

## Executive Summary

1. This report provides a summary of the anti-money laundering (AML) / counter-terrorist financing (CFT) measures in place in Malaysia as at 25 November 2014. It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of Malaysia's AML/CFT system, and provides recommendations on how the system could be strengthened.

### A. Key Findings

- Malaysia's robust policy framework for AML/CFT reflects strong political commitment and well-functioning coordination structures for AML/CFT and combating proliferation financing. Significant resources have been allocated to achieve the policy objectives. Coordination arrangements effectively support the implementation of activities to meet these policy objectives.
- Malaysia has largely up-to-date AML/CFT statutory instruments, generally well-developed policies, institutional arrangements and implementation mechanisms. These elements provide the building blocks for overall good levels of compliance with the FATF Recommendations and a number of real strengths with effectiveness in AML/CFT measures.
- Malaysia's understanding of risk is sound, although improvements are needed in the assessment of TF risk to include more details for the private sector, and to deepen the assessment of ML risks from foreign sourced threats. Malaysia's well-structured inter-agency cooperation framework has supported the assessment of ML/TF risk through two iterations of a national risk assessment (NRA) and other assessments, which have involved the private sector to some extent. Malaysia has integrated the outcomes of risk assessments into its policies and priorities and has reached out to reporting institutions with findings on risk, although the processes for disseminating risk findings should continue to be strengthened.
- Malaysia develops and disseminates good quality financial intelligence to a range of LEAs. The well-resourced FIU produces high quality intelligence; however, the take-up of their products by LEAs is mixed, but improving. Improvements are needed to ensure financial intelligence is used to target investigations for at least all of the high-risk crime types. Financial intelligence has added to TF and CT investigations, CT preventive measures and the assessment of ML/TF risk.
- Malaysia's frameworks for ML investigations and prosecutions are generally sound but have produced minimal outcomes. Malaysia is not effectively targeting its high-risk offences (other than fraud) or foreign sourced threats in its prosecution of ML. While there are a

number of high value cases, most cases relate to low-medium level offending. The sanctions imposed for ML have been low, and have not been demonstrated to be effective. Malaysia has had a preference for pursuing other criminal justice measures rather than ML prosecutions, particularly confiscation.

- Confiscation to combat tax and goods smuggling has been very successful through administrative recoveries by the Special Taskforce relating to strategically significant elements of the economy. The Taskforce has achieved excellent results, including an evident reduction in these types of offences. However, confiscation levels have been low in other high-risk areas (fraud, drugs and corruption) and in international matters, and the cross-border cash declaration regime is producing minimal results, which reduces effectiveness.
- Despite the risk and context of TF in Malaysia, to date Malaysia has not prosecuted any TF cases. Malaysia has commenced 40 TF investigations with 22 still ongoing and LEAs make increasingly good use of financial intelligence to focus on terror groups and acts. Malaysia takes a security intelligence approach to terrorism prevention, rather than criminal justice action against the financiers. In a number of cases, Malaysia has demonstrated successes using other criminal justice and administrative measures to disrupt TF and terrorist activities arising from financial investigations and other strategies.
- Malaysia's legal and institutional framework to implement targeted financial sanctions (TFS) against terrorism is compliant and is being implemented with notable successes, including designating domestic and foreign entities under 1373, co-sponsoring UN designations and freezing assets of 1267 and 1373 entities. Reporting institutions (RI) are aware of their freezing obligations and freezing actions with respect to a wide range of assets and persons indirectly controlled by designees have recently occurred. Supervision of the implementation of TFS is taking place across most sectors, with the exception of certain DNFBPs.
- Prevention of abuse of non-profit organisations (NPOs) for TF has been achieved through the implementation of a targeted approach to educate and oversee NPOs that are at risk. Assessment of risk, outreach, targeted controls on high risk activities (charitable collection), centralised controls on Zakat and targeted compliance monitoring and enforcement of regulatory controls add to the effectiveness of CFT for the NPO sector.
- The legal framework for TFS against proliferation of WMD contains a significant legal gap in the delay of transposing UN designations into domestic law, which undermines effectiveness. Despite this, freezing results have occurred, supervision is taking place and vigilance measures are in place.
- Malaysia's legal framework for supervision is sound and all regulators apply a risk-based approach to supervision. Market entry controls are generally working well. BNM supervises the majority of RIs which carry the bulk of the ML/TF risk, and is an effective, well-resourced supervisor. SC's approach is comparably sound and LFSA's supervisory capabilities are improving. Supervisors have adequate resources, tools and well trained staff to assess and use risks to target supervision and remedial measures. There is a gap in BNM FIED's available resources necessary for supervising Malaysia's large DNFBP population. Supervisory interventions have further to go to ensure RIs deepen their risk-based approach to AML/CFT implementation.
- The regulatory framework for preventative measures is highly compliant, which sets a good starting point for RIs, however many sectors are taking longer to transition from a rules-based to risk-based approach, despite their long-standing obligations. Supervisory findings show that key sectors have a mixed understanding of risk, and RIs do not always adequately implement CDD requirements on a risk-sensitive basis.

- Malaysia's controls on legal persons and arrangements to ensure that the 'corporate veil' cannot undermine AML/CFT preventative measures and investigations are still developing, but there are some notable strengths, such as the public availability of Malaysia's legal persons ownership registers and the requirement for trustees to declare their trustee status to banks. Malaysia is not a major centre for the establishment of legal persons or legal arrangements.
- Malaysia's international cooperation has been aligned to its risk profile to some extent, but more needs to be done to increase the focus on the risks Malaysia faces from transnational crime. Supervisors, regulators and the FIU cooperate well with their counterparts, making and responding to a reasonable range of requests largely in keeping with the risks, which supports effectiveness. Criminal justice agencies generally respond well to LEA cooperation, MLA and extradition requests, but Malaysia receives far more MLA and LEA cooperation requests than it makes, which may be a product of Malaysia's lack of focus on foreign threats. Malaysia has made very few MLA and extradition requests in the past five years.

