
Minimum Due Diligence (MDD) Guide for Foreign Exchange (FE) Rules – Public’s Version

Preamble

The purpose of this guide is to outline the industry standard practice to be adopted by a licensed onshore bank (LOB), and by extension its Appointed Overseas Office (AOO), when dealing with their clients in relation to the FE rules, either directly with the LOB or via the AOO.

This MDD guide shall be read together with FE Notices issued by Bank Negara Malaysia (BNM) on 15 April 2021 which comprises of the following:

- (a) Preamble & Interpretation;
- (b) Notice 1: Dealings in Currency, Gold and Other Precious Metals;
- (c) Notice 2: Borrowing and Guarantee;
- (d) Notice 3: Investment in Foreign Currency Asset;
- (e) Notice 4: Payment and Receipt;
- (f) Notice 5: Securities and Financial Instruments;
- (g) Notice 6: Import and Export of Currency; and
- (h) Notice 7: Export of Goods.

Requirements on Due Diligence Processes

- An LOB and/or AOO is required to establish internal controls and procedures to ensure compliance with the FE rules i.e. establishing relevant system/process/procedure for compliance checking, obtaining relevant documentation for verification and adequate audit trail.
- An LOB and/or AOO shall adopt due diligence processes that are at least at par with the industry standard practice set out in this guide. An LOB and/or AOO may exercise the due diligence processes above the minimum standard in accordance to its risk management framework and the know your customer (KYC) principle whilst balancing market efficiency.

Jointly issued by:



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

MDD Guide for Notice 2 - Public

General Due Diligence Processes

1. In facilitating every transaction, an LOB shall obtain the purpose of the transaction from the clients in line with External Sector Statistics (ESS) reporting guideline. 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. An LOB is to set its own guidance on the requirement for documentary evidence, where such document(s) may be obtained either pre- or post-transaction and on transactional or selective basis, as guided by KYC principle and the LOB's own compliance framework.

Specific Due Diligence Processes

Borrowing

LOB as a lender

Lending in Ringgit to Non-Resident (NR)

3. A LOB, in providing ringgit financing to a NR, shall ensure that the borrowing -
 - (a) complies with the permitted purposes:
 - (i) For borrowing to finance activities in real sector, the LOB shall obtain a declaration from the client on the purpose of utilisation if the LOB is unable to verify the activities or the loan disbursement is made directly to the client (e.g. personal loan); and
 - (ii) For borrowing in the form of repurchase agreement or sale buyback agreement (REPO), the LOB shall obtain a declaration from the client that its total borrowing from REPO is within the permissible limit.
 - (b) is not used for speculative activities. Upon conducting due diligence, if the LOB believes or suspects that the ringgit proceeds will be used for speculation, the LOB must insist on documentary proof on the utilisation of the ringgit proceeds prior to disbursement;
 - (c) extended to NR financial institutions (NRFI) is only for permitted purposes; and

- (d) in the form of ringgit overdraft facility to non-residents to avoid failure in settlement of shares or ringgit instrument traded on Bursa Malaysia or through RENTAS due to inadvertent delay of payment by the non-resident satisfies the following requirements:
 - (i) The LOB shall obtain documentary proof of pre-advised funds from the non-resident before extending the overdrafts in the event of inadvertent delay; and
 - (ii) The LOB shall take steps to ascertain if requests for such overdrafts by the non-resident are unusually frequent. In such event, the LOB shall cease the offering of such facility to the non-resident if the LOB has reasons to believe that the facility is being abused.

Lending in foreign currency to residents

- 4. A LOB, in providing foreign currency financing to a resident individual, sole proprietor or general partnership, shall obtain a declaration from the client that its total outstanding borrowing from any LOB or a NR is within the permissible limit.
- 5. A LOB is required to check internally on existing foreign currency financing granted to the client to ensure that the additional foreign currency financing does not exceed the permissible limit.
- 6. An LOB, in providing foreign currency financing to a resident entity to finance investment in foreign currency assets, shall obtain a declaration from the client on purpose of the borrowing to determine the applicability of threshold of such activities.
 - (a) Foreign currency borrowing for direct investment abroad is freely permitted. However, in the event the LOB becomes aware of a client undertaking direct investment abroad with the ultimate purpose of reinvestment that does not fall under direct investment abroad, the LOB must obtain from the client approval from BNM for such investment as per Minimum Due Diligence Guide for Notice 3 (MDD3); and
 - (b) Foreign currency borrowing for other type of investment in foreign currency assets, the requirement under MDD3 shall be observed.

