



**BANK NEGARA MALAYSIA**  
CENTRAL BANK OF MALAYSIA

# Employee Screening

Applicable to:

1. Licensed banks
2. Licensed investment banks
3. Licensed Islamic banks
4. Licensed insurers
5. Licensed takaful operators
6. Prescribed development financial institutions
7. Financial holding companies

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## **PART A OVERVIEW**

### **1 Introduction**

- 1.1 The highest standard of integrity and professionalism by employees of financial institutions is critical to sustain public confidence in the financial sector. The behaviour of each individual employed by a financial institution may be perceived publicly to be a reflection of the broader state of conduct and culture within the financial sector. In this regard, a financial institution's recruitment processes play an important role. They present a critical opportunity for a financial institution to select individuals who are aligned with its desired corporate culture and values. They also serve as a means for a financial institution to identify individuals who are predisposed to misconduct and thereby mitigate the risk of 'rolling bad apples' within the industry.
- 1.2 The Bank aims to promote an ethical workforce for the financial industry. Financial institutions can play an important role in this respect. To this end, this policy document seeks to strengthen the screening practices of financial institutions and the conditions for meaningful disclosures for employment references. Supported by greater transparency in conduct histories, financial institutions are expected to be better placed to make informed decisions on candidates. Financial institutions will continue to retain full discretion over recruitment strategies and final hiring decisions. These, however, should be informed by a broad range of considerations. It is not intended that financial institutions rely solely on the outcomes of screening carried out in accordance with this policy document. Instead, results obtained through the screening should be taken as a signal for greater scrutiny to facilitate character assessments of a candidate by the hiring institution.

### **2 Applicability**

- 2.1 This policy document is applicable–
- (a) to all financial institutions as defined in paragraph 5.2;
  - (b) in respect of the hiring of employees; and
  - (c) in respect of the engagement of commissioned dealer's representatives.

### **3 Legal provisions**

- 3.1 This policy document is issued pursuant to–
- (a) sections 47(1), 143 and 266 of the Financial Services Act 2013 (FSA);
  - (b) sections 57(1), 155 and 277 of the Islamic Financial Services Act 2013 (IFSA); and
  - (c) sections 41(1), 126 and constitutes a notice under section 116(1) of the Development Financial Institutions Act 2002 (DFIA).

## 4 Effective date

- 4.1 This policy document comes into effect on 1 July 2018 subject to the transitional arrangements set out in Part D, and shall apply in respect of applications for employment, or engagements of commissioned dealer's representatives, made on or after this effective date.
- 4.2 The Bank is committed to ensure that its policies remain relevant and continue to meet the intended objectives and outcome. Accordingly, the Bank will review this policy document within 5 years from the date of issuance or the Bank's last review and, where necessary, amend or replace this policy document.

## 5 Interpretation

- 5.1 The terms and expressions used in this policy document shall have the same meanings assigned to them in the FSA, IFSA and DFIA, as the case may be, unless otherwise defined in this policy document.
- 5.2 For the purpose of this policy document–
- “S”** denotes a standard, an obligation, a requirement, specification, direction, condition and any interpretative, supplemental and transitional provisions that must be complied with. Non-compliance may result in enforcement action;
- “G”** denotes guidance which may consist of statements or information intended to promote common understanding and advice or recommendations that are encouraged to be adopted;
- “broker”** and **“dealer”** have the same meanings as defined in the *Code of Conduct for Malaysia Wholesale Financial Markets*;
- “employee”** refers to any individual engaged by an institution under a contract of service, whether on a permanent basis or for a fixed term. The terms “employer”, “employ” and “employment” shall be construed accordingly;
- “financial institution”** refers to–
- (a) a licensed person;
  - (b) a financial holding company; and
  - (c) a prescribed institution;
- “internal disciplinary proceedings”** refers to the internal process of an institution for the management of alleged or suspected misconduct of its employees, which commences from an initiation of formal investigation or formal notification to the employee concerned of the initiation of the disciplinary process, whichever is earlier, and includes all subsequent stages up to the completion of the disciplinary process, including appeals.

