

BNM/RH/GL 022-3	Money Services Business Regulation Department	Guidelines on Risk Management and Internal Controls for Conduct of Money Services Business
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PART A: OVERVIEW

1. OBJECTIVE

- 1.1 Section 36 of the Money Services Business Act 2011 (the Act) requires all licensees to institute and maintain robust internal control mechanisms, which include risk management arrangements to ensure the integrity and soundness of its money services business. The Money Services Business (Duties of Licensees) Regulations 2012 further prescribe the key requirements that licensees must observe to ensure effective and robust internal control systems that promote the safety and integrity of money services business activities. These requirements also contribute towards strengthening consumer protection and safeguarding the money services business industry from being used as a conduit for illegal activities, money laundering and terrorism financing.
- 1.2 The objective of these Guidelines is to facilitate compliance by licensees with the above requirements, by setting out minimum standards that licensees must observe in implementing appropriate risk management and internal control systems for their business.

2. APPLICABILITY

- 2.1 The Guidelines are applicable to all the licensees which carry on money services business activities under the Act.

3. LEGAL PROVISION

- 3.1 These Guidelines are issued pursuant to section 74 of the Act.

4. EFFECTIVE DATE

- 4.1 The Guidelines shall take effect from **6 December 2012**.

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5. RELATIONSHIP WITH EXISTING POLICIES

5.1 These Guidelines are issued to complement the Act and the following Regulations issued by the Bank:

- (a) The Money Services Business Regulations 2012 on:
 - (i) Duties of Licensees; and
 - (ii) Remittance Business.

and shall be read together with the following:

- (b) The Guidelines on Governance and Operational Requirements on Conduct of Money Services Business;
- (c) The Standard Guidelines on Anti-Money Laundering and Counter Financing of Terrorism; and
- (d) Anti-Money Laundering and Counter Financing of Terrorism Sectoral Guidelines 3 for Licensed Money Changers and/or Non-Bank Remittance Operators.

6. DEFINITION AND INTERPRETATION

6.1 “**the Bank**” means Bank Negara Malaysia.

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PART B. RISK MANAGEMENT AND INTERNAL CONTROLS

7. RISK MANAGEMENT AND INTERNAL CONTROLS REQUIREMENTS

- 7.1 A licensee is required to effectively manage and control all material risks associated with the conduct of money services business, taking into account the size, scope and complexity of its business activities.
- 7.2 A licensee shall establish appropriate processes, systems and controls that are approved by the board of directors (Board) to manage risks in its business. Such processes, systems and controls shall be properly documented, and reviewed by the management and the Board at regular intervals to ensure that they remain effective.
- 7.3 Paragraph 7.4 sets out the risk management and internal control measures that must be observed by licensees to address specific risks associated with the conduct of money services business activities as follows:
- Money services business transactions being carried out for money laundering, terrorism financing and other illegal purposes;
 - Failure of licensees to comply with legal and regulatory requirements applicable to the licensee;
 - Mismanagement and fraud resulting in losses of monies held in trust for customers; and
 - Loss of key information or business records maintained being tampered with due to unauthorised alteration and manipulation.
- 7.4 Licensees are required to put in place appropriate processes, systems and controls which shall include, at a minimum the following:
- 7.4.1 Establishment of written internal policies and procedures on the conduct of money services business activities**, including:
- (a) Standard operating procedures (SOP) for the money services business operations to ensure compliance by staff with internal policies and regulatory requirements as well as professional

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conduct in dealings with customers. The SOP shall also include the control procedures and processes for detecting and escalating material operational lapses to management and the Board.

- (b) Policies on branch oversight which include, but are not limited to the following:
 - (i) Mechanisms for monitoring and reporting of the business performance and compliance levels at the branches to head office;
 - (ii) Procedures to support reconciliation and consolidation of business transactions at the branches to ensure all business transactions undertaken by the licensee are properly captured; and
 - (iii) Procedures to support the aggregation of business transactions by a customer at all business premises of the licensee to ensure (i) compliance with AML/CFT requirements on customer due diligence and reporting of suspicious transactions, and (ii) compliance with the daily outward remittance transaction limits of a customer.
- (c) Policies to ensure proper management of cash at the business premises (principal office and branch), including:
 - (i) Setting of the holding limit of cash (including foreign currencies) at the licensee's respective business premises, depending on its size and scope of business;
 - (ii) Ensuring that only individuals who are staff of the licensee are allowed to perform transactions and handle cash (including as teller or cashier) for the licensee; and
 - (iii) Putting in place procedures to track and record the stock and movement of cash.

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- (d) Policies to ensure clear levels of authority are assigned to staff to conduct business transactions in accordance with the risk profile of the transactions. For this purpose, higher level approval is required for:
 - (i) large transactions; and
 - (ii) non face-to-face business transactions conducted through bank accounts or instructions received over e-mail, fax or telephone.

