
MDD Guide for Notice 1 - Public

General Due Diligence Processes

1. In facilitating all FX transactions, an LOB or AOO shall obtain the purpose of the transaction from the clients at the onset for Ringgit Operations Monitoring System (ROMS) reporting. Verification on the purpose of transactions based on declaration from the clients shall be supported by internal checks on the status of the client (e.g. FE compliance track record) as guided by know your customer (KYC) principle and the LOB's own compliance framework.
2. Documentary evidence shall be requested from the client for verification as part of due diligence processes to ensure compliance to FE rules as guided by the LOB/AOO's own compliance framework.
3. An LOB and/or AOO is to set its own guidance on the requirement for documentary evidence, where such documents may be obtained either pre- or post-transaction as well as on transactional or selective basis as guided by KYC principle and the LOB's own compliance framework.
4. **Specifically for any spot sale of ringgit by non-resident (NR) clients:** An LOB and AOO is to ensure that it must be supported by delivery of ringgit on gross basis.
5. Termination of forward transaction for portfolio investment (other than those under Dynamic Hedging framework) requires BNM's prior approval (in the event the underlying remains).

Specific Due Diligence Processes

FX Transactions with Resident

Dealings with Resident Intermediary (RI)

6. An RI that is mandated to undertake investment or manage funds on behalf of its NR clients' ringgit assets is allowed to undertake FX transactions on behalf of its NR clients with an LOB, including to facilitate its NR clients in repatriating foreign currency funds from Malaysia using income or proceeds from divestment of ringgit assets

FX transactions with NRs

Dealings with Third Party FX Bank

7. A third-party FX bank (i.e. any LOB or its AOO that facilitates FX transactions of the NR, but does not maintain the NR's external account neither acts as the NR's

securities custodian, trust or retrust bank) in facilitating FX transaction of a NR may –

- (a) obtain a declaration from the NR to ascertain the purpose of the transaction for ROMS reporting purposes; and
- (b) undertake a confirmation on the underlying asset of the NR post-transaction as guided by KYC principle.

Dealings with Non-Resident Financial Institution (NRFI)

8. An NRFI that is mandated to manage, or act as a custodian to its NR clients' ringgit assets¹, is allowed to undertake FX transactions on behalf of its own clients, including for FX exposures from ringgit assets that may not be under its custody² with any LOB and/or AOO.
9. In facilitating a transaction by an NRFI on behalf of its client via an LOB or AOO, the following purposes do not require a non-deliverable forward (NDF) attestation from the NRFI:
 - (a) International trades in goods and services with a resident;
 - (b) Equities or equity instruments listed in Bursa Malaysia;
 - (c) Any spot transactions undertaken by an NRFI that is mandated to manage or act as a custodian to its NR clients' ringgit assets; or
 - (d) RM-denominated interest rate derivatives or profit rate derivatives³.

All other transactions by an NRFI on behalf of its NR clients require an NDF attestation from the NRFI.

10. In facilitating a transaction by an NRFI for its own account via an LOB or AOO, the following purposes do not require an NDF attestation from the NRFI:
 - (a) International trades in goods and services with a resident;
 - (b) Equities or equity instruments listed in Bursa Malaysia; or
 - (c) RM-denominated interest rate derivatives or profit rate derivatives³.

All other transactions by an NRFI for its own account require an NDF attestation from the NRFI.

¹ Examples of these NRFIs are custodian bank, trust bank, retrust bank etc.

² For example: Global Custodian A custodies equities and Global Custodian B custodies bonds for NR Client. Global Custodian A is allowed to undertake FX transactions (spot and forward) for underlying equities and bonds on behalf of NR Client.

³ Not inclusive of FX transactions arising from interest/profit rate derivatives contracts, including FX hedging for settlement of interest/profit rate derivatives and interest/profit rate derivatives embedded with FX element e.g. RM cross currency interest rate swaps.

11. An NRFI without any proprietary FX trading whom only facilitate NR clients' trades may seek an exemption from the attestation requirement by writing in formally to BNM.
12. Prior to facilitating an FX transaction, the LOB or AOO that facilitates the FX transaction may contact BNM to verify the attestation status of the NRFI.

Due Diligence Processes for Transactions on Firm Commitment versus Anticipatory Basis

13. An LOB and/or AOO should have its own internal assessment methodology in facilitating FX transaction on anticipatory basis, which may take into consideration, amongst others, the clients' past year FX volume, company sales or turnover, a financing trade in progress or any other appropriate source that provides justification to the hedge volume.
14. FX transaction entered based on anticipatory that has resulted in over hedged position, upon availability of firm underlying has to be adjusted accordingly within a reasonable time frame.

