

**LEGAL COMPLIANCE WITH THE ANTI-MONEY
LAUNDERING AND ANTI-TERRORISM FINANCING
FOR MONEY SERVICES BUSINESS IN MALAYSIA**

BY

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ABSTRACT

Money laundering and terrorism financing (ML/TF) are heinous crimes that cause damage to financial stability and reputation of financial institutions. Thus, effective compliance with the Anti-Money Laundering and Countering Financing of Terrorism (AML/CFT) can mitigate the adverse effects of ML/TF activities. In this respect, the money services business (MSB) sector must comply with the AML/CFT requirements as its nature deals with cash and one-off transactions, leading to its vulnerability to ML/TF risks. International organisations such as the United Nations (UN) and the Financial Action Task Force (FATF) have urged all countries to ensure the MSB sector under their jurisdiction complies with the AML/CFT requirements. In Malaysia, the MSB must comply with the AML/CFT requirements in accordance with the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 (Act 631) (AMLATFPUAA), as well as Policy Documents issued by Bank Negara Malaysia (BNM). Nevertheless, the National Risk Assessment 2020 states that the MSB has continuously become one of the high-risk sectors abused for AML/CFT offences. Although the BNM has taken several legal enforcements, the MSB still faced issues related to AML/CFT non-compliance. Therefore, this study employed doctrinal legal research to analyse AML/CFT international countermeasures and national legal frameworks. This study also compares with the United Kingdom (UK) for benchmarking purposes. The cut-off date for legal analysis is July 2022 by analysing the primary and secondary legal frameworks of AML/CFT requirements. Additionally, semi-structured interviews were conducted with 15 respondents to identify the issues and challenges in AML/CFT compliance. The respondents for this study are the AML/CFT trainers and the money-changing and remittance licensees. The findings in this study identified several loopholes of law and a lack of technical and infrastructure facilities leading to AML/CFT non-compliance in the MSB sector. The findings accentuate the need for legal reformation to ensure AML/CFT compliance in the MSB sector. Hence, this study proposes amending the legal provisions under the AMLATFPUAA and Policy Documents. This study also provides recommendations to enhance the effectiveness of AML/CFT by providing a de-risking solution, robust legal enforcement and enhancement of public-private partnership (PPP). Finally, this study contributes to the existing literature in ensuring AML/CFT compliance for the MSB sector in Malaysia. This study also provides legal reformation to further enhance the AML/CFT requirements in line with international standards and best practices. Also, this study can assist the policymakers in resolving issues and challenges of AML/CFT non-compliance in the MSB sector. This study can benefit AML/CFT compliance for the MSB sector in Malaysia, thus enhance the country's position of full compliance with the AML/CFT preventive measures.

ملخص البحث

يعتبر غسيل الأموال وتمويل الإرهاب من الجرائم الشنيعة التي تلحق الضرر بالإستقرار المالي وسمعة المؤسسات المالية. وبالتالي، فإن الامتثال الفعال لمكافحة غسيل الأموال وتمويل الإرهاب (AML / CFT) يمكن أن يخفف من الآثار السلبية المترتبة على أنشطة غسيل الأموال وتمويل الإرهاب. في هذا الصدد، يجب أن يلتزم قطاع خدمات الأموال (MSB) بمتطلبات مكافحة غسل الأموال / تمويل الإرهاب حيث أن طبيعته تتعامل مع النقد والمعاملات مرة واحدة، مما يؤدي إلى تعرضه لمخاطر غسل الأموال / تمويل الإرهاب. حثت المنظمات الدولية مثل الأمم المتحدة (UN) وفريق العمل المالي (FATF) جميع البلدان على التأكد من أن قطاع الطيور الحوامة المهاجرة الخاضع لولايتها القضائية يتوافق مع متطلبات مكافحة غسل الأموال وتمويل الإرهاب. في ماليزيا، يجب على MSB الامتثال لمتطلبات مكافحة غسل الأموال وتمويل الإرهاب وفقاً لقانون مكافحة غسل الأموال وتمويل الإرهاب وعائدات الأنشطة غير المشروعة لعام 2001 (القانون 631) (AMLA TFP UAA)، بالإضافة إلى وثائق السياسة الصادرة عن بنك Negara ماليزيا (BNM). ومع ذلك، ينص التقييم الوطني للمخاطر لعام 2020 على أن أعمال مكافحة غسيل الأموال معرض لخطر كبير فيما يتعلق بجرائم غسيل الأموال وتمويل الإرهاب. على الرغم من أن البنك المركزي الماليزي (BNM) قد اتخذ العديد من الإنفاذ القانوني، إلا أن MSB لا يزال يواجه مشكلات والقضايا تتعلق بعدم الامتثال لمكافحة غسل الأموال وتمويل الإرهاب. لذلك، استخدمت هذه الدراسة البحث القانوني العقائدي لتحليل الإجراءات الدولية المضادة لمكافحة غسيل الأموال وتمويل الإرهاب والأطر القانونية الوطنية. تقارن هذه الدراسة أيضاً مع المملكة المتحدة (المملكة المتحدة) لأغراض القياس. الموعد النهائي للتحليل القانوني هو يوليو 2022 من خلال تحليل الأطر القانونية الأولية والثانوية لمتطلبات مكافحة غسل الأموال وتمويل الإرهاب. بالإضافة إلى ذلك، مقابلات شبه منظمة مع 15 مشاركاً لفحص القضايا والتحديات في الإمتثال لمكافحة غسيل الأموال

