

30 Mei 2011

TO WHOM IT MAY CONCERN

Tuan/Puan,

Liberalisation of Foreign Exchange Administration Rules

Please be informed that with effect from 1 June 2011, the following foreign exchange administration rules are liberalised. The liberalisation is aimed at further enhancing business efficiency and competitiveness of the economy.

A. Direct Investment Abroad¹

To support the private sector's expansion of their operations abroad, resident companies that meet prudential requirements will be permitted to undertake any amount of direct investment abroad. The Bank will grant written permission to the qualified resident companies. In this regard, direct investment abroad by these qualified resident companies is excluded from the prevailing limit of RM50 million equivalent on investment in foreign currency assets².

For monitoring purposes, the qualified resident company is required to register online the investment³ exceeding RM50 million equivalent with the Bank prior to the remittances.

¹ The definition of "direct investment abroad" is in the attached Appendix I.

² The definition of "foreign currency assets" is in the attached Appendix I.

³ The registration is required only on a per investment basis and not on a per remittance basis.

B. Inter-company borrowing

(i) Foreign currency borrowing from resident associate⁴ and sister company⁵

A resident company is permitted to borrow any amount in foreign currency from a resident associate and sister company.

(ii) Ringgit borrowing⁶ from non-resident non-bank related company⁷

A resident company is permitted to borrow any amount in ringgit from its non-resident non-bank related company to finance activities in the real sector⁸ in Malaysia.

However, borrowings in ringgit from the non-resident related company which is solely set up to obtain foreign currency loans from a non-resident financial institution continues to be subject to the prevailing RM1 million limit on ringgit borrowings by residents from non-residents.

With these liberalisations, a resident company is now free to borrow any amount in foreign currency and ringgit from its resident and non-resident non-bank related companies.

C. Foreign currency-denominated trade financing

The RM5 million limit imposed on foreign currency-denominated trade financing⁹ obtained by residents from non-residents is no longer applicable. In this regard, residents may obtain foreign currency borrowing, including foreign currency-denominated trade financing, up to the

⁴ The definition of “associate company” is in the attached Appendix I.

⁵ The definition of “sister company” is in the attached Appendix I.

⁶ Ringgit borrowing includes issuance of ringgit-denominated debt securities.

⁷ The definition of “related company” is in the attached Appendix I.

⁸ Real sector is the sector where there is production of goods and services which includes all industries except for financial services.

⁹ Foreign currency-denominated trade financing involving export proceeds is subject to the requirement on the repatriation of export proceeds to be made in full within 6 months from date of export or when contractually due, whichever is earlier.

prevailing aggregate limit of RM100 million equivalent for companies on a corporate group basis and RM10 million equivalent for individuals¹⁰.

2. With the above liberalisations, the summary of the foreign exchange administration rules on –

- (i) “Payments between Residents in Foreign Currency” are attached in Appendix II;
- (ii) “Investment in Foreign Currency Assets by Residents” are attached in Appendix III; and
- (iii) “Foreign Currency and Ringgit Credit Facilities Obtained by Residents” are attached in Appendix IV.

3. Accordingly, the following ECM Notices dated 1 September 1998 and the relevant circulars are amended:

ECM Notices

- (i) ECM 4: General Payments;
- (ii) ECM 10: Foreign Currency Credit Facilities and Ringgit Credit Facilities from Non-residents; and
- (iii) ECM 16: Approved Operational Headquarters.

Circular letters

- (iv) KL.EC.100/6/2007/5(b) and KL.EC.100/1/6 dated 1 April 2007 on “ECM 6: Credit Facilities to Non-residents”;
- (v) KL.EC.100/6/2007/7(b) and KL.EC.100/1/9 dated 1 April 2007 on “ECM 9: Investment Abroad”;
- (vi) KL.EC.100/6/2007/8(b) and KL.EC.100/1/10 dated 1 April 2007 on “ECM 10: Foreign Currency Credit Facilities and Ringgit Credit Facilities from Non-residents”;
- (vii) KL.EC.100/6/2007/10(b) and KL.EC.100/1/16 dated 1 April 2007 on “ECM 16: Approved Operational Headquarters”;

¹⁰ Including a sole proprietor, general partnership or general and limited partners within a partnership.

