

# **AML/CFT: Moving Beyond Compliance**

## ***Towards Self Governance in Non-Profit Sector***

Accounting Research Institute (ARI).

Universiti Teknologi MARA

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# INTRODUCTION:

Enhancing NPO effectiveness through  
*Self Governance*

# Self-governance in non-profit sector

## Focuses on:

1. Gaining **Public Trust** and **Support**
2. Compliance with **Legislative** and other **Requirements**
3. **Self-regulate** - Beyond Board of Directors' responsibilities.
4. Upholding the **Reputation** of the NPO Sector as Providers of **Social Objectives**.

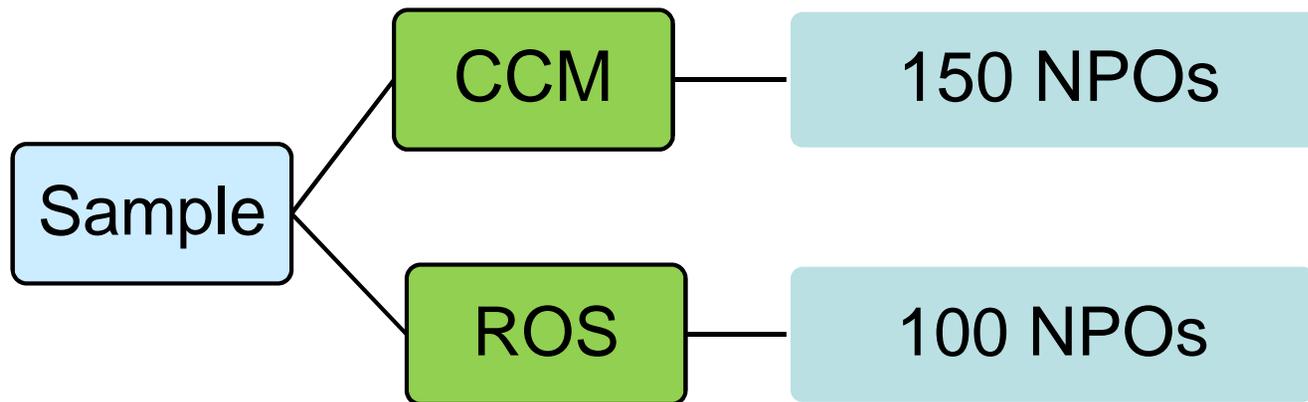


# Research Objectives

**Based on the expectations of Legislative & APG's requirements:**

1. To examine the actual practices of NPOs under CCM and ROS with respect to:
  - § the regulatory requirements under the Companies Act 1965 and Societies Act 1966 respectively
  - § compliance with APG requirements
2. To support CCM and ROS in promoting self governance by non-profit organisations.
3. To recommend Self-Governance Framework for non-profit organisations.

# Methodology



Data gathered based on content analysis of annual reports of NPOs

# Legislative Requirements

- NPOs Registered with CCM
- NPOs Registered with ROS

## NPOs Registered with Companies Commission of Malaysia (CCM)

- **Section 143 (1) of Companies Act 1965 -** Holding annual general meeting (AGM) once in every calendar year
- **Section 165 (5) –** requires all registered societies to submit annual returns to the CCM within one month after each annual general meeting.



## Companies Commission of Malaysia (CCM)

- **Section 165(6) of Companies Act 1965** - provides that the annual returns shall contain the following:
  - Details on the registered office
  - Details on the companies' auditor
  - Particulars on total amount of indebtedness in respect of charges
  - Details on directors, managers and secretaries.
  - Other matters relating to accounts of the company and to unclaimed moneys held.

## Companies Commission of Malaysia (CCM)

- **Section 167** - to maintain records which will sufficiently explain the company's transactions and financial position for a period of 7 years.
- **Section 169(1)** - Tabling audited financial statement in the AGM once in every calendar year

## Registry of Societies (ROS)

**Section 14** of the **Societies Act 1966** - all registered societies are required to submit annual returns to the ROS. These must include:

- Financial statements including balance sheet;
- Minutes of general meeting;
- Updated details of office bearer;
- Details of any amendments to the society's rules;
- Details of any society or organisation with which the society is affiliated or associated; and
- Details of any property or benefit received by the society



## These Regulators are also empowered:

- To request further information as may be required from time to time from NPOs.

