

FAQs on Policy Document on Disposal and Purchase of Impaired Loans/Financing

Relevant Paragraph	Question	Response
Section 2: Applicability		
<p>2.1 Part B and Part D of this policy document are applicable to:</p> <p>(a) a banking institution who is a seller of impaired loans/financing as defined in paragraph 5.2; and</p> <p>(b) a buyer of impaired loans/financing as defined in paragraph 5.2.</p> <p>2.2 For the avoidance of doubt, this policy document is only applicable to a disposal and purchase of impaired loans/financing which is on a non-recourse basis. Any disposal and purchase of impaired loans/financing through other arrangements such as asset securitisation transactions, or disposal and purchase of loans/ financing which are not impaired, do not fall within the scope of this policy document.</p> <p>2.3 Section 100(3) of the FSA and section 112(3) of the IFSA impose a requirement for an application for a disposal and purchase of impaired loans/financing to be submitted jointly by the seller and buyer to Bank Negara Malaysia (BNM) for an approval, together with documents or information under Part D as well as any other information as may be specified by BNM.</p>	<p>1. Are disposal and purchase of impaired loan/financing originating from Government's Funds excluded from the scope of applicability?</p>	<p>Loans/financing originating from Government's Funds are excluded as these are considered as loans/financing with strategic importance.</p>
	<p>2. Are the following disposal and sale of impaired loan/financing by banking institutions excluded from the scope of applicability:</p> <p>(a) corporates pursuant to private debt restructuring or statutory restructuring;</p> <p>(b) impaired loans/financing disposed and purchased by lenders within the same syndication;</p> <p>(c) impaired loans/financing disposed to a nominee/Special Purpose Vehicle (SPV) company related to the Borrower;</p> <p>(d) impaired loans/financing granted by overseas branches to non-resident borrowers which have no strategic importance to Malaysia; or</p> <p>(e) impaired loans granted to foreign customers or customers originating from Labuan branch.</p>	<p>Items (a), (b) or (c) which are normally undertaken as part of a corporate debt restructuring arrangement between lenders and borrowers do not fall under the scope of this Policy Document.</p> <p>For items (d) and (e), banking institutions are required to seek BNM's approval on the disposal of impaired loan/financing.</p>
Section 9: Eligibility criteria		
<p>9.1 Prior to submitting the joint application referred to in paragraph 2.4, the seller shall ensure that the following criteria are satisfied:</p> <p>(a) whichever of the following criteria occurs earlier –</p>	<p>3. What are the guiding principles for projects identified as strategic importance?</p>	<p>Projects are considered of strategic importance to the country if they meet at least one of the following criteria):</p> <ol style="list-style-type: none"> 1. Infrastructure projects 2. Large outlays involved 3. High contribution to GDP (high multiplier project)

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<p>(i) the impaired loans/financing remain classified as impaired for a minimum period of 12 months from the date in which such loans/financing were first classified as impaired; or</p> <p>(ii) all reasonable efforts to recover the impaired loans/financing have been exhausted by the seller. For example, reasonable efforts include the need for the seller to verify that they have the most recent contact details of the borrower, or to ensure that any notices or reminders sent to the borrower have actually been received by the intended recipient; and</p> <p>(b) the impaired loans/financing must not be loans/financing that was granted for or linked to projects of strategic importance</p>		<ol style="list-style-type: none"> 4. Involves many suppliers and service providers (high backward & forward linkages) 5. Employs large number of workers 6. Creates high skilled high paid jobs 7. High complexity, high tech, produce product with high demand 8. High productivity projects 9. Projects that promote modernisation of services <p><u>Defining national infrastructure projects</u></p> <p>An infrastructure project is a large-scale project (public and/or private) that falls into one of the following categories:</p> <ol style="list-style-type: none"> 1. Energy 2. Logistics 3. Telecommunications 4. Transportation 5. Utilities <p>These can be projects such as building new or upgrading existing roads, railway lines, power generating stations and ports, as well as those identified by the Government as strategic through its various developmental plans (such as projects involving circular economy, Integrated Water Resource Management and digital connectivity under the 12th Malaysia Plan 2021-2025). Examples of such national infrastructure projects include:</p> <p>Transportation:</p> <ol style="list-style-type: none"> 1. Pan Borneo Highway 2. Klang Valley Mass Rail Transit (KVMRT) 3. Central Spine Road 4. Kota Bharu-Kuala Krai Highway 5. Lebuhraya Pantai Timur 6. West Coast Expressway 7. Light Rail Transit (LRT) Line 3 8. Rapid Transit System Johor Bahru-Singapore 9. Gemas-Johor Bahru Electrified Double Track 10. Mukah Airport