## B. Risks and General Situation

2. Malaysia faces a range of significant ML and TF risks. Malaysia's geographic position, the size and nature of its open economy, relatively porous borders and domestic and regional crime threats contribute to the ML and TF risks facing Malaysia. Authorities assess fraud, tax crimes, drugs, corruption and smuggling of goods as high risk for ML and the assessment team notes a range of other crime types adding to the risks. Authorities identify a number of ML techniques being used, including inter alia, placing criminal proceeds into the banking system, using nominees or family members, use of front companies, use of real property (in particular vehicles and real estate), high value goods, to the use of gatekeepers, money service businesses (MSBs) and the informal sector. Outwards proceeds flows are directed mainly to major financial hubs in Asia, with tax proceeds also flowing to these centres.

3. Malaysian authorities have highlighted risks from terrorist groups and TF, including domestic and regional threats. While authorities have had marked successes against terrorist groups over the last 10 years, regional threats persist and recent emerging threats include the financing of the movement of foreign fighters from or through Malaysia to Iraq and Syria to join ISIL. Authorities have identified that TF in Malaysia is predominantly carried out using cash and relatively small amounts largely outside of formal systems.

4. Malaysia's coordinated strategies to implement an effective AML/CFT system is a part of integrated efforts to attain developed nation status by 2020, including through addressing corruption, good governance, business ethics and AML/CFT. Malaysia has sought to build a shared culture of AML/CFT compliance amongst government and private sector stakeholders.

## C. Overall Level of Compliance and Effectiveness

5. Malaysia has a strong legal and regulatory framework for preventative measures, which demonstrated a high degree of technical compliance with the FATF standards. Interagency coordination and policy frameworks, BNM's supervision, the FIU (FIED) and the Special Taskforce achieve significant outcomes and are the key strengths within Malaysia's AML/CFT system. Greatest improvements are required in Malaysia's legal framework for TFS against proliferation of WMD and the investigation and prosecution of ML and TF.

### C.1 *Assessment of risk, coordination and policy setting*

6. Malaysia has a generally good understanding of its ML and TF risks, having conducted two iterations of an NRA, in 2012 and 2013, and other sectoral and targeted risk assessments of ML and TF. While the results of the assessments are generally sound and accepted by the assessment team, the NRAs did not sufficiently take account of foreign sourced threats, the interconnectedness of specific crimes and financial sectors, and TF. In addition to its diverse onshore economy, Malaysia has a small offshore financial centre in Labuan which was assessed as medium risk in the NRA. Many of the FIs that have been established in Labuan are owned or controlled by onshore banks, and a large proportion of business in Labuan caters to Malaysian customers.

7. While terrorism and TF were not considered high risk in the 2013 NRA, the White Paper on ISIL published in November 2014 and the very high priority placed on CT and CFT by government agencies suggest that terrorism and TF are present and increasing threats that are starting to be addressed by authorities. Malaysia plans to update its NRA to include further assessment of TF risks, which are well understood by LEAs. Changing risks, including TF, have been communicated to the private sector through the compliance officers network group (CONG) and other channels.

8. Malaysia's domestic AML/CFT cooperation is very well developed and effective at both the strategic and operational levels, with the framework for coordination and cooperation centring on the National Coordination Committee to Counter Money Laundering (NCC). Malaysia's national AML/CFT policy framework is robust.

9. RIs' awareness of the NRA findings is mixed, with FI's displaying a greater awareness and understanding of the risks than DNFBPs. Further work is required for RIs to integrate the NRA and other assessment findings into their internal risk-based approaches, in particular in relation to TF.

### *C.2 Money laundering, confiscation and the use of financial intelligence*

10. The FIU functions well and effectively develops good quality financial intelligence, but the take up of FIU intelligence products by LEAs is mixed, with some agencies needing to do more to utilise financial intelligence and target ML. Financial intelligence products are generally utilised well by LEAs for targeting and conducting predicate investigations and related asset tracing.

11. Malaysia's frameworks for ML investigation and prosecution are generally sound, but they are yet to produce substantial outcomes. ML conviction numbers are low. Malaysia is not adequately targeting high-risk offences or foreign sourced threats. Other than a handful of cases, most cases related to low-medium level offending. The sanctions imposed for ML have been low and they have not been demonstrated to have been effective. Malaysia has had a preference for pursuing other criminal justice measures rather than ML prosecutions, particularly confiscation.

12. Confiscation to combat tax and smuggling has been very successful through administrative recoveries by the Special Taskforce relating to strategically significant elements of the economy. The Taskforce has achieved significant results, including an evident reduction in the relevant offences. However, weaknesses in Malaysia's AML/CFT system relate to low levels of confiscation in other high-risk areas (fraud, drugs and corruption) and in international matters, and minimal results produced by the cross border regime.

### *C.3 Terrorism financing and proliferation financing*

13. Malaysia's significant TF threats and the context of those threats appear to be well understood by the authorities. TF investigation and prosecutions are incorporated in Malaysia's broader CT strategies. Despite this TF prosecutions have not yet occurred.

14. The Royal Malaysian Police (RMP) has commenced 40 TF investigations in parallel with CT investigations and 22 TF investigations are ongoing. Despite this, no TF charges have been laid due to prosecutors being dissuaded by the characteristics of the cases. In addition to a preference for security intelligence approaches to prevention rather than TF charges, the resources for TF investigations needs to be increased.

15. Malaysia achieves outcomes by employing other criminal justice, administrative and other measures to disrupt TF activities where it is not practicable to secure a TF conviction, including in those cases where TF investigations were terminated. Malaysia has prosecuted and convicted a significant number of terrorism cases and taken preventative actions against a number of individuals and organisations in relation to terrorism and financial aspects of terrorism.

16. Malaysia has a compliant legal framework for TFS against terrorism, which provides strong tools to identify terrorist networks and take steps to freeze terrorist assets. The TFS regime against terrorism is administered robustly and is well implemented to a large extent for both 1267 and 1373. Malaysia's 1373 designations in 2014 represent a range of terrorist groups in the region including local radical Islamic group, regional groups and the LTTE. The authorities make a concerted effort to sensitize the public to Malaysian sanctions obligations and to assist potential asset holders in the implementation of their obligations. Malaysia demonstrated its reinforcement of awareness of the TFS obligations with the RIs and the general public and is supervising implementation across FIs, casinos and TCSPs, but only a limited number of other DNFBP sectors. Supervisory outcomes, asset freezing and feedback on implementation demonstrate improving outcomes in keeping with the TF risks.

