



CGAP CONSUMER PROTECTION POLICY DIAGNOSTIC REPORT *Malaysia 2009*

1 Overview

1.1 Consumer protection policy diagnostic process

CGAP (<http://www.cgap.org>) is an independent policy and research center dedicated to advancing financial access for the world's poor. It is supported by more than 30 development agencies and private foundations that share a common mission to alleviate poverty. Housed at the World Bank, CGAP provides market intelligence, promotes standards, develops innovative solutions, and offers advisory services to governments, microfinance providers, donors, and investors.

CGAP's standard-setting role is expanding to include facilitating responsible behavior among financial institutions serving base-of-pyramid customers as part of its focus on equity and efficiency. This may include setting standards covering transparency, client treatment, and recourse developed in partnership with governments, investors, and other relevant actors. It also aims to disseminate templates or frameworks others may use to carry out research, data collection, or analysis.

To help inform this work, CGAP conducted a pilot policy diagnostic mission in Malaysia in May 2009 to assess the Malaysian consumer protection policy environment for low-income and/or inexperienced customers. Representatives from Malaysian government, industry, and civil society (see Section 5.1 for a list of interviews conducted) provided thoughtful and candid observations during interviews, and their participation is gratefully acknowledged. This report is based on the findings from interviews conducted during the mission as well as desk research.¹

1.2 Financial consumer protection environment

Bank Negara Malaysia (BNM) is Malaysia's central bank and regulator of banks, insurance companies, development finance institutions, Islamic financial institutions, and the payments system. BNM uses a risk-based approach to consumer protection that is complemented by financial education and market intelligence to highlight products and practices posing undue risk to consumers, such as aggressive credit-card marketing or outsourcing debt collection. As Malaysia's financial sector becomes increasingly diverse and complex, BNM has heightened its focus on market conduct and financial education to help ensure a stable financial system and fair treatment of customers. At the same time, BNM recognizes that as consumer financial capability increases, there may be opportunities to reduce the level of official oversight accordingly.

¹ The diagnostic mission was completed by CGAP Policy Advisory Consultant Laura Brix. CGAP will complete similar assessments in other countries and draw from these experiences to inform a forthcoming Focus Note and other resources.

1.3 Positive features of consumer protection framework and oversight

The Malaysian market conduct framework highlights a number of positive practices and policy choices, which are described in this report. Key features:

- **BNM is the regulatory and supervisory authority and central coordinating body for consumer market conduct of financial service providers** with clear lines of authority and the ability and willingness to monitor and enforce compliance.
- **New market conduct guidelines are implemented incrementally as risks emerge**, mainly focusing on products used by consumers who lack the capability to protect their interests through disclosure and financial education alone.
- **Consumers have multiple and systematic avenues to lodge complaints and seek recourse**, including BNM, industry and consumer associations, and a financial mediation bureau.
- **Regulated financial service providers participate 100%** in recourse and debt counseling programs, industry associations, and education initiatives to help reduce regulatory gaps.
- **Market research and complaints data inform new policies** to set priorities and optimize outcomes.

1.4 Potential challenges

- **BNM envisions a larger role for self-regulation of Malaysian financial service providers by enhancing the self-regulatory role of the industry associations.** The challenge for these organizations will be having the necessary resources, accountability, transparency, and willingness to enforce standards against their members. Industry associations will need to adjust their governance and controls to serve as a credible complement to official oversight in the eyes of both consumers and providers.
- **Gaps and inconsistencies in market conduct regulation of some types of credit providers (e.g., cooperatives, NGO microlenders, consumer lenders) leave some consumers less protected where authorities other than BNM have less rigorous standards.** Because customers who use such providers are often less sophisticated and more in need of basic consumer protection, closing these gaps would better protect their interests.
- **Market conduct processes may need to be tailored to the needs of new microfinance borrowers who lack experience with formal providers** (e.g., low-income, remote rural, or indigenous people). In conjunction with BNM efforts to promote microlending by banks, it has reduced or eliminated various access barriers—such as collateral, documentation, and procedural requirements—compared to those for larger, commercial borrowers. New microloan customers are also likely to have different market conduct

requirements, owing to lower financial literacy skills and different transparency, recourse, and financial education needs, for example.

2 Country snapshot

2.1 Background and selected indicators

Malaysia at a glance

Population	27.7 million
Ethnic distribution	Malay 50.4%, Chinese 23.7%, Indigenous 11%, Indian 7.1%, Others 7.8% (2004 est.)
Languages	Bahasa Malaysia (official), English, Chinese (Cantonese, Mandarin, Hokkien, Hakka, Hainan, Foochow), Tamil, Telugu, Malayalam, Panjabi, and Thai, as well as several indigenous languages in East Malaysia.
Percent rural/urban	30% / 70%
Population below poverty line	< 5% (higher concentration in rural areas)
GDP per capita	US\$15,300 (2008 est.)
Literacy	89%
Percent banked	80%
Telephone (Landline)	4.35 million
Telephone (Mobile)	23.3 million
Internet	15.9 million

Sources: CIA World Factbook, United Nations Development Programme-Malaysia, BNM

Malaysia is a middle-income country that transformed from a producer of raw materials in the 1970s to a multisector emerging economy. More than half of Malaysians are employed in the service sector, with another 36% working in industrial occupations. Most Malaysians live on the Malaysian peninsula, while 7 million (26%) live in less densely populated states of Sabah and Sarawak on the Malaysian portion of the island of Borneo. More than half of Sarawak's residents and two-thirds of Sabah's are from indigenous groups (State 2008). These remote areas have higher concentrations of poverty and fewer financial service options.

