

## MONEY LAUNDERING: ANALYSIS ON THE PLACEMENT METHODS

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### ABSTRACT

*The International Monetary Fund (IMF) in 2015 estimated the size of money laundering to be at 2-5% of the world Global Domestic Production (GDP) with around USD800 billion to USD2 trillion being laundered. The global criminal activities are on the rise and the contribution of money laundering to exacerbate the problems associated with the upsurge in the criminal activities is unquantifiable. The negative effect of this on global economic development has grown to a staggering proportion. This is partly because the crisis experienced due to increase in criminal activities is borne out of the fact that the life blood of almost all the crimes are embedded in the financial system. Ironically, detecting money laundering becomes extremely difficult once it has been allowed to crystallized at layering level and finds its ways to the legitimate fund through integration mechanism. To combat money laundering, the parties must understand how money-laundering activities operate. The need to institute greater vigilance to prevent money laundering therefore becomes imperative. This has become the primary focus of most of the Anti-Money Laundering (AML) compliance measures and anti-crime initiatives at local and international levels. This paper therefore focus on the need to nib this dreaded crime at a point where it is almost likely to be detected. By using Malaysia as a focal point, the need to institute greater vigilance at placement level to salvage and ensure financial integrity in the banking sector as a necessary antidote to this problem is therefore the thrust or contention of this paper.*

Keywords: Money Laundering, placement, Malaysia

### i. INTRODUCTION

Most crimes are committed for money.<sup>1</sup> These include corruption, bribery, fraud, kidnapping, prostitution, illegal arms sales, smuggling, drug trafficking, human trafficking, assassination, and the list goes on. These illegal proceeds are the primary motivation for most criminals. Money laundering is the processing of illegal proceeds to conceal their true origin. Once a criminal activity can generate substantial or significant proceed, the criminal or group involved must find a way to save, invest or use the fund without attracting the attention of the authorities or reporting institutions. Without it, the criminals would not be able to enjoy the benefits of their crimes as they would be detected and prosecuted.<sup>2</sup>

The size of global money laundering is difficult to be assessed accurately. Methods such as case studies, proxy variables, or models for measuring the shadow economy all tend to under or overestimate money laundering.<sup>3</sup> In 1998, the International Monetary Fund (IMF) assessed that 'the size of money laundering in the world to be somewhere between USD 590 billion and USD 1.5 trillion, roughly equivalent to the value of the total output of an economy the size of Spain'.<sup>4</sup>

By 2015, the International Monetary Fund (IMF) estimated the size of money laundering to be at 2-5% of the world Global Domestic Production (GDP) with around USD800 billion to USD2 trillion being laundered.<sup>5</sup> The United Nations Office on Drugs and Crime (UNODC) also conducted a study to determine the magnitude of illicit funds generated by drug trafficking and organised crimes. The report estimates that criminal proceeds amounted to 3.6% of global GDP, with 2.7% (or USD 1.6 trillion) being laundered.<sup>6</sup> This is in line with the findings of IMF.

The December 2015 report from the Global Financial Integrity, "*Illicit Financial Flows from Developing Countries: 2004-2013*," finds that 'developing and emerging economies lost US\$7.8 trillion in illicit financial flows from 2004 through 2013'.<sup>7</sup> The report estimates that Malaysia lost USD 418 billion from 2004 to 2013.<sup>8</sup> In Malaysia, between 2011 and 2012, the total

<sup>1</sup> James William Coleman, 'Crime and money: Motivation and opportunity in a monetarized economy' (1992) American Behavioural Scientist 35.6, 827-836.

<sup>2</sup> Michael Levi, 'Money laundering and its regulation' (2002) The Annals of the American Academy of Political and Social Science 582.1, 181-194.

<sup>3</sup> John Walker and Unger Brigitte, 'Measuring global money laundering: the Walker gravity model' (2009) Review of Law and Economics 5.2, 821-853.

