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Malaysian DNFBPs' Perceptions on Awareness, Perceived Impact and Views on the AML/CFT Requirements

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Abstract

Money laundering and terrorism financing (ML/TF) continues to be an on-going threat which has the potential to adversely affect the country's reputation and investment climate which may lead to economic and social consequences. A 2004 amendment to the Anti-Money Laundering and Anti-Terrorism Financing Act (AMLATFA), 2001 has redefined "Reporting Institutions" (RIs) to include accountants, auditors, lawyers and other selected professionals. Previous studies on the AML/CFT in Malaysia (e.g. Mohamed & Ahmad, 2012 and Shanmugam & Yhanasegaran, 2008) in general did not specifically address the issue of DNFBPs' awareness, perceived impact and views on the AML/CFT requirements. Our study is the first in our knowledge to evaluate the understanding on the AML/CFT requirements in Malaysia from the perspective of the accountants.

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1. Introduction

Money laundering is a special type of financial crime that has generated increasing global concerns in this modern age. The crime, commonly known as a "crime of concealment", usually involves large sums of illegal money being mobilized in many economies through the financial system. Notably, growing cases in money laundering and terrorist financing through the financial institutions and Designated Non-financial Businesses and Professions (DNFBPs) are very concerning. Organized crimes are likely to use the services and consultancy from the DNFBP's especially those in accounting and legal professions. They use the DNFBP's knowledge and skills

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especially on the possible opportunities on disguising the illegal proceeds and legal backgrounds as to avoid those illegal activities from being detected by the authorities. These professionals are used not only to conceal the origin of the source of the proceeds, but to manage the subsequent investment into legitimate real estate and other assets.

Money launderers constantly seek new ways to circumvent regulation and seizure of assets. Yet, along with sophisticated schemes, considerable amounts of money are still smuggled as bulk cash. Serious actions have to be taken on improving the policies and regulation on them. Wide awareness and continuous monitoring programs has to be emphasized to ensure governance of ethics and conduct of DNFBP's. Therefore, there is a need to identify the level of awareness, perceived impact and views on the AML/CFT requirements among the DNFBP's. Once the information on these issues is identified, therefore an appropriate program could be developed and tailored to the current state of DNFBP's knowledge.

A review of the literature shows that there is a lack of studies that examined the DNFBPs in person. Previous studies have taken initiatives to examine the magnitude and scope of money laundering and terrorism financing problems (Schott, 2006; Biagioli, 2008; Zdanowicz, 2009; Walker & Unger, 2009), investigating on how the money is being laundered (Unger et al., 2006; Unger, 2007) and also studies that focused on the money laundering techniques and typology (Ping He, 2010; Irwin, 2011). Therefore, this present study is warranted as to provide further evidences on the DNFBPs and their views on the AML/CFT requirements.

2. Literature review

AMLATFA 2001 defines money laundering as an “act that engages, directly or indirectly, in a transaction that involves proceeds of any unlawful activity, acquires, receives, possesses, disguises, transfers, converts, exchanges, carries, disposes, uses, removes from or brings into Malaysia proceeds of any unlawful activity; or conceals, disguises or impedes the establishment of the true nature, origin, location, movement, disposition, title of, rights with respect to, or ownership of, proceeds of any unlawful activity”.

There are three different stages of money laundering processes (Thanasegaran & Shanmugam, 2007) which are known as placement stage, layering stage and integration stage. In the placement stage, the money launderer places the illegal money into the legal financial system to distance it from illegal sources. Whereas, the layering stage involve undertaking a series of fund movements away from its source in order to make it difficult to trace the origin for example channelling the funds into various bank accounts around the globe. Finally, the integration stage may transform the illegal money into legitimate money by re-entering the legal financial system through investments into assets such as real estate, luxury goods, shares or many more (Buchanan, 2004).

On 2004, the Designated Non – Financial Businesses and Profession (DNFBP) need to start complying with AMLATFA 2001. DNFBPs (in this study, we concentrated only on the Accountants) need to comply with the entire requirement stated under the laws. Out of the four recommendations of FATF Recommendation related to DNFBPs which are (i) Recommendation 12 - Customer Due Diligence (CDD) explains about the customer due diligence and record-keeping requirements; (ii) Recommendation 16 - Suspicious Transactions Reporting (STR) explains about suspicious transactions reporting; (iii) Recommendation 24 - DNFBPs subject to regulatory and supervisory which explain on regulatory and supervisory measures as set out in the recommendation; and finally (iv) Recommendation 25 - establishment of guidelines and provide feedback talks about established guidelines, and provide feedback which will assist DNFBPs in applying national measures to combat money laundering and terrorist financing; only Recommendation 12 and 16 are specifically related to the Accountants.