2.2 Providers and products

2.2.1 Financial service providers (Dec. 2008)	Total
Commercial banks	22
Islamic banks ²	17
Insurers	40
Islamic insurers ("takaful" operators) ³	8
Development financial institutions	13

² For more information on Islamic microfinance, see CGAP Focus Note "Islamic Microfinance: An Emerging Market Niche" at <http://www.cgap.org/p/site/c/template.rc/1.9.5029/>

³ Ibid

Sources: Malaysia Industrial Development Authority, BNM

Malaysian banks (domestic, foreign, and Islamic) operate a network of more than 2,200 branches across the country. Malaysia has both full-service Islamic banks as well as conventional banks that offer products through a special Islamic banking window. Malaysia also has several development financial institutions (DFIs) with specific objectives to develop and promote strategic economic sectors, such as small and medium enterprises.⁴

More than 5,000 financial cooperatives are in Malaysia, representing a significant source of credit and savings for lower income Malaysians. The coop market—regulated by a special Cooperative Commission under the Ministry of Domestic Trade, Cooperative, and Consumerism—is dominated by one large player, Bank Rakyat (a DFI), which became an Islamic cooperative bank in 2002. With assets of RM 41.7 billion, Bank Rakyat is the largest Islamic financial institution in the country, holding more than 70% of the country's total cooperative assets and 17.8% of Islamic banking assets. Malaysia's Cooperative Commission sees room for expansion in the sector and expects the number of cooperatives to increase from 5,600 to 10,000 by 2013.⁵

Malaysia's NGO microfinance sector is small and largely unregulated. Amanah Ikhtiar Malaysia (AIM) is the dominant provider of traditional microfinance, offering Grameen style, interest-free loans (with administrative fees to cover costs) to the "hard core poor" for income generation. AIM serves 165,000 borrowers (average loan size US\$801) and 185,000 voluntary savers.⁶

2.2.2 Microcredit demand and supply

An estimated 80% (435,000) of Malaysian small and medium enterprises are considered "microenterprises." Only 13% of microenterprises surveyed in 2005 borrowed from formal financial institutions, relying instead on savings, family, and friends.⁷ Low-income customers have difficulty meeting bank requirements to obtain a loan, so borrowers such as hawkers and small traders often turn to loan sharks for financing, as well.

To bring more microentrepreneurs into the formal financial sector, BNM has developed a microfinance framework to encourage lending to microenterprises by commercial banks and DFIs. Under the scheme, no collateral is needed and loan size ranges from RM 500–50,000 (US\$140–14,000). A detailed table, providing terms and conditions offered by regulated microfinance providers, is posted on BNM's Web site to facilitate comparison. A common logo was developed and participating banks as well as recipients are encouraged to display it to create awareness and understanding of microfinance.

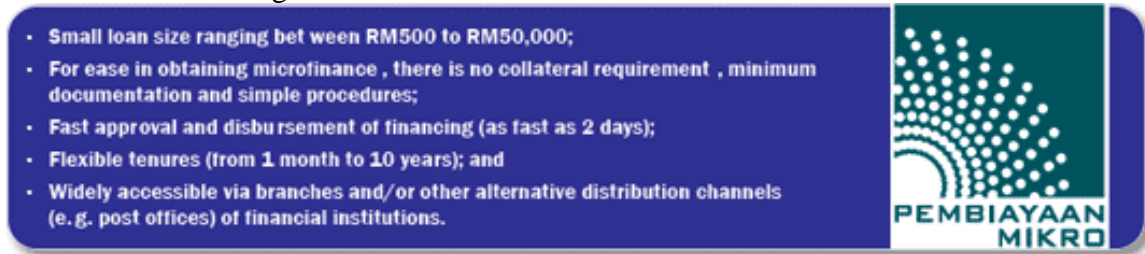
⁴ Malaysia Industrial Development Authority: http://www.mida.gov.my/en_v2/index.php?page=banking-system

⁵ Hamisah Hamid, "Malaysia Plans Third Cooperative Bank," *Business Times*, April 6, 2009

⁶ Mix Market Web site profile for Amanah Ikhtiar Malaysia:
<http://www.mixmarket.org/en/demand/demand.show.profile.asp?ett=3086&>

⁷ MASSA n.d. Development of a Sustainable Microfinance Industry in Malaysia. Malaysia South-South Association. Online at <http://biz.thestar.com.my/news/story.asp?file=/2007/9/14/business/18883237&sec=businesst>.