<sup>4</sup> 'How much money is laundered per year?' via <http://www.fatf-gafi.org/faq/moneylaundering/>

<sup>5</sup> 'Money-Laundering and Globalization' via <https://www.unodc.org/unodc/en/money-laundering/globalization.html>

<sup>6</sup> 'Frequently Asked Questions' via <http://www.fatf-gafi.org/faq/moneylaundering/>

<sup>7</sup> <http://www.gfintegrity.org/report/illicit-financial-flows-from-developing-countries-2004-2013/>

<sup>8</sup> 'Illicit Financial Outflows from the Top Ten Source Economies' via [http://www.gfintegrity.org/wp-content/uploads/2015/12/IFF-Update\\_2015-Final-1.pdf](http://www.gfintegrity.org/wp-content/uploads/2015/12/IFF-Update_2015-Final-1.pdf)

amount investigated for serious crimes by law enforcement authorities stood at RM13.1 billion.<sup>9</sup> The actual size might be bigger since not all crimes had been reported, let alone investigated.

Considering the serious threat posed by money laundering activities, the national legal and regulatory framework has been revamped in various ways to ensure more effective actions can be taken against money launderer.<sup>10</sup>

To combat money laundering, the parties must understand how money-laundering activities operate. The leading step is to get the illegal money or asset using illegal means. The size and amount will depend much on the nature of the illegal means adopted. For example, an organized Mexican drug cartel can make hundreds of millions since the size of the operation is very big. The proceed of corruption can be billions. Selling illegal goods like pirated DVDs and Blue-rays can also generate a huge amount of profit.

This money is called as 'black money' because it is tainted by illegality. This 'black money' cannot be deposited into any legitimate financial institution e.g. banks, as this will trigger suspicion and red flag on the part of the banks and other financial institutions. Some examples of illegal means that are known to generate a substantial amount of profit including bribery and corruption, robbery and theft, prostitution syndicate, kidnapping, ransom and blackmail, bootlegging (pirated goods), fake banknotes, piracy, drugs, illegal gambling, and scams. After acquiring money or assets using illegal means, the money launderer will try to launder it in three stages; placement, layering and integration.

a. First Stage: Placement

One of the biggest challenges is to identify the evolving placement methods. Criminals and syndicates will try to come up with new methods of placements so as to defeat the AML/ATF regime.

Placement, the first step in the money-laundering process starts when the illegal proceeds enter the economy e.g. via a deposit in a legitimate financial system. This initial step is the most vulnerable one to law enforcement detection.<sup>11</sup>

This is the usual situation although there are exceptions. For example, a drug dealer purchases an antique collection or stamp collection from a private sale at the price of RM10 million using the black money. Consequently, the black money has now passed to the legitimate seller who was unaware of the origin of the money. The cash obtained from the illegal means is then deposited in the financial system e.g. as profit from legitimate businesses.

However, it is not always necessary to proceed with money laundering in order to use the black money. Instead, the black money can also be used by criminals for various purposes without the need to launder the money. For example, the money can be used to pay salary to illegal immigrants or workers working for the syndicate's legitimate business e.g. farms and estates. On top of that, the black money can also be used to purchase illegal items like assault weapons to be used in their operation. In addition to that, the black money can also be used for bribery purpose. If this is the intention, then the criminal or syndicate will not proceed with placement. Placement is only relevant when the money needs to be channelled into a legitimate financial system. If the money is going to be used for underground activities, then money laundering is not necessary.

Placement is more than merely moving the illegal proceeds into bank accounts. The idea is to move it from the original source into some other forms that can be further layered and concealed.

b. Second Stage: Layering

The second stage is the layering of the illegal proceeds in which the money launderer would be able to combine the illegal proceeds with the legitimate ones<sup>12</sup>. This step is called 'layering' because the layers of financial transactions camouflage the illegal proceeds owners and obscure the money trail.<sup>13</sup>

The party involved will usually carry out complex financial transactions in order to mix and disguise the illegal sources. According to Cox (2014: 17), in a more complicated scheme, 'the money launderer will move the funds between a number of accounts in a number of different jurisdictions and through a series of companies to ensure that the trail is as complicated as possible. This will essentially obscure the audit trail and sever the link with the original criminal proceeds. The funds can actually 'spin up' to ten times prior to being integrated into the banking system.'

<sup>9</sup> Abu Hassan Alshari Yahaya (Assistant Governor)'s Keynote Address at the Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT) Compliance Conference 2014 (17<sup>th</sup> September 2014)

<sup>10</sup> Peter Yeoh, 'Enhancing effectiveness of anti-money laundering laws through whistleblowing' (2014) *Journal of Money Laundering Control* 17.3, 327-342.

