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Banking & Finance

## Refinement in Foreign Exchange Policy with Respect to Financial Guarantees

The Central Bank of Malaysia ("**BNM**") has unveiled several changes to its Foreign Exchange Policy which are intended to provide greater flexibility, ease and efficiency to businesses. Amongst the new measures, which take effect from today, 30 April 2020, are the liberalising of the approval and registration process for financial guarantees. They include the following:

**(a) Residents can freely obtain financial guarantees from unrelated non-residents.**

The liberalisation referred to above applies in the following situations:

- (i) Where previously, financial guarantees exceeding RM100 million or its equivalent in foreign currency which were obtained by a resident from a non-resident which was not part of its group of entities nor its direct shareholder, to secure its borrowings obtained from a resident or a non-resident within that resident borrower's group of entities, required approval from BNM; and
- (ii) Where previously, financial guarantees obtained by residents from non-residents in any amount whether in foreign currency or Ringgit, required registration with BNM within seven working days of their issuance,

such financial guarantees no longer require BNM approval nor registration with BNM, as the case may be.

**(b) Residents can freely issue financial guarantees to non-residents.**

The liberalisation referred to above applies in the following situations:

- (i) Where previously, financial guarantees exceeding RM50 million or its foreign currency equivalent (i) to secure borrowings obtained by a non-resident which was not part of that resident's group of entities or (ii) to secure borrowings obtained by a non-resident which had obtained financing from a non-resident financial institution or any person which was not part of that resident entity's group of entities nor its direct shareholder, required approval from BNM; and

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- (ii) Where previously, a resident issuing financial guarantees exceeding RM50million or its equivalent in aggregate, needed to register such financial guarantees with BNM within seven working days of their issuance,

such financial guarantees no longer require BNM approval nor registration with BNM, as the case may be.

Notwithstanding this, financial guarantees which are issued to secure (i) foreign currency borrowings obtained by a non-resident special purpose vehicle from a non-related non-resident entity (which borrowings are subject to the borrowing limit rules prescribed by BNM) and (ii) the foreign currency borrowings obtained by a non-resident where the repayment of such borrowings are to be paid by a resident (which borrowings are subject to the investment abroad rules prescribed by BNM), require BNM approval.

As part of the liberalisation, resident guarantors are now only required to submit an annual report on the status of the financial guarantees issued to or on behalf of non-residents to BNM's Jabatan Pengurusan Data dan Statistik (JPS) in respect of which reporting requirements will be issued in due course.

The above sets out a summary of some of the main changes effected by BNM in respect of the financial guarantee approval/ registration regime, as published by BNM on its website as at 30 April 2020.

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