LOB in facilitating lending

Lending in ringgit to a NR

- 7. A LOB, in facilitating lending in ringgit to a non-bank NR, shall ensure that if the loan is extended by -
 - (a) a resident other than a LOB, is utilised for permitted purposes; or

- (b) immediate family member or employer in Malaysia is utilised for permitted purposes and in compliance with the requirement of external account.

The LOB shall also perform due diligence to determine the relationship between the NR and the resident lender to ensure such borrowing is permitted. The LOB shall obtain declaration from the client and be guided by KYC principle.

Lending in foreign currency by a resident to a NR

- 8. A LOB, in facilitating lending in foreign currency by a non-bank resident to a NR, shall ensure requirements under MDD3 and Minimum Due Diligence for Notice 4 (MDD 4) are observed.

LOB in facilitating borrowing

Borrowing in ringgit by a resident from a NR

- 9. A LOB, in facilitating borrowing in ringgit by a resident individual from a NR, shall obtain a declaration from the client to ensure that –

Remitting bank

- (a) the relationship between the client and NR immediate family member is established;
- (b) the relationship between the client and NR employer in Malaysia is established, the borrowing is in accordance with the terms and conditions of the client's service and the proceeds will be used in Malaysia; or
- (c) the lender is not an NRFI.

Receiving bank

- (a) the total outstanding borrowing of the client from NR does not exceed the permissible limit and the proceeds will be used for permitted purposes only via a declaration by the client; or
 - (a) The lender is not an NRFI.
- 10. A LOB, in facilitating borrowing in ringgit by a resident entity from a NR, shall obtain a declaration from the client, where relevant, to ensure that –
 - (a) The lender is not an NRFI, other than for ringgit borrowing via tradable ringgit bond or sukuk issued in line with the Securities Commission of Malaysia's guideline. The remitting LOB is responsible to ensure that any payment from an External Account of NRFI is in line with the permitted sources, and
 - (b) The borrowing will be utilised for permitted purposes only; and

- (c) The outstanding ringgit borrowing of the resident entity from a NR does not exceed the permissible limit.

Borrowing in foreign currency by a resident from a NR

- 11. A LOB, in facilitating borrowing in foreign currency by a non-bank resident from a NR, shall ensure that the permissible threshold is determined prior to facilitating such transaction by obtaining a declaration from the client on –
 - (a) the relationship between the client and the NR lender; and
 - (b) the outstanding borrowing in foreign currency of the client from any NR other than from its group of companies which is not an NRFI or a special purpose vehicle. The outstanding borrowing is computed based on group of entities with parent-subsidary relationship (including borrowing by the group's special purpose vehicle guaranteed or counter-guaranteed by the resident). Refer to the Appendix for illustrations on parent-subsidary relationship.

