Companies Act 1965 of Malaysia, (b) has full power and authority to engage in the business of banking and finance in Malaysia and each other jurisdiction where it is so engaged and conduct its business, and (c) is duly qualified to transact business under the laws of Malaysia and each other jurisdiction in which it owns or leases properties, or conduct any business, so as to require such qualification, other than where the failure to be so qualified would not have a material adverse effect on the Issuer's ability to perform its obligations under the Transaction Documents;
- (ii) The Subordinated Notes have been duly authorised, and when issued and delivered pursuant to the Transaction Documents, will have been duly executed,

authenticated, issued and delivered and will constitute valid and binding obligations of the Issuer entitled to the benefits provided by the Transaction Documents;

- (iii) No event has occurred which would constitute an event of default under the Subordinated Notes or which with the giving of notice or the lapse of time or other condition would constitute an event of default;
- (iv) The Issuer is not in breach of the provisions of any law or regulations governing such approvals, consents, authorisation and/or such licenses and, after due and careful consideration, the Issuer is not aware of any reason why such approval, consent, authorisation and/or license should be withdrawn or cancelled or any conditions attached thereto adversely altered, other than where the absence of such approval, consent, authorisation and/or license would not have a material adverse effect on the Issuer's ability to perform its obligations under the Transaction Documents;
- (v) There are no legal or governmental proceedings pending or, to the knowledge of the Issuer, threatened, to which the Issuer is or may be a party or to which any property or asset of the Issuer is or may be the subject which, if determined adversely to the Issuer, could individually or in the aggregate reasonably be expected to have a material adverse effect on the business, financial position, shareholders' funds or results of operations of the Issuer;
- (vi) The Issuer has all licenses, franchises, permits, authorisations, approvals, orders and other concessions of and from all governmental and regulatory officials and bodies that are necessary to own or lease its properties and conduct its business, other than where the failure to obtain such licenses, franchises, permits, authorisations, approvals, orders and other concessions would not have a material adverse effect on the Issuer's ability

to perform its obligations under the Transaction Documents; and

- (vii) The Issuer and its obligations under the Transaction Documents and the Subordinated Notes are subject to commercial law and to suit in Malaysia and neither the Issuer nor any of its properties, assets or revenues has any right of immunity, on the grounds of sovereignty or otherwise, from any legal action, suit or proceeding, from the giving of any relief in any court, from set off or counterclaim, from the jurisdiction of any court, or other legal process or proceeding for the giving of any relief or for the enforcement of judgment, with respect to its obligations, liabilities or any other matter under or arising out of or in connection with the Transaction Documents and the Subordinated Notes.

For the purpose of this clause, “material adverse effect” means the occurrence of any event which materially and adversely affects the ability of the Issuer to perform any of its obligations under any of the Transaction Documents or which materially and adversely affects the business, financial position, shareholders’ funds or results of the operations of the Issuer.

(v) Events of Default

: The events of defaults shall be:

- (a) If the Issuer fails to pay any principal or coupon or any other amount under a tranche of Subordinated Notes when due and payable and such default continues for a period of fourteen (14) days, the Trustee may, subject to the terms of the Trust Deed, institute proceedings to enforce the payment obligations under that tranche of Subordinated Notes and may institute proceedings in Malaysia for the winding-up of the Issuer, provided that neither the Trustee nor any of the holders of that tranche of Subordinated Notes shall have the right to accelerate payment of that tranche of Subordinated Notes in the case of such default in the payment of amount owing under that tranche of Subordinated Notes or any default in the performance of any condition, provision or

covenant under that tranche of Subordinated Notes or the Transaction Documents; and

(b) If:

- (i) a court or an agency or regulatory authority in Malaysia having jurisdiction in respect of the same shall have instituted any proceeding or entered a decree or order for the appointment of a receiver or liquidator in any insolvency, rehabilitation, readjustment of debt, marshalling of assets and liabilities, or similar arrangements involving the Issuer or all or substantially all of its property, or for the winding up of or liquidation of its affairs and such proceeding, decree or order shall not have been vacated or shall have remained in force, undischarged or unstayed for a period of sixty (60) days; or

- (ii) the Issuer shall file a petition to take advantage of any insolvency statute,

the Trustee may, subject to the terms of the Trust Deed, by written notice to the Issuer declare that the Subordinated Notes shall immediately become due and payable at their respective nominal value together with the accrued but unpaid coupon (if any) notwithstanding the stated maturity of the Subordinated Notes.

