

Malaysia

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1. Fintech regulatory framework: a summary of the most relevant laws and regulations concerning fintech and financial innovation.

General overview

There is currently no specific regulatory framework governing fintech players in Malaysia. Therefore, depending on the nature of the business, fintech players may be subject to existing Malaysian laws and regulations that are applicable to traditional financial institutions, financial service providers and capital market intermediaries, or may fall within the emerging regulatory framework promulgated by Malaysian regulators.

The two main regulators in Malaysia are the Central Bank of Malaysia or Bank Negara Malaysia (BNM) and the Securities Commission Malaysia (SC), both of which have been empowered and entrusted with significant regulatory and supervisory roles and responsibilities under the relevant legislation. Some of the relevant and key laws and regulations applicable to fintech players (depending on the nature of their business) in Malaysia are set out below.

Financial Services Act 2013 (FSA)

The FSA provides that entities carrying out regulated businesses or activities, such as banking business, investment banking business, operation of payment systems, issuance of electronic money (e-money), merchant acquiring services, and insurance and takaful¹ business, shall apply for, and obtain, the requisite licences, approvals and/or registrations from BNM.

With regard to banking business, in particular digital banking business, BNM released a policy document on the licensing framework for digital banks (the 'DB Policy Document') on 31 December 2020, opening the way to digital banking by regulating the conduct of digital banking business (defined as 'banking business conducted *wholly or almost wholly through* digital or electronic means') and requiring digital banks to comply with the FSA. Following the issuance of the DB Policy Documents, BNM announced five initial successful applicants for digital bank licences in Malaysia. As of 15 July 2026, all five digital banks have commenced operations.

Given the rise of alternative payment methods in Malaysia and the growing significance of merchant acquirers in the payment landscape, BNM has issued a policy document on merchant acquiring services (the 'MAS Policy Documents') on 15 September 2021, introducing additional obligations and regulatory requirements to be complied with by acquirers providing merchant acquiring services that meet the criteria under the MAS Policy Documents, as more specifically set out in Question 3.

In relation to the issuance of e-money, the primary guidelines applicable to issuers of e-money in Malaysia is the updated Electronic Money ('E-money') guidelines issued by BNM on 31 January 2025, which outline requirements aimed to ensure the safety and reliability of e-money issued

¹ Takaful is an alternative insurance system designed to be compliant with the principles of Islamic finance. Under the Malaysian Islamic Financial Services Act 2013, takaful means an arrangement based on mutual assistance where participants agree to contribute to a common fund providing mutual financial benefits to participants or their beneficiaries on occurrence of pre-agreed events.

by e-money issuers (EMIs), and to preserve customers' and merchants' confidence in using or accepting e-money for payment of goods and services.

With regard to the insurance and takaful business, in particular digital insurance business and digital takaful business, BNM issued the Licensing and Regulatory Framework for Digital Insurers and Takaful Operators (DITOs) on 9 July 2024, setting out requirements that account for differences in the business and operating models of DITOs (compared to traditional insurers and takaful operators), the eligibility criteria for licensing of DITO applicants, application procedures and submission requirements, and the overall regulatory requirements for licensed DITOs (including a foundational phase of three to seven years), which aims to support the development of digital insurance and takaful in Malaysia.

Islamic Financial Services Act 2013 (IFSA)

While the FSA provides for the regulation and supervision of financial institutions, payment systems operators and other relevant entities, the IFSA provides for similar regulation and supervision in regard to Islamic financial institutions, payment systems operators and other relevant entities in compliance with Shariah principles. Several Shariah contract-based policy documents issued by BNM together with the Shariah rulings of BNM's Shariah Advisory Council provide key references in ensuring end-to-end Shariah compliance is met for Islamic financial and fintech products.

Money Services Business Act 2011 (MSBA)

It is provided under MSBA that any person who carries on money services business (MSB) (which includes remittance business, money-changing business and wholesale currency business) must apply for the corresponding class of licence from BNM. The class, category or description of the MSB licence required depends on the types of services to be offered by the applicant. Under the MSBA, the appointment of an MSB agent by an MSB licensee must first be approved by BNM.

In light of current market development in the remittance space, the MSBA was amended in 2024. The amendments include, among other things, a wider definition of 'remittance business' to cover different types of remittance transactions and the modus operandi used to undertake remittance transactions. Notably, certain activities that facilitate the transfer of funds will now be regarded as remittance business and will require an MSB licence from BNM.

Capital Markets and Services Act 2007 (CMSA)

Pursuant to the CMSA, any person who operates a stock market, derivative market or recognised market (which includes a peer-to-peer (P2P) financing platform, equity crowdfunding platform, property crowdfunding platform, digital asset exchange (DAX) and e-service platform, or engages in regulated activities – such as fund management (which includes fund management in relation to portfolio management services, automated discretionary portfolio management, etc) and the provision of investment advices – is required to apply for and obtain the requisite licence or registration from the SC.