Guarantees

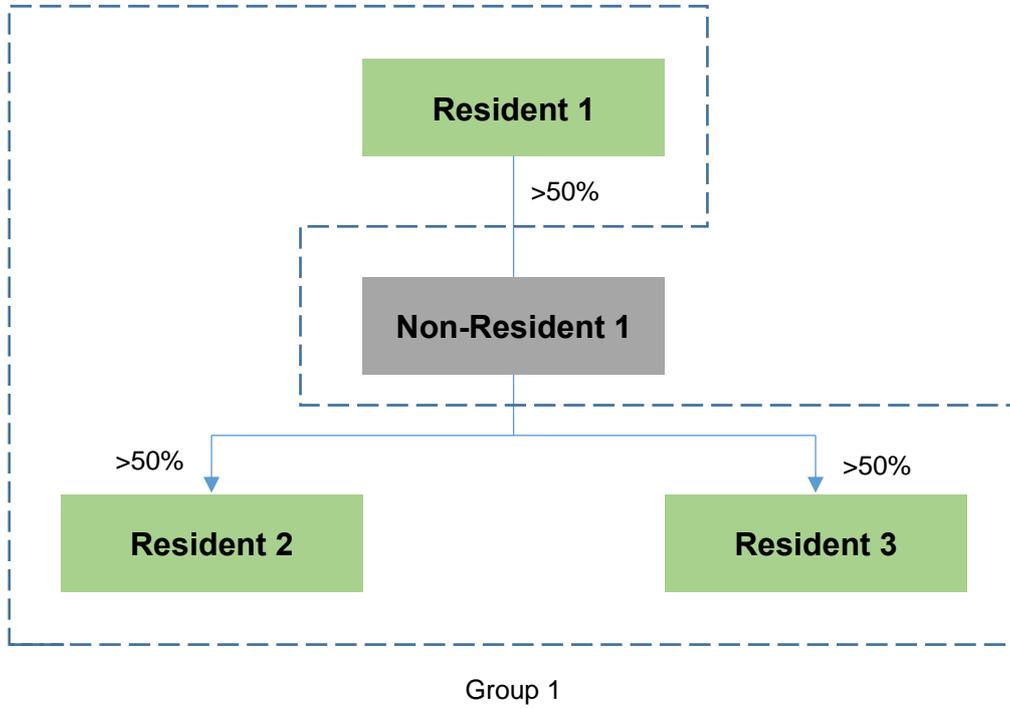
- 12. For the issuances of financial guarantees, a LOB is expected to advise the non-bank resident guarantors of the need to seek BNM's approval if –
 - (a) the non-resident borrower falls under the status of a 'special purpose vehicle' as per the FE Notices; or
 - (b) where implicit support arrangements (such as financial guarantee) are assessed as a repayment factor in the credit decision process, evidencing insufficient earning capacity on the part of the non-resident borrower to repay its own borrowings.
- 13. Any payment arising from financial guarantees shall be guided by MDD 4.

Due Diligence Processes for Clients with Special Dispensations or Approvals

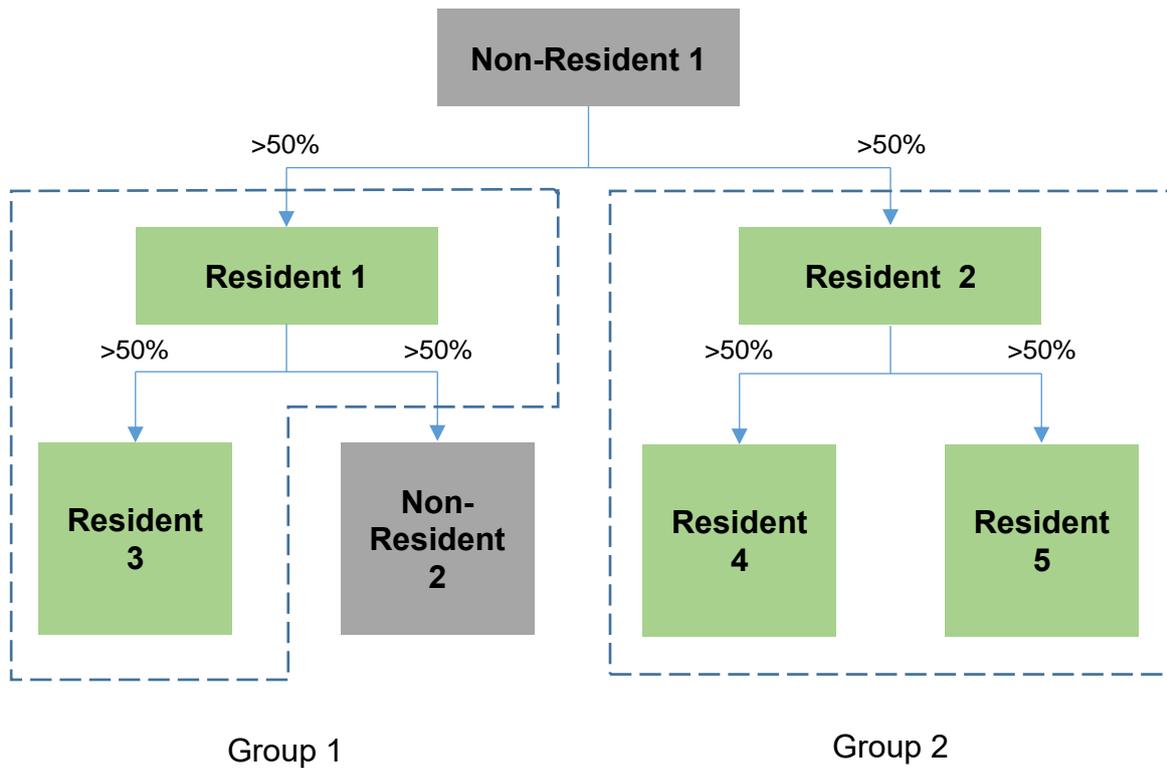
- 14. A client with an approval/exemption from BNM has to satisfy the LOB's due diligence process in ensuring the transaction to be facilitated is in line with the approval/exemption.
- 15. A client with approval/exemption from BNM is expected to provide the approval letter to the facilitating LOB.