<sup>11</sup> Alison S. Bachus, 'From Drugs to Terrorism: *The Focus Shifts in the international fight against money laundering after September 11, 2001*' (2004) *Arizona Journal of International & Comparative Law* 842

<sup>12</sup> Norhashimah Mohd. Yasin, *Legal Aspects of Money Laundering in Malaysia* (LexisNexis 2007)

<sup>13</sup> Alison S. Bachus, 'From Drugs to Terrorism: *The Focus Shifts in the international fight against money laundering after September 11, 2001*' (2004) *Arizona Journal of International & Comparative Law* 844

c. Third Stage: Integration

The third and final step is integration whereby the illegal proceeds return to the economy appearing as legitimate proceeds<sup>14</sup>. The previous paper trail created through the layering process muddles law enforcement's task of determining which funds are illegal and which are not. The end result of integration is the proceeds from the illegal means cannot be distinguished from legal ones any longer.

This article argues that to effectively combat money laundering, it is essential to stop or at least detect it at the placement level, if possible. This could be achieved if the necessary diligence measures are adhering to. Most importantly by taking the know your customer (KYC) or the customer due diligence (CDD) measures obligation as key and core compliance measures that should not be toyed with.

It is a noticeable fact that favourable dispositions to customers is crucial to survival of every business organisations. However, this is not expected to be achieved at the expense of compliance measures. It is therefore incumbent on every financial institution to ensure adequate training for their staffs, such that they will be able to achieve proper identification of their customers in such a manner that both the old and the prospective customers would feel mostly welcome.<sup>15</sup>

As provided by the rules, to be vigilant at placement level includes due diligent at on board stage of customers or when the transaction provided is a continuous one, or the transaction involves series of transactions that are linked and also where there is a reasonable ground to suspect that the fund deposited is connected with commission of crime.<sup>16</sup>

ii. Money laundering in Malaysia

Malaysia is not on the Financial Action Task Force (FATF) List of Countries that has been identified as having strategic AML deficiencies<sup>17</sup>. In 2013, 5 types of crimes have been identified as posing high money-laundering risk threat to Malaysia<sup>18</sup>. Those crimes are 'fraud (which comprises fraud-related offences, for example, cheating offences under the Penal Code, and illegal investments schemes offences under the Financial Services Act, Capital Market and Services Act, Direct Sales and Anti-Pyramid Scheme Act, and Companies Act), drugs trafficking, corruption and bribery, smuggling offences (including the evasion of customs and excise duties) and tax crimes.'

Malaysia's 2012 and 2013 National Risk Assessments (NRA) identified fraud, goods smuggling, drugs, tax crimes and corruption and bribery as high risk.<sup>19</sup> The 2013 NRA identified the following as medium risk crimes: forgery, theft, robbery, counterfeiting of currency, human trafficking and migrant smuggling, terrorism financing (TF) and organized crime.

The following were rated as high risk: banking, Money Service Business (MSB) and casino sectors. In terms of susceptibility to money-laundering and terrorist-financing risks, sectors that are most exposed to money-laundering and terrorist-financing risks are the banking and money services business in the financial sector and casinos in the non-financial sector.<sup>20</sup> This is owing to 'the size of their institutions, high volume of transactions, high exposures to cash-based transactions, high geographical coverage, multiple channels of deliveries, and high exposures to cross-border transactions.'<sup>21</sup>

There are high numbers of the Suspicious Transaction Reports (STRs) submitted by and on these sectors, followed by a high number of investigations. The nature of Malaysia economy also contributed to the exposure; high integration with international markets, cash-based economy, high existence of non-bank remittance transfers, exposure to international trades, high percentage of informal economy, and large volumes of physical movement of currencies.<sup>22</sup>

<sup>14</sup> Norhashimah Mohd. Yasin, *Legal Aspects of Money Laundering in Malaysia* (LexisNexis 2007)

<sup>15</sup> Michael Ashe and Paula Reid, *Money Laundering: Risks and Liabilities* (Round Hall Press, 2000).

<sup>16</sup> Ibid.

<sup>17</sup> The Mutual Evaluation Report (MER) was undertaken by the Financial Action Task Force (FATF) in 2007 and 2015. According to the MER, Malaysia was considered Compliant for 9 and Largely Compliant for 24 of the FATF 40 + 9 Recommendations. It was deemed Partially Compliant or Non-Compliant for all 6 of the Core Recommendations.

