

Foreign Exchange Administration Policies

Malaysia has always maintained a liberal foreign exchange administration regime. The implementation of foreign exchange administration rules in Malaysia supports the monitoring of capital flows into and out of the country to preserve its financial and economic stability.

As part of Malaysia's continuous effort to increase efficiency and reduce cost of doing business, the foreign exchange administration rules have been progressively liberalised and simplified.

A. RESIDENTS

To encourage better risk management activities, promote cost competitiveness and the use of onshore service providers, residents¹ are given the flexibility to manage own funds onshore and offshore. Residents may enter into risk management arrangements with licensed onshore banks (licensed commercial and Islamic banks) in Malaysia. Details are as listed below:

I Import and Export of Goods and Services

(a) Payment for Goods and Services

A resident may pay a non-resident any amount in foreign currency, other than the currency of the State of Israel, for import of goods and services.

A resident must receive payment for export of goods and services in foreign currency, other than the currency of State of Israel, from a non-resident.

Proceeds arising from export of goods must be received and repatriated by the resident as per the sales contract which should not exceed six months from the date of export. Payments by a resident to another resident for goods and services must be made in ringgit.

(b) Hedging of Payment or Receipt

A resident may hedge foreign exchange exposures arising from:

- Payments due to a non-resident for import of goods and services;
- Receipts due from a non-resident for export of goods and services; or
- Anticipation of payments or receipts for import or export of goods and services provided to a non-resident.

All hedging activities by residents may be undertaken only with licensed onshore banks or approved merchant banks in Malaysia.

(c) Retention of Foreign Currency Proceeds

Upon receiving proceeds from export of goods and services, the resident may sell the foreign currency for ringgit or another foreign currency or retain in foreign currency accounts maintained with licensed onshore banks or approved merchant banks. There are no limits imposed on the foreign currency accounts.

(d) Reporting on Import or Export of Goods

There is no requirement to report to the Controller of Foreign Exchange (the Controller) for any import of goods from non-residents.

Only resident exporters with annual gross export proceeds exceeding the equivalent of RM50 million are required to submit quarterly reports to the Controller.

II Investments in Foreign Currency Assetsⁱⁱ

(a) Payment for Investment in Foreign Currency Assets

A resident, individual or company, without domestic ringgit credit facilitiesⁱⁱⁱ is free to invest in any foreign currency assets. These investments can be financed with:

- Any amount of foreign currency funds converted from resident's own ringgit funds.
- Any amount of resident's own foreign currency funds retained in accounts in Malaysia or overseas.
- Up to an aggregate equivalent to RM10 million from foreign currency credit facilities.

A resident, individual or company, with domestic ringgit credit facility may invest any amount in foreign currency assets using foreign currency funds maintained in Malaysia or offshore. The resident may also convert ringgit funds into foreign currency up to the following limits for this purpose:

- Up to the equivalent of RM10 million in aggregate per calendar year by a company on a corporate group basis.
- Up to the equivalent of RM100,000 in aggregate per calendar year by an individual.

For a resident company intending to invest in foreign currency assets, shareholders' funds of the company must be at least RM100,000 and must be in operation for at least one year. This is irrespective whether the company has or does not have domestic ringgit credit facilities.

A resident individual may also convert ringgit into foreign currency for investment in foreign currency securities under the Employee Share Option/Purchase Scheme offered by overseas parent or related companies of the individual's employer.

In addition, a resident institutional investor may invest in foreign currency assets for resident and non-resident clients as follows:

- Unit trust management company:
 - (i) The full amount of net asset value (NAV) attributed to non-residents.
 - (ii) 30% of NAV attributed to residents.
- Asset/fund management company for:
 - (i) The full amount of funds placed by non-resident clients.
 - (ii) The full amount of funds placed by resident clients with no domestic ringgit credit facilities.
 - (iii) 30% of funds placed by resident clients with domestic ringgit credit facilities.

Funds from different unit trust management companies and fund managers may be pooled to benefit from economies of scale when purchasing foreign currency assets.

