
COMPANY SECRETARIES AS REPORTING INSTITUTIONS 
**UNDER THE ANTI-MONEY LAUNDERING, ANTI-TERRORISM
FINANCING AND PROCEEDS OF UNLAWFUL ACTIVITIES ACT
2001**

**MD IBNU HISYAM MOHAMAD
CORPORATE COMPLIANCE DIVISION**

6 OCTOBER 2022

MONEY LAUNDERING (ML)



- Process of making illegally-gained proceeds (i.e. “dirty money”) appear legal (i.e. “clean”)
- E.g. **drug trafficking, corruption, tax evasion**, etc. can produce large profits and create the incentive to ‘legitimise’ the ill-gotten gains through money laundering

WHY do Criminals Launder Money?

The broad aims of money laundering are threefold:



Convert proceeds of crime to a less suspicious form



Conceal the illegal ownership or origin of the criminal earnings



Create a legitimate explanation for the source of assets

How is money laundered?

Placement

Move the funds away from its source
(e.g. deposit money into bank accounts, purchase of foreign money using illegal funds via money changers)



Layering

Disguising the trail or “layering” the illegal nature
(e.g. multiple fund transfer to different onshore and offshore bank accounts)



Integration

Making the funds available for enjoyment and appear ‘legal’
(e.g. purchase properties, purchase luxury goods i.e. jewellery, engage in legal business)

TERRORISM FINANCING (TF)



Process of **financing terrorist* activity** either through **legitimate or illegitimate sources**



*A terrorist is a person or a group who uses **unlawful violence and intimidation** in pursuit of political aims, e.g. ISIL & Boko Haram

WHAT are the Common Methods of Terrorism Financing?



Raising funds through legitimate sources

e.g. legal business, pawning of jewellery, etc.



Raising funds from criminal proceeds

drug trafficking, credit card fraud

e.g.



Self funding

e.g. families and friends

Other ways:

- Kidnapping** for ransom
- Movement of funds / money through the **financial system** in small amounts to avoid detection
- Movement of value through **jewellery / precious stones / gold bullion** across borders
- Borrowing through **money lenders**

MALAYSIA'S AML/CFT REGIME



Legal Framework

- Provision of law in relation to both **preventive** and **combative** measures
- Enforced by multi agencies
- Powers:
 - a) competent authority, i.e. BNM;
 - b) law enforcement agencies;
 - c) supervisory authorities



Combative Measures: BNM & LEAs

- Adequate investigation & enforcement powers (incl. freezing, seizure)
- AML/CFT Units set-up in key law enforcement agencies (LEAs)



Domestic & International Cooperation

Domestic

- National Coordination Committee, DNFBP Working Groups, Identify & respond to emerging risks through National Risk Assessment

International

- MOUs and strategic partnership with counterparts, Strong network with international / regional bodies
 - ✓ FATF, APG, Egmont Group of FIUs



Preventive Measures: Reporting Institutions

- Identifications of institutional risks
- Implementation effective AML/CFT compliance programme to detect and deter ML/TF
- Submit STRs and CTRs to FIED, BNM where relevant

AML/CFT STAKEHOLDERS



No.	Stakeholders	Functions/Entities
1.	Competent Authority	BNM
2.	Regulatory authorities	MOHA, CCM, MOFA, MITI, AGC, MoF, MITI
3.	Supervisory authorities	BNM, SC, LFSA, SSM
4.	Licensing/Registration authorities	SSM, BNM, SC, LFSA, KPKT, BoVEA
5.	Law Enforcement Agencies (refer to Second Schedule to the AMLA)	BNM, RMP, MACC, RMC, SC, Immigration, IRB etc.
6.	Self-Regulatory Bodies	Bar Council, Malaysian Institute of Accountants (MIA), Sabah Law Society
7.	Industry Associations	Labuan Trust Companies Association, the Federation of Goldsmiths and Jewelers Association, Malaysian Institute of Chartered Secretaries and Administrators (MAICSA). etc.
8.	Reporting Institutions (refer to First Schedule to the AMLA)	Financial institutions, DNFBP and non-bank financial institutions