Official microfinance logo



Source: Malaysia South-South Association

2.2.3 Credit cards

Credit cards are increasingly popular with Malaysian consumers, totaling 10.8 million credit cards at the end of 2008.⁸ Credit cards are one of the top sources of complaints and debt-counseling requests. Rising bankruptcies has led to a more concerted effort by consumer associations, recourse providers, and BNM to make customers aware of the risks and curtail aggressive credit-card marketing. BNM has issued guidelines on sale, marketing, and promotion of credit cards and a tiered pricing structure tied to repayment behavior. Beginning March 31, 2009, those with good repayment behavior can enjoy lower interest charges. The tiers are as follows:

Tier 1 - Maximum of 13.5% per annum for those who promptly settle their minimum payment due for 12 consecutive months.

Tier 2 - Maximum of 16% per annum for those who promptly settle their minimum payment amount due for at least 10 months in a 12-month cycle.

Tier 3 - Maximum of 17.5% per annum for all others.

While there is risk of households becoming over indebted, overall debt stress remains manageable thus far, evidenced by about one-third of cardholders who settle their credit card debts in full each month, which amounted to 60.2% of the total amount due monthly (Jan.–Apr. 2009), compared to 41% of American cardholders, for example.⁹

2.2.4 Other consumer credit

In Malaysia, consumer credit is regulated and supervised by diverse statutes, regulations, ministries, and departments (see Annex for list of pertinent rules and guidelines). Credit cards are regulated and supervised by BNM, while hire-purchase and retail credit sales are under the supervision of the Ministry of Domestic Trade, Cooperative, and Consumerism. Both money

⁸ BNM 2007, “Market Conduct and Enhancing Financial Capability,” Bank Negara Malaysia report. Online at <http://www.bnm.gov.my/files/publication/fsp/en/2007/cp04.pdf>.

⁹ Pew Research Center, “What Americans Pay For—and How,” February 7, 2007. Online at <http://pewresearch.org/pubs/407/what-americans-pay-for---and-how>.

lending and pawn broking are under the Ministry of Housing and Local Government.¹⁰ Malaysian consumer associations have advocated for one consumer credit law to provide more even oversight of credit providers.

2.2.5 Insurance

Medical and health insurance usage is growing rapidly, and nearly half of Malaysian families have a life insurance policy and/or takaful certificate. The main risk to consumers is overly aggressive sales practices resulting in purchase of unsuitable products. In addition, two-thirds of insurance products are distributed through intermediaries, such as agents, increasing the challenges of transparency and accountability.

2.2.6 Basic bank accounts

All banks must offer basic savings and current accounts (including payment services) with minimal fees and charges. BNM used market research to determine optimal account features for an average customer and monitors charges and fees for reasonableness. BNM does not require banks to offer a certain number or percentage of basic accounts, but it does monitor and enforce subjective targets for larger banks. At least one consumer association noted that while all banks provide a basic account product, some are not keen to inform consumers of its existence.

2.2.7 Remittances

Outward remittances from Malaysia have increased continually since 2005, with average growth of 11.2%. According to a 2008 World Bank study, despite an increasing flow of migrants, the amount of remittances transferred through the formal sector had been decreasing, which was believed to be due to the number of undocumented migrants and women who found formal sector transfers hard to access or ill-suited to their needs. An unregulated industry arose to facilitate remittances in this corridor, encompassing money changers, courier services, hand delivery, and employment agencies. In the case of some informal transfers, funds channel through the hands of middlemen or immigration promoters who deduct repayments from salaries.

In 2008, the amount of remittances transferred via the formal channels (banks and non-bank remittance service providers) had increased by 7.9% to RM 8.6 billion. Recognizing the growing importance of the remittance industry, BNM had liberalized its policy to enhance access to remittance services by allowing qualified non-banking institutions to provide remittance services. This is in line with BNM's regulatory objective in promoting the migration of remitters from informal to formal channels. As of June 30, 2009, there were 36 approved non-bank remittance service providers with approximately 1,031 branches operating all across Malaysia.

2.3 Financial literacy and awareness of target customers

¹⁰ Ahmad Saufi Abdul Rahman, "Development of Consumer Credit Laws in Malaysia," *Journal of International Commercial Law and Technology*, Vol.2, Issue 2 (2007).

BNM facilitates financial education for adults and students via outreach programs, including exhibitions, seminars, and briefings to inform consumers about their rights and responsibilities regarding specific products. BNM targets vulnerable or hard-to-reach groups such as women, students, rural communities, and retirees. BNM uses Web resources, partners with financial service providers, and charges modest fees for financial education materials to keep the costs of programs low. Lower-income consumers mainly learn about their rights and responsibilities from newspaper articles, radio and television programs on personal finance, community programs, fliers, and brochures.