A resident insurance company may invest in foreign currency assets up to 5% of the company's margin of solvency and 30% of the NAV of investment-linked funds marketed.

A resident takaful operator may invest in foreign currency assets up to 5% of the operator's total assets.

(b) Hedging of Investments in Foreign Currency Assets

A resident may hedge foreign exchange risks arising from payment for permitted investments and the value of existing foreign currency assets. Such hedging may be undertaken with licensed onshore banks or approved merchant banks in Malaysia.

(c) Registering and Reporting of Overseas Investments in Foreign Currency Assets

All payments for overseas investments exceeding the equivalent of RM50,000 must be registered with the Controller at least seven working days prior to making the payments.

A resident with outstanding overseas investments in excess of the equivalent of RM1 million is required to submit quarterly report on the overseas investments to the Controller.

(d) Registering and Reporting of Onshore Investment in Foreign Currency Assets

There are no requirements for registration or reports by a resident investing in foreign currency assets offered by approved onshore entities.

III Credit Facilities Obtained by Resident

(a) Foreign Currency Credit Facilities

A resident is free to obtain trade financing facilities of any amount in foreign currency from licensed onshore banks.

A resident company may obtain credit facilities in foreign currency up to the equivalent of RM50 million in aggregate on a group basis from licensed onshore banks, licensed merchant banks and non-residents.

A resident individual may also obtain credit facilities in foreign currency up to the equivalent of RM10 million in aggregate from licensed onshore banks, licensed merchant banks and non-residents.

Any amount exceeding the above permitted limits would require prior permission of the Controller. Where the aggregate amount exceeds the equivalent of RM1 million and up to the permitted limit, the resident (company or individual) is required to register the credit facility with the Controller, prior to loan drawdown.

A resident individual or company may finance investments in foreign currency assets up to RM10 million equivalent in aggregate from foreign currency credit facilities.

There is no restriction for a resident to repay or prepay permitted credit facilities. Any prepayment exceeding the equivalent of USD10 million of the facilities should be registered with the Controller prior to effecting the prepayments.

(b) Ringgit Credit Facilities

A resident is required to seek prior permission of the Controller to obtain any amount of credit facility in ringgit from non-residents, including from non-resident shareholders or directors.

IV Forward Foreign Exchange Contracts

(a) Permissible Forward Foreign Exchange Contracts

A resident is free to enter into forward foreign exchange contracts with licensed onshore banks and approved merchant banks for the following purposes:

- Hedging for any payments or receipts for import or export of goods and services as well as income. The contracts may be based on firm commitment or anticipatory basis.
- Hedging for any committed capital inflows or outflows, including:
 - (i) Drawdown of permitted foreign currency credit facilities
 - (ii) Repayment of foreign currency credit facilities up to the amount repayable within 24 months

(iii) Payments for permitted investment in foreign currency assets, including extension of credit facilities to non-residents

- Hedging for existing investments in foreign currency assets

(b) Maturity Date of Contracts

The maturity date of the forward foreign exchange contract should be the expected date of receipt or payment of the underlying transaction. In the event the foreign currency receivables are received earlier, the resident can sell the foreign currency receipts for ringgit on spot basis or temporarily retain the receipts in onshore foreign currency account, pending maturity of the forward foreign exchange contract.

For forward sale of export proceeds, the maturity date of the forward foreign exchange contract should not be later than six months after the intended date of export.

For forward foreign exchange contract involving two foreign currencies, the use or retention of the foreign currency purchased by the resident must be for permitted purposes.

(c) Interest Rate Swaps

A resident with firm underlying commitment may enter into interest rate swaps with licensed onshore banks, approved merchant banks and licensed offshore banks in Labuan.

V Issuance of Ringgit Private Debt Securities

A resident company is free to issue any amount of ringgit Private Debt Securities.

Proceeds from the issuance may be used for any purpose including the purchase of foreign currency assets of not more than RM10 million in a calendar year.

