



BANK NEGARA MALAYSIA
CENTRAL BANK OF MALAYSIA

Requirements for the Conduct of Money Services Business by Banking Institutions

Issued on: 7 July 2015

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PART A OVERVIEW

1. Introduction

Policy objective

- 1.1. The Money Services Business Act 2011 (MSBA) requires licensees conducting money services business activities (comprising money changing, remittance and wholesale currency businesses) to institute and maintain sound governance and operational arrangements to ensure the proper conduct of money services business.

- 1.2. This policy document provides for consistent requirements and standards as that applied to licensees under the MSBA, to be extended to banking institutions that provide money changing and/or remittance services. Compliance with these requirements and standards is expected to strengthen banking institutions' operational arrangements, in particular their agent oversight frameworks, to protect consumers and safeguard the integrity of the banking institution's money services business operations by preventing its use for illicit purposes. Given the critical role of banking institutions in the financial system, this also has important reputational implications for banking institutions' correspondence banking relationships and overall confidence in the financial system.

Scope of policy

- 1.3. Section I of this document outlines the following key operational requirements and the minimum standards to be observed by a banking institution in conducting money services business:
 - (a) General requirements for operating money services business;
 - (b) Specific requirements for the conduct of money changing business; and
 - (c) Specific requirements for the conduct of remittance business.

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1.4. Section II of this document outlines the following requirements on the oversight of remittance agents by a banking institution:

- (a) Policies and procedures on the appointment of an agent by a banking institution to conduct remittance on its behalf;
- (b) Specific requirements for the conduct of remittance by an agent;
- (c) Review by the banking institution on the conduct of an agent;
- (d) Reporting by an agent to the banking institution; and
- (e) Other requirements for agent arrangements.

2. Applicability

2.1. This policy document is applicable to all banking institutions conducting money changing and/or remittance businesses at its premises and through remittance agents appointed by the banking institutions.

3. Legal provision

3.1 This policy document is issued pursuant to sections 47 and 123 of the Financial Services Act 2013 (FSA) and sections 57 and 135 of the Islamic Financial Services Act 2013 (IFSA).

4. Effective date

4.1. This policy document comes into effect on 7 July 2015.

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5. Interpretation

5.1. For the purpose of this policy document:

“**S**” denotes a standard, requirement or specification that must be complied with. Failure to comply may result in one or more enforcement actions;

“**G**” denotes guidance which may consist of such information, advice or recommendation intended to promote common understanding and sound industry practices which are encouraged to be adopted;

“**Agent**” means remittance agent appointed by a banking institution;

“**BNM**” means Bank Negara Malaysia;

“**Premises**” includes a banking institution’s principal place of business; branch; mobile place of business; place of business set-up and maintained for a limited period only; and electronic terminal or platform or any other place where money services business is conducted.

6. Policy document superseded

6.1. This policy document supersedes the Circular on ‘Appointment of Remittance Agents by Banking Institutions’ issued to banking institutions on 4 May 2006.

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PART B REGULATORY REQUIREMENTS

Section I: Oversight, processes and controls for the conduct of money services business operations by banking institutions

A banking institution is required to effectively manage and control all material risks associated with the conduct of money services business at its premises and through its agents, taking into account the size, scope and complexity of its business activities. This section sets out the key operational requirements for a banking institution to establish processes, systems and controls to address the following specific risks:

- Money services business transactions being carried out for money laundering, terrorism financing and other illegal purposes;
- Failure in complying with applicable legal and regulatory requirements for money services business transactions carried out at the premises or through the agents of banking institutions;
- Mismanagement and fraud resulting in loss of monies held in trust for customers; and
- Compromise of customer information and the integrity of records due to the unauthorised access to, alteration or manipulation of information systems.

