
DEFINITIONS

1. In the Notices, unless the context otherwise requires –

“activities in the real sector” means activities relating to –

- (a) the production or consumption of goods or services, other than –
 - (i) activities in the financial services sector, whether Islamic or otherwise;
 - (ii) the purchase of security or Islamic security;
 - (iii) the purchase of financial instrument or Islamic financial instrument;or
- (b) the construction or purchase of a residential or commercial property excluding the purchase of land only;

“anticipatory” means –

- (a) the projected current account transaction based on previous track record;
or
- (b) the projected financial account transaction supported with a letter of intent, a letter of comfort, a letter of support or any similar form of undertaking to reflect involvement in the transaction;

“appointed overseas office” means the appointed overseas parent company, subsidiary company, sister company, head office or branch of a licensed onshore bank’s banking group, excluding a licensed international Islamic bank;

“borrowing” means any credit facility, financing facility, trade guarantee or guarantee for payment of goods, redeemable preference share, Islamic redeemable preference share, private debt security or Islamic private debt security other than –

- (a) trade credit terms extended by a supplier for all types of goods or services;

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- (b) forward contract with a licensed onshore bank excluding a contract that involves –
 - (i) the exchanging or swapping of ringgit or foreign currency debt obligation with another foreign currency debt obligation; or
 - (ii) the exchanging or swapping of foreign currency debt obligation with a ringgit debt obligation;
- (c) performance guarantee or financial guarantee;
- (d) operational leasing facility;
- (e) factoring facility without recourse;
- (f) a credit facility or financing facility obtained by a resident individual from a resident to purchase one residential property and one vehicle; or
- (g) credit card and charge card facility obtained by a resident individual from a resident;

“current account transaction” means payment of or receipt arising from trading of goods or services, fees, commission, royalties or income including wages, salaries, dividends, profits or interests;

“direct investment abroad” means –

- (a) investment abroad resulting in at least 10% equity ownership or control of a non-resident entity;
- (b) inter-company lending to a non-resident entity within its group of entities; or
- (c) capital expenditure in unincorporated entities or projects by agreement with no establishment created, where a resident investor –
 - (i) contributes capital of at least 10% of project cost;
 - (ii) is entitled to at least 10% of profits from the unincorporated entity or project; or
 - (iii) has management control of the unincorporated entity or project;

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“direct shareholder” means a shareholder with at least 10% shareholding in a resident entity;

“domestic ringgit borrowing” means borrowing in ringgit obtained by a resident from another resident. For a resident entity, the borrowing shall exclude borrowing from another resident entity within its group of entities with parent-subsidary relationship;

“entity” means any corporation, statutory body, local authority, society, co-operative, limited liability partnership and any other body, organisation, association or group of persons, whether corporate or unincorporate, in or outside Malaysia and also includes the Federal Government, State Government or any other governments;

“export of goods” means movement or transfer of goods by land, sea or air from Malaysia to any territory outside of Malaysia;

“external account” means an account in ringgit opened with any financial institutions in Malaysia –

- (a) by a non-resident –
 - (i) individually;
 - (ii) jointly with another non-resident;
 - (iii) jointly with a resident other than –
 - (aa) for a joint venture in Malaysia;
 - (bb) a husband and wife; or
- (b) by a resident who operates the account in trust for or on behalf of a non-resident;

“financial account transaction” refers to a transaction other than “current account transaction”;

“financial guarantee” means a guarantee or any form of undertaking to secure the repayment of a debt or liability;

“financial institution” means a person carrying out a financial business regulated under the laws enforced by the Bank and in addition includes any person carrying out any other financial business as may be prescribed or specified by the Bank;

“firm commitment” means a commitment arising from –

- (a) an obligation to make or a right to receive, any payment under any agreement or arrangement;
- (b) a holding of an asset including property; or
- (c) a holding of a debt, obligation or liability;

“forward” means the buying or selling of any currency for settlement after two business days through a derivative as defined under subsection 2(1) in the Financial Services Act 2013 [Act 758] or section 2 of the Islamic Financial Services Act 2013 [Act 759] or any other arrangement to obtain another currency, whether settlement is to be made on gross or net basis;

“general partnership” means “partnership” as defined in subsection 3(1) of the Partnership Act 1961 [Act 135];

“group of entities” means a resident entity’s –

- (a) ultimate holding entity;
- (b) parent or head office;
- (c) branch;
- (d) subsidiary where the resident entity owns more than 50% of shares in the subsidiary;
- (e) associate company where the resident entity owns between 10% and 50% of shares in the associate company; or
- (f) sister company where the resident entity and its sister company have common shareholder;

