

Malaysia's Anti-Money Laundering / Counter Financing of Terrorism (AML/CFT) Regime & Preparation for Mutual Evaluation Exercise and NPO Sector



Scope

- Introduction to money laundering and terrorism financing
- AML/CFT Regime in Malaysia
- AML/CFT – International Efforts
- APG Mutual Evaluation Exercise 2014
 - § Requirements on NPO Sector



What is ML/TF?

- 1 Engages, directly/ indirectly, in transactions involve proceeds of unlawful activities
- 2 Acquires, receives, disguise, transfers, converts (..etc) proceeds of unlawful activities
- 3 Conceals, disguise or impedes the establishment of the true nature, origin, location, movement (...etc) with respect to, or ownership of proceeds of unlawful activities



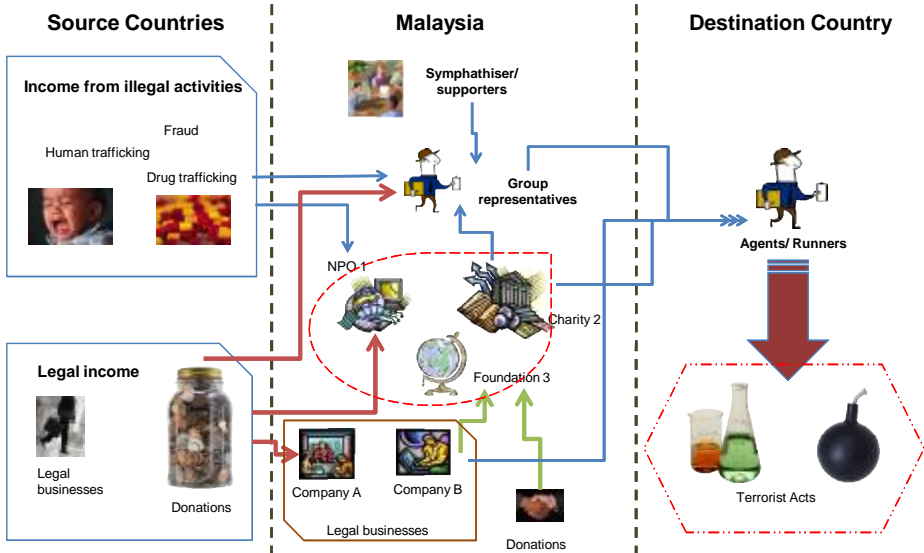
Sec.3 AMLATFA 2001



“Process of financing terrorist activity either through **legitimate** or **illegitimate** source.”

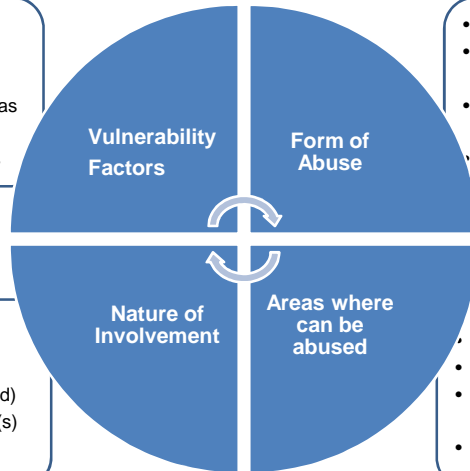


Case study – How NPO being used to finance terrorism



NPO Sector Vulnerabilities

- regular dealings with large amounts of cash
- global presence
- operate in high-risk areas
- exposure to a large number of beneficiaries



- Raising and moving funds
- Providing logistical support
- Encouraging terrorist recruitment
- Other support

- complicit
- non-complicit (exploited)
- some complicit official(s)

- to its finances
- to its operations
- provision of material resources
- to its personnel

Recognising vulnerabilities and balancing with mitigation efforts



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Overview of AML/CFT Regime in Malaysia

The Anti-Money Laundering and Anti-Terrorism Financing Act 2001 (AMLATFA)

- Came into force on 15 January 2002.
- Criminalises money laundering and terrorism financing.
- Number of predicate offences:
 - 288 from 42 legislations*
- Number of reporting institutions:
 - More than 38,000 entities.
 - Includes financial institutions and designated non-financial business and professions (DNFBPs) sector such as lawyers, accountants, casino and dealers in precious metals and stones.