7. General requirements for operating money services business

S 7.1. Establishment of written internal policies and procedures on the conduct of money services business activities

A banking institution is required to put in place appropriate processes, systems and controls for money services business operated at its premises or by agents, which shall include at a minimum the following:

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- (a) Standard operating procedures (SOP) for money services business operations to ensure compliance by staff with internal policies and regulatory requirements as well as professional conduct in dealings with customers. The SOP shall also include the control procedures and processes for detecting and escalating material operational lapses to the management and the Board of the banking institution.

- (b) Policies on oversight, which include, but are not limited to the following:
 - (i) Mechanisms for monitoring and reporting of money services business operations and compliance levels at premises and agents to the head office;
 - (ii) Procedures for the reconciliation and consolidation of business transactions at the banking institution's premises and agents to ensure all money services business transactions undertaken by the banking institution are properly captured; and
 - (iii) Procedures for the aggregation of business transactions by a customer at all business premises and agents of the banking institution to ensure compliance with internal and regulatory limits, and for the purpose of conducting ongoing due diligence of its customers.

- (c) Policies on Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT) compliance to ensure the effective implementation of AML/CFT measures at the banking institution's premises and agents for conducting money services business, in line with the requirements under AML/CFT - Banking and Deposit-Taking Institutions (Sector 1) and other relevant standards issued by BNM on AML/CFT.

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S 7.2. Transparency in dealings

(a) A banking institution shall ensure transparency in dealings with customers in line with the Guidelines on Product Transparency and Disclosure. In this regard, a banking institution shall comply with the following requirements:

(i) For remittance business:

Customers shall be provided with relevant information prior to undertaking any remittance transaction, as specified under the Guidelines on Product Transparency and Disclosure (Schedule VII: Remittance Services).

(ii) For money changing business:

institutions shall:

- display the buying and selling rates of exchange under the headings 'we buy' and 'we sell'; and
- inform customers of any applicable fees and charges for services carried out.

(iii) All customers shall be provided with clear information on how to lodge a complaint with the banking institution; and procedures for the cancellation of transactions by customers.

(b) A banking institution which carries on money services business through any electronic means or mobile services, or at temporary / mobile premises approved by BNM, shall prominently display information of its business, including the means for customers to verify the authorisation by the banking institution of the money services business offered.

S 7.3. Issuance of receipts

(a) A banking institution shall issue a receipt to its customers upon completing a money services business transaction, regardless of the amount transacted.

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(b) The receipt / document issued by a banking institution to its customers for the transactions conducted shall include the following information:

(i) For money changing transactions:

- the name, address and contact details of the banking institution;
- the date of the transaction;
- a serial number for the receipt or transaction performed;
- the amount paid and the type of currencies presented by the customer;
- the amount and the type of currencies issued to the customer;
- the rate of exchange; and
- the fees and charges for services provided to the customer.

(ii) For remittance transactions:

- the name, address and contact details of the banking institution;
- the date of the remittance transaction;
- a serial number for the receipt or transaction performed;
- the name of the sender;
- the name of the beneficiary;
- the rate of exchange;
- the amount of funds to be remitted in ringgit and its equivalent amount in foreign currency to be received by the beneficiary; and
- the fees and charges for services provided to the customer.

S 7.4. Protection of customer information

A banking institution shall establish appropriate measures to ensure proper protection of customer information in accordance with section 133 of the FSA and section 145 of the IFSA. A banking institution is not allowed to share customer information with any third party outside the banking institution without the expressed consent of the customer, unless legally permitted in accordance with the permitted disclosures set out in section 134 of the FSA or section 146 of the IFSA.

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S 7.5. Maintenance of records

- (a) A banking institution shall ensure proper maintenance of records to support complete audit trails, and for review and consolidation by the banking institution. All money services business transactions conducted at the premises or through agents must be properly recorded and supported by relevant source documents. For this purpose, a banking institution shall keep all records for at least seven (7) years after the transactions have been completed.

- (b) A banking institution shall also put in place appropriate control procedures at its premises and agents to detect any alteration to instructions for money services business transactions that have been captured in the system. Such alteration shall be subject to reviews by the banking institution to confirm that they are properly authorised and monies received from or paid to customers are fully accounted for.