<sup>18</sup> Abu Hassan Alshari Yahaya, 'Results of the National Risk Assessment on money laundering and terrorist financing'. Speech by the Assistant Governor of the Central Bank of Malaysia, at the International Conference on Financial Crime and Terrorism Financing (IFCTF) 2014, Kuala Lumpur, 8 October 2014.

<sup>19</sup> FATF and APG (2015), Anti-money laundering and counter-terrorist financing measures - Malaysia, Fourth Round Mutual Evaluation Report, FATF, Paris and APG, Sydney  
[www.fatf-gafi.org/publications/mutualevaluations/documents/mer-malaysia-2015.html](http://www.fatf-gafi.org/publications/mutualevaluations/documents/mer-malaysia-2015.html)

<sup>20</sup> [http://www.bnm.gov.my/index.php?ch=en\\_speech&pg=en\\_speech&ac=525&lang=en](http://www.bnm.gov.my/index.php?ch=en_speech&pg=en_speech&ac=525&lang=en)

<sup>21</sup> Abu Hassan Alshari Yahaya, 'Results of the National Risk Assessment on money laundering and terrorist financing'. Speech by the Assistant Governor of the Central Bank of Malaysia, at the International Conference on Financial Crime and Terrorism Financing (IFCTF) 2014, Kuala Lumpur, 8 October 2014.

<sup>22</sup> [http://www.bnm.gov.my/index.php?ch=en\\_speech&pg=en\\_speech\\_all&ac=525&lang=bn](http://www.bnm.gov.my/index.php?ch=en_speech&pg=en_speech_all&ac=525&lang=bn)

**Table 1. STR submitted from 2009 to 2013 by industry group as reported in Mutual Evaluation Report 2015 (Malaysia)<sup>23</sup>**

No.	STR by industries	Risk (NRA)	2009	2010	2011	2012	2013	TOTAL
1.	Banking (including DFIs)	High	5549	5884	7666	7442	9124	35665
2.	Insurance	Low	1747	1344	1358	1393	1344	7186
3.	Money Services Business	High	5187	7730	14137	15541	9203	51798
4.	Non-Bank FIs	Medium	-	7	17	8	291	323
5.	DNFBP - Casino	High	229	1170	3257	849	1392	6897
6.	DNFBP - Other	Medium - Low	62	107	109	102	115	495
7.	Offshore FIs	Medium	1	8	5	8	12	34
8.	Securities	Low	21	25	66	99	63	274
9.	E-money Operators	Low	-	368	1360	1788	1232	4748
10.	Others	Medium-Low	4	7	50	58	16	135
	TOTAL		12800	16650	28025	27288	22792	107555

Meanwhile, the illegal proceeds from corruption also pose a significant money-laundering risk. To stay relevant with a wider regional experience, enforcement agencies in Malaysia have highlighted a range of predicate offences as generating significant proceeds for laundering in Malaysia. These include fraud, criminal breach of trust, illegal gambling, credit-card fraud, counterfeiting, robbery, forgery, human trafficking, extortion, and smuggling.

A range of money-laundering techniques being used by criminals in Malaysia have been identified, including placing criminal proceeds into the mainstream banking system using nominees or family members, setting up front companies, purchasing insurance products etc.

Additionally, Malaysian authorities also recognised the risks from terrorist groups and terrorist financing. With a number of terrorist organisations having been active in the Malaysian territory, the authorities have taken a concerted action against *Jemaah Islamiah* and its members and have identified and frozen terrorists' assets held in Malaysia.

The terrorist financing in Malaysia is predominantly carried out using cash and relies heavily on the networks of terrorist organisations, with only selected members are disclosed with the amounts and disbursement of terrorist funds.<sup>24</sup> Terrorist-financing activity in Malaysia is usually conducted without the involvement of financial institutions. However, this paper will not cover the topic of terrorism financing.

## ii. PLACEMENT METHODS

To combat money laundering in Malaysia, it would be wise to target them during the first stage; the placement stage. This is because once it has passed the placement stage, it would be more difficult to detect and prevent.