## 6 Related legal instruments and policy documents

- 6.1 This policy document must be read together with other relevant legal instruments and policy documents that have been issued by the Bank, in particular–
- (a) *Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT) – Banking and Deposit-Taking Institutions (Sector 1)* issued on 4 September 2013;
  - (b) *Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT) – Insurance and Takaful (Sector 2)* issued on 4 September 2013;
  - (c) *Code of Conduct for Malaysia Wholesale Financial Markets* issued on 13 April 2017;
  - (d) *Corporate Governance* issued on 3 August 2016;
  - (e) *Fit and Proper Criteria* (applicable to licensed persons and approved financial holding companies) issued on 28 June 2013;
  - (f) *Fit and Proper Criteria* (applicable to prescribed institutions) issued on 14 June 2017; and
  - (g) *Guidelines on Corporate Governance for Development Financial Institutions* issued on 19 November 2011.

## PART B SCREENING REQUIREMENTS

### 7 Minimum screening requirements

- S** 7.1 A financial institution must, before employing any individual<sup>1</sup>, complete a screening of the individual's—
- (a) employment records, in accordance with paragraph 8; and
  - (b) criminal records, in accordance with paragraph 9<sup>2</sup>.
- S** 7.2 The obligation in paragraph 7.1 does not apply in respect of any individual to be employed into a function as set out in Appendix 1.
- S** 7.3 In respect of an individual—
- (a) who is being considered for employment as a dealer; or
  - (b) who was previously employed as a dealer or broker,
- a financial institution must, in addition to the requirements in paragraph 7.1, make an inquiry with the Financial Markets Association of Malaysia (FMAM) as to whether the individual has been involved in any case of financial market misconduct, including breaches of the *Code of Conduct for Malaysia Wholesale Financial Markets* and contraventions of section 141 of the FSA and section 153 of the IFSA, irrespective of whether an investigation into the financial market misconduct has been concluded.
- S** 7.4 As a prerequisite to employment and prior to initiating the screening required under paragraphs 7.3 and 8.1, a financial institution must obtain a written consent from an individual seeking its employment which—
- (a) authorises the financial institution to make an inquiry into his/her previous employment records which covers all current and former employers<sup>3</sup> in the period of seven years up to the date of the application for employment and, where relevant, the FMAM;
  - (b) authorises all the individual's current and former employers in the period of seven years up to the date of the application for employment, to disclose his/her employment history, including the facts and details of any internal disciplinary proceedings the individual has been subject to, irrespective of whether such disciplinary proceedings have been concluded, or initiated after the individual left employment;
  - (c) where relevant, authorises the FMAM to disclose the facts and details of any case of financial market misconduct the individual has been subject to, including disciplinary proceedings under the Asian Institute of Chartered Bankers (AICB)-FMAM Joint Disciplinary Scheme, irrespective of whether such proceedings have been concluded as at

<sup>1</sup> For the avoidance of doubt, paragraph 7.1 does not apply to any individual to be appointed into a position of director or Shariah Committee member.

<sup>2</sup> The requirements in this policy document apply in addition to any other screening requirements imposed by law or a regulatory authority (e.g. under the policy documents on *Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT) – Banking and Deposit-Taking Institutions (Sector 1)* and *Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT) – Insurance and Takaful (Sector 2)*).

<sup>3</sup> For the avoidance of doubt, this paragraph does not require the name of each current and former employer to be detailed out in the written consent.

- (d) the date of the financial institution's written inquiry with the FMAM; and releases his/her current and former employers and, where relevant, the FMAM, from any contractual obligations which limit, in any way, their ability to disclose the information required under this policy document.
- S** 7.5 A financial institution must append a copy of the written consent obtained under paragraph 7.4 to its written inquiry with the individual's current and former employers, and with the FMAM.
- S** 7.6 A financial institution intending to engage an individual as a commissioned dealer's representative<sup>4</sup> must–
- (a) screen the individual against the Securities Commission Malaysia's published enforcement actions; and
  - (b) obtain a statutory declaration from the individual in accordance with paragraphs 9.1(a) and (b).

## **8 Employment references**

### **Obligation on a "hiring financial institution"**

- S** 8.1 A financial institution must request for references from all the individual's current and former employers in the period of seven years up to the date of application for employment.
- S** 8.2 A financial institution making a request pursuant to paragraph 8.1 must complete Part A(i) of the reference template in Appendix 2, before furnishing the reference template to the individual's current and former employers.
- S** 8.3 Where an individual's current or former employer is not a financial institution or is based outside Malaysia, a financial institution must take reasonable steps to obtain a reference from such employer.
- S** 8.4 A financial institution must document relevant correspondences and applicable legal restrictions, and maintain appropriate records of the same to demonstrate compliance with paragraph 8.3.
- S** 8.5 Notwithstanding paragraph 7.1, where an individual requests to maintain the confidentiality of the job-seeking process from his/her current employer and the hiring financial institution makes an offer for employment prior to making a request for the reference from the individual's current employer, the offer by the hiring financial institution must be conditional upon–
- (a) the receipt of the reference from such employer; and
  - (b) the financial institution's discretion to withdraw the offer thereafter.