S 7.6. Commencement or cessation of money services business operations

- (a) A banking institution shall notify BNM in writing prior to the commencement or cessation of its money services business operations. The notification shall include details of:
 - (i) the date of commencement and address of each of the banking institution's premises that is carrying on money services business;
 - (ii) the date of commencement and address of each approved new agent carrying on remittance on behalf of the banking institution; or
 - (iii) the reasons and effective date of the cessation of the money services business operations at its premises and agents.

- (b) A notification of paragraph 7.6 (a) (i) and (ii) shall be provided to BNM at least 14 days before the commencement of money services business operations at the banking institution's premises or by its agents.

- (c) A notification of paragraph 7.6 (a) (iii) shall be provided to BNM as soon as practicable and in any case, no later than 14 days before the effective date of cessation of money services business.

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S 7.7. Establishment of management information system

A banking institution shall establish a reliable management information system that is secure and robust to support its money services business operations at its premises and agents. The system must be capable of performing functions which include the following:

- (a) Recording details of money services business transactions on a real-time basis;
- (b) Aggregating business transactions with each customer across all premises and agents of the banking institution for the purpose of ensuring compliance with internal and regulatory limits as well as conducting on-going due diligence of its customers; and
- (c) Generating reports on transaction value and volumes for purposes of regulatory reporting and monitoring compliance with AML/CFT requirements.

S 7.8. Adequate level of staff competency

A banking institution shall provide adequate on-going training to its staff and appointed agents to ensure that they are conversant in the relevant regulatory and AML/CFT requirements in conducting money services business activities and are able to perform their roles effectively in compliance with these requirements. The training programmes should provide staff and agents with a good understanding of:

- (a) The provisions in this policy document;
- (b) AML/CFT requirements and measures including the conduct of customer due diligence (CDD), 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 including those addressing the banking institution's standards for customer service and internal controls for managing risks in the money services business operations.

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8. Specific requirements for the conduct of money changing business

- S** 8.1. A banking institution carrying on money changing business shall ensure that the originator and recipient of an exchange transaction shall be the same person.
- S** 8.2. A banking institution is required to conduct enhanced CDD on situations which are deemed as higher money laundering and terrorism financing (ML/TF) risks including when a customer sends a representative who is authorised to either send or collect funds on behalf of the customer for an exchange transaction at its premises.
- S** 8.3. A banking institution shall limit the amount exchanged with an authorised representative of a customer who is an individual to not more than RM20,000 equivalent per transaction. A banking institution shall only deal directly with the customer for any exchange transaction exceeding RM20,000 equivalent.
- S** 8.4. Paragraph 8.3 does not apply to customers other than individuals. In this event, a banking institution shall only conduct exchange transactions with the customer's representative who is an authorised employee or director of the customer concerned. This includes businesses, trust funds, clubs, societies and associations.
- S** 8.5. All transactions shall be performed at the prevailing market rate of exchange. Where advance orders for currency are received, the relevant exchange rate shall be the prevailing market rate at the time the funds for the exchange are received from the customer. For practical purposes, premises of a banking institution may quote the current prevailing market rate of exchange for advance currency orders, provided that in all cases the exchange transaction shall be settled by the customer within two (2) business days.

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9. Specific requirements for the conduct of remittance business

