

Common Questions and Feedback During Public Consultation

1. *Will BNM regulate Initial Coin Offerings (ICO)?*

- Activities related to ICOs are under the purview of the Securities Commission.
- If the ICO involves activities that fall within the scope of services defined under section 4.1 of the policy document, then that activity is under the ambit of the guideline.

2. *Given the borderless nature and enhanced privacy features involved in the exchange of digital currencies to another form of digital currency, should BNM instead shift its focus on the exchange between fiat and digital currency?*

- The exchange from one digital currency to another digital currency can also present money laundering and terrorist financing risks, which are heightened with the more widespread use of digital currencies for investments and payments.

3. *Can BNM consider allowing Digital Currency Exchangers (DCEs) to use selfies in verifying customer's identity? How does a DCE view the original document?*

- The Bank places no restriction on using electronic means of performing the necessary customer due diligence (CDD) or verification of a customer's identity. However, such methods must satisfy the requirement under Section 9.3.3 which stipulates the process has to be as effective as that of a face-to-face process.
- Reporting institutions ("RI") can view identification documents physically or via electronic means, as long as the RI can reasonably determine its authenticity.

4. *What is BNM's approach to remittance businesses, payment systems businesses, wallet providers, and other service providers which may be linked to a DCE?*

- The AML/CFT policies for reporting institutions is applicable to any persons providing services related to digital currencies as defined in Section 4.1 of the policy document.
- Other than obligations imposed in the policy document, the Bank does not regulate, license or authorize digital currency activities or services linked to such activities.
- The AML/CFT policies for reporting institutions are currently in place for remittance businesses (Sector 3) and payment systems (Sector 4), including those that may be linked to DCEs.

5. *If the Bank imposes AML/CFT obligations on DCEs, would it not be possible to license it and regulate the industry as a whole since it is beneficial to the development of the economy?*

- As digital currencies are not legal tender, nor are they identifiable to an “issuer”, the Bank has no plan to license or regulate digital currency activities, including exchangers at this juncture. The Bank will continue to monitor developments and encourage increased transparency in digital currency activities to prevent their abuse for criminal activity and allow users to better understand and assess the risks. Members of the public dealing with digital currencies are advised to exercise caution in dealing with digital currencies.

6. *Are financial institutions prohibited from dealing with digital currency exchangers or businesses related to digital currency?*

- Financial institutions are expected to take a risk-based approach and conduct proper Know-Your-Customer (KYC)/Customer Due Diligence (CDD) processes in deciding whether to establish banking relationship with a digital currency exchanger. In practice, digital currency exchangers may be subjected to an enhanced due diligence process based on assessments by financial institutions of heightened money laundering and terrorist financing risks.

7. *Will Peer-to-Peer (P2P) transactions be covered under the proposed policy document?*

- As long as the P2P transactions that are offered as services satisfy the definition under section 4.1, they will be required to adhere to requirements as reporting institutions.

8. *What is BNM's view on imposition of tax on currency trading profit?*

- This issue is under the purview of the Inland Revenue Board (IRB). But as a matter of principle, businesses should be obligated to pay tax on revenues they generate domestically.

9. *Apart from the exchangers, will individuals and businesses be subjected to the Reporting Institutions obligations?*

- Any person, whether individuals or businesses, who provide a service as stipulated in section 4.1 of the policy document will be subjected to the reporting institutions' obligations.

10. Is there a requirement to notify BNM on an on-going basis of any changes to details previously declared?

- The Bank has made an amendment to require reporting institutions to inform the Bank of a material change or materially incorrect information within 5 working days (Section 7.3).

11. Can individuals run a digital currency exchange business without registering a company with the Companies Commission of Malaysia?

- The Bank expects any person any persons, whether local or foreign, to be incorporated or registered under the Companies Act 2016 if they are carrying on or intending to carry on the activities listed in Paragraph 4.1 of the policy in Malaysia.

12. Digital currency exchangers should not allow its customers to transact with a digital currency addresses known to have been involved in criminal activities such as the WannaCry ransomware case.

- The Guideline requires reporting institutions to screen transactions undertaken by its customers to ensure that transactions with compromised digital currency addresses are identified and prohibited (Section 9.5.1(b))

13. The information requirements in the suspicious transaction report (“STR”) should take into consideration the digital nature of transactions involving digital currencies.

- Under the Guideline, the STR form was amended which requires several additional data requirements when submitting a suspicious transaction report (Annex 3), such as IP addresses, digital currency transaction reference numbers, unique device identifiers involved in the transaction, etc.