



Frequently Asked Questions

On Anti-Money Laundering, Countering Financing of Terrorism (“AML/CFT”) and Targeted Financial Sanctions (“TFS”) for Designated Non-Financial Businesses and Professions (“DNFBPs”) & Non-Bank Financial Institutions (“NBFIs”) Policy Document For Professional Accountants in Public Practice

EXECUTIVE SUMMARY

Money laundering and the financing of terrorism are crimes with financial and economic effects. Money laundering is an underlying profit-making crime, such as corruption, drug trafficking, market manipulation, fraud, tax evasion, with an intention to conceal the proceeds of the crime. These have a corrupting effect on the economic system and society as a whole.

The Bank Negara Malaysia (BNM) has been active for many years in the AML/CFT area. An effective implementation of the AML/CFT controls will help us mitigate the adverse effects of criminal economic activity and promote integrity and stability in financial markets.

The Public Practice Committee of The Malaysian Institute of Certified Public Accountants ("MICPA") is pleased to release a set of "Frequently Asked Questions (FAQs) on the AML/CFT and TFS for DNFBPs and NBFIs Policy Document for Professional Accountants in Public Practice".

Professional accountants in public practice who carry on activities listed in the First Schedule of the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 (AMLA) and the relevant subsidiary legislations of the AMLA falls under the ambit of Reporting Institutions (RI) as defined by the AMLA and hence subject to carry out the AML/CFT obligations as a RI.

This FAQs are intended to provide guidance to professional accountants in public practice on their AML/CFT obligations as a RI under the AML/CFT and FRS for DNFBPs and NBFIs Policy Document.

Disclaimer:

This FAQs is meant to be read as guide and does not replace the provisions under the AML/CFT and TFS for DNFBPs and NBFIs Policy Document issued by Bank Negara Malaysia.

FREQUENTLY ASKED QUESTIONS

On Anti-Money Laundering, Countering Financing of Terrorism (“AML/CFT”) and Targeted Financial Sanctions (“TFS”) for Designated Non-Financial Businesses and Professions (“DNFBPs”) & Non-Bank Financial Institutions (“NBFIs”) Policy Document For Professional Accountants in Public Practice

The FAQs should be read in conjunction with the AML/CFT and TFS for DNFBPs and NBFIs Policy Document. Any updates to the FAQs will be notified to professional accountants from time to time. In addition to this set of FAQs issued by MICPA, practitioners are encouraged to read the FAQs issued by BNM.

Question 1: Which AML/CFT Policy Document is applicable to professional accountants in public practice?

There are three (3) AML/CFT Policy Documents available at the Bank Negara Malaysia’s (“BNM”) official portal. For professional accountants in public practice, please refer to AML/CFT and TFS for DNFBPs and NBFIs Policy Document which can be obtained from the BNM’s official portal:

http://amlcft.bnm.gov.my/publication/AML_CFT_TFS_PD_for_DNFBPs_and_NBFIs.pdf.

This Policy Document is not intended to be applicable to lawyers, accountants and company secretaries who are ‘internal’ professional that are employees of other types of businesses, nor to professionals working for government agencies.

Question 2: Are all accountants within professional firms required to comply with the AML/CFT and TFS for DNFBPs and NBFIs Policy?

You are required to comply with the AML/CFT and TFS for DNFBPs and NBFIs Policy Document if you hold a valid practising certificates issued pursuant to Rule 9 of the Malaysian Institute of Accountants (Membership and Council) Rules 2001, when you prepare or carry out the following activities for your clients:

- (i) Buying and selling of immovable property;
- (ii) Managing of client’s money, securities or other property;
- (iii) Managing of accounts including savings and securities accounts;
- (iv) Organising of contributions for the creation, operation or management of companies;
or
- (v) Creating, operating or managing of legal entities or arrangements and buying and selling of business entities.

Question 3: Are company secretaries within professional firms required to comply with the AML/CFT and TFS for DNFBPs and NBFIs Policy?

You are required to comply with the AML/CFT and TFS for DNFBPs and NBFIs Policy Document if you are prescribed by the Minister or licensed by the Registrar of Companies to act as a company secretary of a company pursuant to Section 235 of the Companies Act 2016, when you, whether in person or through a firm, prepare or carry out the following activities for your clients:

- (i) Act as formation agent of legal entities;
- (ii) Act as (or arrange for another person to act as) a director or secretary of a company, a partner or a partnership, or a similar position in relation to other legal entities;
- (iii) Provide a registered office, business address or accommodation, correspondence or administrative address for a company, a partnership, or any other legal entities or arrangement;
- (iv) Act as (or arrange for another person to act as) a trustee of an express trust; or
- (v) Act as (or arrange for another person to act as) a nominee shareholder for another person.

