

CURRENCY BILL 2019

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A BILL

i n t i t u l e d

An Act to provide for the management of currency of Malaysia, regulation of currency processing business and currency processing activities and for related matters.

[]

ENACTED by the Parliament of Malaysia as follows:

PART I

PRELIMINARY

Short title and commencement

1. (1) This Act may be cited as the Currency Act 2019.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette* and the Minister may appoint different dates for the coming into operation of different parts or different provisions of this Act.

Interpretation

2. (1) In this Act, unless the context otherwise requires—

“currency processing activities” means—

- (a) the sorting of currency note or currency coin by authenticity or quality; or

- (b) the packing of currency note or currency coin by quality, quantity or denomination;

“Bank” has the same meaning assigned to it in subsection 2(1) of the Central Bank of Malaysia Act 2009 [*Act 701*];

“Governor” means the Governor of the Bank;

“financial institution” means—

- (a) a licensed bank under the Financial Services Act 2013 [*Act 758*], a licensed Islamic bank under the Islamic Financial Services Act 2013 [*Act 759*], and a prescribed institution under the Development Financial Institutions Act 2002 [*Act 618*]; or
- (b) any person declared as a financial institution in the First Schedule;

“instruments and materials” includes—

- (a) relating to currency notes, origination films, progressives, plates, proofs, and unprinted, semi-printed or finished currency notes;
- (b) relating to currency coins, designs, mould, lettering wheel, punch, collar, dies, working tools, rimming and lettering block, coin blanks and finished currency coins; and
- (c) any apparatus, equipment and machinery which are related to the issuance, printing or minting of currency note or currency coin;

“Monetary Penalty Review Committee” means the Monetary Penalty Review Committee established under section 238 of the Financial Services Act 2013;

“computer” has the same meaning assigned to it in section 3 of the Evidence Act 1950 [*Act 56*];

“currency note” means a note issued by the Bank including a commemorative note issued by the Bank for, or to commemorate, a particular event or purpose;

“currency coin” means a coin issued by the Bank including a commemorative coin issued by the Bank for, or to commemorate, a particular event or purpose;

“Minister” means the Minister charged with the responsibility for finance;

“person” means any natural person, corporation, statutory body, local authority, society, trade union, co-operative society, partnership or any other body, organisation, association or group of persons, whether corporate or unincorporated and includes the Government and any State Government;

“computer output” means a statement or representation, whether in written, printed, pictorial, film, graphical, acoustic or other form—

- (a) produced by a computer;
- (b) displayed on the screen of a computer; or
- (c) accurately translated from a statement or representation so produced;

“registered currency processor” means a person registered under subsection 26(1) to carry on a currency processing business and for the purpose of Division 3 of Part IV includes any financial institution carrying on currency processing activities;

“currency processing business” means—

- (a) the business of—
 - (i) collecting currency note or currency coin;
 - (ii) sorting currency note or currency coin by authenticity and quality; and
 - (iii) packing currency note or currency coin by quality, quantity and denomination,

by a person for or on behalf of another person; or

(b) any activity declared as currency processing business under section 23.

(2) A currency note shall be deemed defaced—

(a) if any word, sign, symbol, drawing, caricature, or other thing, has been written, inscribed, or in any other manner or by any other means has been shown on its surface; or

(b) if the currency note is torn, marred, burnt, stained, spoilt or otherwise in any manner mutilated.

(3) A currency coin shall be deemed tampered with—

(a) if the currency coin is impaired, diminished or lightened otherwise than by fair wear and tear; or

(b) if the currency coin is stamped, engraved or pierced, regardless whether the coin has been diminished or lightened.

Person declared as a financial institution

3. Any person specified in the First Schedule is declared as a financial institution for the purposes of this Act.

Powers and functions of Bank

4. (1) The powers and functions of the Bank under this Act are in addition to, and not in derogation of, the powers and functions of the Bank under the Central Bank of Malaysia Act 2009.

(2) The Governor shall exercise such powers and perform such functions of the Bank under this Act on behalf of the Bank.

(3) The Bank may, either generally or in a particular case, appoint any person, including an officer of the Bank, whether in or outside Malaysia—

(a) to exercise any of the powers or perform any of the functions, of the Bank, under this Act on behalf of and in the name of the Bank; or

- (b) to render such assistance in the exercise of any of the powers or performance of any of the functions, of the Bank, under this Act.

PART II

POWERS RELATING TO CURRENCY

Bank to be sole authority to issue currency

5. The Bank shall be the sole authority to issue currency note and currency coin in Malaysia.

Printing and minting of currency under authority of Bank

6. (1) The currency note and currency coin shall only be printed or minted by or under the authority of the Bank.

(2) The Bank shall arrange for the printing of currency note and the minting of currency coin.

Issuance, reissuance and exchange of currency at office, etc., established by Bank

7. The Bank shall issue and reissue and may exchange currency note and currency coin at the office of the Bank or at any agency as the Bank may establish or appoint for such purpose.

Bank liable for face value of currency

8. The Bank shall be liable for the face value of currency note and currency coin issued by the Bank.

Denomination and form of currency

9. (1) Currency note and currency coin issued by the Bank—

(a) shall be in such denomination of ringgit or sen; and

(b) shall be of such form, characteristics or design, or bear such feature or device,

as approved by the Minister, on the recommendation of the Bank.

(2) The standard weight and composition of currency coin issued by the Bank and the amount of remedy and variation shall be as approved by the Minister, on the recommendation of the Bank.

Legal tender

10. (1) Only currency note and currency coin issued by the Bank shall be legal tender in Malaysia at its face value provided that the currency note is not defaced and the currency coin is not tampered with.

(2) The currency note and currency coin referred to in subsection (1) shall be legal tender at its face value for a payment not exceeding the maximum aggregate quantity or value of currency note or currency coin as specified in the Second Schedule.

Sale of currency

11. (1) The Bank may, for the purpose of promoting numismatics, sell currency note or currency coin at a price other than its face value.

(2) Any proceeds from the sale of currency note or currency coin pursuant to subsection (1) shall be considered as an income to the Bank.

Safe custody of unissued currency, etc.

12. The Bank shall, in such manner as the Bank deems fit—

(a) arrange for the safe custody of unissued currency note or currency coin; and

(b) prepare and keep instruments and materials used for the issuance, printing or minting of currency note or currency coin.

Power to call in currency

13. (1) The Bank may call in any currency note or currency coin upon giving not less than one month's notice published in the *Gazette* of its intention to do so.

(2) Upon the expiration of the notice, the currency note or currency coin to which the notice applies shall cease to be legal tender.

(3) Notwithstanding subsection (2), the Bank shall be liable for the face value of any currency note or currency coin upon presentation at the office of the Bank or at any agency as the Bank may establish or appoint for such purpose.

Withdrawal of currency

14. The Bank may take all steps as the Bank deems fit to withdraw from circulation—

- (a) any currency note including currency note which is defaced or unfit for circulation;
- (b) any currency coin including currency coin which is worn or tampered with; and
- (c) any currency note and currency coin which have been called in pursuant to section 13.

