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## MDD Guide for Notice 1 (MDD1) – Public version

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### General Due Diligence Processes

1. In facilitating FX transactions, LOBs or AOOs are required to obtain from the clients the purpose of the transaction at the onset. This is required for ROMS reporting purposes. 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 KYC principle.
2. Documentary evidence should be requested from the client for verification as part of due diligence processes to ensure compliance to FE rules as guided by the LOBs/AOOs' own compliance framework.
3. LOBs and/or AOOs are to set their 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.
  - (a) **For new clients/transactions:** LOBs and/or AOOs should take a prudent stance to ensure they are satisfied with the clients' awareness and compliance to FE rules, including obtaining documentary evidence for the initial FX transactions or transaction beyond the permitted scope of the relevant Notices, where required.
  - (b) **For existing clients:** LOBs and/or AOOs may elect to obtain documents on selective basis, instead of every transaction as guided by KYC principle. Selection from the population of clients for documentary evidence reviews rest on the LOB and/or AOOs' internal review methodology, which may take into account the clients' awareness of FE Rules, volume of trade, track record on the purpose of the FX trades, including their historical behavior or reliability in providing documents and other criteria determined as appropriate by the LOB and/or AOOs.
4. **Specifically for any spot sale of ringgit by non-resident (NR) clients:** LOBs and AOOs are to ensure that it must be supported by delivery of ringgit on gross basis.
5. Termination of forward transaction (other than those under Dynamic Hedging) for portfolio investments where the underlying remains requires BNM's approval.

## Specific Due Diligence Processes

### FX transactions with Residents

#### *Dealings with Resident Intermediary (RI)*

6. RIs that are mandated to undertake investment or manage funds on behalf of their NR clients' ringgit assets are allowed to undertake FX transactions on behalf of their NR clients with LOB, including to facilitate their NR clients in repatriating foreign currency funds from Malaysia using income or proceeds from divestment of ringgit assets.
7. For every FX transaction, obtaining the purpose is required for ROMS reporting purposes.

### FX transactions with NRs

#### *Dealings with Third Party FX Bank*

8. 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 or trust 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)*

9. For every FX transaction, obtaining the purpose is required for ROMS reporting purposes.
10. NRFIs that are mandated to manage, or act as a custodian to their NR clients' ringgit assets<sup>1</sup>, are allowed to undertake FX transactions on behalf of their own clients, including for FX exposures from ringgit assets that may not be under their custody<sup>2</sup> with any LOB and/or AOO.
11. In facilitating a transaction by a NRFI on behalf of its client via 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) Any spot transactions undertaken by a NRFI that is mandated to manage or act as a custodian to its NR clients' ringgit assets.

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<sup>1</sup> Examples of these NRFIs are custodian bank, trust bank, retrust bank etc.

<sup>2</sup> 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.

All other transactions by a NRFI on behalf of its NR clients require an NDF attestation from the NRFI.

12. In facilitating a transaction by a NRFI for its own account via 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; and
  - (b) Equities or equity instruments listed in Bursa Malaysia.

All other transactions by a NRFI for its own account require an NDF attestation from the NRFI.

13. NRFIs without any proprietary FX trading whom only facilitate NR clients' trades may seek an exemption from the attestation requirement from BNM.
14. 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**

15. LOBs and/or AOOs should have their 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.
16. FX transaction entered based on anticipatory that has resulted in over hedged position, upon availability of firm underlying has to be adjusted accordingly.

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 <sup>3</sup>		Forward <sup>4</sup> (passive hedging)	
		LOB	AOO	LOB	AOO
A. NRFIs <sup>5</sup> , other than in (B)	Proof of Underlying <sup>6</sup>	No: Allowed for any purpose	Yes: Firm commitment		
	Attestation	Yes – except for equities or equity instruments listed on Bursa Malaysia <sup>7</sup>			
	Registration	Not applicable			
B. NRFI in the capacity of custodian / trust managing <b>ringgit assets</b> on behalf of NR client (in full / partially)	Proof of Underlying <sup>6</sup>	No: Allowed for any purpose	Yes: Firm commitment		
	Attestation	Not required		Required <sup>8</sup> – except for equities or equity instruments listed on Bursa Malaysia	
	Registration <sup>9</sup>	Not required	Required	Not required	Required
C. NR institutional investor	Proof of Underlying <sup>8</sup>	No: Allowed for any purpose	Yes: Firm commitment		
	Attestation	Not required			
	Registration	Not required			

<sup>3</sup> Any spot sale of ringgit by non-residents must be supported by delivery of ringgit on gross basis.  
<sup>4</sup> 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 programme.  
<sup>5</sup> By definition, non-resident financial institution (NRFI) includes banking institution, custodian and trust bank.  
<sup>6</sup> Requirement to have proof of underlying has to be read together with the Minimum Due Diligence for Foreign Exchange Transaction for Non-residents.  
<sup>7</sup> 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.  
<sup>8</sup> May seek exemption if no FX desk i.e. no currency market making activities.  
<sup>9</sup> Registration by NRFIs (B) only, NR client is not required.

