

30 Januari 2012

TO WHOM IT MAY CONCERN

Tuan/Puan,

Liberalisation of Foreign Exchange Administration Rules

Please be informed that the following foreign exchange administration rules are liberalised with effect from 31 January 2012:

1. **Buying and selling of foreign currency against another foreign currency**

- (a) A licensed onshore bank is allowed to buy and sell foreign currency against another foreign currency with a resident for any purpose. The transaction need not be supported with firm underlying commitment.

The funding for the buying and selling of foreign currency against another foreign currency by the resident from-

- the conversion of ringgit shall be made only on spot basis with a licensed onshore bank and is subject to the prevailing rules on investment in foreign currency assets pursuant to ECM9; or
- credit facility in foreign currency shall be subject to the prevailing rules on foreign currency credit facilities obtained by residents pursuant to ECM10.

- (b) Licensed onshore banks, in offering financial products involving the buying and selling of foreign currency should observe relevant guidelines or circulars issued by Bank Negara Malaysia from time to time, in particular–
- Guidelines on Introduction of New Products;
 - Guidelines on Product Transparency and Disclosure;
 - Guidelines on the Imposition of Fees and Charges on Financial Products and Services; and
 - Complaints Handling Guidelines.

2. Ringgit-denominated interest rate derivative

A licensed onshore bank is allowed to undertake settlement in ringgit or foreign currency equivalent with a non-bank non-resident, for a ringgit-denominated interest rate derivative offered by the licensed onshore bank to the non-bank non-resident. The transaction need not be supported with firm underlying commitment.

3. Swapping of ringgit or foreign currency debt obligation into another foreign currency debt obligation for asset liability management

A resident is allowed to enter into a transaction with -

- (a) a licensed onshore bank to convert an existing ringgit debt obligation into a foreign currency debt obligation subject to the condition that there is no actual delivery of the foreign currency at the inception of the transaction; or
- (b) a licensed onshore bank, an International Islamic Bank or a non-resident to convert an existing foreign currency debt obligation into another foreign currency debt obligation.

The transaction is deemed as a credit facility and shall be subject to the prevailing rules on foreign currency credit facilities extended or obtained by residents pursuant to ECM6 and ECM10 respectively. The definition of credit facility is attached in Appendix I.

4. With the above relaxation, the summary of rules relating to Dealings in Gold and Foreign Currency, General Payments and Foreign Currency Credit Facilities Obtained by Residents are attached in Appendices II, III and IV.

5. The following circular letters are amended accordingly:
- (a) KL.EC.100/6/2007/3(a), KL.EC. 100/1/2 dated 1 April 2007 on “ECM 2: Dealings in Gold and Foreign Currency”;
 - (b) KL.EC.100/6/2008/2(a), KL.EC.100/1/1, KL.EC. 100/1/6, KL.EC. 100/1/10, 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”;
 - (c) KL.EC.100/6/2010/6(a), 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, KL.EC.100/1/10 dated 18 August 2010 on “Liberalisation of Foreign Exchange Administration Rules”;
 - (d) KL.EC.100/6/2011/2(a), KL.EC.100/1/3, KL.EC.100/1/4, KL.EC.100/1/7 dated 4 March 2011 on “Payments in Ringgit and Foreign Currency Involving Resident and Non-resident Individuals and Foreign Currency Accounts of Residents”; and
 - (e) KL.EC.100/6/2011/3(a), KL.EC.100/1/4, KL.EC.100/1/6, KL.EC.100/1/9, KL.EC.100/1/10, KL.EC.100/1/16 dated 30 May 2011 on “Liberalisation of Foreign Exchange Administration Rules”.
6. The following Exchange Control Notices issued on 1 September 1998 are amended accordingly:
- (a) ECM 1 – Definition;
 - (b) ECM 2 – Dealings in Gold and Foreign Currency;
 - (c) ECM 4 – General Payments; and
 - (d) ECM 10 – Foreign Currency Credit Facilities and Ringgit Credit Facilities from Non-residents.