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<sup>4</sup> For the avoidance of doubt, paragraph 7.1 does not apply to any individual to be engaged as a commissioned dealer's representative.

- G** 8.6 A financial institution may proceed to finalise its employment assessment of an individual where any of the individual's current or former employers fail to provide a reference within 15 working days from the date the financial institution made a request under paragraph 8.1, and after taking reasonable steps to follow up on the request.

#### **Obligation on a "providing financial institution"**

- S** 8.7 Upon receiving a request for a reference made pursuant to paragraph 8.1, a financial institution must provide the hiring financial institution a reference for the individual in writing using the template in Appendix 2, within 15 working days from the date of the request.
- G** 8.8 Where a financial institution receives a request for a reference from an organisation that is not a financial institution or is based outside Malaysia, the financial institution should disclose relevant information on a best effort basis, having regard to the obligations owed to its employees including those set out in Part C and other applicable laws.
- S** 8.9 The obligation to provide a reference will apply irrespective of—
- (a) the tenure of the individual's employment with the financial institution;
  - (b) the function held by the individual within the financial institution<sup>5</sup>; and
  - (c) the manner in which the individual left the institution (e.g. resignation, termination, retirement or expiring contractual tenure).

#### **Updates to references provided**

- S** 8.10 Where a financial institution becomes aware of any new information<sup>6</sup> relating to an individual after a reference has been provided, the financial institution must ensure that its records are updated to reflect such new information. Future references prepared in respect of such individual must be based on the updated records.
- G** 8.11 Where the new information referred to in paragraph 8.10 is assessed by the financial institution to be significant, the financial institution should, on a best effort basis, seek to determine whether the individual is currently employed by a financial institution and provide such financial institution with details of the newly acquired information, in an updated reference<sup>7</sup>. Where it does so, the financial institution should similarly notify the individual in question that an update has been made to his/her reference.

#### **Scope of references**

- S** 8.12 A reference referred to in paragraphs 8.1 and 8.7 must cover, at a minimum, the information required in Part A and Part B of the template as set out in Appendix 2.

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<sup>5</sup> For example, a financial institution is required to provide a reference for an individual employed in an auxiliary function where the individual's prospective function is within the scope of screening in this policy document.

<sup>6</sup> For example, where a financial institution has concluded its internal disciplinary proceedings on an alleged misconduct after a reference was provided.

<sup>7</sup> A financial institution is encouraged to practice this for a period of seven years from the date the individual left the financial institution's employment.



- S** 8.13 In respect of Question 1, Part B of the template, a financial institution must disclose information pertaining to any internal disciplinary proceedings that an individual has been subject to during his/her employment with the financial institution, irrespective of whether such disciplinary proceedings have been concluded, or initiated after the individual left employment. The obligation to disclose applies only in respect of–
- (a) an incident relating to an individual's honesty and integrity<sup>8</sup>; and
  - (b) internal disciplinary proceedings that have been formally initiated by the financial institution.
- G** 8.14 In addition to information required to be disclosed under paragraph 8.12, a financial institution is encouraged to highlight other matters, whether positive or negative, which may be relevant to an assessment of the individual's honesty and integrity, under Part C of the template. Examples of information that could be disclosed in Part C include–
- (a) evidence of good behaviour or exemplary conduct by the individual;
  - (b) how transparent and cooperative the individual was in relation to any internal disciplinary proceedings; and
  - (c) subsequent corrective actions taken by the individual following a finding of misconduct.
- S** 8.15 For the purpose of paragraphs 8.13 and 8.14, a financial institution is required to make an assessment on a case-by-case basis whether an incident to be disclosed is one which relates to an individual's honesty and integrity.
- G** 8.16 For the avoidance of doubt, a hiring financial institution may request for additional information, to which a financial institution should disclose on a best effort basis.