Due Diligence Processes for Clients with Special Dispensations or Approvals

15. A client with an approval/exemption from BNM has to satisfy the LOB's due diligence process in ensuring the transaction to be facilitated is in line with the approval/exemption.
16. A client with approvals/exemptions from BNM is expected to provide the approval letter to the facilitating LOB.

Appendix A

Requirement for FX Transaction by NR Clients for Underlying Ringgit Assets with LOB and/or AOO

NR counterparty	Requirement on NR counterparty	Spot ⁴		Forward ⁵ (passive hedging)	
		LOB	AOO	LOB	AOO
A. NRFI ⁶ , other than in (B)	Proof of Underlying	No: Allowed for any purpose	Yes: Firm commitment		
	NDF Attestation	Yes – except for equities or equity instruments listed on Bursa Malaysia ⁷			
	Registration	Not applicable			
B. NRFI in the capacity of custodian / trust / retrust managing ringgit assets on behalf of NR client (in full / partially)	Proof of Underlying	No: Allowed for any purpose	Yes: Firm commitment		
	NDF Attestation	Not required		Required ⁸ – except for equities or equity instruments listed on Bursa Malaysia	
	Registration ⁹	Not required	Required	Not required	Required
C. NR Institutional Investor	Proof of Underlying	No: Allowed for any purpose	Yes: Firm commitment		
	NDF Attestation	Not required			
	Registration	Not required			

⁴ Any spot sale of ringgit by non-residents must be supported by delivery of ringgit on gross basis.

⁵ For Dynamic Hedging, NRFIs (B) and NRs (C) could submit a one-off registration to Bank Negara Malaysia (BNM) for flexibility to actively manage FX risks exposure from underlying MYR asset via FX forwards without further need to show documentation. Sighting of underlying and monitoring will be conducted by BNM under the Dynamic Hedging framework.

⁶ By definition, NRFI includes banking institution, custodian, trust and retrust bank.

⁷ For NRFIs (A) that have not attested, the facilitating bank (LOB or AOO) shall ensure that the underlying transaction is limited to equities or equity instruments listed in Bursa Malaysia.

⁸ May seek exemption if no FX desk i.e. no currency market making activities.

⁹ Registration by NRFIs (B) only, NR client is not required.

Appendix B

Due Diligence Processes Based on Types of Residents

Forward Transactions			
No	Residents	Type of hedging	Min. Due Diligence
A.	<ul style="list-style-type: none"> All types of residents [except those in (B)] 	<ul style="list-style-type: none"> Passive hedging (firm commitment) 	<ol style="list-style-type: none"> Minimum standard due diligence to be performed, including verification of approval (where required). FX contracts for foreign currency assets may be undertaken on portfolio basis or backed with specific underlying. Disposal or extinguishment of the underlying must be followed with cancellation of the original FX hedge¹⁰.
		<ul style="list-style-type: none"> Passive hedging (anticipatory basis) 	<ol style="list-style-type: none"> Minimum standard due diligence to be performed, including verification of approval (where required). Review methodology based on past historical transactions, projections etc. as appropriate to each client. Disposal or extinguishment of the underlying must be followed with cancellation of the original FX hedge¹⁰.
		<ul style="list-style-type: none"> Hedging on behalf of related entities 	<p>Additional requirements to the above:</p> <ol style="list-style-type: none"> Establish the relationship for FX transaction entered on behalf of related (non-FI) resident or NR entity. Every hedging on behalf transaction shall be tagged in the description column in ROMS as follows: <ol style="list-style-type: none"> “HBR” for hedging on behalf of related resident entity; or

¹⁰ An LOB can pre-inform its client of this requirement to cancel the FX hedge in case of disposal of the underlying.

Forward Transactions			
No	Residents	Type of hedging	Min. Due Diligence
			(b) "HBNR" for hedging on behalf of related NR entity.
B.	<ul style="list-style-type: none"> • Institutional Investors 	<ul style="list-style-type: none"> • Dynamic Hedging Framework 	<ol style="list-style-type: none"> 1. Verify the registration of a new client with BNM prior to allowing any trades (investorregister@bnm.gov.my). 2. Tag purpose portfolio investment and sub-purpose dynamic hedging in ROMS for the trade executed. 3. LEI number of end client must be reported in ROMS for every FX trade. 4. No documentary requirement for the underlying. 5. FX contracts for RM assets may be undertaken on portfolio basis or backed with specific underlying.