Illustration of Parent-Subsidiary Relationship

Scenario 1



Scenario 2



MDD Guide for Notice 3 - Public

General Due Diligence Processes

1. In facilitating investment in foreign currency assets by resident clients, an LOB shall obtain the purpose of the transaction from the clients in line with External Sector Statistics System (ESS) reporting guideline. Verification on the purpose of transactions based on declaration from the resident clients shall be supported by internal checks on the status of the client (e.g. FE Rules compliance track record) as guided by know your customer (KYC) principle and the LOB's own compliance framework.
2. Prior to facilitating a transaction for the purpose of investment in foreign currency assets, an LOB shall undertake the following –
 - (a) determine the domestic ringgit borrowing status of a resident client; and
 - (b) determine the amount of investment in foreign currency assets undertaken by the resident client during the calendar year (in ringgit equivalent), if the resident client has domestic ringgit borrowing.
3. An LOB is to set its own guidance on the determination of domestic ringgit borrowing status and existing investment in foreign currency asset undertaken by a resident client during the calendar year as guided by KYC principle.
4. An LOB is to set its own guidance on the requirement for documentary evidence, where such document(s) may be obtained either pre- or post-transaction and on transactional or selective basis, as guided by KYC principle and the LOB's own compliance framework.
5. In determining the permissible outstanding amount of investment for the calendar year for a resident client with domestic ringgit borrowing, the computation of limit is from conversion of ringgit, swapping of financial assets onshore with offshore and foreign currency funds from the following sources –
 - (a) transfer from Trade FCA;
 - (b) proceeds from foreign currency borrowing from an LOB for purposes other than direct investment abroad (for resident entity only); and
 - (c) permitted foreign currency borrowing under FE Notice 2.
6. A resident entity client with domestic ringgit borrowing undertaking lending to a non-resident entity within its group or a non-resident direct shareholder using proceeds from foreign currency borrowing from an LOB, whereby the subsequent

use of such lending is for purposes other than direct investment abroad¹, is subject to the prudential limit on investment in foreign currency asset.

7. For a joint investment in foreign currency asset by resident individual clients, where one of them has domestic ringgit borrowing, the prudential limit on investment in foreign currency asset shall apply² to all resident individual clients participating in such joint investment.

Specific Due Diligence Processes

Investment in Foreign Currency Assets Onshore

8. Onshore foreign currency product that references ringgit will only be considered as part of investment limit upon conversion into foreign currency³.

Investment in Foreign Currency Assets Offshore on Behalf of Clients

9. In facilitating investment in foreign currency assets offshore by a resident intermediary⁴ on behalf of its clients, an LOB shall obtain a declaration from the resident intermediary that–
 - (a) it is licensed by the Securities Commission of Malaysia or BNM, as the case may be; and
 - (b) the investment is made within the prudential limit of the resident intermediary (for discretionary funds) or the resident end-clients (for non-discretionary funds), as the case may be.

Due Diligence Processes for Clients with Special Dispensations or Approvals

10. A resident 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.
11. A resident entity client with approvals/exemptions from BNM is expected to provide the approval letter to the facilitating LOB.

¹ Examples of purposes other than direct investment abroad are investment in real estate and portfolio investment.