17. The TFS against terrorism are being used with increasing success and implementation is being steadily deepened. Terrorists and terrorist organisations are being identified in an effort to deprive them of the resources and means to finance terrorist activities. In absolute terms the amounts frozen under 1267 and 1373 are small, reflecting to some extent the cash economy nature of TF in SE Asia and the detention of a number of Malaysian designees. Malaysia considers that the amounts reflect the TF profile, i.e. self-funding and funding by family members, coupled with dismantling of terrorist groups capable of large scale and systematic TF activities over the last decade, with only a recent upswing from ISIL threats. Assessors maintain that this may not explain the whole picture of TF risks facing Malaysia.

18. Recently more freezing actions have taken place outside of the banking sector, including insurance companies, the pilgrims fund, securities firms and motor vehicles. These freezing actions reflect better implementation of checks on property indirectly owned or controlled by designated entities.

19. Malaysia's approach to oversight and outreach of the NPO sector has improved significantly in recent years has helped Malaysia prevent terrorist abuse of the NPO sector. Malaysia has taken a targeted approach to educate and oversee NPOs that are at risk from the threat of terrorist abuse. Assessment of risk, outreach, targeted controls on high risk activities (charitable collection), centralised controls on Zakat and targeted compliance monitoring and enforcement of regulatory controls have added to effectiveness for CFT. Continuing targeted risk information from RMP Special Branch (SB) and further resources at the Registrar of Societies (RoS) are needed to further mitigate risks of terrorist abuse of NPOs.

20. Malaysia's technical gaps in relation to TFS against the financing of proliferation are significant and major improvements are required to make the process more effective. The long delays in transposing new designations made by the UN into Malaysian law undermine effectiveness. RIs have increasingly good awareness of obligations, particularly in Labuan and major FIs with relevant risk exposure. Vigilance measures adopted by Malaysia add to effectiveness. Supervision of obligations is taking place. Two Malaysian banks and the LFSA have together frozen over USD 29 million of assets related to one Labuan domiciled Iranian bank designated under UNSCR 1737 and successor resolutions. In the absence of matches, no assets related to UNSCR 1718 have been frozen.

#### *C.4 Preventive measures and supervision*

21. Malaysia's legal and regulatory framework demonstrates a high degree of technical compliance with the FATF standards, and this establishes a good foundation for Malaysia to implement measures towards understanding and mitigating risks. However, more needs to be done for RIs to transition from a rules-based to a risk-based approach. While a risk-based approach has been part of the AML/CFT system in Malaysia for a number of years, most sectors have generally been taking a rule-based approach until relatively recently.

22. Regulators and supervisors have cooperated with the well-organised cross-sectoral compliance officers' network to support compliance through a combination of outreach and supervisory work (including thematic inspections and applying sanctions). At the same time, the completion of the NRA and vulnerability assessments has provided key information to better support effective risk-based approaches by RIs. More needs to be done to ensure RIs apply mitigating measures commensurate with their risks with a particular focus on CDD beneficial ownership requirements, including PEPs. RIs' understanding of the RBA is sometimes inadequate, and as a result, preventative measures may not be well targeted to mitigate ML/TF risks.

23. Malaysia has a well-developed supervisory framework for the financial sector and generally demonstrated that supervisory actions have made a positive impact on market entry and compliance with the targeted implementation of AML/CFT controls. The mechanism of licensing and preventing the market entry of criminals is largely sound and the regulators are mindful of ML/TF risks.

24. All regulators apply a risk-based approach to supervision and assessors note that BNM's approach is the most developed, reflecting the bulk of risks in the banking sector. Both SC and LFSA have moved to a model of risk-based approaches, although LFSA has needs to make further progress in the application of its approach.

25. The skills, experience and expertise of supervisory staff and the number of staff and tools available to supervisors to conduct surveillance and supervision are strong and support a deepening risk-based approach to supervision. This is reflected in the intensity and frequency of supervisory interventions across the key sectors.

26. The relicensing exercise for MSBs (which include both remitters and money changers) and their focused supervision serve to mitigate many of the risks in that sector. MSBs inherent high-risk status in Malaysia's NRA has prompted the supervisor to engage the sector on a continuous basis, which is work in progress; however, it is clear that mitigation of ML/TF risk in the MSB sector has improved significantly over

the last two years. Future results of offsite/ onsite supervisory reviews will determine the effectiveness of these measures.

27. While the Labuan financial sector makes up 6.6% of Malaysian financial sector assets, supervisory activity is relatively low. This is reflected in relatively lower numbers of offsite/ onsite reviews of Labuan FIs and in the associated applications of sanctions.

28. The DNFBP sectors, with the exception of the casino are under-supervised for AML/CFT compliance due mainly to a shortage of AML/ CFT supervisory staff in FIED, although risk-based approaches and cooperation with SRBs is allowing for steps to mitigate risks in the high-risk DNFBP sectors. The onsite supervision of Labuan TCSPs in 2014 is a positive development. The fit and proper controls for casino management have visible gaps, which could be a potential ML/TF risk, but FIED's increasingly risk-sensitive supervision is supporting risk mitigation.

### *C.5 Transparency and beneficial ownership*

29. Malaysia has assessed elements of ML/TF risk and vulnerabilities involving legal persons through the NRA and other processes but assessments of risk need to be deepened. No detailed risk assessment of legal arrangements has been undertaken. Non-professional trustees may operate in Malaysia with very few obligations. Authorities assume that this is not a large sector in Malaysia, and supervisory authorities and LEAs did not report cases involving trusts, but this has not been closely examined through the NRA process.

30. Basic information held by companies is accessible to the public; registered information is publically accessible from the two registrars. While there are some gaps in the information held by companies, regulators are enhancing and enforcing compliance with the collection and availability of basic ownership information.

31. The mechanism Malaysia uses to ensure that information on beneficial ownership of legal persons and arrangements can be obtained in a timely manner is through the use of CDD and related information obtained by RIs. While the obligations are generally compliant, the awareness and implementation of CDD is mixed and the supervision and enforcement across all sectors, including onshore TCSPs is not assured. Challenges for RIs include that beneficial ownership information may not be available at the company or from other RIs to support CDD.

32. The number of trust both onshore and offshore is relatively small. Malaysia is enforcing the obligation on all trustees of domestic and foreign trusts opening or operating an account with a bank to declare their trustee status to the bank. The bank is then obliged to identify the parties to the trust under AMLA. Customers of other FIs face no such obligations.

