

**GUIDELINE ON THE ACQUISITION OF PROPERTIES
BY LOCAL AND FOREIGN INTERESTS**

I. INTRODUCTION

1. The purpose of this Guideline is to clarify the rules and regulations of the Foreign Investment Committee (FIC) pertaining to the acquisition of properties by local and foreign interests.

II. EFFECTIVE DATE

2. This Guideline is effective from 21 May 2003.

III. DEFINITIONS

3. In this Guideline, except when the context otherwise requires: -

acquisition means any transaction involving transfer of property ownership from one party to another;

agricultural land means land categorised as agricultural land under the National Land Code 1965;

Bumiputera means -

(a) **for Peninsular Malaysia,**

Malay individual or aborigine as defined in Article 160(2) of the Federal Constitution;

(b) **for Sarawak,**

individual as defined in Article 161A (6)(a) of the Federal Constitution;

(c) **for Sabah,**

individual as defined in Article 161A (6)(b) of the Federal Constitution;

Bumiputera interest	means any interest, associated group of interests or parties acting in concert which comprises: - (a) Bumiputera individual; or (b) local company or institution whereby Bumiputera holds more than 50% of the voting rights in the company or institution;
commercial unit	means area, premise or building used for business purposes such as shop house, shop office, shop lot, office space, business space or show room;
factory	means a building in which goods are manufactured (also referred as industrial building);
factory lot	means a piece of land located in an industrial zone (also referred as industrial lot);
foreign company	means a foreign company as defined in the Companies Act 1965;
foreign interest	means any interest, associated group of interests or parties acting in concert which comprises: - (a) individual who is not a Malaysian citizen including Permanent Resident; or (b) foreign company or institution; or (c) local company or local institution whereby the parties as stated in item (a) and/or (b) hold more than 50% of the voting rights in the company or institution;
immediate family	means individuals having marriage relationship (husband and wife) or blood ties (grandparents, siblings and children including step children and legally adopted children);

industrial land	means land categorised as industrial land under the National Land Code 1965;
industrial property	means industrial land, factory or factory lot;
interest	means holding voting rights or equity or any other rights in a company;
local company	means a company incorporated in Malaysia under the Companies Act 1965;
local interest	means any interest, associated group of interests or parties acting in concert which comprises:- (a) individual who is a Malaysian citizen; or (b) local company or local institution whereby Malaysian citizens hold more than 50% of the voting rights in the company;
own use	means for personal use or own operation and not for rental, lease or investment;
Permanent Resident	means an individual who is not a Malaysian citizen and has been granted Permanent Resident status by the Government of Malaysia;
property	means land, land with building, commercial unit or residential unit;
residential unit	means an area, premise or building for dwelling; and
voting right	means - (a) for local public company, the power to vote attributable to the share capital of a company which are exercisable at an Annual General Meeting or Extraordinary General Meeting; or (b) for private limited company, the power to vote in the company.

IV. APPLICATIONS

This Guideline shall apply to any of the following transactions: -

4. ACQUISITION OF PROPERTY BY LOCAL INTEREST

Acquisition That Requires Notification To FIC

4.1 Acquisition of property which is valued at RM10 million and less than RM20 million needs only to be notified to FIC if the transactions involve the following parties: -

4.1.1 acquisition by Bumiputera interest from other Bumiputera interest; or

4.1.2 acquisition by Bumiputera interest from non-Bumiputera interest; or

4.1.3 acquisition by non-Bumiputera interest from other non-Bumiputera interest; or

4.1.4 acquisition by local interest from foreign interest.

Acquisition That Requires The Approval Of FIC

4.2 Acquisition of property as stated below requires the approval of FIC: -

4.2.1 acquisition of property by non-Bumiputera interest from Bumiputera interest valued at RM10 million and above; or

4.2.2 acquisition of property by local interest valued at RM20 million and above. This acquisition must be registered under a locally incorporated company and is subject to the conditions for acquisition.

5. ACQUISITION OF PROPERTY BY FOREIGN INTEREST

- 5.1 Any acquisition of property by foreign interest including Permanent Resident requires the approval of FIC;
- 5.2 Foreign interest is only allowed to acquire property valued at more than RM150,000 per unit with no limit on the number of property acquired;
- 5.3 The State Authority has the discretion to consider the acquisition based on the area or location of the property, types of property and percentage of the total units in a project; and
- 5.4 Financing from internal and external sources are allowed for all acquisition of properties.

Acquisition Of Residential Unit By Permanent Resident

- 5.5 Permanent Resident is allowed to acquire residential unit valued at more than RM100,000.

Acquisition Of Residential Unit By Manufacturing Company

- 5.6 Local manufacturing company owned by foreign interest is allowed to acquire residential unit valued at less than RM150,000 but more than RM60,000 subject to the residential unit is used only for the company's employees.