- S** 9.1. For remittance services provided at a banking institution's premises and agents, the following regulatory limits shall be observed when dealing with customers who are not account holders¹ of the banking institution:
- (a) For a business-to-business remittance transaction, the daily outward transaction limit for a customer shall not exceed an aggregate amount of two hundred thousand ringgit;
 - (b) For remittance transactions other than business-to-business remittance transactions, the daily outward transactions limit for a customer shall not exceed an aggregate amount of fifty thousand ringgit. This includes transactions between individuals, and transactions between individuals and businesses; and
 - (c) The limit for the daily outward transactions referred to in 9.1 (a) and (b) applies to the aggregate of all remittance transactions undertaken for a customer through any of the premises or remittance agents of the banking institution.
- S** 9.2. Time frame for outward and inward remittance
- (a) For outward remittance transactions conducted at the premises or agents of a banking institution, the remittance instructions shall be issued to the correspondent parties as soon as practicable and in any case, not later than two (2) business days from the date of receipt of funds from a customer;
 - (b) For inward remittance transactions, a banking institution and its agents shall make available the funds for collection by the beneficiary immediately upon receipt of the remittance instruction.

¹ Banking institutions may also deal with customers who have an established business relationship with the banking institution concerned and are subjected to 'Know Your Customer' (KYC) standards and procedures similar to those applied to account holders of the banking institution. In such cases, as with account holders, the limits in paragraph 9.1 will not apply.

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Section II: Oversight on remittance agents by the banking institution

A banking institution shall be fully responsible for the conduct and activities related to the remittance business carried out by its appointed remittance agent on its behalf. In this regard, a banking institution shall ensure that it conducts appropriate due diligence in the appointment of agents and provides effective continuing oversight over its agents in accordance with the requirements in this section.

10. Policies and procedures on the appointment of an agent to conduct remittance

- S** 10.1. A banking institution is required to seek prior written approval from BNM before appointing an agent to conduct remittance business on its behalf.
- S** 10.2. A banking institution must ensure appropriate oversight and controls over its appointment of remittance agents to conduct remittance on its behalf. This should address the following:
- (a) **Agent selection**
- A banking institution must develop clear agent selection criteria and conduct adequate due diligence, supported by proper background checks, to ensure that an agent meets the following minimum expectations:
- (i) Demonstrates professional standards in its business conduct;
 - (ii) Has adequate financial and human resources to support the effective implementation of consumer protection measures, and AML/CFT measures, record keeping systems and internal controls in line with the AML/CFT – Banking and Deposit-Taking Institutions (Sector 1);
 - (iii) Has a good compliance track record and has not been involved in illegal activities, to the best knowledge of the banking institution; and
 - (iv) The key responsible persons of the agent fulfil the ‘fit and proper’ criteria as specified in Appendix I.

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(b) **Terms of agent appointment**

A banking institution must establish appropriate terms of appointment for its agents to govern the relationship between the agent and the banking institution, and specify the rights, responsibilities and expectations of both parties. The terms of appointment shall be documented in the form of a contractual agreement which provides, at a minimum, for the following:

- (i) The tenure of appointment and grounds and procedures for the termination of the agency agreement. If a cooling period is applied upon the termination of an agent, the banking institution shall ensure that period is reasonable and should in any case not exceed three (3) months to enable the banking institution and its agent to settle any outstanding obligations;
- (ii) Clear arrangements and procedures for the effective monitoring and conduct of regular audits and reviews by the banking institution of the agent's compliance and performance in carrying out money services business activities. This shall include a provision to allow the banking institution to perform on-site reviews of the books, records and internal controls of its remittance agents;
- (iii) Standards of professional ethics and conduct to be observed by the agent in the conduct of remittance transactions;
- (iv) Obligations of the agent to comply with all applicable legal and regulatory requirements, including requirements relating to AML/CFT and protection of customer information, as well as the internal policies and procedures of the banking institution;
- (v) The description of remittance products and services which the agent is authorised to provide;
- (vi) Fair commercial terms including the agreed commissions to be paid to the agent for the remittance activities performed by the agent; and
- (vii) The mechanisms for resolving disputes between the banking institution and its agents.