² Illustration: A resident individual without domestic ringgit borrowing ("Resident A") has a joint-account with another resident individual who has domestic ringgit borrowing ("Resident B"). For purposes of foreign currency investment for the joint-account, Resident A will also be subject to prudential limit of RM1 million (being the limit for a resident with ringgit borrowing). As such, the prudential limit for the joint-account will be the combined limit for Resident A and Resident B, i.e. RM2 million.

³ For example: dual-currency investment product.

⁴ Example of these entities: fund managers, insurance companies, takaful operators.

MDD Guide for Notice 4 - Public

General Due Diligence Processes

1. In facilitating every transaction, an LOB shall obtain the purpose of the transaction from the clients in line with External Sector Statistics (ESS) reporting guideline. 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. An LOB is to set its own guidance on the requirement for documentary evidence, where such document(s) may be obtained either pre- or post-transaction and on transactional or selective basis, as guided by KYC principle and the LOB's own compliance framework.
3. An LOB is also required to ascertain the residency status of clients during the on-boarding process. The residency status of client individuals shall be based on –
 - (a) Nationality of the resident; and
 - (b) For individuals with Permanent Residency status, the determination shall be guided by existing tax ruling¹ in Malaysia.
4. For resident client with foreign currency receipt from export of goods or foreign currency receipt from a resident exporter and/or resident intermediary² within the global supply chain³, LOB shall open a Trade FCA to credit such foreign currency proceeds. Guidance on the permitted sources and uses of funds for Trade FCA and Investment FCA are as stipulated in Appendix C.

Specific Due Diligence Processes

Facilitating Settlement of Exports in Ringgit

5. Where the settlement for export is to be made by a NRFI on behalf of its non-resident clients in ringgit to a resident, any sale of foreign currency against ringgit shall be matched with a back-to-back arrangement with an LOB.

¹ Kindly refer to Inland Revenue Board of Malaysia's website at <http://www.hasil.gov.my> for latest updates.

² Resident importers and resident vendors that have domestic transactions with the ultimate resident exporter within the global supply chain.

³ Global supply chain is defined as a business activity where resident importers purchase goods or services from overseas to support production and distribution of goods or services by a resident exporter for its export activities. This include domestic trade transactions between the resident importer and the resident exporter undertaken through resident intermediate entity.

Payment under Guarantee

6. Remitting LOB shall ensure that payment under financial guarantee is only made under event of default.
7. Whilst the denomination of financial guarantees may be quoted to correspond to the underlying borrowing, payments or consequential debt repayments arising from financial guarantees to –
 - (a) a non-resident lender or guarantor shall only be made in foreign currency;
 - (b) a non-bank resident guarantor from another resident shall only be made in ringgit except where the non-bank resident guarantor is an immediate family member or an entity within the borrower's group or the borrower's direct shareholder; and
 - (c) a lender or guarantor which is an LOB from another resident may be made in foreign currency or in ringgit.
8. Payment to a non-resident under a non-financial guarantee shall be made in foreign currency. However, a payment to or from a non-resident under a non-financial guarantee in ringgit for use in Malaysia may be made in ringgit or foreign currency.

Facilitating Foreign Currency Payments between Residents

9. In facilitating transactions involving payment in foreign currency between residents, the LOB shall –
 - (a) ensure that the payment falls within the permitted purposes under Notice 4;
 - (b) ensure the payment is made from a resident exporter and/or resident intermediary to another resident within the global supply chain as declared by the resident exporter and/or resident intermediary to the Paying Bank.
10. For payment in foreign currency from resident exporter and/or resident intermediary to another resident within the global supply chain, the following have to be observed –
 - (a) *Paying Bank*
 - (i) To obtain a declaration on involvement in the global supply chain⁴ (which may include a list of resident payees) from the

⁴ In lieu of a declaration, an LOB may substantiate the global supply chain relationship via other supporting documents as guided by KYC principle.

resident exporter and/or resident intermediary based on LOB's own compliance framework; and

- (ii) Payment shall be made only from the available foreign currency funds in the resident payor's Trade FCA or permitted foreign currency trade facility and no conversion of ringgit into foreign currency is allowed for this payment.

