

**FOREIGN INVESTMENT COMMITTEE
GUIDELINES FOR THE ACQUISITION OF PROPERTIES
BY LOCAL AND FOREIGN INTERESTS**

I. BACKGROUND

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 1 August 2004.

III. DEFINITIONS

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

acquisition means any transaction involving transfer of properties 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 interest group 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 premise used for business purposes such as shop house, shop office, shop lot, office space, business space or show room;

factory means a building or groups of buildings in which goods are manufactured (also referred as industrial building);

factory lot means a piece of land located in an area zoned for industrial activities (also referred as industrial lot)

foreign company	means a foreign company as defined in the Companies Act 1965;
foreign interest	means any interest, associated interest group or parties acting in concert which comprises: - <ul style="list-style-type: none"> (a) individual who is not a Malaysian citizen including Permanent Resident (also referred as foreigner); (b) foreign company; or (c) local company or institution whereby the parties as stated in paragraph (a) and/or (b) hold more than 50% of the voting rights in the company or institution;
immediate family	means individuals having marriage relationships or blood ties including husband and wife, parents and 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 of 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 interest group or parties acting in concert which comprises:- <ul style="list-style-type: none"> (a) individual who is a Malaysian citizen; and (b) local company or institution whereby Malaysian citizens hold more than 50% of the voting rights in the company;
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;
voting rights	means - <ul style="list-style-type: none"> (a) for local public company, all the voting rights 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 right to vote in the company.

IV. APPLICATIONS

4. ACQUISITION OF PROPERTY BY LOCAL INTEREST

- 4.1 Acquisition of property by **local interest less than RM10 million** in value **does not require** the approval of FIC.

Acquisition Requires Notification to FIC

- 4.2 Acquisition of property which is between **RM10 million and less than RM20 million** in value needs only to be **notified** to FIC if the transactions involve the following parties: -

4.2.1 acquisition by **Bumiputera interest** from **Bumiputera interest**; or

4.2.2 acquisition by **Bumiputera interest** from **non-Bumiputera interest**; or

4.2.3 acquisition by **non-Bumiputera interest** from **non-Bumiputera interest**; or

4.2.4 acquisition by **local interest** from **foreign interest**.

Acquisition Requires FIC Approval

- 4.3 Acquisition of property by the parties and at the value stated below **requires the approval of FIC**: -

4.3.1 acquisition of property by **non-Bumiputera interest** **from** **Bumiputera interest** valued at **RM10 million or more**; or

4.3.2 acquisition of property by **local interest** valued at **RM20 million or more**.

5. **CONDITIONS FOR ACQUISITION**

5.1 Acquisition of property has to be **registered under a local company** and will be subject to conditions pertaining to equity, employment, capital and land redevelopment (if applicable) as follows: -

Equity Condition

5.1.1 Increase Bumiputera equity to at least 30% if the company does not have any Bumiputera equity or has less than 30% Bumiputera equity; or

5.1.2 Maintain at least 30% Bumiputera equity at all times if the company has 30% or more Bumiputera equity; or

5.1.3 Maintain at least 51% Bumiputera equity at all times if the company has 51% or more Bumiputera equity;

Share Capital Condition

5.1.4 Local company **owned by foreign interest** with an issued and 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 submission received by FIC; or

5.1.5 Local company **owned by local interest** with an issued and 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 submission received by FIC.

Property Development Condition

5.1.6 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 project should be local materials;

5.1.7 The company shall submit a certification issued by a qualified consultant regarding the total value of the local building materials and fittings used six (6) months after the commencement of the project and upon the completion of the project; and

5.1.8 Acquisition of any developed property by foreign interest requires the approval of FIC.

Employment Condition

5.1.9 All companies must, to the best of their ability, recruit and train Malaysian citizens so as to reflect the country's population composition at every level of employment.

Exemption of Equity Condition

5.1.10 Listed company which has complied with equity conditions upon listing will not be subject to any equity condition; and

5.1.11 **Property acquired for own residence is exempted from the above conditions.**

6. COMPLIANCE PERIOD OF EQUITY CONDITIONS

- 6.1 Equity conditions imposed, if any, must be complied **within two (2) years** from the date of submission received by the FIC or from the date of commencement of the development of the property (if applicable), whichever is earlier.
- 6.2 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.
- 6.3 The compliance period may be extended for one (1) year based on the merit of the case.