Question 4: When do I need to start complying with the AML/CFT and TFS for DNFBPs and NBFIs Policy?

If you provide any of the services outlined above, you have to comply with the AML/CFT and TFS for DNFBPs and NBFIs Policy Document immediately. To get ready, you will need to take a number of steps beforehand, including:

- designate a person in your firm as an AML/CFT compliance officer;
- assess and document the money laundering (“ML”) and terrorist financing (“TF”) risks your firm may face; and
- establish policies, procedures and controls to manage and mitigate ML/TF risks that have been identified.

Question 5: Why does the AML/CFT Regime apply to accountants?

The introduction of the AML/CFT measures will deter criminals from using your professional services and help you detect them if they do. Most importantly, it will also strengthen the overall AML/CFT system in Malaysia. An accountant may detect ‘red flags’ during the course of providing professional services that might not be picked up by financial institutions or other financial service providers who interact with the same customers.

Question 6: How much work will be involved?

The greater the AML/CFT risks your business faces, the more you will have to do to manage these risks. A small firm with long-term local clients may have fewer risks than a large firm with clients around the world. Businesses are required to assess the level of ML/TF risks it faces through the conduct of an institutional risk assessment to better gauge the level of measures and controls, see requirements under Paragraph 10.2 of the AML/CFT and TFS for DNFBPs and NBFIs Policy Document and further guidance under Appendix 8 'Guidance on Application of Risk-Based Approach'.

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Question 7: What do I have to do to comply with the AML/CFT and TFS for DNFBPs and NBFIs Policy?



1 MOHA: Ministry of Home Affairs
<http://www.moha.gov.my/index.php/en/maklumat-perkhidmatan/membanteras-pembiayaan-keganasan2/senarai-k>

2 UNSCR: United Nations Security Council Resolutions (Terrorism)
https://www.un.org/sc/suborg/en/sanctions/1267/aa_sanctions_list
<https://www.un.org/sc/suborg/en/sanctions/1988/materials>

3 UNSCR: United Nations Security Council Resolutions (Proliferation of Weapons of Mass Destruction)
<https://www.un.org/sc/suborg/en/sanctions/1718/materials>
<https://www.un.org/en/sc/2231/list.shtml>

4 UNSCR: United Nations Security Council Resolutions (Other UN-Sanctions Regimes)
<https://www.un.org>

5 From the date of termination of the business relationship

6 Utmost care must be undertaken to ensure that STRs are treated with the highest level of confidentiality

(Source: AML/CFT Guide by BNM)

Question 7: What do I have to do to comply with the AML/CFT and TFS for DNFBPs and NBFIs Policy? (Continued)

For the details of each steps, please refer to the AML/CFT and TFS for DNFBPs and NBFIs Policy Document and other guidance at the following links:

- i. Implementation Guidance FAQ on AML/CFT Policy Documents
<http://amlcft.bnm.gov.my/document/Implementation%20Guidance%20on%20AMLCFT%20Policies.pdf>
- ii. FAQs on AML/CFT and TFS for DNFBPs and NBFIs
http://amlcft.bnm.gov.my/document/DNFBP/faq/02.FAQs_DNFBP_01092020.pdf
- iii. Guidance on Verification of Individuals Customers for Customer Due Diligence
http://amlcft.bnm.gov.my/document/DNFBP/faq/03.Guidance_on_Verification_01092020.pdf
- iv. Guidance on Beneficial Ownership
http://amlcft.bnm.gov.my/document/DNFBP/faq/04.Guidance_on_BO_01092020.pdf

Question 8: What will happen to me if I do not perform any of the actions prescribed under the AML/CFT and TFS for DNFBPs and NBFIs Policy, i.e. actions in the diagramme of Question 8?

You may subject to the following sanctions for failure to comply with the AML/CFT and TFS for DNFBPs and NBFIs Policy:

Section in AMLA Act (2009)	Non-compliance with	Maximum Penalty for Each Offence
13	Record keeping requirement	Fine up to RM1 million
14	Obligation to report suspicious transactions to BNM	
16	Obligation to conduct customer due diligence i.e. Know your client ("KYC")	
17	Requirement to retain documents for at least 6 years	Fine up to RM3 million or jail up to 5 years or both

(Source: AML/CFT Guide by BNM)

Enforcement actions can be taken against you including its directors, officers and employees for any non-compliance with any provision marked as 'S' in Part B of the AML/CFT and TFS for DNFBPs and NBFIs Policy.

Question 9: Are accountants subject to monitoring by BNM for complying with the AML/CFT and TFS for DNFBPs and NBFIs Policy?

