



BANK NEGARA MALAYSIA
CENTRAL BANK OF MALAYSIA

Guidelines on Agent Oversight Framework for the Money Services Business Industry

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PART A: OVERVIEW

1. OBJECTIVE

- 1.1 Section 42 of the Money Services Business Act 2011 (the Act) requires a licensee to obtain the approval of the Bank prior to the appointment of a money services business agent to carry on money services business on its behalf. The Money Services Business (Money Services Business Agents) Regulations 2012 prescribe that in applying to appoint a money services business agent, a licensee shall submit relevant information to the Bank, including the oversight, monitoring and control frameworks to ensure that the money services business agent complies with the Act, regulations, guidelines, circulars, standards and notices issued under the Act and the conditions of the licence issued to the licensee in conducting money services business.
- 1.2 The objective of these Guidelines is to set out the minimum requirements that a licensee which appoints money services business agents must observe to ensure effective agent oversight that promotes the professional and prudent conduct of agents for the protection of consumers, and to safeguard the integrity of the money services business activities.

2. APPLICABILITY

- 2.1 These Guidelines are applicable to all licensees which are approved to appoint money services business agents to carry on money services business on their behalf.

3. LEGAL PROVISION

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

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3.2 Non-compliance with any provisions of these Guidelines is a contravention under section 74(4) whereby an action can be taken against such licensee as provided under subsection 73(1) or 75(2) of the Act as the Bank deems fit.

4. EFFECTIVE DATE

4.1 The Guidelines shall take effect from **15 April 2013**.

5. RELATIONSHIP WITH EXISTING POLICIES

5.1 These Guidelines are issued to complement the Act and Money Services Business (Money Services Business Agents) Regulations 2012; and shall be read together with the following:

- (a) The Guidelines on Governance and Operational Requirements on Conduct of Money Services Business;
- (b) The Guidelines on Risk Management and Internal Controls for Conduct of Money Services Business;
- (c) The Standard Guidelines on Anti-Money Laundering and Counter Financing of Terrorism; and
- (d) The 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 “**agent**” means money services business agent;
- 6.2 “**Bank**” means Bank Negara Malaysia;
- 6.3 “**key responsible person of an agent**” means a shareholder, director, controller, chief executive officer or manager of an agent;
- 6.4 “**principal licensee**” means a licensee which has obtained the written approval of the Bank to appoint a money services business agent under section 43 of the Act.

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PART B: REQUIREMENTS FOR MONEY SERVICES BUSINESS AGENT OVERSIGHT

7. AGENT OVERSIGHT BY PRINCIPAL LICENSEE

- 7.1 Under the money services business principal-agent arrangement, a principal licensee shall be fully responsible and accountable for the conduct and activities related to the money services business carried out by the appointed agent on its behalf.
- 7.2 A principal licensee shall establish a robust oversight function for agent management and monitoring to ensure clear accountability for agent oversight and adequate resources to support its agent oversight function. For this purpose, the principal licensee should identify its management personnel who shall be responsible for overseeing and monitoring the conduct and operations of the agents appointed, in order to ensure compliance with the expectations of these Guidelines.

8. POLICIES AND PROCEDURES ON APPOINTMENT OF AGENT TO CONDUCT MONEY SERVICES BUSINESS ACTIVITIES

8.1 Agent Selection

A principal licensee must develop appropriate agent selection criteria and conduct adequate due diligence, supported by proper background checks and on-site visits to ensure that an agent meets the following minimum expectations:

- (a) demonstrates professional standards in its business conduct;
- (b) has adequate financial and human resources to support effective implementation of anti-money laundering and combating financing of terrorism (AML/CFT) measures, record keeping, internal controls and consumer protection measures;
- (c) has a good compliance track record and has not been involved in illegal activities to the best knowledge of the principal licensee; and

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- (d) the key responsible persons of the agent fulfill the 'fit and proper' criteria as guided by the Money Services Business (Minimum Criteria of a "Fit and Proper" Person) Regulations 2011.

