

Foreign Exchange Administration Policies

Bank Negara Malaysia has undertaken further liberalisation of the foreign exchange administration policies to enhance the efficiency of the system and provide greater flexibility in the management of foreign exchange transactions. Bank Negara Malaysia has also amended the Exchange Control Act 1953 to strengthen the regulatory framework including the enforcement and surveillance provisions relating to foreign exchange transactions.

Liberalisation of Foreign Exchange Administration Policies

With effect from 1 April 2007, foreign exchange administration rules are liberalised to:

- (a) Expand the scope of licensed onshore banks' foreign currency business;
- (b) Facilitate investments in ringgit assets by non-residents;
- (c) Enhance business efficiency and investment opportunities; and
- (d) Facilitate development of the capital market.

Expanding Scope of Licensed Onshore Banks' Foreign Currency Business

To provide greater flexibility to licensed onshore banks to undertake foreign currency business, the following foreign exchange administration rules are liberalised:

- (a) Abolish net open position limit of licensed onshore banks which was previously capped at 20% of the banks' capital base. The limit is abolished in view of the implementation of a more comprehensive regulatory capital framework for foreign currency risks.
- (b) Abolish the limit imposed on licensed onshore banks for foreign currency accounts maintained by residents. The removal of the limit is to facilitate licensed onshore banks' readiness in enhancing capacity and capability to deal in foreign currency as well as to support the initiative to promote Malaysia as an Islamic Financial Centre.
- (c) Allow investment banks in Malaysia to undertake foreign currency business subject to a comprehensive supervisory review on the capacity and capability of the investment banks.

Facilitating Investments in Ringgit Assets by Non-Residents in Promoting Malaysia as an Investment Destination

To widen the investor base for ringgit assets and financial products, the following foreign exchange administration rules are liberalised:

- (a) Further flexibility for non-resident stockbroking companies and custodian banks to obtain ringgit overdraft facility from licensed onshore banks to avoid settlement failure due to inadvertent delays by:
 - (i) Removing the previous overdraft limit of RM200 million; and

- (ii) Expanding the scope on utilisation of the overdraft facility to include ringgit instruments settled through the Real Time Electronic Transfer of Funds and Securities (RENTAS) System and Bursa Malaysia. Previously, utilisation of the facility was confined only to shares traded on Bursa Malaysia.

The licensed onshore banks, in granting the overdraft facility, would continue to be required to observe the following conditions:

- (i) The facility is not for funding purposes and granted strictly for settlement due to inadvertent or technical delays as well as time zone differences; and
 - (ii) The facility must not exceed two working days with no rollover options.
- (b) Abolish the limit on the number of residential or commercial property loans obtained by non-residents. Under the previous policy, non-residents were allowed to obtain a maximum limit of three property loans from residents to finance the purchase or construction of residential or commercial properties in Malaysia.
- (c) Allow licensed onshore banks to appoint overseas branches of their banking group as a vehicle to facilitate the settlement of any ringgit assets of their non-resident clients.

The ringgit transactions undertaken by the overseas branches would be subject to the following conditions:

- (i) The overseas branches must conduct only straight pass-through transactions matched with a back-to-back arrangement on both amount and tenure with the licensed onshore banks. There will be no gapping of the ringgit positions in the books of the overseas branches;
 - (ii) This arrangement will be made available only to non-resident investors with firm underlying commitment to invest in ringgit assets; and
 - (iii) The licensed onshore banks will undertake full responsibility to ensure compliance on the conditions by establishing internal control and procedures as well as documentation of the overseas branches' transactions for audit purposes.
- (d) Remove the restriction on Labuan offshore banks to transact in ringgit financial products on behalf of non-resident clients to enhance the role and scope of business of the Labuan offshore banks.