Note: There are criminal sanctions for failure to comply with such requests.



# APG Expectations:

- Disclosure of **material information**
- **Accountability**
- **Risk management disclosure**

## APG Material Information Requirements

**Different types of revenue (e.g. membership fees, grants, donations, etc)**

**Activities for generating funds (e.g. receipts from dinner and sales of books)**

**Investment income if any (e.g. rental, dividend)**

**Expenditure and its distribution**

**List of personnel (members, directors etc)**

**Governance and anti-fraud (meetings, reports etc)**

**Beneficiaries (in and outside Malaysia)**

## Accountability Practices

**APG:** NPOs should have appropriate controls in place to ensure that all funds are fully accounted for, ***and are spent in a manner that is consistent with the purpose and objectives of the NPO's stated activities.***

- q ***Source of funding***
- q ***How Funds are spent***

# Risks Management

- Risks Management – management of various risks faced by NPOs.
- The requirements are imposed on regulators

*“risk-based approach, strongly encouraged by the FATF, provides for a targeted and proportionate approach in which NPOs that are generally considered low-risk are not heavily monitored, freeing up resources for authorities to focus the majority of regulatory and CFT (counter the financing of terrorism) efforts on those that are considered high-risk”.*

NPO Sector Vulnerabilities, APG Typologies Report 201 1, page 22.

# Research Findings

**NPOs - CCM**

**NPOs - ROS**

# Legislative Compliance

## COMPANY LIMITED BY GUARANTEE

### Data Inspection: Basic compliance

#### Section 143(1)

- Holding annual general meeting (AGM) once in every calendar year

#### Section 165(5)

- Lodge an annual return within one month after the AGM

#### Section 169(1)

- Tabling audited financial statement in the AGM once in every calendar year



Source: CCM 2013

# APG Expectations

# CCM – Based on 150 annual reports

# Material Information Disclosure

## Statement of Financial Activities: 150 NPOs [CCM]

Material Categories of Information to be Reported	Voluntary income (i.e membership fees, grants)	Activities for generating funds (i.e receipts from dinner, sales of books)	Investment income (i.e Rental income, shares)	Expenditure
Findings on 150 NPOs	63%	4%	22%	19%
Description	Not much details of other sources of income	No details on activities carried out	Minimal reliance on investment income	Minimal detail breakdown of distribution of fund

# Material Information Disclosure

## Statement of Financial Activities: 150 NPOs [CCM]

Material Categories of Information to be Reported	List of personnel (members, directors, etc)	Governance and anti-fraud	Beneficiaries
Findings on 150 NPOs	54%	14%	1%
Description	Mostly listing of directors only	No disclosure on effectiveness and efficiency of the programs conducted	No disclosure on the beneficiaries outside and inside Malaysia

