

Exposure Draft on Disposal and Purchase of Impaired Loans/ Financing Feedback Statement

Summary of Key Feedback Received and Bank Negara Malaysia's Responses

In June 2023, Bank Negara Malaysia (BNM) issued an Exposure Draft on Disposal and Purchase of Impaired Loans/ Financing (the ED) for industry and public consultation. BNM received feedback from 33 respondents representing 31 banking institutions and two (2) non-banks. We greatly appreciate the industry's efforts in providing feedback and suggestions for our consideration in enhancing the requirements on the Disposal and Purchase of Impaired Loans/ Financing. This Feedback Statement is intended to summarise the key feedback received and BNM's responses, to provide greater insights on BNM's regulatory expectations. Other relevant feedback, suggestions and queries have been incorporated in the revised Policy Document on Disposal and Purchase of Impaired Loans/ Financing (the PD) and the Frequently Asked Questions (FAQs) to the PD.

No.	Area	Feedback received	Bank Negara Malaysia's Response
1.	Loans/financing eligibility – Seller has exhausted all reasonable efforts to recover the impaired loans/financing	Banking institutions shared the challenges to comply with one of the criteria on exhausted all reasonable efforts to recover the impaired loans/financing i.e. in providing assurance that notices/reminders sent to borrowers have been received by the intended recipients as general reminder notices are sent via normal mail.	BNM would like to clarify that this expectation is not unique to this PD and has been imposed in other PDs which require similar notifications and confirmation of receipt by banking institutions in their engagements with consumers. Related to this, banking institutions should be guided by BNM's expectations and requirements in the Guidelines on Product Transparency and Disclosures as well as Policy Document on Fair Treatment of Financial Consumer on provision of information.
2.	Loans/financing eligibility - Waiting period prior to sale of impaired loans/ financing	BNM received suggestions to reduce the waiting period of 12 months prior to sale of an impaired loans/ financing, due to concerns on depreciation of collateral value over time.	This waiting period is intended to ensure that banking institutions do exhaust all reasonable collection and recovery efforts before considering the disposal of impaired loans/financing.

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3.	Buyer of impaired loans/ financing need to be locally incorporated	<p>There were suggestions to consider including foreign incorporated companies (banking institution / non-bank) or special purpose vehicle established with a non-locally incorporated company as "buyers".</p> <p>It is argued that for the disposal of impaired loans to foreign incorporated banking institutions, these institutions are governed on borrowers' rights by their respective regulators as well.</p>	<p>The requirement for the buyers to be locally incorporated entities has been proposed to ensure BNM has regulatory reach on the buyer in the event there are any non-compliances with the conditions imposed on buyers in the PD.</p>
4.	Operational readiness and system enhancements	<p>Feedback received expressed concerns on potential challenges such as operational readiness and system enhancements for operational requirements such as tagging or accounting records.</p>	<p>While the requirements in the PD will be effective immediately upon its issuance, the sale of impaired loans/financing is not a routine or regular banking transaction. Banking institutions will only be expected to comply with the requirements when they decide to embark on disposal of impaired loans/ financing arrangements.</p> <p>Hence, banking institutions should ensure that its systems are ready to comply with the requirements prior to undertaking such disposal. Banking institutions are also expected to ensure on-going compliance with the PD requirements after embarking on the disposal of impaired loans/ financing.</p>
5.	Accounting treatment	<p>The query is on whether if a buyer is an SPV of a banking institution, would banking institution be required to classify it as</p>	<p>Banking institutions should be guided by requirements in paragraph 10 of the Policy Document on "Financial Reporting" or "Financial Reporting for Islamic Banking</p>

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		<p>impaired, hence defeat the objective/intention of the banking institutions undertaking the sale of the impaired loans.</p> <p>There is also query on whether amortisation of losses is allowed for disposal of impaired loans/ financing arrangement under the PD.</p>	<p>Institutions" as well as the Malaysian Financial Reporting Standards (MFRS).</p> <p>In relation to this, banking institutions should decide on the structure or arrangement for the disposal of the impaired loans/financing that best suits its business needs.</p>
6.	Approval requirements	Banking institution queried whether BNM will be considering Recurring Sale based on a set of agreed rules over a period of time - e.g., a half yearly sale of unsecured accounts charged off for at least 12 months for the next three (3) years, or yearly sale of secured accounts after three (3) times of auctions for the next five (5) years.	BNM may consider granting an approval for recurring sale, subject to appropriate safeguards and conditions, as deemed appropriate.
7.	Responsibilities of the Board and Senior Management	Banking institutions queried on the expected party to perform the independent review – internal party (level for line of defense) or external party.	Banking institutions may determine the appropriate party that is independent from its business lines and is suitably qualified to ensure an objective assessment and validation on the effectiveness of a banking institution's policies and operations as well as its compliance with legal and regulatory obligations is conducted. Such parties may include the risk management, compliance or the internal audit function of banking institutions.

Bank Negara Malaysia

25 June 2024