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“immediate family members” in relation to an individual means his spouse, parents, children or siblings;

“intermediary” means a management company, trust company, legal firm, custodian, stockbroking corporation or any similar entity which undertakes investment or manages funds on behalf of clients;

“international organisation” has the same meaning as defined in subsection 2(1) of the International Organizations (Privileges and Immunities) Act 1992 [*Act 485*];

“international trade” means movement or transfer of goods or services from Malaysia to any territory outside of Malaysia, vice versa;

“investment abroad” means –

- (a) making of any payment for –
 - (i) purchase of foreign currency-denominated asset in Malaysia offered by a non-resident, including Labuan entity;
 - (ii) purchase of foreign currency-denominated asset offered outside Malaysia;
 - (iii) lending in foreign currency to a non-resident;
 - (iv) administrative expenses, working capital arising from the set up of any business arrangement, including a joint venture project where no entity is created or established, outside Malaysia;
 - (v) purchase of foreign currency-denominated financial instrument or Islamic financial instrument without firm commitment, other than exchange rate derivative, offered on an overseas Specified Exchange under the Capital Markets and Services Act 2007 [*Act 671*] undertaken by a resident through a resident futures broker;
 - (vi) placement into foreign currency account II in Malaysia as specified in Notice 3; or

- (vii) placement into foreign currency account overseas other than for education or employment abroad; or
- (b) swapping of a financial asset in Malaysia for a financial asset outside Malaysia;

“investment in foreign currency asset onshore” means making of any payment in Malaysia for –

- (a) purchase of foreign currency-denominated security or Islamic security offered in Malaysia by a resident as approved by the Bank;
- (b) purchase of foreign currency-denominated financial instrument or Islamic financial instrument offered in Malaysia by a resident as approved by the Bank; or
- (c) placement into foreign currency account with a licensed onshore bank other than placement for investment abroad;

“licensed onshore bank” means a licensed bank and a licensed investment bank under the Financial Services Act 2013 [*Act 758*] and a licensed Islamic bank under the Islamic Financial Services Act 2013 [*Act 759*];

“Labuan entity” means an entity which is created, incorporated, licensed or registered, as the case may be, under any of the following Acts:

- (a) Labuan Companies Act 1990 [*Act 441*];
- (b) Labuan Trusts Act 1996 [*Act 554*];
- (c) Labuan Foundations Act 2010 [*Act 706*];
- (d) Labuan Limited Partnerships and Limited Liability Partnerships Act 2010 [*Act 707*];
- (e) Labuan Financial Services and Securities Act 2010 [*Act 704*]; or
- (f) Labuan Islamic Financial Services and Securities Act 2010 [*Act 705*];

“non-financial guarantee” means any guarantee other than a financial guarantee, and includes a performance bond, tender bond, guarantee for the supply of goods or

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services or shipping guarantee in which such guarantee was issued or obtained not for purposes of securing borrowing;

“non-resident financial institution” means a non-resident entity undertaking financial services;

“parent-subsiary relationship” means direct or indirect relationship where a resident entity is –

- (a) a holding entity or ultimate holding entity of another resident entity;
- (b) a subsidiary of another resident entity; or
- (c) a subsidiary of a non-resident entity, where the ultimate holding entity is a resident entity;

“ringgit asset” means –

- (a) ringgit-denominated security or Islamic security issued in Malaysia by a resident;
- (b) ringgit-denominated security or Islamic security issued by a non-resident as approved by the Bank;
- (c) ringgit-denominated financial instrument or Islamic financial instrument as approved by the Bank;
- (d) ringgit deposits with a financial institution in Malaysia; or
- (e) property in Malaysia;

“spot” means the buying or selling of any currency for delivery within two business days.

DECLARATION ON ENTITIES CREATED, INCORPORATED, *etc.* IN LABUAN

2. (1) The Bank hereby declares that all Labuan entities, other than a Labuan entity under subparagraph (2), are non-residents for purposes of sections 214 and 215 of the Financial Services Act 2013 [*Act 758*] and sections 225 and 226 of the Islamic Financial Services Act 2013 [*Act 759*] and the Notices.

- (2) The declaration of a non-resident for a Labuan entity which carries on –
- (a) Labuan banking business; or
 - (b) Labuan insurance or takaful business;

under the Labuan Financial Services and Securities Act 2010 [*Act 704*] or the Labuan Islamic Financial Services and Securities Act 2010 [*Act 705*], as the case may be, shall take effect upon licensing of such businesses under the said Acts.