In order to operate a P2P financing platform, equity crowdfunding platform, DAX or e-service platform, a person must be registered as a RMO. SC's revised Guidelines on Recognised Markets (the 'Recognised Market Guidelines') issued on 20 May 2026 set out the requirements for registration as an RMO and ongoing requirements that apply to RMOs. A recognised market essentially covers an alternative trading venue, marketplace or facility that brings together purchasers and sellers of capital market products. The level of regulation of a recognised market is less stringent compared to approved markets (ie, approved stock markets of a stock exchange or derivatives markets of a derivatives exchange under the CMSA).

With regard to robo-advisers, more specifically referred to as digital investment management (DIM) in Malaysia, whose scope of regulated activity is in 'automated discretionary portfolio management', the DIM provider's services must involve the automation of core components of portfolio management services. As part of its digital agenda for the capital market, SC has introduced the Digital Investment Management framework (under its existing licensing handbook and fund management guidelines), which sets out licensing and conduct requirements for offering such services to investors.

Regulations, policy documents and guidelines issued by BNM and SC pertaining to the FSA, IFSA, MSBA or CMSA

Some other key policy documents relevant to fintech players are as follows:

- policy document on risk management in technology (RMiT);
- policy document on operational risk integrated online network (ORION);
- policy document on electronic know your customer (e-KYC);
- Financial Technology Regulatory Sandbox Framework;
- Interoperable Fund Transfer Framework (IFTF); and
- Policy Document on Technology Requirements for Payment Services Regulatees.

New laws or regulations

In response to the growing number of unregulated players in the consumer credit space (eg, companies offering buy-now-pay-later products or services), the Consumer Credit Act has been passed by the Malaysian Parliament to provide a comprehensive framework for regulating credit business (eg, moneylending, pawnbroking, hire purchase, credit sale, buy-now-pay-later schemes, factoring and leasing) and credit service business (eg, debt collection services, debt counselling and online crowdlending services). The Consumer Credit Act came into operation in March 2026 and established the Consumer Credit Commission to oversee the aforementioned sectors that were previously under-regulated.

In the tokenisation space, SC has issued a consultation paper for the offering of tokenised capital market products and the carrying out of any regulated activities relating to such products, while

BNM has issued a discussion paper on the proposed approach to exploring asset tokenisation in the Malaysian financial sector.

Please note that the above is not exhaustive and only sets out some of the relevant key legislation that may apply to the business of a fintech player in Malaysia.

2. Regulations on crypto assets: a summary of the legal framework regarding crypto assets and how they are regulated.

General framework

Following the issuance of the Capital Markets and Services (Prescription of Securities) (Digital Currency and Digital Token) Order 2019 (the 'Digital Asset Prescription Order'), digital assets (ie, digital tokens and digital currency such as cryptocurrencies) are prescribed as 'securities' for purposes of Malaysian securities laws. Please see Question 6 for further details on how digital tokens and digital currency are defined.

While digital currency is prescribed as securities and regulated by the SC, it should be noted that digital currencies are not recognised as legal tender in Malaysia.

DAX

Pursuant to the Recognised Market Guidelines, a DAX operator is an RMO who operates an electronic platform that facilitates the trading of a digital asset and is required to be registered with the SC to facilitate the trading of a digital asset. SC will consider the following circumstances in determining whether a person may be deemed as operating, providing or maintaining a stock market or a derivatives market in Malaysia, and therefore may be considered an RMO:

- the stock market or derivatives market is operated, provided or maintained in Malaysia. This includes circumstances where the component parts of the stock market or derivatives market when taken together are physically located in Malaysia, even if any of its component parts, in isolation, are located outside Malaysia; or
- the stock market or derivatives market is located outside Malaysia and actively targets Malaysian investors (ie, the operator or the operator's representative directly or indirectly promotes that market in Malaysia).

The Recognised Market Guidelines were recently revised on 20 May 2026 by SC with the aim of enhancing and facilitating the growth of digital assets in Malaysia by:

- speeding up product launches on regulated DAX platforms by streamlining the approval process (ie, introduction of the liberalised listing framework);
- fortifying investor protection by strengthening client asset safeguards and enhancing the governance framework; and
- enhancing requirements for financial stability, shareholding and management proficiency.

The Recognised Market Guidelines also provided new guidance on the distinction between digital assets and tokenised securities (eg, tokenised shares, debentures and funds) with clarity provided that DAX operators can only facilitate the trading of digital assets, while the trading of tokenised securities would depend on the underlying securities of the token. DAX operators are also not permitted to offer a privacy token for trading on its platform.