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11. Specific requirements for the conduct of remittance services by an agent

- S** 11.1. A banking institution shall document and implement clear and consistent SOP for the conduct of remittance by its agents, which shall include at a minimum the following:
- (a) Arrangements to allow customers to verify that the agent is an authorised agent of the banking institution for the conduct of remittance transactions. For this purpose, a banking institution must ensure that its agent displays:
 - (i) Conspicuous signage identifying the banking institution for which it is a remittance agent; and
 - (ii) A certificate of appointment issued by the banking institution in a conspicuous position at each of the agent's premises. The format of the certificate of appointment shall be guided by the format provided in Appendix II.
 - (b) Transparent parameters for the agent to set the dealing spread and exchange rate for remittance transactions.
 - (c) Clearly defined procedures for an agent to refer to the banking institution for approval before performing any of the following transactions with a customer:
 - (i) large value transactions based on thresholds set by the banking institution; and
 - (ii) non face-to-face transactions conducted through instructions received over e-mail, fax and telephone; and funds transferred by customers into an agent's banking account. For such transactions, an agent is required to:
 - ensure business relationship with the customer has been established and CDD has been conducted prior to the conduct of the transaction; and
 - conduct enhanced CDD on the customer during the transaction.

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- (d) Procedures to ensure the proper management of cash by the agent which should be commensurate with the scope and volume of business transactions undertaken by the agent. A banking institution should investigate cash holdings in connection with the agent's remittance activities which significantly exceed the volume of business transactions conducted by the agent, or which are inconsistent with the profile of transactions by the agent.
- (e) Appropriate arrangements for agents in accordance with the banking institution's business continuity plan to safeguard customer transactions as well as customer information maintained by the agent, in the event of business disruptions resulting from system failures or natural disasters.
- (f) Adequate physical controls and security measures installed at the premises of agents, including counterfeit detection machines and close circuit cameras, for the protection of agents and customers against physical harm and financial losses.

12. Review by the banking institution of the conduct of an agent

- S** 12.1. A banking institution shall perform regular reviews of the conduct and operations of its agents to ensure that they comply with relevant legal and regulatory requirements in conducting remittance. This shall include regular on-site visits and on-going monitoring by the banking institution 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 banking institution should consider the nature, volume of business transactions as well as the agent's location to identify operations that are exposed to higher ML/TF risk. For such higher risk operations, more frequent on-site visits by the banking institution are expected to obtain assurance on the overall integrity of remittance activities conducted by the agent.

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- S** 12.2. A banking institution must ensure prompt and effective rectification measures are undertaken to address gaps identified in an agent's operations. All material findings arising from reviews of its agents' activities including the involvement of agents in illegal activities, breach of professional ethics, non-compliances with any applicable legal and regulatory requirements, as well as the rectification measures taken shall be properly documented and maintained by the banking institution and made available to BNM upon request. Findings of misconducts by agents shall be firmly dealt with, including where appropriate, disciplinary actions, termination of the agency agreement or reporting material breaches to relevant authorities.
- S** 12.3. A banking institution shall profile and monitor its agents' business transactions for the purpose of analysing trends and patterns of transactions conducted by the agents. This information should be used to guide the agents on the identification and reporting of suspicious transactions to the banking institution, and for the banking institution to obtain assurance that suspicious transactions undertaken at its agents' premises are properly captured and reported as part of the banking institution's AML/CFT control framework. Closer scrutiny and monitoring shall be carried out by the banking institution for large volume/value transactions and transactions undertaken by its agents in high risk areas, such as at the country's borders and ports to identify any suspicious / unusual activities.
- S** 12.4. A banking institution shall maintain an updated record of all agents appointed, including details of the shareholding structure, board of directors, management and locations of the agents.

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13. Reporting by an agent to the banking institution

- S** 13.1. A banking institution shall require its remittance agent to submit the following information and reports relating to the agent's operations to the banking institution in a timely manner:
- (a) Any changes to the shareholding structure, board of directors, management and location of the agent;
 - (b) Financial information relating to the remittance business conducted, including the audited annual financial statements;
 - (c) Progress reports on rectification measures undertaken by the agent to address any non-compliances and gaps relating to the conduct of remittance;
 - (d) New relationships established by the agent with high risk customers as defined by the banking institution;
 - (e) Reports on suspicious transactions;
 - (f) Any incident of fraud, theft and robbery at the agent's premises; and
 - (g) Temporary closures of business by the agent at any of its premises.