Disposal of currency or printing and minting instruments

15. (1) The Bank may destroy, deal with or otherwise dispose of currency note or currency coin which has been withdrawn pursuant to section 14 in such manner as the Bank deems fit.

(2) The Bank shall arrange for the destruction of instruments and materials used for the issuance, printing or minting of currency note or currency coin in such manner as the Bank deems fit.

Refund of lost, stolen or imperfect currency

16. (1) No person shall be entitled to recover from the Bank the value—

- (a) of any currency note or currency coin which is lost, stolen or imperfect;
- (b) of any currency note which is defaced; or
- (c) of any currency coin which has been tampered with.

(2) Notwithstanding subsection (1), the Bank may, at its discretion, refund the value—

- (a) of any currency note and currency coin which is imperfect;
- (b) of any currency note which is defaced; or
- (c) of any currency coin which has been tampered with.

Preservation of quality and integrity of currency

17. For the purpose of preserving the quality and integrity, or promoting the reissuance or recirculation of currency note or currency coin, the Bank may—

- (a) enter into a contract or other arrangement with a financial institution or a registered currency processor; or
- (b) take any measures or facilitate any actions as the Bank deems fit.

PART III**OFFENCES RELATING TO CURRENCY****Prohibition from issuing, printing or minting currency**

18. (1) No person shall issue, print or mint or authorize the issuance, printing or minting of, any note, coin, token, document or instrument, whether tangible or intangible, which is likely to pass as legal tender unless the note, coin, token, document or instrument is denominated in and fully backed by ringgit or foreign currency.

(2) For the purpose of subsection (1)—

(a) a note, coin, token, document or instrument is likely to pass as legal tender, if the note, coin, token, document or instrument fulfills all of the following characteristics:

(i) the note, coin, token, document or instrument is payable to a bearer or holder on demand or upon presentation;

(ii) the note, coin, token, document or instrument is widely used in Malaysia for the purpose of payment to any person other than the issuer of such note, coin, token, document or instrument; and

(iii) the note, coin, token, document or instrument has a value other than its intrinsic value;

(b) “foreign currency” means any note, coin, token, document or instrument, whether tangible or intangible, which is legal tender in any country, territory or place outside Malaysia and includes any right to receive such note, coin, token, document or instrument; and

(c) “issue” means the act of making available for usage by any member of the public.

(3) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty million ringgit or imprisonment for a term not exceeding ten years or to both.

Restriction on use of photograph, drawing or design of currency in publication, etc.

19. (1) No person shall, unless approved by the Bank—

(a) use any photograph of or any drawing or design resembling a currency note or currency coin or any part thereof, in any publication in any size, scale or colour; or

(b) import, manufacture, sell, circulate or otherwise distribute any merchandise or product containing a photograph, drawing or design resembling a currency note or currency coin or any part thereof in any size, scale or colour.

(2) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit.

Prohibition from melting down of currency coin

20. (1) No person shall, with intention to profit, melt down any currency coin unless authorized by the Bank.

(2) The Bank may, in granting any authorization under subsection (1), impose any condition or restriction as the Bank deems fit.

(3) Any person who contravenes subsection (1) or (2), commits an offence and shall, on conviction—

(a) in the case of a natural person, be liable to a fine not exceeding fifty thousand ringgit or imprisonment for a term not exceeding one year or to both; or

(b) in the case of a body, incorporated or unincorporated, be liable to a fine not exceeding one hundred thousand ringgit.

Limitation on cash transaction

21. (1) No person shall, in a single transaction, make or receive any payment using currency note, currency coin or their combination which exceeds the maximum aggregate value as specified in the Second Schedule.

(2) For the purpose of subsection (1)—

(a) different maximum aggregate value may be provided for different purposes, classes of persons, activities, businesses or professions; and

(b) a series of transactions shall be considered as a single transaction if the transactions were made with the same person, for the same purpose and within the same day.

(3) No person shall undertake or structure, or assist or participate in the structuring of, any transaction with the intention to avoid the application of subsection (1).

(4) Any person who contravenes subsection (1) or (3) commits an offence and shall, on conviction, be liable to a fine not exceeding three times the aggregate sum or value of the transaction at the time the offence was committed.

Non-application of section 21

22. Section 21 shall not apply to any transaction—

- (a) made by a person with or through the Bank or a financial institution; or
- (b) approved by the Minister, on the recommendation of the Bank, in any exigent circumstances including the following:
 - (i) humanitarian aid; or
 - (ii) disaster relief.

PART IV

CURRENCY PROCESSING BUSINESS

Declaration of currency processing business

23. The Minister may, on the recommendation of the Bank, by an order published in the *Gazette*, declare any activity relating to the handling of currency note or currency coin as a currency processing business.

Division 1 *Registration*

Prohibition from carrying on currency processing business

24. (1) No person, other than the Bank or a financial institution, shall—

- (a) carry on a currency processing business; or
- (b) hold itself out to be a registered currency processor,

unless the person is registered under section 26.

(2) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding five million ringgit.

Application for registration

25. (1) An applicant for registration to carry on currency processing business shall—

- (a) fulfill all requirements as prescribed by the Bank;
- (b) submit an application in such form and manner, together with any information and document as may be specified by the Bank; and
- (c) pay the processing fees as may be prescribed by the Minister under section 60.

(2) No person shall apply for registration to carry on a currency processing business unless the person is a company.

(3) For the purpose of paragraph (1)(a), “prescribed” means to be prescribed by an order published in the *Gazette*, and the power to prescribe includes the power to prescribe differently for different persons or different classes, categories or descriptions of persons, and to amend any prescription.

Registration

26. (1) The Bank shall, upon receipt of an application for registration under section 25, register the applicant.

(2) An applicant shall not commence its currency processing business until the applicant is notified by the Bank of its registration under this Act.

(3) Any person who contravenes subsection (2) commits an offence and shall, on conviction, be liable to a fine not exceeding five million ringgit.

Non-registration

27. The Bank shall not register an applicant if the applicant fails to comply with section 25 and the Bank shall notify the applicant on the refusal of the application for registration.

Publication of list of registered currency processor

28. The Bank shall publish a list of registered currency processor in the form as the Bank deems fit.

Voluntary deregistration

29. (1) A registered currency processor proposing to cease from carrying on currency processing business shall give a notice to the Bank for voluntary deregistration and may propose an effective date for the voluntary deregistration.

(2) The Bank shall, upon receipt of a notice under subsection (1), deregister a registered currency processor in accordance with the proposed effective date stated in the notice, if any, or such later date as the Bank deems fit.

(3) The Bank shall notify a registered currency processor of the effective date of its voluntary deregistration under this section.