33. Malaysia makes regular use of mechanisms for quickly ensuring that BO information held by RIs can be obtained in an investigation of TF, ML or related predicates. The authorities are cooperating constructively and in a timely manner with their foreign counterparts, including providing beneficial ownership information.

### *C.6 International Cooperation*

34. Malaysia demonstrates a generally effective system for international cooperation, however some improvements are required, primarily to increase the use of international cooperation to support Malaysia's investigation and prosecution activities. Authorities have generally demonstrated they are cooperating constructively and in a timely manner with their foreign counterparts, and some diagonal cooperation is occurring.

35. While there are some minor technical deficiencies, Malaysia's mechanisms for international cooperation, including MLA and extradition are sound and working well in practice. Malaysia's international cooperation has been aligned to its risk profile to some extent, but more needs to be done to increase the focus on the risks Malaysia faces from transnational crime.

36. Malaysia is providing constructive and timely MLA and extradition assistance and has a good framework in place. Criminal justice agencies generally respond well to LEA cooperation, MLA and extradition

requests. Shortcomings in the system include delays in RMP executing requests and the longer time frames for providing assistance to non-prescribed countries due to the additional approval required.

37. Supervisors, regulators and the FIU cooperate well with their counterparts and are utilising international cooperation to enhance their functions and results.

38. Malaysia receives far more LEA cooperation requests than it makes. Notably, Malaysia has sought limited MLA and extradition between 2009 and 2013, which may be a product of Malaysia's lack of focus on foreign threats. The RMP needs to enhance its approach to international cooperation to ensure that it reflects the priority ML risks faced by Malaysia including organised crime and environmental crime, and to ensure international cooperation is coordinated within the agency.

## **D. Priority Actions**

39. The priority recommended actions for Malaysia, based on these findings, are:

- Conduct further assessments of risk to include more detailed consideration of foreign sourced threats, TF, institutional vulnerabilities, interconnectedness of organised crime and other categories of crime. Also enhance the distribution of the findings to raise RIs' awareness of the ML/TF risks.
- Place greater focus on obtaining ML convictions and confiscation, in particular relating to high-risk offences and foreign sourced threats and profit taking levels of crime. The successes of the Special Taskforce should inform improvements to strategically target investigations to 'follow the money'.
- Ensure the cross-border cash reporting regime is effectively implemented and the outputs are used to support AML/CFT outcomes in relation to ML and TF investigations, asset tracing and international cooperation.
- Strengthen and broaden LEAs use of financial intelligence (especially RMP and RMC) at targeting and investigation stages, particularly in relation to TF, narcotics and other crime types beyond fraud and covering professional third party launderers and cross border threats . International cooperation will be an essential part of this.
- Enhance criminal justice approaches to combat TF and seek to prosecute TF in parallel with terrorism offences and preventive actions. This should include strengthening the TF investigative function within RMP. Malaysia should further enhance outreach to the NPO sector to raise awareness of specific TF risks and mitigation strategies.
- Deepen implementation of TFS against terrorism to ensure the outcomes reflect the risk profile.
- Amend the legal framework for TFS against WMD proliferation to ensure the UN designations apply without delay. Implementation should be strengthened.
- Target outreach and supervision by supervisors and SROs to expedite the transition to implementing a comprehensive risk-based approach, with a particular emphasis on risk-based CDD, including beneficial ownership and TF-related STRs. Enhance the resources dedicated to the supervision of DNFBPs to ensure adequate risk-based coverage of the large DNFBP population.
- Issue enhanced guidance on risk, including identification and mitigation of risks relevant to each sector and regulators expectations of RI's practice with identified high-risk areas and TF (this should include additional red flags indicators to complement the various sector Guidelines).

- Reflecting policy decisions taken by Malaysia, follow through with the planned amendments to the legal framework to require legal persons to keep and register BO information and extend similar obligations to trustees.
- Strengthen international cooperation to more closely align with Malaysia's risk profile, focusing in particular on requesting formal legal cooperation to address the risks from transnational crime.

**Table 1. Effective Implementation of Immediate Outcomes**

Effectiveness	
<b>1. Risk, Policy and Coordination</b>	<b>Substantial</b>
<p>Malaysia is achieving the immediate outcome to a large extent. Malaysia has a robust policy framework for AML/CFT with very significant political commitment and resource allocation evident to achieve the policy objectives.</p> <p>The conduct of two NRAs and other assessments of ML/TF threats and vulnerabilities has enabled Malaysia to undertake targeted responses to its risks. Malaysia's assessment of risk is reasonable, but its assessment of ML risks is stronger than TF, and both need to focus more on foreign threats. The level of detail in the TF assessments does not sufficiently guide the private sector on risk. Only moderate improvements are required.</p> <p>AML/CFT policies, government priorities and resource allocation have been adjusted in response to assessments of risk to a large extent, and the moderate improvements required are being pursued. In addition, private sector stakeholders have commenced work to recalibrate their risk-based responses, but there is further to go in many sectors, in particular DNFBPs.</p> <p>Malaysia has well-functioning AML/CFT national coordination processes at both the policy and operational levels, which serve to drive improvements to Malaysia's AML/CFT system. National coordination in relation to PF is strong and is providing a basis for ongoing reforms.</p>	
<b>2. International Cooperation</b>	<b>Moderate</b>
<p>Malaysia is achieving the immediate outcome to some extent. Major improvements are needed to ensure Malaysia's international cooperation is better aligned with its risk profile, in particular requesting legal cooperation to address the risks it faces from transnational crime.</p> <p>The minor technical deficiencies in relation to MLA have not, to date, affected Malaysia's ability to cooperate. Mechanisms are generally in place to allow for the timely exchange of information and assistance.</p> <p>Statistics and cases show that Malaysia provides a range of international cooperation, including extradition, MLA, financial intelligence and beneficial ownership information. However, for MLA, extradition and LEA cooperation the experience is that Malaysia receives far more requests than it makes, which the assessors judge as reflecting a need for a greater focus on foreign threats and property/people moved offshore.</p> <p>The FIU and supervisors have generally demonstrated well-functioning cooperation with foreign counterparts in keeping with the risk and context. This is producing strong outcomes which benefit Malaysia's investigative and supervisory efforts as well as its efforts to assess foreign sourced risks.</p> <p>Some authorities, particularly the RMP, should enhance their focus on international cooperation to better support their investigation functions to cooperatively respond to trans-national risks.</p>	

## Effectiveness

**3. Supervision****Substantial**

Malaysia is achieving the immediate outcome to a large extent. Malaysia has a sound legal framework for supervision and supervisors have the required powers to regulate the RI population. Malaysia has well implemented market entry fit and proper controls across FIs, though some gaps exist with market entry for certain DNFBPs, including casino management. Supervision of TFS is undertaken by all supervisors.