The Central Bank of Malaysia has issued 5 Sectoral Guidelines, each with their own red flags. In addition to the Central Bank, Securities Commission has also issued its own Guideline:

- Banking and Deposit-Taking Institutions (Sector 1)
- Insurance and Takaful (Sector 2)
- Money Services Business (Sector 3)
- Electronic Money and Non- Bank Affiliated Charge & Credit Card (Sector 4)
- Designated Non-Financial Businesses and Professions (DNFBPs) & Other Non-Financial Sectors (Sector 5)

<sup>23</sup> FATF and APG (2015), Anti-money laundering and counter-terrorist financing measures - Malaysia, Fourth Round Mutual Evaluation Report, FATF, Paris and APG, Sydney [www.fatf-gafi.org/publications/mutualevaluations/documents/mer-malaysia-2015.html](http://www.fatf-gafi.org/publications/mutualevaluations/documents/mer-malaysia-2015.html)

<sup>24</sup> FATF and APG (2015), Anti-money laundering and counter-terrorist financing measures - Malaysia, Fourth Round Mutual Evaluation Report, FATF, Paris and APG, Sydney [www.fatf-gafi.org/publications/mutualevaluations/documents/mer-malaysia-2015.html](http://www.fatf-gafi.org/publications/mutualevaluations/documents/mer-malaysia-2015.html)

- Capital Market

The placement methods analysed in this part is divided based on the 6 sectors. Analysis on the red flags provided in the Sectoral Guidelines is also included.

### **Sector 1: Banking and Deposit-Taking Institutions**

The banking sector in Malaysia has been identified as a high-risk sector for money laundering. Between year 2009 and 2013, a total of 35,665 Suspicious Transaction Reports have been submitted by the reporting institutions in Malaysia.<sup>25</sup>

It is known that money launderers in the past have been using banks for money laundering purpose.<sup>26</sup> A big syndicate can possess enough funds to purchase a bank or a financial institution and use the bank or the financial institution as a front or medium for their money-laundering activities<sup>27</sup>. This will involve a series of fictional transactions and investments. Such banks can be used for fictional loan: the black money can be disguised as a loan. Some banks in the past have been collaborating with money launderers.

The placement can happen in the form of deposit in financial institutions: The 'organisational deficiencies' of some banks have allowed money laundering to take place in a large scale. Secretive banking system will enable financial intermediaries to accept questionable funds. For example, an investigation was ordered in 1991 by the Bank of England into BCCI revealed evidence of massive and widespread fraud. BCCI was shut down by international regulators whilst still owing over £10 billion to its creditors. In 2012, HSBC went for settlement of £1.2 billion with regulators for having inadequate anti-money laundering controls.

Bulk cash smuggling has also been noted. This refers to physically smuggling cash to another jurisdiction, where it will be deposited e.g. in offshore banks with strict bank secrecy.

Placement can also happen easily if a bank decides not to observe the reporting requirement. For example, the illegal proceeds can be disguised as income from a business; the black money is deposited as profit from a real legitimate business. To do this, the criminal will open a company i.e. laundromats, car wash, or bar. The money will then be mixed with the real profit from the legitimate business. However, there are limitations to this. The amount cannot be too big. If the amount is too big and unrealistic, this will trigger suspicion. If the criminal is careless in mixing the black money with the profit from a legitimate bar business, the transaction will be difficult to be defended as the amount of booze ordered may be too small compared to the huge profit claimed to be from the business. However, if the bank did not observe the reporting obligation, the placement will be successful.

Money laundering can also happen in the form of profit from dealing with a shell company. The shell company refers to a company that is non-existent; the company only exists on paper. The purpose of the company is to generate false invoices and receipts to show that a series of real transactions has transpired and the money comes from legal transactions. Usually, the address will be fictional. This can also happen if the relevant banks failed to report.

Placement can also happen in the form of round-tripping: The illegal proceeds is deposited into a controlled foreign corporation offshore where minimal records are kept and then shipped back in the form of Foreign Direct Investment (FDI).

It can also happen in the form of a trust fund or profit from trust fund investment: The black money will be disguised as a trust fund. The criminal will have full control over the 'trust fund'. To avoid suspicion, the black money will be gradually included as a part of the profits made by the legitimate investment handled by the trust fund. The criminal will not be listed as a beneficiary but in reality, he or she will have full control over the fund.