* Number will change due to changes in the underlying legislations

Bank Negara Malaysia as Competent Authority under AMLATFA

- Mandated to receive from reporting institutions and analyse:
 - suspicious transaction reports (STR)
 - cash transaction reports (CTR)
- Disseminates financial intelligence to law enforcement agencies and foreign financial intelligence units (FIUs).
- Reviews and develops AML/CFT policies governing the reporting institutions.
- Acts as Secretariat to the National Coordination Committee to Counter Money Laundering (NCC)



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AML/CFT Initiatives are Coordinated via the NCC

National Coordinating Committee to Counter Money Laundering (NCC)

Agencies under the NCC

Supervisory/Regulatory

- Bank Negara Malaysia (FIED)
- **Companies Commission of Malaysia**
- Labuan Financial Services Authority
- **Registrar of Societies**
- Securities Commission

Enforcement

- Inland Revenue Board
- Immigration Department of Malaysia
- Malaysia Anti-Corruption Commission
- Royal Malaysian Customs
- Royal Malaysia Police

Policy

- Ministry of Finance
- Ministry of Foreign Affairs
- Home Ministry
- Ministry of Domestic Trade Cooperatives and Consumerism
- Attorney-General's Chambers
- Ministry of International Trade and Industry

Objectives:

- Develop national policy measures to counter money laundering / terrorist financing (ML/TF)
- Develop and ensure proper implementation of measures to counter ML/TF based on internationally accepted standards



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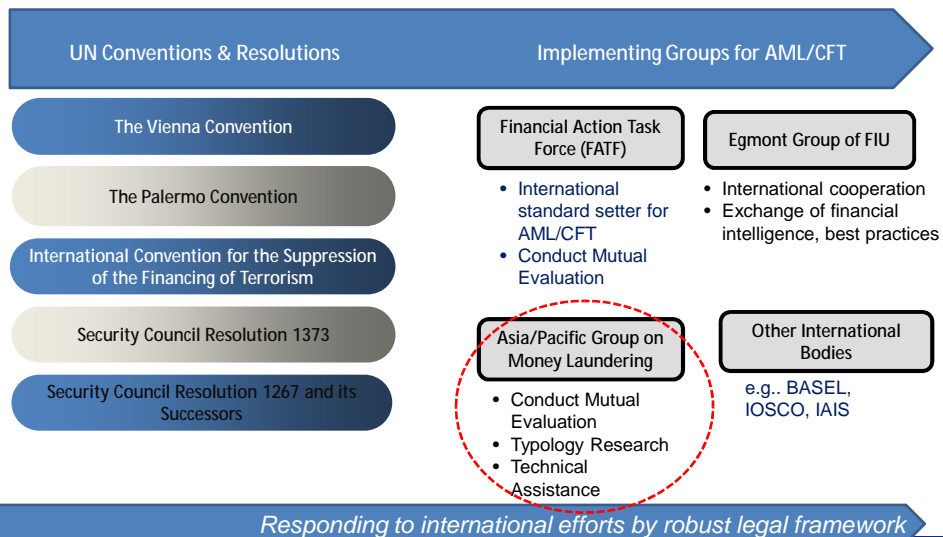
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AML/CFT – International Efforts to Combat Money Laundering / Terrorist Financing (ML/TF)



Snapshot on Financial Action Task Force (FATF)

Background

- An inter-governmental policy making body, comprised of 34 member jurisdictions and 2 regional organisations
- Ministerial mandate to establish international standards for AML/CFT
- Over 180 jurisdictions have joined the FATF or an FATF-style regional body, and committed at the ministerial level to implementing the FATF standards

Functions

- Sets international standards to combat money laundering/terrorist financing (ML/TF).
- Assesses and monitors compliance with the FATF standards.
- Develop the International Cooperation Review Group (ICRG) process as a means to ensure countries' compliance with the FATF Standards.
- Conducts typologies studies of ML/TF methods, trends and techniques.
- Responds to new and emerging threats, such as proliferation financing.