VI Foreign Currency Accounts (FCA)

A resident, individual or company, with or without any domestic credit facilities is free to open FCA to retain any amount of foreign currency receipts, other than receipts arising from export of goods from Malaysia, with:

- licensed onshore banks;
- approved merchant banks;
- licensed offshore banks in Labuan; or
- overseas banks.

A resident exporter may open FCA with licensed onshore banks to retain any amount of foreign currency export receipts.

A resident individual or company may convert ringgit into foreign currency and credit into FCA onshore and offshore. Conversions of ringgit funds must comply with requirement on investments in foreign currency assets.

A resident company maintaining FCA with licensed offshore banks in Labuan or overseas banks is required to submit monthly statement (Statement OA) to the Controller.

B. NON-RESIDENTS

Non-residents are free to invest in Malaysia in any form. There are no restrictions on the repatriation of capital, profits and income earned from Malaysia, including salaries, wages, royalties, commissions, fees, rental, interest profits or dividends. To complement the non-residents' investment strategy, non-residents may obtain financing from licensed onshore banks both in ringgit and foreign currency and enter into foreign exchange contracts with licensed onshore banks to actively manage currency risks arising from investments in ringgit assets. Non-residents are also free to convert foreign currency into ringgit and vice versa. Details are as follows:

I Investment in Malaysia

(a) Foreign Direct Investments

A non-resident may incorporate a company, register a branch, and/or establish sole proprietorship or partnership in Malaysia with the Companies Commission of Malaysia. Please refer to <http://www.ssm.com.my/> for details.

Such businesses in Malaysia are resident entities irrespective whether the businesses are controlled by residents or non-residents.

A non-resident is free to purchase any ringgit equity irrespective whether listed or not listed in the Malaysian exchange.

(b) Portfolio Investments

A non-resident is free to make any portfolio investments, including purchasing of any ringgit debt securities issued by non-residents in Malaysia.

(c) Investment in Immovable Properties

A non-resident is free to purchase immovable properties (residential and commercial) in Malaysia. Such purchases should comply with guidelines issued by the Foreign Investment Committee (FIC). Please refer to <http://www.epu.jpm.my/> for details.

A non-resident is free to obtain up to three loans from residents to finance the purchase of immovable properties in Malaysia.

A non-resident is required to obtain the prior approval of the Controller for financing the purchase of land only.

Loans by domestic financial institutions are determined by the financial institution's own policies and the Foreign Investment Committee (FIC) guidelines.

(d) Opening of Account in Ringgit (External Account)

External Account is a ringgit account belonging to a non-resident or where the beneficiary of the funds in the account is a non-resident.

A non-resident may open and maintain any number of External Accounts with any onshore financial institutions.

There is no restriction on the amount of ringgit funds that can be retained in the External Account.

Ringgit funds in an External Account can be used for the following purposes:

- Purchase of foreign currency, excluding the currency of the State of Israel.
- Purchase of ringgit assets in Malaysia.
- Payment for goods and services for own use in Malaysia.
- Payment of administrative and statutory expenses incurred in Malaysia.
- Payment under a non-financial guarantee to a resident.
- Extension of ringgit credit facilities to employees in Malaysia in accordance with the terms and conditions of employment.

- Transfers to:
 - (i) Another External Account of the same account holder.
 - (ii) Another External Account of different account holder or Resident Account by way of:
 - Automated Teller Machine transfer up to RM5,000 per person, per day, per bank for any purpose.
 - Internet-bank transfers up to RM5,000 per person, per day, per bank for any purpose.
- Payment to residents for any purpose other than the following:
 - (i) Payment for the import of goods and services.
 - (ii) Extension of ringgit credit facilities to residents other than permitted by the Controller.
 - (iii) Settlement under financial guarantees.
 - (iv) Payment on behalf of a third party.

