

# Anti-Money Laundering and Counter Financing of Terrorism

SHOOK LIN & BOK

---

EST 1918  
KUALA LUMPUR

---

SHOOK LIN & BOK

---

EST 1918  
KUALA LUMPUR

---



# SUSTAINABLE DEVELOPMENT GOALS

17 GOALS TO TRANSFORM OUR WORLD

**1** NO POVERTY

**2** ZERO HUNGER

**3** GOOD HEALTH AND WELL-BEING

**4** QUALITY EDUCATION

**5** GENDER EQUALITY

**6** CLEAN WATER AND SANITATION

**7** AFFORDABLE AND CLEAN ENERGY

**8** DECENT WORK AND ECONOMIC GROWTH

**9** INDUSTRY, INNOVATION AND INFRASTRUCTURE

**10** REDUCED INEQUALITIES

**11** SUSTAINABLE CITIES AND COMMUNITIES

**12** RESPONSIBLE CONSUMPTION AND PRODUCTION

**13** CLIMATE ACTION

**14** LIFE BELOW WATER

**15** LIFE ON LAND

**16** PEACE, JUSTICE AND STRONG INSTITUTIONS

**17** PARTNERSHIPS FOR THE GOALS

**SUSTAINABLE DEVELOPMENT GOALS**

# General Principles

- Reporting Institution: Activities carried out by a member as defined in the Accountants Act 1967
- Gazetted Activities

**GA  
I****Buying and selling of immovable property****Examples: (non-exhaustive)**

- Advisory services related to buying and selling of real property
- Preparation of legal documents to facilitate buying and selling of immovable property
- Facilitating payments for buying and selling of immovable property

**Organising of contributions for the creation, operation or management of companies****GA  
IV****Examples/ explanation: (non-exhaustive)**

- Advisory services related to capital contribution or funding/ financing arrangement of companies, e.g., initial public offerings (IPOs) or issuance of bonds
- Preparation of agreement related to funding / financing arrangement, e.g., IPOs or issuance of bonds
- Advisory services related to tax/ tax planning, investments in securities and/or other assets

**GA  
II****Managing of client's money, securities or other property****Examples/ explanation: (non-exhaustive)**

- Hold or keep client monies/ funds/ assets in separate account (client/escrow account) and use the monies according to the client's instructions in conjunction with any of the specified GAs, e.g., holding of earnest deposit in firm's client account as stakeholder funds pending completion of property acquisition
- Administer and manage client assets in a separate account (client/escrow account), e.g., in relation to lawyer's role as a trustee for the administration of client's assets, tax payment to Inland Revenue Board on behalf of client.
- For lawyers, there could be circumstances of spill-over, in which the funds from litigation process may pass-through the client's account, and hence form part of the Gazetted Activities.

**GA  
III****Managing of accounts including savings and securities accounts****Examples: (non-exhaustive)**

- Managing of client's accounts including bank accounts or securities accounts, e.g., acting as authorised signatory on behalf of client to facilitate funds transfer/salary payment from client's bank account to third party/employees, power of attorney over accounts
- Make investments on behalf of clients in securities and/or other assets
- Book-keeping and the preparation of annual and periodic accounts

**Creating, operating or managing of legal entities or arrangements and buying and selling of business entities****GA  
V****Examples: (non-exhaustive)**

- Formation or setting up of companies/ entities, including the related advisory services
- Formation or setting up of trust arrangement, including the related advisory services and preparation of trust deed
- Provision of shell or shelf companies, including the related advisory services
- Company secretarial or administrative services for new or existing companies/ entities
- Provision of nominee director/ shareholder services
- Takeover, mergers and acquisition arrangement, including the related advisory services and preparation of Share Sale Agreement
- Insolvency/ receiver-managers/ bankruptcy, including the related advisory services

# Record Keeping

**Sections 13 and 17 of Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act, 2001 (“AMLA”).**

- The identity and address of the person in whose name the transaction is conducted.
- The identity and address of the beneficiary or the person on whose transaction is conducted, where applicable.
- The identity of the accounts affected by the transaction, if any.
- The type of transaction involved, such as deposit, withdrawal, exchange of currency, cheque cashing, purchase of cashier's cheques or money orders or other payment or transfer by, through, or to such reporting institution.