For avoidance of doubt, the occurrence of event of default (a) above for any tranche of the Subordinated Notes will not trigger the event of default for other tranches of the Subordinated Notes outstanding. However, occurrence of event of default (b) above will trigger event of default for all tranches of the Subordinated Notes outstanding.

(w) Principal terms and conditions for warrants (where applicable)

: Not applicable.

(x) Other principal terms and conditions for the issue

- (1) Optional Redemption** : For each tranche of Subordinated Notes where Call Option is applicable, the Issuer may, at its option, and subject to the Redemption Conditions (as defined below) being satisfied, redeem that tranche of Subordinated Notes (in whole, but not in part) on the Call Date at their principal amount together with accrued but unpaid coupon (if any). The optional redemption of one tranche of Subordinated Notes shall not trigger the redemption of other tranches of Subordinated Notes.
- (2) Redemption on maturity** : Unless previously redeemed on the Call Date, or redeemed pursuant to a Regulatory Redemption (as defined below) or purchased from the market and cancelled, the tranche of Subordinated Notes will be redeemed by Maybank (in whole, but not in part) at the principal amount together with accrued but unpaid coupon (if any) on the maturity date.
- (3) Regulatory Redemption** : The Issuer may, at its option, redeem a tranche of Subordinated Notes (in whole, but not in part), subject to the Redemption Conditions being satisfied if a Regulatory Event occurs at the principal amount together with accrued but unpaid coupon (if any).

“Regulatory Event” means any time there is more than an insubstantial risk, as determined by the Issuer, that:

- (i) that or any tranche of Subordinated Notes (in whole or in part) will, either immediately or with the passage of time or upon either the giving of notice or fulfillment of a condition, no longer qualify as Tier 2 Capital of the Issuer for the purposes of BNM’s capital adequacy requirements under any applicable regulations;
- (ii) changes in law will make it unlawful to continue performing its obligations under that or any tranche of Subordinated Notes; or
- (iii) changes in tax law will impose a new tax obligation on the Issuer or modify an existing tax obligation of the Issuer by reason of that or any tranche of

Subordinated Notes.

- (4) Redemption Conditions** : Redemption Conditions means:
- (i) the Issuer is solvent at the time of any redemption of that tranche of Subordinated Notes and immediately thereafter;
 - (ii) the Issuer has obtained the written approval of BNM prior to redemption of that tranche of Subordinated Notes; and
 - (iii)
 - (a) the Issuer shall replace that tranche of Subordinated Notes to be redeemed with capital of the same or better quality and the replacement of this capital is done at conditions which are sustainable for the income capacity of the Issuer; or
 - (b) the Issuer demonstrates that its capital position is well above the minimum requirements after the Call Option is exercised.
- (5) Covenants** : The Issuer shall comply with such applicable covenants as may be advised by the Solicitors and/or which are required in order to comply with the SC's Minimum Contents Guidelines (save for those which waiver has been sought and approved by the SC), including but not limited to the following:
- (i) At all times comply with its obligations under the Transaction Documents;
 - (ii) Redeem in full all outstanding Subordinated Notes in accordance with the terms and conditions of the Transaction Documents;
 - (iii) At all times provide the Trustee such information as it may reasonably require in order to discharge of its duties and obligations as trustee to the extent as permitted by law;
 - (iv) At all times exercise reasonable diligence in carrying on its business in a proper and efficient manner which should ensure, amongst others, that all necessary

approvals or relevant licences are obtained;