8.2 Terms of Agent Appointment

A principal licensee must establish appropriate terms of appointment to effectively govern the relationship between the agent and the principal licensee. The terms of appointment must be clearly documented in the form of a contractual agreement, which provides at a minimum for the following:

- (a) Clear arrangements and procedures for the effective monitoring and conduct of regular audit and review by a principal licensee on the agent's compliance and performance in carrying out money services business;
- (b) Clearly stated procedures and grounds for termination of the agent's service:
 - (i) If a cooling period is introduced upon the termination of an agent, a principal licensee shall ensure that the duration set is reasonable with a period of not more than 3 months, to enable the principal licensee and its agent to settle any outstanding obligations;
- (c) The expectation of professional ethics and conduct of the agent in conducting money services business;
- (d) Obligations of the agent to comply with all the applicable legal and regulatory requirements, including AML/CFT requirements, as well as the internal policies and procedures of the principal licensee;
- (e) The agreed scope of money services business activities to be provided by the agent and the tenure of its appointment;

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- (f) Fair commercial terms including the agreed commissions for the money services business carried out by the agent. Such commercial terms should provide appropriate incentives to agents, while having regard to the relative investments contributed to the business by the principal licensee and the agent (e.g. in providing/maintaining operating systems and training of staff); and
- (g) The mechanisms for resolving disputes between the principal licensee and its agent.

8.3 Training of Agent

A principal licensee shall implement adequate training programmes to ensure the appointed agent understands its obligations and is conversant in the relevant regulatory requirements, particularly with regard to the AML/CFT and consumer protection requirements and the internal policies of the principal licensee. The training programmes shall include at least the following areas:

- (a) Regulatory requirements relating to the Act; Regulations; Guidelines and circulars on the conduct of money services business;
- (b) AML/CFT requirements and measures including conduct of customer due diligence, record keeping, reporting of suspicious transactions and developments of AML/CFT, including the types and trends of activities associated with money laundering; and
- (c) Internal policies and procedures of the principal licensee, including the standard operating procedures for agents; policies for customer service; risk management and controls of business operations.

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9. PROCESSES, SYSTEMS AND CONTROLS TO MONITOR AGENT'S OPERATIONS AND COMPLIANCE

9.1 A principal licensee shall ensure that its agents comply with all the relevant regulatory requirements for the conduct and operations of money services business activities as applicable to the principal licensee. As such, a principal licensee shall establish appropriate processes, systems and controls to effectively monitor the operations; conduct and compliance of its agents in undertaking money services business activities. Such processes, systems and controls shall be approved by the board of directors (Board) and properly documented in a form of written policies and procedures for review by the Board and management at regular intervals to ensure that they remain effective.

9.1.1 Standard Operating Procedures for Agent

A principal licensee shall document and implement clear and consistent standard operating procedures (SOP) for the conduct of money services business activities by its agents, in line with the relevant requirements under the Act and Regulations as well as standards in the “*Guidelines on Governance and Operational Requirements on Conduct of Money Services Business*” and “*Guidelines on Risk Management and Internal Controls for Conduct of Money Services Business*”, which include at a minimum the following:

- (a) Arrangements to allow customers to verify that the money services business conducted by the agent is authorised by its principal licensee:
 - (i) An agent must display conspicuous signage showing that it is an agent of the principal licensee and the approved money services business activity; and
 - (ii) The certificate of appointment issued by the principal licensee shall also be displayed in a conspicuous position at each agent's premises for customer verification of the agent's authority to

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conduct money services business. The format of the certificate of appointment shall at a minimum incorporate the information as in Appendix I.