# Accountability Practices

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# Accountability Practices

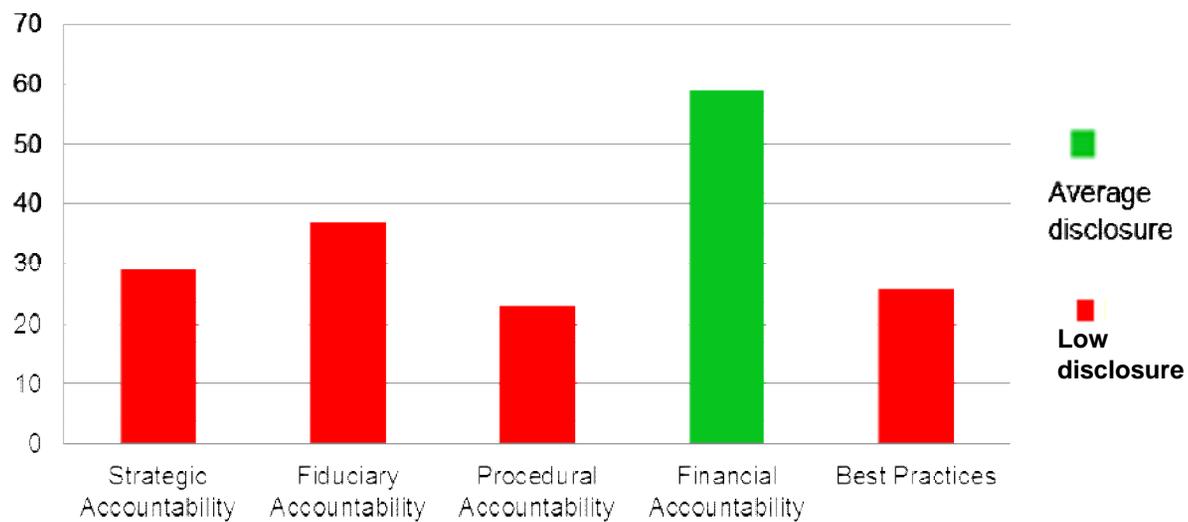
## 5 Categories of Accountabilities

(reflect responsibilities to various stakeholders)

- ✓ **Financial accountability** - concerned with financial outlook and the main trends and factors underlying the financial development.
- ✓ **Fiduciary accountability** – emphasizes compliance, good governance and control in safeguarding the funds, assets and future of an organisation.
- ✓ **Procedural accountability** - relate to internal organizational operations and are designed to confirm that management processes and procedures embody societal norms and beliefs.
- ✓ **Strategic accountability** - associated with a NPO's core purpose, vision and mission, activities and programs to fulfill the intentions, impact of their actions and the extent to which the intentions have been achieved.
- ✓ **APG and Best practices accountability** - associated with best practices promoted by relevant advocates in relation to anti-money laundering and terrorism financing.