Ringgit funds in the External Account may be derived from:

- Sale of foreign currency, other than the currency of the State of Israel, for ringgit with licensed onshore banks.
- Sale of ringgit assets.
- All income derived in Malaysia including salaries, wages, royalties, commissions, fees, rental, interest, profits or dividends.
- Proceeds from ringgit credit facilities permitted by the Controller.
- Proceeds from repayment of ringgit credit facilities permitted by the Controller.
- Transfers from:
 - (i) Another External Account of the same account holder.
 - (ii) Another External Account of different account holder or Resident Account by way of:
 - Automated Teller Machine transfer up to RM5,000 per person, per day, per bank for any purpose.
 - Internet-bank transfers up to RM5,000 per person, per day, per bank for any purpose.
- Deposit of ringgit notes not exceeding RM10,000 per day.
- Deposit of ringgit cheques up to RM5,000 per cheque for any purpose.

There are no restrictions on the operation of External Accounts belonging to:

- Non-residents working or studying in Malaysia (including their spouse, children and/or parents who are currently residing in Malaysia).
- Non-resident participants of the Malaysia My Second Home programme.
- Central banks, Embassies, Consulates, High Commissions, supranational or international organisations recognised by the Government of Malaysia.

Such persons or organisations can use funds in the External Accounts for all purposes, including the permissible purposes referred above.

(e) Opening of Account in Foreign Currency

There are no restrictions on a non-resident to open and maintain any number of foreign currency accounts with licensed onshore banks and licensed merchant banks in Malaysia. There is also no restriction on the amounts that can be retained in these accounts.

There are no restrictions imposed on the use of foreign currency funds in the account. Funds in such accounts may be converted into ringgit with licensed onshore banks or may be repatriated at any time.

(f) Lending to Residents in Ringgit

A non-resident may lend in ringgit to a resident who has obtained prior permission of the Controller.

(g) Lending to Residents in Foreign Currency

A non-resident may lend in foreign currency to a resident as long as the resident's total foreign currency credit facilities are within permitted limits.

II Payment for Investments

A non-resident may pay in foreign currency or in ringgit from own External Account for investments in Malaysia.

III Borrowing from Residents in Ringgit

A non-resident is free to obtain ringgit credit facilities as follows:

- From licensed banking institutions in Malaysia up to an aggregate of RM10 million for use in Malaysia by the non-resident which is not a non-resident correspondent bank or non-resident stockbroking company.
- From licensed onshore banks up to RM200 million on intra-day and overnight basis by a non-resident stockbroking company or a custodian bank. The facilities are strictly for financing funding gaps due to settlement timing mismatches, unforeseen or inadvertent /technical administration errors or delays due to time zone difference in relation to settlement of trades on Bursa Malaysia (stock exchange in Malaysia).
- From resident stockbroking companies in the form of margin financing by the non-resident which is not a non-resident correspondent bank or non-resident stockbroking company.
- From resident insurers up to the value of the cash surrender value of the insurance policies purchased by the non-resident.
- From a non-bank resident up to RM10,000.
- From residents, including financial institutions, up to three loans to finance the purchase of immovable properties in Malaysia.
- From residents and non-residents through issuance of Ringgit Private Debt Securities in Malaysia by Multilateral Development Banks or foreign multinational corporations.

IV Borrowing from Residents in Foreign Currency

A non-resident may obtain any amount of foreign currency credit facilities from licensed onshore banks, approved merchant banks and non-bank residents with no domestic ringgit credit facilities.

V Hedging of Investments

A non-resident is free to enter into a foreign exchange contract on spot or forward basis with a licensed onshore bank for the following:

- To buy ringgit to make payment to a resident.
- To sell ringgit funds arising from a committed transaction in Malaysia.

The maturity date of the foreign exchange contracts should be the expected date of payments or receipts of the underlying committed transactions.

The total amount of the foreign exchange contracts should not exceed the expected sum of payments or receipts of the underlying committed transactions.

VI Sale of Investments

A non-resident may sell any investments in Malaysia, including securities not listed on Bursa Malaysia, to a resident or to a non-resident.

A resident may pay or settle the purchase of the ringgit assets from the non-resident seller in ringgit or in foreign currency.

A non-resident purchaser may also pay or settle the purchase of ringgit assets from the non-resident seller in foreign currency or ringgit from own External Account.