Initial exchange offering (IEO)

In line with digital currencies and digital tokens being prescribed as securities, SC has released the Guidelines on Digital Assets, which set out the requirements related to fundraising activities through a digital token offering, operationalisation of the IEO platform and provision of digital asset custody. A person who seeks to operate an electronic platform that hosts IEO must be registered with the SC under the Guidelines on Digital Assets.

Digital asset custodian (DAC)

Under the Guidelines on Digital Assets, a DAC is a person who provides any of the services of safekeeping, storing, holding or maintaining custody of digital assets on the account of another person. A DAC is deemed to be providing capital market services and is required to be registered under section 76A of the CMA.

An RMO or registered trustee who seeks to provide any of the aforesaid services must notify the SC of its intention prior to it providing the specified services. The SC may carry out an assessment on the registered RMO or registered trustee and shall be deemed to be registered as a DAC under the Digital Assets Guidelines if the SC is satisfied that the registered RMO or trustee is able to comply with the specified requirements under the Digital Assets Guidelines.

The above is not exhaustive and only sets out some of the key provisions regarding the legal framework of crypto assets in Malaysia.

3. Payment service providers and digital wallets: a summary of regulations applying to payment service providers and/or digital wallets.

Payment system operators

Pursuant to the FSA, a person who carries out the operation of a payment system (ie, a system or arrangement for the transfer, clearing or settlement of funds or securities) that enables the transfer of funds from one banking account to another, including any debit transfer, credit transfer or standing instructions (but does not include the operation of a remittance system approved under the MSBA), or provides the operation of a payment instrument network that enables payments to be made through the use of a payment instrument, must be approved by BNM under the FSA. There are similar provisions under the IFSA.

Cross-border remittance service

Pursuant to MSBA, a person who carries out remittance business (defined in the MSBA as the business of transferring funds or facilitating the transfer of funds (regardless of the form, means or whether there is any movement of funds) on behalf of the originator inside or outside Malaysia to a beneficiary inside or outside Malaysia, and the originator and beneficiary may be the same person, but excludes such other businesses, activities, systems or arrangements as BNM may prescribe) is required to be licensed by BNM. Recent amendments to the MSBA have clarified that the term 'facilitating the transfer of funds' includes offering services to transfer funds, accepting or receiving funds, transporting funds, arranging for transfer of funds, issuing receipt for transfer of funds, utilising a system to transfer funds, allowing an account to be used for the transfer or receipt of funds, or engaging in any form of settlement activity, including net settlement, set-off and debt assignment, arising from the transfer of funds.

BNM updated its Policy Document on Governance, Risk Management and Operations for Money Services Business on 9 April 2025, which outlines the minimum standards that an MSB licensee must observe in implementing sound governance, appropriate risk management and robust internal control systems for their business. For instance, an MSB licensee is required to, inter alia, ensure that the exchange rates quoted by an MSB for all MSB transactions with its customers shall be based on the prevailing market rates when the transactions are executed, and the exchange rate used for the final transaction shall not be less favourable than the exchange rate disclosed to customers.

Merchant acquiring services

Under the MAS Policy Documents, a merchant acquirer is required to be registered pursuant to section 17 of the FSA to provide merchant acquiring services where it fulfils the following criteria:

- enters into a contract with merchants, resulting in a transfer of funds to the merchants by conducting or being responsible for fund settlement, or issuing fund settlement instructions;
- facilitates the merchant's acceptance of payment instruments; and
- is a direct participant (ie, a principal member) of payment instrument networks to provide merchant acquiring services.

Merchant acquirers are classified as large acquirers or small acquirers under the MAS Policy Documents, depending on their actual or projected average monthly transaction value. While generally the requirements under the MAS Policy Documents apply to all acquirers, there are specific requirements that apply only to large acquirers.

While outsourcing arrangements are permissible pursuant to the MAS Policy Documents, merchant acquirers remain responsible and accountable for services outsourced to any service provider (eg, payment facilitators, merchant recruitment agents, payment gateway service providers and IT service providers) under the outsourced arrangement.

Digital wallets

E-money is prescribed under the Financial Services (Designated Payment Instruments) Order 2013 as a designated payment instrument (whether tangible or intangible) that stores funds electronically in exchange for funds paid to the issuer and can be used as a means of making payments to any person other than the issuer. Pursuant to the E-Money Guidelines, e-money users may also send or receive funds to or from another user's e-money or bank account through a P2P fund transfer service if the EMI is allowed to offer such a service.

Further to the recent Financial Services (Limited Purpose Electronic Money) (Exemption) Order 2024, e-money with limited functionality that fulfils the criteria as set out in the exemption order no longer needs to comply with the E-Money Guidelines. The latest E-Money Guidelines set out two categorisations of EMIs (ie, standard EMI and eligible EMI), which are determined based on active users and market share.