All regulators apply a risk-based approach to supervision. The substance of supervision has transitioned from a rules-based approach to risk-based approaches incorporating comprehensive risk assessment inputs.

BNM is well resourced and is applying supervisory tools in a risk-sensitive manner. BNM's supervision of banking, MSB (MVTs and money changers) and casino sectors, which carry the bulk of the ML/TF risks, is targeted to address risks in those sectors. SC takes a comparably sound approach in the supervision and mitigation of ML/TF risks in the securities sector. The LFSA's outputs are improving in relation to the relatively small offshore sector, in part through its joint supervision with BNM and a focus on TCSPs.

Major improvements in supervision are required for DNFBP sectors beyond the casino and Labuan TCSPs, reflecting Malaysia's graduated approach, as these are not the highest risk areas.

An increasingly effective range of sanctions have been imposed for violations of AML/CFT requirements which has been shown to improving compliance, although this needs to be deepened across a range of sectors to ensure wholly risk-based approaches. The re-licensing and consolidation of the entire MSB sector and related crackdowns on illegal MSBs demonstrate key risk mitigation results.

**4. Preventive Measures****Moderate**

Malaysia is achieving the immediate outcome to some extent. The bulk of Malaysia's preventive measures and internal controls across essentially all FIs and DNFBPs meet the FATF standards.

Many sectors are still transitioning from a rules-based to risk-based approach, despite Malaysia formally having a risk-based approach for a number of years. Supervisory findings demonstrate that RIs have a mixed understanding of risk and in some sectors do not always adequately implement CDD requirements, including on beneficial owners, on a risk sensitive basis, but rather in a prescriptive formal manner.

There has been strong regulatory engagement across the FIs, the casino and offshore TCSPs, which reflects the higher risk areas to raise awareness of obligations and risk. Other DNFBPs have received less outreach and supervisory attention.

**5. Legal Persons and Arrangements****Moderate**

Malaysia is achieving the immediate outcome to some extent. Malaysia has assessed elements of ML/TF risk and vulnerabilities involving legal persons to some degree and trusts to a lesser extent.

## Effectiveness

Malaysia has a system of registering the ownership of legal persons. While there are some gaps with timeliness and accuracy of returns, it is clear that its significance is diminishing due to increasingly active monitoring.

Malaysia relies on obligations on RIs, including TCSPs, to identify the beneficial owners of legal persons and parties to a trust. The quality of implementation of the obligations on TCSPs is mixed and the greatest challenge for RIs is that beneficial ownership information may not be available at the company level to support the RIs CDD obligations. Trustees which are not RIs have very few obligations.

The extent of implementation of obligations on all trustees operating bank account to declare their trustee status to the bank has been generally supervised, but does not extend beyond banks.

## 6. Financial Intelligence

**Substantial**

Malaysia is achieving the immediate outcome to a large extent. The very well-functioning FIU (FIED) produces a wide range of high quality strategic and operational intelligence products that directly support and lead LEA's response to priority and emerging risk areas. FIED's integrated role as FIU, LEA and supervisor and its focus on international cooperation with foreign FIUs gives it the broadest perspectives to develop well-targeted financial intelligence reflecting both domestic and international risks. Its strategic products are helping to drive AML/CFT policy development, assessment of risk and inter-agency coordination, for example on the issue of threats from 'mule' accounts.

Moderate improvements are needed to ensure that the FIU receives an increased quality and quantity of TF-related STRs and cross-border reports to support financial intelligence development.

The uptake of financial intelligence is mixed amongst Malaysia's nine LEAs. MACC and IRB show the most regular and highest use of FIU intelligence products. The AGC-led Special Taskforce on tax fraud is the best example of joint-agency intelligence-led targeting for financial investigations. Financial intelligence products are generally utilised well by LEAs for targeting and conducting predicate investigations.

RMP and RMC demonstrate a shift towards greater use of FIU data and developing other financial intelligence in support of its predicate investigations, but ML is not being adequately targeted and improvements are needed. There are increasing disclosures to the Special Branch and RMP AMLA Unit in support of TF and CT investigations. FIU data is being utilised as part of the ongoing TF and CT investigations.

## 7. ML Investigation and Prosecution

**Moderate**

Malaysia is achieving the immediate outcome to some extent. Malaysia's legal and institutional frameworks are generally sound, but are not yet producing substantial outputs for ML. While investigations are increasing, the overall number of ML prosecutions and convictions is low and, other than for fraud, Malaysia is not adequately targeting high-risk offences. In particular, there have been no ML prosecutions relating to drugs or tax offences, and only nine ML prosecutions relating to corruption and goods smuggling since 2009. Other than a small number of high value

## Effectiveness

cases, most cases are low-medium level fraud cases; not higher levels of offending. Malaysia has not prosecuted ML in relation to a foreign predicate offence and could take a more proactive approach to pursuing such cases.

Strengthened AGC capabilities, and improved cooperation, coordination and capacity within the RMP are needed to ensure effective targeting, investigation and prosecution of ML.

The sanctions imposed for ML have been low in absolute terms and it is not clear that they have been effective. Authorities have adopted alternative measures, such as confiscation and pursuing predicate offences, with good results, however in many cases these have diminished the importance of, and been a substitute for, ML investigations and prosecutions.

Malaysia has recently increased the penalties for ML and demonstrated an increased commitment to prosecuting ML, which holds promise for enhanced effectiveness in the future.

## 8. Confiscation

Moderate

Malaysia is achieving the immediate outcome to some extent. Malaysia has a largely compliant, broad and flexible legal regime and a strong focus on recovery of property which is generating some successes, particularly through administrative recovery. Tax and goods smuggling confiscations through the Special Taskforce are achieving excellent results and reducing these types of offending, as demonstrated by increased voluntary compliance with tax laws. However results in remaining high risk areas (drugs, fraud and corruption) are low, particularly in drugs and fraud, and there has been a substantial decline in AMLA forfeitures. Malaysia has confiscated property from immediate targets but not the profit-taking levels of crime; LEAs have difficulties linking property to offences and targeting more complex cases.