Deregistration by Bank

30. The Bank may propose to deregister a registered currency processor—

- (a) if the registered currency processor provided the Bank with false, misleading, inaccurate or incomplete information for the purpose of subsection 25(1);
- (b) if the registered currency processor has ceased from carrying on currency processing business;
- (c) if the registered currency processor commits a breach regardless no action has been taken in respect of the breach;
- (d) if the registered currency processor contravenes any provision of—
 - (i) the Central Bank of Malaysia Act 2009;
 - (ii) the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 [Act 613];

- (iii) the Money Services Business Act 2011 [*Act 731*];
- (iv) the Financial Services Act 2013; or
- (v) the Islamic Financial Services Act 2013,

regardless no prosecution or other action has been taken in respect of such contravention;

- (e) the director, chief executive officer or any person concerned with the operation or management of the registered currency processor is convicted of an offence under this Act or an offence involving fraud or dishonesty under any other written law;
- (f) the registered currency processor has been wound-up or otherwise dissolved; or
- (g) a receiver or manager of the property of the registered currency processor has been appointed.

Opportunity to make representation for action under section 30

31. (1) Where the Bank proposes to deregister a registered currency processor under section 30, the Bank shall give the registered currency processor a notice setting out the proposed deregistration and the grounds for the proposed deregistration.

(2) A registered currency processor who has received a notice under subsection (1) shall be given an opportunity to make a representation to the Bank within fourteen days from the date of the notice.

(3) If at the end of the period set out in subsection (2)—

- (a) the Bank did not receive any representation, the Bank shall deregister the registered currency processor and give the registered currency processor a notice of the deregistration; or
- (b) the Bank receives a representation, the Bank shall, after considering the representation, give the registered currency processor a notice of its decision whether to proceed with the deregistration or otherwise.

(4) A deregistration under subsection (3) shall take effect on the date as may be specified by the Bank in its notice under subsection (3).

(5) Where the Bank decides under paragraph (3)(b) to not deregister the registered currency processor, the Bank may impose any requirements on the registered currency processor as the Bank deems fit.

Effect of deregistration

32. (1) Where a registered currency processor voluntarily deregisters under section 29 or the Bank deregisters a registered currency processor under subsection 31(3), the registered currency processor shall immediately cease from carrying on currency processing business on the effective date of the deregistration.

(2) A deregistration shall not affect any right, obligation or liability arising under, any agreement, arrangement or transaction entered into by the registered currency processor with any person prior to the deregistration.

Division 2

Duties of registered currency processor

Prudent and professional practice

33. (1) A registered currency processor and a financial institution carrying on currency processing activities shall manage its business, affairs and activities prudently, professionally and with integrity, accountability and transparency.

(2) A registered currency processor and a financial institution carrying on currency processing activities shall comply and ensure that its internal policies and procedures are consistent with any standards specified by the Bank under section 61, including standards on prudential practice, integrity, professionalism and expertise in the conduct of its business, affairs and activities.

Duties of director and chief executive officer

34. Every director, chief executive officer or any person concerned with the operation or management of a registered currency processor or a financial institution carrying on currency processing activities shall ensure that the registered currency processor or the financial institution carrying on currency processing activities complies with this Act and any regulations, standards, specifications, directions or requirements made under this Act.

Fees

35. (1) A registered currency processor shall pay any fees prescribed by the Minister under section 60.

(2) No registered currency processor shall be entitled to a refund of any fees paid under subsection (1).

(3) The Bank may sue any person to recover any unpaid fees under this Act as a civil debt due to the Government and the court may award the cost of recovering the unpaid fees to the Bank.

Preservation of secrecy

36. (1) No person who is or was a director, chief executive officer, officer or employee of a registered currency processor shall disclose to any person, any information or document relating to the business or affairs of a customer of a registered currency processor unless approved by the Bank.

(2) No person, who for any reason, has by any means access to any information or document relating to the business or affairs of a customer of a registered currency processor, shall disclose to any person, such information or document unless approved by the Bank.

(3) Subsections (1) and (2) shall not apply to any disclosure—

(a) made to the Bank relating to the performance of its duties or the carrying out of its functions under this Act; or

(b) lawfully required by any court or any written law.

(4) Any person who contravenes subsection (1) or (2) commits an offence and shall, on conviction, be liable to a fine not exceeding three million ringgit or imprisonment for a term not exceeding three years or to both.

Detention of currency suspected to be counterfeit

37. The Bank, registered currency processor and financial institution shall detain any currency note or currency coin presented in any manner to the Bank, registered currency processor and financial institution which the Bank, registered currency processor and financial institution have reason to believe to be counterfeit.

Bank, registered currency processor and financial institution to record personal information of person from whom currency is detained

38. (1) Upon detention of the currency note or currency coin under section 37, it shall be lawful for the Bank, registered currency processor and financial institution to record the personal information including the name, national registration identification number and address of the person from whom the currency note or currency coin is detained by the Bank, registered currency processor and financial institution, including—

- (a) the personal information of its legal or beneficial owner; and
- (b) the personal information of its carrier or any person having in his possession the detained currency note or currency coin prior to the detention.

(2) The person from whom the currency note or currency coin is detained under section 37 shall provide the information required under subsection (1) to the Bank, registered currency processor and financial institution.

(3) Any person who contravenes subsection (2) commits an offence and shall, on conviction, be liable to a fine not exceeding twenty thousand ringgit.

Currency to be surrendered and information to be furnished, to police

39. The Bank, registered currency processor and financial institution shall surrender any currency note or currency coin detained under section 37, and the Bank, registered currency processor and financial institution shall furnish the information recorded under subsection 38(1), to the police.

Currency remains property of person from whom currency was detained if currency is genuine

40. (1) Any currency note or currency coin detained and surrendered to the police under section 39 shall remain as the property of the person from whom the currency note or currency coin is detained if the currency note or currency coin is discovered to be genuine.

(2) No person shall be entitled to recover any compensation for any loss suffered by him due to the detention of currency note or currency coin under section 37.

Submission of document or information

41. (1) A registered currency processor and a financial institution shall submit to the Bank, or to any person as the Bank may identify, any document or information in the manner and within the period as specified by the Bank.

(2) The Bank may require any person to submit any document or information as specified by the Bank relating to—

(a) a registered currency processor or its currency processing business; or

(b) a financial institution or its currency processing activities.

(3) Where any person is required to submit any document or information under subsection (1) or (2), the person shall submit document or information that is correct, accurate, complete and not misleading.

(4) Any person who contravenes subsection (1), (2) or (3) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit.

Division 3

Examination

Power to examine

42. (1) The Bank may without any prior notice, examine any—

- (a) document, account or transaction;
- (b) computer, machinery, equipment or infrastructure; and
- (c) premises or office,

relating to the currency processing business or currency processing activities of a registered currency processor or its agent.

(2) For the purpose of subsection (1), the power to examine includes the power to—

- (a) test any computer, machinery, equipment and infrastructure;
- (b) make copy of or extract any document, account, computer output, transaction and output of any machinery, equipment and infrastructure; and
- (c) take photograph of any document, account, transaction, computer, machinery, equipment, infrastructure, premises and office.

