



马来西亚中国服务组税务期刊

马来西亚国家银行最新公布的外汇措施

马来西亚国家银行（“国行”）近日宣布了一些对外汇市场的重要措施，这些措施将对在马来西亚的居民实体有一定程度上的影响，包括在大马设立公司的中资企业。

在2016年12月2日，马来西亚国家银行发布了对外汇管理规则的最新补充公告：

- a. 进一步促进外汇风险管理；
- b. 提升以马来西亚令吉的贸易结算地位；和
- c. 强化在岸金融市场的流动性和深度。

这些措施实施的目的在于提升一个更加深度，透明化和全功能的境内外汇市场，较大的灵活性使真正投资者和市场参与者可以有效的管理他们的市场风险和抵抗外汇不稳定波动。

此补充公告包括在2016年12月5日所生效的附录以及12月10日所发布的最新更新，需与2013年6月28日（2013年公告）所发布的外汇管理规则一起参阅。

显著的更改如下：

措施/描述	2016年12月5日之前	2016年12月5日之后
机构投资者在对冲交易的灵活措施	<ul style="list-style-type: none"> 买方居民在向卖方居民购买外币资产时，买方居民可以就此交易进行对冲，条件是需经由持牌境内银行提供。 	<ul style="list-style-type: none"> 居民（包括居民基金经理）可以自由并积极地与持牌境内银行对冲其美元和离岸人民币风险，无需书面证据表明，但仅限于数额不超过600万令吉的交易，仅需提交一次性的非投机活动声明即可。 居民和非居民机构投资者现在可以积极地管理他们的外汇风险高达其投资资产的25%，无需书面证据表明是否与持牌境内银行或指定的海外办事处进行。如具备以上资格，向国行登记即可。
外币资产的投资	<ul style="list-style-type: none"> 持有本地令吉借款的居民实体可以自由地将令吉兑换成外币以进行海外投资，但其数额（包括集团公司在内）每日历年不得超过5千万令吉。 无马来西亚令吉借款的居民实体可以自由地在海外投资。 居民实体可以自由地使用从持牌境内银行或持牌国际伊斯兰银行获得的外币借款在国外进行直接投资。 	<ul style="list-style-type: none"> 持有马来西亚令吉借款的居民实体可以自由地在海外和境内投资高达5千万令吉限额的外币资产。 如果目前的境内投资已超过5千万令吉的限额，居民实体必须向国行申请批准。 无马来西亚令吉借款的居民实体可以继续自由在海外和境内投资外币资产。
出口收入	<ul style="list-style-type: none"> 居民出口商可以将货物出口收入的100%存放在外币账户。 	<ul style="list-style-type: none"> 居民出口商最多仅允许保留其货物出口的外币收入的25%。外币必须存放在境内银行。 货物出口的外币收入余额应在收到货款后立即向持牌境内银行兑换成令吉，接着将令吉存入在特别存款基金帐户(Special Deposit Facilities account)。 此项对出口收入的新措施将于2016年12月5日生效，服务出

		<p>口收入将不受新措施影响。</p> <ul style="list-style-type: none"> • 所保留的外币可用于支付外币的进口和贷款债务。用于其他用途则需要经国行批准。 • 如果所保留的外币不足，居民出口商允许将令吉兑换成外币，支付最多 6 个月的进口和贷款债务的数额。 • 出口商可以向国行申请批准，保留超过 25% 的外币出口收入。但是，申请将基于个案的情况进行评估。
居民出口商的特别存款基金账户	无	<ul style="list-style-type: none"> • 特别存款基金账户由持牌境内银行提供，账户可以接收从外币兑换成令吉的出口收入。 • 居民出口商可以决定将兑换成令吉的收入，转入特别存款基金账户，或用于其他目的，并可自由地从特别存款基金账户中提取资金用于其他用途。 • 存放在特别存款基金账户的资金将可享有每年 3.25% 的存款利率。 • 特别存款基金账户的优惠有效期直到 2017 年 12 月 31 日，国行会对此有效期作出评估与更新。
居民实体的外币账户	<ul style="list-style-type: none"> • 现有外币账户称为“外币账户 I”和“外币账户 II” 	<ul style="list-style-type: none"> • 现有外币账户的名称应分别替换为“贸易外币账户”和“投资外币账户”。 • 贸易外币账户的基金来自货物出口收入的 25% 以及从令吉兑换成外币以用于支付未来 6 个月的外币付款数额。它可用于支付外币债务（即：进口款项和外币贷款偿