- (b) Appropriate service standards for the money services business provided by an agent, including:
 - (i) observance of the time frame for outward and inward remittance as prescribed in the Money Services Business (Remittance Business) Regulations 2012 by an agent carrying on remittance business; and
 - (ii) observance of the specific requirements as stipulated in the Guidelines on Governance and Operational Requirements on Conduct of Money Services Business for the conduct of exchange transactions by an agent carrying on money changing business.
- (c) Requirements on transparency in dealings and issuance of receipts for transactions using the agent's services, including adequate disclosure to customers on the products and services provided by the agent and information on management of complaints lodged by customers, as stipulated in the Guidelines on Governance and Operational Requirements on Conduct of Money Services Business;
- (d) Appropriate measures to protect customer information in accordance with section 84 of the Act. As such, an agent is not allowed to disclose customer information to third parties in any form or for any other purposes, unless such disclosure is permitted under section 85 of the Act;
- (e) Arrangements to ensure observance of requirements by an agent on issuance or publication of accurate and relevant advertisements relating to money services business activities, in line with the requirements as stated in section 25 of the Act and in the Guidelines on Governance and Operational Requirements on Conduct of Money Services Business;

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- (f) Proper maintenance of records by an agent to support complete audit trails and for review and consolidation by the principal licensee. All the business transactions of an agent must be properly recorded; be fully accounted for and reconciled with relevant source documents;
- (g) Effective implementation of AML/CFT measures which shall include the following:
 - (i) Conduct of customer due diligence;
 - (ii) Record keeping;
 - (iii) On-going monitoring of customers and business transactions; and
 - (iv) Submission of suspicious transactions reports to the principal licensee.
- (h) An agent must refer to the principal licensee for approval before performing any of the following transactions with a customer:
 - (i) large value transactions based on thresholds set by the principal licensee; and
 - (ii) non face-to-face transactions conducted through bank accounts or instructions received over e-mail, fax or telephone.
- (i) A principal licensee shall establish appropriate processes and procedures to ensure proper management of cash by the agent, including regular monitoring of cash holdings by the agent at its premises which should be commensurate with the scope and volume of business transactions undertaken by the agent. A principal licensee should investigate cash holdings which significantly exceed the volume of business transactions conducted by the agent, or which are inconsistent with the profile of transactions by the agent to ensure that the agent is not involved in irregular activities;

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- (j) Appropriate procedures to be complied by agents on any alteration to the instruction for business transactions that have been captured in the system, in order to support a complete audit trail for review by the principal licensee on such changes;
- (k) Mechanisms for setting the dealing spread and exchange rate quotation by an agent which are transparent to the agent, in line with the requirements set in the Guidelines on Governance and Operational Requirements on Conduct of Money Services Business;
- (l) Proper arrangement for sourcing and clearing of foreign currencies by an agent. An agent is expected to source and clear its foreign currencies directly with the principal licensee. In the event that the agent is also permitted by the principal licensee to source and clear foreign currencies with other parties, the principal licensee shall ensure that proper processes and procedures are established in line with the requirements set in the Guidelines on Governance and Operational Requirements on Conduct of Money Services Business. As such, a principal licensee is required to:
 - (i) clearly identify and approve the parties and channels that an agent may deal with/through for the purpose of sourcing and clearing foreign currencies, and regularly monitor the pattern of business transactions to ensure that sourcing and clearing of foreign currencies by the agent are conducted through authorised channels and are in compliance with the relevant regulatory requirements; and
 - (ii) ensure that all transactions for sourcing and clearing of foreign currencies undertaken by the agent with the third parties as approved/authorised by the principal licensee are properly recorded, and can be accounted for and reconciled with relevant source documents.

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- (m) Appropriate contingency arrangements for agents in accordance with the principal licensee's business continuity plan to support continuity of the agent's operations and safe keeping of information maintained by the agent, in the event of business disruption resulting from system failures or natural disaster; and
- (n) Adequate physical controls and security measures in place in conducting money services business. In relation to this, installation of counterfeit detection machines to detect counterfeit currencies from being used for exchange, and installation of close circuit cameras as a deterrent against risk of physical harm and financial losses to customers at an agent's premises are encouraged.