The E-Money Guidelines set out the requirements that must be observed by EMIs such as:

- governance arrangements;
- operational and risk management requirements; and
- information technology requirements.

An EMI that acquires merchants for the purpose of accepting payment instruments including its own e-money must also be registered as a merchant acquirer under the FSA and should refer to the requirements in the MAS Policy Documents.

On 12 March 2026, BNM issued a Policy Document on Technology Requirements for Payment Services Regulatees, which outlines new requirements for managing technology risks by payment services regulatees (eg, EMI, merchant acquirers, licensed money service business and operators of designated payment systems). The key objectives of the policy document include introducing proportionate regulations based on tiering, given the various sizes and complexity of payment services regulatees.

The above is not exhaustive and only sets out some of the key provisions regarding the regulation of payment service providers and/or digital wallets in Malaysia.

4. Special support to fintechs: a description of special programmes supporting the fintech ecosystem, fintech startups (eg, regulatory sandboxes and accelerator programmes) and regulations regarding special support.

Sandboxes

BNM introduced the Financial Technology Regulatory Sandbox Framework on 18 October 2016 to provide a regulatory environment that is conducive for deployment of financial technology and to facilitate meaningful innovation in the Malaysian financial sector. Through the regulatory sandbox,

regulatory flexibilities may be granted to applicants to allow experimentation with fintech solutions in a live environment, subject to appropriate safeguards and regulatory requirements.

As part of its strategies to advance the digitalisation of the financial sector, BNM issued an enhanced Financial Technology Regulatory Sandbox Framework (the 'Framework') on 29 February 2024, which introduced two key enhancements to the Framework: first, simplifying the Sandbox's eligibility assessment to ensure that assessments are proportional to the development cycle of new innovations; and second, introducing a risk-proportionate accelerated track, referred to as the 'Green Lane', to facilitate faster testing of innovative solutions by granting regulatory flexibility to financial institutions with strong risk management, governance and compliance capabilities.

The SC also recently launched its own Regulatory Sandbox to facilitate the offering of eligible innovative capital market products and services by providing a controlled environment for corporations to test their proposals. The SC's Guidelines on Regulatory Sandbox were issued on 17 February 2025 to fill the gap where the regulatory framework for the offering of innovative capital market products is not available, or where an existing regulatory framework does not enable the offering unless a significant number of exemptions or variations are granted by the SC.

Accelerator

The SC also launched FIKRA ACE, a three-year initiative aimed at enhancing the Islamic capital market ecosystem by facilitating the development of Islamic fintech. The FIKRA Accelerator, as a component of FIKRA ACE, provides a platform for fintech startups to develop innovative solutions, from ideation to a minimum-viable product.

Aside from accelerators launched by the regulators, various other government-linked agencies and private entities offer programmes to foster innovation in the financial sector including PayNet through its FinTech Hub and the PayNet Accelerator Programme. The TeXnovasi Accelerator Programme was also launched by one of Malaysia's licensed digital banks in collaboration with government funding agencies and a Malaysian venture capital firm.

Initiatives

Further, SC's Alliance of finTech Community (aFINity) was launched to act as a catalyst for fintech development in the Malaysian capital market. aFINity serves as a platform for ongoing interaction between the SC as a capital market regulator and the innovators, financial institutions, government agencies, investors and other fintech stakeholders. Through aFINity, SC also collaborates with international regulators to promote innovation, including by signing innovation cooperation agreements (Fintech bridges) and frameworks. fintech startups may request support from aFINity, which will be assessed by SC and might be eligible for engagement labs with SC.

Furthermore, BNM has also collaborated with a number of partners as part of its continuous efforts to support fintech players – such as the Malaysia Digital Economy Corporation (MDEC), an agency under the Ministry of Communication and Multimedia Malaysia aimed at accelerating the digital economy growth of Malaysia – to launch several initiatives. This includes the launch of the Fintech Booster Programme to assist Malaysian-based fintech players in a better understanding of the legal, compliance and regulation requirements for their development of innovative products and services.

In terms of special support via funding, various initiatives have been implemented. For example, the Digital Innovation Fund (DIGID) was previously set up by SC to co-fund innovative projects that demonstrate the use of technology to allow new and competitive propositions in the Malaysian capital markets. Meanwhile, Malaysia Debt Ventures Berhad (MDV) was established by the government of Malaysia in 2002 with the objective of providing flexible and innovative financing facilities to develop the information and communications technology (ICT) sector in Malaysia and assisting startups. Various tax exemptions have also been introduced from time to time to boost the take up of certain fintech solutions (eg, certain tax exemptions for investors in equity crowdfunding platforms and stamp duty exemptions on instruments on P2P platforms that fulfil certain criteria).

The above is not exhaustive and only sets out some of the incentives and programmes for supporting the fintech ecosystem and fintech startups in Malaysia.