VII Repatriation of Funds

A non-resident is free to repatriate any amount of own funds in Malaysia any time, including capital, divestment proceeds, profits, dividends, rental, fees and interest arising from investments in Malaysia.

C. COMPANIES ACCORDED SPECIAL STATUS

I Offshore Entities in the Labuan International Offshore Financial Centre

An offshore entity incorporated or registered under the Offshore Companies Act 1990 is declared as a non-resident for foreign exchange administration purposes.

As a non-resident, the offshore entity is free to undertake the following:

- Obtain any amount of foreign currency credit facilities.
- Invest any amount in foreign currency assets.
- Enter into foreign exchange contracts involving foreign currencies with licensed onshore banks, approved merchant banks, licensed offshore banks in Labuan and any overseas counterparty.
- Buy or sell foreign currency (other than the currency of the State of Israel) against ringgit with licensed onshore banks for permitted purposes.
- Maintain External Accounts with licensed onshore banks to facilitate the defrayment of statutory and administrative expenses in Malaysia.
- Receive payments in ringgit from residents arising from fees, commissions, dividends or interest from deposit of funds with onshore financial institutions.
- Invest in ringgit assets that are transacted directly with onshore banking institutions or resident brokers for own account.

In addition, an offshore insurance entity in Labuan is allowed to receive reinsurance premiums and pay claims arising from reinsurance of domestic insurance business in ringgit.

II Multimedia Super Corridor Companies

A company with Multimedia Super Corridor (MSC) status is exempted from foreign exchange administration requirements for transactions undertaken on own account.

III Approved Operational Headquarters

An Approved Operational Headquarter (OHQ) is subject to policies applicable to a resident. In addition, an OHQ is allowed to:

- Obtain any amount of foreign currency credit facilities from licensed onshore banks and licensed merchant banks in Malaysia, and from any non-resident, provided the OHQ does not on-lend to, or raise the funds on behalf of, any resident.
- Invest any amount in foreign currency assets to be funded with foreign currency funds or borrowing.

IV Regional Distribution Centres and International Procurement Centres

A Regional Distribution Centre and International Procurement Centre are also subject to policies applicable to residents.

D. STATISTICAL REPORTING

To assist the Controller to compile balance of payments statistics, residents transacting with non-residents or have overseas foreign currency assets or liabilities, are required to submit statistical forms/reports/statements to the Controller, where applicable. Information on the statistical requirements can be obtained from Bank Negara Malaysia's website, <http://www.bnm.gov.my/fxadmin>.

ⁱ Residents:

- (a) Citizens of Malaysia (excluding persons who have obtained permanent resident status of a territory outside Malaysia and are residing abroad)
- (b) Non-citizens who have obtained permanent resident status in Malaysia and are residing permanently in Malaysia
- (c) Persons, whether body corporate or unincorporated, registered or approved by any authority in Malaysia

Non-residents:

- (a) Persons other than residents
- (b) Overseas branches, overseas subsidiaries, overseas regional offices, sales offices, representatives offices of resident companies
- (c) Embassies, Consulates, High Commissions, supranational or international organisations recognised by the Government of Malaysia
- (d) Malaysian citizens who have obtained permanent resident status of a territory outside Malaysia and are residing outside Malaysia

ⁱⁱ Foreign currency assets include lending to non-residents, placement of deposits with licensed onshore banks, approved merchant banks or offshore banks, and foreign currency products offered by licensed onshore banks, approved merchant banks and other entities approved by the Controller

ⁱⁱⁱ Domestic ringgit credit facilities means any ringgit advance, loan, trade financing, hire purchase, factoring, leasing facilities, redeemable preference shares or similar facility in whatever name or form, other than:

- (a) Trade credit terms extended by a supplier for all types of goods and services
- (b) Forward exchange contracts entered into with authorised dealers
- (c) One personal housing loan and one vehicle loan obtained from residents
- (d) Credit card and charge card facilities
- (e) Inter company borrowing within a corporate group in Malaysia