
BORROWING AND GUARANTEE

Part A: Borrowing by resident

Borrowing in ringgit by resident individual, etc. 1. (1) A resident individual, sole proprietor or general partnership is allowed to borrow in ringgit up to RM1 million in aggregate for use in Malaysia from any non-resident other than a non-resident financial institution.

(2) Notwithstanding subparagraph (1), a resident individual is allowed to borrow in ringgit in any amount from –

- (a) his non-resident immediate family member; or
- (b) his non-resident employer in Malaysia as set out below subject to the terms and conditions of his service and the amount borrowed is to be used in Malaysia:
 - (i) Consulate;
 - (ii) high commission;
 - (iii) Labuan entity;
 - (iv) central bank;
 - (v) supranational;
 - (vi) embassy; or
 - (vii) international organisation.

Refinancing of ringgit borrowing by resident individual, etc.

2. A resident individual, sole proprietor or general partnership is allowed to refinance an outstanding approved borrowing in ringgit, including principal and accrued interest or profit from a non-resident subject to compliance with the requirements in paragraph 1:

Provided that the total outstanding approved borrowing in ringgit including the refinanced amount in this paragraph complies with the requirements under paragraph 1.

Borrowing in ringgit by resident entity

3. (1) A resident entity is allowed to borrow in ringgit up to RM1 million in aggregate for use in Malaysia from any non-resident other than a non-resident financial institution and the RM1 million shall be based on the aggregate borrowing of the resident entity and other resident entities within its group of entities with parent-subsidiary relationship.

(2) Notwithstanding subparagraph (1), a resident entity is allowed to borrow in ringgit in any amount to finance activities in the real sector in Malaysia from –

- (a) a non-resident entity within its group of entities; or
- (b) its non-resident direct shareholder.

(3) Subparagraph (2) shall not apply to borrowing in ringgit by a resident entity from –

- (a) a non-resident financial institution; or
- (b) a non-resident special purpose vehicle which is used to obtain borrowing from any person which is not part of the resident entity's group of entities.

(4) A resident entity is allowed to borrow in ringgit in any amount from a non-resident through the issuance of –

- (a) ringgit private debt securities or Islamic private debt

securities under the Private Debt Securities Guidelines or Islamic Private Debt Securities Guidelines issued by the Securities Commission Malaysia and such private debt securities or Islamic private debt securities shall exclude non-tradable private debt securities or Islamic private debt securities issued to –

- (i) a non-resident which is not part of its group of entities; or
 - (ii) a non-resident entity within its group of entities or its non-resident direct shareholder other than for the purpose as set out in subparagraph (2); or
- (b) ringgit debt securities or Islamic debt securities by the Federal Government.

Refinancing of ringgit borrowing by resident entity

4. A resident entity is allowed to refinance an outstanding approved borrowing in ringgit, including principal and accrued interest or profit, obtained from a non-resident subject to compliance with the requirements in paragraph 3:

Provided that the total outstanding approved ringgit borrowing including the refinanced amount in this paragraph complies with the requirements under paragraph 3.

Borrowing in foreign currency by resident individual, etc.

5. (1) A resident individual, sole proprietor or general partnership is allowed to borrow in foreign currency up to RM10 million equivalent in aggregate from a licensed onshore bank or a non-resident.

(2) Notwithstanding subparagraph (1), a resident individual is allowed to borrow in foreign currency in any amount from his immediate family member.

Refinancing of foreign currency borrowing by resident individual, etc.

6. A resident individual, sole proprietor or general partnership is allowed to refinance an outstanding approved borrowing in foreign currency, including principal and accrued interest or profit, from a licensed onshore bank or a non-resident subject to compliance with the requirements in paragraph 5:

Provided that the total outstanding approved borrowing in foreign currency including the refinanced amount in this paragraph complies with the requirements under paragraph 5.