The scope of confiscation cases has been limited: Malaysia has not confiscated property of corresponding value or property in terrorism and TF matters; Malaysia has not prioritised targeting foreign predicate offences or following the proceeds of Malaysian offences moved offshore; and IRB does not target all property types; only bank accounts and land titles in the name of the taxpayer.

The implementation of the cross border regime has not produced substantial outcomes to date, which is significant in light of the risks Malaysia faces regarding cash smuggling at the border. More coordination and information sharing is needed, especially between RMC, RMP and BNM and RMC need to ensure the regime is being effectively used in practice.

## 9. TF Investigation and Prosecution

Moderate

Malaysia is achieving the immediate outcome to some extent. Malaysia faces significant TF risks, which are judged to be well understood by LEAs. There have been no prosecutions for TF in Malaysia, although 40 TF investigations have been opened since 2010 and 22 of these are ongoing. The reasons for an absence of TF prosecutions appear to be the characteristics of TF cases (self-funding, small scale, use of cash etc), which has dissuaded prosecutors. A further reason is Malaysia's focus on terror groups and acts and a security intelligence approach to prevention, rather than prosecuting financiers for TF. TF investigations have been used to support security intelligence and preventive interventions.

## Effectiveness

Outputs from financial investigations of terrorism and TF have contributed to proposals to the UN for designations under 1267 and domestic designations under 1373.

Given the context of terrorism risks in Malaysia and the security and LEA roles of the RMP Special Branch, a number of the objectives of IO 9 are being achieved, in part, by employing other security and criminal justice measures to disrupt TF activities where it is not practicable to lay TF charges and secure a TF conviction.

### 10. TF Preventive measures & financial sanctions

**Substantial**

Malaysia is achieving the immediate outcome to a large extent. Malaysia has a compliant legal framework and good institutional arrangements for implementing targeted financial sanctions against terrorism. Malaysia has taken action to designate domestic and foreign terrorists under 1373 at its own instigation. These measures are resulting in increasing success with asset freezing in keeping with the risk profile.

Malaysian financial institutions are aware of the freezing obligations and TFS implement screening for TF. Very recently, more freezing actions have occurred outside the banking sector, including insurance companies, pilgrims' fund, securities firms and the seizure of motor vehicles, though further improvements are required in the non-bank sectors.

Implementation of NPO preventive measures, oversight and outreach to the NPO sector has improved significantly in recent years to largely reflect the risk profile. Outputs, including coordinated efforts by RoS and other NPOs regulators with the RMP reflect targeted approaches to TF risk mitigation.

### 11. PF Financial sanctions

**Moderate**

Malaysia is achieving the immediate outcome to some extent. Malaysia has recognised the threats and vulnerabilities it faces for proliferation financing and has expanded its strong AML/CFT coordination mechanisms to include PF. Malaysia has used the coordination mechanisms to take steps to implement a legal framework for TFS against proliferation of WMD, but a significant technical gap relates to the inbuilt delays for transposing new UN designations into Malaysian law, which undermine effectiveness.

Malaysian financial institutions are aware of the freezing obligations and TFS implement screening and freezing actions for PF. Supervision of PF sanctions screening is conducted by the relevant supervisors.

Malaysia has had a number of successes freezing property for a designated entity in the case of a Labuan domiciled Iran bank, however major improvements are required to make the process more effective. RIs generally need to focus further on detecting and freezing assets of person and entities acting on behalf or at the direction of a designated person or entity.

**Table 2: Compliance with FATF Recommendations**

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
1. <b>Assessing risks &amp; applying a risk-based approach</b>	LC	<ul style="list-style-type: none"> <li>There is insufficient detail available to non-government stakeholders in the assessment of TF risk.</li> <li>There are gaps with requirements on FIs and DNFBPs to take enhanced measures to manage and mitigate risks identified in the NRA.</li> </ul>
2. <b>National cooperation and coordination</b>	C	The Recommendation is fully met.
3. <b>Money laundering offence</b>	LC	<ul style="list-style-type: none"> <li>Predicates of environmental crime (illegal fishing), and counterfeiting and piracy of products (industrial designs) are not adequately covered.</li> </ul>
4. <b>Confiscation and provisional measures</b>	LC	<ul style="list-style-type: none"> <li>Property of corresponding value to instrumentalities for predicate offences can only be confiscated with an ML or TF prosecution.</li> <li>Instrumentalities intended to be used in the commission of an offence are not comprehensively covered.</li> <li>Mechanisms for managing and, when necessary, disposing of property frozen, seized or confiscated have gaps.</li> </ul>
5. <b>Terrorist financing offence</b>	LC	<ul style="list-style-type: none"> <li>It is not clear that in every case the TF offence would extend to the conduct set out in the treaties annexed to the TF Convention.</li> </ul>
6. <b>Targeted financial sanctions related to terrorism &amp; TF</b>	C	The Recommendation is fully met.
7. <b>Targeted financial sanctions related to proliferation</b>	PC	<ul style="list-style-type: none"> <li>There is a significant delay in transposing UN designations to domestic freezing obligations and prohibitions.</li> <li>Freezing and prohibitions are only enforceable in respect of the citizens of Malaysia and bodies incorporated in Malaysia.</li> <li>Further implementation guidance is needed.</li> </ul>