Actions

- Conduct Mutual Evaluation Exercise on its member countries.
- Partners with FATF Regional Style Bodies (e.g. APG) to conduct the ICRG process on countries with deficiencies in AML/CFT measures.
- Issue FATF Public Statements to highlight countries with AML/CFT deficiencies.



Snapshot on Asia/Pacific Group on Money Laundering (APG)

Background

- An autonomous and collaborative international organisation founded in 1997 in Bangkok, Thailand under the FATF umbrella.
- Members comprised of 41 member countries from the Asia Pacific regions and observers.
- Members provide commitment to implement the FATF standards via the Ministerial mandate.

Functions

- Assesses and monitors compliance of the member countries with the FATF standards through a Mutual Evaluation programme.
- Coordinate bi-lateral and donor-agency technical assistance and training in the Asia/Pacific region in order to improve compliance by APG members with the global AML/CFT standards;
- Conduct research and analysis into ML/TF trends and methods to better inform APG members of systemic and other associated risks and vulnerabilities

Actions

- Conduct Mutual Evaluation Exercise on its member countries.
- Participate in the International Cooperation Review Group (ICRG) process.
- Recommend member country with strategic AML/CFT deficiencies to be placed under the ICRG process.



Potential Impacts of not Complying with the FATF Standards on AML/CFT



- ü Create **underground business** that compete with genuine business
- ü **Increases crimes** and unemployment
- ü **Reduces productivity** in the real sector – diversion of resources, corruption
- ü **Distort the economy's external sector** (international trade and capital flows) to the detriment of long term economic development -
- ü Affect the **integrity of financial system** - Institutions are seen as **vulnerable to infiltration** / abused by criminals

- ü Risk of Malaysia being **placed under International Cooperation Review Group (ICRG) process**
 - will be subjected to greater scrutiny and need to devote high amount of resources and time to exit the process.
- ü **Risk of being listed by FATF** in its Public Statement
- ü Perceive to be a **"popular haven"** for criminals



Implication: High-risk and non-cooperative jurisdictions

FATF Public Statement – 18 October 2013

Jurisdictions subject to a FATF call on its members and other jurisdictions to apply **counter-measures** to protect the international financial system from the on-going and substantial money laundering and terrorist financing (ML/TF) risks emanating from the jurisdictions*.

[Iran](#)
[Democratic People's Republic of Korea \(DPRK\)](#)

Jurisdictions **with strategic AML/CFT deficiencies** that have not made sufficient progress in addressing the deficiencies or have not committed to an action plan developed with the FATF to address the deficiencies. The FATF calls on its members to consider the risks arising from the deficiencies associated with each jurisdiction,

[Ecuador](#)
[Ethiopia](#)
[Indonesia](#)

[Kenya](#)
[Myanmar](#)
[Pakistan](#)

[Syria](#)
[Tanzania](#)
[Turkey](#)
[Yemen](#)



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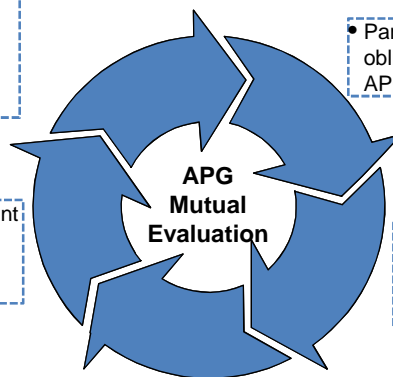


APG Mutual Evaluation Exercise (MEE) 2014 - Background

Objectives

- Peer review process
- Highlight risk areas
- Set direction for policy makers

- Two parts of assessment – technical compliance and effectiveness assessment



- Part of Malaysia's obligation as a member of APG

- Malaysia will undergo its third round of evaluation on 2014 (First in 2001, Second in 2007)