Working with financial service providers, BNM maintains two Web sites: <http://www.bankinginfo.com.my> and <http://www.insuranceinfo.com.my>, which both provide useful information on choosing the right product; financial calculators; and tables to compare rates, fees, and features of products amongst different providers. There are nine comparative tables on conventional products and four on Islamic products.

BNM also collaborates with financial service providers and the Ministry of Education on the School Adoption Program, which has reached 10,000 schools to date with fun and innovative games, quizzes, and teaching tools, including Braille materials for visually impaired children.

And finally the Financial Education Working Committee brings together BNM, AKPK (the debt counseling agency), FMB (financial mediator), and PIDM (deposit insurer) to collaborate on educational initiatives. This platform enables the committee to more efficiently allocate resources and achieve mutual goals.

2.4 Civil society actors

A number of consumer groups in Malaysia provide complaints processing, education, and advocacy to varying degrees, with coverage in every state. Complaints information from these organizations provides a good source of input for policy makers. For example, the National Consumer Complaints Centre (NCCC, a NGO that publishes complaints data from a variety of sectors) forwards a copy of complaints it receives on financial services to BNM and tracks them in a database for policy and advocacy work. NCCC also holds a board position with the Financial Mediation Bureau.

Consumers Association of Penang (CAP) handles complaints from the public on a wide variety of issues. CAP's legal section provides legal advice to customers, handles public-interest cases, and represents communities in need of legal assistance. CAP also provides educational Web and print resources in several languages. Recent examples of finance-related complaints posted on its Web site include problems with transparency of fees; debt-collection practices; rising credit-card debt; and actions of unregulated, private credit bureaus.

3 Regulatory and supervisory framework for financial consumer protection

3.1 BNM Consumer and Market Conduct Department

Market conduct regulation and supervision was dispersed across various departments within BNM until 2006, when BNM established the Consumer and Market Conduct Department (CMCD) to increase attention to fair and equitable market practices and financial literacy of consumers. It formulates and implements consumer-oriented policies, supervises and enforces compliance with market conduct requirements, and promotes financial capability of consumers.¹¹ Bringing market conduct for multiple financial service provider types under the CMCD umbrella was a milestone for the central bank, designed to level the playing field, enhance surveillance and enforcement capability, and improve financial literacy across the board.

BNM's market conduct framework allows for tailored oversight and fewer gaps in coverage that could occur with different market conduct regulators for different institutional types. Modest gaps do exist, such as smaller financial cooperatives and NGO microfinance providers, but evidence exists that BNM will act in the event of fraud or abuse by unregulated providers, if such irregularities fall within the purview of BNM.¹²

3.2 Supervision and enforcement

Supervisory activities include market conduct examinations, as well as mystery shopping¹³ and media surveillance (newspapers, Web sites, and brochures) to monitor disclosures, advertisements, and marketing and sales tactics. BNM follows a risk-based supervision model using surveillance activities, complaints data, and statistical information to prioritize follow up. A relationship manager manages both prudential and market conduct requirements for financial service providers as part of BNM's culture of interdepartmental cooperation. In fact, the market conduct department was originally staffed with former prudential supervision staff. BNM's Shariah Advisory Council plays an important role in interpreting and advising regulators and providers on relevant Shariah requirements with respect to product terms, conditions, and pricing.

BNM has a variety of options to enforce market conduct rules depending on the severity of the infraction, including reprimand letter, compliance agreement, notice of violation, fine or penalty, or restraining order. BNM is not shy about enforcing these rules. Last year BNM required several banks to review or stop charging completely certain fees and charges that did not reasonably reflect the costs to provide services. BNM hopes that as Malaysian consumers increase their financial capability, exercise of consumer preferences will offset the need for regulatory intervention.

BNM established the Market Conduct Working Group with the banks and the industry associations to deliberate on pertinent consumer and market conduct issues highlighted by the public, consumers, relevant ministries, agencies, and NGOs. Discussions focused on proposing

¹¹ Internal document provided by Bank Negara Malaysia, May 4, 2009.

¹² "BNM Raid Papar Investment Firm," *Daily Express*, January 14, 2009. Online at <http://www.dailyexpress.com.my/news.cfm?NewsID=62232>.

¹³ Mystery shopping is the practice of using trained shoppers to anonymously evaluate customer service, operations, employee integrity, merchandising, and product quality (<http://www.mspa-ap.org/about>).

appropriate actions by the banks to strengthen consumer confidence in the financial services industry by promoting fair and equitable market practices and providing an appropriate degree of consumer protection. The banks' compliance with the proposed best practices is monitored.

3.3 Transparency and fair treatment guidelines

BNM has issued principles on types of fees that may be charged and the basis of charges, and the central bank must give prior approval for new or increased fees. One standard disclosure format exists for banking and insurance products. Financial service providers are required to publish fees and charges on products offered to individuals and small and medium enterprises at all branches and on their Web sites and disclose to customers the lending rate for different loan products. BNM posts comparative tables of various rates and fees on the Bankinginfo and Insuranceinfo Web sites. Financial service providers must give customers 21 days notice before changing any terms and conditions, including fees and charges.