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		<p>Telecommunications:</p> <ol style="list-style-type: none">1. High-Speed Broadband 2 (HSBB 2) and Suburban Broadband (SUBB)2. Digital Terrestrial Television (DTT) <p>Utilites:</p> <ol style="list-style-type: none">1. Batu Kitang Water Treatment Plant2. Kulim High Tech Water Treatment Plant3. Langat 2 Water Treatment Plant <p>Energy:</p> <ol style="list-style-type: none">1. Trans Thailand–Malaysia (TTM) Gas Pipeline2. RGT-2 in Pengerang, Johor3. PETRONAS floating Liquefied Natural Gas 24. Sabah-Sarawak Gas Pipeline5. Refinery and Petrochemical Integrated Development (RAPID).
	4. What is the definition of “exhausted recovery efforts”?	<p>Banking institutions are expected to have undertaken all recovery efforts which are within its control, such as making calls, sending reminders and notices, as well as serving legal action. This does not extend to recovery processes which are beyond banking institution’s control and require longer time to conclude, such as auctions, foreclosures and bankruptcy proceedings.</p> <p>Examples of recovery actions which banking institutions are expected to exhaust include:</p> <ul style="list-style-type: none">- For secured loan/financing, banking institution has begun the disposal of collateral e.g., auction, foreclosure proceeding with a minimum of the first auction.- For unsecured loan/financing, banking institution has begun legal action e.g., obtained judgement and issuance of judgment debtors summons, garnishee proceedings or writ of seizure and sale.

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		With regards to impaired loan/financing under Agensi Kaunseling and Pengurusan Kredit's Debt Management Program (AKPK DMP), disposal of such loan/financing will need to comply with the eligibility criteria under paragraph 9.1(a).
<p>9.3 For purposes of submitting the joint application referred to in paragraph 2.4, the buyer shall ensure that the following criteria are satisfied:</p> <p>(a) the buyer has a proven track record in debt management and recovery, and there are minimal adverse complaints, written or otherwise, against its debt management and recovery practices;</p> <p>(b) the buyer has adopted satisfactory recovery approaches, including having a dedicated unit with competent personnel to effectively manage debt collection and any complaints from borrowers;</p> <p>(c) the buyer has adequate and competent staff with recognised qualifications from reputable institutions of higher learning, or adequate knowledge and training, including, if applicable, in Islamic banking and finance or Shariah law; and</p> <p>(d) where a buyer intends to outsource the collection or recovery of the impaired loans/financing to a service provider, the buyer must ensure that the service provider meets the criteria specified in paragraphs 9.3 (a) to (c).</p>	5. What would be tantamount to "adequate and competent staff with recognised qualifications", as per paragraph 9.3(c)?	The expected criteria for the buyer, including recovery approaches and staff qualifications, should at least be at par with the banking institutions' requirements and industry best practices, as they are expected to perform the similar functions as the banking institutions and are subject to the similar regulatory expectations to treat customers fairly.
	6. What are the working definitions for term used to describe "satisfactory recovery approaches" and examples or scenarios that would fall under the terms?	
	7. How can seller have a holistic picture when engaging potential buyers as there is no central complaint repository on buyer(s) for adverse complaints by borrowers.	In this context, the seller can consider requesting for the potential buyer to provide details on the volume and type of complaints handled by the potential buyer as well as the indicators or measures used to assess effectiveness of its complaints handling function. In addition, the seller may also conduct further validation through its own research on online sources and review of social media networks to check if any material complaints have been submitted against the potential buyer.
	8. Can banking institutions outsource the following functions to a service provider? (i) Shariah compliance; or (ii) Complaint handling	Outsourced service providers may only be appointed for purposes of debt collection practices as specified in paragraphs 13.36 to 13.43 of the Policy Document.
	9. For Islamic Financing, is it allowed for the financing to be sold to conventional bank/non-bank buyer if the buyer is able to comply with paragraph 9.3(c)?	The buyer must ensure that the impaired financing continues to be Shariah compliant. Nevertheless, at the point of sale, the seller is required to assess the buyer's