# Findings

## AI (%)



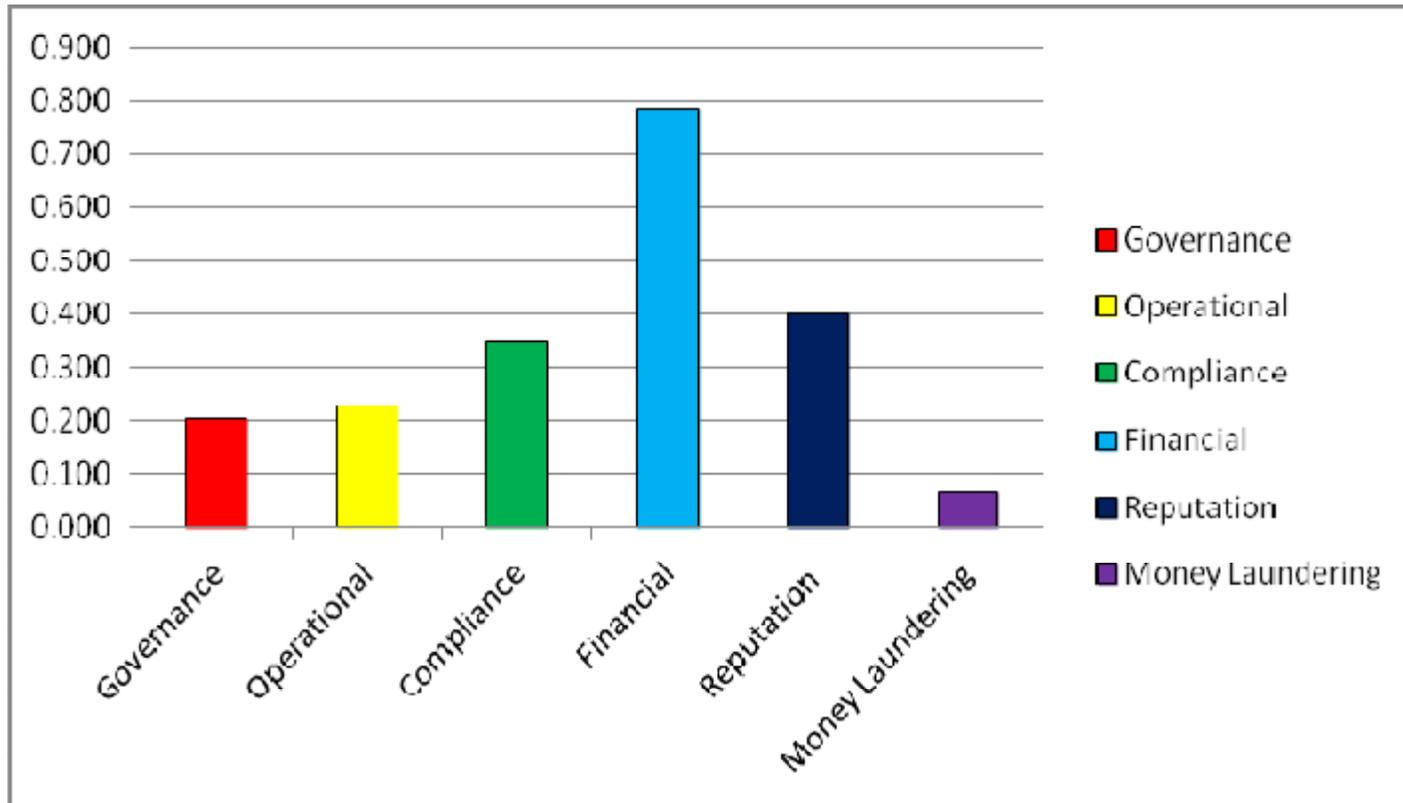
# Risk Management

# Risk Management Practices

- Annual reports of NPOs/CCM -

- Risks Management – management of various risks faced by NPOs.
- Six categories of unique risks faced by NPOs: governance risks, operational risks, compliance risks, financial risks, reputation risks and money laundering risks.

## Overall Extent of Risk Disclosures



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# NPOs – ROS

## Based on 100 NPOs

# Societies Act 1966

Bil	SA 1966	B9	Komen
1	Annual Return OR Balance Sheet plus audited receipts and expenditure	√	Format pelaporan berbeza-beza
2	Register of Meetings (annual plus special)	partial	<ul style="list-style-type: none"> <li>• Mesyuarat agong sahaja</li> <li>• Tiada senarai pendaftaran mesyuarat</li> <li>• Tiada maklumat mesyuarat lain</li> <li>• Tiada minit mesyuarat</li> </ul>
3	Registered Office address	√	
			<ul style="list-style-type: none"> <li>• Terdapat maklumat tambahan selain SA 1966</li> </ul>
			<ul style="list-style-type: none"> <li>• Format B9 terlalu statik</li> </ul>

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Source: *Penyata Tahunan Pertubuhan*

## APG MATERIAL INFORMATION – 2010/2011 ANNUAL REPORTS

### Statement of Financial Activities: 100 Societies

Total Revenue: RM15,951,460.00

Material Categories of Information to be Reported	Voluntary income (i.e membership fees, grants)	Activities for generating funds (i.e receipts from dinner, sales of books)	Investment income (i.e Rental income, shares)	Expenditure
Findings on 100 societies	95%	53%	23%	<ul style="list-style-type: none"> <li>Inconsistent presentation</li> <li>No details provided by societies</li> </ul>

## PRELIMINARY FINDINGS – 2010/2011 ANNUAL REPORTS

### Other Material Information Reported: 100 Annual Reports

	Distribution of expenditure (e.g maintenance costs, expenditures)	List of Personnel (members, directors etc)	Report of Significant Incident (fraud etc)	Beneficiaries		
				Malaysia	Outside Malaysia	Others
<b>Findings on 78 societies</b>	0%	94%	0.01%	0.05%	0%	11%