REPORTING INSTITUTIONS



E-Money
Operator



Casino & Gaming



Dealer in Precious
Metals & Stones



Moneylender &
Pawnbroker



Money Services
Business



Registered Estate
Agent



Lawyer



Accountant



Company
Secretary



Trust Company



Banking & Deposit
Taking Institutions



Insurance &
Takaful

COMPANY SECRETARY AS ONE OF THE REPORTING INSTITUTIONS

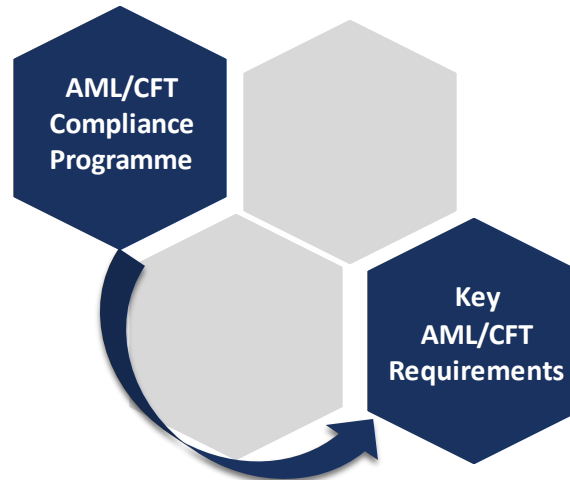








 E-Money Operator	 Casino & Gaming	 Dealer in Precious Metals & Stones	 Moneylender & Pawnbroker	 Money Services Business	 Registered Estate Agent
 Lawyer	 Accountant	 Company Secretary	 Trust Company	 Banking & Deposit Taking Institutions	 Insurance & Takaful

AML/CFT REPORTING OBLIGATIONS



-  Compliance Function
-  Policies, Procedures and Controls
-  Board & Senior Management
-  Employee Screening
-  AML/CFT Training
-  Independent Audit Function



-  Customer Due Diligence
-  Enhanced Due Diligence / On-going Due Diligence
-  TF, PF & OSR Screening
-  ML/TF Risk Profiling / Institutional Risk Profiling
-  Suspicious Transaction Report
-  Record Keeping / Management Information System

AML/CFT REPORTING OBLIGATIONS



Appointment of an AML/CFT Compliance Officer

All reporting institutions are required to appoint and name your Compliance Officer, regardless of firm size.



REFERENCE POINT for all AML/CFT matters of the RI



Sufficient stature, authority and seniority within the RI to effectively influence AML/CFT decisions



Necessary knowledge and expertise to effectively discharge roles



Fit and proper to carry AML/CFT duties effectively

- ✓ Probity, personal integrity & reputation
- ✓ Competency and capability
- ✓ Financial integrity



Sole discretion & independence to submit suspicious transaction report on behalf of RI

For guidance, refer to paragraphs 11.5.5 to 11.5.8 of Policy Document



Notify BNM on appointment or change, of CO, within 10 working days, via <https://dnfbportal.bnm.gov.my/co/>

Alternatively,



Pengarah

Financial Intelligence and Enforcement Department
Bank Negara Malaysia
Jalan Dato' Onn
50480 Kuala Lumpur



Email: fied@bnm.gov.my

Assignment of CO Number

- For administrative purposes and all correspondences with BNM, including manual submission of STR



Reminder !!

Does not mean that RI is registered with, nor licensed by, Bank Negara Malaysia

AML/CFT REPORTING OBLIGATIONS



What are CO duties?

Ensure RI puts in place **adequate AML/CFT policies and procedures**

Ensure **effective implementation** of appropriate AML/CFT policies and procedures

Identify ML/TF risks associated **with new products/ services/ or arising from the RI's operational changes**

Regularly **assess** the AML/CFT mechanism i.e. control measures and procedures

Evaluate internal STR appropriately before promptly **submitting** to Financial Intelligence and Enforcement Department, Bank Negara Malaysia



Ensure **RI's compliance** with the AML/CFT requirements and any other obligations that are imposed under the AMLA, subsidiary legislation and relevant instruments

Establish and maintain relevant internal criteria (**red flags**) to enable identification and detection of suspicious transaction

Ensure **secure** channel of communication from employees to the CO and information is kept **confidential**

Ensure all employees are **aware** of the RI's AML/CFT measures, including policies, control mechanism and reporting channel

SUPERVISORY APPROACH



What is AML/CFT Supervision?



- Pursuant to Section 25 of AMLA, :**
- ✓ Assessment of reporting institutions' **understanding of their ML/TF** risks and AML/CFT obligations
 - ✓ Assessment of reporting institutions' **compliance with the obligations** under Part IV of the AMLA, subsidiary legislation made pursuant to AMLA and AML/CFT and TFS for DNFBPs and NBFIs PD
 - ✓ Assessment of the **effectiveness of measures** put in place in compliance with the relevant obligations

What it is not?

