

Policy Document on Electronic Money (E-Money): Summary of Key Feedback Received and the Bank's Responses

Introduction

In June 2021, Bank Negara Malaysia (the Bank) issued an exposure draft on E-Money for public consultation. The Bank received feedback from more than 70 entities and wishes to record its appreciation to all respondents for providing valuable insights and constructive feedback that have in turn assisted the Bank in finalising the requirements in the policy document.

The E-Money policy document issued today has incorporated, where appropriate, feedback and proposals received during the consultation period. Additionally, certain issues raised by the respondents on the policy requirements and the overall key feedback received and the Bank's responses are summarised in the FAQs and this document, respectively, for greater clarity.

Bank Negara Malaysia
30 December 2022

1. Revision of minimum capital fund (MCF)

Feedback received:

Some respondents queried on the necessity to increase the MCF given that there are already sufficient safeguards to protect customers' interest such as the requirement to place customers' funds in a designated account, in particular a trust account, and maintenance of a liquidity ratio of one. Clarification is also sought on the Bank's expectation with respect to compliance with the MCF requirement based on 8% of outstanding e-money liabilities (OEML).

There was also a suggestion for the computation of the MCF to include intangible assets such as goodwill, licenses and intellectual properties, given that innovation is a key component of EMI's assets.

The Bank's response:

The revised MCF is an important requirement to ensure an EMI has the necessary capacity to operate and perform its function effectively at entry and on an on-going basis, thus an indicator of business sustainability. The revised MCF is reflective of the growing prominence of e-money in the financial landscape amid increased product offerings by EMIs.

For the purpose of fulfilling the MCF requirement based on 8% of OEML, the EMI shall calculate the MCF based on the monthly average of OEML in the preceding six consecutive months. In the event the EMI is required to increase the existing MCF, the adjustment to the minimum capital amount shall be reflected on timely basis no later than the following month end.

With regard to the computation of MCF, it already considers the initial investment incurred particularly the technology investments. Nonetheless, the Bank has decided to exclude intangible assets given the likely challenge to liquidate such assets as a means to generate funds. This treatment is generally also consistent with how the Bank approaches capital requirements for other regulatees.

2. Flexibility on safeguarding of funds

Feedback received:

Some respondents queried the possibility of using alternative methods beyond trust accounts to safeguard customers' funds and the potential to invest such funds in assets beyond the list prescribed by the Bank.

The Bank's response:

The use of trust accounts is the default method for safeguarding of funds by EMIs, given the protection it provides by ringfencing the funds from potential

misuse* and ensuring proper distribution of funds to the respective beneficiaries. For bank EMIs, they may also retain customers' funds in a designated account in line with current practices.

Cognisant of the cost involved in setting up and managing trust accounts, the Bank may consider allowing EMIs with outstanding e-money liabilities of less than RM1 mil to use alternative methods comparable to trust accounts to safeguard customers' funds.

While an EMI is allowed to invest customers' funds to generate income, these funds must be invested in low risk assets to safeguard customers' interests. Based on our assessment, only assets prescribed by the Bank in the policy document are considered acceptable and qualify for high quality assets to protect customers' interest.

**Funds maintained in trust accounts can only be used for specific purposes as outlined in the E-Money PD (e.g. payment to merchants, refund to customers).*

3. Risk-based authentication method for online payment transactions

Feedback received:

Some respondents suggested for the Bank to either increase the threshold for use of the risk-based authentication method for online payment transactions or allow EMIs to set their own thresholds based on internal risk controls and criteria.

The Bank's response:

A risk-based authentication method provides EMIs with an option not to authenticate online payment transactions that are deemed to be low risk. Such flexibility is given to enhance user experience when performing a low risk online payment transaction. Based our assessment, the threshold of RM250 remains appropriate, particularly in light of rising fraud attempts.

An EMI may however also adopt risk-based authentication for online payment transactions below RM10,000, where the EMI has authenticated its customer using a strong authentication method for first time use. Notwithstanding, the Bank highly encourages EMIs to authenticate all online transactions as part of security measures to foster continued public confidence in the use of e-money.

4. Timeline for compliance with IT requirements

Feedback received:

Some respondents requested for a longer period of up to 3 years to comply with all relevant IT requirements in view of the investments and additional resources

required for purposes of system upgrades, hiring of requisite subject matter experts, among other things.

The Bank's response:

Based on our assessment the 1-year transition period remains a reasonable timeline considering the criticality of the enhanced IT requirement for the EMI's business activities. The timeline also considers that the majority of industry respondents agreed that the 1-year transition period was sufficient.

5. Requirement to obtain the Bank's approval prior to conducting e-money business

Feedback received:

Some respondents sought clarification on the types of products that are not deemed as e-money.

The Bank's response:

Any payment instrument that satisfies the e-money definition under FSA/IFSA is required to be approved by the Bank. The FSA/IFSA defines e-money as any payment instrument, whether tangible or intangible, that-

- (a) stores funds in exchange of funds paid to the issuer; and
- (b) can be used to make payment to other person than the issuer.

In this regard, any products that do not fulfil the above criteria will not be deemed as e-money. Some of the examples of payment instruments that do not constitute e-money include a payment instrument that stores funds where the funds originate from the issuer of the payment instrument, or the funds can only be used to make payment to the issuer of the payment instrument itself (issuer and merchant are from the same entity) i.e "closed loop".