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## 1. INTRODUCTION

- 1.1. The Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT) Sectoral Guidelines 1 (Sectoral Guidelines 1) is issued pursuant to sections 13, 14, 16, 18, 19 and 83 of the Anti-Money Laundering and Anti-Terrorism Financing Act 2001 (AMLATFA).
- 1.2. The Sectoral Guidelines 1 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 AMLATFA to effectively combat money laundering and financing of terrorism activities.
- 1.3. This Sectoral Guidelines 1 must be read together with the Standard Guidelines on AML/CFT that the reporting institutions are subjected to, except for those areas stipulated in this Sectoral Guidelines 1.
- 1.4. The objective of the Sectoral Guidelines 1 is to provide guidance and minimum standards on AML/CFT measures in order to enable the reporting institution to develop its own internal AML/CFT policies, procedures and controls.

## 2. APPLICABILITY

- 2.1. This Sectoral Guidelines 1 is applicable to banking and financial institutions which are reporting institutions under the AMLATFA and the term 'reporting institution' in this document refers to the institutions listed in **Appendix I**.
- 2.2. This Sectoral Guidelines 1 is also applicable to products and services offered by both the conventional and Islamic banking and financial institutions. The conventional terms used in these Guidelines correspond to the Islamic products, terms and concepts listed in **Appendix II**.
- 2.3. The Standard Guidelines on AML/CFT and the Sectoral Guidelines 1 supersede the Guidelines on Money Laundering and "Know Your Customer Policy" 1993 (BNM/GP9).
- 2.4. This Sectoral Guidelines 1 is also applicable to the foreign branches and subsidiaries of the reporting institutions listed in Appendix I that carry out any of the businesses or activities listed in the First Schedule to the AMLATFA.
- 2.5. The reporting institution should observe the Sectoral Guidelines 1 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

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Sectoral Guidelines 1, the reporting institution is required to institute 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. CUSTOMER ACCEPTANCE POLICY

#### 3.1. Risk Profiling

3.1.1. In addition to the risk profiling requirements set out in the Standard Guidelines on AML/CFT, the reporting institution should review and update its customers' profiles regularly especially when there are changes in their employment or nature of business.

### 4. CUSTOMER DUE DILIGENCE

#### 4.1. General

4.1.1. The extent of the information required from the reporting institution's customer at the identification stage 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 that requires more rigorous identification and verification procedures;
- Whether the transaction involves a new type of service or product or engages new technology, which alters the delivery mode and transaction process, whereby, care must be taken to ensure that customer identification and verification requirements are adequately complied. To ensure that new conventional or Islamic products or services as well as delivery mode does not create an avenue for money laundering and terrorism financing activities, the reporting institution must ensure that prior to the launch of any new conventional or Islamic products/services or engagement of a new technology, controls to combat money laundering and terrorism financing practices are in place to address any risks these new products/services or technology may pose; and

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- The type of customers, i.e., whether they are account holders or non-account holders and the entities that they represent.
- 4.1.2. If any reporting institution provides Bureau de Change services, customer due diligence is required for transactions equivalent to RM20,000 and above.
  - 4.1.3. For occasional transactions such as non-account holder conducting any banking transaction involving an amount equivalent to RM50,000 and above, customer due diligence must be conducted on the customer.
  - 4.1.4. For wire transfers, the reporting institution is required to conduct customer due diligence and transmit accurate and meaningful originator information for transactions involving an amount equivalent to RM3,000 and above.
  - 4.1.5. For cash transactions involving an amount equivalent to RM50,000 and above, customer due diligence must be conducted on the customer, including the person conducting the transaction.
  - 4.1.6. If the reporting institution has any suspicion of money laundering or financing of terrorism activities, customer due diligence must be conducted on the customer, including the person conducting the transaction, regardless of the amount transacted.

## 4.2. Individual Customers

- 4.2.1. In addition to the customer information that is required in the Standard Guidelines on AML/CFT, the reporting institution should also obtain the following additional information when conducting customer due diligence for individual customers:
  - occupation type/self employed;
  - name of employer or nature of self-employment/nature of business; and
  - contact number (home, office or mobile).

## 4.3. Counter-party

- 4.3.1. Where the reporting institution establishes a relationship with counter-party, it must satisfy itself that its counter-party is properly regulated and supervised.
- 4.3.2. The reporting institution should ensure that its counter-party's customer due diligence process is adequate and its mechanism to identify and verify customers is reliable.