- (v) At all times maintain a paying agent in Malaysia;
- (vi) Procure that the paying agent shall notify the Trustee in the event that the paying agent does not receive payment from the Issuer on the due dates as required under the Transaction Documents;
- (vii) At all times keep proper books and accounts;
- (viii) Notify the Trustee in the event that the Issuer becomes aware of the following:
 - (a) any event of default or that such other right or remedy under the terms, provisions and covenants of the Subordinated Notes and the Trust Deed have become immediately enforceable;
 - (b) any circumstance that has occurred that would materially prejudice the Issuer or any security included in or created by the Subordinated Notes or the Trust Deed;
 - (c) any substantial change in the nature of the business of the Issuer;
 - (d) any change in the utilisation of proceeds from the Subordinated Notes other than for the purpose stipulated in the information memorandum and the Transaction Documents; and
 - (e) of any other matter that may materially prejudice the interest of the holders of the Subordinated Notes;
- (ix) Deliver to the Trustee a copy of its annual audited accounts within 180 days after the end of each financial year, and any other accounts, reports, notices, statements or circulars issued to shareholders; and

- (x) Deliver to the Trustee annually a certificate that the Issuer has complied with its obligations under the Trust Deed and the terms and conditions of the Subordinated Notes and that there did not exist or had not existed, from the date the Subordinated Notes were issued, any event of default and if such is not the case, to specify the same.

- (6) Status of Subordinated Notes** : The Subordinated Notes will constitute direct, unconditional, unsecured and subordinated obligations of the Issuer ranking pari passu without any preference among themselves.

In the event of the winding-up or liquidation of the Issuer, the claims of the noteholders against the Issuer in respect of the Subordinated Notes will be subordinated in right of payment to the claims of depositors and all other unsubordinated creditors of the Issuer and will rank at least pari passu in right of payment with all other Subordinated Indebtedness (as defined below), present and future, of the Issuer. Claims in respect of the Subordinated Notes will rank in priority to the rights and claims of holders of subordinated liabilities which by their terms rank or expressed to rank in right of payment junior to the Subordinated Notes and all classes of equity securities of the Issuer, including holders of preference shares.

“Subordinated Indebtedness” means all indebtedness which is subordinated, in the event of the winding-up or liquidation of the Issuer, in right of payment to the claims of depositors and other unsubordinated creditors of the Issuer, and for this purpose indebtedness shall include all liabilities, whether actual or contingent.

- (7) Transaction Documents** : The Subordinated Note Programme shall include, but not be limited to, the following:

- (i) Programme Agreement;
- (ii) Trust Deed; and
- (iii) Any other relevant documents agreed between the parties that may be required to complete the Subordinated Note Programme as advised by the Solicitors and agreed by the Issuer.

- (8) Purchase and Cancellation** : The Issuer or any related corporation of the Issuer may at any time purchase, subject to the prior approval of BNM (but which approval shall not be required for a purchase done in the ordinary course of business), the Subordinated Notes at any price in the open market or by private treaty. The Subordinated Notes purchased by the Issuer or any related corporation of the Issuer may not be used for voting purposes or for directing or requesting the Trustee to take any action. All Subordinated Notes which are (a) redeemed or (b) purchased by the Issuer or any related corporation of the Issuer (other than in the ordinary course of business) will forthwith, subject to the prior approval of BNM, be cancelled and accordingly may not be reissued or resold.
- For the purpose of this clause, the term “related corporation” has the meaning given to it in the Companies Act, 1965 and the term “ordinary course of business” includes those activities performed by the Issuer or any related corporation of the Issuer for third parties and excludes those performed for own account of the Issuer or such related corporation.
- (9) Governing law** : Laws of Malaysia and submission to the exclusive jurisdiction of the courts of Malaysia.
- (10) Other Conditions** : The Subordinated Note Programme shall at all times be governed by the guidelines issued and to be issued from time to time by the SC, BNM and/or other relevant authority in Malaysia having jurisdiction over matters pertaining to the Subordinated Note Programme and the Subordinated Notes.
- (11) Further Issuances** : The Issuer may from time to time raise additional subordinated notes, which may contain greater rights for the holders thereof including acceleration rights provided that such subordinated notes ranks pari-passu in right and priority of payment with or is subordinated to the Subordinated Notes in the case of any distribution of assets in any winding up of the Issuer.