5. Open banking: a summary of regulations regarding open banking and direct or indirect regulations that affect open banking.

BNM recognises the benefits of open application programming interface (Open API) standardisation initiatives to the industry and has developed strategies for the adoption of Open API within the financial services sector.

In January 2019, BNM published policy documents on Publishing Open Data using Open API (the 'API Guidelines') that are applicable to licensed financial institutions (ie, banks, Islamic banks, insurers and takaful operators) intending to publish Open Data APIs. The API Guidelines set out the recommendation of BNM in developing and publishing Open APIs. While not obliged, financial institutions are encouraged to adhere to and adopt these specifications to ensure the industry-wide publication of standardised Open Data APIs.

Further, the IFTF was issued by BNM on 30 June 2026, replacing the previous Interoperable Credit Transfer Framework. The IFTF fosters a competitive and innovative payment landscape in Malaysia by requiring an operator of a shared payment infrastructure to establish an interoperable network scheme that facilitates financial consumers to make interbank fund transfer and inter-scheme fund transfer transactions.

Meanwhile, BNM's Open API official portal offers access to relevant dataset information available on the BNM website for third-party developers and the public to use to build their own applications.

Looking forward, BNM intends to roll out an open finance platform in collaboration with PayNet to give consumers greater control over their data between financial institutions. An Open Finance exposure draft was issued in November 2025, setting out BNM's proposed regulatory requirements for open finance, which will serve as a foundational framework to facilitate consent-driven sharing of customer information across the financial sector in a secure, open, accessible, interoperable and timely manner. The exposure draft sets out requirements relating to, among others, the criteria under which financial service providers (eg, licensed banks, insurers and eligible EMLs) are mandated to participate as data providers and data consumers in open finance, guided by the principle of reciprocity.

6. Regulation of virtual asset service providers.

Overview and enforcement authorities

As noted in Question 1 and 2, there is currently no standalone legislation specifically governing VASPs in Malaysia; however, activities of VASP are governed under existing financial and securities laws that fall within the regulatory purview of either BNM or SC, who have been entrusted with supervisory and enforcement powers under relevant Malaysian legislation.

SC is the principal authority responsible for the supervision, authorisation and enforcement of digital asset activities that constitute capital market activities under the CMSA, while BNM is the enforcement authority in respect of anti-money laundering and combating the financing of terrorism (AML/CFT) compliance for digital currency exchanges and related activities under the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 (the 'AMLA').

Both regulators have issued joint statements and public advisories cautioning investors against dealing with unlicensed or unregistered VASPs in Malaysia.

Laws and regulations

The key laws and regulations applicable to VASPs in Malaysia are as follows:

Capital Markets and Services (Prescription of Securities) (Digital Currency and Digital Token) Order 2019 (the 'Digital Asset Prescription Order')

Pursuant to the Digital Asset Prescription Order, digital assets are prescribed as 'securities' for the purposes of Malaysian securities laws. The term 'digital asset' encompasses both digital currency and digital tokens, which are defined as follows:

- 'digital currency' means a digital representation of value that is recorded on a distributed digital ledger, whether cryptographically-secured or otherwise, that functions as a medium of exchange and is interchangeable with any money, including through the crediting or debiting of an account; and
- 'digital token' means a digital representation that is recorded on a distributed digital ledger, whether cryptographically-secured or otherwise.

CMSA

Because digital assets are deemed to fall within the definition of 'securities', the regulation of activities related to digital assets fall under the CMSA. In this regard, the SC has issued relevant guidelines as noted in Question 2 to allow for the operation and regulation of the following entities:

- DAX: requiring registration as an RMO under section 34 of the CMSA, DAXs are subject to the Guidelines on Recognised Markets issued by SC;
- DAC: requiring registration under section 76A of the CMSA, DACs are subject to the Guidelines on Digital Assets issued by SC; and
- IEO operators: requiring registration as an RMO under section 34 of the CMSA, IEOs are subject to the Guidelines on Digital Assets issued by the SC.

Please refer to Question 2, which sets out more specifically what is meant by a DAX, DAC and IEO under Malaysian regulations.

Registered entities are required to comply with ongoing obligations under the relevant guidelines, including compliance with AML/CFT requirements, cybersecurity standards, investor protection measures and market conduct obligations.

AMLA

BNM regulates entities that deal in digital currencies for AML/CFT purposes under the AMLA. Pursuant to amendments to the First Schedule of the AMLA, the activities of DAX, DAC and IEO would make them 'reporting institutions' under the AMLA, requiring them to comply with applicable AML/CFT reporting and record-keeping obligations.