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#### 4.4. Wire Transfer

- 4.4.1. The reporting institution that is the ordering institution should obtain at the minimum, the following originator's information for the purpose of transmitting accurate and meaningful originator information:
- name;
  - nationality;
  - national identification number/passport number
  - account number (or a unique reference number if there is no account number); and
  - address (or in lieu of the address, date and place of birth).
- 4.4.2. The reporting institution must transmit the following originator's information in the wire transfer message:
- name of the originator;
  - the originator's account number (or a unique reference number if there is no account number); and
  - the originator's address (or in lieu of the address, national identification or passport number, or date and place of birth).
- 4.4.3. When facilitating or acting as intermediary to a wire transfer transaction, the reporting institution should ensure that the accompanying originator's information is retained with the wire transfer.
- 4.4.4. Reporting institution, which is the beneficiary institution, should adopt an effective risk-based approach in identifying any wire transfer with incomplete originator's information. Where, the originator's information is incomplete or unavailable, the reporting institution should adopt an effective risk based approach in deciding whether to proceed, stop or request for the missing originator's information from the corresponding institutions.
- 4.4.5. Wire transfer with incomplete originator's information may be considered as a factor for suspicion and where appropriate, the reporting institution should lodge a suspicious transaction report with the Financial Intelligence Unit in Bank Negara Malaysia.
- 4.4.6. The reporting institution should check the particulars of a higher risk customer by taking into account such factors as the name of the beneficiary, destination and the amount of the wire transfer.
- 4.4.7. In addition, if a wire transfer did not appear to be consistent with the usual business/activity pattern of the customer, the customer should be asked to provide further explanation of the nature of the wire transfer.

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- 4.4.8. The reporting institution is required to forward the sender's information to the agent of the remittance service operator, if available.
- 4.4.9. For a domestic wire transfer, the ordering institution may include only the originator's account number or if there is no account number, a unique identifier, within the message or payment form. This is permitted only if at any time when requested, the ordering institution would be able to provide the originator's information within 3 business days.

#### 4.5. Beneficiary Account<sup>1</sup>

- 4.5.1. Identification procedures for beneficiary account should be performed on the beneficiary and the agent/entity acting on behalf of the beneficiary. Verification must be done to ensure that the agent/entity is authorised to act on behalf of the beneficiary. Identification process should be done on individual basis, wherever possible.
- 4.5.2. If the interests of a group of beneficiaries are pooled together without specific allocation to known individuals (e.g. trust funds for future students of a medical school), the reporting institution should satisfy itself that the funds in the account are not maintained in the interest of other parties which have no relationship with the account.
- 4.5.3. Trustee/Nominee Account – Provisions for customer due diligence measures in the Standard Guidelines on AML/CFT applies.
- 4.5.4. Professionals – In the case of professionals acting on behalf of their clients, such as legal firms or accountants acting on behalf of their customers, the reporting institution should consider obtaining a written undertaking from the professionals that they are aware and have verified the true identity of their clients and their sources of funds as required under the AMLATFA.
- 4.5.5. In the event where the person acting on behalf of the beneficiary is unable or refuses to provide the information on the identity of the beneficiaries or written undertaking (where applicable), the reporting institution should not permit that person to open a client account and should consider submitting a suspicious transaction report on the person. As for an existing customer, the reporting

<sup>1</sup> Beneficiary accounts cover trust accounts, nominee accounts, fiduciary accounts, accounts opened for companies with nominee shareholders, accounts for mutual funds, and fund managers, accounts for personal asset holding vehicles, pooled accounts, accounts opened by professional intermediaries and other relevant accounts.

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institution should not continue to transact with and for that person until further verification is conducted to its satisfaction.

#### **4.6. Foreign Politically Exposed Persons (PEPs)**

- 4.6.1. The reporting institution should monitor accounts which are connected to PEPs in order to detect discrepancies in their transactions and account activities based on their profiles.

#### **4.7. Clubs, Societies and Charities**

- 4.7.1. In addition to the customer due diligence measures on clubs, societies or charities, as provided in the Standard Guidelines on AML/CFT, the reporting institution should verify the identity of at least two signatories through the customer due diligence process. In the event that there is a change of signatories, care should be taken to ensure that the identities of at least two current signatories have been verified.
- 4.7.2. The reporting institution should also closely scrutinise the accounts of clubs, societies or charities in order to detect discrepancies in the transactions and account activities.

#### **4.8. Licensed Money Changers**

- 4.8.1. All identification and verification procedures must be duly carried out on licensed money changers who maintain accounts with the reporting institution, either individually or under their business names to ensure that these entities are licensed.
- 4.8.2. The reporting institution must ensure that the nature and volume of transactions must reflect the business of the licensed money changers.