The Central Bank of Malaysia has issued the 'Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT) – Banking and Deposit-Taking Institutions (Sector 1)' to guide reporting institutions carrying on the banking business and investment banking business as defined in the Financial Services Act (FSA), Islamic banking business as defined in the Islamic Financial Services Act (IFSA), business activities carried out by the prescribed institutions as defined in the (Development Financial Institution Act (DFIA) and any activities carried out by Lembaga Tabung Haji (Pilgrimage Fund) established under the Tabung Haji Act 1995.

This document supersedes the Standard Guidelines on Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT) (UPW/GP1) issued in November 2006 (amended February 2009) and the Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT) Sectoral Guidelines 1 for Banking and Financial Institutions (UPW/GP1[1]) issued in November 2006 (amended February 2009).

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<sup>25</sup> FATF and APG (2015), Anti-money laundering and counter-terrorist financing measures - Malaysia, Fourth Round Mutual Evaluation Report, FATF, Paris and APG, Sydney [www.fatf-gafi.org/publications/mutualevaluations/documents/mer-malaysia-2015.html](http://www.fatf-gafi.org/publications/mutualevaluations/documents/mer-malaysia-2015.html)

<sup>26</sup> Anwar Jamal Kidwai, 'Money Laundering and the Role of Banks' (2006) *Pakistan Horizon* 59.2, 43-47.

<sup>27</sup> Donato Masciandaro, 'The illegal sector, money laundering and the legal economy: a macroeconomic analysis' (2000) *Journal of Financial Crime* 8.2, 103-112.



The Appendix 1 of the Guideline provides 60 examples of Red Flags related to cash transactions, accounts, international banking/trade finance, employees and agents, private banking and trust services and unsecured lending and credit card.

As part of the effort to combat money laundering in this sector, the Central Bank has included cash threshold for banks and deposit-taking institutions: RM 3,000 (about USD 896) for currency changing transactions and RM 50,000 (about USD 14 937) for occasional transactions including linked transactions.<sup>28</sup>

The bigger threat in Malaysia is illegal deposit taking, especially in the form of Multi-Level Marketing (MLM) or pyramid scheme. The company involved often starts as a legitimate company doing real business. The company involved will usually offer a very high return for investment. This will in turn attract more investors. After some time, the company will start using the money obtained from new investors to be given to more senior investors. Since investors/participants will receive percentage every time they invite new investors, the attraction to promote and invite others will be strong. The company will grow rapidly. However, this kind of business is illegal since such company is not allowed/licensed to this. It is noted that since the companies involved are taking deposit illegally, the Sectoral Guideline will not be observed.

For legitimate depository institution, the tendency is to comply with the legislation since non-compliance can threaten their safety and soundness and impairs the integrity of the wider financial system as reflected in lower operating performance after a formal enforcement due to the operational costs to upgrade their AML compliance programs, and loss in profitability from ceasing the launder-facilitating activity.<sup>29</sup>

### **Sector 2: Insurance and Takaful**

The National Risk Assessment (NRA) has identified the risk for the insurance sector as low. Between year 2009 and 2013, only 7,186 Suspicious Transaction Reports were submitted.<sup>30</sup>

The Central Bank of Malaysia has issued the 'Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT) – Insurance and Takaful (Sector 2)' to guide reporting institutions carrying on life insurance business under the FSA, family takaful business under the IFSA, insurance broking business and financial advisory business under the FSA in relation to life insurance products, takaful broking business and Islamic financial advisory business under the IFSA in relation to family takaful products.

This document supersedes the Standard Guidelines on Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT) (UPW/GP1) issued in November 2006 (amended February 2009) and the Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT) Sectoral Guidelines 2 for Insurance and Takaful Industries (UPW/GP1[2]) issued in November 2006 (amended February 2009).

The Appendix II of the Guideline provides 35 examples of Red Flags related to Brokerage and Sales (new business, transactions which are abnormal or do not make economic sense) and Settlement (payment, disposition, claims and reinsurances).

As part of the effort to combat money laundering, the Central Bank has included cash threshold for banks and deposit-taking institutions. However, for insurance and takaful, there is none.

Insurance and takaful industry has been identified as low risk for money laundering. As of December 2013, the number of onshore insurance companies designated as reporting institutions is only 56 but under Labuan IBFC (offshore), the number is 213.<sup>31</sup> According to the Mutual Evaluation Report 2015, following the assessment in year 2013 that general insurance (including takaful) is low risk due to the nature of the products sold, it is no longer subject to AML/CFT obligations under the Guidelines.