- Among the first countries to be assessed by the new standards and methodology



Mutual Evaluation – Methodology for Assessment

FATF's International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation

Assessment Methodology

1- Technical Compliance

Address specific requirements of each of the FATF Recommendations

Principally relate to the relevant legal and institutional framework, and the powers and procedures of competent authority

C	COMPLIANT
LC	LARGELY COMPLIANT
PC	PARTIALLY COMPLIANT
NC	NON -COMPLIANT

2 – Effectiveness Assessment

Assess the extent to which a country achieves a defined set of outcomes that are central to a robust AML/CFT system

Analyse the extent to which a country's legal and institutional frameworks is producing the expected results

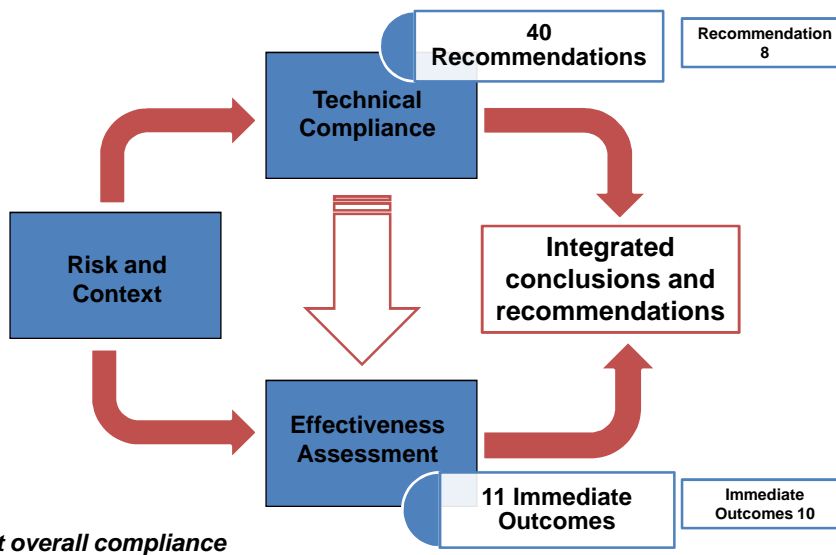
HL	HIGH LEVEL
SL	SUBSTANTIAL LEVEL
ML	MODERATE LEVEL
LL	LOW LEVEL



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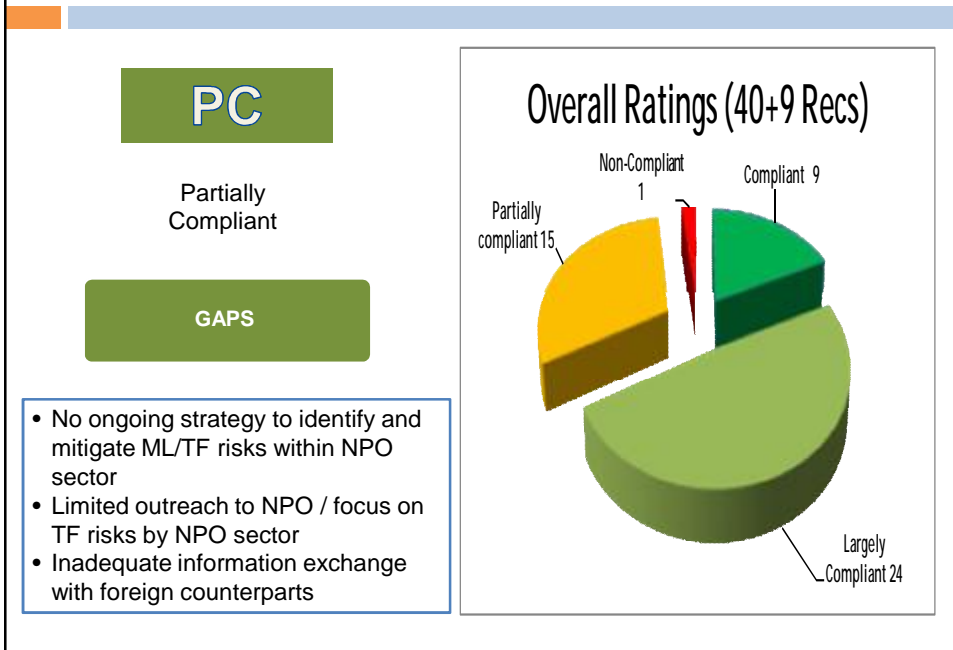
Mutual Evaluation Assessment Overview



