



**Bar Malaysia  
Malaysian Bar**

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**Circular No 089/2019  
Dated 7 May 2019**

To Members of the Malaysian Bar

**Reporting Obligations under the Anti-Money Laundering,  
Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001**

Bank Negara Malaysia (“BNM”) has issued a guide summarising the anti-money laundering and counter financing of terrorism (“AML/CFT”) legal framework, including the key reporting obligations that apply to lawyers, and AML/CFT preventive measures. The guide also highlights a number of useful resources.

Kindly take note of paragraph 4 of BNM’s circular dated 22 Feb 2019, where it is stated that in order to “instil stronger compliance culture, beginning 2020 Bank Negara Malaysia will consider pursuing more deterrent actions, including taking appropriate enforcement actions under the AMLA, for any identified non-compliances”.

Please click [here](#) to view the following documents:

- (1) BNM’s guide, entitled “Comply to Protect”, dated April 2019 (see pages 2 and 3); and
- (2) BNM’s circular dated 22 Feb 2019 (see pages 4 and 5);

Should you have any enquiries, please contact the following BNM officers:

- Amarjit Kaur Paridam Singh (03-2698 8044 ext 8836);
- Arni Jailun (03-2698 8044 ext 8493);
- Syaza Nadiah Azmi (03-2698 8044 ext 8152); or
- Muhammad Syarafi Mahyudin (03-2698 8044 ext 8836).

Thank you.

**Mohamad Ezri Abdul Wahab and Sarengapani K Rajoo  
Co-Chairpersons  
AMLA Subcommittee of the Legal Profession Committee**

# COMPLY TO PROTECT

REPORTING OBLIGATIONS UNDER THE ANTI-MONEY LAUNDERING, ANTI-TERRORISM FINANCING AND PROCEEDS OF UNLAWFUL ACTIVITIES ACT 2001

APRIL 2019 | ISSUE 1

Anti-money laundering and counter financing of terrorism (AML/CFT) regime in Malaysia is rooted from the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 (AMLA), which has been incrementally invoked on various sectors including the gatekeepers, namely accountants, lawyers and company secretaries. These professionals are required to undertake AML/CFT measures as required under Part IV (Reporting Obligations) of the AMLA, its subsidiary instruments and the AML/CFT- Designated Non-Financial Businesses and Professions (DNFBPs) & Other Non-Financial Sectors (Sector 5) Policy Document.

Lawyers, accountants and company secretaries, together with other reporting institutions in the DNFBP sectors complement the financial institutions to act as the first line of defence to prevent money laundering and terrorism financing (ML/TF) activities and safeguard the integrity of the Malaysian financial system. Compliance to the AML/CFT requirements is vital for reporting institutions to protect themselves from being abused as conduits to facilitate ML/TF activities.

## When does the Part IV (Reporting Obligations) apply?

Lawyers, accountants and company secretaries are subjected to AML/CFT requirements whenever they prepare or carry out the following Gazetted Activities\* for their clients:

### Gazetted Activities for Lawyers and Accountants

- 1 Buy and sell immovable property
- 2 Manage client's money, securities or other property
- 3 Manage accounts including savings and securities accounts
- 4 Organise contributions for the creation, operation or management of the companies
- 5 Create, operate or manage legal entities or arrangements (trusts) and buy and sell business entities

### Gazetted Activities for Company Secretaries

- 1 Act as a formation agent of legal entities
- 2 Act as (or arrange for another person to act as) a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal entities
- 3 Provide a registered office, business address or accommodation, correspondence or administrative address for a company, a partnership, or any other legal entities or arrangements (trusts)
- 4 Act as (or arrange for another person to act as) a trustee of an express trust
- 5 Act as (or arrange for another person to act as) a nominee shareholder for another person



\* Refer to Gazette Orders P.U. (A) 340/2004 and P.U. (A) 293/2006

## What are the main AML/CFT preventive measures that gatekeepers must conduct when they prepare or carry out the Gazetted Activities for their clients?



Customer Due Diligence /  
Know Your Customer  
(including enhanced and  
ongoing due diligence)



Screening on  
sanctions



Customer Risk  
Profiling



Submit suspicious  
transaction report  
(STR)

For more information on the main AML/CFT preventive measures, please refer to the **AML/CFT Guide** which was issued by Bank Negara Malaysia (BNM) in February 2018.