#### **4.9. Shell Banks and Companies**

- 4.9.1. The reporting institution should not establish or conduct any business relationship with shell banks.
- 4.9.2. As for shell companies, for those that do not conduct any commercial activities or have any form of commercial presence in the country, extra care should be taken to verify the details of the directors, shareholders and authorised signatories.

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#### **4.10. Private Banking**

- 4.10.1. Enhanced due diligence and a more stringent approval process should be exercised when considering business with any person who proposes to engage the reporting institution's private banking services and its senior management must approve the acceptance of that person as a client.
- 4.10.2. The reporting institution should undertake an independent review of the conduct and development of such business relationship, at least annually.

#### **4.11. Credit Cards**

- 4.11.1. In case of supplementary cardholders associated with a personal card account or employees holding corporate cards, the reporting institution should also obtain the relevant particulars of the supplementary cardholders for purpose of identification and verification.
- 4.11.2. The reporting institution should also take reasonable steps to ensure that the supplementary cardholders are not designated terrorists on the United Nations' list.

#### **4.12. Safe Keeping**

- 4.12.1. The reporting institution should be aware of the use of custody or safe-keeping services by its account holders and non-account holders.
- 4.12.2. All identification and verification processes and procedures for safe-keeping services must be adhered to by non-account holders wishing to subscribe to the service.
- 4.12.3. Frequent access of the safe-keeping services without any apparent reason may be a possible trigger of suspicion.
- 4.12.4. The reporting institution is encouraged to include an indemnity clause requiring its customer to declare that he/she will not keep any items or utilise the safe-keeping services as a channel to facilitate activities prohibited by the law or that may cause harm, involve hazard or risk to its customer and/or others.

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#### 4.13. Correspondent Banking

- 4.13.1. Where applicable, if the reporting institution provides correspondent bank accounts to respondent institutions, the reporting institution should take the necessary measures to ensure that it is not exposed to the threat of money laundering and financing of terrorism through the accounts of the respondent institutions such as being used by shell banks.
- 4.13.2. When entering such business relationship, the reporting institution should capture and assess at the minimum the following information on the respondent institution, to determine the reputation and quality of supervision:
- Board of Directors and the management;
  - Business activities and products;
  - Applicable legislation, regulations and supervision; and
  - AML/CFT measures and control.
- 4.13.3. The reporting institution should establish or continue a correspondent banking relationship with the respondent institution only if it is satisfied with the assessment of the information gathered.
- 4.13.4. The reporting institution should also document the responsibilities of the respective parties in relation to the correspondent banking relationship, in particular, matters in relation to customer due diligence for all products and services.
- 4.13.5. The decision and approval to establish or continue a correspondent banking relationship should be made at the Senior Management level.
- 4.13.6. The reporting institution should ensure that such correspondent banking relationship does not include any respondent institution that has no physical presence and which is unaffiliated with a regulated financial group (e.g. shell banks).
- 4.13.7. Where a correspondent banking relationship involves the maintenance of “payable-through account”, the reporting institution should be satisfied that:
- the respondent institution has performed all the normal obligations on its customers that have direct access to the accounts of the reporting institution; and
  - the respondent institution is able to provide relevant customer identification data upon request by the reporting institution.

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4.13.8. In addition, the reporting institution should pay special attention to correspondent banking relationship with respondent institutions from countries highlighted by the internationally recognized AML/CFT bodies such as FATF, as insufficiently implementing the internationally accepted AML/CFT measures, which would require enhanced due diligence to assess the money laundering and financing of terrorism associated risks.

## 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 examples listed in **Appendix III** in order to detect transactions and activities that may be suspicious.

## 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.

## 7. AML/CFT COMPLIANCE PROGRAMME

### 7.1. Independent Audit

7.1.1. The role and function of the Board of Directors with regards to the independent audit as specified in the Standard Guidelines may be facilitated through or assisted by the Audit Committee.

7.1.2. The Audit Committee of the reporting institution is responsible to review internal control issues identified by the auditors and regulatory authorities and to evaluate the adequacy and effectiveness of the internal controls for its AML/CFT measures. At the minimum, the Audit Committee should:

- ensure that independent audits are conducted to check and test the effectiveness of the policies, procedures and controls for AML/CFT measures;
- ensure the effectiveness of internal audit function in assessing and evaluating the AML/CFT controls;
- ensure the AML/CFT measures are in compliance with the AMLATFA, its regulations and the relevant Guidelines; and
- assess whether current AML/CFT measures which have been put in place are in line with the latest developments and changes of the relevant AML/CFT requirements.