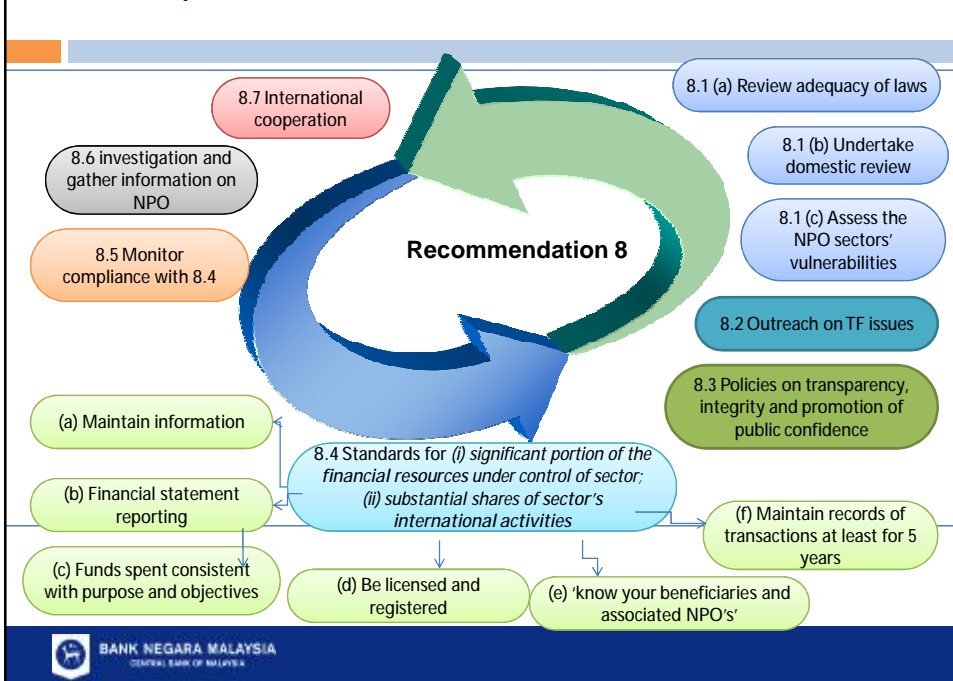
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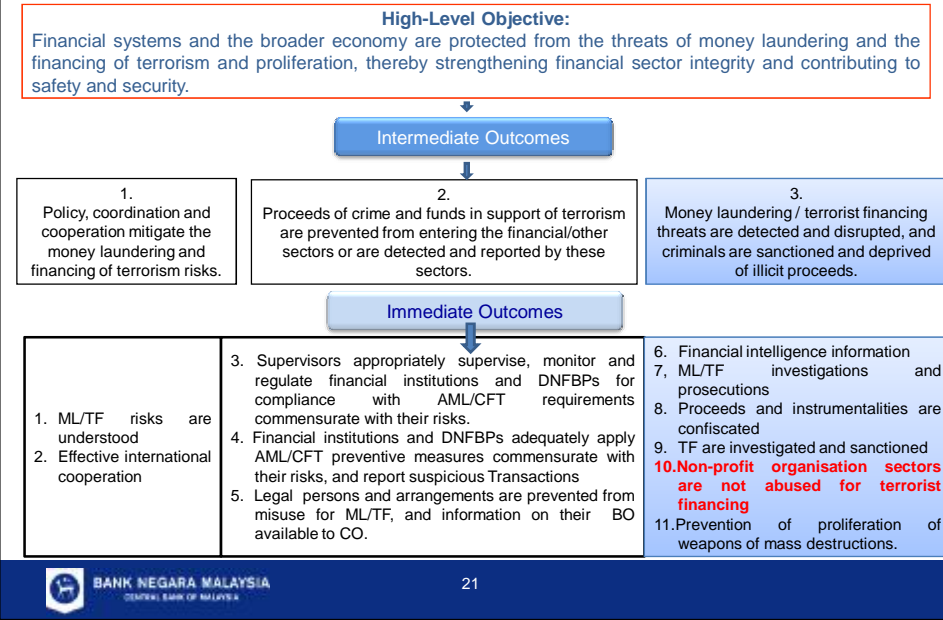
MER 2007: Overall Ratings & Gaps and Recommendations for NPO Sector