Further, under the Guidelines on Prevention of Money Laundering, Countering Financing of Terrorism, Countering Proliferation Financing and Targeted Financial Sanctions for Reporting Institutions in the Capital Market revised by the SC on 13 June 2024 (the 'SC's AMLA Guidelines'), a reporting institution must conduct identification and counterparty due diligence on its counterparty VASPs. For these purposes, 'VASP' is defined in the SC's AMLA Guidelines as referring to any natural or legal person who is not covered elsewhere under the Financial Action Task Force (FATF) Recommendations and who, as a business, conducts one or more of the following activities or operations for or on behalf of another natural or legal person:

- exchange between virtual assets and fiat currencies;
- exchange between one or more forms of virtual assets;
- transfer of virtual assets;
- safekeeping and/or administration of virtual assets or instruments enabling control over virtual assets; and
- participation in and provision of financial services related to an issuer's offer and/or sale of a virtual asset.

The above is not exhaustive and only sets out some of the laws and regulations applicable to VASPs in Malaysia.

7. AML and the Travel Rule in crypto asset transactions.

AMLA

The principal legislation governing AML/CFT obligations in Malaysia is the AMLA. Entities that fall within the definition of 'reporting institutions' under the AMLA are required to comply with statutory obligations such as those relating to customer due diligence (CDD), record keeping, suspicious transaction reporting (STR) and other AML/CFT requirements.

Under the AMLA and the SC's AMLA Guidelines, VASPs that conduct capital market activities may be treated as reporting institutions for the purposes of AMLA compliance. If a VASP is considered a reporting institution under the AMLA, it must adhere to the AMLA Guidelines, which require the establishment of robust CDD processes, ongoing monitoring mechanisms, and internal controls to mitigate money laundering, terrorism financing and proliferation financing (ML/TF/PF) risks associated with its activities.

Travel Rule

The SC's AMLA Guidelines impose obligations on reporting institutions providing cross-border wire transfer or domestic wire transfer of digital assets, including the obligations to collect, verify and transmit originator and beneficiary information.

Part IIIA – Wire Transfer (specifically paragraph 9) of the AMLA Guidelines sets out the specific requirements for reporting institutions that facilitate cross-border or domestic wire transfers involving digital assets. These provisions generally align with FATF standards on the collection and transmission of originator and beneficiary information.

Under SC's AMLA Guidelines, where a regulated originating institution decides to have a business relationship with an unregulated beneficiary institution, the regulated originating institution may require travel rule compliance from the unregulated beneficiary institutions by way of a contract.

CDD obligations

Part 3 (page 30) of the SC's AMLA Guidelines prescribes detailed CDD requirements consistent with section 16 of the AMLA, which establishes customer identification and verification obligations for reporting institutions. For individual customers, the relevant provisions are set out under paragraph 8.1.6 of the Guidelines.

Due diligence on counterparty VASPs

Paragraph 9.5 of the SC's AMLA Guidelines provides guidance on the identification and due diligence requirements applicable to counterparty VASPs. This aims to ensure that reporting institutions avoid dealings with illicit actors and take reasonable measures to protect the confidentiality of shared information. In addition, the SC's AMLA Guidelines provides specific guidance on the identification and due diligence procedures for counterparty VASPs, designed to

assist reporting institutions in assessing the legitimacy and risk profile of counterparties in virtual asset transactions.

In this regard, a reporting institution must identify and conduct due diligence on the counterparty VASP before the reporting institution transmits the required originator or beneficiary information.

A reporting institution does not need to undertake a due diligence process on the counterparty VASP for every individual wire transfer when dealing with a counterparty VASP for which it has previously conducted counterparty due diligence, unless there is a suspicious transaction history or other information (eg, published adverse media information, or published regulatory or criminal action involving the counterparty VASP) indicating that it should refresh the due diligence process.

Implementation and supervisory oversight

Where VASPs are considered reporting institutions under the AMLA, they are required under the AMLA Guidelines to establish and maintain robust internal AML/CFT controls, including:

- comprehensive governance frameworks and board oversight;
- ongoing transaction monitoring for suspicious or unusual activity;
- timely STR filings with the Financial Intelligence and Enforcement Department (FIED) of BNM; and
- risk-based compliance reviews and staff training.

The above is not exhaustive and only sets out an overview of the AML requirements for crypto asset transactions in Malaysia.

8. Enforcement and cross-border recognition of tokenisation and structuring of secured transactions involving crypto assets.

Malaysia is in the early stages of developing a comprehensive regulatory framework for the tokenisation of financial instruments and secured transactions involving digital assets. The current approach relies largely on existing securities, financial and company laws, supplemented by emerging guidance from the SC and BNM.