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14. Other requirements for agent arrangements

- S** 14.1. A banking institution shall obtain the prior written approval from BNM for the following:
- (a) any relocation of its agent's premises or establishment of new premises by its agent to conduct remittance on its behalf;
 - (b) any changes in directors or chief executive officer of the agent; and
 - (c) any changes in the shareholding structure of the agent that involves a change of control.
- S** 14.2. A banking institution shall notify BNM prior to any change in the name of its agent for the purpose of updating the register of agents maintained by BNM.
- S** 14.3. Paragraphs 14.1 and 14.2 do not apply to an agent that also holds a licence to conduct money services business under the MSBA.

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APPENDICES

Appendix I: 'Fit and proper' criteria for key responsible persons of an agent

1. The minimum criteria of a 'fit and proper' person in relation to a shareholder, director, controller, chief executive officer or manager of an agent are as follows:
 - (a) the person has not been convicted of an offence under-
 - (i) the Money Services Business Act 2011 [*Act 731*] or the repealed Act²;
 - (ii) the Financial Services Act 2013 [*Act 758*] or the repealed Acts³;
 - (iii) the Islamic Financial Services Act 2013 [*Act 759*] or the repealed Acts⁴;
 - (iv) the Central Bank of Malaysia Act 2009 [*Act 701*];
 - (v) the Development Financial Institutions Act 2002 [*Act 618*];
 - (vi) the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 [*Act 613*];
 - (vii) the Capital Markets and Services Act 2007 [*Act 671*]; or
 - (viii) the Companies Act 1965 [*Act 125*];
 - (b) the person has not been convicted of a criminal offence relating to dishonesty or fraud under any written law within or outside Malaysia;
 - (c) if the person has been convicted of a criminal offence not relating to dishonesty or fraud under any written law within or outside Malaysia, a period of five years has lapsed since the completion of his sentence;
 - (d) the person is not an undischarged bankrupt;

² Refers to the Money Changing Act 1998 [*Act 577*].

³ Refer to the Banking and Financial Institutions Act 1989 [*Act 372*], the Exchange Control Act 1953 [*Act 17*], the Insurance Act 1996 [*Act 553*] and the Payment Systems Act 2003 [*Act 627*].

⁴ Refer to the Islamic Banking Act 1983 [*Act 276*] and the Takaful Act 1984 [*Act 312*].

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- (e) the person has not suspended payments or compounded with his creditor whether in or outside Malaysia;
- (f) the person has not been -
 - (i) issued an order of detention, supervision, restricted residence, banishment or deportation; or
 - (ii) imposed by any form of restriction or supervision by bond or otherwise,

under any written law relating to prevention of crime;
- (g) the person has not held the position of a director or been directly concerned in the management of any company which has been convicted of an offence under any written law for the protection of the public against financial loss due to dishonesty, incompetence or malpractice during the tenure of his office unless he proves that such offence was committed without his knowledge or consent and he was not in a position to prevent the offence;
- (h) the person is of probity, personal integrity and good reputation;
- (i) the person has the appropriate skills, experience and sufficient knowledge of relevant regulatory requirements for the conduct of money services business as well as AML/CFT standards and procedures to effectively fulfill the role and responsibilities of the position;
- (j) the person has managed his financial affairs properly and prudently; and
- (k) if the person is a chief executive officer, he is available for full time employment.

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Appendix II: Certificate of agent appointment by banking institutions

Serial No.:

Name of Banking Institution

Head office address

Contact Number

This is to certify that:

(Name of agent, business registration no.)

has been appointed by:

(Banking institution's name)

as a Remittance Agent at:

(agent's premises)

for the tenure of appointment:

from _____ to _____

Signature of Person-In-Charge (or chief executive officer)
