Malaysian-German Chamber of Commerce and Industry
Deutsch-Malaysische Industrie- und Handelskammer

Financial System and Banking Regulations in Malaysia

(as of August 2021)

Malaysia operates a dual banking system, namely a conventional banking system operating in tandem with an Islamic banking system. Islamic banks and international Islamic banks subsist alongside conventional banking institutions and offer a wide range of Islamic financial products in Ringgit Malaysia (RM) to residents and non-residents alike.

The Central Bank, Bank Negara Malaysia (BNM) acts as the regulator of banking institutions under the Financial Services Act 2013 (FSA), the Islamic Financial Services Act 2013 (IFSA) and the Central Bank of Malaysia Act 2009 (CBA). BNM's supervisory framework applies to all types of financial institutions to ensure consistency in the treatment of similar risks throughout the financial sector and enabling consolidated supervision of financial conglomerates.

BNM maintains a liberal foreign exchange policy (FEP) and is committed in ensuring FEP continues to support the competitiveness of the Malaysian economy by facilitating a more conducive environment for domestic and cross-border real economic activities.

A. Foreign Reserve[1]

As of August 13, 2021, BNM's international reserves amounted to US$111.3 billion. This reserves position is sufficient to finance 7.9 months of retained imports and is 1.2 times total short-term external debt.

BNM said the main components of the international reserves were foreign currency reserves (US$102.3 billion), International Monetary Fund reserves position (US$1.4 billion), special drawing rights (SDRs) (US$1.2 billion), gold (US$2.2 billion), and other reserve assets (US$4.2 billion).

Assets comprising gold, foreign exchange and other reserves, including SDRs, amounted to RM462.54 billion, Malaysian government papers (RM11.22 billion), deposits with

[1] Source: https://www.thestar.com.my/business/business-news/2021/08/20/bnm039s-international-reserves-rise-to-us1113bil-as-at-aug-13 (with minor amendments)

financial institutions (RM727.36 million), loans and advances (RM20.35 billion), land and buildings (RM4.16 billion), and other assets (RM 15.79 billion).

Capital and liabilities comprising paid-up capital amounted to RM 100 million, reserves (RM184.86 billion), currency in circulation (RM143.72 billion), deposits by financial institutions (RM138.77 billion), federal government deposits (RM20.11 billion), other deposits (RM5.86 billion), Bank Negara papers (RM8.50 billion), allocation of SDRs (RM7.98 billion), and other liabilities (RM5.0 billion).

B. Definition of Resident and Non-resident[2]

Resident	Non-resident
Malaysian citizen;	Non-Malaysian citizen;
Malaysian citizen with PR status of another country but resides in Malaysia;	Malaysian citizen with PR status of another country and resides outside of Malaysia;
Non-Malaysian citizen with Malaysian Permanent Resident status and resides in Malaysia; or	Embassies, Consulates, High Commissions, supranational or international organizations; or
Business entities incorporated/established and operating in Malaysia (even though the majority shareholding of the business entity is owned by non-residents).	Business entities incorporated/established abroad, including an overseas branch, Labuan territory, a subsidiary, regional office sales office or representative office of a resident company.

C. Foreign Exchange Control Policies[3]

The exchange control policies in Malaysia are directed at monitoring the settlement of payments and receipts, as well as encouraging the use of the country's financial resources for productive purposes. There is generally free mobility of inward and outward movement of funds, subject to the statistical requirement of completing Forms P for payment and Forms R for receipts, for transfers exceeding the equivalent of RM10,000. There are also a few prudential regulations covering approval requirements for large borrowing from abroad as well as overseas investments by residents.

For current account transactions, there are no restrictions on payments to non-residents for imports of goods and services. Such payment must be made in foreign currencies. Export proceeds must be received in foreign currency and be sold for ringgit or retained in approved foreign currency accounts with resident commercial banks, with up to an

[2] Source: affinonline.com/faq_fea (with minor amendments)
[3] Source: https://www.bnm.gov.my/documents/20124/830764/P01.pdf (with minor amendments)

aggregate overnight limit of between US$1 million and US$10 million. Import and export of ringgit up to RM1,000 and export of foreign currency up to an equivalent of RM10,000 is freely permitted. Resident travellers carrying out foreign currency notes including traveller's cheques exceeding the equivalent of RM10,000 are required to obtain permission and declare in the Traveller's Declaration Form (TDF) – approval is given within one day of application. Non-residents are free to bring in any amount of foreign currency and//or traveller's cheques. Declaration is only required for amounts in excess of the equivalent of US$2,500.

