

## **Malaysia's Anti Money Laundering/ Counter Financing of Terrorism (AML/CFT) Programme**

### **Overview**

The national AML/CFT regime is implemented based on strategic collaboration between Bank Negara Malaysia, the authority appointed by the Minister of Finance to administer the Anti Money Laundering Act 2001 (AMLA), and the relevant government agencies and supervisory authorities. The AML/CFT programme is aimed at preventing Malaysia's financial institutions as well as the designated non-financial businesses and professions from being targeted as the conduit for money laundering and financing of terrorism activities. The strong support given by the other supervisory authorities, law enforcement agencies and the private sector, in particular, financial institutions, has been instrumental in ensuring the successful implementation of the AML/CFT programme. The effective implementation of the AML/CFT regime is a key area of focus in ensuring that Malaysia's financial system remains resilient and able to facilitate and support the economic growth process.

The experience suggests that the main source of money laundering originates from illegal proceeds of drug trafficking activities as evidenced by the proceeds seized or confiscated under the Dangerous Drugs (Forfeiture of Property) Act 1988 [DD(FOP)]. However, the drug trafficking problem in Malaysia has been mitigated by the constant and vigorous enforcement carried out by the Royal Malaysia Police which enforces the DD(FOP).

Thus far, the Attorney-General's Chambers of Malaysia has prosecuted 21 money laundering cases, of which, two cases were convicted in 2005 and 2007 respectively. The other 19 cases are at various stages of prosecution. These cases involved a total of 738 charges of money laundering offences with an accumulated amount of RM262.1 million.

At the regional and international level, Malaysia continues to play an active role within the Association of Southeast Asian Nations (ASEAN) by fostering efforts to enhance regional capacity building of personnel involved in the effort to counter money laundering and terrorist financing activities.

### **Recent Developments in the National AML/CFT Programme**

#### ***Extension of the AMLA Regulatory Net***

Continuous efforts have been undertaken to extend the implementation of the AMLA to other categories of reporting institutions. This is complemented by outreach initiatives to raise the awareness on AMLA requirements to new as well as prospective reporting institutions. In 2006, the AMLA regulatory net was extended to include moneylenders, pawnbrokers, registered estate agents, unit trust management companies, fund managers, futures fund managers, trust companies, the Malaysia Building Society Berhad, non-bank remittance service providers and non-bank affiliated issuers of charge cards and credit cards.

The extension of the AMLA provision has been undertaken in two stages beginning with the invocation of the reporting of suspicious transactions, followed by the remaining provisions under Part IV of the AMLA that deal with customer due diligence and compliance programme. These remaining legislative provisions in Part IV were invoked on gaming establishments, a development financial institution, company secretaries, accountants, lawyers and notaries public on 10 August 2006.

Cash threshold reporting (CTR) requirement of RM50,000 and above in a day was invoked in September 2006. Banking institutions were the first group of reporting institutions required to submit CTR to Bank Negara Malaysia under the AMLA. The invocation of the CTR complements the mandatory legal obligation imposed on banking institutions and other categories of reporting institutions to submit suspicious transaction reports (STR). These submissions by the banking institutions are expected to enhance the analysis of the financial intelligence currently conducted by Bank Negara Malaysia.

### ***Enhancing AMLA Regulatory & Supervisory Mechanism***

#### ***I. AML/CFT Guidelines***

A set of revised AML/CFT Guidelines were issued in November 2006 to the banking institutions and insurance and takaful industries to replace the guideline on “Know Your Customer Policy” (GP9) and JPI/GPI 27 Guidelines on Anti-Money Laundering that were issued in 1995 and 2001 respectively. These revised AML/CFT Guidelines specify the regulatory requirements that are in line with the Financial Action Task Force on Money Laundering (FATF)’s 40+9 Recommendations and the AMLA. Among others, the revised Guidelines place significant emphasis on effective oversight by the Board of Directors to ensure that the policies and procedures adopted by the institution are in compliance with the AMLA and the related regulatory requirements.

#### ***II. Compliance Monitoring***

The policy measures in 2006 continue to focus on ensuring AML/CFT compliance and the effectiveness of the AML/CFT internal programme established by the reporting institutions. The designated compliance officer at each reporting institution plays an important role to ensure that the reporting institution adopts, develops and implements internal AML/CFT programmes, policies and controls to guard against and to detect money laundering or financing of terrorism offences. The reporting institutions are also required to carry out an independent audit on the internal AML/CFT compliance programme to ensure that their internal AML/CFT measures are effective, up to date and comply with the requirements of AMLA and regulatory guidelines that are issued by Bank Negara Malaysia. Consistent with this policy, Bank Negara Malaysia has implemented a comprehensive AMLA supervisory framework to facilitate effective supervision of the financial institutions’ AML/CFT measures. The continuous surveillance of the AML/CFT programmes by the supervisors has contributed significantly towards improved compliance of the institutions to international standards on AML/CFT as well as the quality of STRs submitted to Bank Negara Malaysia.