وتمويل الإرهاب. المشاركون في هذه الدراسة هم المدربون في مجال مكافحة غسيل الأموال وتمويل الإرهاب والمرخص لهم بالصرافة والتحويلات. حددت النتائج في هذه الدراسة العديد من الثغرات القانونية والإفتقار إلى المرافق الفنية والبنية التحتية التي تؤدي إلى عدم الامتثال لمكافحة غسيل الأموال وتمويل الإرهاب في قطاع MSB. تركز هذه النتائج على الحاجة إلى الإصلاح القانوني لضمان الامتثال لمكافحة غسيل الأموال وتمويل الإرهاب في قطاع MSB. ومن ثم، تقترح هذه الدراسة تعديل الأحكام القانونية بموجب قانون مكافحة غسل الأموال ووثائق السياسة. تقدم هذه الدراسة أيضًا توصيات لتعزيز فعالية مكافحة غسيل الأموال وتمويل الإرهاب من خلال توفير حل لتقليل المخاطر وإنفاذ قانوني قوي وتعزيز الشراكة بين القطاعين العام والخاص (PPP). أخيرًا، تساهم هذه الدراسة في الأدبيات الموجودة في ضمان الامتثال لمكافحة غسيل الأموال وتمويل الإرهاب لقطاع MSB في ماليزيا. توفر هذه الدراسة أيضًا إصلاحًا قانونيًا لزيادة تحسين متطلبات مكافحة غسل الأموال وتمويل الإرهاب بما يتماشى مع المعايير الدولية وأفضل الممارسات. أيضًا، يمكن أن تساعد هذه الدراسة صانعي السياسات في حل المشكلات والتحديات المتعلقة بعدم الامتثال لمكافحة غسل الأموال وتمويل الإرهاب في قطاع MSB. يمكن أن تفيد هذه الدراسة الامتثال لمكافحة غسل الأموال وتمويل الإرهاب لقطاع الطيور المهاجرة في ماليزيا، وبالتالي تعزيز موقف الدولة من الامتثال الكامل للتدابير الوقائية لمكافحة غسيل الأموال وتمويل الإرهاب.

APPROVAL PAGE

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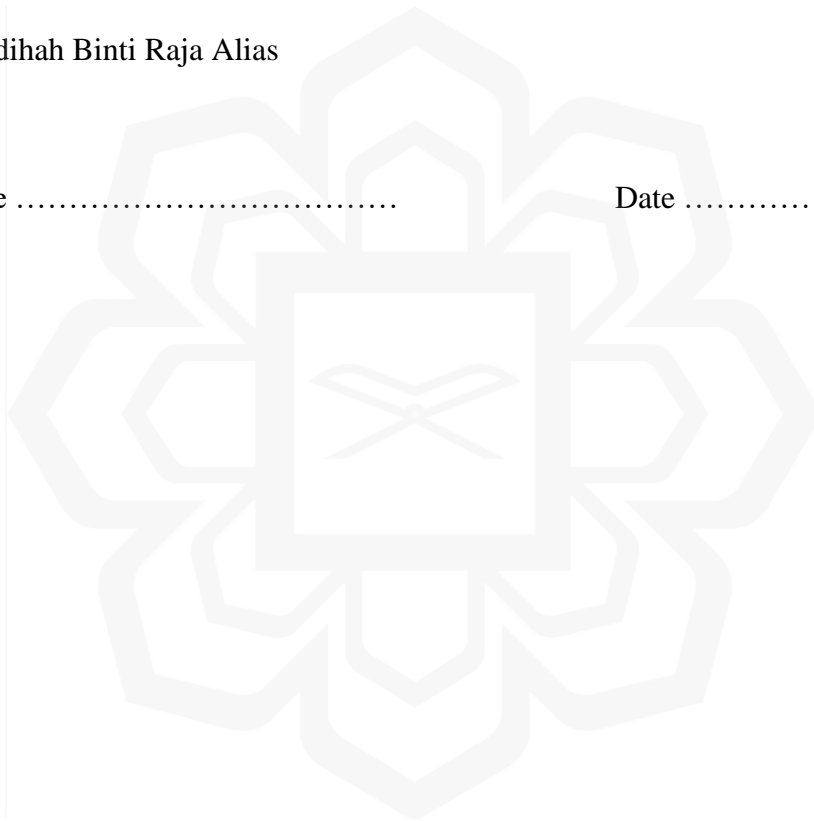
DECLARATION

I hereby declare that this thesis is the result of my own investigations, except where otherwise stated. I also declare that it has not been previously or concurrently submitted as a whole for any other degrees at IIUM or other institutions.