7.1.3. The Audit Committee must submit a written report on the audit findings to the Board of Directors on a regular basis. Hence, the

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report should be used to highlight inadequacies of any AML/CFT measures and control systems within the reporting institution and the Board of Directors should ensure that necessary steps are taken to rectify the situation.

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## **8. Appendix I**

The Sectoral Guidelines 1 is applicable to the reporting institutions under the Anti-Money Laundering and Anti-Terrorism Financing Act 2001 (AMLATFA), carrying out the following business or activity, as listed in the First Schedule to the AMLATFA:

1. Banking business, finance company business, merchant banking business and discount house business as defined in the Banking and Financial Institutions Act 1989;
2. Islamic banking business as defined in the Islamic Banking Act 1983; and
3. Business activities carried out by the prescribed institutions as defined in the Development Financial Institutions Act 2002.

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## 9. Appendix II

Product/Services	Applicable Concept(s)
Deposit	Wadiah (safekeeping) Mudharabah (profit sharing)
Investment	Mudharabah (profit sharing) Bai' Bithaman Ajil (deferred payment sale)
Retail Financing	Bai' Bithaman Ajil (deferred payment sale) Mudharabah (profit sharing) Musyarakah (joint venture)
Hire Purchase	Al-Ijarah Thumma al-Bai' (hire purchase)
Credit Card-i	Bai' al-Inah (sell and buy back arrangement)

### *Wadiah (Safekeeping)*

In Wadiah, a bank is deemed as a keeper and trustee of funds. A person deposits funds in the bank and the bank guarantees refund of the whole amount of the deposit, or any part of the outstanding amount, when the depositor demands for it. The depositor, at the bank's discretion, may be rewarded with 'hibah' (gift) as a form of appreciation for the use of funds by the bank.

### *Mudharabah (Profit Sharing)*

Mudharabah is an arrangement or agreement between a capital provider and an entrepreneur, whereby the entrepreneur can mobilise funds for its business activity. Any profits made will be shared between the capital provider and the entrepreneur according to an agreed ratio while losses are borne solely by the capital provider.

### *Musyarakah (Joint Venture)*

This concept is normally applied for business partnerships or joint ventures. The profits made are shared on an agreed ratio while losses incurred, will be divided based on the equity participation ratio.

### *Bai' Bithaman Ajil (Deferred Payment Sale)*

The selling of goods on a deferred payment basis at a price, which includes a profit margin agreed by both parties.

### *Ijarah Thumma Al Bai' (Hire Purchase)*

There are two contracts involved in this concept. The first contract, Ijarah contract (leasing/renting) and the second contract, Bai' contract (purchase) are undertaken one after the other. For example, in a car financing facility, a customer enters into the first contract and leases the car from the owner (bank) at an agreed rental over a specific period. When the leasing period expires, the second contract comes into effect, which enables the customer to purchase the car at an agreed price.

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*Bai' al-Inah (Sell and Buy Back Agreement)*

The financier sells an asset to the customer on a deferred payment and then the asset is immediately repurchased by the financier for cash at a discount.

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## 10. Appendix III

### Examples of Transactions<sup>2</sup> That May Trigger Suspicion

#### Cash Transactions

1. Unusually large cash deposits made by an individual or company whose ostensible business activities would normally be generated by cheques and other instruments.
2. Substantial increases in cash deposits of any individual or business without apparent cause, especially if such deposits are subsequently transferred within a short period out of the account and/or to a destination not normally associated with the customer.
3. Customers who deposit cash by means of numerous credit slips such that the total of each deposit is insignificant, but the total of all the credits is significant.
4. Company accounts whose transactions, both deposits and withdrawals, are denominated in cash rather than the forms of debit and credit normally associated with commercial operations (e.g. cheques, Letters of Credit, Bills of Exchange, etc.).
5. Customers who constantly pay in or deposit cash to cover requests for bankers' draft, money transfers or other negotiable and readily marketable money instruments.
6. Customers who seek to exchange large quantities of low denomination notes for those of higher denomination.
7. Frequent exchange of cash into other currencies.
8. Branches that have a great deal more cash transactions than usual (Head Office statistics detect aberrations in cash transactions).
9. Customers whose deposits contain counterfeit notes or forged instruments.
10. Customers transferring large sums of money to or from overseas locations with instructions for payment in cash.
11. Large cash deposits using night safe facilities, thereby avoiding direct contact with the reporting institution's staff.