Regulation of tokenised capital market products

While there is no comprehensive legislation specifically governing the tokenisation of real-world assets, such as real estate or traditional securities, certain aspects of tokenisation are already regulated under the SC's Digital Assets Guidelines. In particular, paragraph 3.02 (and its related guidance) provides that where an issuer issues a digital token that has the features of an existing type of securities, such as unit trust funds, bonds, warrants or options, the issuer must also comply with existing requirements applicable to such securities as set out in the relevant SC guidelines, in addition to meeting requirements under the Digital Assets Guidelines.

Consultation paper on tokenised capital market products

The SC recently issued a consultation paper seeking public feedback on a proposed framework for tokenised capital market products. While no formal policy document has yet been published, the consultation paper outlines proposed requirements relating to:

- governance;
- risk management; and
- disclosure for the issuance of tokenised capital market products.

Similarly, the proposed framework under the consultation paper reinforces the position already reflected in the Digital Assets Guidelines, emphasising that capital market participants intending to offer or deal in any tokenised capital market product must continue to comply with existing requirements under the relevant securities laws and SC guidelines applicable to equivalent conventional products. This is premised on the understanding that a tokenised capital market product represents a digital representation of an existing capital market instrument recorded on a blockchain rather than a new or distinct asset class.

For example:

- Where an issuer intends to offer a tokenised bond, the issuer must first issue the bond traditionally in compliance with the Guidelines on Unlisted Capital Market Products under the Lodge and Launch Framework.
- The issuer must then ensure that the tokenisation and distribution of the bond comply with additional requirements on technology risk management and disclosure as set out in the proposed framework.
- Paragraph 7 of the consultation paper also outlines the obligations of RMOs that facilitate the offering of tokenised capital market products on their platforms.

The BNM has also issued a Discussion Paper on Asset Tokenisation, which sets out BNM's proposed approach to exploring asset tokenisation in the Malaysian financial sector. BNM supports a collaborative approach to exploring tokenisation, aiming to co-create a safe and sustainable roadmap for the development of tokenised financial services in Malaysia.

Security interests and collateral in tokenised transactions

At present, there are no specific statutory provisions governing the creation or perfection of security interests over tokenised or digital assets. Security interests are typically structured by reference to the underlying asset rather than the token itself.

Depending on the nature of the underlying asset, the existing legal instruments and procedures continue to apply.

While on-chain registration or blockchain-based control may provide evidential value, it does not replace statutory perfection requirements under Malaysian law, all of which must still be complied

with, such as registration of a charge under the Companies Act 2016 and stamping of instruments pursuant to the Stamp Act 1949.

Enforcement and recognition of governing law clauses

Malaysian courts generally recognise and give effect to foreign governing law clauses in contracts, provided that the choice of law is bona fide and not contrary to public policy.

In the event of default, secured lenders may enforce their security interests through:

- foreclosure;
- appointment of receivers or liquidators; or
- judicial sale of the secured property.

Meanwhile, there is no mandatory requirement for enforcement by public auction, unless stipulated under the relevant security instrument or statute; this again will depend on the particular nature of the security and the underlying asset. Direct appropriation of collateral by a secured lender is subject to the contractual terms between relevant parties and is to be consistent with applicable laws.

The above is not exhaustive and only sets out an overview of the enforcement and cross-border recognition of tokenisation and structuring of secured transactions involving crypto assets in Malaysia.

9. Litigation and jurisdiction on crypto assets: legal implications of disputes involving crypto assets.

Litigation in Malaysia

Malaysian jurisprudence on crypto assets is still developing, but the courts have shown readiness to interpret existing laws to accommodate digital assets. The leading case is *Robert Ong Thien Cheng v Luno Pte Ltd & Anor* [2020] 3 AMR 143, the first reported Malaysian decision directly addressing the legal nature of cryptocurrency.

In this case, the High Court affirmed that:

- Bitcoins fall within the ambit of the term 'anything' under section 73 of the Contracts Act 1950 (the 'CA'), which provides that a person to whom money has been paid, or anything delivered, by mistake or under coercion, must repay or return it.
- Although cryptocurrency is not 'money' in the legal tender sense, it constitutes a form of 'commodity' or 'thing of value' capable of being returned under section 73 of the CA.
- The High Court further observed that cryptocurrency is deemed a form of 'security' under Order 3 of the Digital Asset Prescription Order, provided that the prescribed criteria relating to trading, investment expectation and non-issuance by a government or central bank are met.

- The High Court emphasised that the CA, enacted in 1950, must be interpreted in light of modern technological and commercial developments, and that the term 'anything' under section 73 is broad enough to include digital assets such as bitcoin.

This case is significant as it demonstrates that, while cryptocurrencies are not recognised as legal tender, Malaysian courts regard them as property with inherent value, capable of being the subject of ownership, restitution and recovery actions.

Submission to a foreign jurisdiction

Generally, a party's submission to a foreign jurisdiction is legally binding and enforceable under Malaysian law.