		<p>还)，转入至投资外币账户，但会受到投资限额和其他目前国际交易的限制。</p> <ul style="list-style-type: none"> • 投资外币账户基金应源自于国外的外币资金（不包括出口），非居民（不包括外币借款），从持牌境内银行借贷的外币的任何数额。主要用途为海外直接投资。它也可用于投资和其他目的，包括进口和贷款债务。
居民之间的外币付款	<ul style="list-style-type: none"> • 居民出口商可以自由使用其外币帐户 II 中货物出口的外币收入，或从批准的外币贸易融资机构获得的收入，用于向居民结算货物和服务的款项。 	<ul style="list-style-type: none"> • 居民之间的所有国内货物或服务贸易都必须以令吉结算。然而，在未实施新措施前所签署的协议，出口商需要向国行申请继续以外币形式支付其他居民的批准。 • 国行声明在 2016 年 12 月 5 日以前所签订的契约协议，如果是出口商使用其出口收入支付相关款项，或者是马来西亚国家银行批准的付款，居民可以于 2017 年 3 月 31 日前继续使用外币进行贸易收支。出口商可以选择使用其贸易外汇帐户或者投资外汇帐户付款，接收方也可将此外币款项全额保留在其贸易外汇帐户。

我们从上面所述措施的观察如下：

- 尽管付款人持有从出口获得的外币收入，但是居民实体之间的本地贸易，仍需以令吉来付款。
- 在这些新措施施行之前的已签合约，国行会在一些情况下考虑允许居民出口商继续以外币去支付给另一名居民。然而，我们相信该付款仅能够动用其 25%的外币出口收入存款。
- 虽然居民出口商允许将手上的令吉兑换成其他外汇作为未来 6 个月进口与还贷的需要，但是在将出口收入兑换成马币，再从马币兑换成外币的过程中，所产生的额外费用可能不小。
- 值得一提的是，在有合理的理由的情况下，国行将会考虑让居民出口商把超过 25%的出口收入以外币储存。此外，我们了解到国行也会考虑允许超过 6 个月的进口和还贷所需的外币数额。我们期望最新的外

汇管理措施的施行将会富有高度的宽松性和通融性，并促进跨境贸易与投资。

如您需要寻求任何有关最新外汇措施以及向国行申请所需批准的协助，您可以随时与下列具有外汇管制相关经验的联络人联系：-



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Deloitte Malaysia Chinese Services Group Publication

Recent New Measures Announced by Bank Negara Malaysia

Bank Negara Malaysia (BNM) has recently announced several significant measures in relation to foreign exchange and these measures would have certain degree of impact on Malaysian resident entities, including Chinese-owned companies incorporated in Malaysia.

On 2 December 2016, BNM issued a Supplementary Notice that sets out a set of measures in respect of foreign exchange administration rules to:

- a. further facilitate foreign exchange risk management;
- b. promote a settlement of trade and investment in ringgit;
and
- c. enhance depth and liquidity of onshore financial market.

These measures are intended to promote a deeper, more transparent and well-functioning onshore foreign exchange market where genuine investors and market participants can effectively manage their market risks with greater flexibility to hedge on the onshore market. A deep and liquid onshore foreign exchange market will enable investors to better manage against volatile currency movements.

This Supplementary Notice including the Appendices came into effect on 5 December 2016 and the brief update from BNM on 10 December 2016, shall be read together with the Notices on Foreign Exchange Administration Rules issued on 28 June 2013 (2013 Notices).

Here are highlights of key changes:

Measures / Description	Prior to 5 December 2016	After 5 December 2016
<p>Hedging flexibilities for institutional investors</p>	<ul style="list-style-type: none"> • Residents can hedge their investment in foreign currency assets offered in Malaysia by residents, provided the hedging transaction is undertaken with a licensed onshore bank. 	<ul style="list-style-type: none"> • Residents (including resident fund managers) may freely and actively hedge their USD and CNH exposures pairs with a licensed onshore bank without documentary evidence up to an aggregate net open position limit of RM6 million per client per bank. A one-time declaration of non-participation in speculative activity would suffice. • Resident and non-resident institutional investors can now actively manage their foreign exchange exposure up to 25% of their invested assets without documentary evidence with a licensed onshore bank or an appointed overseas office. To qualify for this arrangement, registration with BNM would suffice.
<p>Investment in foreign currency assets</p>	<ul style="list-style-type: none"> • Resident entities with domestic ringgit borrowing who are converting ringgit into foreign currency are free to invest abroad up to RM50 million equivalent in aggregate for the group of resident entities with parent-subsidiary relationship per calendar year. • Resident entities without domestic ringgit borrowing are free to invest abroad. • Resident entities are free to undertake 	<ul style="list-style-type: none"> • Resident entities with domestic ringgit borrowing are free to invest in foreign currency assets both onshore and abroad up to the prudential limit of RM50 million. • Resident entities are required to seek BNM's approval to make further investment in foreign currency asset if the current outstanding onshore investment has exceeded the RM50 million limit.