Borrowing in foreign currency by resident entity

7. (1) A resident entity is allowed to borrow in foreign currency, as follows:

- (a) Any amount from a licensed onshore bank;
- (b) any amount from its resident or non-resident entities within its group of entities;
- (c) any amount from its resident or non-resident direct shareholder;
- (d) any amount through the issuance of foreign currency debt securities to another resident; or
- (e) up to RM100 million equivalent in aggregate from other non-residents:

The RM100 million equivalent is based on the aggregate borrowing of the resident entity and other resident entities within its group of entities with parent-subsidiary relationship.

(2) Subsubparagraph (1)(b) and (1)(c) shall not apply to borrowing in foreign currency by a resident entity from –

- (a) a non-resident financial institution; or
- (b) a non-resident special purpose vehicle which is set-up to obtain borrowing from any person which is not part of the resident entity's group of entities.

Refinancing of foreign currency borrowing by resident entity

8. A resident entity is allowed to refinance an outstanding approved borrowing in foreign currency, including principal and accrued interest or profit, obtained from another resident or non-resident subject to compliance with the requirements in paragraph 7:

Provided that the total outstanding approved foreign currency borrowing including the refinanced amount in this paragraph complies with the requirements under paragraph 7.

Right of first refusal

9. (1) Where a borrowing in foreign currency, other than under paragraphs 5 and 7, is to be obtained by a resident from a non-resident financial institution, the resident shall accord the right of first refusal to a Labuan entity undertaking Labuan banking business.

(2) Subparagraph (1) shall not apply to borrowing from a non-resident financial institution which is an inter-governmental entity where Malaysia is a member or shareholder.

Part B: Borrowing by non-resident

Borrowing in ringgit

10. (1) A non-resident is allowed to borrow in ringgit from a resident, as follows:

- (a) Through the issuance of private debt securities or Islamic private debt securities in ringgit approved by the Bank; or
- (b) to finance activities in the real sector in Malaysia.

(2) Subsubparagraph (1)(b) shall not apply to borrowing by a non-resident financial institution.

(3) A non-resident is allowed to borrow in ringgit from a licensed onshore bank, other than a licensed international Islamic

bank, as follows:

- (a) A trade financing facility obtained by a non-resident to finance the purchase or sale of goods or services with a resident;
- (b) an overdraft facility obtained by a non-resident custodian bank or a non-resident stockbroking corporation to facilitate the settlement of shares or ringgit instruments traded on Bursa Malaysia or through the Real Time Electronic Transfer of Funds and Securities System (RENTAS) to avoid settlement failure due to inadvertent delays of payment by the non-resident and the overdraft facility shall not exceed two business days and with no roll-over option; or
- (c) a repurchase agreement or a sale buy back agreement entered with the licensed onshore bank, provided that the total borrowing in the form of the repurchase agreement and sale buy back agreement shall not exceed RM10 million in aggregate.

(4) A non-resident is allowed to borrow in ringgit from a resident entity with a stockbroking licence under the Capital Market and Services Act 2007 [Act 671], provided that the borrowing shall –

- (a) be in the form of margin financing to finance the purchase of securities, Islamic securities, financial instruments or Islamic financial instruments traded on Bursa Malaysia; or
- (b) not be extended to a non-resident financial institution.

(5) A non-resident individual is allowed to borrow in

ringgit from –

- (a) his immediate family members;
- (b) a licensed insurer or a licensed takaful operator up to the attained cash surrender value of any life insurance policy or family takaful certificate purchased by the non-resident;
- (c) his resident employer in Malaysia subject to the terms and conditions of service and for use in Malaysia; or
- (d) his non-resident employer in Malaysia as set out below, subject to the terms and conditions of his service and the amount borrowed is to be used in Malaysia:
 - (i) Consulate;
 - (ii) high commission;
 - (iii) Labuan entity;
 - (iv) central bank;
 - (v) supranational;
 - (vi) embassy; or
 - (vii) international organisation.

**Borrowing in
foreign
currency**

11. A non-resident is allowed to borrow in foreign currency –
- (a) in any amount from a licensed onshore bank;
 - (b) up to the limit as set out in Part B of Notice 3 from other residents;
 - (c) in any amount from another non-resident in Malaysia; or
 - (d) in any amount from any of his immediate family member.