Enhancing Business Efficiency and Investment Opportunities for Residents

To reduce cost of doing business, enhance business efficiency as well as promote Malaysia as a centre of origination, the following foreign exchange administration rules are liberalised:

- (a) Increase the limit of foreign currency borrowing that can be obtained by resident corporations from licensed onshore banks and non-residents as well as through issuance of onshore foreign currency bonds, to RM100 million equivalent in aggregate and on corporate group basis from the previous RM50 million equivalent. The proceeds may be used for domestic purposes or offshore investment.
- (b) Allow residents to hedge foreign currency loan repayment up to the full amount of underlying

commitment. Under the previous policy, hedging for foreign currency loan repayment was allowed only up to 24 months' commitment. The flexibility would provide greater degree of risk management facilities to businesses in Malaysia, thus reduce the country's vulnerability to external shocks.

- (c) Enhance flexibilities for resident individuals and corporations to invest in foreign currency assets as follows:
 - (i) Increase the limit for resident individuals with domestic ringgit borrowing to invest in foreign currency assets up to RM1 million per calendar year from the previous limit of RM100,000; and
 - (ii) Increase the limit for resident corporations with domestic ringgit borrowing to invest in foreign currency assets up to RM50 million per calendar year from the previous limit of RM10 million.
- (d) Increase the limit for resident institutional investors to invest in foreign currency assets as follows:
 - (i) Unit trust companies: up to 50% of net asset value (NAV) attributable to residents from the previous 30% of NAV;
 - (ii) Fund management companies: up to 50% of funds of resident clients with domestic credit facilities from the previous 30% level; and
 - (iii) Insurance companies and takaful operators: up to 50% of NAV of investment-linked funds marketed from the previous 30% of NAV.
- (e) Allow resident corporations to lend in foreign currency, the proceeds arising from listing of shares on foreign stock exchanges to other resident corporations within the same corporate group in Malaysia.
- (f) Abolish restrictions on payments in foreign currency between residents for settlement of foreign currency financial products offered onshore.
- (g) Allow resident individuals to open and maintain joint foreign currency accounts for any purpose. Previously, resident individuals were allowed to maintain joint foreign currency accounts only for purposes of education and employment overseas.

Facilitating Development of the Capital Market

To support the initiatives to expand the pool of high quality stocks and to provide diversity of offerings and promote cross-border linkages with other markets, the following foreign exchange administration rules are liberalised:

- (a) Allow non-resident corporations to utilise proceeds arising from the listing of shares through Initial Public Offering on the Main Board of Bursa Malaysia, abroad; and
- (b) Allow resident corporations to utilise proceeds arising from the listing of shares through Initial Public Offering on the Main Board of Bursa Malaysia for offshore investment purposes.

Amendments to the Regulatory Framework

The Exchange Control Act 1953 (ECA) was amended to strengthen the enforcement and surveillance provisions to address illegal foreign exchange trading. In addition, a new provision was included in the ECA to regulate the issuance and obtaining of financial guarantees by residents. The amendments of the ECA, which were effective on 1 January 2007, include the following:

- (a) Increased penalty amount for illegal dealings in foreign currency from RM10,000 to RM1 million and imprisonment term from three years to five years;
- (b) Increased compound up to 50% of the penalty amount for all offences;
- (c) Allowed investigating officers to obtain information and documents from advocates during investigation;
- (d) Increased retention period of seized articles, including documents from three months to twelve months to facilitate investigation;
- (e) Allowed search warrants to be issued to investigating officers of Bank Negara Malaysia to facilitate investigation process; and
- (f) Required a resident to seek prior permission from the Controller of Foreign Exchange (Controller) to issue financial guarantee to or on behalf of a non-resident or obtain financial guarantee from a non-resident.

A blueprint for the money-changing industry was also developed to chart the direction of the industry aimed at enhancing the corporate governance of the licensees, strengthening Bank Negara Malaysia's surveillance and enforcement, improving regulatory delivery channel and ensuring customer protection.

Reporting Requirement

To reduce cost of doing business and enhance the efficiency of the regulatory delivery system, with effect from 1 January 2007, only resident companies which have registered or have been permitted to make investments abroad or obtain foreign currency credit facilities exceeding RM50 million equivalent, are required to submit a quarterly report on the external assets and liabilities of the companies to the Controller.

For further information on the foreign exchange administration policies, details can be obtained from Bank Negara Malaysia's website, <http://www.bnm.gov.my/fxadmin>