## Compliance with FATF Recommendations

Recommendation		Rating	Factor(s) underlying the rating
8.	<b>Non-profit organisations</b>	LC	<ul style="list-style-type: none"> <li>There are gaps in administrative sanctions for compliance failures with obligations on NPOs.</li> <li>There are gaps in explicit record keeping requirements.</li> </ul>
9.	<b>Financial institution secrecy laws</b>	LC	<ul style="list-style-type: none"> <li>There are gaps in a narrow range of circumstances with LFSA's ability to share all necessary information.</li> </ul>
10.	<b>Customer due diligence</b>	C	The Recommendation is fully met.
11.	<b>Record keeping</b>	LC	<ul style="list-style-type: none"> <li>A threshold to be applied to certain record keeping requirements results in a minor gap.</li> </ul>
12.	<b>Politically exposed persons</b>	LC	<ul style="list-style-type: none"> <li>Directions to treat foreign PEPs as 'high risk' are only implicit, which results in a minor gap.</li> </ul>
13.	<b>Correspondent banking</b>	LC	<ul style="list-style-type: none"> <li>Obligations only apply to correspondent banks rather than 'respondent institutions'.</li> </ul>
14.	<b>Money or value transfer services</b>	C	The Recommendation is fully met.
15.	<b>New technologies</b>	C	The Recommendation is fully met.
16.	<b>Wire transfers</b>	C	The Recommendation is fully met.
17.	<b>Reliance on third parties</b>	LC	<ul style="list-style-type: none"> <li>RIs relying on third parties are not required to immediately obtain the necessary CDD information.</li> </ul>
18.	<b>Internal controls and foreign branches and subsidiaries</b>	C	The Recommendation is fully met.
19.	<b>Higher-risk countries</b>	C	The Recommendation is fully met.
20.	<b>Reporting of suspicious transaction</b>	C	The Recommendation is fully met.
21.	<b>Tipping-off and confidentiality</b>	C	The Recommendation is fully met.
22.	<b>DNFBPs: Customer due diligence</b>	LC	<ul style="list-style-type: none"> <li>Scope issue: sole trader jewellers in East Malaysia are not covered.</li> <li>Gaps with record keeping and with reliance on 3rd parties.</li> </ul>

### Compliance with FATF Recommendations

Recommendation		Rating	Factor(s) underlying the rating
23.	<b>DNFBPs: Other measures</b>	LC	<ul style="list-style-type: none"> <li>Scope issue: sole trader jewellers in East Malaysia are not covered.</li> </ul>
24.	<b>Transparency and beneficial ownership of legal persons</b>	PC	<ul style="list-style-type: none"> <li>Weaknesses with the assessment of risk with legal persons.</li> <li>Some weaknesses in measures to ensure basic ownership information is accurate and up to date.</li> <li>Reliance on CDD by RIs may mean that beneficial ownership information is not always available when foreign ownership is involved.</li> <li>Share warrants are not suitably controlled for Labuan companies.</li> <li>Available fines for breaches of various obligations on legal persons are not proportionate or dissuasive.</li> </ul>
25.	<b>Transparency and beneficial ownership of legal arrangements</b>	PC	<ul style="list-style-type: none"> <li>Reliance on CDD by RIs may mean that beneficial ownership information is not always available when foreign ownership is involved.</li> <li>AMLA obligations to identify and verify parties to the trust or other legal arrangements do not apply to trustees who do not otherwise meet the definition of FI or DNFBP.</li> <li>The obligations on trustees to disclose their status when forming a business relationship or carrying out an occasional transaction above the threshold only applies in the case of banks.</li> <li>Available fines for breaches of various obligations on legal arrangements are not proportionate or dissuasive.</li> </ul>
26.	<b>Regulation and supervision of financial institutions</b>	C	The Recommendation is fully met.
27.	<b>Powers of supervisors</b>	C	The Recommendation is fully met.
28.	<b>Regulation and supervision of DNFBPs</b>	LC	<ul style="list-style-type: none"> <li>Scope issue: sole trader jewellers in East Malaysia are not covered.</li> <li>Gaps with the scope of market entry fit and proper controls over some DNFBPs.</li> </ul>
29.	<b>Financial intelligence units</b>	C	The Recommendation is fully met.

## Compliance with FATF Recommendations

Recommendation		Rating	Factor(s) underlying the rating
30.	<b>Responsibilities of law enforcement and investigative authorities</b>	C	The Recommendation is fully met.
31.	<b>Powers of law enforcement and investigative authorities</b>	C	The Recommendation is fully met.
32.	<b>Cash couriers</b>	LC	<ul style="list-style-type: none"> <li>Minor deficiency with the extent of cooperation between RMP and RMC to support implementation.</li> </ul>
33.	<b>Statistics</b>	C	The Recommendation is fully met.
34.	<b>Guidance and feedback</b>	LC	<ul style="list-style-type: none"> <li>Gaps in detailed guidance and 'red flags' to support implementation of preventative measures and STR reporting.</li> </ul>
35.	<b>Sanctions</b>	LC	<ul style="list-style-type: none"> <li>Gaps in relation to sanctions for NPOs.</li> <li>Some administrative fines may not be dissuasive for certain preventive measures and registration of legal persons.</li> </ul>
36.	<b>International instruments</b>	LC	<ul style="list-style-type: none"> <li>Gaps in relevant recommendations prevent full compliance with R.36 (including R.3, R.4, R.11, R.28, R.37, R.39).</li> </ul>
37.	<b>Mutual legal assistance</b>	LC	<ul style="list-style-type: none"> <li>Dual criminality is a mandatory ground for refusal in non-coercive actions and mandatory dual criminality requirements may affect Malaysia providing assistance in ML cases where the predicate offence is illegal fishing or piracy of products (industrial designs).</li> <li>The ground for refusal regarding 'insufficient importance' is unreasonable or unduly restrictive.</li> <li>MACMA does not authorise the search of a person.</li> </ul>

### Compliance with FATF Recommendations

	Recommendation	Rating	Factor(s) underlying the rating
38.	<b>Mutual legal assistance: freezing and confiscation</b>	LC	<ul style="list-style-type: none"> <li>• It is not clear that Malaysia is able to comprehensively cooperate under MACMA for restraint /confiscation of instrumentalities and in non-conviction based matters, however in most circumstances a treaty, AMLA or DDFOPA provide for this.</li> <li>• The concerns regarding dual criminality in R.37 also apply to R.38.</li> <li>• Asset management guidelines are not comprehensive for MLA.</li> </ul>
39.	<b>Extradition</b>	LC	<ul style="list-style-type: none"> <li>• Deficiencies with respect to dual criminality (where the predicate offence is missing) and prosecution in lieu.</li> </ul>
40.	<b>Other forms of international cooperation</b>	LC	<ul style="list-style-type: none"> <li>• The LFSA has some minor limitations with sharing information related to supervisory materials outside an investigation or in cases not involving a home supervisor or those supervisors who are party to an existing MOU.</li> </ul>



