

By asset category, growth in the 50% risk-weight category was consistent with the continued expansion in mortgage financing, whilst the increase in assets in the 100% risk-weight category was attributable to other lending activities of the banking system and the re-categorisation

of mortgage non-performing loans. Assets in the 10% and 20% risk-weight categories, however, declined partly due to the maturity of Cagamas debt securities held by the banking institutions, and outstanding claims on OECD and non-OECD banks, respectively.

Malaysia's Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT) Programme

Overview

Malaysia's Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT) regulatory regime under the Anti-Money Laundering Act 2001 (AMLA) continues to evolve in order to keep pace with new global trends and internationally accepted standards, that is, the Financial Action Task Force on Money Laundering's (FATF) 40+9 Recommendations. As with other jurisdictions, Malaysia's efforts were expanded during the year by extending the AMLA regulatory net to non-financial businesses and professions, strengthening the AML/CFT legislative framework and ensuring proper implementation of measures to counter money laundering and the financing of terrorism.

Malaysia, as the lead shepherd for money laundering in the Association of Southeast Asian Nations (ASEAN), has taken efforts to enhance the skills and knowledge of personnel involved in the fight against money laundering and terrorism financing both at the national and regional level. Various training workshops were organised/co-organised by Bank Negara Malaysia and the Southeast Asia Regional Centre for Counter Terrorism (SEARCCT). These training workshops were participated by regulatory and law enforcement agencies. Besides training workshops, regular dialogues and awareness programmes were conducted for new as well as existing AMLA reporting institutions in Malaysia. The face-to-face interactions have gained the willing commitment, compliance and co-operation of the reporting institutions in playing their critical role in implementing the national AML/CFT measures.

The National Co-ordination Committee to Counter Money Laundering (NCC) that consists of 13 Ministries and Government agencies continues to play its role in mobilising and garnering the co-operative efforts from the relevant domestic agencies. Among others, the NCC established the AMLA Investigation Reference Guide and is now in the process of establishing the Financial Investigators Accreditation Programme. The Ministry of Foreign Affairs, which is a member of the NCC, has forwarded the AMLA Information Booklet to Malaysian missions abroad to apprise these missions of the efforts taken by Malaysia to enhance its AML/CFT regime.

During the year, the first offender under the AMLA, a snatch thief, was successfully convicted after he pleaded guilty to five counts of money laundering charges amounting to RM83,216. He was sentenced to three years imprisonment on each of the five charges. Another six persons are also being prosecuted for money laundering offences involving a total of 193 charges and amounting to RM71.3 million.

As the fight against money laundering and terrorism financing requires global collaborative efforts, Malaysia participates actively in global AML/CFT initiatives. At the international front, Malaysia achieved the distinction of being selected at the 8th Asia/Pacific Group on Money Laundering (APG) Annual Meeting as the representative for the South East Asia region in the APG Steering Group (for a period from July 2005-July 2006). The APG Steering Group was established at the APG Annual Meeting in September 2003. The membership includes a representative from each of the five broad geographical areas within the APG, namely North Asia, Pacific Islands, South Asia, South East Asia and 'Others'. The purpose of the APG Steering Group is to provide the APG Co-chairs and APG members with strategic advice on the structure, functioning and support for the APG. Among the roles played by the members of the Steering Group is to provide advice on issues of strategic importance, obtain feedback from sub-regional members on key issues and influence the APG members to participate in the APG activities.

Enhancing AML/CFT Regime

New AMLA Reporting Institutions

Under the AMLA, a reporting institution is required to file a Suspicious Transaction Report (STR) directly to Bank Negara Malaysia if there are reasons to suspect any transaction involving the proceeds of any unlawful activities that are listed in the Second Schedule to the AMLA. Since the enforcement of the AMLA on 15 January 2002,

the AMLA reporting institutions include financial institutions from the conventional, Islamic and offshore sectors and non-financial businesses and professions such as lawyers, accountants, company secretaries as well as the only licensed casino in Malaysia.

