

**Amendments to the Securities Laws following the Liberalisation of the  
Foreign Exchange Control Administration Rules &  
Other Regulatory Amendments to Further Enhance the Efficiency of the  
Capital Market**

**FREQUENTLY ASKED QUESTIONS**

**I. Capital Market Measures Following Liberalisation of Foreign Exchange Control Administration Rules**

**A) Investment in foreign securities**

**1. Is SC's approval under section 32 of the Securities Commission Act 1993 (SCA) required for investments on exchanges outside Malaysia?**

With effect from 15 September 2005 and following the amendments to Schedule 1 of the SCA, investors are allowed to invest on specified foreign exchanges recognised by Bursa Malaysia Berhad (Bursa Malaysia), without obtaining the SC's prior approval. Investors may obtain the full list of recognised exchanges from the stockbroking companies.

As with all investments, it is necessary for investors that invest on these foreign exchanges to carefully assess the merits of such investments based on their knowledge of the market, appetite for risk, etc.

Investors investing on foreign exchanges are also subject to the existing regulations by Bank Negara Malaysia (BNM), particularly the Foreign Exchange Administration Rules.

**2. Can stockbrokers that are licensed in Malaysia, market securities listed on foreign exchanges to Malaysian investors?**

Yes, pursuant to the amendments made to paragraph 6 of Schedule 1 of the SCA, stockbrokers licensed in Malaysia may market securities listed on foreign exchanges.

**3. Which foreign exchanges are stockbrokers licensed in Malaysia allowed to market such securities?**

Stockbrokers licensed in Malaysia are allowed to market ONLY securities listed on the foreign exchanges that are recognised by Bursa Malaysia.

**B) Secondary market trading of non-ringgit bonds (Non-RM bonds)**

**4. What is the effect of the recent amendments to secondary market trading of Non-RM bonds?**

With effect from 15 September 2005 and following the amendments to Schedule 1 of the SCA, all 'sophisticated investors' can trade non-RM bonds among themselves without the SC's prior approval.

'Sophisticated investors' that are commercial banks, merchant banks, Islamic banks, universal brokers or consolidated brokers are required to submit a monthly report to the SC on their non-RM bond sell trades. Please refer to the Guidance Notes for more information.

**5. What was the position before the amendments to Schedule 1 of the SCA on 15 September 2005?**

Before 15 September 2005, pursuant to section 32 of the SCA, each trade in non-RM bonds require the SC's prior approval.

**6. Who are 'sophisticated investors'?**

As described in paragraphs 9, 10 or 11 of Schedule 2 of the SCA, 'sophisticated investors' are:

- Companies with total net assets exceeding RM10 million or its foreign currency equivalent;
- Individuals with a net worth exceeding RM3 million or its foreign currency equivalent;
- Persons who enter into transactions as principal for no less than RM250,000 or its foreign currency equivalent per transaction.

**C) Primary Offering of Non-RM Bonds**

**7. What is PN1? What is it about?**

PN1 is the acronym for Practice Note 1. There are two PN1s that relate to the primary offering of non-RM bonds: PN1 under the PDS Guidelines and PN1 under the Islamic Securities Guidelines. Both these practice notes mirror each other and exempts Malaysian public companies from having to comply with certain regulatory requirements when making their submissions to the SC for approval of their proposed foreign currency bond issuance, subject to the fulfilment of certain conditions.

**8. What are the PN1 exemptions?**

The exemptions under the PN1s of the PDS Guidelines and the Islamic Securities Guidelines are in relation to the requirements on:

- Shelf Registration Scheme
- Rating Requirement
- Underwriting
- Mode of Issue via FAST
- Adviser's Compliance Declaration
- Additional requirements for Debt Programs (CP/MTN) – under the PDS Guidelines
- Additional requirements for Islamic Securities Programs (Islamic CP/MTN) – under the Islamic Securities Guidelines

**9. What are the criteria to qualify for the PN1 exemptions?**

As provided under both PN1s, an issuer will qualify for the exemptions subject to the following conditions:

- The issuer is a Malaysian public company;
- The issuer is proposing to issue foreign currency denominated private debt securities approved by the SC under the PDS Guidelines, or foreign currency denominated Islamic securities approved by the SC under the Islamic Securities Guidelines; and
- The issuance will only be made available to investors outside Malaysia and/or 'sophisticated investors' in Malaysia.

**10. How do issuers ensure continued compliance with the PN1 restriction on investors?**

Issuers may ensure continued compliance with this condition by issuing their non-RM bond with a selling restriction to restrict its sale only to investors outside Malaysia and/or 'sophisticated investors' in Malaysia.