For capital account transactions, foreign direct investors are freely allowed to repatriate their investment, including capital, profits, dividends and interest. Residents, other than commercial and approved merchant banks, are required to seek prior approval from the Controller to remit funds in excess of RM10,000 for overseas investment purposes. Residents are freely permitted to obtain credit facilities in foreign currency up to the equivalent of RM 5 million in the aggregate from licensed banks, licensed merchant banks and non-residents.

Note that the above is obtained from BNM's official website. For more information on the major exchange control rules, which are the current account transactions, capital account transactions, ringgit credit facilities to non-resident controlled companies, issuance of ringgit private debt securities, foreign currency accounts of residents, foreign currency accounts of non-residents, external accounts of non-residents, special status granted to selected companies, please refer to https://www.bnm.gov.my/documents/20124/830764/P01.pdf for more details.

D. Foreign Exchange Administration (FEA) Rules

The FEA rules are a set of rules that are administered by the BNM under the FSA and IFSA to safeguard the value of the currency of Malaysia. The FEA rules apply to any resident dealing with foreign currency and/or any non-resident dealing in Ringgit, in Malaysia.

For detailed rules by the type of Residency, please refer to https://www.bnm.gov.my/fep. This official website of BNM addresses on the topics of export of goods, investing in foreign currency assets, foreign currency borrowing in Malaysia and from Abroad, Ringgit borrowing from Non-resident, financial guarantee, payment in foreign currency, and buying and selling of foreign currency for Residents.

For Non-Residents, the topics of investing in Malaysia, borrowing in Malaysia, payment in Ringgit and buying and selling of foreign currency will also be addressed in the link above.

E. Foreign Account Tax Compliance Act (FATCA)[4]

FACTA, which affects financial institutions worldwide, aims at reducing tax evasion by U.S. persons. It requires Financial Institutions outside the U.S. to provide information regarding their customers who are U.S. persons to the U.S. Internal Revenue Service (IRS). A 30% withholding tax is imposed on the U.S. source income of any Financial Institution that fails to comply with this requirement.

On 30 June 2014, Malaysia reached an agreement with the U.S. to implement FATCA. Under the terms of the Malaysia-U.S. Intergovernmental Agreement (IGA), Reporting Malaysia-based Financial Institutions (MYFIs) will provide Inland Revenue Board of Malaysia (IRBM) with the required account information of U.S. persons. IRBM will then exchange that information with the U.S. IRS.

Note that the date for submitting the 2014, 2015, 2016, 2017, 2018, 2019, 2020 and 2021 reportable information and NIL Returns under FATCA to IRBM has been tentatively postponed to 2022.

For more information, please refer to the official website of IRBM:
http://www.hasil.gov.my/bt_goindex.php?bt_kump=6&bt_skum=2&bt_posi=1&bt_unit=1&bt_sequ=1

F. Definition of Bumiputera

Bumiputera are Malaysians of Malay ethnicity or origin, and indigenous peoples (Article 160(2) of the Federal Constitution of Malaysia), natives of Sarawak (Article 161A(6)(a)), natives of Sabah (Article 161A(6)(b)). Bumiputera are also native Indonesians, Malaysian Siamese, Muslim Indian Malaysians, Peranakan and the Kristang people of Portuguese-Eurasian descent. If one parent is a Bumiputera and the other is a non-Bumiputera, the child will be classified as non-Bumiputera.

G. Malaysia's New Economic Policy (NEP)[5]

The NEP was implemented with the twin objectives of eradicating poverty and restructuring society. It was also intended to ensure that Bumiputeras and other indigenous people became full partners in all aspects of economic life of the nation. Later, the government implemented new policies called the National Development Policy (NDP) and the National

[4] Source: http://www.hasil.gov.my/bt_goindex.php?bt_kump=6&bt_skum=2&bt_posi=1&bt_unit=1&bt_sequ=1 (with minor amendments)
[5] Source: https://www.bakermckenzie.com/-/media/files/insight/publications/2017/10/belt-road/doing_business_in_malaysia_2016.pdf?la=en (with minor amendments)

Vision Policy (NVP). The overall aim of these policies was to achieve a “balanced development” within a framework of rapid growth with equity as its primary thrust.

In particular, one of the main objectives of the NVP was to achieve at least 30% Bumiputera participation in all industries by 2010. During this period, many government ministries were given the task to implement policies and guidelines to achieve the NVP.

The Foreign Investment Committee (FIC) was formed to balance the goals of implementing the NDP and NVP whilst at the same time maintaining investor friendly policies that would facilitate enhanced levels of foreign investment. The result of this was the implementation of guidelines limiting foreign participation in acquisitions of interest, mergers and takeovers, and acquisition of properties (FIC Guidelines).