Acquisition Of Commercial Unit

- 5.7 Acquisition of property valued at less than RM10 million by foreign interest does not have to incorporate a local company subject to the property is only for own use.

Acquisition Of Agricultural Land

- 5.8 Foreign interest is only allowed to acquire agricultural land valued more than RM250,000 or at least five (5) acres in area, whichever is higher subject to the conditions for acquisition;

5.9 Acquisition of agricultural land by foreign interest is only allowed for the following purposes: -

5.9.1 to carry out agricultural activities on a commercial scale using modern or high technology; or

5.9.2 to carry out agro-tourism project; or

5.9.3 to carry out agricultural or agro-based industrial activities for the production of goods for export. However, for this purpose relaxation on equity condition may be considered.

Acquisition Of Industrial Property

5.10 Foreign interest is allowed to acquire industrial property without any price limit and must be registered under a locally incorporated company subject to the conditions for acquisition.

Acquisition Of Property Through Public Auction

5.11 Foreign interest including foreign bank is allowed to acquire property through public auction valued more than RM150,000 per unit subject to the conditions for acquisition.

Transfer Of Property

5.12 Transfer of property to a foreigner based on love and affection requires the approval of FIC and is allowed among immediate family members only.

Leasing Of Property

5.13 Leasing of property for a term of 10 years and above by foreign interest requires the approval of FIC.

Disposal Of Property

5.14 Disposal of property by foreign interest to another foreign interest requires FIC approval.

5.15 Disposal of property valued at less than RM20 million by foreign interest to local interest needs only to be informed to FIC.

Charging Of Properties To Foreign Interest

- 5.16 Charging of property in Malaysia to foreign interest requires the approval of FIC.
- 5.17 Charging of property is allowed if all of the loan taken would be utilised for operation of business in Malaysia only.

6. ACQUISITION OF PROPERTY BY PUBLIC COMPANY

- 6.1 Acquisition of property by public company which is financed by cash requires the approval of FIC.

V. EXEMPTIONS

Exemption From Obtaining The Approval Of The FIC

- 7. Acquisition of property valued at less than RM10 million by local interest.
- 8. Multimedia Super Corridor (MSC) status companies are allowed to acquire any property in the MSC area without obtaining the approval of FIC provided that the property is only used for their operational activities including as residence for their employees.
- 9. Acquisition of residential unit under “Malaysia My Second Home” Programme.
- 10. Transfer of property pursuant to a will and court order.
- 11. Acquisition of industrial property by manufacturing company licensed by the Ministry of International Trade and Industry for own manufacturing.

Exemption From The Conditions For Acquisition But Requires The Approval Of FIC

- 12. Residential unit acquired for own use.
- 13. Acquisition of one (1) or more contiguous properties with a total value of less than RM10 million by foreign interest.

14. Acquisition of industrial property by foreign interests for own manufacturing operations is exempted from the equity condition only.

VI. RESTRICTIONS

15. Foreign interest is not allowed to acquire: -
- 15.1 all properties under the category of low and medium low cost as determined by the State Authority;
 - 15.2 all properties built on Malay reserve land;
 - 15.3 properties allocated to Bumiputera (Bumiputera quota) in any property development project as determined by the State Authority;
 - 15.4 stall and service workshop; and
 - 15.5 agricultural land developed on the basis of the homestead concept.

VII. CONDITIONS FOR ACQUISITION

16. Conditions for acquisition of property by local and foreign interests comprise the equity, share capital, property development and employment conditions as follows: -

Equity Condition

- 16.1 Companies which do not have any Bumiputera equity or having less than 30% Bumiputera equity, are required to increase the Bumiputera equity to at least 30%. The remaining equity shareholding can be held either by local interest, foreign interest or by both;
- 16.2 Companies with Bumiputera equity shareholding of 30% or more, but less than 51% are required to maintain at least 30% Bumiputera equity at all times; and

- 16.3 Companies which already have Bumiputera equity shareholding of 51% or more, will be required to maintain at least 51% Bumiputera equity at all times;

Share Capital Condition

- 16.4 Local company owned by foreign interests with a paid-up capital of less than RM250,000 will be required to increase the share capital to at least RM250,000 within six (6) months from the date of FIC's approval letter; and
- 16.5 Local company owned by local interest with a paid-up capital of less than RM100,000 will be required to increase the share capital to at least RM100,000 within six (6) months from the date of FIC's approval letter.

Employment Condition

- 16.6 Companies must, to the best of their ability, recruit and train Malaysians so as to reflect the country's population composition at all levels of employment.