- (e) Policies on AML/CFT compliance which shall include at a minimum, the following areas:
 - (i) Conduct of customer due diligence (CDD) for business transactions with any customer;
 - (ii) Maintenance of records;
 - (iii) On-going monitoring of customers and business transactions;
 - (iv) Submission of Suspicious Transaction Reports;
 - (v) Staff training on AML/CFT measures; and
 - (vi) Appointment of a competent compliance officer to be responsible for all AML/CFT compliance matters.

7.4.2 Maintenance of proper accounting practices

A licensee shall ensure that all business transactions (cash and non-cash) are properly recorded, and can be accounted for and reconciled with relevant source documents (e.g. receipts; invoices; purchase orders; bank and financial statements) through the maintenance of proper accounting practices. In this regard, a licensee shall:

- (a) Maintain and regularly update its financial account to ensure that it is accurate and reflects the latest financial position;
- (b) Ensure that the external auditor appointed by the licensee fulfills the requirements as stipulated in the Money Services Business (Duties of Licensees) Regulations 2012. A licensee shall also notify the Bank on the appointment of its external auditor using the format as attached in Appendix I; and

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- (c) Where a licensee outsources its accounting function to a third party, the Board and management remain responsible to ensure that the accounts properly reflect the financial position and performance of the licensee and are in compliance with the relevant regulatory requirements. In this regard, the Bank expects the Board and management to be able to explain material financial transactions, understand the basis on which the financial accounts have been prepared and ensure that source documents used to prepare the accounts are complete and accurate.

7.4.3 Maintenance of records

As stated in section 28 of the Act, a licensee shall maintain all of its accounts, duplicate copies of receipts and other records, including information and documents for each transaction of its money services business which support a proper audit trail. For this purpose:

- (a) A licensee shall keep all records for at least seven years after the transactions have been completed; and
- (b) the records must be maintained in a form that will enable the creation of an audit trail on individual transactions that are traceable by the auditor, the Bank and the relevant law enforcement agencies. Records may be maintained:
- in the form of original documents;
 - duplicate copies of the original documents;
 - in scanned form;
 - in computerised or electronic form; and
 - maintained on microfiche.

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7.4.4 Maintenance of robust and reliable management information system

As stipulated in the Money Services Business (Duties of Licensees) Regulations 2012, a licensee is required to establish a reliable management information system that is secure and robust to support the licensee's business operations and capable of performing functions which include, but are not limited to the following:

- (a) For licensees with branches and agents, the system must be able to record business transactions on a real-time basis, and facilitate the aggregation of business transactions with a customer across all branches and agents of the licensee for purposes of monitoring compliance with internal and regulatory limits;
- (b) Able to detect and capture any alterations made to the information maintained in the system; and
- (c) Record details of transactions and generate reports on transaction value and volumes for purposes of identifying, monitoring and reporting suspicious transactions.

Licensees that are currently using manual record keeping systems must take steps to put in place a management information system to support their business operations by end of March 2013.

7.4.5 Controlled access to key information and records of licensee

A licensee shall put in place adequate controls to protect key information and records maintained in the system, to prevent access by unauthorised parties or unauthorised alterations of records. This shall include at a minimum the following:

- (a) Limit system access only to relevant personnel to ensure proper staff accountability for the assigned functions. For example, controls should be in place so that staff are only allowed to access the systems for the purpose of carrying out their respective functions, such as to key in business information;

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approve transactions, maintain and generate data; and perform data backup;

- (b) Proper controls over the management of user IDs, whereby each user ID should be unique and passwords must not be allowed to be shared among staff; and
- (c) A licensee shall not allow its system vendor to have complete and unrestricted access to its system even if the system vendor has been assigned to develop / upgrade its system. Access to a licensee's live system by the system vendor should be administered and authorised by the staff of the licensee.

7.4.6 Establishment of adequate checks and balances within the licensee

Licensees must put in place proper segregation of duties and functions for critical operational functions, including cash handling or management and record keeping, to prevent the likelihood of mismanagement or fraud. Dual controls should be in place such that staff in charge of performing business transactions and record keeping for cash and currency stocks must not be the same person responsible for cash custody and currency stock management.

7.4.7 Adequate level of staff competency

A licensee shall ensure that its staff are competent and well trained in carrying out their functions to ensure professional business conduct and compliance with the relevant regulatory and AML/CFT requirements in undertaking money services business activities. At a minimum, a licensee must:

- (a) Conduct relevant background checks and capability assessments of new recruited staff performing key functions, to ensure that they are persons of integrity and have the required knowledge and experience to perform their roles. The licensee should also ensure that it complies with applicable labour and immigration laws and regulations;

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- (b) Provide adequate training for staff on:
 - (i) money services business operations, including understanding of licensee's internal policies and operating procedures such as cash handling; customer service; fraud detection; and
 - (ii) compliance with regulatory requirements under the Act and AML/CFT requirements and other applicable laws and regulations.
- (c) Monitor closely the performance and compliance of staff to ensure they understand and apply the knowledge acquired in carrying out their respective roles and functions.