#### ***III. Leveraging on Information and Communication Technology***

Bank Negara Malaysia has also embarked on a project to enhance its Financial Intelligence System (FINS) since November 2005, to among others, enable online submission of CTRs by the banking industry. In addition, FINS would also enhance the quality and timeliness of the financial intelligence analysis through the use of advanced intelligence analytical software, case management tools and information dissemination software. The newly added features of FINS would also significantly facilitate the law enforcement agencies in expediting investigations.

### ***International Co-operation***

#### ***Asia/Pacific Group on Money Laundering Mutual Evaluation Exercise***

Malaysia has now undergone a second round Mutual Evaluation Exercise conducted by the

Asia/Pacific Group on Money Laundering (APG) in February 2007. The purpose of the Mutual Evaluation (ME) is to assess member countries' compliance with the international standards, namely, the Financial Action Task Force on Money Laundering (FATF) 40 Recommendations on money laundering and 9 Special Recommendations on terrorist financing. Unlike the APG ME in 2001, the ME in 2007 is based on the FATF **revised** 2004 Methodology that sets out over 250 essential criteria for the 40+9 Recommendations. It covers Malaysia's legal system, related institutional measures, preventive measures in financial institutions and designated non-financial businesses and professions, as well as, national and international co-operation.

Consistent with the international trend, laws need to be put in place to criminalise acts of terrorism and terrorist financing. In this connection, the relevant legislative provisions in Malaysia have been brought into force in March 2007. The ME is expected to highlight areas in which Malaysia has yet to comply with the FATF standards and recommendations by assessors to address any identified gaps that still remain. These recommendations will be incorporated in the Mutual Evaluation Report that will be forwarded for adoption at the APG Annual Meeting in July 2007.

### ***Egmont Group of Financial Intelligence Units***

Bank Negara Malaysia is a member of the Egmont Group of Financial Intelligence Units (FIUs) since July 2003. The objective of the Egmont Group is to provide support for FIUs to improve their respective national AML/CFT programmes. This support includes expanding and systematising the exchange of financial intelligence among its 100 members, and improving expertise and capabilities of the intelligence personnel. The Egmont Group, which is an informal grouping, provides opportunities for Bank Negara Malaysia and other FIUs to rapidly exchange critical information on transnational crime. Currently, this grouping is in the process of formalising its structure. As the Chair for Asia, Malaysia is a member of the Implementation Committee that oversees the initiatives to formalise the Egmont Group through the setting up of a Permanent Secretariat in Toronto, Canada and the drafting of the Egmont Group Charter Document.

### ***Memorandum of Understanding (MoU) on the Sharing of Financial Intelligence***

Bank Negara Malaysia continues to promote the importance of cross-border sharing of financial intelligence and capacity building of officials. In June 2006, Bank Negara Malaysia signed an MoU with the People's Bank of China to exchange financial intelligence as well as co-operation in the area of staff training. In addition, MoUs were also signed with the FIUs of Australia, Indonesia, the Philippines and Thailand to share financial intelligence. More MoUs are scheduled to be signed once the deliberations are completed.

### ***Technical Assistance/Partner Support Programme***

Bank Negara Malaysia continues to provide technical assistance in anti-money laundering efforts to its ASEAN partners. In October 2006, Bank Negara Malaysia with the collaboration of the FIU of Australia and a domestic banking institution, conducted a technical assistance programme for two state-owned commercial banks from the Lao People's Democratic Republic to establish a basic AML/CFT regime that is in line with international standards. This technical assistance was funded by the Asian Development Bank as part of its Banking Sector Reform programme. In addition, Bank Negara Malaysia also provided resource persons to various AML/CFT training programmes organised by international organisations including the International Monetary Fund and the World Bank.

