



AML/CFT Guide

Bank Negara Malaysia (BNM) is the competent authority under the **Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 (AMLA)**. Among others, BNM:

- Leads national efforts in AML/CFT
- Formulates effective AML/CFT regime/policies
- Receives and analyses Suspicious Transaction Reports (STRs)

Who is this guide for?

This guide is for reporting institutions that are Designated Non-Financial Businesses and Professions and other Non-Bank Financial Institutions (“DNFBP”) in Malaysia to comply with the requirements in the fight against money laundering and terrorism financing. It explains the **MAIN*** anti-money laundering & counter financing of terrorism (AML/CFT) requirements under the AMLA, the AML/CFT policy document issued for DNFBPs (Sector 5 Policy Document) and other relevant documents issued by **Bank Negara Malaysia**.

Bank Negara Malaysia
Jalan Dato’ Onn
50480, Kuala Lumpur
Tel: 1-300-88-5465 (1-300-88-LINK)
E-mail: fied@bnm.gov.my

***For the full list of requirements, please refer to:**

- Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 (AMLA)
- Anti-money laundering and counter financing of terrorism (AML/CFT) – Designated Non-Financial Businesses and Professions (DNFBPs) and Other Non-Financial Sectors (Sector 5) Policy Document

Disclaimer:

This document is intended for your general information only. It does not contain exhaustive advice or information relating to the subject matter nor should it be used as substitute for legal advice. In the event that the information on Bank Negara Malaysia’s official printed documents or any Acts differ from the information contained within this document, the information on such Act and official documents shall prevail and take precedence. The information contained herein is accurate and reliable as of the date of publication, 26 February 2018.



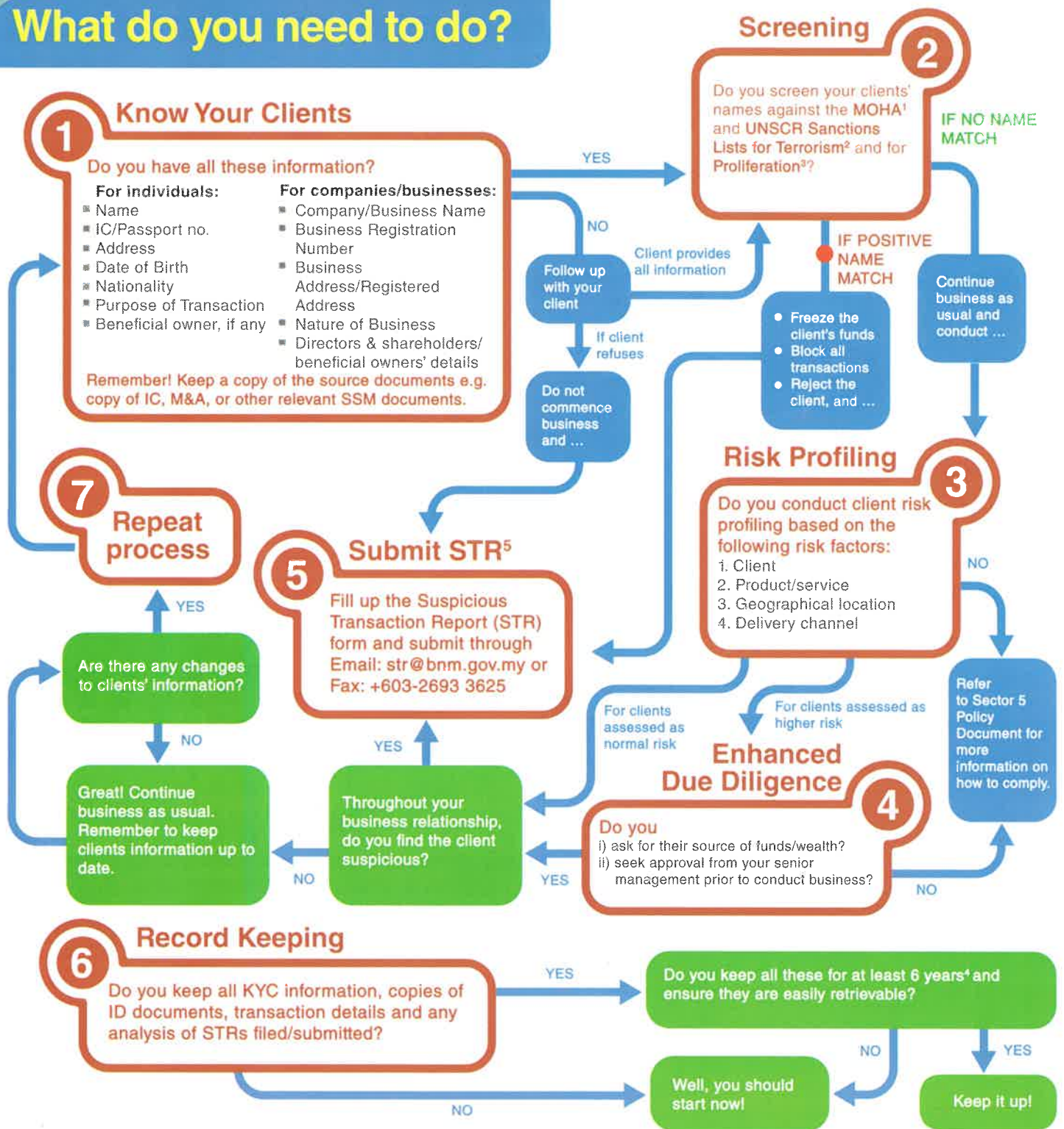
Are you a “DNFBP”?

The following businesses/professions are “DNFBPs” under the Sector 5 Policy Document:

- Lawyers
- Accountants
- Trust companies
- Company secretaries
- Dealers in precious metals or precious stones (goldsmiths, jewellers, etc)
- Real estate agents
- Casino
- Gaming institutions
- Moneylenders
- Pawnbrokers

Please refer to the First Schedule of the AMLA for the full list and more details

What do you need to do?



¹MOHA: Ministry of Home Affairs

<http://www.moha.gov.my/index.php/en/maklumat-perkhidmatan/membanteras-pembiayaan-keganasan2/senarai-kementerian-dalam-negeri>

²UNSCR: United Nations Security Council Resolutions (Terrorism)

https://www.un.org/sc/suborg/en/sanctions/1267/qa_sanctions_list; and

<https://www.un.org/sc/suborg/en/sanctions/1988/materials>

³UNSCR: 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>

⁴From the date of termination of the business relationship

⁵Utmost care must be undertaken to ensure that STRs are treated with the highest level of confidentiality

If you do NOT do any of these

Section in AMLA	Non compliance with	Maximum Penalty for Each Offence
13	Record keeping requirement	
14	Obligation to report suspicious transactions to BNM	Fine up to RM1 million
16	Obligation to conduct customer due diligence i.e. KYC	
17	Requirement to retain documents for at least 6 years	Fine up to RM 3 million or jail up to 5 years or both

COMPLY TO PROTECT

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

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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/AMLCFT%20Guide%20BI.pdf>
- ii. Sector 5 Policy Document:
[http://www.bnm.gov.my/guidelines/50_others/AMLCFT\(DNFBPS%2&%20Others\).pdf](http://www.bnm.gov.my/guidelines/50_others/AMLCFT(DNFBPS%2&%20Others).pdf)
- iii. STR forms:
 - Lawyers and accountants:
<http://amlcft.bnm.gov.my/document/STR/Lawyer%20&%20Accountant.pdf>
 - Company secretaries:
<http://amlcft.bnm.gov.my/document/STR/Comp%20Secretaries.pdf>
- iv. Circular
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.