Recommendation 12 deals on the CDD and recordkeeping requirements applied to DNFBPs (accountants) when they prepare for or carry out transactions for their clients such as buying and selling of real estate, managing client money, securities or other assets, management of bank, savings or securities accounts, organisation of contributions for the creation, operation or management of companies or creation, operation or management of legal persons or arrangements, and buying and selling of business entities and company secretarial services. Sole

practitioners, partners or employed professionals within professional firms should be aware of the money laundering and financing of terrorism risk associated with the services provided by the firm.

Besides, Recommendation 16 on suspicious transaction reporting which focuses on accountancy practices have the obligation to report promptly their suspicions to FIU if they suspect or have reasonable grounds to suspect that the transaction involved a criminal activity. The requirement to report suspicious transactions should generally override any professional duty of client confidentiality. Those who report their suspicions in good faith are prohibited by law from disclosing the fact that a STR is being made (no tipping-off). Each practice should appoint a person of sufficient seniority designated as a responsible money-laundering compliance officer to whom disclosures should be made internally in the first instance responsible for making disclosures to the FIU. The compliance officer must be given the independence to report STRs to FIU without the need to go through any elaborate approval process (Rahman, 2013).

3. Research Methodology

3.1 Sample Selection and Data Collection

The sample of this study consists of 172 accountants who work in any registered accounting/audit/finance/banking firms in Malaysia. The data were collected by using an eight-page questionnaire distributed via mail to a random registered accounting/audit firm based on the list provided by Malaysian Institute of Accountants (MIA) as well as banking/financial institution database. The responses were analyzed using SPSS statistical software to compute frequencies and proportions. Statistical tests were used where required.

4. Results and Discussion

4.1 Section 1: Descriptive analysis of respondent demographics

There are 172 respondents who have returned the survey questionnaires to the researcher, which indicate a response rate of 28.6%. Of the total number of respondents, 52 were males (30.3%) and 120 were females (69.7%). Majority of the respondents are in the average age between 20 and 30 years old (97%), and only 3% are between 31 and 40 years old. 160 (93%) of the respondents were bachelor's degree holders, 9 (5%) were master's degree holders and 3 (2%) of them have professional qualification. In the type of work category, audit and assurance represents the highest number of respondents with 95 (55.2%), followed by financial accounting and reporting with 55 (31.9%), finance and banking with 11 (6.3%), cost and management accounting with 8 (4.6%), and others (2%).

4.2 Section 2: Scope of Work

Majority of the respondents (25%) are involved in managing accounts including savings and securities accounts of their client. This is followed by 34 respondents (20%) who organize the contributions for the creation, operation or management of companies and 22 respondents (13%) involved in creating, operating and/or managing of legal entities or arrangements/buying/selling of business entities. Another 14 (8%) and 10 (6%) of the respondents dealt with managing client's money, securities or other property and buying and/or selling of immovable property, respectively. It is also identified that 43 of them (25%) also involved in more than one scope of work. Otherwise, another 7 (4.1%) respondents were involved in other activities that were not listed under this study.

4.3 Section 3: AML/CFT Requirements

In this section, the level of score was analyzed into three categories, namely high (> 66.67 %), moderate (33.33 % – 66.66 %) and low (< 33.32 %) as to indicate the respondent's responses on each question. Table 1 displays the results.

i) Familiarity with the Definition and Legal Intention

The respondents were given the definition of AMLATFA (2001) and asked for their familiarity with the definition and legal intention embedded in the definition. In general, it is indicated that the familiarity of the respondents with the definition and legal intention is high i.e. 69.4% and 67.2%, respectively.

Table 1: AML/CFT Requirements

AML/CFT Requirements	Mean	Score (%)	Level of Score
It is a mandatory obligation to report suspicious transactions when RIs have reason to suspect that the transaction involves proceeds from an unlawful activity.	3.84	76.8	High
RIs are required to keep records of customers for at least 6 years and should be stored securely in a form that is retrievable in timely manner upon request.	3.81	76.2	High
RIs are required to verify, by reliable means, the identity of customers and beneficial owners.	3.74	74.8	High
RIs may use risk-based approach in setting out the procedures for effective customer/beneficiary identification and verification.	3.45	69.1	High
RIs are required to develop and put in place effective internal programmes, policies, procedures and controls to deter and detect in accordance to AML/CFT procedures.	3.60	72.0	High
RIs are required to appoint a compliance officer who will be in charge of applying internal AML/CFT procedures.	3.43	68.6	High
RIs compliance programme should include on-going employee training programme to ensure employees are fully aware of their obligations.	3.58	71.6	High
Reporting of suspicious transactions to the financial intelligence unit (FIU) in Bank Negara Malaysia is performed through the submission of information in the prescribed Suspicious Transactions Report (STR) form or through the Financial Intelligence System.	3.21	64.2	Medium
RIs are obliged to check and match customers' names against the United Nations Consolidated List published at www.un.org/sc/committees/1267/html or the name list as specified by the Minister of Home Affairs.	2.90	58.0	Medium
The completed STR can be submitted to FIU through the following (1) By hand/mail: Director, FIU, Bank Negara Malaysia, Jalan Dato' Onn, 50480 Kuala Lumpur, (2) Fax +603 2693 3625 (3) Email: str@bnm.gov.my .	2.75	55.2	Medium
The compliance officer as soon as submit a STR to the FIU, thereafter continue to monitor the activities of the reported account or person	2.95	59.1	Medium
Tipping off to the customer about a STR is an offence under the AMLATFA act.	3.02	60.4	Medium