During 2005, the AMLA reporting obligations were invoked on licensed gaming outlets, Bank Pertanian Malaysia and notaries public with effect from 31 March 2005 and on offshore trading agents and listing sponsors with effect from 20 October 2005. Notaries public are required to report to Bank Negara Malaysia any suspicious transaction in the course of carrying out the following activities for their clients:

- (i) buying and selling of immovable property;
- (ii) managing of client's money, securities or other property;
- (iii) managing of accounts including savings and securities accounts;
- (iv) organising of contributions for the creation, operation or management of companies; or
- (v) creating, operating or managing of legal entities or arrangements and buying and selling of business entities.

Increase Reporting Obligations

Bank Negara Malaysia adopts an incremental approach in invoking the AMLA provisions on the reporting institutions. This approach ensures that sufficient time is given to the reporting institutions to put in place an effective and efficient AML/CFT system before the rest of the reporting obligations are invoked on them. In this regard, the statutory requirement to report suspicious transactions was initially invoked on Pos Malaysia Berhad with effect from 15 January 2003 and on stock brokers and futures brokers with effect from 31 March 2004. Subsequently, the remaining reporting obligations under Part IV of the AMLA were invoked on Pos Malaysia Berhad with effect from 31 March 2005 and on the stock brokers and futures brokers with effect from 20 October 2005. These remaining reporting obligations include, among others, retention of records for a minimum period of six years, conducting customer due diligence as well as establishing internal reporting and compliance programme that are designed to safeguard the institutions from being used as conduits by criminals.

Increase Predicate Offences

In 2005, the number of money laundering predicate offences in the Second Schedule to the AMLA was increased from 168 to 185 serious offences from 27 pieces of legislation. The new predicate offences are from the Customs Act 1967, Islamic Banking Act 1983, Payment Systems Act 2003, Takaful Act 1984, Futures Industry Act 1993, Securities Commission Act 1993 and Securities Industry Act 1983.

Compliance Monitoring

Given the diversity in the types of AMLA reporting institutions and the large number of non-financial businesses and professions, Bank Negara Malaysia has established appropriate mechanism to effectively monitor the reporting institutions' compliance with the AMLA reporting obligations and the relevant AML/CFT guidelines. Compliance monitoring may be by way of completing Bank Negara Malaysia's self-assessment questionnaires by the reporting institutions or AML/CFT focused internal audit.

In line with the non-integrated approach, the relevant functional supervisory authority conducts AMLA compliance examinations on the reporting institutions under their purview. The AML/CFT examinations are carried out as part of the functional supervisory authority's overall examination on the financial institutions concerned. For this purpose, a comprehensive AMLA supervisory framework providing the banking supervisors with a documented set of uniform processes was formulated and established to guide them in their examination of financial institutions' AML/CFT measures. The core areas of AML/CFT examination encompass the following:

- i) AML/CFT infrastructure;
- ii) institution's compliance with internal AML/CFT policies and procedures;
- iii) identification of account holders;
- iv) monitoring of transactions;

- v) record-keeping;
- vi) detection and reporting of unusual and suspicious transactions;
- vii) training and awareness programmes for employees;
- viii) internal audit of the AML/CFT initiatives; and
- ix) roles and responsibilities of the AML compliance officer.

The AML/CFT examination reports are forwarded to the Financial Intelligence Unit (FIU) and the findings are uploaded into the FIU's compliance database to ensure continuous monitoring of the reporting institutions' compliance with the AMLA requirements. For reporting institutions that are from unregulated industries and from industries where the regulatory authorities are not empowered to conduct examinations, Bank Negara Malaysia will supervise these institutions for AMLA compliance.

Financial Intelligence

Since May 2004, Bank Negara Malaysia has implemented the Financial Intelligence System (FINS) that enables the reporting institutions to submit STRs through a secure web in an efficient and secure on-line environment. Bank Negara Malaysia is in the process of enhancing the FINS with more powerful and advanced intelligence analytical software. Phase II of the FINS will also incorporate i-2 tools that will assist Bank Negara Malaysia's analysts in establishing financial links among STRs. Based on the analysis of STRs, Bank Negara Malaysia is able to provide financial intelligence to the relevant law enforcement agencies. The financial intelligence provided has enabled the law enforcement agencies to effectively conduct financial investigation on the perpetrators and to establish the underlying predicate offences as well as money laundering offences. Hence, Bank Negara Malaysia will enhance the effectiveness of its financial analysts by leveraging on information technology to better detect criminal activities and to enable timely dissemination of financial intelligence to law enforcement agencies.