## **Capacity Building**

### ***Human Capital Development***

#### ***I. Certified Financial Investigator Programme (CFIP)***

The National Co-ordination Committee to Counter Money Laundering (NCC), being the highest policy making body for the AML/CFT programme, continues to play its significant role in harnessing the expertise of its members which comprise 13 Ministries and Government agencies. Under the leadership of the NCC, the inaugural CFIP, which was introduced in March 2006, saw a total of 24 officers from the supervisory authorities as well as the law enforcement agencies graduating in December 2006. The CFIP aims at raising the level of professionalism and enhancing the skills and knowledge of financial investigators in fulfilling their tasks and duties to curb financial crimes. It also represents a major milestone in Malaysia's effort to enhance capacity building initiatives with a view to develop a pool of qualified financial investigators.

#### ***II. Workshops for Compliance Officers***

Taking cognisance that reporting institutions' compliance officers are responsible for implementing the AML/CFT internal programmes, capacity building programmes were also organised by the respective training institutes to provide the necessary continuing professional education in the field of AML/CFT. These training workshops provide the compliance officers with the latest information on money laundering typologies as well as contribute towards better understanding of internal risk controls for enhanced AML/CFT procedures and controls in the institution.

#### ***III. ASEAN SOMTC Training Initiatives***

Malaysia, as part of its leadership role on money laundering at the ASEAN Senior Officials Meeting on Transnational Crime (SOMTC), successfully organised the Basic and Advanced Net Worth Analysis Workshops in March and July 2006 respectively. The workshops constituted part of the work plan for the ASEAN+3 (China, Japan and Republic of Korea) Cooperation to Combat Transnational Crime and were organised by Malaysia's Ministry of Internal Security, in collaboration with Bank Negara Malaysia and the Inland Revenue Board of Malaysia. The workshops aimed to promote the upgrading of knowledge and skills required in financial investigations, so as to enhance regional capabilities in investigation, intelligence gathering, surveillance, detection, and monitoring of money laundering and other criminal activities. The participants for the workshops consisted of officers from law enforcement agencies and FIUs in the ASEAN+3 countries.

Future training initiatives will continue to emphasise on enhancing knowledge and skills of law enforcement officers in the investigation of money laundering and terrorist financing activities. Meanwhile, co-operation with foreign agencies including participation in relevant training programmes organised by foreign training providers will facilitate the sharing of experience and expertise among the enforcement community.

### ***AML/CFT Awareness Programmes***

#### ***I. Study Visits by Foreign Parties***

Bank Negara Malaysia continues to assist other foreign counterparts by sharing our experience in the AML/CFT programme. In 2006, the FIU received study visits from Bank Indonesia, Da Afghanistan Bank, and the FIU of Sri Lanka.

#### ***II. Non-Profit Organisation (NPO)***

The international AML/CFT community places attention to NPOs in view of the potential use of NPOs to finance terrorism. The APG has requested that its members conduct domestic review

of the NPO sector with the objective of reviewing the adequacy of the legislative and regulatory requirements to prevent or detect such activities. In this respect, an NPO sector review was jointly organised by Bank Negara Malaysia, the Registrar of Societies and the Inland Revenue Board of Malaysia. The review showed no significant regulatory weakness in the sector. Nonetheless, Bank Negara Malaysia in collaboration with the Registrar of Societies, has embarked on a nationwide awareness programme beginning in October 2006 to enlighten NPOs on Malaysia's AML/CFT regime and the potential vulnerability of NPOs to abuse by terrorist financiers and other criminals.

### **Challenges Ahead**

Moving forward, Bank Negara Malaysia in collaboration with other members of the NCC will continue to be vigilant and responsive to evolving AML/CFT threats, as well as AML/CFT standards and trends. A key challenge for regulators is in striking an appropriate balance, in terms of the regulatory focus, between overall risks pertaining to the financial system and those relating to AML/CFT. There are currently also no globally accepted models that can be used to quantify money laundering or terrorism financing risk in a given financial system. As such, the studies conducted by international bodies such as the FATF, the APG or the World Bank on AML/CFT threats would continue to be used to formulate best practices in Malaysia.

The scheduled expansion of the AMLA regulatory net to other categories of financial institutions and designated non-financial businesses, such as real estate agents, e-money issuers, dealers in precious metals/stones as well as leasing and factoring companies, requires the NCC to develop appropriate regulatory measures that are practical and provide adequate safeguards against abuse by perpetrators of criminal activities. In this respect, the disclosure system needs to be supported by a robust suspicious transaction reporting mechanism. This will be reinforced by an expanded collaborative relationship among the stakeholders, in particular the NCC members. In this regard, Bank Negara Malaysia will continue to accord attention to the development of the legislative and regulatory requirements that are in accordance with international standards and will also intensify efforts to enhance co-operation amongst domestic agencies.