- ✗ Not an investigation
- ✗ Not a fishing expedition
- ✗ Not an assessment of the RIs' clients, but assessment on how RIs' treat their clients in accordance with AMLA
- ✗ Not a raid

SUPERVISORY PROCESS



Pre On-site



Issuance of Authority Letter



Schedule for dates of on-site



Request for submission of information under section 25 of AMLA

During On-site



Meeting & interview with key personnel



Walk through of processes, review of documents or accounts & system



Exit meeting to communicate **preliminary observations**

Post On-site



Issuance of '**Confirmation of Observation**'



Issuance of Supervisory Letter - specific instructions on rectifications measures



Follow-up on rectification measures



Enforcement action

DATA & COMPLIANCE REPORT (DCR)

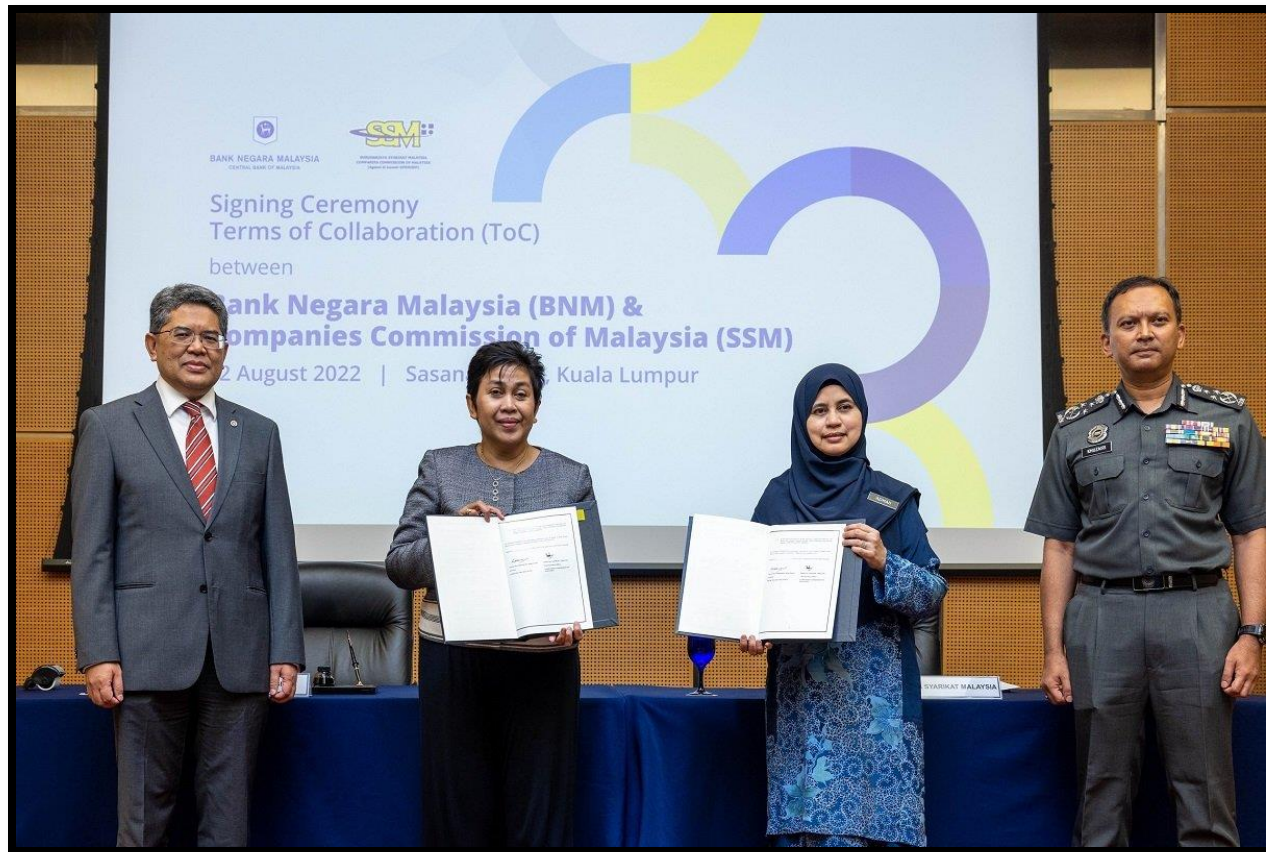


DCR

- Regular submission to BNM by RIs
- Questions on how RIs have met the AML/CFT requirement and the exposure to ML/TF risks.
- Information submitted by RIs are confidential and will be used by BNM for supervisory purpose & risk assessment.
- DNFBP Portal can be accessed via <https://dnfbportal.bnm.gov.my>.
- Submission DCR 2022 is accessible until **30 Nov 2022**.



TERMS OF COLLABORATION (TOC)



(From left) Bank Negara Malaysia deputy governor Datuk Marzunisham Omar and governor Tan Sri Nor Shamsiah Mohd Yunus, with Companies Commission of Malaysia chief executive officer Datuk Nor Azimah Abdul Aziz and deputy CEO Khuzairi Yahaya, at the signing ceremony on Monday (Aug 22)



THANK YOU