Capacity Building

AMLA Awareness Programme

In 2005, Bank Negara Malaysia continued its nationwide awareness programme to ensure that the reporting institutions effectively implement the AML/CFT measures. A series of briefing sessions were held for various categories of the reporting institutions, particularly for the new reporting institutions as well as their respective regulatory and supervisory authorities in order to apprise them of their obligations under the AMLA.

In July 2005, a total of 10 nationwide AMLA briefing sessions were conducted for banking institutions and licensed gaming outlets, namely the number forecast companies. The briefing sessions for banking institutions were organised by the Institute of Bankers Malaysia (IBBM) while for licensed gaming outlets, they were conducted in collaboration with the Betting Control Unit, Ministry of Finance. The main focus of the AMLA briefing sessions for banking institutions is on 'Know Your Customer (KYC) Policy' and on the importance of conducting customer due diligence when establishing business relations while the sessions for gaming outlets were on the submission of STRs.

During the year, Bank Negara Malaysia was also invited by the Malaysian Association of Company Secretaries to conduct briefing sessions on AML/CFT for its members. In total, three sessions were conducted in Sabah and one in Johor Bahru. As the number of company secretaries is large and their trade associations are fragmented, these briefing sessions have proven to be an effective outreach to the industry to ensure that their members fully understand their roles in preventing and detecting criminal activities.

Dialogue Sessions

Bank Negara Malaysia continues to conduct regular dialogue sessions with the reporting institutions. These dialogue sessions were effective in updating the reporting institutions on the latest AML/CFT measures and to gather feedback on the effectiveness of the AML/CFT measures. The dialogue sessions also provide a platform for the reporting institutions to raise their concerns and exchange ideas on the best practices to implement the AML/CFT measures effectively. With better understanding and co-operation from the reporting institutions, Malaysia's AML/CFT regime will be more effective and efficient.

Compliance Officer Networking Group (CONG)

The banking institutions have established the Compliance Officer Networking Group (CONG), which is an informal consultative forum to discuss and share AML/CFT issues and concerns. Since its establishment in 2003, the banking institutions have benefited from the consultative deliberations at the meetings of the compliance officers from the CONG. Members of the CONG participate in creating industry standards, suggest best practices, reinforce the necessity of compliance and co-operation with the authorities and amongst themselves in order to minimise the potential of being exploited by money launderers and terrorist financiers.

The insurance sector also plays an important role in the AML/CFT regime. The inclusion of investment products with the usual portfolio of insurance policies increases the potential for the insurance sector to be exploited as money laundering conduits. As a result, the respective insurance associations are following the example of the banking sector in setting up their own CONG. The General Insurance Association of Malaysia (PIAM), the Life Insurance Association of Malaysia (LIAM), the Insurance Brokers Association of Malaysia and the Malaysian Takaful Association have proposed that separate CONGs be established for the general insurers, life insurers, insurance brokers and takaful operators respectively as issues raised may be different for different types of insurance businesses. PIAM has established a CONG for general insurers in 2005 while LIAM has established a CONG for life insurers in January 2006. The remaining insurance associations will establish their CONGs in due course.

Computer-Based Training Centre

Bank Negara Malaysia has collaborated with the United Nations Office on Drugs and Crime (UNODC) to establish an AML Computer-Based Training Centre (CBTC) for the relevant agencies in Malaysia. The CBTC was launched at the FIU in Bank Negara Malaysia on 30 May 2005. The UNODC's interactive AML computer-based training programme consists of 13 modules on legal, regulatory and law enforcement AML measures. Participants are assessed through a series of quizzes, pre-tests and post-tests to determine their knowledge on AML/CFT measures. This e-learning training initiative helps to enhance the knowledge of personnel from the law enforcement agencies and ensure greater outreach to relevant sectors involved in the fight against money laundering and financing of terrorism. As at 31 December 2005, a total of 48 officials from various NCC agencies have signed up for the AML Computer-Based Training programme and 22 have completed the training, while the rest are at various stages of completion.