	<p>direct investments abroad using proceeds from foreign currency borrowings obtained from licensed onshore banks or licensed international Islamic banks.</p>	<ul style="list-style-type: none"> Resident entities without domestic ringgit borrowing continues to be free to invest in foreign currency assets both onshore and abroad.
<p>Export proceeds</p>	<ul style="list-style-type: none"> Resident exporter can retain up to 100% of the foreign currency proceeds of the export sales of goods in the foreign currency accounts. 	<ul style="list-style-type: none"> A resident exporter is allowed to retain up to only 25% of foreign currency proceeds from its exports of goods. The foreign currency must be retained only with onshore banks. The balance of foreign currency proceeds from the exports of goods shall be converted into ringgit with a licensed onshore bank immediately upon their receipt. The ringgit shall then be deposited into a Special Deposit Facility account (SDF). This new measure applies to export proceeds received from 5 December 2016 and does not apply to the export proceeds from services. The retained foreign currency can be used for import and loan obligations in foreign currency. Utilisation for other purposes requires approval from BNM. Resident exporters are allowed to convert ringgit into foreign currency for up to 6 months of import and loan obligations if the retained foreign

		<p>currency is insufficient.</p> <ul style="list-style-type: none"> Exporters may seek approval from BNM to retain more than 25% of export proceeds in foreign currency. However, the applications will be assessed based on the merit of each case.
SDF for resident exporters	None	<ul style="list-style-type: none"> The SDF is offered by all licensed onshore banks to resident exporters, which receive ringgit arising from the conversion of foreign currency export proceeds. Resident exporters can decide to place the converted ringgit proceeds into SDF or to use for other purposes and are free to withdraw funds from the SDF for other purposes. The SDF will pay a daily rate of 3.25% p.a. on end-of-day balances. The SDF offer is valid until 31 Dec 2017, subject to further review by BNM.
Foreign currency accounts for resident entity	<ul style="list-style-type: none"> The existing foreign currency accounts are known as "Foreign Currency Account I" and "Foreign Currency Account II". 	<ul style="list-style-type: none"> The name of the existing foreign currency accounts shall be replaced with "Trade Foreign Currency Account" (Trade FCA) and "Investment Foreign Currency Account" (Investment FCA) respectively. Trade FCA fund are sourced from 25% of proceeds from export of goods, conversion of ringgit into foreign currency up to 6 months of

		<p>foreign currency obligations is allowed. It can be used to defray the foreign currency obligations (i.e. import payment and foreign currency loan repayment), transfer into Investment FCA subject to investment limit and other current international transactions.</p> <ul style="list-style-type: none"> • Investment FCA fund are sourced from any amount using foreign currency fund from abroad (excluding export), from non-resident (excluding foreign currency borrowing), foreign currency borrowing from a licensed onshore bank for direct investment abroad. It can be used for investment and other purposes including payment for import and loan obligations.
<p>Payment in foreign currency between residents</p>	<ul style="list-style-type: none"> • A resident exporter is free to use the foreign currency proceeds of goods export in their foreign currency account II or proceeds from approved foreign currency trade financing facility for settlement of goods and services to residents. 	<ul style="list-style-type: none"> • All settlement of domestic trade in goods or services between residents shall be made ONLY in ringgit. Therefore, the exporter requires approval from BNM to continue paying in foreign currency to another resident for contracts entered into prior to the implementation of these measures. • BNM informed that in the circumstances where there are contractual agreements entered prior to 5 December 2016, residents may continue to make or

		<p>receive payment in foreign currency until 31 March 2017 provided that the payment is made by exporter using export proceeds or the payment is approved by BNM. The exporter may make the payment out of its Trade Foreign Currency Account or Investment Foreign Currency Account and the recipient of such foreign currency payment may retain full amount of the payment in foreign currency in its Trade Foreign Currency Account.</p>
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Some of our observations on the above new measures are as follows:

- For domestic trade between resident entities, resident entities are required to settle the payment in ringgit even though the payers have foreign currency derived from exports.
- For contracts concluded prior to implementation of these new measures, BNM may grant approval for the resident exporters to continue to make payments in foreign currency to another resident. However, it is likely that such payments can only be made out of the 25% of the export proceeds retained for the settlement of foreign currency obligations.
- Though the resident exporters are allowed to convert ringgit in hand into foreign currency for up to 6 months of import and loan obligations, the conversion of foreign currency generated from export into ringgit and subsequent reconversion of ringgit back into foreign currency involves additional charges which may not be insignificant.
- It is glad to note that BNM would consider application made by the residents to keep more than 25% of export proceeds where there are valid justifications. We also understand that conversion of ringgit into foreign currency for more than 6 months of import and loan obligations may be considered by BNM. It is hoped that the implementation of the new measures would be made with high degree of flexibility and accommodativeness to facilitate cross border trades and investments.

If you require any assistance in respect of seeking clarifications and obtaining necessary approvals from BNM, you can reach out to the following contact person who have experience handling the exchange control matters:-



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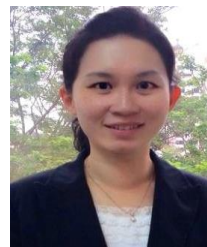


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