Technical Compliance – Recommendation 8

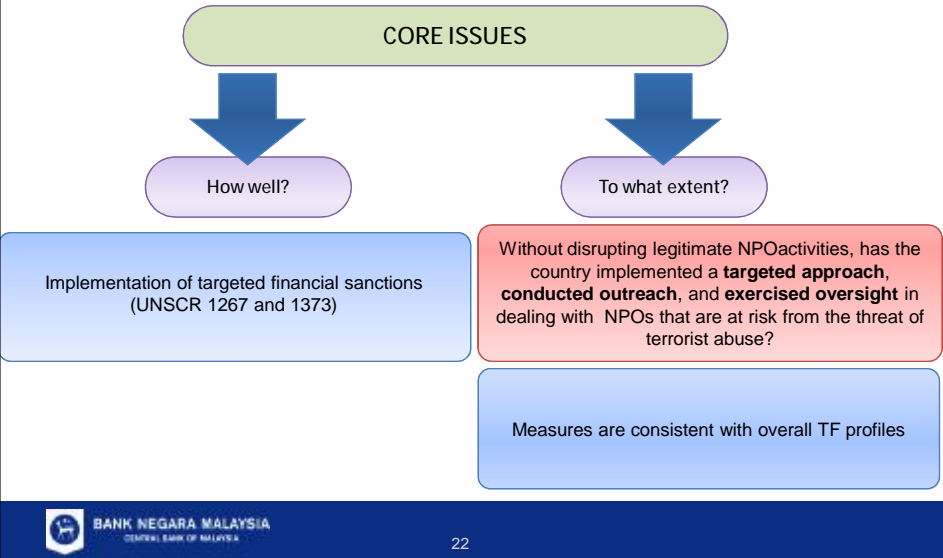


Elements under the Effectiveness Assessment



Relevant Immediate Outcome (Effectiveness Assessment)

IO10 – Terrorists, terrorist organisations and terrorist financiers are prevented from raising, moving and using funds, and from abusing the NPO sector.



Summary – Key Takeaways

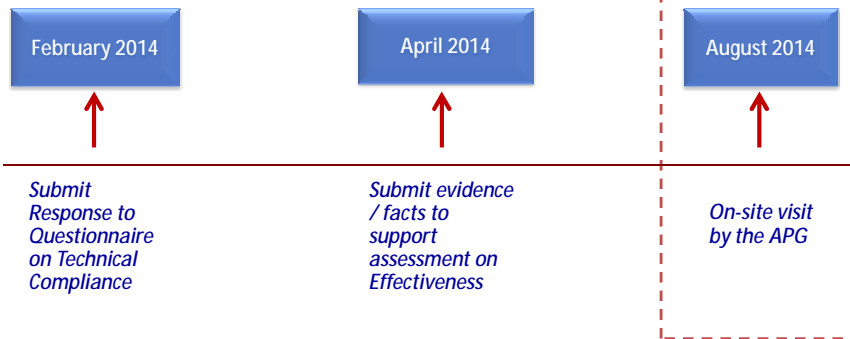
- NPO sector is potentially vulnerable to TF
- Measures to be in place in line with international standards to mitigate vulnerability of the sector
- Compliance with requirements for NPO sectors, in particular for the process of mutual evaluation, will affect Malaysia's overall compliance and standing.



Thank you



Preparation for Mutual Evaluation Exercise 2014 - Timeline



Combating ML/TF is Critical

London bombing (July 2005) – case example...