**11. Can previous issuers extend their PN1 bonds to 'sophisticated investors' in Malaysia?**

Yes, provided that the existing bondholders approve the necessary amendments in relation to the selling restriction and/or terms and conditions of the bond and written notification of such bondholders' approval is forwarded to the SC.

**12. Can non-RM structured products be offered in Malaysia?**

Yes, in accordance with the Guidelines on the Offering of Structured Products.

**D) Offerings of foreign shares in Malaysia**

**13. Are foreign companies allowed to offer their shares in Malaysia? What are the approvals required to make such offerings?**

Foreign companies intending to offer their shares in Malaysia (including initial public offerings or other offerings) would be required to submit an application to the SC for consideration under section 32 of the SCA and where relevant, under the Prospectus Guidelines. These applicants may also apply for exemptions from the SC's guidelines, which will be considered based on, among others, the robustness of the regulatory requirements of the issuers' home jurisdiction.

**14. Who are those allowed to invest in the shares offered by foreign companies in Malaysia?**

Only 'sophisticated investors' are allowed to invest in the initial public offerings by foreign companies.

**E) Investment by unit trust management companies (UTMCs)**

**15. What is the limit for investments abroad by UTMCs?**

On March 2005, BNM liberalised the limits for investments abroad by UTMCs to a maximum of 30% of the total aggregate net asset value of funds managed.

**16. How can a UTMC invest abroad?**

UTMCs that are licensed as fund managers can invest in securities outside Malaysia by going directly to a foreign broker or via a local broker.

UTMCs that are not licensed as fund managers would need to delegate the fund management function to a local licensed fund manager, in accordance with the existing regulation. The local licensed fund manager would be required to go through a local or foreign broker to invest in securities outside Malaysia.

**17. Can a UTMC that is not licensed as a fund manager appoint a foreign fund manager to manage a fund's foreign investment portfolio?**

No. Only a licensed fund manager can appoint a foreign fund manager to manage the foreign investments portfolio.

**18. Can foreign UTMCs offer foreign unit trusts directly to Malaysian investors?**

Foreign UTMCs may offer foreign unit trusts directly to Malaysian investors subject to compliance with the laws governing the offering of foreign securities in Malaysia, which would include sections 32 and 98 of the SCA as well as all the laws, regulations and guidelines relevant to unit trust funds and the activities of unit trust companies. Most importantly, the foreign UTMC would need to have a commercial presence in Malaysia and be licensed to conduct investment management activities by the SC.

**19. Can local UTMCs market foreign unit trusts in Malaysia ?**

Local UTMCs may market foreign unit trusts to Malaysian investors subject to compliance with the laws governing the offering of foreign securities in Malaysia, which would include sections 32 and 98 of the SCA as well as all the laws, regulations and guidelines relevant to unit trust funds and the activities of unit trust companies.

**II. Other regulatory amendments to further enhance capital market efficiency**

**G) Trading of shares of unlisted public companies**

**20. How is the trading of shares of unlisted public companies regulated and what is the effect of the 15 September 2005 amendments?**

Previously, the offering of securities of unlisted public companies made to existing holders of such securities was exempted under paragraph 12 of Schedule 1 of the SCA.

Paragraph 12 is now amended by extending the exemption to 'sophisticated investors' who fall within the ambit of paragraph 9, 10 or 11 of Schedule 2 of the SCA.

**H) Exemption from the prospectus requirement for Employee Share Option Schemes (ESOS) for non-executive directors**

**21. What was the previous position on prospectus requirements for ESOS offered to non-executive directors and what is the effect of the recent amendments?**

Under the previous paragraph 20 of Schedule 2 of the SCA, the prospectus requirement for ESOS is exempted only where the ESOS is made to employees of the company.

This exemption has now been extended to cases where ESOS is offered to non-executive directors through the amendments made to paragraph 20 of Schedules 2 and 3 of the SCA.

**I) Exemption from the prospectus requirement for conversion of convertible securities into listed shares**

**22. Does the conversion of convertible securities into listed shares require the registration of prospectus?**

Pursuant to amendments to paragraphs 27 and 28 of Schedule 3 of the SCA, the prospectus requirement is fully disapplied with regard to the conversion of convertible securities into listed shares (previously, such activity would require the registration of a prospectus in a case where there was no prospectus available at the time of the initial offering of the convertible securities).

The disapplication of the prospectus requirement for conversion of convertible securities into listed shares is aimed at ensuring minimal cost and an efficient conversion process. Furthermore, information on the securities is already available in the market, hence obviating the need for a prospectus.