Examination of specific person

43. In carrying out an examination under section 42, the Bank may examine a person who is, or was at any time, a director, chief executive officer, officer, employee, or any person concerned with the operation or management, of the currency processing business or currency processing activities of a registered currency processor or its agent under the examination.

Right of access and production of property, etc.

44. (1) Any person under an examination under section 42 or 43 shall—

- (a) allow access to any document, account, transaction, property, apparatus, equipment, machinery, computer, computer output, system, infrastructure, premises and office; and

- (b) produce any document, account, transaction, property, apparatus, equipment, machinery, computer, computer output and system,

to the Bank in the manner and within the time as specified by the Bank.

(2) For the purpose of subsection (1), the person under an examination shall provide the Bank with the necessary key, password, encryption code, decryption code, software or hardware or any other means to enable the comprehension of any computer output, machinery, equipment or infrastructure.

(3) Any person who contravenes subsection (1) or (2) commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit.

Appearance before Bank

45. (1) A person to be examined under section 43 shall appear before the Bank at the time and place as may be specified by the Bank.

(2) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit.

PART V

ENFORCEMENT

Division 1

Actions by Bank

Breach

46. A registered currency processor or a financial institution, or its director or chief executive officer, or any person concerned with its operation or management, commits a breach under this Act if the registered currency processor or financial institution, or its director or chief executive officer, or any person concerned with its operation or management, fails to comply with or give effect to—

- (a) any provision of this Act; or

- (b) any regulations, standards, specifications, directions or requirements made under this Act.

Power to issue direction

47. (1) The Bank may, subject to sections 49 and 50, issue a direction under subsection (2) to a registered currency processor or a financial institution if the Bank thinks that—

- (a) it is necessary to do so as a result of any examination under this Act; or
- (b) the registered currency processor or the financial institution, or its director or chief executive officer, or any person concerned with its operation or management—
 - (i) is carrying or has carried on currency processing business or currency processing activities in a manner detrimental to the interests of its customers or members of the public; or
 - (ii) is committing or has committed or is likely to commit a breach.

(2) For the purpose of subsection (1), the Bank may issue a direction to the registered currency processor or the financial institution relating to one or more of the following purposes:

- (a) to prohibit the registered currency processor or the financial institution from carrying on all or any part of its currency processing business or currency processing activities;
- (b) to prohibit the registered currency processor or the financial institution from doing or performing any act or function connected with all or any part of its currency processing business or currency processing activities;
- (c) to suspend its currency processing business or currency processing activities to any extent and for any period as the Bank deems fit;
- (d) to require the registered currency processor or financial institution to—
 - (i) comply with or give effect to; or
 - (ii) do or omit any act in order to ensure compliance with,

any provisions of, regulations, standards, specifications, directions or requirements made under, this Act;

- (e) to require the registered currency processor or financial institution to take any measure as the Bank may direct to mitigate the effect of a breach.

Power to take administrative action

48. (1) Where the Bank thinks that a registered currency processor or a financial institution, or its director or chief executive officer, or any person concerned with its operation or management, has committed a breach and it is appropriate to take action against the person, the Bank may, subject to sections 49 and 50, take any one or more of the following actions:

- (a) reprimand the person in breach;
- (b) require the person in breach to issue a public statement in relation to such breach, if the Bank thinks that such breach is relevant for the information of members of the public;
- (c) where the breach is not an offence under this Act or any regulations made under this Act, impose a monetary penalty, in any amount as the Bank deems fit, but shall not exceed, relating to every breach—
 - (i) in the case of a body, incorporated or unincorporated, one hundred thousand ringgit; or
 - (ii) in the case of a natural person, twenty thousand ringgit.

(2) Where a breach was committed by a body, incorporated or unincorporated, the Bank may take any action under subsection (1) against a person who is or was its director or chief executive officer, or any person concerned with its operation or management, at the time of the commission of the breach, unless that person demonstrates that the breach was committed without his consent or connivance and that he exercised due diligence to prevent the breach as he ought to have exercised, having regard to the nature of his function in that capacity and to the circumstances.

(3) Where a breach was committed by a person who is a director or chief executive officer, or any person concerned with the operation or management, of a registered currency processor

or a financial institution during the course of his employment, the Bank may take any action under subsection (1) against the registered currency processor or financial institution.

(4) Where a person fails to pay a monetary penalty imposed by the Bank under paragraph (1)(c) within the period specified by the Bank, the Bank may sue and recover the monetary penalty as a civil debt due to the Government and the court may award the cost of recovering the unpaid monetary penalty to the Bank.

Appropriateness of action

49. In determining the appropriate action to be taken by the Bank against a person under section 47 or 48, the Bank shall take into consideration the following matters:

- (a) the effectiveness of the action to be taken;
- (b) the proportionality of the action to be taken with the findings of an examination or breach committed;
- (c) deterrence of future breach of similar nature by a registered currency processor, a financial institution or other person; and
- (d) any other matters as the Bank deems fit.

Opportunity to make representation for action under section 47 or 48

50. (1) Where the Bank proposes to take any action against a person under section 47 or 48, the Bank shall provide to the person a notice setting out the proposed action and the grounds for the proposed action.

(2) Any person who has received a notice under subsection (1) shall be given an opportunity to make a representation to the Bank within fourteen days from the date of the notice.

(3) If at the end of the period set out in subsection (2)—

- (a) the Bank did not receive any representation, the Bank shall proceed with the proposed action; or

- (b) the Bank receives a representation, the Bank shall, after considering the representation, decide whether to—
- (i) proceed with the proposed action;
 - (ii) modify the proposed action; or
 - (iii) take no further action,

and shall inform its decision to the person by a notice.

(4) If the Bank decides to modify the proposed action under subparagraph (3)(b)(ii), the Bank shall provide an additional notice and an opportunity to the person to make a representation.

(5) The decision of the Bank under paragraph (3)(b) shall take effect at any date as specified by the Bank in its notice.

Appeal against monetary penalty

51. (1) Any person who is aggrieved by a decision of the Bank under subsection 50(3) in respect of an action under paragraph 48(1)(c) may, within twenty one days after the person has been notified of the decision of the Bank, make an appeal by filing a notice to the Monetary Penalty Review Committee.

(2) The decision of the Bank under subsection 50(3) in respect of an action under paragraph 48(1)(c) shall not take effect until the appeal is disposed of.

(3) The Monetary Penalty Review Committee may decide to confirm the decision of the Bank or require the Bank to reconsider and reach a decision in accordance with the findings of the Committee.

Division 2

Criminal action

Offence by person acting in official capacity

52. (1) Where an offence is committed by a body, incorporated or unincorporated, a person who is its director or chief executive officer, or any person concerned with its operation or management, at the time of the commission of the offence is deemed to have

committed that offence unless that person proves that the offence was committed without his consent or connivance and that he exercised diligence to prevent the commission of the offence as he ought to have exercised, having regard to the nature of his function in that capacity and to the circumstances.