Yes, BNM intensifies its monitoring on accountants for complying with the AML/CFT and TFS for DNFBPs and NBFIs Policy Document in 2017, on the basis of risk and context, in line with the NRA 2017. This is an ongoing monitoring. Firms are selected based on a robust selection process under the Risk-Based Supervisory Framework for DNFBPs and Other Financial Institutions ("D'SuRF"). The frequency and intensity of monitoring on accountants are guided accordingly to include a range supervisory tools, as follows:

- (i) **On-site Examination**
Firms are selected based on a robust selection process under the D'SuRF, which is in line with the risk profile of the reporting institutions ("RIs"). The on-site examination is in-depth, with assessments covering the RIs' inherent risk and quality of risk management. In applying RBA, BNM imposes post-onsite follow-up measures for RIs with heightened risks. This includes requiring the RI to submit proposals to BNM on planned measures to rectify any supervisory issues and progress report until full rectification. The D'SuRF set the deadline for both submissions.
- (ii) **Off-site Monitoring and Supervisory Outreach Activities**
Apart from on-site examinations, BNM employs a range of off-site monitoring and supervisory outreach activities, aimed at elevating awareness and guiding the implementation of the AMLA requirements by accountants. These off-site tools are also deployed according to the risk-based approach, whereby the intensity and frequency for accountants is relatively higher compared to other sectors. Among the off-site monitoring, includes the submission of Data and Compliance Reports and internal audit reports.

(Source: FATF's Risk-Based Approach Guidance for the Accounting Profession 2019)

Question 10: What are the vulnerable accounting services?

Some of the functions performed by accountants that are the most susceptible to the potential launderer include:

- (i) **Financial and tax advice:** Criminals may pose as individuals seeking financial or tax advice to place assets out of reach in order to avoid future liabilities.
- (ii) **Company and trust formation:** Criminals may attempt to confuse or disguise the links between the proceeds of a crime and the perpetrator through the formation of corporate vehicles or other complex legal arrangements.
- (iii) **Buying or selling of property:** criminals may use property transfers to serve as either the cover for transfers of illegal funds (layering stage) or else the final investment of these proceeds after their having passed through the laundering process (integration stage).
- (iv) **Performing financial transactions:** criminals may use accountants to carry out or facilitate various financial operations on their behalf.

Question 10: What are the vulnerable accounting services? (Continued)

- (v) Gaining introductions to financial institutions: criminals may use accountants as introducers or intermediaries. This can occur both ways as criminals may use financial institutions to gain introductions to accountants as well.

(Source: FATF Guidance for A Risk-Based Approach issued in 2018)

Question 11: What are the risk ratings of National Risk Assessment (“NRA”) with respect to Money Laundering (“ML”) and Terrorist Financing (“TF”) in Malaysia?

Malaysia’s third iteration of the NRA 2017 comprising assessment of ML/TF inherent risk and overall control effectiveness had stipulated the accountants’ net ML and TF risks as “MEDIUM HIGH” and “MEDIUM” level respectively, as exacerbated by the sector’s marginal control, as follows:

ML		TF	
Inherent Risk	Medium	Inherent Risk	Low
Control	Marginal	Control	Marginal
Net Risk	Medium High	Net Risk	Medium

You should be guided by the results of the NRA issued by the National Coordination Committee of Counter Money Laundering (“NCC”) in conducting your own risk assessments and should take enhanced measures to manage and mitigate the risks identified in the NRA.

Question 12: What are the other relevant resources and guidance on AML/CFT Policy Document?

Please see below for the other relevant resources and guidance on AML/CFT Policy Document:

- i. AML/CFT and TFS PD:
http://amlcft.bnm.gov.my/publication/AML_CFT_TFS_PD_for_DNFBPs_and_NBFIs.pdf.
- ii. Compliance Officer (CO) nomination form (if your organisation has yet to nominate a CO):
http://amlcft.bnm.gov.my/document/DNFBP/form/PD_DNFBP_FINAL_INFOGRAPHIC_APPENDIX%203.pdf
- iii. Bank Negara Malaysia’s Microsite:
<http://amlcft.bnm.gov.my/>
- iv. AML/CFT Guide:
English:
<http://amlcft.bnm.gov.my/document/AML-CFT%20Guide%20BI.pdf>
Bahasa Malaysia:
<http://amlcft.bnm.gov.my/document/AML-CFT%20Guide%20BM.pdf>

Question 12: What are the other relevant resources and guidance on AML/CFT Policy Document? (Continued)

- v. Awareness Video:
Suspicious Transaction Report (STR):
<https://www.youtube.com/watch?v=ytai0a8itU0&feature=youtu.be>

- Identifying Suspicious Transaction (Red Flag):
<https://www.youtube.com/watch?v=hWHegtUlf-0>

For any queries, please email to fied@bnm.gov.my