BNM has recently issued Guidelines on Product Transparency and Disclosure to enhance disclosure quality, requiring that disclosures be timely, clear and concise, accurate, relevant, consistent, and comparable. The guidelines introduce a common effective lending rate and product-specific requirements for banking, Islamic banking, general and life insurance, general and family takaful, and payment instruments. Fees and key terms and conditions must be disclosed at three different stages: before entering into a contract, at the point of entering into a contract, and during the term of the contract.

As noted previously, to ensure that Malaysian customers are treated fairly, BNM monitors advertisements and marketing materials for misleading or inappropriate terms and conditions and responds to trends in customer complaints arising from certain products, such as timely payment of insurance claims. It also monitors certain fees and account terms for fairness. BNM has issued guidelines on fair debt-collection practices and requires financial service providers that outsource collections to retain accountability for agents' actions. BNM's commitment to fair treatment of customers is also evidenced in its leadership and support for a financial mediator and credit counseling and debt management system to assist customers in dealing with financial service providers.

3.4 Agents and intermediaries

BNM has produced guidelines and consumer educational materials on use of agents and intermediaries. BNM's Guidelines on Unfair Practices in Insurance Business prohibit unethical practices such as misrepresentation and false advertising of insurance policies, coercive-tied selling practices, discrimination, and unfair contract terms. BNM also sets standards of professional conduct for insurance and takaful intermediaries, such as minimum qualification standards and continuing education and a requirement that sufficient information is obtained from clients before giving advice on insurance products.

3.5 Self-regulatory frameworks

There are efforts at self-regulation by industry associations, but monitoring and enforcement is limited according to BNM.

3.5.1 Insurance and takaful

All general and life insurance companies are members of their respective associations. Insurance and takaful association members are subject to various codes of conduct and market conduct agreements. For example:

- The Life Insurance Association has a Code of Ethics and Conduct and guidelines on agency, marketing, and operational matters.
- The General Insurance Association has a Code of Conduct governing conduct of employees and standardized practices on claims handling and sales materials.
- Malaysia Takaful Association adopted an Inter-Takaful Operators Agreement to promote orderly and consistent market conduct, centralized registration of takaful intermediaries, enforcement mechanisms, and a disciplinary framework.
- Several of the insurance and takaful associations have created a joint effort to improve transactions settlement between brokers and agents.

3.5.2 Banking

The Association of Banks in Malaysia (ABM) helps set policies and guidelines for member banks. There is no enforcement mechanism, but if ABM is not able to ensure compliance using persuasion it may approach BNM for assistance. Thus far it has not had to do so. All commercial banks in Malaysia are members of ABM.

Each bank has its own code of conduct or ethics, and some have different codes for different types of employees (e.g., sales, collections). One bank interviewed noted that complaint data go first to the president's office, rather than the department directly.

3.5.3 Expanding self-regulation

In the future, BNM envisions a larger role for self-regulation of Malaysian financial service providers, shifting some of the official oversight to industry bodies. BNM will still supervise individual institutions but expects self-regulatory organizations to take action first if an institution deviates from established market conduct norms. Financial capability is a key component of such a regime, so that customers are able to bring infractions and wrongdoers to the attention of regulators, industry, and the media. The transition will be phased in conjunction with industry's preparedness for different aspects of delegated oversight responsibilities. Public confidence building will be important, as existing industry bodies are seen as "gentlemen's clubs" lacking the necessary will for effective enforcement. Creating uniform disclosures used by all members of an association will also reduce some of the subjectivity that could impede compliance with established standards.

3.6 Recourse and complaints mechanisms

3.6.1 The “culture of complaints”

Consumers are generally aware of recourse options and active in lodging complaints and disputes, due in part to the large proportion of Malaysians who use the Internet. Low-income and geographically remote customers generally have fewer options and lower awareness.

3.6.2 Avenues for recourse and complaints

All financial service providers must have a dedicated complaints unit, and several have in-house consumer advocates as well. Industry associations provide call centers, such as ABM’s *ABM Connect*, as well as complaints procedures and contact information on their Web sites. Political parties and consumer associations are also active in helping consumers with disputes.

BNM consolidated its infrastructure for customer management and complaint management by integrating all related units, including BNMLINK, BNMTELELINK, and Complaints Management and Advisory (CMA) under one roof, known as Integrated Contact Centre (ICC), which came into effect July 1, 2008. In a nutshell, ICC serves as a one-stop center for public interface with the central bank to obtain information, inquiries, or redress in the areas of conventional and Islamic banking, insurance, and takaful; advisory services for small and medium enterprises; foreign exchange administration; and other matters under BNM’s jurisdiction.