**Appendix B**

**Due Diligence Processes Based on Types of Residents**

<b>Forward Transactions</b>			
<b>No</b>	<b>Residents</b>	<b>Type of hedging</b>	<b>Min. Due Diligence</b>
1	<ul style="list-style-type: none"> <li>• Corporates / Institutional Investors / Retail</li> </ul> [except those in (2) and (3)]	<ul style="list-style-type: none"> <li>• Passive hedging (firm commitment)</li> </ul>	<ol style="list-style-type: none"> <li>1. Minimum standard due diligence to be performed, including verification of registration/approval (where required).</li> <li>2. FX contracts for foreign currency assets may be undertaken on portfolio basis or backed with specific underlying.</li> <li>3. Ensure conversion meets with tenure limitation.</li> <li>4. Disposal or extinguishment of the underlying must be followed with cancellation of the original FX hedge. LOBs can pre-inform their client of this requirement to cancel the FX hedge in case of disposal of the underlying.</li> </ol>
		<ul style="list-style-type: none"> <li>• Passive hedging (anticipatory basis)</li> </ul>	<ol style="list-style-type: none"> <li>1. Minimum standard due diligence to be performed, including verification of registration/approval (where required).</li> <li>2. Review methodology based on past historical projections etc. as appropriate to each client.</li> <li>3. Disposal or extinguishment of the underlying must be followed with cancellation of the original FX hedge.</li> </ol>
2	<ul style="list-style-type: none"> <li>• Institutional Investors</li> </ul>	<ul style="list-style-type: none"> <li>• Dynamic hedging</li> </ul>	<ol style="list-style-type: none"> <li>1. Verify the registration with BNM prior to allowing any trades.</li> <li>2. No documentary requirement for the underlying.</li> </ol>

3	<ul style="list-style-type: none"> <li>• Corporates</li> </ul>	<ul style="list-style-type: none"> <li>• Hedging on behalf</li> </ul>	<ol style="list-style-type: none"> <li>1. Minimum standard due diligence to be conducted.</li> <li>2. FX contracts for foreign currency assets may be undertaken on portfolio basis or backed with specific underlying.</li> <li>3. Ensure conversion meets with tenure limitation.</li> <li>4. Disposal or extinguishment of the underlying must be followed with cancellation of the original FX hedge. LOBs can pre-inform their client of this requirement to cancel the FX hedge in case of disposal of the underlying.</li> <li>5. Establish the related relationship for FX transaction entered on behalf and to clearly report that the FX is entered for related resident or non-resident entity.</li> <li>6. Every hedging on behalf transaction shall be tagged with “hedging on behalf of related resident entity” or “hedging on behalf of related non-resident entity” in the description column in ROMS.</li> </ol>
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**Due Diligence Processes Based on Types of Non-Residents**

<b>Forward Transactions</b>			
<b>No</b>	<b>Non-Residents</b>	<b>Type of hedging</b>	<b>Min. Due Diligence</b>
1	<ul style="list-style-type: none"> <li>• Corporates</li> </ul>	<ul style="list-style-type: none"> <li>• Passive hedging</li> <li>• Hedging on behalf</li> </ul>	<ol style="list-style-type: none"> <li>1. Minimum standard due diligence to be performed, including verification of registration/approval (where required).</li> <li>2. Disposal or extinguishment of the underlying must be followed with cancellation of the original FX hedge. LOBs and/or AOO can pre-inform their client of this requirement to cancel the FX hedge in case of disposal of the underlying.</li> <li>3. Establish the relationship between the treasury centre and the related entities and to clearly report in ROMS that the FX exposure is entered by the treasury either on behalf of the resident related entities or non-resident related entities.</li> <li>4. Every hedging on behalf transaction shall be tagged with “hedging on behalf of related resident entity” or “hedging on behalf of related non-resident entity” in the description column in ROMS.</li> </ol>
2	<ul style="list-style-type: none"> <li>• Institutional Investors</li> <li>• Custodian/trust banks</li> </ul>	<ul style="list-style-type: none"> <li>• Passive hedging</li> </ul>	<ol style="list-style-type: none"> <li>1. Minimum standard due diligence to be performed.</li> <li>2. Disposal or extinguishment of the underlying –               <ol style="list-style-type: none"> <li>(a) must be followed with cancellation of the original FX hedge; or</li> <li>(b) the forward contract can be maintained provided the LOBs and/or AOOs ascertains that the</li> </ol> </li> </ol>

			<p>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>3. Sighting of NDF attestation or exemption letter for custodian or trust banks.</p> <p>Note:</p> <ul style="list-style-type: none"> <li>• FX contracts for RM assets may be undertaken on portfolio basis or backed with specific underlying.</li> <li>• For custodian or trust banks, verify the registration status if FX transaction is undertaken via AOO.</li> </ul>
3	<ul style="list-style-type: none"> <li>• Institutional Investors</li> <li>• Custodian/trust banks</li> </ul>	<ul style="list-style-type: none"> <li>• Dynamic hedging</li> </ul>	<ol style="list-style-type: none"> <li>1. Verify the approved LEI number with BNM prior to allowing any trades.</li> <li>2. For custodian or trust banks, verify the approval status with BNM.</li> <li>3. LEI must be reported in ROMS for every FX trade.</li> </ol> <p>Note:</p> <ul style="list-style-type: none"> <li>• No documentary requirement for the underlying</li> <li>• FX contracts for RM assets may be undertaken on portfolio basis or backed with specific underlying</li> </ul>



**Appendix C**

**Types of Documentary Evidence Required**

The tables below serve as a guide on the types of documentary evidence. LOBs and/or AOOs can determine based on their own KYC standards the type of documentary evidence that is sufficient to ensure compliance to FE Rules.

<b>Current Account Transactions</b>		
<b>No</b>	<b>Purpose</b>	<b>Examples of document to support transaction (non-exhaustive)</b>
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 @ 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, Invoice / Agreement / Payment advice

<b>Financial Account Transactions</b>		
<b>No</b>	<b>Purpose</b>	<b>Examples of document to support transaction (non-exhaustive)</b>
1	Purchase or sale of ringgit equities / bonds	Purchase / Sale tickets, Broker confirmations / statements, 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, Contract agreements

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4	Purchase, sale or margin call on ringgit futures	Purchase / Sale tickets, Broker confirmations / statements / Margin calls, Local custody confirmation / statements
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, BNM approval letter
7	Direct investment to Malaysian entities	Sales & Purchase agreement