
Technology, Media and Telecommunications

Bank Negara Malaysia Issues Policy Document on Outsourcing

Introduction

In this Technology, Media and Telecommunications Update, we wish to bring to your attention the Bank Negara Malaysia (“**BNM**”) Policy Document on Outsourcing (the “**Policy Document**”), which was issued on 28 December 2018. The Policy Document officially came into force on 1 January 2019, following a period for submission of feedback to the draft proposals by BNM on the same topic, as set out in the Exposure Draft on Outsourcing (the “**Exposure Draft**”) issued on 27 September 2017.

Objectives

The aim of the Policy Document is to strengthen governance and risk management standards in the management of outsourcing risks of financial institutions, particularly in light of changing business models and greater adoption of technology within the financial services sector.

The Policy Document (i) identifies the scope of outsourcing arrangements which are subject to the outsourcing policy, (ii) sets out the requirements and expectations on financial institutions to maintain appropriate internal governance and outsourcing risk frameworks, including those relevant to the protection of data confidentiality, and (iii) serves to ensure the continued ability of BNM to carry out effective supervisory oversight over financial institutions in relation to their outsourced activities.

Key Changes from Exposure Draft

As a whole, the Policy Document sets out in greater detail the role and responsibility of financial institutions with regard to outsourcing, and/or identifies new or more prescriptive requirements to be observed by financial institutions. These include, for example:

- (a) More detailed requirements on the role of the board and senior management;
- (b) Increase in the prescribed minimum requirements for due diligence carried out on service providers;
- (c) More prescriptive requirements on the minimum details / information to be provided for in outsourcing agreements; and
- (d) Additional requirements to be observed by financial institutions with regards to protection of data confidentiality and business continuity planning

Based on the previous proposals in the Exposure Draft, we set out below a number of the more material changes introduced / as amended in the Policy Document:

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(a) *New Policy Requirements for Outsourcing Arrangements Outside Malaysia or Which Involve a Cloud Service Provider*

For outsourcing arrangements where (i) the service provider is located or performs the outsourced activity outside of Malaysia, or (ii) the outsourcing arrangement involves a cloud service provider, the Policy Document sets out new policy requirements which specifically address the types of measures and/or considerations to be observed or complied with for such outsourcing arrangements.

(b) *Changes in Regulatory Process*

Under the Exposure Draft, it was proposed that financial institutions should obtain written approval from BNM for (i) new outsourcing arrangements or (ii) prior to renegotiating / renewing existing outsourcing arrangements.

However, under the Policy Document financial institutions are only required to obtain written approval from BNM where the financial institution:

- (i) enters into a new **material** outsourcing arrangement (where the factors to determine what is material have been set out in the new **Appendix 4** to the Policy Document); or
- (ii) makes a **significant modification** to existing material outsourcing arrangement(s).

In addition, the Policy Document introduces a new yearly submission requirement to BNM, where financial institutions are required to submit an outsourcing plan (approved by the board of the financial institution) to BNM within 3 months following the financial institutions' financial year end. The submission must, at minimum, include the types of information identified in the Policy Document.

Another notable change is the requirement imposed on senior management to maintain a register of all outsourcing arrangements entered into by the financial institution. The register must, at a minimum, include the types of information identified in the new **Appendix 5** to the Policy Document, and be readily available to BNM upon request.

(c) *Transitional Arrangements*

The previous requirement under the Exposure Draft where financial institutions had to ensure that all existing outsourcing arrangements would be time bound, has been replaced with the requirement for financial institutions to perform a gap analysis of all existing outsourcing arrangements against the requirements in the Policy Document.

Based on the gaps identified, financial institutions are required to develop an action plan to address all gaps in their existing outsourcing agreements, including timelines identifying key milestones, which needs to be completed and reported to BNM by **1 July 2019**.

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(d) Personal Data

Personal data plays an important role in the Policy Document. It would be advisable for Parties impacted by the Policy Document to review their privacy policies and data protection provisions within their outsourcing contracts.