### **Sector 3: Money Services Business**

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<sup>28</sup> FATF and APG (2015), Anti-money laundering and counter-terrorist financing measures - Malaysia, Fourth Round Mutual Evaluation Report, FATF, Paris and APG, Sydney [www.fatf-gafi.org/publications/mutualevaluations/documents/mer-malaysia-2015.html](http://www.fatf-gafi.org/publications/mutualevaluations/documents/mer-malaysia-2015.html)

<sup>29</sup> Damion McIntosh, 'The Costs of Anti-Money Laundering Enforcements to Noncompliant Banks' (2016) *Journal of Finance* 4.1, 01-14.

<sup>30</sup> FATF and APG (2015), Anti-money laundering and counter-terrorist financing measures - Malaysia, Fourth Round Mutual Evaluation Report, FATF, Paris and APG, Sydney [www.fatf-gafi.org/publications/mutualevaluations/documents/mer-malaysia-2015.html](http://www.fatf-gafi.org/publications/mutualevaluations/documents/mer-malaysia-2015.html)

<sup>31</sup> FATF and APG (2015), Anti-money laundering and counter-terrorist financing measures - Malaysia, Fourth Round Mutual Evaluation Report, FATF, Paris and APG, Sydney [www.fatf-gafi.org/publications/mutualevaluations/documents/mer-malaysia-2015.html](http://www.fatf-gafi.org/publications/mutualevaluations/documents/mer-malaysia-2015.html)

The Money Services Business (MSB) has been identified as a high-risk sector. From year 2009 to 2013, a total of 51,798 Suspicious Transaction Reports have been submitted by the reporting institutions.<sup>32</sup>

The Central Bank of Malaysia has issued the 'Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT) – Money Services Business (Sector 3)' to guide reporting institutions carrying on money services business licensed under the MSBA.

This document supersedes the Standard Guidelines on Anti-Money Laundering and Counter Financing of Terrorism (UPW/GP1) issued in November 2006 (amended February 2009) and the Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT) Sectoral Guidelines 3 for Licensed Money Changer and/or Non-Bank Remittance Operators (UPW/GP1[3]) issued in November 2006.

The Appendix III of the Guideline provides 12 examples of transactions that may trigger suspicion.

According to the Mutual Evaluation Report 2015, 'It is clear that mitigation of ML/TF risk in the MSB (MVTS and money changers) sector has improved significantly over the last two years. This is primarily attributable to the relicensing of the sector from 2011 to 2013. The risk based approach is new to the sector and its adoption is at an early stage. The level of understanding of implementing a risk based approach and how to relate this to mitigating measures is still an issue, in particular for some small and medium sized MSBs.'

#### **Sector 4: Electronic Money and Non- Bank Affiliated Charge & Credit Card**

The Central Bank of Malaysia has issued the 'Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT) – Electronic Money and Non- Bank Affiliated Charge & Credit Card (Sector 4)' to guide the issuers of charge cards and credit cards which are not affiliated with any licensed bank under the FSA, any licensed Islamic bank under the IFSA and prescribed institutions licensed under the Development Financial Institutions Act 2002 (DFIA), issuers of electronic money, a designated payment instrument as prescribed in the Financial Services (Designated Payment Instruments) Order 2013 and the issuers of electronic money who are also licensed as money service business under MSBA.

This document supersedes the Standard Guidelines on Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT) (UPW/GP1) issued in November 2006 (amended February 2009), the Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT) Sectoral Guidelines 4 for Non-Bank Affiliated Charge and Credit Card Issuers (UPW/GP1[4]) issued in April 2007 and the Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT) Sectoral Guidelines 9 for Electronic Money Issuers (UPW/GP1[9]) issued in August 2009.

The Appendix I of the Guideline provides 10 examples of transactions that may trigger suspicion.

#### **Sector 5: Designated Non-Financial Businesses and Professions (DNFBPs) & Other Non-Financial Sectors**

Except for casino, other designated non-financial businesses and professions have been identified as medium-low risk sector. Casino was identified as a high-risk sector. The total number of Suspicious Transaction Report submitted by casino in Malaysia between year 2009 and 2013 is 6,897.