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DEDICATION

This Thesis is dedicated to my late parents and family members, who continuously pray and support my success. May Allah grant them mercy and reward in the Hereafter.



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Terrorist Asset-Freezing etc. Act 2010 (The United Kingdom)

LIST OF ABBREVIATIONS

ABS	Asian Banking School
ACAMS	Association of Certified Anti Money Laundering Specialists
AICB	Asian Institute of Chartered Bankers
AMLA	Anti-Money Laundering Act 2001 (Act 613)
AMLATFA	Anti-Money Laundering and Anti-Terrorism Financing Act 2001 (Act 613)
AMLATFPUAA	Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 (Act 613)
AML/ATF	Anti-Money Laundering and Anti-Terrorism Financing
AML/CFT	Anti-Money Laundering and Countering the Financing of Terrorism
AML/CFT/TFS	Anti-Money Laundering, Countering Financing of Terrorism and Targeted Financial Sanctions for Financial Institutions
AOFMSB	Agent Oversight Framework for Money Services Business (BNM/RH/PD 031-17)
APG	Asia-Pacific Group on Money-Laundering
ATCSA	Anti-Terrorism, Crime and Security Act 2001
BAFIA	Banking and Financial Institutions Act 1989 (Act 372).
BIS	Bank for International Settlements
BNM	Bank Negara Malaysia
BODs	Board of Directors
CBMA	Central Bank of Malaysia Act 2009 (Act 701)
COVID-19	Coronavirus Disease 2019
CDD	Customer Due Diligence
CEO	Chief Executive Officer
CFA	Criminal Finances Act 2017
CFATF	Caribbean Financial Action Task Force
CFT	Countering Financing of Terrorism
CTC	Counter-Terrorism Committee
CTR	Cash Threshold Report
DPRK	Democratic People's Republic of Korea
EAG	Eurasian Group on Combating Money Laundering and Financing of Terrorism
ECA	Exchange Control Act 1953 (Act 758)
ECOWAS	Economic Community of West African States
e-KYC	Electronic Know Your Customer
ESAAMLG	Eastern and Southern Africa Anti-Money Laundering Group
EU	European Union
EUR	The Euro
FATF	Financial Action Task Force
FAA	Finance Accreditation Agency
FCA	Financial Conduct Authority

FIED	Financial Intelligence and Enforcement Department
FIUs	Financial Intelligence Units
FSRBs	Financial Action Task Force (FATF) - Style Regional Bodies
FSA 2013	Financial Services Authorities (UK)
FSA	Financial Services Act 2013 (Act 758)
FSCG	Financial Services Contact Group
FSAP	Financial Sector Assessment Program
FSMA	Financial Services and Markets Act 2000
G7	Group of Seven
GRMO	Governance, Risk Management, and Operations for Money Services Business (MSB) (BNM/RH/PD 031-16)
GABAC	Central Africa Anti-Money Laundering Group
GAFILAT	Latin America Anti-Money Laundering Group
GIABA	West Africa Money Laundering Group
GOCO	Group of Compliance Officers
GDP	Gross Domestic Product
GTD	Global Terrorism Database
HMRC	Her Majesty's Revenue and Customs
ICSFT	International Convention for the Suppression of the Financing of Terrorism 1999
IFFs	Illicit Financial Flows
IUM	International Islamic University Malaysia
IFSA	Islamic Financial Services Act (Act 759)
IMF	International Monetary Fund
IMoLIN	International Money Laundering Information Network
INTERPOL	International Criminal Police Organisation
IRS	International Revenue Service
ISIL	Islamic State in Iraq and Levant
JMLIT	The Joint Money Laundering Intelligence Taskforce
JMLSG	The Joint Money Laundering Steering Group
LTTE	Liberation Tigers of Tamil Eelam
MACCA	Malaysian Anti-Corruption Commission Act 2009 (Act 694)
MACC	Malaysian Anti-Corruption Commission
KYC	Know Your Customer
MACMA	Mutual Assistance in Criminal Matters Act 2002 (Act 621)
MAMSB	Malaysian Association of Money Services Business
MCA	Money-Changing Act 1998 (Act 577)
MCO	Movement Control Order
MENAFATF	The Middle East and North Africa Financial Action Task Force
MER	Mutual Evaluation Report
ML	Money Laundering
ML/TF	Money Laundering and Terrorism Financing
MOHA	Ministry of Home Affairs
MONEYVAL	Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism
MSB	Money Services Business