



## Session 4: 'Future-Proofing the Company Secretary. Addressing the Gaps'

Dr. Sarah Azlina Che Rohim  
Deputy Director

Financial Intelligence and Enforcement Department, Bank Negara Malaysia



# Relevant AML/CFT Laws, Rules & Regulations....



- **Anti-Money Laundering, Anti-Terrorism Financing & Proceeds of Unlawful Activities Act 2001 (AMLA)**

- ❑ Anti-Money Laundering (Invocation of Part IV (No. 2) Order 2004:
  - ✓ *P.U.(A) 340/2004: Invocation of Sections 14(b), 20 & 24 AMLA w.e.f. 30/09/04*
- ❑ Anti-Money Laundering (Invocation of Part IV) Order 2006:
  - ✓ *P.U.(A) 293/2006: Invocation of Sections 13, 15, 16, 17, 18, 19, 21, 22, 25, 26, 27 & 28 AMLA w.e.f. 10/08/06*



- **AML/CFT – Designated Non-Financial Businesses and Professions (DNFBPs) & Other Non-Financial Sectors (Sector 5) Policy Document**

– Revised & reissued on 1 November 2013



**Company secretaries are reporting institutions under the AMLA when they prepare or carry out the following activities for their clients:**

1. Act as a formation agent of legal entities;
2. Act as a director/secretary of a company, a partner in a partnership or any similar positions in other entities
3. Provide registered office or address for a company, a partnership, or any other legal entities/arrangements
4. Act as a trustee of an express trust; or
5. Act as a nominee shareholder for another person

# BNM and SSM joint on-site assessment in 2017 and 2018 supervisory observations...

## Good Practices



### Know Your Client

- Request for basic CDD information



### On-going Due Diligence

- Maintain up-to-date client information



### Management Information System

- Maintenance and centralisation of clients information at firm level



### Record Keeping

- Retention of basic CDD and transaction records for at least 6 years

## Lapses



### Conduct of

- CDD** (50%)
  - Lapses in CDD on BO
- EDD** (100%)
- ODD** (18.75%)
  - Lapse in conducting transaction monitoring



- Combating Financing of Terrorism (100%)



- ML/TF Risk Assessment (100%)
- Customer Risk Profiling (100%)



- STR Reporting Mechanism (100%)



- Compliance Function (100%)

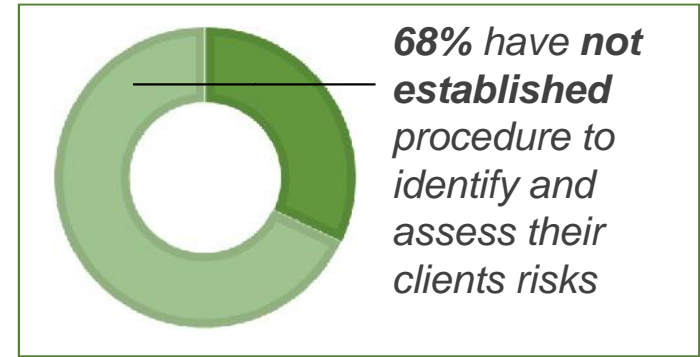
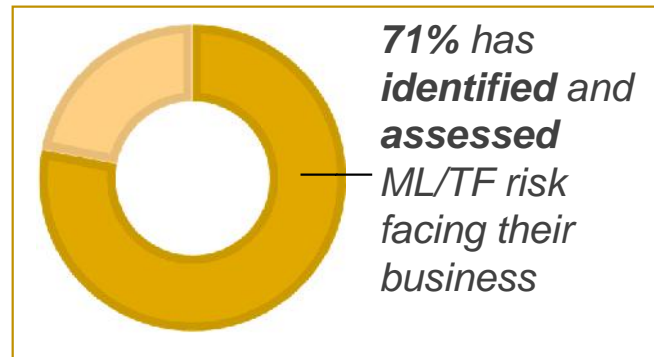
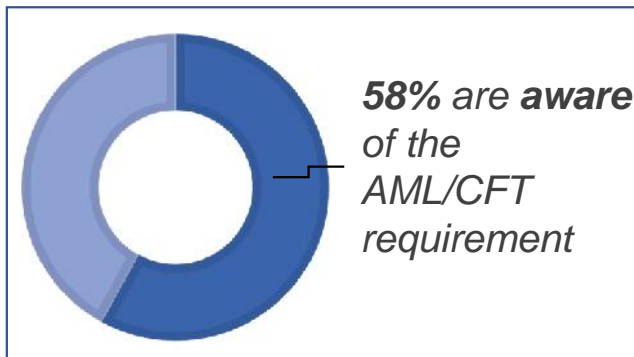
# AML/CFT Compliance Survey Conducted in 2016

SSM NATIONAL CONFERENCE 2019

*Low number of respondents, i.e. 386 out of 1086 firms*



Only **3%** are *aware* that they dealt with high risk clients



**NRA 2017**

Company secretaries were assessed with **Medium High** net ML risk, due to:

- Offering of **nominee** directorship and shareholding services; and
- The geographical distribution of firms in higher risk locations with high business activities.



*ML Investigations have shown the abuse of company secretarial services, particularly the use of complex business structures and nominee services to disguise ownership*



**Moving forward, company secretaries must be more vigilant and inquisitive given the vulnerabilities of its services to ML/TF risks...**

**Currently company secretarial sector showed..**

- Low level of awareness on, and subsequent compliance with, AML/CFT requirements
- Lack of understanding on company secretaries vulnerabilities to ML/TF risks or abuse



**Expectation moving forward..**

- “Comply to Protect” from being abused to facilitate ML/TF related crimes or activities
- Where possible, reliance on technology to facilitate compliance

Beginning 2020, BNM will pursue enforcement actions for any non-compliance identified during on-site assessment

**Further guidance on compliance can be found on:**



<http://amlcft.bnm.gov.my/>