7. ACQUISITION OF PROPERTY BY FOREIGN INTEREST

- 7.1 **Any acquisition of property by foreign interest including Permanent Resident requires the approval of FIC.**
- 7.2 Foreign interest is allowed to acquire property valued **more than RM150,000** subject to the conditions as stated in paragraphs 8 and 9.
- 7.3 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.

Acquisition of Property Through Public Auction

7.4 Foreign interest including foreign bank is allowed to acquire property through public auction subject to the condition as stated in paragraph 7.2.

Relaxation for Permanent Resident

7.5 Permanent Resident is allowed to acquire **residential unit** valued less than RM150,000 but **more than RM60,000** **subject** to the conditions as stated in paragraph 8.

7.6 For acquisition as stated in paragraph 7.5, Permanent Resident must fulfilled **either** one of the following conditions: -

7.6.1 married to a Malaysian citizen;

OR

7.6.2 **eligible** to apply for Malaysian **citizenship and has already submitted** such application to the Ministry of Home Affairs.

Acquisition of Property in the Multimedia Super Corridor (MSC)

7.7 Local company owned by foreign interest and has acquired MSC status is allowed to acquire any property in the MSC **without** the approval of FIC provided that the property is used **solely for their operational activities** including as residence for their employees.

- 7.8 Acquisition of property in the MSC by a local company owned by foreign interest and without the MSC status is subject to the conditions as stated in paragraphs 5 and 6.

Acquisition of Residential Unit by Manufacturing Company

- 7.9 Local **manufacturing** company owned by foreign interest is allowed to acquire **residential unit** valued **more than RM60,000** subject to the following conditions:-

7.9.1 the residential unit is **solely** used only for the company's employees; and

7.9.2 the residential unit is not built on Malay reserve land and not allocated to Bumiputera in property development project as determined by the State Authority.

Acquisition of Residential Unit Under "Malaysia My Second Home" Programme

- 7.10 Acquisition of residential unit under this programme only requires the approval from the State Authority.

Source of Financing

- 7.11 Financing from internal and external sources are allowed for all acquisition of properties.

8. **RESTRICTIONS**

8.1 Foreign interest is **not allowed** to acquire: -

8.1.1 all properties under the category of **low and medium low cost** as determined by the State Authority;

8.1.2 all properties built on **Malay reserve land**;

8.1.3 properties allocated to Bumiputera (**Bumiputera quota**) in any property development project as determined by the State Authority;

8.1.4 stall and service workshop;

8.1.5 **single- and double-storey shop houses** from owners who are **not** property developers; and

8.1.6 **agricultural land** developed on the basis of the “Homestead” concept.

9. **CONDITION FOR ACQUISITION OF PROPERTY BY FOREIGN INTEREST**

9.1 Acquisition of property **by foreign interest** as stated below will be subject to the conditions as stated in paragraphs 5 and 6: -

9.1.1 Acquisition of **one (1) or more than one (1)** unit of property in a **single transaction** valued at **RM10 million or more**;

9.1.2 Acquisition of an **entire building** or an entire property development project, irrespective of the value; and

9.1.3 Acquisition of land or land with building for **redevelopment on a commercial basis**.

Exemption

9.2 The following acquisitions by foreign interest are **exempted** from the conditions as stated in paragraph 5 and 6: -

9.2.1 acquisition of **residential unit for own residence**; and

9.2.2 acquisition of **one (1) or more than one (1) unit of property in a single transaction** valued **less than RM10 million**.

10. TRANSFER OF PROPERTY TO FOREIGNER

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

10.2 Transfer of property pursuant to a will and court order is **exempted** from the FIC approval.

11. ACQUISITION OF AGRICULTURAL LAND BY FOREIGN INTEREST

11.1 Foreign interest is allowed to acquire agricultural land valued **more than RM250,000 and at least five (5) acres** in area;

11.2 Acquisition of agricultural land by foreign interest is **subject** to the conditions as stated in paragraphs 5 and 6 and is **allowed for the following purposes only**: -

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

11.2.2 to carry out **agro-tourism project**; or

11.2.3 to carry out agricultural or agro-based industrial activities for the **production of goods for export**.

11.3 Relaxation on equity conditions may be considered for acquisition of agricultural land for the production of goods for export.

