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**FUTURE-PROOFING BUSINESS  
IN THE DIGITAL AGE**



# Session 8: “Beneficial Ownership: Framework and Expectations”

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# Outline of Presentation



**Context Setting**  Overview of Malaysia's **AML/CFT framework** and **roles of reporting institution**

**International Landscape of BO Framework**  The **FATF Recommendations** in relation to **beneficial ownership (BO)** requirements

**AML/CFT Domestic Requirements on BO**  **AML/CFT requirements** applicable on reporting institutions in relation to **identification & verification of beneficial owners**

Topic 1

# Context Setting



# Laying the Foundation - AML/CFT Framework for Prevention of ML/TF

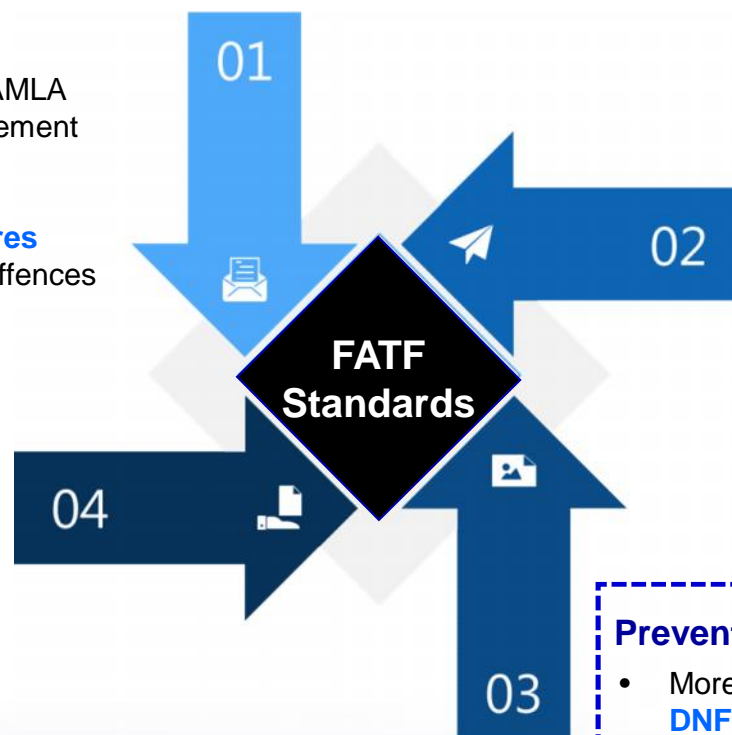
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## Legal Framework

- BNM the **competent authority** for AMLA and appropriate supervisory/ enforcement powers
- Provision of law in relation to both **preventive and combative measures**
- **Criminalisation** of more than 400 offences from more than 45 legislations
- **Inclusion** of reporting institutions

## Combative Measures: FIU & LEAs

- Adequate **investigation & enforcement powers** (incl. freezing, seizure and
- Fully-functional **FIU** in BNM
- **AML/CFT Units set-up in** key law enforcement agencies (LEAs)
- Structured **training programs** for financial investigators



## Domestic & International Cooperation

- **National Coordination Committee** for integrated approach across 16 Ministries & Agencies
- *DNFBP Working Groups for collaboration among licensing bodies, self regulated bodies, industry associations and RIs*
- **Identify & respond** to emerging risks through National Risk Assessment process
- **MOUs and strategic partnership** with foreign FIUs and counterparts
- **Strong network** with international/regional bodies
  - ✓ FATF, APG, Egmont Group of FIUs

## Preventive Measures: Reporting Institutions

- More than 43,000 RIs (inclusive of **FIs** and **DNFBPs**)
- Identifications of **institutional risks**
- Implementation **effective AML/CFT compliance programme** to detect and deter ML/TF
- **Submit STRs** and CTRs to FIED, BNM

# The Equation - Roles of RIs as the First Line of Defence

## Preventive measures

## Combative measures

1



Criminals

- Tries to place illegal proceeds via RIs

2



Reporting Institutions (RIs)

- Know your customer
- Submit STRs to BNM when the transactions are suspicious or out of ordinary
- Submit CTRs, when required

3



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BNM receives more than **300** STRs per day

- Financial Intelligence Unit (FIU) in BNM analyses CTRs and STRs
- Provide analysis of multi-STRs reported by various RIs to LEAs

4



Law Enforcement Agencies

- Conduct investigation based on the analysis

Topic 2

International Landscape of  
BO Framework  
BO FRAMEWORK

# FATF Recommendations - Beneficial Owner (BO)

## A. FATF Recommendation: Definition of BO

Beneficial owner refers to the **natural person(s)** who **ultimately owns** or **controls** a customer and/or the natural person on whose behalf a transaction is being conducted. It also includes those persons who **exercise ultimate effective control** over a legal person or arrangement.