World Bank E-Learning AML/CFT Programme

Apart from the UNODC computer-based training programme, the World Bank has also developed an e-learning AML/CFT programme, which is currently accessible to seven countries, namely Malaysia, Thailand, Vietnam, Indonesia, the Philippines, Cambodia and Laos PDR. The e-learning programme consists of seven modules covering the following topics that are related to AML/CFT:

- Module 1 - Effects on Economic Development and International Standards;
- Module 2 - Legal Requirements to meet International Standards;
- Module 3 - (a) Regulatory and Institutional Requirements;
(b) Compliance Requirements for Financial Institutions;
- Module 4 - Building an Effective Financial Intelligence Unit;
- Module 5 - Domestic (inter-agency) and International Co-operation;
- Module 6 - Combating the Financing of Terrorism; and
- Module 7 - Investigating Money Laundering and Terrorist Financing.

The World Bank allows countries to customise the e-learning programme to their domestic AML/CFT regime. As such, Bank Negara Malaysia is currently customising the modules by including the Malaysian AML/CFT laws and measures. Upon completion of the customisation, the Bahasa Melayu version will also be developed. The World Bank e-learning programme will be accessible to the government and private sectors in the following format:

- i) hardcopy;
- ii) CD-ROM; or
- iii) on-line learning management system.

The flexibility given by the World Bank also allows the government and private sector's training institutions to modify the modules to suit their training requirements.

Training Initiatives

To stay ahead of money launderers who are increasingly creative in structuring their activities in order to avoid detection by law enforcement officers, Bank Negara Malaysia continues to upgrade the expertise of law enforcement personnel through formal workshops and seminars. The training workshops and seminars were conducted by both internal and external resource persons and experts.

During the year, Bank Negara Malaysia has organised/co-organised and participated in the following training initiatives:

- i) The AMLA Advance Net Worth Analysis Workshop, Port Dickson, 20-24 June 2005;
- ii) Financial Intelligence Training, Kuala Lumpur, 5-9 September 2005;
- iii) Terrorism Financing Typologies Workshop, Kuala Lumpur, 14-17 November 2005; and
- iv) AML Seminar and Workshop, Labuan, 23-24 November 2005.

Financial Investigators Accreditation Programme

At the 19th NCC Meeting on 9 November 2004, members agreed to develop the Accreditation of Financial Investigators Programme for AMLA investigators. The objective of the Accreditation Programme is to develop financial investigators with the relevant skills in conducting financial investigations. The proposed accredited training programme consists of the following nine modules:

- i) UNODC Anti-Money Laundering Computer-Based Training;
- ii) Legal Aspects on Financial Investigation under the AMLA;
- iii) AMLA Investigation: Process & Procedure;
- iv) Basic Net Worth Analysis Workshop;
- v) Advance Net Worth Analysis Workshop;
- vi) Forensic Accounting;
- vii) Introduction to Computer Forensics;
- viii) Attachments with commercial banks & insurance companies; and
- ix) Training on Visual Investigative Analysis Software

It is anticipated that the first batch of accredited financial investigators will graduate by the end of 2006.

Challenges Ahead

The year ahead will be very challenging for Malaysia as it is scheduled for a second round of Mutual Evaluation jointly by the APG and the Offshore Group of Banking Supervisors (OGBS) in early 2007. The OGBS will evaluate the AML/CFT regime of the offshore sector in the Labuan International Offshore Financial Centre. The APG evaluation team will assess the effectiveness of Malaysia's AML/CFT system and its compliance with the FATF's 40+9 Recommendations based on the revised 2004 Methodology for Assessment. To carry out this massive and important exercise, various working groups have been established under the NCC to focus on all the 250 assessment criteria. Malaysia's current AML/CFT measures, laws, regulations, guidelines and framework are being reviewed to identify gaps and to formulate rectification measures.

Going forward, Bank Negara Malaysia will continue to be vigilant and respond to evolving AML/CFT threats as well as AML/CFT standards and trends by fine-tuning its legal and regulatory measures, including the invocation of the AMLA reporting obligations on other categories of financial and non-financial businesses and professions as recommended by the FATF.