(b) Receiving Bank

- (i) The receiving bank reserves the right to reject payment if the paying bank fails to provide the due diligence confirmation required under the MDD Guide that applies to the LOB.

Facilitating Payments in Foreign Currency Involving Derivatives

- 11. An LOB is to be guided by Appendix B when facilitating payments in foreign currency involving derivatives.

Due Diligence Processes for Clients with Special Dispensations or Approvals

- 12. 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.
- 13. A client with an approval/exemption from BNM is expected to provide the approval letter to the facilitating LOB.

Appendix A

Types of Documentary Evidence Required

The table below serves as a non-exhaustive guide on the type of documentary evidence that can be obtained. An LOB can determine the type of documentary evidence based on its internal KYC standards and risk appetite that is sufficient to ensure compliance with FE rules.

No	Purpose	Examples of documents to support transaction (non-exhaustive)
1.	Between immediate family (parents, spouse, children and siblings only)	Marriage certificate, birth certificate, identity cards, passports
2.	Education overseas	For sponsoring entity: Letter of award / scholarship / sponsorship, letter of offer by overseas school / college / university for sponsored student, invoice for tuition / accommodation / other fees For individual: Letter of offer by overseas school / college / university for student, valid student card / pass / ID, invoice for tuition / accommodation / other fees, letter indicating estimated fees and/or living expenses for an academic year
3.	Employment overseas	Letter of offer from employer, letter from employer confirming employee identity and status of employment, work permit, payslip.
4.	Loan repayment	Letter of offer or loan agreement, loan repayment schedule, promissory note
5.	Goods and services	Invoice, bill of lading, purchase order, delivery order, supply contract, service / tenancy / rental agreement, payment advice
6.	Ringgit asset, including any income and profit due	Sale and purchase agreement, receipt for purchase or sale, tenancy / rental agreement, dividend payment notice

No	Purpose	Examples of documents to support transaction (non-exhaustive)
7.	Payment of any security or financial instrument (conventional and Islamic), payment of commodity murabahah transaction through resident commodity trading service provider, payment of derivative with a resident futures broker	Letter of account opening, contract notes with due dates, resident broker invoices to the buyer / customer

Appendix B

Payment in Foreign Currency for Derivatives

No.	Type of derivatives payment (Scenario)	Payment parties	
		Between R and R	Between R and NR
Exchange Rate Derivative			
1.	Exchange rate derivative involving ringgit <u>offered by resident</u>	<p style="text-align: center;">X</p> (unless permitted by BNM under Part B of FE Notice 5 or otherwise approved in writing by the Bank)	<p style="text-align: center;">X</p> (unless permitted by BNM under Part B of FE Notice 5 or otherwise approved in writing by the Bank)
2.	Exchange rate derivative <u>offered by a non-resident</u>	N/A	<p style="text-align: center;">X</p> (unless permitted by BNM under Notice 1 or otherwise approved in writing by BNM)
Foreign Currency-denominated Derivative (Other than Exchange Rate Derivatives)			
1.	Foreign currency-denominated derivative (EXCLUDING exchange rate derivatives) transacted on a Specified Exchange under the CMSA	<p style="text-align: center;">√</p> between a resident and a resident futures broker	<p style="text-align: center;">√</p> between NR and resident futures broker
2.	Foreign currency-denominated derivative (EXCLUDING exchange rate derivatives) <u>offered by a non-resident</u> or transacted via non-resident brokers (e.g. commodity derivatives)	N/A	<p style="text-align: center;">√</p> <ul style="list-style-type: none"> • With firm commitment: up to underlying • No firm commitment: up to the resident's investment limit in FE Notice 3.
3.	Foreign currency-denominated derivative (EXCLUDING exchange rate	<p style="text-align: center;">X</p> (unless permitted by BNM under Part	<p style="text-align: center;">X</p> (unless permitted by BNM under Part B of

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	derivatives) <u>offered by a resident</u>	B of FE Notice 5 or otherwise approved in writing by the Bank)	FE Notice 5 or otherwise approved in writing by the Bank)
Others			
1.	Derivative which is referenced to ringgit but payment is in foreign currency (e.g. synthetic products referenced to ringgit such as ringgit non-deliverable forward)	N/A	X (unless permitted by BNM under Part B of FE Notice 5 or otherwise approved in writing by the Bank)