- (viii) KLEC.100/6/2008/2(b), KL.EC.100/1/1, KL.EC.100/1/6, KL.EC.100/1/10 and KL.EC.100/1/12 dated 28 May 2008 on “Foreign Exchange Administration Rules on Borrowing in Foreign Currency by Residents as well as Borrowing and Lending in Ringgit by Residents”;
- (ix) KLEC.100/6/2010/6(b), KL.EC.100/1/2, KL.EC.100/1/3, KL.EC.100/1/4, KL.EC.100/1/5, KL.EC.100/1/6 and KL.EC.100/1/10 dated 18 August 2010 on “Liberalisation of Foreign Exchange Administration Rules”; and
- (x) KLEC.100/6/2011/2(b), KL.EC.100/1/3, KL.EC.100/1/4 and KL.EC.100/1/7 dated 4 March 2011 on “(A) Payments in Ringgit and Foreign Currency Involving Resident and Non-resident Individuals; and (B) Foreign Currency Accounts of Residents”.

Appendix I

Definition of “Direct Investment Abroad”

Direct investments abroad comprise:

- (a) Investment resulting in at least 10% equity ownership or control of a non-resident company;
- (b) Inter-company lending to non-resident related companies; or
- (c) Capital expenditure in unincorporated entities or projects by agreement where no establishment is created in the following instances:
 - (i) where capital contribution is at least 10% of project cost;
 - (ii) where the resident is entitled to at least 10% of profits from the unincorporated entity or project; or
 - (iii) where the resident has management control of the unincorporated entity or project.

Definition of “Foreign Currency Assets”

Foreign currency assets include:

- (a) Foreign currency securities;
- (b) Foreign currency loans;
- (c) Foreign currency deposits;
- (d) All approved foreign currency-denominated products offered by licensed onshore banks, licensed International Islamic Banks, Bursa Malaysia and any resident permitted by the Controller of Foreign Exchange; and
- (e) Exchange traded foreign currency-denominated derivatives (other than currency contracts) transacted via resident futures brokers.

Definition of “Related Company”

Related company includes the resident company's:

- (a) Ultimate holding company;
- (b) Parent or head office;
- (c) Branches (unincorporated entities);
- (d) Subsidiaries (companies that are more than 50% owned by the resident company);
- (e) Associate companies (companies that have between 10% and 50% shareholding relationship with the resident company); and
- (f) Sister companies (common shareholder).

Appendix II

Payment between Residents in Foreign Currency

Purpose of payment	Payment in foreign currency
Purchase or sale of goods and services	<ul style="list-style-type: none"> A resident company with export earnings is allowed to pay another resident company in foreign currency for settlement of goods and services.
Purchase or sale of ringgit asset	<ul style="list-style-type: none"> Not allowed.
Purchase of offshore foreign currency assets as permitted by the Controller	<ul style="list-style-type: none"> Not allowed.
Purchase of approved foreign currency investment products offered onshore, including payment to resident futures brokers for foreign currency-denominated derivatives (other than currency contracts) on overseas specified exchanges	<ul style="list-style-type: none"> Allowed.
Extension of credit facilities between resident related companies ¹	<ul style="list-style-type: none"> Allowed.
Education or employment overseas	<ul style="list-style-type: none"> Allowed.

¹ includes the resident company's:

- (a) Ultimate holding company;
- (b) Parent or head office;
- (c) Branches (unincorporated entities);
- (d) Subsidiaries (companies that are more than 50% owned by the resident company);
- (e) Associate companies (companies that have between 10% and 50% shareholding relationship with the resident company); and
- (f) Sister companies (common shareholder).

Appendix III

Investment in Foreign Currency Assets by Residents

Source of funds	Investment in foreign currency assets
Investment funded through conversion of ringgit	<ul style="list-style-type: none"> • Residents without domestic ringgit credit facilities are allowed to convert any amount of ringgit. • Residents with domestic ringgit credit facilities are allowed to convert ringgit, subject to limits as follows: <ul style="list-style-type: none"> ✓ Individual – up to RM1 million equivalent per calendar year. ✓ Company – up to RM50 million equivalent per calendar year on a corporate group basis. ✓ Qualified company¹: <ul style="list-style-type: none"> ➤ Any amount for direct investment abroad; and ➤ Up to RM50 million equivalent per calendar year for investments in other foreign currency assets.
Investment funded by proceeds from listing of shares ² onshore and offshore	<ul style="list-style-type: none"> • Residents with or without domestic ringgit credit facilities are allowed to use the full amount of the proceeds.
Investment using own foreign currency funds ³ placed onshore or offshore	<ul style="list-style-type: none"> • Residents with or without domestic ringgit credit facilities are allowed to use any amount of own foreign currency funds.