## Table of Acronyms

AGC	Attorney General’s Chambers
ALB	Association of Labuan Banks
ALTC	Association of Labuan Trust Companies
AML/CFT	Anti-Money Laundering and Counter Financing of Terrorism
AMLA	Anti-Money Laundering and Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001
AMLA	Regulations -Anti-Money Laundering and Anti-Terrorism Financing (Reporting Obligations) Regulations 2006
AMLDD	Anti-Money Laundering Division (IRB)
APG	Asia/Pacific Group on Money Laundering
ARIN-AP	Asset Recovery Interagency Network – Asia Pacific
ASC	Association of Stockbroking Companies Malaysia
ASEAN	Association of Southeast Asian Nations
BHEUU	Legal Affairs Division, Prime Minister’s Department
BNI	bearer negotiable instrument
BNM	Bank Negara Malaysia
BO	beneficial owner
BVAEA	Board of Valuers, Appraisers and Estate Agents Malaysia
CA	Companies Act 1965
CADS	cash declaration system (BNM FIED database)
CBA	Central Bank of Malaysia Act 2009
CCID	Commercial Crime Investigation Department, Royal Malaysian Police
CCM	Companies Commission of Malaysia (also known as SSM)
CID	Crime Investigation Division, Royal Malaysian Police
CLBG	Companies Limited by Guarantee
CONG	Compliance Officers Networking Group
CMSA	Capital Market and Services Act 2012
CMSL	Capital Market Services Licence
CPC	Criminal Procedure Code
CT	counter terrorism
CTR	cash threshold report
DDFOPA	Dangerous Drugs (Forfeiture of Property) Act 1988
DFI	development financial institution
DNFBPs	designated non-financial businesses and professions
DPP	Deputy Public Prosecutor
DTA	double taxation agreement
EA	Extradition Act 1992

## TABLE OF ACRONYMS

Egmont	The Egmont Group of Financial Intelligence Units
ETP	Economic Transformation Programme
FGJAM	Federation of Goldsmiths and Jewellers Associations of Malaysia
FI	financial institution
FIED	Financial Intelligence and Enforcement Division (The FIU)
FINS	FIED's online reporting system allowing two way secure communication with RIs
FSA	Financial Services Act 2013
GIFCS	The Group of International Finance Centre Supervisors
GTP	Government Transformation Programme
IBC	International Business Company
IBFC	International Business and Finance Centre
IC	Identity Card
IFC	International Financial Centre
IFSA	Islamic Financial Services Act 2013
INTERPOL	International Criminal Police Organisation
IOSCO	International Organisation of Securities Commissions
IRB	Inland Revenue Board
ISA	Internal Security Act 1960
ISIL	Islamic State of Iraq and the Levant
ISP	Interim Strategic Plan
ITA	Income Tax Act 1967
JAT	Jemaah Anshorut Tauhid
Jl	Jemaah Islamiyah
LCA	Labuan Companies Act 1990
LEA	Law Enforcement Agency
LFSA	Labuan Financial Services Authority
LFSAA	Labuan Financial Services Authority Act 2010
LFSSA	Labuan Financial Services and Securities Act 2010
LIBG	Labuan Investment Banks Group
LIIA	Labuan International Insurance Associations
LIFSA	Labuan Islamic Financial Services Act 2010LLP – Limited Liability Partnership
LLPA	Limited Liability Partnership Act 2012
LLPLLPA	Labuan Limited Partnerships and Limited Liability Partnerships Act 2010 LTA - Labuan Trust Act 1996
LTCA	Labuan Trust Companies Act 1990
LTTE	Liberation Tigers of Tamil Ealam
MACC	Malaysian Anti-Corruption Commission
MACCA	Malaysian Anti-Corruption Commission Act 2009
MACMA	Mutual Assistance in Criminal Matters Act 2003

MACS	Malaysian Association of Company Secretaries
MAICSA	Malaysian Institute of Chartered Secretaries and Administrators
MBC	Malaysian Bar Council
MDIC	Malaysia Deposit Insurance Corporation Act 2011
MDTCC	Ministry of Domestic Trade, Cooperatives and Consumerism
MER	Mutual Evaluation Report
MIA	Malaysian Institute of Accountants
MIBA	Malaysian Investment Banking Association
MICPA	Malaysia Institute of Public Accountants
MITI	Ministry of International Trade and Industry
ML/TF	Money Laundering and Terrorism Financing
MoF	Ministry of Finance
MOFA	Ministry of Foreign Affairs
MMoU	Multilateral Memorandum of Understanding
MSB	money services business (comprising MVTS and money changers)
MVTS	money or value transfer service
NCC	National Co-ordination Committee to Counter Money Laundering
NCID	Narcotics Crime Investigation Department, Royal Malaysian Police
NPO	non-profit organisation
NRA	national risk assessment
NTP	National Transformation Policy
OGBS	Offshore Group of Banking Supervisors (now GIFCS)
PEP	politically exposed person
PF	proliferation financing
RBA	risk-based approach
RSF	Risk-Based Supervisory Framework
RI	reporting institutions
RM	Malaysian Ringgit
RMC	Royal Malaysian Customs Department
RMP	Royal Malaysia Police
RMP AMLA Unit	Anti-Money Laundering Unit, Royal Malaysian Police
RoS	Registrar of Societies
SA	Societies Act 1966
SB	Special Branch, Royal Malaysian Police
SC	Securities Commission of Malaysia
SCA	Securities Commission Act 1993
SCONPO	Sub-Committee on Non-Profit Organisations
SOP	standard operating procedure

## TABLE OF ACRONYMS

SOSMA	Security Offences (Special Measures) Act 2012
SRB	self-regulatory body
SRO	self-regulatory organisation
STA	Strategic Trace Act 2010
STS	Strategic Trade Secretariat
SuRF	Supervisory Risk-Based Framework
TA	Trustee Act 1949
TC	technical compliance
TCA	Trust Companies Act 1949
TCSP	trust and company service provider
TF	terrorist financing
TFS	targeted financial sanctions
TIA	Trustee (Incorporation) Act 1952
TIEA	Tax Information Exchange Agreement
UBO	ultimate beneficial owner
UNSCR	United Nations Security Council Resolution
VAEAA	Valuers Appraisers and Estate Agents Act 1981
WCO	World Customs Organisation
WMD	weapons of mass destruction