12. ACQUISITION OF INDUSTRIAL PROPERTY BY FOREIGN INTEREST

12.1 Foreign interest is allowed to acquire industrial property **without** any price limit subject to the conditions as stated in paragraphs 5 and 6.

Exemption

12.2 Compliance with the equity conditions (paragraph 5.1.1 to 5.1.3) is exempted if the purpose of acquisition is for **own manufacturing operations**.

13. CHARGING OF PROPERTIES TO FOREIGN BANKS OUTSIDE MALAYSIA

13.1 Charging of property in Malaysia to any foreign bank located outside Malaysia **requires** the approval of FIC.

13.2 Charging of property in Malaysia to any foreign bank located outside Malaysia for the purpose of providing financing to any project located outside Malaysia is not permitted.

14. LEASING OF PROPERTY

14.1 Leasing of property for a term of more than 10 years by foreign interest **requires** the approval of FIC.

15. DISPOSAL OF PROPERTY BY FOREIGN INTEREST

15.1 Disposal of property by foreign interest **to foreign interest** requires FIC approval and subject to conditions as stated in paragraph 7 to 14.

15.2 Disposal of property by foreign interest **to local interest** valued **less than RM20 million** need only to be informed to FIC.

16. ACQUISITION OF PROPERTY IN LABUAN

16.1 Acquisition of property in Labuan by local and foreign interest is subject to the conditions as stated in paragraphs 7 to 15.

16.2 **Labuan offshore company** is allowed to acquire **residential or commercial unit** for their own use only.

V. APPLICATION PROCEDURES

17. Every application submitted to the FIC must follow the procedures stated below: -

17.1 All the relevant forms (**FIC H/2004, Proforma I, Proforma II** and/or **FIC A/2004**) must be completed;

17.2 Every party involved in the transaction or whose name and particulars appear in the completed form **FIC H/2004, Proforma I, Proforma II** and/or **FIC A/2004**) must complete and sign the specified Statutory Declaration (**FIC SD/2004**); and

17.3 The purchaser or acquirer must submit one (1) copy of the application to FIC.

Acquisition of Property Valued At RM10 Million Or More

17.4 Application for the acquisition of property by **local and foreign interest** valued at **RM10 million or more** must contain the following: -

17.4.1 A duly completed form **FIC H/2004**;

17.4.2 A duly completed form **Proforma I/2004**;

AND/OR

17.4.3 A duly completed form **Proforma II/2004**; and

17.4.4 A duly completed and signed Statutory Declaration (form **FIC SD/2004**).

Notes : (i) *Proforma I/2004 must be completed if the parties involved, whether the purchaser **and/ or** the vendor is a **company**.*

(ii) *Proforma II/2004 must be completed if the parties involved, whether the purchaser **and/ or** the vendor is an **individual**.*

(iii) *For **every** company involved, information of the **holding company**, if any, or **the major shareholders** must also be completed in **Proforma I/2004** (if the major shareholder is a **company**) **and/or Proforma II/2004** (if the major shareholder is an **individual**).*

Acquisition of Property Valued Less Than RM10 million

17.5 Application for the acquisition of property by **foreign interest** valued **less than RM10 million** must contain the following: -

17.5.1 A duly completed form **FIC (A/2004)**; and

17.5.2 A duly completed and signed Statutory Declaration (form **FIC SD/2004**).

VI. APPLICANT'S RESPONSIBILITY

18. It is the responsibility of the applicant to: -

18.1 comply with all the rules and regulations as stipulated in this Guideline;
and

18.2 ensure that the information given is true and complete.

VII. SUBMISSION OF APPLICATION

19. Applications must be addressed to:

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

Tel : 603-88882916/2944

Fax : 603-88883917

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

VIII. REVOCATION

20. Guidelines as listed in Table I are hereby revoked.

5 July 2004

Table I

Date Issued	Title	Effective Date
17 Dec 1992	Foreign Investment Committee Guidelines for the Acquisition of Property by Foreign Interest	17 Dec 1992
1 Nov 1995	Foreign Investment Committee Guidelines for the Acquisition of Property By Foreign Interest	24 June 1995
22 May 1998	Foreign Investment Committee Guidelines for the Acquisition of Property By Foreign Interest	16 Oct 1997
18 May 1998	Guidelines on the Relaxation Conditions for the Acquisition of Property by Foreign Interest	22 April 1998
2 May 2001	Guidelines on the Acquisition of Property by Local and Foreign Interest	25 April 2001