(2) A natural person may be prosecuted for an offence under subsection (1) notwithstanding—

- (a) that no prosecution has been instituted against the body, incorporated or unincorporated; or
- (b) that the body, incorporated or unincorporated has not been convicted of the offence.

(3) Subsection (1) shall not affect the criminal liability of the body, incorporated or unincorporated for the offence referred to in that subsection.

Offence by employee or officer or agent

53. (1) Where an offence is committed by—

- (a) an employee or officer in the course of his employment; or
- (b) an agent while acting within its authority as an agent,

the employer or the principal of the person, as the case may be, at the time of the commission of the offence, is deemed to have committed that offence and be liable to the same penalty for the offence committed by the employee or officer or agent.

(2) Nothing under subsection (1) shall absolve an employee or officer or agent from any liability for an offence.

Attempt, abetment and conspiracy

54. (1) Any person who—

- (a) attempts to commit an offence under this Act;
- (b) does an act preparatory to, or in furtherance of, the commission of an offence under this Act; or
- (c) abets or is engaged in a criminal conspiracy to commit an offence under this Act,

whether or not the offence is committed in consequence of it, commits an offence and is liable to the same penalty for that offence.

(2) For the purpose of subsection (1)—

- (a) “criminal conspiracy” has the same meaning assigned to it in section 120A of the Penal Code [*Act 574*];
- (b) “abet” has the same meaning assigned to it in section 107 of the Penal Code; and
- (c) where different punishment is provided for a natural person and for a body, incorporated or unincorporated, the person committing an offence shall be liable to the punishment provided for a natural person if he is a natural person or shall be liable to the punishment provided for a body, incorporated or unincorporated if it is a body, incorporated or unincorporated.

Seizable offence

55. Every offence punishable under this Act shall be a seizable offence, and a police officer not below the rank of Inspector may arrest without warrant any person whom he reasonably suspects to have committed or is committing the offence.

Joinder of offences

56. Notwithstanding anything contained in any other written law, where a person is accused of more than one offence under this Act, he may be charged with and tried at one trial for any number of the offences committed within any length of time.

Compounding of offences

57. (1) The Minister may, on the recommendation of the Bank, with the approval of the Public Prosecutor, make regulations prescribing—

- (a) any offence under this Act or any regulations made under this Act as an offence which may be compounded;

- (b) the criteria for compounding such offence; and
- (c) the method and procedure for compounding such offence.

(2) The Governor may, with the consent of the Public Prosecutor, at any time before a prosecution is instituted, compound any offence which may be compounded by making an offer to the person reasonably suspected of having committed the offence upon payment to the Governor a sum of money not exceeding the amount of the maximum fine to which the person would have been liable to if he had been convicted of the offence, within such time as may be specified in the offer.

(3) An offer under subsection (2) may be made at any time after the offence has been committed but before any prosecution for it has been instituted, and where the amount specified in the offer is not paid within the time specified in the offer, or such extended time as the Governor may grant, prosecution for the offence may be instituted at any time after that against the person to whom the offer was made.

(4) Where an offence has been compounded under subsection (1), no prosecution shall be instituted in respect of the offence against the person to whom the offer to compound was made, and any document or thing seized in connection with the offence may be released by the Bank, subject to such terms as the Bank thinks fit.

Prosecution

58. No prosecution for an offence under this Act shall be instituted except by or with the written consent of the Public Prosecutor.

PART VI

GENERAL

Monies received by Bank

59. Without prejudice to subsections 11(2), 35(3) and 48(4), all monies received by the Bank or the Governor pursuant to this Act shall be paid into the Consolidated Fund including any—

- (a) fees paid by a person under section 25 or 35;

- (b) monetary penalty paid under section 48; and
- (c) compound paid under section 57.

Power to make regulations

60. (1) The Minister may, on the recommendation of the Bank, make regulations as may be necessary or expedient for the purpose of carrying into effect the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), regulations may be made to provide—

- (a) for fees payable to the Bank in respect of any matter under this Act;
- (b) for the registration of a registered currency processor; and
- (c) for any other matters relating to currency.

(3) Any regulations made under this section may prescribe an act or omission in contravention of the regulations to be an offence and may prescribe penalties of a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding one year or to both for such offence.

(4) Regulations made under this section may relate to all or any class, category or description of persons, and the Minister, on the recommendation of the Bank, may make different provisions for different classes, categories or descriptions of persons.

Power to issue standards

61. The Bank may issue standards as the Bank deems fit, generally in respect of this Act, or in respect of any particular provision of this Act, or generally in respect of the conduct of a registered currency processor or a financial institution carrying on currency processing activities—

- (a) for the purpose of giving effect to its object and carrying out its function or conducting its business or affair;
- (b) for the purpose of giving full effect to any provision of this Act; or

- (c) for the further, better or more convenient implementation of the provisions of this Act.

Power to issue guidelines

62. The Bank may issue guidelines to any person or to any class, category or description of persons consisting of any information, advice or recommendation as the Bank deems fit—

- (a) relating to the provisions of this Act;
- (b) for the purpose of carrying out or achieving the regulatory objective of this Act; or
- (c) relating to any other matters which the Bank thinks is desirable to give information, advice or recommendation.

Provision relating to approval, standards, specifications, notice, requirements, directions, order or guidelines

63. (1) Any approval granted, or standards, specifications, notice, requirements, directions, order or guidelines made under this Act—

- (a) may be either general or specific; and
- (b) may be amended or revoked by the Bank.

(2) Any standards, specifications, notice, requirements, directions, order or guidelines made under this Act may provide differently for different persons or different classes, categories or descriptions of persons.

(3) Any approval granted, or standards, specifications, notice, requirements, directions, order or guidelines made under this Act shall be issued or communicated in such manner as the Bank deems fit.

Publication of enforcement action

64. The Bank may, where appropriate, publish in such form and manner as the Banks deems fit, any information in relation to any action taken by the Bank or otherwise under Part V, and the outcome of the action.

Amendment of Schedules

65. The Minister may, on the recommendation of the Bank, by an order published in the *Gazette*, amend the First Schedule and Second Schedule to this Act.

Protection against suits and legal proceedings

66. No action, suit, prosecution or other proceedings shall lie or be brought, instituted, or maintained in any court or before any other authority against—

- (a) the Minister;
- (b) the Bank;
- (c) the Governor;
- (d) any member of the Monetary Penalty Review Committee;
- (e) any director, officer or employee of the Bank; or
- (f) any person acting on behalf of the Bank,

for or on account of, or in respect of, any act, statement or omission made or omitted, or purporting to be made or omitted, in pursuance of or in execution of, or intended pursuance of or execution of, this Act, or any approval, directions, prescriptions, specifications, standards, requirements, order, guidelines and regulations made under this Act if the act, statement or omission made or omitted, or purporting to be made or omitted, in pursuance of or in execution of, or intended pursuance of or execution of, this Act, or the approval, directions, prescriptions, specifications, standards, requirements, order, guidelines and regulations made under this Act is made or omitted in good faith.