Due Diligence Processes Based on Types of Non-Residents (NRs)

Forward Transactions			
No	NRs	Type of hedging	Min. Due Diligence
A.	<ul style="list-style-type: none"> • All types of NRs [except those in (B) and (C)] 	<ul style="list-style-type: none"> • Passive hedging • Hedging on behalf of related entities 	<ol style="list-style-type: none"> 1. Minimum standard due diligence to be performed, including verification of approval (where required). 2. FX contracts for foreign currency assets may be undertaken on portfolio basis or backed with specific underlying. 3. Disposal or extinguishment of the underlying must be followed with cancellation of the original FX hedge¹¹. 3. Establish the relationship for FX transaction entered on behalf of related (non-FI) resident or NR entity. 4. Every hedging on behalf transaction shall be tagged in the description column in ROMS as follows: <ol style="list-style-type: none"> (a) “HBR” for hedging on behalf of related resident entity; or (b) “HBNR” for hedging on behalf of related NR entity.
B.	<ul style="list-style-type: none"> • Institutional Investors • Custodian / trust / retrust banks 	<ul style="list-style-type: none"> • Passive hedging 	<ol style="list-style-type: none"> 1. Minimum standard due diligence to be performed. 2. FX contracts for foreign currency assets may be undertaken on portfolio basis or backed with specific underlying. 3. Disposal or extinguishment of the underlying – <ol style="list-style-type: none"> (a) must be followed with cancellation of the original FX hedge¹¹; or

¹¹ An LOB and/or AOO can pre-inform its client of this requirement to cancel the FX hedge in case of disposal of the underlying.

Forward Transactions			
No	NRs	Type of hedging	Min. Due Diligence
			<p>(b) the forward contract can be maintained provided the LOB and/or AOO ascertains that the NR's total ringgit assets including ringgit funds in the external account are equal or exceeding the total amount of forward contracts of the NR.</p> <p>4. Verify the registration status of a new custodian / trust / retrust bank client with BNM if FX transaction is undertaken via AOO (FEPinfo@bnm.gov.my).</p> <p>5. Sighting of NDF attestation or exemption letter for custodian / trust / retrust banks.</p>
C.	<ul style="list-style-type: none"> • Institutional Investors • Custodian / trust / retrust banks 	<ul style="list-style-type: none"> • Dynamic Hedging Framework 	<p>1. Verify the –</p> <p>(a) registration status of a new institutional investor client; or</p> <p>(b) approval status of a new custodian / trust / retrust bank client</p> <p>with BNM prior to allowing any trades (investorregister@bnm.gov.my).</p> <p>2. Tag purpose portfolio investment and sub-purpose dynamic hedging in ROMS for the trade executed¹².</p> <p>3. LEI number of end investors must be reported in ROMS for every FX trade.</p> <p>4. No documentary requirement for the underlying.</p>

¹² The end investor counterparty name selected in ROMS has to be correctly tag/tied to the correct LEI number.

Forward Transactions			
No	NRs	Type of hedging	Min. Due Diligence
			5. FX contracts for RM assets may be undertaken on portfolio basis or backed with specific underlying.

Appendix C

Types of Documentary Evidence Required

The tables below serve as a guide on the types of documentary evidence. An LOB and/or AOO can determine based on its own KYC standards the type of documentary evidence that is sufficient to ensure compliance to FE rules.

Current Account Transactions		
No	Purpose	Examples of document to support transaction (non-exhaustive)
1.	Goods & Services	Invoice, Bill of lading, Purchase order, Delivery order, Supply contract, Service/Tenancy/Rental agreements, Payment advice , Pro-forma invoice, Court order, Air or sea waybill, Insurance policy or certificate.
2.	Foreign worker remittance or remuneration for expatriates	Work permit, Payslip or Letter from company
3.	Repatriation of dividend, royalties or fees	Extract of AGM, Board resolution, BNM approval (if applicable) or Invoice/ Agreement/Payment advice
Financial Account Transactions		
No	Purpose	Examples of document to support transaction (non-exhaustive)
1.	Purchase or sale of ringgit equities / bonds	Purchase/Sale tickets, Broker confirmation/statements or Local custody confirmation/statements
2.	Placement of ringgit deposits with a financial institution in Malaysia only for spot transaction	Deposit brochure/Term-sheet/Prospectus or confirmation of the respective investment product
3.	Purchase or Sale of property in Malaysia	Sales & Purchase Agreements or Contract agreements
4.	Purchase, sale or margin call on ringgit futures	Purchase/Sale tickets, Broker confirmations/statements/ Margin calls or Local custody confirmation/statements

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5.	Other ringgit-denominated financial instruments or Islamic financial instrument as approved by the relevant regulator	Deposit Brochure/Term-sheet/Prospectus or Confirmation of the respective investment product
6.	Lending to intercompany onshore	Documentation regarding intra-group payment or agreement, Debit notes or BNM approval letter
7.	Direct investment to Malaysian entities	Sales & Purchase agreement