The Central Bank of Malaysia has issued the 'Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT) – Designated Non-Financial Businesses and Professions (DNFBPs) & Other Non-Financial Sectors (Sector 5)' to guide advocates and solicitors, companies, common gaming houses as defined in the Common Gaming Houses Act 1953 (referred to as "licensed casino" in this document), licensee as defined in the Pool Betting Act 1967, totalizator agency as defined in the Racing (Totalizator Board) Act 1961, a racing club as defined in the Racing Club (Public Sweepstakes) Act 1965, moneylenders, accountants, notaries public, pawnbrokers, company secretaries, registered estate agents, corporation as defined in the Public Trust Corporation Act 1995 and trust companies as defined in the Trust Companies Act 1949.

The Appendix II of the Guideline provides 28 examples of transactions related to licensed casino, designated non-financial businesses and professions, licensed gaming outlets, moneylenders & pawnbroking business, and persons carrying on activities of dealing in precious metals or precious stones that may trigger suspicion.

#### **Sector: Capital Market**

One of the placement method for money laundering is to disguise the illegal proceeds as profit from a stock market. For example, it is one of the most common patterns in China that involves officials who have gathered high amounts of bribes during their term of office. After their resignation, these former officials preferentially establish private businesses or put the 'black money' into the stock market. Thereby, the original source of the money is covered and any revenues are disguised as profits

<sup>32</sup> FATF and APG (2015), Anti-money laundering and counter-terrorist financing measures - Malaysia, Fourth Round Mutual Evaluation Report, FATF, Paris and APG, Sydney [www.fatf-gafi.org/publications/mutualevaluations/documents/mer-malaysia-2015.html](http://www.fatf-gafi.org/publications/mutualevaluations/documents/mer-malaysia-2015.html)

from business activities or equity trading. However, it has been stressed that – almost as a general rule – these officials make no secret of their success in order to construct a plausible explanation for their sudden wealth and to dispel any suspicions that their funds may not originate from business activities but corruption.<sup>33</sup>

Securities have been identified as a sector with low risk for money laundering. The total number of Suspicious Transaction Reports submitted by the reporting institutions in relation to securities between year 2009 and 2013 is only 274.<sup>34</sup>

The Securities Commission of Malaysia's website has provided 26 examples of transactions including unusual transactions, large cash transactions, transactions incompatible with customer's financial standing, irregular account movement, suspicious behavior/demeanour, dealing with high risk jurisdictions and suspicious behavior/demeanour by employees that may trigger suspicion.

## CONCLUSION

The placement methods for money laundering have been increasing from time to time; the limit is the imagination. To combat money-laundering activities, it is essential for the authorities and enforcement agencies to keep themselves updated with the latest methods adopted by criminals and syndicates. More importantly, any detected loopholes must be addressed as fast as possible.

For this to be achieved, this paper has extensively identified and discussed various means with which launderers employ to launder their funds and call on financial institutions to institute a more vigilance measures to prevent money laundering and to intensify effort in detecting the crime at its earliest stage of placement before it becomes a more complex situation. The early detection of the crime is bound to salvage the potential havoc that it portends on the economic growth and prevent financial institutions from being used to facilitate money laundering. Reasonable measures at the placement level is therefore a necessary antidote to this menace. This article therefore argues that to effectively combat money laundering, it is essential to stop or at least detect it at the placement level, if possible and this could be achieved if the necessary diligence measures are followed.

The Central Bank of Malaysia has issued the various guidelines to combat money laundering activities. Analysis on these guidelines revealed that although the red flags are very useful in assisting the parties, the challenges continues as criminals and syndicates improve and vary their placement methods. However, in general, the Mutual Evaluation Report on Malaysia highlights that Malaysia's approach in combating money laundering activities is still sound and proper.

There are limitations to this paper. This paper does not cover certain controversial placement method including political donations and other grey areas.

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<sup>34</sup> FATF and APG (2015), Anti-money laundering and counter-terrorist financing measures - Malaysia, Fourth Round Mutual Evaluation Report, FATF, Paris and APG, Sydney [www.fatf-gafi.org/publications/mutualevaluations/documents/mer-malaysia-2015.html](http://www.fatf-gafi.org/publications/mutualevaluations/documents/mer-malaysia-2015.html)



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