Application of section 77 of Central Bank of Malaysia Act 2009, Division 2 of Part XIV of Financial Services Act 2013 and Division 2 of Part XV of Islamic Financial Services Act 2013

67. (1) Nothing contained in this Act shall in any manner affect or derogate from the provisions of section 77 of the Central Bank of Malaysia Act 2009, Division 2 of Part XIV of the Financial Services Act 2013 and Division 2 of Part XV of the Islamic Financial Services Act 2013.

(2) This Act shall be read subject to the provisions of section 77 of the Central Bank of Malaysia Act 2009, Division 2 of Part XIV of the Financial Services Act 2013 and Division 2 of Part XV of the Islamic Financial Services Act 2013 and in the event of any conflict between this Act and the provisions, the provisions shall prevail.

(3) Nothing in this Act shall be considered as an approval for the purpose of Division 2 of Part XIV of the Financial Services Act 2013 and Division 2 of Part XV of the Islamic Financial Services Act 2013.

Exemption

68. The Minister may, on the recommendation of the Bank, by an order published in the *Gazette*, exempt any person or any class, category or description of persons, from all or any provisions of this Act for any period and subject to any conditions as the Minister may prescribe in the order.

PART VII

SAVING AND TRANSITIONAL

Saving

69. Any—

- (a) approval or determination made by the Minister under section 23 of the Central Bank of Malaysia Act 1958 [*Act 519*] shall be deemed as approval of the Minister under section 9; and
- (b) permission given by the Bank under section 27A of the Central Bank of Malaysia Act 1958 shall be deemed as approval granted by the Bank under subsection 19(1),

and shall continue to remain in full force and effect in relation to the person to whom the approval or determination or permission applies until the approval or determination or permission is amended or revoked.

Transitional

70. (1) Any person who has been carrying on currency processing business prior to the appointed date under subsection 1(2) may continue to do so as if this Act had not been enacted for a period of six months from the appointed date or any other period as specified by the Bank, which shall be referred to as the “grace period”.

(2) If the person referred to in subsection (1) intends to continue to carry on the currency processing business after the expiry of the grace period, the person shall make an application to be registered as a registered currency processor under section 25 within the grace period.

(3) Where a person referred to in paragraph (1) has been registered as a registered currency processor by the Bank, the registered currency processor shall be given an additional grace period of six months from the expiry of the grace period to fully comply with the provisions in Division 2 of Part IV and any non-compliance after the expiry of the additional grace period shall be subject to actions provided in the relevant provisions.

(4) Where a person has not applied to be registered as a registered currency processor or has his application for registration rejected on the expiry of the grace period, the person shall immediately cease from carrying on currency processing business on the expiry date of the grace period.

(5) The grace period under subsection (1) shall expire in the case where the person has applied to be registered as a registered currency processor—

- (a) on the date the application for registration as a registered currency processor is accepted by the Bank and a notification under section 26 is issued; or
- (b) on the date of service of a notice under section 27 stating that the application for registration is refused by the Bank.

FIRST SCHEDULE

[Section 3]

PERSON DECLARED AS FINANCIAL INSTITUTION

1. Licensees under the Money Services Business Act 2011 are declared as financial institutions for the purpose of sections 22, 33, 34, 37, 38, 39, 41, 42, 43, 44 and 45 and Division 1 of Part V.

SECOND SCHEDULE
[Subsections 10(2) and 21(1)]

LEGAL TENDER LIMIT

1. Currency coin shall be legal tender for the payment of any amount up to the aggregate value of twenty-five pieces of currency coin in any single payment.

LIMITATION ON CASH TRANSACTION

Nil.

EXPLANATORY STATEMENT

This Bill (“the proposed Act”) seeks to provide for the management of currency of Malaysia by Bank Negara Malaysia (“the Bank”), regulation of currency processing business and currency processing activities and for related matters.

PART I

2. Part I seeks to provide for preliminary matters.
3. *Clause 1* contains the short title of the proposed Act and seeks to empower the Minister to appoint a date for the commencement of the proposed Act.
4. *Clause 2* contains the definition of certain words and expressions used in the proposed Act.
5. *Clause 3* provides that any person specified in the First Schedule to the proposed Act is declared to be a financial institution for the purposes of the proposed Act.
6. *Clause 4* seeks to empower the Bank to exercise the powers and perform the functions under the proposed Act in a way which the Bank deems fit. This *clause* clarifies that the powers and functions of the Bank under the proposed Act are in addition to, and not in derogation of, the powers and functions of the Bank under the Central Bank of Malaysia Act 2009 [*Act 701*]. This *clause* also provides that the Governor shall exercise such powers and perform such functions of the Bank and that the Governor can appoint any person to exercise any powers or perform any functions of the Bank under the proposed Act.

PART II

7. Part II deals with the powers of the Bank on matters relating to currency.

8. *Clause 5* provides that the Bank is the sole authority in Malaysia to issue currency note and currency coin.
9. *Clause 6* provides that currency note and currency coin shall only be printed or minted by or under the authority of the Bank. This *clause* also provides that the Bank shall arrange for the printing of currency note and the minting of currency coin.
10. *Clause 7* provides that the Bank shall issue, reissue and may exchange currency note and currency coin at the office of the Bank or its agency.
11. *Clause 8* provides that the Bank shall be liable for the face value of currency note and currency coin issued by the Bank.
12. *Clause 9* provides that currency note and currency coin issued by the Bank shall be in such denomination of ringgit or sen. The physical form and the standard weight and composition of currency coin issued by the Bank and the amount of remedy and variation shall be as approved by the Minister, on the recommendation of the Bank.
13. *Clause 10* provides that currency note, if such note is not defaced, and currency coin, if such coin is not tampered with, are legal tender in Malaysia at its face value for a payment not exceeding the maximum aggregate quantity or value of currency note or currency coin as provided in the Second Schedule.
14. *Clause 11* provides that the Bank may, for the purpose of promoting numismatics sell currency note or currency coin at a price other than its face value. Any proceeds from the sale of currency note or currency coin shall be considered as an income to the Bank.
15. *Clause 12* empowers the Bank to arrange for the safe custody of unissued currency note or currency coin. This includes the preparation and keeping of instruments and materials used for the issuance, printing or minting of currency note or currency coin in such manner as the Bank deems fit.
16. *Clause 13* provides that the Bank may, upon giving not less than a month's notice in the *Gazette* of its intention to do so, call in any currency note or currency coin. Upon the expiration of the notice, currency note or currency coin to which the notice applies shall cease to be legal tender, but the Bank shall be liable for the value of any currency note or currency coin upon presentation at the office of the Bank or at any agency as the Bank may establish or appoint for such purpose.
17. *Clause 14* provides that the Bank may take all steps as the Bank deems fit to withdraw from circulation any currency note including currency note which is defaced or unfit for circulation and currency coin including currency coin which is worn or tampered with and currency note and currency coin which have been called in pursuant to *clause 13*.
18. *Clause 15* seeks to empower the Bank to destroy, deal with or otherwise dispose of currency note or currency coin which has been withdrawn pursuant to *clause 14* in such manner as the Bank deems fit. In addition, this *clause* provides that the Bank shall arrange for the destruction of instruments and materials used for the issuance, printing or minting of currency note or currency coin in the manner as the Bank deems fit.