¹ A qualified resident company is a resident company which has been granted permission to undertake any amount of direct investment abroad based on prudential requirements stipulated by the Bank.

² Proceeds from the listing of shares through the initial public offering.

³ Includes permitted foreign currency credit facilities.

Appendix IV

Foreign Currency Credit Facilities Obtained by Residents

Description	Purpose
<p>A resident company¹ is allowed to borrow foreign currency from:</p> <ul style="list-style-type: none"> • Licensed onshore bank • International Islamic Bank • Resident related company • Non-resident non-bank related company • Non-resident supplier (as supplier's credit) • Other non-residents, including financial institutions <p><u>Note:</u> The resident may refinance approved foreign currency borrowing (including accrued interest) up to the outstanding amount</p>	<ul style="list-style-type: none"> • Any amount for any purpose. • Any amount to finance purchases from the non-resident supplier. • Up to RM100 million equivalent in aggregate per corporate group to finance any purposes, including trade financing².
<p>A resident individual³ is allowed to borrow foreign currency from:</p> <ul style="list-style-type: none"> • Licensed onshore bank • International Islamic Bank • Non-residents, including financial institutions 	<ul style="list-style-type: none"> • Up to RM10 million equivalent in aggregate to finance any purposes, including trade financing².

¹ Including a limited partnership and other entities such as co-operatives and charitable organisations.

² Foreign currency trade financing involving export proceeds is subject to the requirement on repatriation of export proceeds to be made in full within 6 months from date of export or when contractually due, whichever is earlier.

³ Including a sole proprietor, general partnership or general and limited partners within a partnership.

Appendix IV

Description	Purpose
<p><u>Note:</u></p> <p>The resident may refinance approved foreign currency borrowing (including accrued interest) up to the outstanding amount</p>	
<p>A special status company⁴ is allowed to borrow foreign currency from:</p> <ul style="list-style-type: none"> • Licensed onshore bank • International Islamic Bank • Resident related company • Non-resident non-bank related company • other non-residents, including financial institutions 	<ul style="list-style-type: none"> • Any amount for any purpose. • Any amount for own use.

⁴ Special status companies are companies that are awarded the Multimedia Super Corridor (MSC), Approved Operational Headquarters (OHQ), Bionexus, Iskandar Malaysia (IDR) or East Coast Economic Region (ECER) status by the relevant authorities as follows:

- (a) **MSC:** A company undertaking information and communication technology (ICT) activities which is awarded the MSC status by the Government of Malaysia through the Multimedia Development Corporation and granted flexibilities under the Exchange Control Act 1953.
- (b) **OHQ:** A company incorporated in Malaysia which provides qualifying services to its offices/related companies in and outside Malaysia as approved by the Malaysian Industrial Development Authority.
- (c) **Bionexus:** A qualified biotechnology company which is awarded the Bionexus status by the Malaysian Biotechnology Corporation Sdn Bhd and granted flexibilities under the Exchange Control Act 1953.
- (d) **IDR:** A company approved by the Ministry of Finance to undertake qualifying services in the Iskandar Regional Development Authority (IRDA) approved zones and is awarded the IDR status, Approved Developer status or Approved Development Manager status by IRDA and granted flexibilities under the Exchange Control Act 1953.
- (e) **ECER:** A company approved by the Ministry of Finance to undertake qualifying services in the ECER which is awarded the ECER status by ECER Development Council and granted flexibilities under the Exchange Control Act 1953 (accorded only to ECER status companies with fiscal incentives under the ECER Incentive Package).

Appendix IV

Ringgit Credit Facilities Obtained by Residents from Non-residents

Description	Purpose
<p>A resident company is allowed to borrow ringgit, including issuance of ringgit-denominated debt securities, from:</p> <ul style="list-style-type: none"> • Non-resident non-bank related companies⁵ 	<ul style="list-style-type: none"> • Any amount to finance activities in the real sector in Malaysia
<ul style="list-style-type: none"> • Other non-resident non-bank companies or individuals 	<ul style="list-style-type: none"> • Up to RM1 million in aggregate for use in Malaysia
<p>A resident individual is allowed to borrow ringgit from non-resident non-bank companies or individuals</p>	<ul style="list-style-type: none"> • Up to RM1 million in aggregate for use in Malaysia

⁵ Excluding the non-resident related company which is solely set up to obtain foreign currency loans from a non-resident financial institution