- BNMLINK is BNM’s walk-in customer service center at BNM headquarters in Kuala Lumpur where customers can lodge complaints or obtain information from BNM staff and self-service kiosks. Services offered include response to inquiries and complaints, assistance with foreign exchange transactions, access to Central Credit Reference Information System, and numerous educational publications and displays. By the end of June 2009, BNM intended to add LINK services at four regional BNM branches.
- BNMTELELINK focuses on delivering solutions via phone, fax, letter, and e-mail.
- CMA facilitates resolution of complaints by individuals and small and medium enterprises against institutions under the purview of BNM and provides financial advisory service. CMA also manages interactions with other financial institutions and provides feedback from the public on BNM policies and guidelines to other departments in BNM.

Complaints received by BNM mainly relate to customer-service standards, loan restructuring or rescheduling, and credit-card issues, such as unauthorized transactions and billing problems. Insurance complaints relate to delays in processing claims, repudiation of claims, or conduct of agents. BNM estimates some 50% of insurance complaints stem more from customers not understanding their products than fraud or abuse.

3.6.3 Financial Mediation Bureau (FMB)

3.6.3.1 Background and structure

BNM helped create FMB to provide an independent alternative dispute resolution mechanism, consolidating the previous insurance and banking mediation bureaus that were managed by the respective industry associations. BNM provided initial financial support and seconded staff to launch FMB, which is now self-supporting through an annual levy paid by members. Nearly all financial service providers in Malaysia are members of FMB (exceptions include a few development finance institutions as well as unregulated cooperatives and NGO microlenders), as well as many industry associations.

FMB's governance structure helps to ensure its independence and accountability. A majority of the nine-member board is required to be independent, including the chair; and there is a standing member from one of the consumer associations. FMB's four mediators report directly to the board of directors, and in the event there is a complaint against a decision made by a mediator, an audit committee reviews the mediator's decisions. While there is no appeal against the mediator's decision and the board cannot influence or change a mediator's decision, the Audit Committee reviews the process to ensure correctness of the decision and communicates directly with the mediator concerned. Information regarding financial institutions against whom the complaints have been made, common complaints, and disposition trends (e.g., how often cases are found for customer versus financial service provider) is published in an annual report, although non-financial service providers must request and pay for it. Information on various cases is posted on the FMB Web site.

Consumer awareness of FMB services is good, according to recent surveys, owing to word of mouth, Web sites, and school education programs. In addition, insurers provide FMB contact information in claims rejection letters. FMB is working with banks to provide a similar disclosure. FMB provides services at no cost and reviews complaints by corporations as well as individuals. About half of FMB clients are reported to be from the lower-income sector.

Because FMB is located in Kuala Lumpur, customers are obliged to travel to meet with the mediator, when needed. If he or she cannot afford to make the trip, FMB will fly the mediator to a local area, if necessary. It is possible, however, that potential claimants living far away or lacking resources to travel may self-select out of the process before knowing this option is available. Part of FMB's long-term plan is to have five offices in different regions to offer better coverage. Complainants can also go to the nearest BNM branch, and they will be appropriately guided.

3.6.3.2 Mediation process

FMB only reviews complaints against its members. Customers must refer a claim to FMB within six months of a final written decision from a financial service provider, and the amount under dispute is limited to RM 100,000 (approx. US\$30,000) for banking products, RM 200,000 for motor/fire insurance, and RM 5–100,000 for other insured claims. Complaints may be registered in person or via fax, e-mail, or regular mail. An official complaints form must be accompanied by a consent letter required under privacy laws to obtain customer information from the financial service provider. FMB guides low-literacy clients during the filing process. Turnaround time for processing cases is approximately three months.

FMB has four mediators with expertise in banking and insurance law, and five assistant mediators. The assigned mediator first attempts to facilitate communication between the parties; if unsuccessful, the mediator will render a decision that is binding on the financial service provider, but not the customer. Members know and recognize the mediator's decision as final, and BNM may also provide assistance in ensuring compliance. There is no appeals process within FMB, but the complainants may take other legal action or go to arbitration.

Use of FMB services is growing. Between 2004 and 2008 FMB disposed of approximately 7,000 cases, or on average 1,400 cases per year. In 2008, more than 1,000 banking cases were registered along with 1,200 insurance cases. FMB notes that insurance cases have declined marginally, whereas banking cases are on the rise, due in large part to credit-card complaints. More than half of banking complaints relate to credit cards (e.g., interest rates, unauthorized transactions), with ATM problems the second highest at 18%. Most insurance disputes relate to payment of motor insurance claims (48%) and medical claims (17%).

3.6.3.3 Future plans

While FMB offers an independent and reasonably accessible alternate dispute mechanism, it lacks authority to enforce its findings or award punitive damages. BNM is reviewing the role and operation of FMB to improve the effectiveness of the dispute resolution infrastructure for financial services to meet the growing sophistication and demands of consumers who seek more timely resolution of their disputes.