Appendix I

ECM 1: Definition of “Credit Facility”

Any advances, loans, trade financing facilities, hire purchase, factoring facilities with recourse, financial leasing facilities, guarantees for payment of goods, redeemable preference shares, or similar facilities in whatever name or form. The following are excluded:

- (a) Trade credit terms extended by a supplier for all types of goods and services;
- (b) Forward foreign exchange contracts other than a contract that involves the swapping of existing ringgit or foreign currency debt obligation into another foreign currency debt obligation;
- (c) Performance guarantees and financial guarantees;
- (d) One personal housing loan and one vehicle loan obtained from residents;
- (e) Credit card and charge card facilities;
- (f) Operational leasing facilities; and
- (g) Factoring facilities without recourse.

Appendix II

ECM 2: Dealings in Gold and Foreign Currency

Summary on Foreign Currency Transactions by Licensed Onshore Banks and International Islamic Banks with Residents

Foreign currency transaction	Current rules
Buy or sell foreign currency against ringgit with residents	<ul style="list-style-type: none"> • A licensed onshore bank is allowed to buy or sell foreign currency against ringgit with residents on spot¹ basis for: <ul style="list-style-type: none"> ✓ current account transactions²; and ✓ permitted financial account transactions³. • A licensed onshore bank is allowed to buy or sell foreign currency against ringgit with residents on forward⁴ basis for: <ul style="list-style-type: none"> ✓ committed and anticipated current account transactions; ✓ committed financial account transactions (except for foreign currency deposits), subject to prevailing rules on investment in foreign currency assets and foreign currency credit facilities; and ✓ hedging foreign currency exposures of permitted investment in foreign currency assets, other than foreign currency deposits.

¹ Refers to the purchase or sale of foreign currency for settlement in two business days.

² "Current account transactions" involves trading of goods, services (including fees, commission and royalties) and income (including, wages, salary, dividend, profits and interests).

³ "Financial account transactions" includes -

(a) Investment in foreign currency assets subject to the prevailing rules on investment in foreign currency assets

(b) Foreign currency credit facilities subject to the prevailing rules on foreign currency credit facilities

⁴ Refers to the purchase or sale of foreign currency for settlement at a forward or future date. This includes outright forward contracts, swaps, futures, options, financial derivatives and any other arrangement to obtain a foreign currency.

Foreign currency transaction	Current rules
Buy or sell foreign currency against another foreign currency with residents	<ul style="list-style-type: none"> • A licensed onshore bank and an International Islamic Bank (IIB) are allowed to buy or sell foreign currency against another foreign currency with residents on spot or forward basis for any purpose. Please note that- <ul style="list-style-type: none"> ✓ the sourcing of the foreign currency by the resident from the conversion of ringgit shall be made only with a licensed onshore bank and on spot basis. Such conversion shall be subject to the prevailing limit on investment in foreign currency assets; ✓ the sourcing of the foreign currency by the resident through the incurrence of a foreign currency credit facility shall be subject to the prevailing limit on foreign currency credit facilities; and ✓ the licensed onshore bank and IIB, in offering financial products involving the buying and selling of foreign currencies, should observe relevant guidelines or circulars issued by Bank Negara Malaysia from time to time, in particular– <ul style="list-style-type: none"> • Guidelines on Introduction of New Products; • Guidelines on Product Transparency and Disclosure; • Guidelines on the Imposition of Fees and Charges on Financial Products and Services; and • Complaints Handling Guidelines.