Total cost for attack:

- 4 suicide bombers (for 4 locations)
- Bombing cost < £1,000 (rental, production, transportation)
- Total cost < £10,000 (recruitment, training, travel)

Consequences:

- Casualties: 52, Injury: 700
- Transport and telecommunication disruption
- Economic impact:
 - £ fall against other currencies
 - FTSE 100 index fell about 200 point
- Total lost ???



Other Information Slides




Breakdown of Predicate Offences by the LEAs

FOR
INFORMATION

No	LEAs	Legislations	No. Of Predicate Offence under AMLATFA
1	PDRM	Penal Code	119
		Anti-Trafficking in Persons Act	24
		Betting Act	2
		Kidnapping Act	3
		Internal Security Act	2
		Dangerous Drugs Act	6
		Dangerous Drugs (Forfeiture of Property) Act	3
		Firearms (Increased Penalties) Act	1
		Explosive Act	5
		Common Gaming Houses Act	2
		Corrosive and Explosive Substances and Offensive Weapons Act	1
		Moneylenders Act	1
		Pawnbrokers Act 1972	1
Malaysian Timber Industry Board (Incorporation) Act 1973	1		
2	JKDM	Customs Act 1967	3
3	SPRM	Malaysia Anti-Corruption Commission Act	10
4	LHDN	Income Tax Act	3
5	MITI	Strategic Trade Act 2010	13
6	SSM	Companies Act	11
		Kooto Funds (Prohibition) Act	1



Breakdown of Predicate Offences by the LEAs			FOR INFORMATION
No	LEAs	Legislations	No. Of Predicate Offence under AMLATFA
	BNM	Banking and Financial Institutions Act	7
		Development Financial Institutions Act	3
		Insurance Act	5
		Exchange Control Act	4
		Islamic Banking Act	2
		Money Changing Act	2
		Payment Systems Act	2
		Takaful Act	5
		AMLATFA	1
8	SC	Futures Industry Act	11
		Securities Commission Act	2
		Securities Industry Act	11
9	LFSA	Labuan Offshore Securities Industries Act	3
		Offshore Banking Act	3
		Offshore Insurance Act	1
		Labuan Trust Companies Act	1
10	KPDNK	Copyright Act	1
		Optical Disc Act	2
		Trade Description Act	1
		Direct Sales and Anti-Pyramid Scheme Act 1993	2
		Control of supplies Act 1961 and Control of Supplies Regulations 1974	3

Effectiveness Assessment - 11 Immediate Outcomes (IO)	FOR INFORMATION
<p>IO1 - ML/TF risks are understood and where appropriate, actions coordinated domestically to combat ML/TF and proliferation</p> <p>IO2 - International cooperation delivers appropriate information, financial intelligence, and evidence, and facilitates action against criminals and their assets.</p>	
<p>IO3 – Supervisors appropriately supervise, monitor and regulate financial institutions and DNFBPs for compliance with AML/CFT requirements commensurate with their risks.</p> <p>IO4 - Financial institutions and DNFBPs adequately apply AML/CFT preventive measures commensurate with their risks, and report suspicious transactions.</p> <p>IO5 - Legal persons and arrangements are prevented from misuse for money laundering or terrorist financing, and information on their beneficial ownership is available to competent authorities without impediments.</p>	
<p>IO6 - Financial intelligence and all other relevant information are appropriately used by competent authorities for money laundering and terrorist financing investigations.</p> <p>IO7 - Money laundering offences and activities are investigated and offenders are prosecuted and subject to effective, proportionate and dissuasive sanctions.</p> <p>IO8 - Proceeds and instrumentalities of crime are confiscated.</p> <p>IO9 - Terrorist financing offences and activities are investigated and persons who finance terrorism are prosecuted and subject to effective, proportionate and dissuasive sanctions.</p> <p>IO10 - Terrorists, terrorist organisations and terrorist financiers are prevented from raising, moving and using funds, and from abusing the NPO sector.</p> <p>IO11 - Persons and entities involved in the proliferation of weapons of mass destruction are prevented from raising, moving and using funds, consistent with the relevant UNSCRs.</p>	
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