Part C: Issuing, publishing or disseminating information on borrowing

Issuing, etc. of information on borrowing 12. A resident under subparagraph 10(3) and (4) is allowed to issue, publish or disseminate information in any form arising from the transaction in the said paragraph.

Part D: Exchanging of debt

Exchanging of ringgit or foreign currency debt obligation 13. (1) A resident is allowed to enter into an exchange transaction with –

- (a) a licensed onshore bank, other than a licensed international Islamic bank –
 - (i) to convert a ringgit debt obligation into a foreign currency debt obligation provided that in circumstances where there is delivery of the foreign currency at the inception of the transaction, the resident shall comply with this Notice and the utilisation of the foreign currency proceeds arising from the exchange transaction shall comply with the relevant Notices; or
 - (ii) to convert a foreign currency debt obligation into a ringgit debt obligation; or
- (b) a licensed onshore bank or a non-resident to convert a foreign currency debt obligation into another foreign currency debt obligation.

(2) The transactions in –

- (a) subparagraph (1)(a)(i) and (1)(b) are deemed as borrowings in foreign currency and shall comply with the requirements as set out under Part A of this Notice; or
- (b) subparagraph (1)(a)(ii) is deemed as borrowing in ringgit.

Part E: Guarantee

**Financial
guarantee
involving non-
residents**

14. (1) A resident is allowed to give a financial guarantee in any amount in foreign currency or ringgit on behalf of or in favour of a non-resident.

(2) Subparagraph (1) shall not apply to a financial guarantee –

- (a) exceeding RM50 million equivalent in aggregate –
 - (i) to secure borrowing obtained by a non-resident which is not part of the resident's group of entities;
 - (ii) to secure borrowing obtained by a non-resident which obtains financing from a non-resident financial institution or any person which is not part of the resident entity's group of entities or not its direct shareholder; or
- (b) in any amount where payment will be made in ringgit to or by a non-resident for an underlying foreign currency borrowing.

(3) A resident is allowed to obtain financial guarantee in any amount in foreign currency or ringgit from a non-resident.

(4) Subparagraph (3) shall not apply to financial guarantee –

- (a) exceeding RM100 million equivalent in aggregate which is obtained by the resident from a non-resident which is not part of its group of entities or not its direct shareholder including a non-resident financial institution to secure borrowing obtained from –
 - (i) a resident;
 - (ii) a non-resident which is within the resident

borrower's group of entities or its direct shareholder; or

- (b) in any amount where payment arising from the financial guarantee will be made in ringgit –
 - (i) by a non-resident to secure foreign currency borrowing; or
 - (ii) to a non-resident.

(5) A resident shall register with the Bank not later than seven (7) business days after giving or obtaining the financial guarantee under subparagraphs (1) and (3) if the amount of the financial guarantees exceed RM50 million or its equivalent in aggregate.

(6) Subparagraphs (2), (4) and (5) above do not apply to financial guarantee given or obtained by a licensed onshore bank.

Right of first refusal

15. (1) Where a financial guarantee in foreign currency, under subparagraph (4), is to be obtained by a resident from a non-resident financial institution, the resident shall accord the right of first refusal to a Labuan entity undertaking Labuan banking business.

(2) Subparagraph (1) shall not apply to financial guarantee obtained from a non-resident financial institution which is an inter-governmental entity where Malaysia is a member or shareholder.

Non-financial guarantee involving non-residents

16. (1) A resident is allowed to give a non-financial guarantee of any amount in foreign currency or ringgit on behalf of or in favour of a non-resident.

(2) A resident is allowed to obtain a non-financial

guarantee of any amount –

- (a) in foreign currency from a non-resident; or
- (b) in ringgit from Labuan entity carrying out Labuan banking business in favour of a resident.

(3) The settlement of the non-financial guarantee to a non-resident must be made in foreign currency other than in subsubparagraph (2)(b).