The First Schedule of the Reciprocal Enforcement of Judgments Act 1958 (the 'REJA') specifies countries whose superior court judgments may be registered and enforced in Malaysia (including the United Kingdom, Singapore, Hong Kong and New Zealand).

Where a judgment originates from a REJA-designated country, it may be registered in the Malaysian High Court and enforced as if it were a local judgment, whereas for non-designated countries, enforcement may generally proceed under common law, requiring the judgment creditor to commence a fresh action in Malaysia based on the foreign judgment and obtain a local judgment prior to execution.

However, while the above is the general position in Malaysia, it remains open for the courts to depart from this in certain circumstances, including where enforcement of such a clause would be against public policy.

Exclusive jurisdiction clauses

Malaysian courts generally uphold exclusive jurisdiction clauses. This is clear from case law such as *World Triathlon Corporation v SRS Sports Centre Sdn Bhd* [2018] MYCA 248, where the Malaysian Court of Appeal held that, although generally a forum selection clause does not oust the jurisdiction of the court, where there is an exclusive jurisdiction clause, effect should be given to it, unless the party challenging the exclusive jurisdiction clause is able to show exceptional circumstances amounting to a strong cause warranting a refusal.

The above is not exhaustive and only sets out an overview of the litigation and jurisdiction on crypto assets in Malaysia, and the general position with regard to submission to a foreign jurisdiction and exclusive jurisdiction clauses.

10. Intellectual property (IP) and crypto assets: legal protection, ownership, enforcement and monetisation of IP rights related to digital and virtual assets.

Legal protection of innovations and inventions

In Malaysia, innovations and inventions are primarily protected under the following statutes:

- Patents Act 1983, which protects inventions that are new, involves an inventive step and is industrially applicable;
- Copyright Act 1987, which protects literary works, musical works, artistic works, films, sound recordings and broadcasts;
- Trade Marks Act 2019, which protects any sign capable of being represented graphically that is capable of distinguishing goods or services of one undertaking from those of other undertakings;
- Industrial Designs Act 1996, which protects the features of shape, configuration, pattern or ornament applied to an article by any industrial process or means; and
- Layout-Designs of Integrated Circuits Act 2000, which generally protects the three-dimensional disposition of the elements of integrated circuits.

IP rights in digital and virtual assets

The ownership of digital or virtual assets themselves does not automatically carry IP rights in Malaysia. IP protection may attach to the underlying works, inventions or designs represented by the digital or virtual assets, for example, while copyright protects the original work (eg, digital artwork or software code), it would not protect the digital asset representing it.

Ownership of IP

The ownership of patents generally vests in the inventor or employer (if created during the course of employment), or the person who commissioned the work. Patent protection can extend to blockchain-based inventions or smart contract mechanisms if they meet patentability criteria.

Trademark ownership belongs to the registered proprietor. Any person who claims to be the bona fide proprietor of a trademark may apply for the registration of the trademark if: (1) the person is using or intends to use the trademark in the course of trade; or (2) the person has authorised or intends to authorise another person to use the trademark in the course of trade.

Enforcement of IP rights

In Malaysia, owners of IP rights may bring civil actions for infringement, with available remedies including injunctions, damages and account of profits. This general enforcement framework may

apply equally to IP associated with digital and virtual assets, if the relevant criteria for IP rights protection are met.

Foreign protection and jurisdiction selection

In assessing whether to seek protection in foreign jurisdictions, regard may typically be had to factors such as:

- the commercial importance of the foreign market (eg, plans to market, sell or use in those jurisdictions/markets);
- the strength of IP protection/enforcement feasibility of that jurisdiction;
- priority or novelty considerations;
- the risk of infringement in that jurisdiction; and
- the cost-effectiveness of obtaining and maintaining rights (eg, the costs of registering IP in multiple jurisdictions).

Malaysia is a member of the Madrid Protocol (for trademarks) and the Patent Cooperation Treaty (for patents), which facilitate international filings.

In the context of digital assets, protection in jurisdictions with high digital asset adoption (eg, Singapore and United States) could be prioritised for blockchain-related IP, while having regard to the commercial importance, enforcement strength and risk of infringement in those jurisdictions.

Monetisation of IP over digital and virtual assets

In principle, IP over digital and virtual assets could be monetised in Malaysia through mechanisms such as licensing and assignment.

Monetisation through the tokenisation of rights could also be possible. However, the structure of such monetisation may need to be carefully assessed, for example, tokenised IP offerings may qualify as a digital token under the Digital Asset Prescription Order, triggering securities regulation by SC.

While there are no direct statutory restrictions on monetising IP-backed digital assets locally, compliance with existing securities and AML laws is required.

The above is not exhaustive and only sets out an overview of IP laws, protections and enforcement in Malaysia, and IP rights and potential monetisation of such rights related to digital and virtual assets in Malaysia.



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