3.7 Debt counseling

BNM established Agensi Kaunseling Dan Pengurusan Kredit (AKPK) to offer programs to prevent and cure over indebtedness, including credit counseling, debt management, and financial education. AKPK works only with individuals, not companies, and services are free. Credit counseling services also are used by consumers who are not over indebted, such as someone wanting to save to buy a house or needing help setting up a personal budget. AKPK operates in BNM's branches in Penang, Johor Bahru, Kota Kinabalu, Kuching, and Kuala Trengganu and has three other stand-alone branches.

To participate in the debt management program (DMP) the customer must not be in bankruptcy proceedings and have positive disposable income, no advanced legal actions pending, and multiple debts of less than RM 2 million (approx. US\$575,000). There is no maximum ceiling for credit counseling. AKPK has no legal power to alter loan contracts, but DMPs may be structured to extend payments and maturities up to 10 years. Banks agree to revised terms most of the time, recognizing the mutual benefits of the arrangement. Banks advertise services on statements voluntarily.

DMP covers various types of debt (housing, credit card, etc.), but all loans must be from institutions under BNM jurisdiction. Once a DMP begins, the customer is registered with the Central Credit Reference Information System and may not obtain new loans. AKPK processes payments and distributes funds to financial service providers free of charge. If the customer

defaults on payments, the DMP is terminated and all waivers of principal or interest are then clawed back to original terms.

Since it opened its doors in 2006, AKPK has counseled 82,400 cases of which 24,500 (30%) required a DMP. Requests for DMP are rising rapidly, from 1,600 in 2006 to nearly 12,000 in 2008. DMP cases managed to date total approximately RM 1 billion, with monthly collections of RM 10 million (US\$2.8 million). Most cases relate to credit cards. Some 14% of DMPs are solely the result of credit-card debt, with another 56% a combination of debts that includes credit cards.

To respond to growing demand, AKPK opened three new branches in 2008 and provides numerous educational programs and new publications. Staff currently conducts two-to-three talks per day on financial education. Plans for 2009 include opening two more branches; distributing additional publications; and expanding media coverage, including a TV reality/game show, reruns of previous TV docu-dramas, Friday sermons in Mosques, premarital courses, training of trainers for the Army and police, financial clinics, and outreach to universities, all promoting prudent financial management.

4 Conclusions and recommendations

Malaysia's market conduct framework works well because it is closely calibrated to its financial sector's stage of product development and customer sophistication. BNM and its partners proactively fine-tune guidelines and standards as new risk areas emerge. This level of dynamism and focus would not be possible without the weight given to market conduct standards by Malaysian policy makers. Further, coordination within BNM helps to better allocate resources and minimize gaps in oversight. BNM has also taken responsibility for laying a solid foundation of recourse and financial capability available to the majority of Malaysian customers, rather than leaving these critical components to chance or solely in the hands of providers.

While no serious shortcomings were evident during the diagnostic, three areas may pose challenges for Malaysia's market conduct system in the future:

- 1. Deregulation of market conduct.** Malaysia plans to shift some responsibility for market conduct oversight to industry associations. While this effort to reduce regulatory burden is positive, the financial sector will benefit only if these organizations are a credible complement to official oversight by demonstrating accountability, transparency, and the ability and willingness to enforce standards against their members.

2. Bank downscaling. In conjunction with national efforts to promote access to microlending by banks, BNM may want to review pertinent market conduct standards (e.g., disclosures, recourse) to ensure they meet the needs of customers who have little or no experience with formal credit providers, whose financial literacy and capability may differ from that of more experienced counterparts.

3. Closing regulatory gaps. Gaps in market conduct oversight for providers not under the remit of BNM—for example, cooperatives, NGO microlenders, nonbank consumer credit—exposes some Malaysian consumers to risk. Less sophisticated customers who use these more loosely regulated providers are most in need of consumer protection, so closing these gaps would better protect their interests.

5 Resources

5.1 List of interviews conducted

NAME	TITLE	ORGANIZATION
Ms. Koid Swee Lian	Director, Consumer and Market Conduct Dept	Bank Negara Malaysia
Ms. Ooi See Eim	Deputy Director, Consumer and Market Conduct Dept	Bank Negara Malaysia
Ms. Sharon C.S. Lim	Manager, Consumer and Market Conduct Dept	Bank Negara Malaysia
Mr. Yazid Awang	Manager, Consumer and Market Conduct Dept	Bank Negara Malaysia
Ms. V. Vijayaledchumy	Director, Central Banking Services	Bank Negara Malaysia
Mr. A. Kanagalingam	Deputy Director, Central Banking Services	Bank Negara Malaysia
Mr. Jean Pierre Sabourin	CEO	Malaysia Deposit Insurance Corporation
Ms. Wai Keen Lai	General Manager, Policy and International Division	Malaysia Deposit Insurance Corporation
Mr. John Thomas	CEO	Financial Mediation Bureau
Ms. Audrey Yeoh	Mediator	Financial Mediation Bureau
Mr. Mohamed Akwal Sultan	CEO	Credit Counseling and Debt Management Agency
Ms. Chuah Mei Lin	Executive Director	The Association of Banks in Malaysia*
Ms. Saw Pick Won	Research Officer	Consumers Association of Penang
Ms. Zabidah Ismail	Managing Director	Amanah Ikhtiar Malaysia

*Senior officers from eight member banks also attended the meeting.

