
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.