<sup>2</sup> Modified from 'A Model of Best Practices to Combat Money Laundering in the Financial Sector' by the Commonwealth Secretariat.

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## Accounts

12. Accounts that appear to act as pass through accounts with high volumes of credits and debits and low average monthly balances.
13. Customers who wish to maintain a number of trustee or client accounts, which do not appear consistent with the type of business, including transactions which involve nominee names.
14. Customers who have numerous accounts and pay in amounts of cash to each of them in circumstances in which the total amount of credits would be large.
15. Any individual or company whose account shows no normal personnel banking or business related activities, but is used to receive or disburse large sums which have no obvious purpose or relationship to the account holder and/or his business (e.g. a substantial increase in turnover on an account).
16. Reluctance to provide normal information when opening an account or providing information that is difficult or expensive for the financial institution to verify.
17. Customers who appear to have accounts with several financial institutions within the same locality but choose to consolidate funds from such accounts on regular basis for onward transmission to a third party account.
18. Matching of payments out with credits paid in by cash on the same or previous day.
19. Paying in large third party cheques endorsed in favour of the customer.
20. Large cash withdrawals from a previously dormant/inactive account, or from an account which has just received an unexpectedly large credit from abroad.
21. Greater use of safe deposit facilities.
22. Company's representatives avoiding contact with branch officers.
23. Substantial increases in deposits of cash or negotiable instrument by a professional firm or company, using client accounts or in-house company, or trust accounts, especially if the deposits are promptly transferred between other client's company and trust accounts.
24. Customers who show an apparent disregard for accounts offering more favourable terms, e.g. avoidance of high interest rate facilities for large credit balances.

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25. Customers who decline to provide information that in normal circumstances would make the customer eligible for credit or for other banking services that would be regarded as valuable.
26. Insufficient use of normal banking facilities.
27. Large number of individuals making payments into the same account without any adequate explanation.

### **International Banking/Trade Finance**

28. Customers introduced by an overseas branch, affiliate or any other bank based in countries where production of drugs or drug trafficking may be prevalent.
29. Use of Letter of Credit and other methods of trade finance to move money between countries where such trade is not consistent with the customer's usual business.
30. Customers who make regular and large payments, including wire transfers, that cannot be clearly identified as *bona fide* transactions, or receive regular and large payments from countries which are commonly associated with the production, processing or marketing of drugs, prescribed terrorist organizations or which are tax havens.
31. Building up of large balance, not consistent with the known turnover of the customer's business, and subsequent transfer to accounts held overseas.
32. Unexplained electronic fund transfers by customers on an in-and-out basis or without passing, through an account.
33. Frequent requests for travellers' cheques or foreign currency drafts or other negotiable instruments to be issued.
34. Frequent paying in of travellers' cheques or foreign currency drafts, particularly if originating from overseas.
35. Customers who show apparent disregard for arrangements offering more favourable terms.

### **Employees and Agents**

36. Changes in employee's characteristics, e.g. lavish life styles or avoiding taking holidays.
37. Changes in employee's or agent's performance, e.g. the salesman, selling products for cash, has a remarkable or unexpected increase in performance.

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38. Any dealing with an agent where the identity of the ultimate beneficiary or counterpart is undisclosed, contrary to normal procedure for the type of business concerned.
39. For private banking or trust services, sudden strong performance by employees in special relationship/confidential relationship banking services such as trust or private banking services or sudden increase in the wealth/spending of such employees.

### **Private Banking and Trust Services**

40. The grantors of private banking trust accounts that direct loans from their accounts to other parties or business interests of account principals or beneficiaries.

### **Secured and Unsecured Lending**

41. Customers who repay problem loans unexpectedly.
42. Request to borrow against assets held by the financial institution or a third party, where the origin of the assets is not known or the assets are inconsistent with the customer's standing.
43. Request by a customer for a financial institution to provide or arrange financial contribution to a deal which is unclear, particularly, where property is involved.
44. A customer who unexpectedly repays in part or in full a fixed loan or other loan that is inconsistent with his/her earning capacity or asset base.

### **Credit Cards**

45. Overpayment of account and the customer requests for refund from the reporting institution.
46. Depositing a substantial amount of fund into the card account and the cardholder uses the card to purchase items overseas.
47. Payment is credited into a cardholder's account by a third party with no apparent relation to the cardholder.
48. Early settlement of account that does not commensurate with the cardholder's financial standing.