7.4.8 Establishment of independent review function

The Chief Executive Officer is primarily responsible for ensuring that the operations of the licensee comply fully with applicable laws and regulatory requirements, and that key risks of the business are being effectively managed. The Board of a licensee must, however, be able where appropriate, to obtain independent assurance that the licensee is operating in compliance with its own internal policies, including the effectiveness of risk management and control systems; as well as compliance with the applicable regulatory requirements. For this purpose:

- (a) The Board shall ensure that regular reviews are conducted to provide the Board with an independent assessment on the following:
 - (i) Compliance with the licensee's internal policies and other applicable legal and regulatory requirements;
 - (ii) Quality of controls including adequacy and effectiveness of risk management, internal controls and governance processes;
 - (iii) Reliability, integrity and continuity of the management information system;

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(iv) Reliability including integrity, comprehensiveness and timeliness of the financial reports, management information and accounting records; and

(v) Effectiveness of processes for the escalation of material breaches and gaps relating to the operations, controls and compliance of the licensee to the Board in a timely manner.

(b) Licensees which have branches and agents are required to identify dedicated personnel to perform an internal audit and compliance function, reporting directly to the Board. There should be adequate staff responsible for the internal audit and compliance function to conduct regular reviews on the licensee's other business premises (branches and agents).

7.5 Licensees are also required to put in place appropriate controls and contingency measures as set out in paragraph 7.6 to address **risk of system disruption and natural catastrophes resulting in operational failures, business disruptions and loss of key transaction records.**

7.6 A licensee shall put in place a robust business continuity plan (BCP) that sets out the contingency arrangements to ensure the continuity of critical business functions and safe keeping of important information relating to the licensee's business. The BCP shall include the following key features:

7.6.1 Procedures for the regular back up of customer information and business transaction data to ensure that information is not lost and can be retrieved in the event of a system failure or natural disaster;

7.6.2 Clear information on actions and procedures needed for staff to respond to system and operational failures in order to resume business operations in a timely manner. For example, the BCP should outline procedures to be followed by the staff with respect to conducting and recording transactions in the event of a system breakdown, which may include rejecting transactions which are

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categorised as high risks by the licensee, based on the “red flags” established for the purpose of AML/CFT compliance.

7.6.3 Instructions to ensure all information of transactions taking place during the disruption period is properly recorded and promptly keyed into the systems once the systems have been restored to full functionality; and

7.6.4 For licensees which carry on remittance business using a third party or correspondent agents’ system, the licensees must conduct appropriate assessments to satisfy themselves that the third party’s system will be able to provide continuous / uninterrupted access to all remittance transactions performed for the licensee.

7.7 Paragraph 7.8 addresses the **risks associated with the failure of licensees to honour transactions performed with or on behalf of customers as a result of the non-performance of a currency supplier, correspondent agent or third party system provider, whether due to default or other reasons.**

7.8 Licensees shall observe at a minimum the following:

7.8.1 Establish key considerations or criteria for evaluating major counterparties (i.e. currency suppliers, correspondent agents or third party system providers) before entering into a business relationship. This should include a consideration of the financial viability, business and compliance track record and processes within the counterparty to ensure performance of its obligations. Licensees which carry on remittance business shall ensure that the correspondent agent and third party remittance system provider engaged complies fully with the requirements as stated in paragraphs 12.4 and 12.5 respectively on Requirements of Using a Third Party Remittance System and Engagement and Arrangement with Correspondent Agents under the Guidelines on Governance and Operational Requirements on Conduct of Money Services Business issued on 15 October 2012; and

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7.8.2 Have adequate alternative arrangements in place for currency sourcing in order to mitigate risks arising from any disruptions to the supply of major currencies transacted.

7.9 Licensees shall install counterfeit detection machines at its business premises to **detect counterfeit currencies from being used for exchange.**

7.10 Licensees are encouraged to implement adequate security measures, including installation of close circuit cameras (CCTV) at strategic locations within the licensee's premises as a deterrent against **risks of physical harm and financial losses to customers of the licensee.**

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APPENDIX

Appendix I



BANK NEGARA MALAYSIA
CENTRAL BANK OF MALAYSIA

Appointment of Auditor

Name of licensee :

Company's business registration no. :

Type of Money Services Business :

Name of auditor (company)	
Address	
Contact Name/ Partner-in-charge	
Telephone No. (Office)	
Telephone No. (Mobile)	
Fax No.	
E-mail Address	

Declaration by Director

I, _____ (name of director), of NRIC / Passport No. _____ as a Director declares that the above mentioned auditor has been appointed with the approval of the Board and the Board is satisfied that the requirements referred to in paragraph 7.4.2 under the "Guidelines on Risk Management and Internal Controls for Conduct of Money Services Business" have been met.

Signature :

Name :

Date :

Licensee's stamp :

Form should be submitted to the following address:

Pengarah
Jabatan Pengawasan Perniagaan Perkhidmatan Wang
Bank Negara Malaysia
Jalan Dato' Onn
50480 Kuala Lumpur