19. *Clause 16* provides that no person shall be entitled to recover from the Bank the value of any lost, stolen or imperfect currency note or currency coin, currency note which is defaced or currency coin which has been tampered with. However, the value of imperfect currency note and currency coin, currency note which is defaced or currency coin which has been tampered with may be refunded by the Bank at the discretion of the Bank.

20. *Clause 17* enables the Bank to enter into a contract or other arrangement with a financial institution or a registered currency processor or take any measures or facilitate actions as the Bank deems fit for the purpose of preserving the quality and integrity, or promoting the reissuance or recirculation of currency note and currency coin.

PART III

21. Part III contains provisions relating to offences in respect of currency.

22. *Clause 18* prohibits any person from issuing, printing or minting or authorizing the issuance, printing or minting of, any note, coin, token, document or instrument, whether tangible or intangible, which is likely to pass as legal tender unless it is denominated in and fully backed by ringgit or foreign currency. This *clause* also lists down the characteristics of a note, coin, token, document or instrument which is likely to pass as legal tender. Any person who contravenes this provision commits an offence and shall, on conviction, be liable to a fine not exceeding fifty million ringgit or imprisonment for a term not exceeding ten years or to both.

23. *Clause 19* seeks to restrict any person from using any photograph of or any drawing or design resembling a currency note or currency coin or any part thereof, in any publication, or import, manufacture, sell, circulate or otherwise distribute any merchandise or product containing such photograph, drawing or any design or any part thereof, unless with the approval of the Bank. Any person who contravenes this provision commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit.

24. *Clause 20* seeks to prohibit a person from melting down any currency coin with the intention to profit unless authorized by the Bank.

25. *Clause 21* provides that no person shall, in a single transaction, make or receive any payment using currency note or currency coin or their combination which exceeds the maximum aggregate value as provided for in the Second Schedule to the proposed Act. Contravention of this provision is an offence and shall be punishable with a fine not exceeding three times the aggregate sum or value of the transaction at the time the offence was committed.

26. *Clause 22* provides that *clause 21* shall not apply to any transaction made by a person with or through the Bank or a financial institution or approved by the Minister, on the recommendation of the Bank, in exigent circumstances.

PART IV

27. Part IV contains provisions relating to the registration of currency processing business, duties of a registered currency processor and the examination powers of the Bank.

28. *Clause 23* seeks to empower the Minister, on the recommendation of the Bank, by an order published in the *Gazette*, to declare any activity relating to the handling of currency note or currency coin as a currency processing business.

Division 1

Registration

29. *Clause 24* provides that no person, other than the Bank or a financial institution, shall carry on currency processing business or hold itself out to be a registered currency processor unless the person is registered with the Bank under the proposed Act. Any person who contravenes this provision commits an offence and shall, on conviction, be liable to a fine not exceeding five million ringgit.

30. *Clause 25* seeks to provide for the requirements for an applicant to fulfill in order to carry on currency processing business together with payment of processing fees.

31. *Clause 26* provides that the Bank shall, upon receipt of an application for registration under *clause 25*, register the applicant. This *clause* also provides that an applicant shall not commence its currency processing business until the applicant is notified by the Bank of its registration under the proposed Act. Any person who contravenes this provision commits an offence and shall, on conviction, be liable to a fine not exceeding five million ringgit.

32. *Clause 27* provides that the Bank shall not register an applicant if the applicant fails to comply with *clause 25*.

33. *Clause 28* provides that the Bank shall publish a list of registered currency processors in the form as the Bank deems fit.

34. *Clause 29* seeks to provide for the voluntary deregistration by a registered currency processor in certain situations.

35. *Clause 30* provides that the Bank may propose to deregister a registered currency processor.

36. *Clause 31* provides that where the Bank proposes to deregister a registered currency processor under *clause 30*, the Bank shall provide an opportunity to the registered currency processor to make a representation.

37. *Clause 32* provides that where a registered currency processor voluntarily deregisters or the Bank deregisters a registered currency processor, the registered currency processor shall immediately cease from carrying on currency

processing business on the effective date of the deregistration. This *clause* also provides that deregistration shall not affect any right, obligation or liability arising under, any agreement, arrangement or transaction entered into by the registered currency processor with any person prior to the deregistration.

Division 2

Duties of registered currency processor

38. *Clause 33* provides that a registered currency processor and a financial institution carrying on currency processing activities shall manage its business, affairs and activities prudently, professionally and with integrity, accountability and transparency. A registered currency processor and a financial institution carrying on currency processing activities shall comply and ensure that its internal policies and procedures are consistent with any standards specified by the Bank including standards on prudential practice, integrity, professionalism and expertise in the conduct of its business, affairs and activities.

39. *Clause 34* provides that every director or chief executive officer, or any person concerned with the operation or management, of a registered currency processor or a financial institution carrying on currency processing activities shall ensure that the registered currency processor or the financial institution complies with the proposed Act and any regulations, standards, specifications, directions or requirements made under the proposed Act.

40. *Clause 35* seeks to provide for the obligation of the registered currency processor to pay fees as prescribed under the proposed Act. This *clause* also provides that no person shall be entitled to a refund of any fees paid under the proposed Act.

41. *Clause 36* seeks to provide for the preservation of secrecy. Any person who contravenes this provision commits an offence and shall, on conviction, be liable to a fine not exceeding three million ringgit or imprisonment for a term not exceeding three years or to both.

42. *Clause 37* provides that the Bank, registered currency processor and financial institution shall detain any currency note or currency coin presented by any means to the Bank, registered currency processor and financial institution, which the Bank, registered currency processor and financial institution have reason to believe to be counterfeit.

43. *Clause 38* provides that it shall be lawful for the Bank, registered currency processor and financial institution to record the personal information of person from whom currency is detained under *clause 37*.

44. *Clause 39* provides that the Bank, registered currency processor and financial institution shall surrender any currency note or currency coin detained under *clause 37* and the Bank, registered currency processor and financial institution shall furnish the information recorded under *subclause 38(1)*, to the police.

45. *Clause 40* provides that the currency note and currency coin detained and surrendered to the police under *clause 39* remains as the property of the person from whom it is detained if the currency note or currency coin is genuine.

46. *Clause 41* provides that a registered currency processor and a financial institution shall submit to the Bank, or to any person as the Bank may identify, any document or information in such manner and within the period as specified by the Bank. The Bank is also empowered to require any person to submit document or information relating to a registered currency processor or its currency processing business, or relating to a financial institution or its currency processing activities. Any person required to submit document or information under this *clause* shall submit the document or information that is correct, accurate, complete and not misleading. A fine not exceeding fifty thousand ringgit shall be imposed for the commission of an offence under this provision.