For the **complete AML/CFT requirements**, in addition to the AMLA, gatekeepers are advised to refer to the **Sector 5 Policy Document** (issued in November 2013), which sets out the:

- i. requirements imposed on reporting institutions in implementing a comprehensive risk-based approach in managing ML/TF risks; and
- ii. roles of the reporting institutions' Board of Directors and Senior Management (where relevant) in putting in place the relevant AML/CFT measures

### How does BNM supervise the reporting institutions' compliance to the AML/CFT requirements?

BNM, as the **competent authority** appointed under the AMLA, supervises DNFBP reporting institutions' compliance to AML/CFT requirements by way of engagement and on-site examinations, which are increasingly being intensified.

**Beginning 2020**, BNM will pursue appropriate **enforcement actions** under the AMLA, for any non-compliance identified.

Resources:

- i. AML/CFT Guide:  
[http://amlcft.bnm.gov.my/document/AML-CFT Guide BI.pdf](http://amlcft.bnm.gov.my/document/AML-CFT%20Guide%20BI.pdf)
- ii. Sector 5 Policy Document:  
[http://www.bnm.gov.my/guidelines/50\\_others/AMLCFT\(DNFBPS & Others\).pdf](http://www.bnm.gov.my/guidelines/50_others/AMLCFT(DNFBPS%20&%20Others).pdf)
- iii. STR forms:
  - Lawyers and accountants:  
[http://amlcft.bnm.gov.my/document/STR/Lawyer & Accountant.pdf](http://amlcft.bnm.gov.my/document/STR/Lawyer%20&%20Accountant.pdf)
  - Company secretaries:  
[http://amlcft.bnm.gov.my/document/STR/Comp Secretaries.pdf](http://amlcft.bnm.gov.my/document/STR/Comp%20Secretaries.pdf)
- iv. Circular  
[http://amlcft.bnm.gov.my/document/Circular on Enforcement Actions\\_220219.pdf](http://amlcft.bnm.gov.my/document/Circular%20on%20Enforcement%20Actions_220219.pdf)

## Why comply?

**Compliance to the AML/CFT requirements is vital for the reporting institutions to protect**

**themselves from being abused as conduits to facilitate ML/TF activities and to safeguard the integrity of the Malaysian financial system.**



22 February 2019

To:

All reporting institutions under the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 (AMLA) which have been specified by Bank Negara Malaysia to be subjected to the Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT) – Designated Non-Financial Businesses and Professions (DNFBPs) and Other Non-Financial Sector (Sector 5) Policy Document.

Tuan/Puan,

**Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 (AMLA) and subsidiary legislations**  
**- Designated Non-Financial Businesses and Professions and other Non-Financial Sectors (DNFBPs)<sup>1</sup>**

Reporting institutions are required to undertake measures to prevent their institutions from being used as conduits for money laundering and terrorism financing (ML/TF) activities as required under Part IV (Reporting Obligations) of the AMLA and its subsidiary instruments. These obligations were invoked on DNFBPs' reporting institutions incrementally between 2003 and 2008 and subjected to Standard and Sectoral Guidelines, including the AML/CFT- DNFBP (Sector 5) issued in 2013.

2. As reporting institutions under the AMLA, the DNFBPs complement the financial institutions to act as the first line of defence in preventing ML/TF activities, which in turn serves to protect the integrity of the Malaysian financial system while protecting themselves from being abused for ML/TF activities. Hence, Bank Negara Malaysia reiterates the call for greater commitment from the DNFBPs reporting

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<sup>1</sup> Refer to accountants, company secretaries, dealers in precious metals and precious stones, casino, lawyers, licensed gaming outlets, registered estate agents, trust companies, moneylenders and pawnbrokers.

institutions to put in place the necessary infrastructure and measures to facilitate understanding and effective implementation of AML/CFT requirements.

3. The recent National Risk Assessment<sup>2</sup> in 2017 found that the DNFBPs sectors continue to face higher net ML/TF risks. In this regard, Bank Negara Malaysia, as the competent authority appointed under the AMLA, intensified its engagement with the DNFBP sectors and its supervisory efforts thereon, with a 163% increase in on-site examinations on five higher risk sectors in 2018.

4. Moving forward, to keep abreast with the DNFBPs sectors' potential exposure to ML/TF risks, Bank Negara Malaysia will continue to intensify its risk-based supervisory activities, including the requirement to submit periodic institution-based business activities data and compliance reviews from 2019 onwards. In addition, to instil stronger compliance culture, beginning 2020 Bank Negara Malaysia will consider pursuing more deterrent actions, including taking appropriate enforcement actions under the AMLA, for any identified non-compliances.

Yang benar,

  
(Abdul Rasheed Ghaffour)  
Timbalan Gabenor

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<sup>2</sup> Refer to an assessment of Malaysia's exposure to prevailing crimes (domestic and foreign) and vulnerabilities of various sectors to ML/TF risks.