

27 March 2019

TO WHOM IT MAY CONCERN

Tuan,

**Supplementary Notice (No. 5) on Foreign Exchange Administration Rules**

Following Bank Negara Malaysia's ("Bank") –

- (a) Notices on Foreign Exchange Administration Rules issued on 28 June 2013 ("2013 Notices");
- (b) Supplementary Notice on Foreign Exchange Administration Rules - Measures to Promote Development of Malaysian Financial Market dated 2 December 2016 ("Supplementary Notice");
- (c) Supplementary Notice (No. 2) on Foreign Exchange Administration Rules and Amendment to the Definitions of the Notices on Foreign Exchange Administration Rules - Measures to Promote Development of Malaysian Financial Market dated 2 May 2017 ("Supplementary Notice (No. 2)");
- (d) Supplementary Notice (No. 3) on Foreign Exchange Administration Rules – Measures to Promote Development of Malaysian Financial Market dated 8 September 2017 ("Supplementary Notice (No. 3)"); and
- (e) Supplementary Notice (No. 4) on Foreign Exchange Administration Rules dated 17 August 2018 ("Supplementary Notice (No. 4)"),

the Bank issues this Supplementary Notice (No. 5).

**Part A – Hedging of foreign currency obligations**

2. Effective 27 March 2019, a resident is allowed to buy foreign currency against ringgit with a licensed onshore bank –

- (a) on **spot** basis up to the aggregate of its **six (6) months** foreign currency obligations; or
- (b) on **forward** basis up to the aggregate of its **twelve (12) months** foreign currency obligations,

at the time of entering into the contract to buy foreign currency against ringgit.

3. For purposes of Supplementary Notice (No. 4) and this Supplementary Notice (No. 5), “foreign currency obligations” refers to –

- (a) foreign currency import payment with a non-resident;
- (b) foreign currency loan repayment; and
- (c) other current account transactions in foreign currency with a non-resident.

#### **Part B – Payment in foreign currency between residents**

4. Effective 2 May 2019, a resident entity which is a **Small and Medium Enterprise (SME)**<sup>1</sup> and a **net importer**<sup>2</sup> (“Resident Payee”) may receive payment in foreign currency from a resident entity with foreign currency export earnings (“Resident Payor”) for settlement of domestic trade in goods and services subject to the following conditions:

- (a) the payment is made using –
  - (i) the Resident Payor’s foreign currency funds in its Trade Foreign Currency Account; or
  - (ii) proceeds from an approved foreign currency export trade financing facility in accordance with Part A of Notice 2 of the 2013 Notices,and shall not be sourced from conversion of ringgit by the Resident Payor;
- (b) the payment is made directly into the Resident Payee’s Trade Foreign Currency Account; and
- (c) the Resident Payor and Resident Payee have complied with the requirements in the **Appendix**.

Funds which are allowed to be received under this paragraph 4 shall be referred to as “Eligible Foreign Currency Payable” in this Supplementary Notice (No. 5).

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<sup>1</sup> as defined in the “Guideline for New SME Definition” issued by SME Corporation Malaysia in October 2013 as amended from time to time and is available at <http://www.smecorp.gov.my>

<sup>2</sup> Net importer means a resident entity with foreign currency import obligations which either does not have foreign currency export earnings or its annual foreign currency export earnings are less than its annual foreign currency import obligations.

5. Effective 2 May 2019, a Resident Payor which is allowed to make payment in foreign currency to a Resident Payee under paragraph 1 of Part A of Notice 4 of the 2013 Notices read together with paragraph 4 above may retain in its Trade Foreign Currency Account held with a licensed onshore bank, foreign currency proceeds from its export of goods up to the higher of –

- (a) 25% of the export proceeds; or
- (b) subject to paragraph 6 below, the Resident Payor's aggregate of **six (6) months** –
  - (i) foreign currency obligations; and
  - (ii) Eligible Foreign Currency Payable to Resident Payee,that exist on the date of receipt of the export proceeds.

6. Subparagraph 5(b) is only applicable if the aggregate amount of existing balance in the Resident Payor's Trade Foreign Currency Account and proceeds retained under subparagraph 5(a) is insufficient to meet the aggregate of the Resident Payor's six (6) months foreign currency obligations and Eligible Foreign Currency Payable to Resident Payee that exist on the date of receipt of the export proceeds.

### **Part C – Miscellaneous**

7. This Supplementary Notice (No. 5) including the Appendix is issued by the Bank in exercise of the powers conferred by sections 214(2), 214(5) and 261 read together with Schedule 14 of the Financial Services Act 2013 and sections 225(2), 225(5) and 272 read together with Schedule 14 of the Islamic Financial Services Act 2013.

8. Following the issuance of this Supplementary Notice (No. 5) –

- (a) paragraphs 7 of Part B of Supplementary Notice is amended accordingly;
- (b) paragraph 5 of Part A of Supplementary Notice No. 2 is revoked; and
- (c) paragraph 2 of Part A of Supplementary Notice No. 4 is amended accordingly.

9. This Supplementary Notice (No. 5) including the Appendix shall be read together with the following:

- (a) 2013 Notices;

- (b) Supplementary Notice;
- (c) Supplementary Notice (No. 2);
- (d) Supplementary Notice (No. 3); and
- (e) Supplementary Notice (No. 4).

If there is any inconsistency between this Supplementary Notice (No. 5) and the above documents, this Supplementary Notice (No. 5) shall prevail only to the extent of such inconsistency.

**Requirements to undertake payment in foreign currency between residents**

1. A Resident Payee shall be present at the receiving bank and shall –
  - (a) make a declaration that –
    - (i) the Resident Payee is an SME as defined in the “Guideline for New SME Definition” issued by SME Corporation Malaysia in October 2013 (as amended from time to time);
    - (ii) the Resident Payee does not have foreign currency export earnings or its annual foreign currency export earnings are less than its annual foreign currency obligations; and
    - (iii) the Resident Payee has invoiced or will invoice the Resident Payor in foreign currency; and
  - (b) provide supporting documents as evidence of its six (6) months foreign currency import obligations,  
to its receiving bank.
2. A Resident Payor shall be present at the remitting bank and shall –
  - (a) make a declaration that the Resident Payor has foreign currency earnings from export; and
  - (b) provide a copy of Resident Payee’s declaration under paragraph 1(a) above,  
to its remitting bank.
3. A Resident Payee and a Resident Payor shall make the declaration required under paragraphs 1 and 2 respectively on an annual basis.
4. A Resident Payee and a Resident Payor shall provide a licensed onshore bank with all documentary evidence required by the licensed onshore bank as part of its customer due diligence process.