Division 3

Examination

47. For the purpose of Division 3, a registered currency processor includes a financial institution.

48. *Clause 42* seeks to empower the Bank to examine, without any prior notice, any document, account or transaction, computer, machinery, equipment or infrastructure and premises or office which relates to the currency processing business or currency processing activities of a registered currency processor or its agent.

49. *Clause 43* provides that the Bank may examine a person who is, or was at any time, a director, chief executive officer, officer, employee or any person concerned with the operation or management, of the registered currency processor or its agent under an examination.

50. *Clause 44* provides that any person under an examination under *clause 42* or *43* shall allow access to and produce any document, account, transaction, property, apparatus, equipment, machinery, computer, computer output and system. Any person who contravenes this provision commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit.

51. *Clause 45* provides that a person to be examined under *clause 43* shall appear before the Bank at the time and place as specified by the Bank. Any person who contravenes this provision commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit.

PART V

52. Part V contains provisions relating to enforcement.

Division 1

Actions by Bank

53. *Clause 46* provides that a registered currency processor or a financial institution, or its director, chief executive officer or any person concerned with the operation or management, commits a breach under the proposed Act if the registered currency processor or the financial institution, or its director, chief executive officer or any person concerned with the operation or management, fails to comply with any provision of the proposed Act or any regulations, standards, specifications, directions or requirements made under the proposed Act.

54. *Clause 47* seeks to empower the Bank to issue directions to a registered currency processor or a financial institution, or its director or chief executive officer, or any person concerned with its operation or management, if the Bank deems fit to do so in certain situations.

55. *Clause 48* seeks to empower the Bank to take administrative action where the Bank thinks that a registered currency processor or a financial institution, or its director or chief executive officer, or any person concerned with its operation or management, has committed a breach. Where the breach is not an offence under the proposed Act or any regulations made under the proposed Act, the Bank could also impose a monetary penalty in such amount as the Bank deems fit but shall not exceed one hundred thousand ringgit for every breach in the case of a body, incorporated or unincorporated or twenty thousand ringgit for every breach in the case of an individual.

56. *Clause 49* provides that in determining the appropriate action to be taken, the Bank shall take into consideration the effectiveness of the action, the proportionality of the action with the findings of an examination or breach committed, deterrence of future breach of similar nature by a registered currency processor, a financial institution or other person and any other matter as the Bank deems fit.

57. *Clause 50* provides that where the Bank proposes to take any action against a person under *clause 47* or *48*, the Bank shall give the person an opportunity to make a representation.

58. *Clause 51* provides that any person who is aggrieved by a decision of the Bank in relation to the monetary penalty may make an appeal by filing a notice to the Monetary Penalty Review Committee and the decision of the Bank shall not take effect until the appeal is disposed of.

Division 2

Criminal action

59. *Clause 52* provides that where an offence is committed by a body, incorporated or unincorporated, a person who is its director or chief executive officer, or any person concerned with its operation or management, at the time of the commission of the offence is deemed to have committed that offence

unless that person proves that the offence was committed without his consent or connivance and that he exercised such diligence to prevent the commission of the offence, having regard to the nature of his function in that capacity and to the circumstances. This *clause* does not absolve the criminal liability of the body, incorporated or unincorporated.

60. *Clause 53* provides that where an offence is committed by an employee or officer in the course of his employment or an agent while acting within its authority as an agent, the employer or the principal of the person, at the time of the commission of the offence is deemed to have committed that offence and be liable to the same penalty for the offence committed by the employee, the officer or the agent.

61. *Clause 54* provides that any person who attempts to commit an offence under the proposed Act, does an act preparatory to, or in furtherance of, the commission of an offence under the proposed Act or abets or is engaged in a criminal conspiracy to commit an offence under the proposed Act, commits an offence and is liable to the same penalty for that offence whether or not the offence is committed in consequence of it.

62. *Clause 55* provides that every offence punishable under the proposed Act shall be a seizable offence and a police officer not below the rank of Inspector may arrest without warrant a person whom he reasonably suspects to have committed or is committing the offence.

63. *Clause 56* provides that notwithstanding anything contained in any other written law, where a person is accused of more than one offence under the proposed Act, he may be charged with and tried at one trial for any number of such offences committed within any length of time.

64. *Clause 57* seeks to empower the Governor, with the consent of the Public Prosecutor, to compound any compoundable offence committed by any person punishable under the proposed Act.

65. *Clause 58* provides that the prosecution for an offence under the proposed Act shall be instituted with the written consent of the Public Prosecutor.

PART VI

66. Part VI deals with the general provisions.

67. *Clause 59* provides that the monies received by the Bank or the Governor under the proposed Act including any fees, monetary penalty and compound shall be paid into the Federal Consolidated Fund.

68. *Clause 60* seeks to empower the Minister, on the recommendation of the Bank, to make regulations.

69. *Clause 61* seeks to empower the Bank to issue standards in relation to a registered currency processor or a financial institution carrying on currency processing activities as the Bank deems fit.

70. *Clause 62* seeks to empower the Bank to issue guidelines to any person or to any class, category or description of persons consisting of such information, advice or recommendation as the Bank deems fit.

71. *Clause 63* provides that any standards, specifications, notice, requirements, directions, order or guidelines made under the proposed Act may be either general or specific, may be amended or revoked by the Bank or shall be issued or communicated in such manner as the Bank deems fit.

72. *Clause 64* provides that the Bank may, where appropriate, publish in such form and manner as the Bank deems fit, any information in relation to any action taken by the Bank or otherwise under Part V of the proposed Act, and the outcome of the action.

73. *Clause 65* seeks to empower the Minister, on the recommendation of the Bank, to amend the First Schedule and Second Schedule to the proposed Act by an order published in the *Gazette*.

74. *Clause 66* seeks to provide for protection against suits and legal proceedings against the Minister, the Bank, the Governor, any member of the Monetary Penalty Review Committee, any directors, officers or employees of the Bank or any person acting on behalf of the Bank if any act, statement or omission made or omitted, or purporting to be made or omitted, in pursuance of or in execution of, or intended pursuance of or execution of, the proposed Act or any approval, directions, prescriptions, specifications, standards, requirements, order, guidelines and regulations is made or omitted in good faith.

75. *Clause 67* provides that nothing contained in the proposed Act shall in any manner affect or derogate from the laws relating to foreign transactions provided for in section 77 of the Central Bank of Malaysia Act 2009, Division 2 of Part XIV of the Financial Services Act 2013 [*Act 758*] and Division 2 of Part XV of the Islamic Financial Services Act 2013 [*Act 759*].

76. *Clause 68* seeks to empower the Minister, on the recommendation of the Bank, to exempt any person or any class, category or description of persons, from all or any provisions of the proposed Act.

PART VII

77. Part VII deals with provisions relating to saving and transitional.

78. *Clauses 69* and *70* seek to provide for the saving and transitional.

FINANCIAL IMPLICATION

This Bill will not involve the Government in any extra financial expenditure.

[PN(U2)3188]