Appendix III

ECM4: General Payments

A. Payment by Residents to Non-Residents

Purpose of payment	Currency of settlement	
	Ringgit	Foreign currency ¹
Import of goods and services	• Allowed	• Allowed
Services such as salaries, wages, commissions and fees (rendered in Malaysia)	• Allowed	• Allowed
Other payments such as profits, dividends, fees, rental and royalties	• Allowed	• Allowed
Any purpose to a non-resident immediate family member ²	• Allowed	• Allowed
Purchase of ringgit asset	• Allowed	• Allowed
Investments abroad, including: <ul style="list-style-type: none"> • placement of funds overseas • purchase of foreign currency investment product • purchase of property • acquisition of equity • extension of credit facilities to non-residents 	<ul style="list-style-type: none"> • Not allowed 	<ul style="list-style-type: none"> • Allowed but subject to the rules on investment in foreign currency assets³
Extension of credit facilities in Malaysia	<ul style="list-style-type: none"> • Any amount to non-resident individual and non-bank companies to finance - <ul style="list-style-type: none"> ✓ activities in the real sector in Malaysia ✓ or refinance the purchase or construction of residential and commercial properties in Malaysia, except for purchase of land only 	<ul style="list-style-type: none"> • Allowed but subject to the rules on investment in foreign currency assets

¹ Refers to any foreign currency other than the currency of the State of Israel.

² Immediate family member comprises parents and children, husband and wife as well as siblings only

³ "Foreign currency assets" includes –

- (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.

Purpose of payment	Currency of settlement	
	Ringgit	Foreign currency
Settlement for a foreign currency-denominated derivative product or futures contract not transacted in futures or derivatives exchange in Malaysia	<ul style="list-style-type: none"> Prior permission is required for a resident to make payment to a non-resident for derivative products not transacted on an exchange in Malaysia 	<ul style="list-style-type: none"> A resident futures broker⁴ is allowed to make payments to a non-resident for foreign currency-denominated derivatives (other than currency contracts) transacted on overseas specified exchanges⁵ Prior permission is required for other residents⁶ to make payment in foreign currency to a non-resident for derivative products not transacted on an exchange in Malaysia
Settlement for a ringgit-denominated interest rate derivative entered between Bursa Malaysia and a non-resident	<ul style="list-style-type: none"> Allowed 	<ul style="list-style-type: none"> Allowed
Settlement for a ringgit-denominated interest rate derivative offered by a licensed onshore bank to a non-bank non-resident	<ul style="list-style-type: none"> Allowed 	<ul style="list-style-type: none"> Allowed

⁴ Licensed under the Capital Markets and Services Act 2007

⁵ Specified under the Capital Markets and Services Act 2007

⁶ Licensed onshore banks and licensed International Islamic Banks continue to be allowed to make payment to non-residents for foreign currency-denominated derivatives or any foreign currency contracts.

B. Payment by Non-Residents to Residents

Purpose of payment	Currency of settlement	
	Ringgit ⁷	Foreign currency
Export of goods and services	<ul style="list-style-type: none"> Allowed 	<ul style="list-style-type: none"> Allowed
Extension of credit facilities	<ul style="list-style-type: none"> Allowed. Resident borrowers are subject to the rules on ECM10: Foreign Currency and Ringgit Credit Facilities from Non-residents 	<ul style="list-style-type: none"> Allowed. Resident borrowers are subject to the rules on ECM10: Foreign Currency and Ringgit Credit Facilities from Non-residents
Purchase or sale of ringgit asset	<ul style="list-style-type: none"> Allowed 	<ul style="list-style-type: none"> Allowed
Any purpose to a resident immediate family member	<ul style="list-style-type: none"> Allowed 	<ul style="list-style-type: none"> Allowed
Settlement for a ringgit-denominated interest-rate derivative offered by a licensed onshore bank to a non-bank non-resident	<ul style="list-style-type: none"> Allowed 	<ul style="list-style-type: none"> Allowed

⁷ The ringgit is to be sourced from the sale of foreign currency with a licensed onshore bank or from ringgit funds in External Accounts.

Appendix IV

ECM 10: 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 • Other non-residents, including financial institutions and related non-bank non-resident company which is solely set up to obtain credit facility <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 • Up to RM100 million equivalent in aggregate per corporate group to finance any purposes
<p>A resident individual² 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 <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"> • Up to RM10 million equivalent in aggregate to finance any purposes

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

² Including a sole proprietor, general partnership or general and limited partners within a partnership

Description	Purpose
<p>A special status company³ 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 and related non-bank non-resident company which is solely set up to obtain credit facility 	<ul style="list-style-type: none"> • Any amount for any purpose • Any amount for own use

³ 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, Approved Developer 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).