

MALAYSIA



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Gold bullion regulatory matters in Malaysia

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Dealings in gold in Malaysia are governed under the Exchange Control Act 1953 (ECA 1953).

Under Part I of the Exchange Control Act 1953, 'gold' means gold coin and bullion and includes any gold in whatever state or form other than gold which has been materially increased in value by skilled craftsmanship;

Under section 3(1) of the ECA 1953, Bank Negara Malaysia (Central Bank) shall be responsible for administering, enforcing, carrying out, and giving effect to, the provisions of this Act and the Governor of Bank Negara Malaysia shall be the Controller of Foreign Exchange for the purposes of this Act and shall exercise, discharge, and perform on behalf of Bank Negara Malaysia, the powers, duties and functions conferred on the Controller under this Act.

Amendment to the Exchange Control Act 1953

Reference to the circular letter dated 1 April 2007 on the Amendment to the Exchange Control Act 1953, the circular letter is amended for further clarity.

The amendments are as follows:

- Section 4(1) and 4(3) were amended to regulate preparatory acts relating to dealings in gold or foreign currency by any person (resident and non-resident) in Malaysia other than an authorised dealer;

Dealings in gold or foreign currency refer to the buying, selling, borrowing or lending of gold or foreign currency.

- Section 4A was introduced to regulate advertisements relating to dealings in gold or foreign currency by any person (resident and non-resident) in Malaysia other than an authorised dealer

Bank Negara Malaysia has issued an Exchange Control Notice 2 (ECM Notice) which applies to dealings in gold as stipulated under section 4 of the Exchange Control Act 1953.

For the purpose of this ECM Notice, 'dealings in gold' means buying or selling, whether spot or forward, borrowing

or lending, importing, exporting, holding, manufacturing, smelting and refining of gold.

Under Notice 2, the 'Controller' hereby gives permission to any person to undertake dealings in gold.

Preparatory acts and advertisements on dealings in gold or foreign currency

Pursuant to the Exchange Control (Gold Exemption) Order 1986, residents and non-residents in Malaysia are free to buy, borrow, sell, lend or export gold.

To facilitate the above transactions, the Controller of Foreign Exchange (the Controller) gives general permission to a resident or a non-resident, in Malaysia to –

- issue, publish or facilitate the issuance or publication by any person, of an advertisement containing –
 - an invitation or an offer to buy, borrow, sell or lend any gold;
 - information which is intended or might reasonably be presumed to be intended to lead, directly or indirectly, to the buying, borrowing, selling or lending of any gold; or

The term 'advertisement' is as defined in subsection 4A (2) of the Exchange Control Act 1953 means the disseminating or conveying of information, invitation or solicitation by any means or in any form, including by means of –

- any newspaper, magazine, journal or other periodical;
 - posters, notices or signboards;
 - circulars, handbills, brochures, pamphlets, books or other documents;
 - letters addressed to individuals or bodies;
 - photographs or cinematographs film; or
- sound broadcasting, television, computer or other electronic means.

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