5.2 Published sources (in addition to those listed in footnotes)

CIA World Fact Book: <https://www.cia.gov/library/publications/the-world-factbook/geos/MY.html>

Consumers Association of Penang Web site: <http://en.cap.org.my>

Lim n.d. "Consumer Credit Regulations in Malaysia: A Country Report," Yap Kon Lim, Consumers Affairs Division, Ministry of Domestic Trade and Consumer Affairs Malaysia

“Malaysia Measuring and Monitoring Poverty and Inequality,” United Nations Development Programme-Malaysia. Online at <http://www.undp.org.my/malaysia-measuring-and-monitoring-poverty-and-inequality>

“Malaysia: Six Banks in Micro-Finance Scheme,” Star Online, September 14, 2007. Online at <http://biz.thestar.com.my/news/story.asp?file=/2007/9/14/business/18883237&sec=business>

SEACEN n.d. Profile on Malaysia on South East Asian Central Banks (SEACEN) Web site: <http://www.seacen.org>

“The Malaysia-Indonesia Remittance Corridor Making Formal Transfers the Best Option for Women and Undocumented Migrants,” World Bank Working Paper No. 149

U.S. Department of State Web site: <http://www.state.gov/r/pa/ei/bgn/2777.htm>

Annex: Malaysian Financial Services Laws

Administered by Bank Negara Malaysia (Source: SEACEN)

The Banking and Financial Institutions Act 1989 provides for the licensing, regulation, and supervision of institutions conducting banking, finance company, merchant banking, discount house, and money-broking businesses. It also provides for the regulation of any institution that conducts a scheduled business if the Minister of Finance is satisfied that it is necessary to regulate such institution, on the recommendation of Bank Negara Malaysia. These businesses comprise building credit, development finance, and factoring and leasing businesses.

The Islamic Banking Act 1983 provides for the licensing, regulation, and supervision of Islamic banks and International Islamic banks.

The Insurance Act 1996 provides for the licensing, regulation, and supervision of insurance business (including reinsurance), insurance broking business, adjusting business, and financial advisory business.

The Takaful Act 1984 provides for the registration and regulation of takaful business, international takaful business and for other purposes relating to or connected with takaful.

The Money-Changing Act 1998 was enacted to provide for the licensing and regulation of money-changing business, which previously came under the ambit of the Exchange Control Act 1953.

The Exchange Control Act 1953 governs dealings in gold and foreign currencies, payments to and from residents, issuance of securities outside Malaysia, imports and exports, and settlements.

The Anti-Money Laundering and Anti-Terrorism Financing Act 2001 contains provisions for the offence of money laundering, the measures to be taken for the prevention of money laundering and terrorism financing offences, and provides for the forfeiture of terrorist property and property derived from, or involved in money laundering and terrorism financing offences.

The Development Financial Institutions Act 2002 (DFIA) provides for the regulation and supervision of development financial institutions (DFIs) prescribed under the DFIA. DFIs are specialized financial institutions established by the government as part of an overall strategy to develop and promote specific strategic sectors such as agriculture, small- and medium-sized enterprises, infrastructure development, shipping, and capital-intensive and high-technology industries, for the social and economic development of the country.

The Payment Systems Act 2003 (PSA), which came into force on November 1, 2003, provides for the regulation and supervision of payment systems and payment instruments. The objective of the PSA is to ensure the reliable and efficient infrastructure and operation of national payment

systems and to safeguard the public interest. The PSA empowers Bank Negara Malaysia to designate a payment system as a “designated payment system” if such system poses systemic risks or the designation is necessary to protect the interest of the public. Bank Negara Malaysia is also empowered to designate a payment instrument as a “designated payment instrument” if such instrument is widely used as a means of making payment and it is necessary to protect public interest or to maintain the reliability of such instrument.

Numerous guidelines and circulars govern market conduct. See BNM Web site for details:
<http://www.bnm.gov.my/index.php?ch=18&pg=55&ac=584>

Administered by Other Ministries (Source: Lim)

Hire-Purchase Act 1967

Under the jurisdiction of the Ministry of Domestic Trade and Consumer Affairs, the Hire-Purchase Act regulates the business of hire purchase financing, which is normally carried out by credit companies licensed under the Moneylenders Act 1951 (or being granted exemption) and finance companies licensed under the Banking and Financial Institutions Act 1989.

Moneylenders Act 1951 and Pawnbrokers Act 1972

Administered by the Ministry of Housing and Local Government, the Moneylenders Act 1951 regulates money lending activities while the Pawnbrokers Act 1972 regulates the business of pawnbroking carried out by pawn shops.

Consumer Protection Act 1999 does not appear to relate directly to financial services.