## **9 Statutory declaration**

- S** 9.1 Before initiating an inquiry under paragraphs 7.3 and 8.1, a financial institution must obtain a statutory declaration in accordance with the Statutory Declarations Act 1960 from an individual it considers for employment, detailing–
- (a) the individual's past criminal convictions under any written law relating to companies, financial services, capital markets, prevention of money laundering or terrorism financing, and for offences involving dishonesty or fraud under any written law, whether in or outside Malaysia, if any;
  - (b) pending criminal investigations, inquiries or criminal charges or any other criminal proceedings against the individual relating to laws and offences referred to in paragraph 9.1(a), if any;
  - (c) all the individual's current and former employers in the period of seven years up to the date of the application for employment, if any; and
  - (d) whether the individual has ever been employed as a dealer or broker.

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<sup>8</sup> Examples of incidents that relate to an individual's honesty and integrity include theft and falsification of documents.

## PART C OPERATIONAL REQUIREMENTS

### 10 General

- S** 10.1 A financial institution is required to comply with the requirements in the Personal Data Protection Act 2010 (PDPA), including the requirement to obtain consent for the processing of personal data and provisions relating to data correction.
- S** 10.2 A financial institution must ensure that–
- (a) it has internal policies and procedures in place for compliance with the obligations under paragraphs 7 to 9;
  - (b) all legal documents and arrangements are designed in a manner which enables the financial institution to comply with its obligations under paragraphs 7 to 9. This includes ensuring that such legal documents (including its recruitment documents and employment contracts) incorporate the necessary provisions for consent and do not, in any way, impede its ability to disclose the information required under this policy document; and
  - (c) contact details and processes for hiring institutions to request for references are clearly published on its website.
- S** 10.3 Without prejudice to existing obligations under the FSA, IFSA and DFIA, a financial institution must notify the Bank where it has reasonable grounds to believe that a chief executive officer, senior officer, material risk taker<sup>9</sup> or dealer ceases to hold office or leaves the financial institution under suspicion of misconduct.

### 11 Internal disciplinary process

- S** 11.1 A financial institution must have in place a code of ethics which articulates minimum standards of conduct, and written policies and procedures governing its internal disciplinary process. The financial institution must ensure that the code of ethics and internal disciplinary policies and procedures are conveyed to all employees upon employment and are accessible to them on an ongoing basis.
- G** 11.2 A financial institution should periodically communicate the code of ethics to all employees to reinforce high standards of conduct and integrity.
- S** 11.3 The policies and procedures governing a financial institution's internal disciplinary process must outline, at a minimum, the rights of its employees throughout the disciplinary process, which must include–
- (a) a mechanism for appeals; and

<sup>9</sup> Refers to an officer who is not a member of senior management and who (i) can materially commit or control significant amounts of the financial institution's resources or whose actions are likely to have a significant impact on its risk profile; or (ii) is among the most highly remunerated officers in the financial institution.

- (b) a reasonable opportunity for an employee to make a written representation in response to allegations before conclusion of the internal disciplinary process.

- S** 11.4 A financial institution is expected to address any breaches of its internal policies and procedures, including its code of ethics, in a manner that upholds high standards of integrity. To this end, a financial institution is required to initiate internal disciplinary proceedings where it has reasonable grounds to believe that an employee has been involved in misconduct. This also applies where the individual has ceased to be employed by the financial institution. Where the internal disciplinary process is initiated, this must be conducted in an objective manner and completed promptly.

## **12 Preparation of references<sup>10</sup>**

- S** 12.1 A financial institution must ensure that the preparation of references is centralised within its organisation to promote consistency and integrity of references<sup>11</sup>.
- S** 12.2 A financial institution must prepare a reference in good faith and must not intentionally cast doubt on the honesty and integrity of an employee without basis.
- S** 12.3 A financial institution must ensure that a reference is clear and does not provide an unfair or misleading impression of the employee<sup>12</sup>. To this end, a financial institution must ensure–
  - (a) that all information included in a reference is true, accurate and derived from documented fact;
  - (b) that any expressions of opinions are based on, and supported by, documented facts that are true and accurate; and
  - (c) that it does not withhold relevant information, where to withhold such information would render the information provided in a reference unfair or inaccurate.
- S** 12.4 A financial institution must provide an employee a right to view a reference<sup>13</sup> that the financial institution has prepared.

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<sup>10</sup> For the purpose of paragraphs 12 to 14, a reference to the term “employee” includes a reference to the financial institution’s former employees.

<sup>11</sup> For the avoidance of doubt, a financial institution can leverage existing functions within its organisation (e.g. human resource function).

<sup>12</sup> This includes addressing requests for data correction of personal data that is inaccurate, incomplete, misleading or not up-to-date in accordance with the requirements of PDPA.