Property Development Condition

- 16.7 If the property acquired is to be developed as housing or commercial projects, at least 75% of the total value of building materials and fittings used for the construction project should be of local materials; and
- 16.8 The company shall submit a certification issued by a certified consultant regarding the total value of the local building materials and fittings used within six (6) months after the commencement of the construction project and upon the completion of the project.
17. Acquisition of property by foreign interest as stated below has to be registered under a local company and will be subject to the conditions for acquisition: -
- 17.1 Acquisition of one (1) unit or more contiguous properties with a total value of RM10 million and above;

- 17.2 Acquisition of an entire building or an entire property development project, irrespective of the value; and
- 17.3 Acquisition of land or land with building for redevelopment on a commercial basis.

VIII. COMPLIANCE PERIOD OF EQUITY CONDITION

- 18. Equity condition imposed, if any, must be complied with within two (2) years from the date of FIC's approval letter or from the date of commencement of the development of the property, whichever is earlier;
- 19. The compliance status must be reported to the FIC at least one (1) month before the compliance deadline and/or whenever requested by the FIC; and
- 20. The compliance period may be extended for one (1) year based on the merit of the case.

IX. PROCEDURES ON SUBMITTING APPLICATION (Effective From 1 August 2004)

- 21. The onus to submit the application is on the purchaser. However, application by the vendor may also be accepted.
- 22. All applicants are fully responsible to the accuracy of the information submitted.
- 23. All proposals and communication will be treated in confidence.

Transfer Of Property And Acquisition Of Residential Unit, Commercial Unit And Industrial Property

- 24. For proposed transfer of property to foreign interest and acquisition of residential unit, commercial unit and industrial property by foreign interest, each application must be accompanied by the following documents: -
 - 24.1 Form FIC A/2004;

- 24.2 One (1) copy of the relevant agreement;
- 24.3 One (1) copy of the purchaser's Passport/ Identity Card;
- 24.4 One (1) copy of the vendor's Passport/ Identity Card;
- 24.5 One (1) copy of the Master Title;
- 24.6 One (1) copy of the Individual Title;
- 24.7 Declaration Letter FIC SA/2004 signed by the purchaser for individual, or signed by the Chairman/Managing Director/ Chief Executive Officer of the company, any member of the company's Board of Directors or any authorised personnel/individual for company (for acquisition/transfer of commercial unit and industrial property); and
- 24.8 Declaration Letter FIC SB/2004 signed by the purchaser for individual, or signed by the Chairman/Managing Director/ Chief Executive Officer of the company, any member of the company's Board of Directors or any authorised personnel/individual for company (for acquisition/transfer of residential unit).

Acquisition Of Other Properties

- 25. For proposed acquisition of other properties by local and foreign interests, each application must be accompanied by the following documents: -
 - 25.1 Form FIC H/2004;
 - 25.2 Form Proforma I/2004 and/or Proforma II/2004;
 - 25.3 One (1) copy of the relevant agreement;
 - 25.4 One (1) copy of the letter/license from the ministries or Government agencies (if applicable);
 - 25.5 One (1) copy of the approval letter on the same proposal from other ministries or Government agencies (if applicable);

- 25.6 One (1) copy of the confirmation letter from the Company Secretary on the company's current equity structure;
- 25.7 One (1) copy of the latest valuation report (transaction which involves Government agencies must be accompanied with the valuation report from *Jabatan Penilaian dan Perkhidmatan Harta*); and
- 25.8 Declaration Letter FIC SA/2004 to be signed by the Chairman/Managing Director/ Chief Executive of the company or any member of the company's Board of Directors or any authorised personnel/individual.

Acquisition Of Property For FIC's Notification

- 26. For proposed acquisition/disposal of property by local and foreign interests that requires notification to FIC, each application must be accompanied by the following documents: -
 - 26.1 Form Proforma I/2004 and/or Proforma II/2004;
 - 26.2 One (1) copy of the relevant agreement;
 - 26.3 One (1) copy of the purchaser's Passport/ Identity Card;
 - 26.4 One (1) copy of the vendor/dispenser's Passport/ Identity Card; and
 - 26.5 One (1) copy of previous FIC's approval letter.

X. DECISION BY THE FIC

- 27. Decisions by the FIC on all complete applications will be given within 24 working hours for acquisition of residential unit, commercial unit and industrial property by foreign interests and within 10 working days for other acquisition of properties.

XI. CORRESPONDENCE ADDRESS AND ENQUIRIES

28. All applications must be submitted to: -

**The Secretary,
Foreign Investment Committee,
Economic Planning Unit,
Prime Minister's Department,
Level -1, Block B5,
Federal Government Administrative Centre,
62502 Putrajaya, Malaysia.**

29. Any enquiries can be forwarded to the FIC's Secretariat: -

**Tel. No. : 603-8888 3333/2944/2916
Fax No. : 603-8888 3917**

30. This Guideline is also available on the Economic Planning Unit's website: -

Website : <http://www.epu.jpm.my>