9.1.2 Review of Agents' Operations

- (a) A principal licensee shall conduct regular review of the conduct and operations of its agents to ensure that they comply with the SOP and "fit and proper" requirements, including:
 - (i) Conduct of regular on-site visits at least on a quarterly basis and on-going monitoring of transactions conducted by its agent to evaluate the compliance level as well as the effectiveness and adequacy of the agent's internal controls. The principal should consider the nature, volume of business transactions as well as the agent's location to identify operations that are exposed to higher risk. For such, more frequent on-site visits are expected to obtain assurance on adequacy of controls by the agent.
- (b) A principal licensee must ensure prompt and effective rectification measures are undertaken to address gaps identified in the agent's operations, including where appropriate, termination of agents in accordance with proper procedures. All material findings on an agent and the rectification measures undertaken to address the gaps identified shall be properly documented and maintained by the principal licensee and made available to the Bank upon request;

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- (c) In the event of a suspension or temporary closure of the agent's money services business that exceeds 7 days, a principal licensee shall take reasonable measures to ensure that the agent is not conducting money services business during the period of suspension or closure;
- (d) A principal licensee shall monitor and establish the profile of its agent's business transactions for the purpose of analysing the trends and patterns of the transactions conducted by the agent to ensure proper reporting of suspicious transactions to the principal licensee. In particular, more intense monitoring shall be conducted for agents with large volume/value transactions and transactions undertaken in the high risk areas, such as borders and ports to identify any suspicious / unusual activities; and
- (e) A principal licensee shall also maintain an updated record of all the agents appointed, including details of the shareholding structure; board of directors; management and locations of the agents.

9.1.3 Reporting by Agent to the Principal Licensee

A principal licensee shall require its agent to submit the following information and reports relating to the agent's money services business operations in a timely manner:

- (a) Financial information relating to the money services business conducted, including the audited annual financial statements;
- (b) Progress report on rectification measures undertaken by the agent to address the non-compliances and gaps relating to the conduct of money services business in a timely manner;
- (c) New relationships established by the agent with high risk customers using money services provided by the agent;
- (d) Reports on suspicious transactions;
- (e) Any incident of fraud, theft and robbery at the agent's premises; and
- (f) Temporary closure by the agent at any of its premises.

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10. SPECIFIC REQUIREMENTS FOR PRINCIPAL-AGENT ARRANGEMENT

- 10.1 A principal licensee shall obtain the prior written approval of the Bank on the following:
- (a) any relocation of premises or expansion plan undertaken by its agents to conduct money services business on its behalf; and
 - (b) any change in the shareholding structure; directors and CEO of the agent (not including agent which is a licensee).
- 10.2 A principal licensee shall notify the Bank:
- (a) the date of commencement and address of the agent's approved new premises, at least 14 days before commencing the operation at the agent's premises;
 - (b) prior to any change in the name of its agent (not including agent which is a licensee) for purpose of the Bank's agent registration; and
 - (c) prior to termination of the service of its agent, stating the reasons and effective date of the termination.
- 10.3 A principal licensee shall submit a report to the Bank on all material non-compliances by its agents, including the involvement of agents in illegal activities; breach of professional ethics, and non-compliances with any applicable legal and regulatory requirements, as well as the rectification measures taken by the principal licensee to address the gaps identified.
- 10.4 A principal licensee holding Class C & D or Class A & D licence shall not practise discriminatory pricing for its wholesale foreign currency business to ensure fair and competitive money services business.
- 10.5 All principal licensees are allowed to exercise flexibility in determining the business operating hours of their agents, provided proper arrangement is in place to ensure convenient and easy access to the service of agents by customers.

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APPENDIX

Appendix I

Serial No:

Licensee's Name (Business registration number)
Principal place of business/Head office address
Contact Number

This is to certify that:

(Name of agent, business registration number)

has been appointed by:

(principal licensee's name)

as its Money Services Business Agent to conduct:

(Type of money services business)

at

(agent's office)

for the tenure of appointment:

from _____ to _____

CEO's signature

Date: