

The Foreign Exchange Policy (“FEP”) is administered by Bank Negara Malaysia (“BNM”) under the Financial Services Act 2013 and Islamic Financial Services Act 2013 to safeguard the Malaysian currency. In this regard, BNM has issued the FEP Notices as follows: -

- Interpretations
- Notice 1: Dealings in Currency, Gold and Other Precious Metals;
- Notice 2: Borrowing, Lending and Guarantee;
- Notice 3: Investment in Foreign Currency Asset;
- Notice 4: Payment and Receipt;
- Notice 5: Securities and Financial Instruments;
- Notice 6: Import and Export of Currency; and
- Notice 7: Export of Goods

The FEP Notices shall be read together with –

- (a) the Declaration on Entities Created, Incorporated, etc. in Labuan issued by BNM on 28 June 2013 and on 30 June 2013;
- (b) the Direction on Dealings with Specified Person and in Restricted Currency issued by BNM pursuant to section 216(1) of the FSA and section 227(1) of the IFSA on 3 January 2022; and
- (c) [Minimum, Due Diligence \(“MDD”\) Guide for FEP Rules](#)

In the FEP Notices, the following terms shall have the meaning listed below.

| Terms | Definitions |
|--|---|
| Anticipatory | <p>(a) a projected Current Account Transaction based on previous track record or relevant documents to validate the projected transaction; or</p> <p>(b) a projected Financial Account Transaction supported with relevant documents to validate the projected transaction.</p> |
| Appointed Overseas Office (“AOO”) | a Holding/Parent Entity, subsidiary Entity, sister Entity, head office or branch outside Malaysia within a Licensed Onshore Bank’s (“LOB”) banking group and its overseas office outside the LOB’s banking group approved by the Bank. |

| | |
|--|--|
| <p>Borrowing</p> | <p>(a) any utilised or unutilised credit facility or financing facility;</p> <p>(b) any utilised or unutilised trade financing facility, including but not limited to, trade guarantee or guarantee for payment of goods;</p> <p>(c) redeemable preference share or Islamic redeemable preference share; or</p> <p>(d) Corporate Bond or Sukuk.</p> <p>Notwithstanding the above, the following are excluded from the definition of Borrowing—</p> <p>(i) a trade credit term extended by a supplier for any goods or services;</p> <p>(ii) a credit limit that a LOB apportions for its client to undertake a Forward Basis transaction, excluding a transaction that involves—</p> <p>(A) exchanging or swapping of Ringgit or Foreign Currency debt for another Foreign Currency debt; or</p> <p>(B) exchanging of Foreign Currency debt for a Ringgit debt;</p> <p>(iii) a Financial Guarantee or Non-Financial Guarantee;</p> <p>(iv) an operational leasing facility;</p> <p>(v) a factoring facility without recourse;</p> <p>(vi) a credit card or charge card facility obtained by an Individual from a Resident and used for payment for retail goods or services only; or</p> <p>(vii) a credit facility or financing facility obtained by a Resident Individual from a Resident to purchase one (1) residential property and one (1) vehicle.</p> <p>Note: For clarity purposes, the transactions in paragraphs (ii)(A) and (ii)(B) shall be considered as Borrowing.</p> |
| <p>Current Account Transaction</p> | <p>(a) trade of goods or services; or</p> <p>(b) primary income or secondary income¹, and includes fee, commission, royalty or income, wage, salary, dividend, profit and interest.</p> <p>¹ As defined in the Balance of Payments and International Investment Position Manual (Sixth Edition) issued by the International Monetary Fund and as amended or revised from time to time.</p> |
| <p>Direct Investment Abroad (“DIA”)</p> | <p>(a) an investment in Foreign Currency Asset Offshore by a Resident resulting in at least 10% equity ownership or control of a Non-Resident Entity outside Malaysia or a Labuan Entity;</p> <p>(b) an inter-company lending by a Resident Entity to a Non-Resident Entity within the Resident Entity’s Group where the Non-Resident Entity is outside Malaysia or a Labuan Entity; or</p> <p>(c) a capital expenditure by a Resident investor in an unincorporated Entity outside Malaysia or a project outside Malaysia by an agreement with no establishment created, where the Resident investor—</p> <p>(i) contributes capital of at least 10% of the cost of the project;</p> <p>(ii) is entitled to at least 10% of profits from the unincorporated Entity or project; or</p> <p>(iii) has management control of the unincorporated Entity or project.</p> |

| | |
|---|--|
| Direct Shareholder | A shareholder with at least 10% effective shareholding in a Resident Entity. |
| Domestic Ringgit Borrowing (“DRB”) | <p>(a) any Borrowing in Ringgit obtained by a Resident from another Resident; or</p> <p>(b) any obligation considered or deemed as Domestic Ringgit Borrowing under any of the Foreign Exchange Notices.</p> <p>Note: For purposes of determining the Domestic Ringgit Borrowing status of a Resident Entity—</p> <p>(a) Definition of DRB includes unutilised ringgit credit facility such as unutilised share margin facility, overdraft facility, revolving credit facility, as well as credit facility obtained from employer such as staff loan.</p> <p>(b) Investment in foreign currency assets includes extension of foreign currency loan/advance (lending) to a non-resident, payment for working capital expenses, and/or any form of capital contribution as defined in Preamble & Interpretation of FEP Notices</p> <p>(c) the Resident Entity is deemed to have a Domestic Ringgit Borrowing when another Resident Entity with Parent-Subsidiary Relationship has a Domestic Ringgit Borrowing; and</p> <p>(d) the following shall not be considered as Domestic Ringgit Borrowing:</p> <p>(i) a Borrowing obtained from another Resident Entity with Parent-Subsidiary Relationship;</p> <p>(ii) a Borrowing obtained from its Direct Shareholder; or</p> <p>(iii) any facility including credit facility or financing facility which is used for *Sundry Expenses or *Employees’ Expenses only.</p> <p>**Sundry Expenses** refers to small and infrequent expenses for office supplies (e.g. stationaries), ancillary services (e.g. software and online subscription) and other minor expenses to facilitate daily business operation.</p> <p>**Employees’ Expenses** refers to business-related expenses which may include, but not limited to, travel (e.g. lodging and transportation), entertainment, health, insurance, takaful and other employees’ expenses, excluding investment.</p> <p>Note: Refer to Diagram 1 for Illustration of the computation of a Resident Entity’s Aggregated Borrowing</p> |
| Entity | <p>(a) any corporation, statutory body, local authority, society, co-operative, limited liability partnership and any other body, organisation, association or group of persons, whether corporate or unincorporated, in or outside Malaysia; or</p> <p>(b) the Federal Government, any State Government or any other government.</p> |
| Exchange Rate Derivatives | any derivatives or Islamic derivatives which market price, value, delivery or payment obligation is derived from, referenced to or based on exchange rate. |

| | |
|--------------------------------------|---|
| Export of Goods | <p>(a) movement or transfer of goods by land, sea or air from Malaysia to any territory outside Malaysia; or</p> <p>(b) transfer of ownership in goods originated from Malaysia by a Resident Entity to a Non-Resident outside Malaysia or to a Labuan Entity declared by the Bank as a Non-Resident under section 214(6)(a) of the FSA or section 225(6)(a) of the IFSA.</p> |
| External Account | <p>an account in Ringgit opened with any Financial Institution in Malaysia:</p> <p>(a) by a Non-Resident:</p> <ul style="list-style-type: none"> (i) individually; (ii) jointly with another Non-Resident; or (iii) jointly with a Resident, excluding— <ul style="list-style-type: none"> (A) for a joint venture in Malaysia; (B) a husband and wife; or <p>(b) by a person who operates the account in trust for or on behalf of a Non-Resident. The designation of the account shall be determined based on the residency of the beneficiary.</p> |
| Financial Account Transaction | any transaction other than a Current Account Transaction, and includes Borrowing and investment-related transactions |
| Financial Guarantee | any guarantee, indemnity or undertaking to secure repayment of a Borrowing. |
| Financial Instrument | includes derivatives as defined in section 2(1) of the FSA. |
| Firm Commitment | <p>a commitment arising from—</p> <ul style="list-style-type: none"> (a) an obligation to make or a right to receive, any payment under any agreement or arrangement; (b) a holding of an asset or a property; or (c) a holding of a debt, an obligation or a liability. |
| Foreign Currency | <p>includes—</p> <ul style="list-style-type: none"> (a) currency notes or coins which are legal tender in any country, territory or place outside Malaysia; (b) any right to receive foreign currency— <ul style="list-style-type: none"> (i) in respect of any credit or balance at a licensed bank or any other similar institution in or outside Malaysia; or (ii) from any person in or outside Malaysia; or (c) any document or device of a kind intended to enable the person to whom the document or device is issued to obtain foreign currency from another person on the credit of the person issuing it, and in particular, any traveller's cheque or other draft or letter of credit so intended. |

| | |
|---|--|
| Foreign Currency Account (“FCA”) | any account, document or instrument where Foreign Currency is being maintained including – (a) Trade Foreign Currency Account (“TFCA”); and (b) Investment Foreign Currency Account (“IFCA”) |
| Group | an Entity’s— (a) ultimate or direct Holding/Parent Entity; (b) head office; (c) branch; (d) subsidiary company where the Entity owns more than 50% of ordinary shares in the subsidiary company; (e) associate company where the Entity owns between 10% and 50% of ordinary shares in the associate company; or (f) sister company where the Entity and its sister company have a common shareholder with minimum of 10% of ordinary shares in both Entity and sister company. |
| Holding/ Parent Entity | an Entity which owns more than 50% of ordinary shares of another Entity. |
| Institutional Investor | a foreign government, a central bank, an asset manager, a pension fund, an insurance company or a takaful operator. |
| Intermediary | a management company, trust company, legal firm, stockbroking corporation, an asset manager or any similar Entity who undertakes investment or managing funds on behalf of clients. |
| Islamic Financial Instrument | includes Islamic derivatives as defined in section 2(1) of the IFSA. |
| Labuan Entity | an Entity which is created, incorporated, licensed or registered under any of the following legislation: (a) Labuan Companies Act 1990 [Act 441]; (b) Labuan Trust Act 1996 [Act 554]; (c) Labuan Financial Services and Securities Act 2010 [Act 704]; (d) Labuan Islamic Financial Services and Securities Act 2010 [Act 705]; (e) (e) Labuan Foundations Act 2010 [Act 706]; or (f) Labuan Limited Partnerships and Limited Liability Partnerships Act 2010 [Act 707]. Note: All Labuan entities are deemed as non-residents under the FEP pursuant to sections 214 and 215 of the Financial Services Act 2013 and sections 225 and 226 of the Islamic Financial Services Act 2013. |

| | |
|---|---|
| Licensed Onshore Bank (“LOB”) | <p>(a) a licensed bank or a licensed investment bank under the Financial Services Act 2013 (“FSA”) ; and</p> <p>(b) a licensed Islamic bank under the Islamic Financial Services Act 2013 (“IFSA”).</p> <p>List of LOBs can be found at: http://www.bnm.gov.my/index.php?ch=en_announcement&pg=en_announcement&ac=478&tpt=9.</p> |
| Non-Financial Guarantee | <p>any guarantee, indemnity or undertaking (excluding a Financial Guarantee) issued or obtained not for purposes of securing a Borrowing, and includes a performance bond, tender bond, guarantee for supply of goods or services, or shipping guarantee.</p> |
| Non-Resident | <p>(a) any person other than a resident;</p> <p>(b) an overseas branch, a subsidiary, regional office, sales office or representative office of a resident company;</p> <p>(c) Embassies, Consulates, High Commissions, supranational or international</p> <p>(d) organizations; or</p> <p>(e) a Malaysian citizen who has obtained permanent resident status of a country or territory outside Malaysia and is residing outside Malaysia.</p> <p>For the avoidance of doubt, this includes Malaysian Embassies, Consulates and High Commissions.</p> |
| Non-Resident Financial Institution or (“NRFI”) | <p>a Non-Resident Entity undertaking financial services including custodian bank and trust bank.</p> |
| Parent Subsidiary Relationship | <p>a relationship between a Resident Entity and its direct or indirect:</p> <p>(a) Resident Holding/Parent Entity; or</p> <p>(b) Resident subsidiary Entity.</p> <p>For the avoidance of doubt, this includes a relationship between a Resident subsidiary of a Non-Resident Holding/Parent Entity with the Resident subsidiary’s ultimate Resident Holding/Parent Entity.</p> |

| | |
|--------------------------------|--|
| Real Sector Activity | <p>an activity relating to—</p> <p>(a) construction or purchase of a residential or commercial property, excluding purchase of land which will not be utilised for construction or production of goods or services; or</p> <p>(b) production or consumption of goods or services, excluding—</p> <ul style="list-style-type: none"> (i) activity in financial services sector, whether Islamic or otherwise; (ii) purchase of securities or Islamic securities; or (iii) purchase of Financial Instrument or Islamic Financial Instrument. |
| Resident | <p>(a) a citizen of Malaysia, excluding a citizen who has obtained permanent resident status in a country or a territory outside Malaysia and is residing outside Malaysia;</p> <p>(b) a non-citizen of Malaysia who has obtained permanent resident status in Malaysia and is ordinarily residing in Malaysia;</p> <p>(c) a body corporate incorporated or established, or registered with or approved by any authority, in Malaysia;</p> <p>(d) an unincorporated body registered with or approved by any authority in Malaysia; or</p> <p>(e) the Government or any State Government.</p> |
| Special Purpose Vehicle | <p>An Entity set up solely for a specific purpose and is not an operating business unit.</p> |
| Spot Basis | <p>buying and selling of any currency for delivery within two (2) business days.</p> |