## B. FATF Recommendation: One or more ways to obtain and hold BO information

<span style="border: 2px solid blue; border-radius: 50%; padding: 5px; font-weight: bold;">01</span> <span style="color: blue; font-weight: bold;">AND/OR</span> <b>Company Registries</b>	<span style="border: 2px solid blue; border-radius: 50%; padding: 5px; font-weight: bold;">02</span> <span style="color: blue; font-weight: bold;">AND/OR</span> <b>Companies</b>	<span style="border: 2px solid blue; border-radius: 50%; padding: 5px; font-weight: bold;">03</span> <b>Existing Information Held...</b>
<p><b>Obtain and hold up-to-date information</b> on the beneficial ownership of the companies</p>	<p>a) <b>Obtain and hold up-to-date information</b> on the companies' beneficial ownership</p> <p style="text-align: center;">AND/OR</p> <p>b) <b>Take reasonable measures to obtain and hold up-to-date information</b> on the companies' beneficial ownership</p>	<p>a) FIs and/or DNFBPs: Rec 10 &amp; 22                      - AML/CFT requirements for CDD, EDD, ODD, record keeping and retention and reliance on third parties under the AMLA and relevant guidelines</p> <p>b) Other competent authorities</p> <p>c) Companies</p> <p>d) Stock Exchanges</p>



Topic 3

## AML/CFT Domestic Requirements on BO

Requirements on BO



# Legal Obligations to Obtain and Keep Beneficial Ownership (BO) Information - Instruments Available

01

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

- Section 13 : Record Keeping by Reporting Institution
- Section 16 : Customer Due Diligence
- Section 17 : Retention of Records

02

## Guidelines issued by the Regulatory / Supervisory Authorities pursuant to sections 22 and 83 of the AMLA



03

## Other Relevant Laws



LAWS OF MALAYSIA

Act 613

### Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001

Date of Royal Assent	25-Jun-2001
Date of publication in the <i>Gazette</i>	5-Jul-2001

An Act to provide for the offence of money laundering, the measures to be taken for the prevention of money laundering and terrorism financing offences and to provide for the forfeiture of property involved in or derived from money laundering and terrorism financing offences, as well as terrorist property, proceeds of an unlawful activity and instrumentalities of an offence, and for matters incidental thereto and connected therewith. Art 41:457

[15 January 2002] *PU(B) 13/000*

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

# AML/CFT Requirements - Identification & Verification of Beneficial Owner (BO)



- Refers to any **natural person(s) who ultimately owns or controls a customer and/or the natural person on whose behalf a transaction is being conducted.**
- It also includes those **natural persons who exercise ultimate effective control over a legal person or arrangement.**

*Reference to 'ultimately owns or control' or 'ultimate effective control' refers to situations in which ownership or control is exercised through a chain of ownership or by means of control other than direct control.*



## On Legal Persons



## On Legal Arrangements

### Identify and take reasonable measures to verify identity of BO

(a) Identity of the **natural person who ultimately has a controlling ownership interest in a legal person.**

At a minimum, include:

- Identification of directors/shareholders with **equity interest of more than 25%**;
- Proper authorisation for persons authorised to represent the company (letter of authority/ directors' resolution); and
- NRIC / Passport to identify the authorised person(s)

(b) If there is **a doubt on the controlling interest** - the identity of the **natural person exercising control through other means**

(c) **Where there is no natural person identified** - the identity of the natural person who holds the **senior management position**

For trusts, the identity of:

- Settlor;**
- Trustee(s);**
- Protector (if any);**
- Beneficiary;**
- Class of beneficiaries;** and
- Any other **natural person exercising ultimate effective control over the trust** (including through the chain of control / ownership).

Identification & verification of the BOs up to the LEVEL OF NATURAL PERSONS who have control