

## **Frequently Asked Questions**

### **Employee Screening**

Last updated: 29 June 2018

This document supplements the policy document on *Employee Screening* by providing an explanation to interpretation issues likely to be faced by financial institutions in implementing the requirements.

The questions are grouped according to the requirements of the policy document.

## Scope of application

1. **Do these requirements apply in respect of hiring current and former employees of Bank Negara Malaysia (the Bank)? [Paragraph 2.1(b)]**

Yes. Financial institutions must request for references from the Bank in accordance with requirements of *Employee Screening*. The Bank's contact details can be found under the 'Careers' tab on the Bank's website ([www.bnm.gov.my](http://www.bnm.gov.my)).

2. **What is the definition of "director"? Does it only refer to members of the board of directors, or does it include individuals with corporate title 'Director'? [Paragraph 7.1, footnote 1]**

The term 'director' refers only to board members.

3. **Who would constitute "administrative personnel"? [Appendix 1]**

This refers to personnel involved in organisational tasks to support the operations or business activities of an institution, department or division. Examples of organisational tasks include–

- (i) archival and records management;
- (ii) inventory management (e.g. IT equipment, stationery);
- (iii) providing assistance in coordinating and administration of budget needs;
- (iv) monitoring and recording staff leave;
- (v) coordinating travel arrangements for staff; and
- (vi) processing of invoices.

4. **Does the term "function" refer to the department/business unit or the position description? [Appendix 2, Part A(ii)]**

"Function" refers to position description, e.g. financial analyst, bank teller, marketing associate, etc.

## Hiring financial institutions

5. **Is a financial institution expected to request references from an individual's past employer where it has wound down or is in the process of winding down? [Paragraph 8.1]**

No.

6. **Is a financial institution required to use the reference template in Appendix 2 when making an inquiry with the Financial Markets Association Malaysia (FMAM)? [Paragraph 8.2]**

No. The reference template applies only to inquiries made with current and former employers.

**7. What constitutes “reasonable steps” to obtain a reference? [Paragraph 8.3]**

Some examples of what constitutes “reasonable steps” include–

- (i) informing the current/past employers that Malaysian regulations require hiring financial institutions to request for the specified information; and
- (ii) encouraging disclosure of information to the extent current/former employers are willing to share or are legally able to.

**8. Where a financial institution receives a reference which reveals a finding of misconduct after the 15 working-day timeframe, is the expectation for the financial institution to rescind an offer letter already provided? [Paragraph 8.6]**

Financial institutions have the discretion to decide whether to rescind an offer for employment or to proceed with the employment. Where financial institutions choose to proceed with the employment, financial institutions should take such information as a signal for greater scrutiny on conduct risks that may be posed by the individual. Depending on the nature and severity of the finding, this should inform possible mitigating measures.

### **Providing financial institutions**

**9. Can the 15 working-day timeframe commence from the date of receipt of the request to ensure sufficient time for preparation of references, particularly where there is a delay between the date of request and date of receipt of the request? [Paragraph 8.7]**

No. A timeframe that commences from the date of receipt of a request could inadvertently disrupt the hiring process (e.g. difficulty verifying date of receipt).

To ensure sufficient time for preparation of references, a providing financial institution may require for reference requests to be made electronically. Consequently, a financial institution’s published contact details should provide for electronic submissions of requests.

**10. Is a financial institution expected to furnish a reference for a former employee who was employed in an auxiliary function, but who is being considered for employment in a non-auxiliary function (e.g. bank teller)? [Paragraph 8.9(b)]**

Yes. A summary of screening requirements under the policy is provided in Appendix A of this FAQ.

- 11. Are financial institutions expected to update internal records where new information on incidents occurring more than 7 years ago is uncovered? [Paragraph 8.10]**

Yes, where–

- (i) the employee is still employed by the institution; or
- (ii) the time since the individual has left the institution’s employment is less than 7 years.

- 12. An individual left a financial institution’s employment prior to the effective date of the policy, and an allegation of misconduct was uncovered after. Is an update required to be provided to the individual’s current employer? [Paragraph 8.11]**

No. However, financial institutions are encouraged to share the new information with the individual’s current employer where it is assessed to be significant.

Financial institutions are expected to update their internal records with respect to the individual to ensure provision of accurate references in response to future requests.

### **Scope of references**

- 13. Does receipt of a complaint against an individual constitute a formal initiation of internal disciplinary proceedings? [Paragraph 8.13]**

No. The definition of “internal disciplinary proceedings” in paragraph 5.2 stipulates the point of commencement of internal disciplinary proceedings i.e. initiation of a formal investigation or a formal notification to the employee of the initiation of the disciplinary process. The Bank notes that disciplinary processes vary across institutions. In general, however, it is expected that internal disciplinary proceedings would only be formally initiated upon an act taken by the institution, such as the issuance of a show-cause letter.

- 14. What are the expectations of the policy with respect to disciplinary proceedings that are being challenged in court? [Paragraph 8.13]**

The financial institution is expected to disclose, at a minimum, the fact that there was an internal disciplinary proceeding and that the disciplinary proceeding is being challenged in court. Financial institutions are not expected to make further disclosures where it would amount to a contravention of the law. A financial institution is expected to rely on advice of its legal counsel in this regard.

**15. Can the Bank provide an exhaustive list of incidents relating to “honesty and integrity” of an individual? [Paragraph 8.15]**

Financial institutions are expected to exercise judgment as to whether an incident relates to a person’s honesty and integrity. A non-exhaustive list of factors financial institutions could consider is as follows:

- (i) Whether the incident is one which the financial institution itself would consider relevant for a probity assessment of its new hires.
- (ii) Whether the incident, if concluded with a guilty finding, is one which would result in a serious disciplinary action or a dismissal.

**16. Does the Bank expect incidents relating to “honesty and integrity” of an individual to include inadvertent, operational errors? [Paragraph 8.15]**

No. However, attempts to conceal such errors, if any, are considered by the Bank to cast doubt on the honesty and integrity of an individual. As such, incidents involving elements such as this are expected to be disclosed in references.

**17. Are financial institutions expected to conduct criminal checks with Polis Diraja Malaysia (PDRM) on candidates? [Paragraph 9.1(a) and (b)]**

No. A financial institution may rely on the statutory declaration furnished by the individual.

### **Transitional arrangements**

**18. Are financial institutions required to complete a screening of all existing staff by 30 September 2018? [Paragraph 14.2]**

No, the screening requirements apply only to prospective new hires. The deadline of 30 September 2018 is for financial institutions to complete a review of employment contracts of existing employees only. This includes incorporating the necessary provisions for consent and removing any provisions that may impede its ability to disclose relevant information as required by the policy.

## Appendix A

### Summary of screening requirements

Function the individual is being considered for	Employment reference		Statutory declaration	Others	
	Internal breaches	Regulatory breaches	Criminal records	Inquiry with FMAM	Screen against SC's <sup>1</sup> published actions
As an employee in any function, except auxiliary functions	✓	✓	✓	✓ (Where individual is a former dealer/broker)	-
Dealer	✓	✓	✓	✓	-
Commissioned dealer's representative	-	-	✓	-	✓

<sup>1</sup> Securities Commission Malaysia