From 2009 to 2012, the Prime Minister and Government of Malaysia removed 30% Bumiputera equity requirement for 27 services sub-sectors, abolished FIC and repealed the FIC Guidelines, and further liberalised 17 service sub-sectors.

Fully liberalised sub-sectors include private hospitals, medical and dental specialists, architectural, engineering, legal, accounting (including auditing) and taxation, courier services, telecommunications (except for the category of content application service provider licence), education (including private universities, international schools, technical and vocational schools, and skills training centres), as well as departmental and specialty stores.

The requirements for local equity participation in foreign investments are administered via 2 methods: legal and non-legal controls.

Legal control in respect of Bumiputera participation is enforced through administrative discretion conferred under statutes or subsidiary legislations. Where the intended operations of a company or business in Malaysia require certain operating licenses, equity conditions or restrictions may be imposed through the approval and issuance of such licenses by government or statutory bodies. The Ministry of International Trade and Industry (MITI) which regulates the manufacturing industry in Malaysia is an example of a sectorial regulator vested with powers and legal control.

On the other hand, committees are generally set up under various governmental ministries for non-legal (administrative) control and are given the task of procuring guidelines to seek to achieve the 30% Bumiputera participation envisaged in the NEP/NDP/NVP. An example of a sectoral regulator is the Ministry of Domestic Trade, Co-operatives and Consumerism (MDTCC) and its Distributive Trade Guidelines 2009 (DTG).

The DTG provides that a distributive trade company with foreign equity shall consist of Bumiputera directors and management personnel, formulate policies to assist Bumiputera participation and persons with disabilities, as well as increase their utilisation of Malaysian services such as airports, ports, legal and other professional services.

All distributive trade companies with foreign involvement must be incorporated locally under the Companies Act 1965.

Note that the DTG is not law and represents the Malaysian government's policy. Although there are no legal sanctions against non-compliance, the DTG can be enforced administratively through the refusal to register branches of foreign companies engaged in such trade, or through licensing, and immigration passes.

H. Securities Commission[6]

Under the Capital Markets and Services Act 2007 (CMSA), anyone who wishes to carry out capital market activities (unless a registered person) is required to be appropriately licensed. The Securities Commission Malaysia (SC; Suruhanjaya Sekuriti Malaysia) is the sole licensing authority that approves licenses for capital market intermediaries to be engaged in the regulated activities. It has the responsibility of regulating and systematically developing the capital markets in Malaysia.

There are two main types of licensing applications, namely:

- New Capital Markets Services Licence (CMSL) – granted to a principal (to wait 6 weeks for approval)
- New Capital Markets Services Representative's Licence (CMSRL) – granted to a representative to enable him to carry on any one or more regulated activities (to wait 2 weeks for approval)

The SC issues the above two licenses for the following regulated activities:

- Dealing in securities
- Dealing in derivatives
- Clearing for securities/derivatives
- Fund management
- Dealing in private retirement schemes
- Advising on corporate finance
- Investment advice
- Financial planning

For more information on the assessment process for the above applications for licences, please visit this link https://www.sc.com.my/api/documentms/download.ashx?id=510934f7-9030-46eb-af9a-d46fe7b75f19

[6] Source: https://www.sc.com.my/api/documentms/download.ashx?id=510934f7-9030-46eb-af9a-d46fe7b75f19

I. Resident and Non-resident Bank Accounts

Residents and non-residents can open bank accounts in Malaysia and they can choose their banks. The type of bank accounts residents and non-residents can open in Malaysia are savings account (available for individuals only), current account, fixed deposit account, investment account and share trading account.

Malaysia has a total of 45 commercial and Islamic banks, 19 of which are banks with an international presence. When choosing your bank as an expatriate or foreigner, you must consider the location of the bank's branch, the availability of ATMs of your bank in Malaysia and the types of banking accounts available by the bank. This is due to the fact that not all banks in Malaysia provide the same services.

As of March 2021, the largest five banks in Malaysia in terms of total assets are:

1. Malayan Banking Berhad
2. CIMB Bank
3. Public Bank Berhad,
4. RHB Bank
5. Hong Leong Bank

For more information on opening a bank account in Malaysia, please contact the banks listed above or other banks in Malaysia which are not listed here.

For foreigners, remember to bring along your passport, valid work or student visa, a letter of employment (if applicable) or a referral or recommendation letter from an existing customer of that bank. These are essential for identification purposes. However, please note that different banks have different requirements and thus, all the above may not be needed. Again, please contact your desired bank for more information.

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