

BNM's Enforcement Approach and Disclosures of Enforcement Actions

In discharging its mandate, BNM exercises its powers to take supervisory and enforcement actions against financial institutions and other parties that contravene the laws administered by us. This is important to promote financial stability, protect consumers and preserve the integrity of our financial system. BNM discloses enforcement actions taken to serve as an important deterrent against future misconduct and irresponsible behaviour.

Role of the Enforcement Committee at BNM

The Enforcement Committee (EC) is responsible for deliberating and deciding on enforcement actions to be imposed on financial institutions for breaches of applicable laws and regulatory requirements (Diagram 1). Operating through the power delegated by the Governor under the respective laws, it acts to ensure objective, fair and consistent decisions on proposed enforcement actions. Members of the EC comprise BNM's Deputy Governors and the relevant Assistant Governors in charge of regulation, supervision and enforcement matters.

Diagram 1: Laws Currently Administered by Bank Negara Malaysia

Central Bank of Malaysia Act 2009
Financial Services Act 2013
Islamic Financial Services Act 2013
Development Financial Institutions Act 2002
Money Services Business Act 2011
Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001
Currency Act 2020

Source: Bank Negara Malaysia

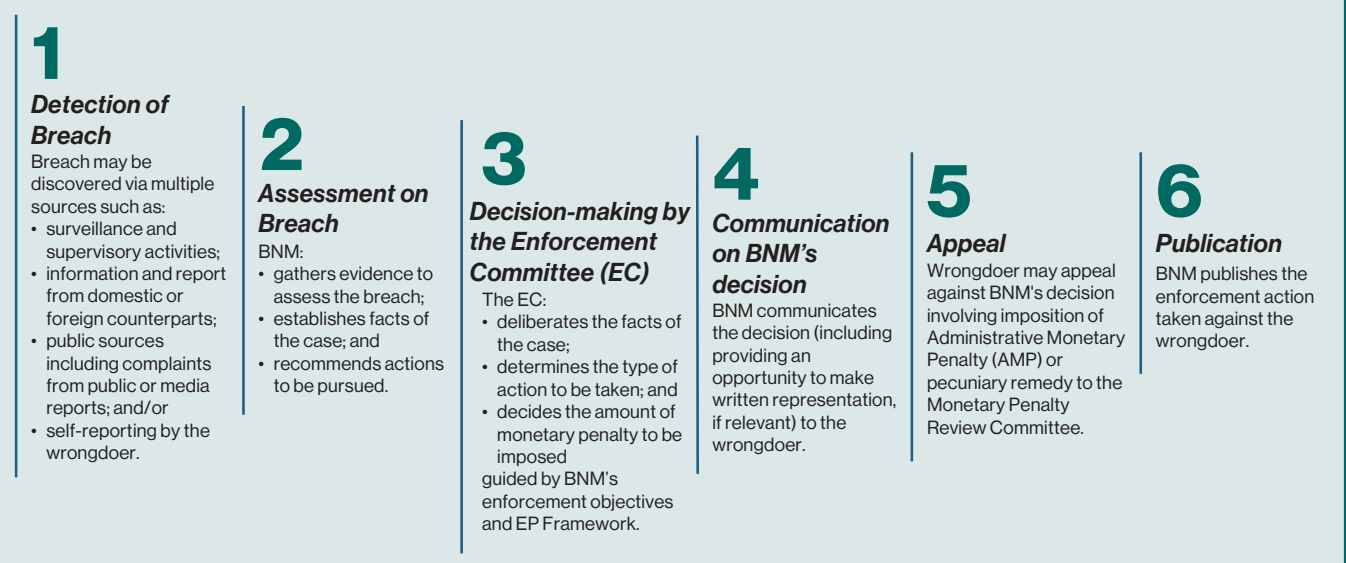
BNM's enforcement and penalty framework

Enforcement decisions by BNM are guided by the Enforcement and Penalty (EP) Framework. The EP Framework outlines the enforcement tools¹ provided under the laws administered by BNM also provides specific guidance on the determination of appropriate enforcement actions, including the computation of monetary penalties. A key consideration that goes into these decisions is the severity of the breach. The determination of severity is made by evaluating many factors, including any adverse impact to third parties or broader public interest arising from the breach, and whether the breach points to a more serious breakdown in governance and controls within financial institutions.

Where monetary penalties are considered, BNM's relevant laws stipulate the maximum penalty that can be imposed. Within these limits, the EC arrives at an appropriate and proportionate penalty after taking into account aggravating and mitigating factors such as the severity of the breach, the extent of care and due diligence taken to mitigate the breach, and effectiveness of actions taken to prevent future misconduct. Additionally, the EC also considers the deterrent effect of enforcement actions to reinforce a strong compliance culture. Diagram 2 outlines the typical process for enforcement actions undertaken by the EC.

¹ Enforcement tools include administrative monetary penalty (AMP), instruction to remedy breach, and public or private reprimand.

Diagram 2: Overview of Bank Negara Malaysia's Enforcement Process



Source: Bank Negara Malaysia

Disclosure of enforcement actions

Since 2019, enforcement actions are published by BNM on its website. The publication notices set out details of the breach, including the relevant provisions of legislation that were breached, a description of the nature of the offences and the enforcement actions taken. Where the offender is a regulatee of BNM, information is also provided on any actions required or taken to remedy the breach. We also disclose aggregate information on our supervisory and enforcement actions in our annual reports.

Taking steps to disclose our enforcement actions is how we ensure accountability for enforcement actions taken by BNM and promote public confidence in BNM's role as a regulator and supervisor of the financial system. As earlier noted, the disclosures also serve to provide a credible deterrent against future breaches and misconduct, as well as provide learning points to the other players in the industry.