Table 1: Exchanging of Existing Debt by Resident With LOB

| Currency denomination of existing debt | Currency denomination of exchanged debt (swap to) | Applicable FEP Rules |
|--|---|---|
| Ringgit | Foreign Currency with or without delivery of Foreign Currency at inception. | <ul style="list-style-type: none"> • The exchanged debt shall be considered as a Borrowing in Foreign Currency. • Where the swap involves delivery of Foreign Currency at inception, utilisation of such Foreign Currency for Investment in Foreign Currency Asset shall comply with Notice 3 for Resident with Domestic Ringgit Borrowing. |
| Foreign Currency | Ringgit with or without delivery of Ringgit at inception. | <ul style="list-style-type: none"> • The exchanged debt shall be considered as a Domestic Ringgit Borrowing. • In the case where the Foreign Currency Borrowing is obtained from a Non-Resident, it shall continue to be subject to the requirement under Part A and Part B of Notice 2. |

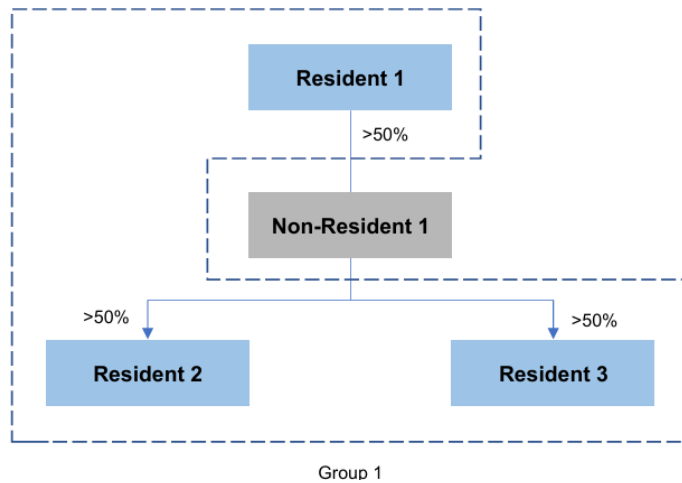
Table 2: Exchanging of Existing Debt by Resident with LOB with Non-Resident

| Currency denomination of existing debt | Currency denomination of exchanged debt (swap to) | Applicable FEP Rules |
|--|---|---|
| Foreign Currency | An alternate Foreign Currency debt with or without delivery of Foreign Currency at inception. | <ul style="list-style-type: none"> • The exchanged debt shall be considered as a Borrowing in Foreign Currency from a Non-Resident. • The Resident shall comply to the requirement under Part A and Part B of Notice 2. |

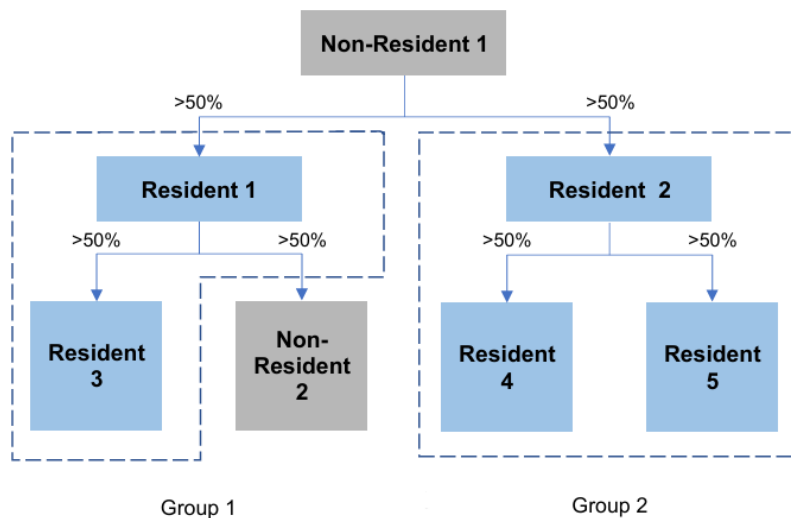
Diagram 1: Resident's Entity Aggregated Borrowing and Total Investment on Group Basis

For the computation of a resident entity's aggregated borrowing to determine the DRB status as well as total investment on a group basis, it is computed based on the outstanding borrowing of all resident entities within the same group of entities with parent-subsidary relationship.

If ultimate parent is resident



If ultimate parent is non-resident



Source: <https://www.bnm.gov.my/fep>