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	10. Does the responsibility of ensuring Islamic financing continues to be Shariah compliant be undertaken by sellers, or the responsibility be shifted to the buyer?	capability and capacity to ensure Shariah compliance on a continuous basis.
Section 11: Business conduct requirements		
11.1 Pursuant to section 123 of the FSA and section 135 of the IFSA, the seller must notify the affected borrowers in writing of its intention to dispose of its impaired loans/financing to a buyer no later than ninety (90) calendar days prior to entering into an agreement or arrangement for the disposal of the impaired loans/financing to the buyer.	11. What is the reason for the requirement of 90-day period to notify the affected borrowers in writing of the intention to dispose of its impaired loans/financing to a buyer?	The 90-day period is intended to provide sufficient time for customers to decide whether to fully settle or regularise the account before the impaired loan/financing is sold to the buyer. Related to this, banking institutions are required to notify the affected customers within 7 calendar days from the date the sale is completed.
11.2 The seller must allow a period of ninety (90) calendar days from the date of the notice provided in paragraph 11.1 for the affected borrowers to regularise or settle their outstanding loans/financing, before entering into an agreement or arrangement for the disposal of the impaired loans/financing to the buyer.	12. In the event there is no response from the borrower after 90 calendar days, can the seller by default assume no objection from borrowers and proceed with the account transfer to the buyer?	The seller should ensure that adequate notice has been provided to the borrower and this should exclude borrowers who have displayed genuine efforts in settling outstanding amount, regularising monthly payments or enrolling into AKPK's DMP, prior to proceeding with the account transfer to seller.

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<p>11.4 When the impaired loans/financing are sold off to a non-bank buyer who does not have access to the Central Credit Reference and Information System (CCRIS), and the seller receives a written request from the non-bank buyer pursuant to paragraph 13.3(a) or a written notification by the borrower pursuant to paragraph 13.3(b) that the borrower has fully settled the impaired loans/financing with the non-bank buyer:</p> <p>(a) the seller shall update the status of the borrower to 'Settled' within seven (7) calendar days from the date the seller receives the request from the non-bank buyer or notification by the borrower</p>	<p>13. How will the impaired loan/financing be recorded and updated in CCRIS whenever there is a repayment or settlement, given that non-bank buyer does not have access to CCRIS?</p>	<p>The reporting requirements in CCRIS for loan/financing sold off to non-bank buyer will be reflected in the Policy Document on CCRIS Reporting.</p> <p>In summary, the seller is required to maintain the record in CCRIS under a designated code and update when there is full settlement as notified by the non-bank buyer and/or the borrower.</p> <p>The seller is required to maintain the borrower's record in the CCRIS (as is basis) until full settlement, as the buyer has no access to CCRIS.</p>
	<p>14. Can the CCRIS account status be updated by the buyer/seller with BNM directly instead of the seller bank, to prevent operational lapses as the loan may take years to fully settle?</p>	
	<p>15. What is the retention period required and other data maintenance obligations on the seller for the disposed accounts?</p>	<p>The data retention period and related obligations is similar to the treatment for settled accounts.</p> <p>All documents and records must be kept for 7 years post-completion of the transactions or operations to which the entries relate, as stipulated within the Companies Act 2016 and Personal Data Protect Act 2010.</p>
<p>Part C: Additional Requirements for Non-Bank Buyer Section 13: Business conduct requirements</p>		
<p>13.1 Upon completion of the disposal and purchase of impaired loans/ financing where a non-buyer assumes the rights and titles to such impaired loans/ financing, a non-bank buyer must disclose its commitment to recover debts in a prominent and transparent manner, as well as how it intends to implement such commitments which shall, at a minimum, include:</p> <p>(a) the contact details for queries and complaints;</p> <p>(b) the time taken to respond to queries and resolve complaints;</p>	<p>16. Who is responsible in ensuring that the non-bank buyer complies with this regulation?</p>	<p>The Board and senior management of the non-bank buyer are responsible for ensuring the firm's compliance with this requirement. In this regard, BNM has the right to take appropriate enforcement actions against the non-bank buyer on any non-compliances with this Policy Document pursuant to section 234 of FSA and section 245 of IFSA.</p>

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(c) information on other avenues to lodge complaints and disputes resolution as specified in paragraph 11.5(ii); and (d) if applicable, assurances that its business and conduct comply with Shariah requirements at all times.		
13.2 For purposes of paragraph 13.1, the commitments may be disclosed to the affected borrowers through the publication of a notice or Charter in its website or prominently displayed at its business premises, or by sending a notice directly to affected borrowers.	17. Can non-bank buyers utilise a mix of the modes of communication as indicated in paragraph 13.1 to ensure that the commitment is communicated to as many affected borrowers as possible?	The non-bank buyer may consider any combination of communication methods that will ensure adequate and effective communication to affected borrowers.
13.45 A buyer must not onward sell any impaired loans/financing purchased from a seller.	18. How will the limitations for the onward selling of an impaired financing be applied for Islamic financing, in view that Shariah prohibits the imposition of such conditions in the agreement between buyer and seller.	The prohibition imposed on non-bank buyers from onward selling the impaired financing it has purchased is imposed directly on the non-bank buyer through the issuance of this Policy Document and is not a condition which needs to be included in the agreement between buyer and seller.

Bank Negara Malaysia

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