# SUMMARY

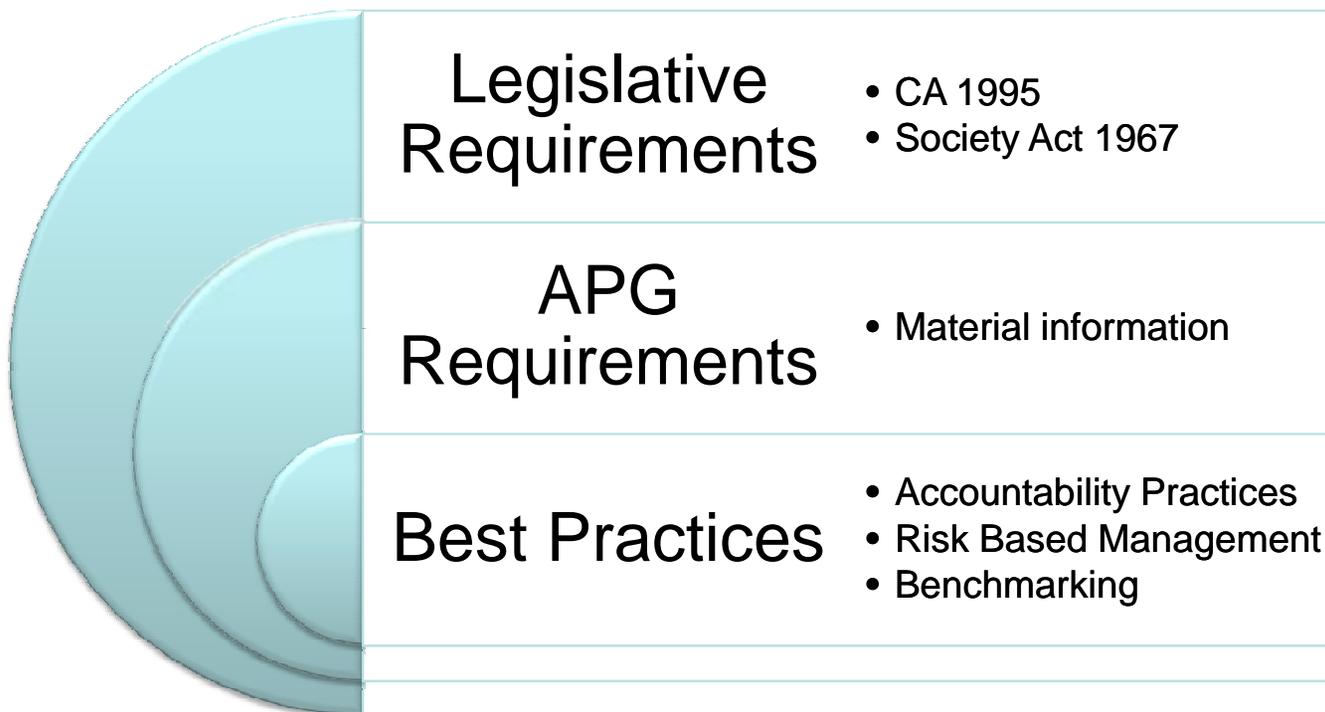
- Ø Focus on fulfillment of social purpose and objectives.
- Ø Some evidence on good governance and accountability practices.
- Ø Disclosure in annual returns/reports reflects compliance with regulatory requirements. Overall disclosure is at moderate level, may indicate minimum disclosure strategies.
- Ø Needs to improve on Material information disclosure for APG
- Ø Some evidence of risks management disclosure practices by larger NPOs.

# RECOMMENDATIONS

## Self Governance Tool for NPOs

- Ø Enhance quantity and quality of information in annual reports beyond regulatory compliance.
- Ø Risks Management – identification and managing key risks identified.

## Proposed Self-Governance Tool for NPOs



## RECOMMENDATIONS

### **Promotion of self governance by relevant authorities:**

- Ø Development of reporting best practice.
- Ø Development of governance best practice.
- Ø Identification of high risks NPOs for facilitation purposes.

## NPO RESEARCH CLUSTER

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# THANK YOU



Special acknowledgement to:



SURUHANJAYA SYARIKAT MALAYSIA  
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