<sup>13</sup> For the avoidance of doubt, a right to view a reference does not constitute a right to edit the content of the reference.

**13 Record keeping**

- S** 13.1 A financial institution must maintain comprehensive records of documents and information relating to, or relied on in, the screening process and preparation of references. This must include all documents and information produced in the course of any internal disciplinary proceedings.
- S** 13.2 A financial institution must keep all documents and information relating to its employees' references and internal disciplinary proceedings strictly confidential. A financial institution is required to establish systems and controls to safeguard the security, confidentiality and integrity of all such documents and information, which includes controls for–
- (a) access to the disciplinary records and references of an employee; and
  - (b) disclosures to hiring institutions with a written proof of consent from an employee.

## **PART D TRANSITIONAL ARRANGEMENTS**

### **14 Transitional arrangements**

- S** 14.1 For the purpose of paragraphs 8.6 and 8.7, references to “15 working days” must be read as “30 working days” until 30 September 2018.
- S** 14.2 A financial institution is given until 30 September 2018 to complete a review of its existing employment contracts.

**APPENDIX 1      FUNCTIONS NOT SUBJECT TO SCREENING  
REQUIREMENTS**

<b>No.</b>	<b>Functions (however styled)</b>
1.	Receptionist
2.	Clerical and administrative personnel
3.	Dispatch officer
4.	Call centre officer
5.	Tele-marketing staff
6.	Cleaner
7.	Food and beverage personnel
8.	Driver

## APPENDIX 2 REFERENCE TEMPLATE

***In accordance with paragraph 8.7 of Bank Negara Malaysia's policy document on Employee Screening, this reference must be completed and returned to the hiring financial institution within 15 working days from the date of request for a reference.***

***The written consent of the individual obtained by the hiring financial institution pursuant to paragraph 7.4 of Bank Negara Malaysia's policy document on Employee Screening, which authorises an inquiry into, and disclosures of, the individual's employment records is appended.***

### PART A BACKGROUND

<b>(i) To be completed by the hiring financial institution</b>	
Name and contact details of the financial institution requesting for the reference	
Date of request for the reference	
Individual's name	
Individual's MyKad/passport number	

<b>(ii) To be completed by the individual's current/former employers</b>			
Name and contact details of the institution providing the reference			
Date the reference is provided			
All functions held by the individual in the institution, including past functions, and the period during which the individual held the function-			
Function	From (date)	To (date)	Description of role

**PART B MANDATORY INFORMATION**

**To be completed by the individual's current/former employers. The responses to Questions 1 and 2 must cover the entire period the individual was employed by the institution.**

**Question 1**

Has the individual been subject to any internal disciplinary proceedings for an incident which relates to his/her honesty or integrity?	<b>Yes</b>	<b>No</b>

If yes, please provide the following information (to be reported separately for each incident):

- i) Date of incident;
- ii) Date of initiation of internal disciplinary proceedings;
- iii) Factual description of the incident (e.g. nature of the allegations);
- iv) Details of the individual's written representation in response to an allegation, if any;
- v) Status of internal disciplinary proceedings–
  - a. Concluded (guilty/not guilty);
  - b. Ongoing; or
  - c. Unable to proceed (please specify reason, e.g. insufficient evidence);
- vi) Action(s) taken, if any; and
- vii) Outcome of appeal, if any.

**Question 2**

To your knowledge, has the individual been found by any authority to be in breach<sup>14</sup> of legal or regulatory requirements under laws, whether in or outside Malaysia, relating to–

	<b>Yes</b>	<b>No</b>
a) Financial services;		
b) Capital markets;		
c) Prevention of money laundering or terrorism financing?		

If yes, please provide the following information (to be reported separately for each incident):

- i) Date of breach;
- ii) Factual description of the breach;
- iii) Date of notification by the authority; and
- iv) Enforcement action(s) taken, if any.

<sup>14</sup> For the avoidance of doubt, this covers breaches of legal and regulatory requirements that do not attract a criminal penalty.



**PART C      OPTIONAL INFORMATION****To be completed by the individual's current/former employers****Question 3**

If you are aware of any additional information (positive or negative)<sup>15</sup> that you consider relevant for an assessment of the individual's honesty or integrity, please provide the information below.

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<sup>15</sup> For example, evidence of good behaviour or exemplary conduct by the individual, or information that the financial institution considers significant that may have an impact on the character assessment of the individual.