ii) Awareness on AML/CFT Requirements

In terms of the respondent's awareness, it is indicated that their awareness about the concept of money laundering and terrorism financing is at a high level (71%) as well as on the responsibilities of the reporting institutions (69%). They are also highly aware (67%) that Malaysia's enforcement agencies are actively investigating money laundering and financial terrorism crime. However, when being asked of the requirements of AMLATFA Act 2001, their level of awareness is only at the moderate level (58%).

iii) *The AML/CFT Requirements*

Out of the 12 questions on the AML/CFT requirements, the respondents were highly aware of seven requirements, and moderately aware of another five (refer Table 3). They are very highly aware that:

- (i) it is a mandatory obligation to report suspicious transactions when RIs have reason to suspect that the transaction involves proceeds from an unlawful activity;
- (ii) RIs are required to keep records of customers for at least 6 years and should be stored securely in a form that is retrievable in timely manner upon request;
- (iii) RIs are required to verify, by reliable means, the identity of customers and beneficial owners;
- (iv) RIs may use risk-based approach in setting out the procedures for effective customer/beneficiary identification and verification;
- (v) RIs are required to develop and put in place effective internal programs, policies, procedures and controls to deter and detect in accordance to AML/CFT procedures;
- (vi) RIs are required to appoint a compliance officer who will be in charge of applying internal AML/CFT procedures;
- (vii) RIs compliance program should include on-going employee training program to ensure employees are fully aware of their obligations.

From the analysis it is revealed that they are highly aware on the matters that require their general knowledge but when it comes to the procedures that they have to acquire, they are just moderately aware on those procedures. For example, they are moderately aware that RIs are obliged to check and match customers' names against the United Nations Consolidated List published at www.un.org/sc/committees/1267/consolist.shtml or the name list as specified by the Minister of Home Affairs.

They are also moderately aware that in order to report of suspicious transactions to the financial intelligence unit (FIU) in Bank Negara Malaysia, they have to perform it through the submission of information in the prescribed Suspicious Transactions Report (STR) form or through the Financial Intelligence System. In addition, they are also moderately aware that the completed STR can be submitted to FIU through one of these channels i.e. (1) hand/mail to the Director, FIU, Bank Negara Malaysia, Jalan Dato' Onn, 50480 Kuala Lumpur; (2) facsimile the STR to Fax +603 2693 3625; and (3) email the STR to: str@bnm.gov.my.

iv) *Perceived impact*

It is also identified that in general, the respondents perceived a moderate impact of the AMLATFA Act 2001 which was enhanced in 200 on their working life and organization. From the response also, it is recognized that since the enhanced 2004 AMLATFA Act, only 31.9% of the respondents have attended training or courses related to revised AMLATFA Act. 31% of them went through the AML/CFT training based on the accreditation programs and another 22% were having a face to face training. The rest were accomplished through computer-based training (15%), written material (11%), video/DVD training (2%) and others (20%). Majority of the respondents (43%) also claimed that their professional body only provides moderate resource availability for any of their AML/CFT – related questions. Whereas, 23% and 7% classified that their professional body provides good and excellent resource availability, respectively.

5. Conclusion

Notably, there are huge effort that has been placed on the technical assistance and capacity building in counter-terrorism financing on the financial institutions. Yet, little focus is directed on addressing the vulnerabilities faced by non-financial businesses and professions in relation to terrorist financing. The FATF has long expressed concern that this entities, collectively known as Designated Non-Financial Businesses and Professions (DNFBPs) may be vulnerable to becoming involved in illicit transactions that may facilitate money laundering and financing of terrorism as DNFBPs provide opportunities to launder funds to achieve these purposes. In this regard, DNFBPs can be used to transfer or store value outside the heavily regulated sectors, or provide advice on how affairs can be structured to minimize the chance of detection.

Unlike previous studies that have examined the financial and non-financial compliance reporting practices of companies that involved in the MLTF, this current study was aimed to investigate the Malaysian's DNFBP's level of awareness, perceived impact and views on the AML/CFT requirements. The information gathered from this study could be used to further enhance our understanding on the current state of DNFBP's knowledge based on their perceptions on the matters concerning the awareness and impact of AML/CFT Requirements on them as well as the effectiveness, cost and benefits of the AML/CFT Requirement. In general, the results showed some indications of the perceptions among the respondents that could be used by the authorities to improve any current programs that have been designed to enhance the functions of DNFBP.

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