- Notwithstanding any provision of any written law pertaining to the retention of documents, a reporting institution shall maintain any account, record, business correspondence and document relating to an account, business relationship, transaction or activity with a customer or any person as well as the results of any analysis undertaken, as the case may be, for a period of **at least six years** from the date the account is closed or the business relationship, transaction or activity is completed or terminated.
- Any reporting institution which contravenes this section commits an offence and shall on conviction be liable to a fine not exceeding **three million ringgit** or to **imprisonment for a term not exceeding five years** or to **both**.

# Suspicious Transaction Report (STR)

- **Section 14 of AMLA**

A reporting institution shall promptly report to the competent authority:

- any transaction exceeding RM25k per day (applicable to Banks, FIs, Lembaga Tabung Haji and casinos)
- any transaction where the identity of the person involved, the transaction itself or any other circumstances concerning that transaction gives any officer or employee of the reporting institution reason to suspect that the transaction involves proceeds of an unlawful activity or instrumentalities of an offence
- any transaction or property where any officer or employee of the reporting institution has reason to suspect that the transaction or property involved is related or linked to, is used or is intended to be used for or by, any terrorist act, terrorist, terrorist group, terrorist entity or person who finances terrorism.

# s.14A AMLA

(1) Any person who knows or has reason to suspect that a reporting institution is proposing to report, is reporting or has lodged a report under section 14 or is proposing to provide, is providing or has provided any other related information to the competent authority and **discloses** such knowledge, suspicion or information to any other person commits an offence and shall on conviction be liable to a fine not exceeding three million ringgit or to imprisonment for a term not exceeding five years or to both.

# Customer Due Diligence (CDD)

## Section 16 of AMLA

- a reporting institution shall not:
  - open or operate any anonymous account or any account which is in a fictitious, false or incorrect name
  - establish or conduct any business relationship, transaction or activity involving a fictitious, false or incorrect name
- a reporting institution shall maintain:
  - accounts in the name of an account holder
  - records or information of any business relationship, transaction or activity in the name of a customer.

- a reporting institution shall undertake customer due diligence measures in all or any of the following circumstances:
  - establishing or conducting a business relationship, conducting any transaction with a customer or carrying out any activity for or on behalf of a customer, whether the customer is an occasional or usual customer, including when opening a new account or passbook, entering into any fiduciary transaction, renting of a safe deposit box, performing any other transaction or activity as the competent authority may specify
  - the transaction or activity to be carried out exceeds such amount as the competent authority may specify
  - there is reasonable suspicion of the commission of a money laundering offence or a terrorism financing offence

- there is reasonable doubt about the veracity or adequacy of previously obtained customer identification data
- ascertain the identity, representative capacity, domicile, legal capacity, occupation or business purpose of any person, whether he is an occasional or usual customer
- verify by reliable means or from an independent source, or from any document, data or information, the identity, representative capacity, domicile, legal capacity, occupation or business purpose of any person, through the use of documents which include identity card, passport, birth certificate, driver's licence, constituent document or any other official or private document as well as other identifying information relating to that person, whether he is an occasional or usual customer

- verify the identity and authority of any person purporting to act on behalf of a customer in the opening of an account, the conduct of any transaction or the carrying out of any activity
- take reasonable steps to obtain and record information about the true identity of any person on whose behalf an account is opened or a transaction or activity is conducted if there is reasonable doubt that the person is not acting on his own behalf, particularly where the person is not conducting any commercial, financial or industrial operations in a foreign State where the person has his headquarters or domicile; and
- take reasonable steps to verify the identity of natural persons who own or exercise effective control over a customer who is not a natural person (“beneficial owner”)

- A reporting institution shall conduct ongoing due diligence on all accounts, business relationships, transactions and activities.
- A reporting institution shall record any information, data or details obtained under this section and shall, upon request in writing, provide a copy of such record to the competent authority.

# What do you need to do?



# THANK YOU

Poh Choo Hoe (mobile 0162050698, email: [choohoe@shooklin.com.my](mailto:choohoe@shooklin.com.my)).

These slides are prepared solely for discussion purposes for the iPAM talk on 20.4.2023 and are not to be relied on or deemed as our opinion. We accept no liability / responsibility in this regard.