



BANK NEGARA MALAYSIA
CENTRAL BANK OF MALAYSIA

**UPW/GP1[8]:
ANTI-MONEY LAUNDERING AND
COUNTER FINANCING OF TERRORISM
(AML/CFT)
SECTORAL GUIDELINES 8
FOR LICENSED MONEYLENDERS
AND
PAWNBROKERS**

UNIT PERISIKAN KEWANGAN
BANK NEGARA MALAYSIA
NOVEMBER 2007

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1. INTRODUCTION

- 1.1. The Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT) Sectoral Guidelines 8 (Sectoral Guidelines 8) is issued pursuant to sections 14, 16, 18 and 83 of the Anti-Money Laundering and Anti-Terrorism Financing Act 2001 (AMLA).
- 1.2. The Sectoral Guidelines 8 is established and formulated to supplement the requirements of the Standard Guidelines on AML/CFT. These guidelines address the requirements that must be complied with by the reporting institutions under the AMLA to effectively combat money laundering and financing of terrorism activities.
- 1.3. This Sectoral Guidelines 8 must be read together with the Standard Guidelines on AML/CFT issued by Bank Negara Malaysia that the reporting institutions are subjected to, except for those areas stipulated in this Sectoral Guidelines 8.
- 1.4. The Standard Guidelines on AML/CFT and the Sectoral Guidelines 8 provide guidance for the reporting institutions to develop their own AML/CFT internal programmes, policies, procedures and controls and outlines minimum standards on AML/CFT measures that must be observed by the reporting institutions.

2. APPLICABILITY

- 2.1. This Sectoral Guidelines 8 is applicable to reporting institutions listed in **Appendix I**.
- 2.2. Reporting institution should ensure that its foreign branches and subsidiaries implement the compliance programme as required in this Sectoral Guidelines 8.
- 2.3. The reporting institution should observe the Sectoral Guidelines 8 in accordance with the requirement stipulated under paragraph 2.2 of the Standard Guidelines on AML/CFT. Where there are legal impediments in the host country which may result in the foreign branch or subsidiary of the reporting institution in the host country not being able to meet this Sectoral Guidelines 8, the reporting institution should be guided by the measures specified under paragraph 2.3 of the Standard Guidelines on AML/CFT. In addition, the Board of Directors may consider ceasing the operations of the said branch or subsidiary that fails to observe the AML/CFT requirement or put in place the necessary mitigating controls as specified under those paragraphs.

3. MONEY LAUNDERING AND FINANCING OF TERRORISM RISK

- 3.1. Moneylending and pawnbroking businesses form part of the moneylending activities in Malaysia. The money laundering risks associated with moneylending activities may arise, among others, through variations in the loan arrangements.
- 3.2. Variations in loan arrangements may be made in the form of acceleration of previously agreed repayment schedule by way of lump sum repayment or early termination of a loan agreement without a good commercial rationale.
- 3.3. Money laundering risk may be associated with a guarantor when a borrower defaults on a loan, and the guarantor repays the loan.
- 3.4. Money launderers may operate through the pawnbroking business by way of pawning stolen goods in exchange for cash or cheques.
- 3.5. Pawnbrokers may offer loans where items of value are used as collateral. If a borrower fails to repay the loan, the pawnbroker will use the pledged item as settlement for the loan. Hence, criminals may use pawnbroking as a way to exchange items which are proceeds of illegal activities for loans.

4. CUSTOMER DUE DILIGENCE

4.1. General

- 4.1.1. The extent of customer identification required may be based on the severity of the following:
 - Money laundering and terrorism financing risks associated with the customer, based on the background of the customer and the suspicious circumstances in which the transaction was conducted;
 - Type or form of transaction undertaken, whether it is of a suspicious nature or that which does not make economic sense.
- 4.1.2. The reporting institution is required to perform the customer due diligence measures as stipulated in the Standard Guidelines on AML/CFT.
- 4.1.3. Where there is doubt on the identification of the customer or the customer due diligence process is not satisfied, the reporting institution should not proceed with the transaction and should consider lodging a suspicious transaction report with the Financial Intelligence Unit in Bank Negara Malaysia.

4.2. Specific Requirements on Customer Due Diligence

- 4.2.1. When the agreement between a reporting institution and a customer (borrower) involves a guarantor, the reporting institution is required to conduct customer due diligence process in identifying and verifying the guarantor. The Guarantor should be subjected to similar identification process and verification procedures that are applicable to borrower.
- 4.2.2. The minimum information that must be obtained and verified for each customer and guarantor is :
- full name;
 - NRIC/passport number;
 - permanent and mailing address;
 - date of birth; and
 - nationality.
- 4.2.3. For a repeat customer, the reporting institution need not repeat the customer verification and identification process but could rely on the previously obtained information unless there is doubt on the veracity or adequacy of the previously obtained information.

5. ONGOING MONITORING

- 5.1. In addition to the requirements provided in the Standard Guidelines on AML/CFT, the reporting institution could also be guided by the following examples in order to detect transactions and activities that may be suspicious:
- Repayment of loan is accelerated by way of one lump sum payment which does not commensurate with the customer's financial standing; and
 - In the event of the customer defaulting on the loan agreement, repayments are made by the guarantor (third party), who has no apparent relation to the customer.

6. SUSPICIOUS TRANSACTION REPORTING

- 6.1. The reporting institution shall be subject to the requirement and mechanisms on reporting of suspicious transactions as set out in the Standard Guidelines on AML/CFT.

Appendix I

The Sectoral Guidelines 8 is applicable to the reporting institutions under the Anti-Money Laundering and Anti-Terrorism Financing Act 2001 (AMLA), carrying out the following business or activity, as listed in the First Schedule to the AMLA:

1. Moneylender as defined under the Moneylenders Act 1951 [*Act 400*];
2. Pawnbroking business as defined in the Pawnbrokers Act 1972 [*Act 81*];
3. Moneylender as defined under the Money Lenders Ordinance [*Sabah Chapter 81*]; and
4. Moneylenders as defined under the Moneylenders Ordinance [*Sarawak Chapter 114*].