Appendix C

Guidance on Sources and Uses of Funds of Trade FCA and Investment FCA for Residents

	Trade FCA	Investment FCA
Permissible Sources	<ol style="list-style-type: none"> 1. Proceeds of the export of goods. 2. Settlement of domestic trade from another resident within the global supply chain as permitted under FE Notice 4. 3. Any amount for same-party transfers from Trade or Investment FCA. 4. Other foreign currency funds arising from transaction permitted under the FE Notices. 	<ol style="list-style-type: none"> 1. Any foreign currency funds other than – <ul style="list-style-type: none"> • Proceeds of the export of goods; and • Settlement of domestic trade from another resident within the global supply chain as permitted under Notice 4. 2. Transfers from Trade FCA up to the permitted aggregated investment limit in FE Notice 3. 3. Any amount for same-party transfers from Investment FCA.
Permissible Uses	<ol style="list-style-type: none"> 1. Settlement of domestic trade from another Resident within the global supply chain as permitted under FE Notice 4. 2. All permissible purposes in the FE Notices including investment in Foreign Currency Asset (incl. transfers to Investment FCA) up to the permitted aggregated investment limit in FE Notice 3. 3. Any amount for same-party transfers into Trade FCA 	<ol style="list-style-type: none"> 1. Any amount for same-party transfers into Trade or Investment FCA. 2. All permissible purposes.

Disclaimer – the above guidance summary is non-exhaustive. Please be guided by the relevant notices.

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General Due Diligence Processes

1. An LOB shall establish the profile of its resident client to ascertain the underlying transaction and the behavior, among others, through the following:
 - (a) Obtain confirmation from its resident client on the source of funds for the receipt, in line with External Sector Statistics (ESS) reporting guideline; and
 - (b) Upon confirming that the receipt is arising from export of goods, the LOB shall undertake periodic check based on past records or other supporting documents to –
 - (i) establish the trend is consistent with past repatriation behaviour for the twenty-four (24) months repatriation¹ flexibility; and
 - (ii) determine the offsetting / writing-off arrangement is undertaken in line with the permitted reasons for offsetting / writing-off arrangement.
2. An LOB is to set its own guidance on the requirement for documentary evidence, where such document(s) may be obtained either pre- or post-transaction and on transactional or selective basis, as guided by know your customer (KYC) principle and the LOB's own compliance framework.

Specific Due Diligence Processes

3. Upon determining that the foreign currency receipt is from export of goods², LOB may facilitate retention of foreign currency export proceeds into Trade Foreign Currency Account (TFCA) or ringgit account up to any amount.

Due Diligence Processes for Transfer of Export Proceeds to Clients' TFCA Maintained with Different LOB

4. There is no restriction for a resident exporter to maintain several TFCAs with any LOB. Nonetheless, in facilitating the instruction from the exporter to transfer its export proceeds from TCFA in one LOB to another LOB, the LOB shall conduct

¹ Export tenure is to be computed based on the actual date of shipment of goods and/or transfer of goods to non-resident, not based on the date of invoices.

² Proceeds from export of services and merchanting trade are not subject to these requirements.

due diligence to determine the sender and beneficiary are indeed the same entity.

Due Diligence Processes for Clients with Special Dispensations or Approvals

- 5. A resident 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.
- 6. A resident entity client with approvals/exemptions from BNM is expected to provide the approval letter to the facilitating LOB.

Types of documentary evidence required

- 7. The table below serves as a guide, but not exhaustive, on the type of documentary evidence that can be obtained. An LOB is to determine the type of documentary evidence that is sufficient to ensure compliance to FE rules based on its own KYC standards.

No	Purpose	Examples of documents to support transaction (non-exhaustive)
1.	Ascertaining exporters' status and export repatriation trend	Export invoice, Bill of Lading, Purchase order, Delivery order, Supply contract, Payment advice, Customs K2 Form
2.	Ascertaining exporters' reason for export offsetting / writing-off arrangement	Import invoices, Contract Agreement, Dividend declaration