Key Dates

Based on the above, the relevant deadlines for submission of documents to BNM and/or compliance with the Policy Document are as follows:

- (a) Gap analysis of all existing outsourcing arrangements and action plan to address the gaps identified – to be submitted to BNM by **1 July 2019**;
- (b) Outsourcing plan for 2019 – to be submitted to BNM by **1 July 2019** (unless otherwise approved by BNM); and
- (c) All existing outsourcing arrangements to comply with the requirements of the Policy Document by **1 July 2022** (unless otherwise approved by BNM).

For your ease of reference, we provide below the link to the Policy Document:

<http://www.bnm.gov.my/index.php?ch=57&pg=137&ac=752&bb=file>

We trust that the above provides you with a quick update in relation to the above.

Should you require any assistance or clarification in respect of the above (e.g. to review and highlight gaps in existing outsourcing arrangements, as well as to propose remedial measures) or in relation to any other aspect of technology, media and telecommunications or personal data protection, please feel free to get in touch with us at your convenience.

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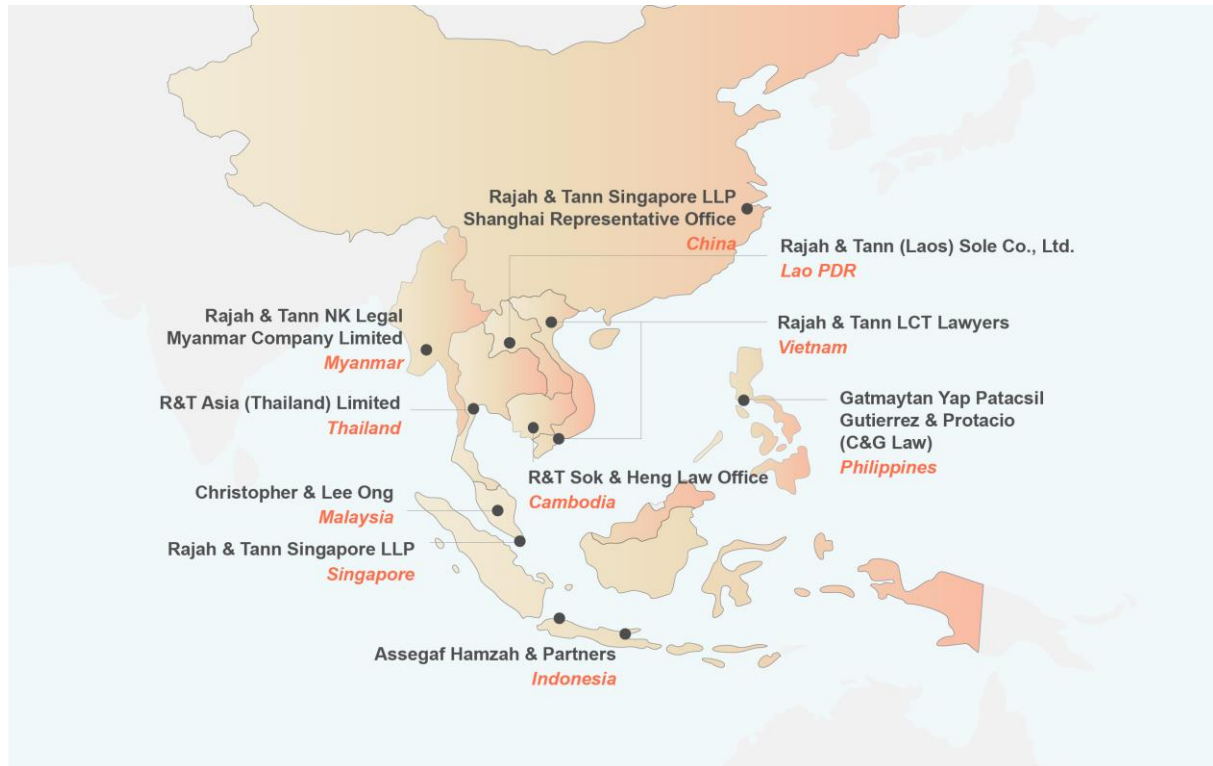
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