

Adnan Zaylani Mohamad Zahid: Keynote address - Bank Negara Malaysia and the Malaysian Bar Joint National AML/CFT Conference 2019

Keynote address by Mr Adnan Zaylani Mohamad Zahid, Assistant Governor of the Central Bank of Malaysia (Bank Negara Malaysia), at the Bank Negara Malaysia and the Malaysian Bar Joint National AML/CFT Conference 2019, Kuala Lumpur, 29 August 2019.

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It is a great pleasure and honour to welcome you this morning to the Joint National Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT) Conference 2019.

I understand that this conference, jointly organised by Bank Negara Malaysia and the Malaysian Bar, forms part of the initiatives under the capacity development programme to elevate the understanding and level of AML/CFT compliance outside of the financial sector, the designated non-financial businesses and professions and other non-bank financial sectors or in brief known as the DNFBP sectors and the legal fraternity, in particular.

On this note, I would like to express Bank Negara Malaysia's appreciation to the Malaysian Bar for their continuous support to Bank Negara Malaysia as the competent authority under the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 (AMLA), particularly in advancing AML/CFT capacity development initiatives. Apart from today's conference, the Malaysian Bar has also since mid-2018, incorporated AML/CFT requirements as part of its Continuing Professional Development (CPD) module, in addition to the on-going engagements and discussions to instil compliance culture among the legal fraternity. It is encouraging to note that similar efforts are being observed with other licensing authorities, self-regulatory bodies and industry associations governing respective DNFBP sectors.

We are also privileged to have with us today, a representative from the Law Society of Singapore who will be sharing Singapore's perspective and experience on the implementation of AML/CFT requirements.

Recognising the growing money laundering and terrorism financing threats, many countries including Malaysia have intensified efforts to develop and maintain an AML/CFT regime that is robust and can effectively respond to the constantly evolving threats and vulnerabilities. These efforts are aimed at protecting the integrity of the financial system and the economy and preventing the abuse for criminal and terrorism purposes.

In Malaysia, the AML/CFT regime was first introduced in 2001, initially scoping in financial institutions. This was extended to include non-financial institutions between 2003 and 2010, to more effectively address money laundering risks that fall outside of the financial sector. The Malaysian AML/CFT regime is characterised by four pillars: a comprehensive legal framework, implementation of preventive measures, effective enforcement of laws and regulations and close cooperation between agencies, both domestically and internationally.

In 2015, the third report on Malaysia's AML/CFT framework was published by the Financial Action Task Force (or the FATF), arising from an independent assessment of Malaysia's compliance with the International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation. The report acknowledged Malaysia's 'high degree' of technical compliance and a 'substantial to moderate' level of effectiveness in the implementation of international standards. As a result, Malaysia was accorded full FATF membership status in 2016, which not only demonstrates a strong commitment to combat money laundering and financing of terrorism, but also reflects a safe business environment in Malaysia.

Importantly, this recognition enables Malaysia to better participate in the international financial system without qualifications and sanctions, enabling our business and economy to transact and exchange freely with the rest of the world. Such a recognition is priceless for an open and trading economy like ours.

Maintaining the integrity of the financial system and safeguarding legitimate business activities is thus paramount in ensuring that this recognition is preserved and that we have a thriving and conducive business environment. Preventing and combating financial crime is a shared responsibility of all stakeholders. Hence, it is imperative that all DNFBP sectors including legal professionals play an important complementary role to financial institutions in safeguarding this by preventing the proceeds from unlawful activities and funding of terrorism from penetrating into our financial system, while facilitating investigations and prosecution of these financial crimes.

The legal fraternity also plays a crucial role in the public sphere as an instrumental component in the administration of justice as well as in upholding the rule of law. In many financial transactions or exchanges, the legal fraternity also acts as a gatekeeper, or intermediary arising from their position of trust. In doing so, the legal professionals are thus well positioned to detect or identify and prevent the conduct of illegal activities, which involve such financial transactions that the profession is mediating.

The resultant impact of a lawyer's inappropriate conduct when dealing with a client, if left unchecked, may pose reputational risks and loss of confidence, not only to the affected individual lawyer or the associated firm but the legal fraternity as a whole. It is on this note that I urge the lawyers to always conduct yourselves in a manner that upholds the public trust and confidence in the legal profession. It is our hope that lawyers will err on the side of caution in interpreting their compulsory reporting obligations under the AMLA.

Based on the outcome of the National Risk Assessment in 2017 on DNFBP sectors, in particular, the legal sector has been assessed as Medium High and Medium level for net money laundering (ML) and terrorism financing (TF) risk, respectively. The rating is predominantly driven by the inherent higher risk services provided by lawyers which are vulnerable to abuses for ML related activities, for example, the use of client account, conveyancing and provision of nominee services, which are further aggravated by the marginal level of AML/CFT control measures generally implemented by the legal fraternity.

Consequently, the recent two years have seen the intensification of our outreach to the legal fraternity, in particular and to DNFBP sectors, in general, with the mix of on-site examinations, awareness and engagement sessions, off-site data and information submission activities. While we have observed positive and progressive improvements by the DNFBP sectors, overall AML/CFT compliance, however, remains relatively inadequate, mainly attributed to the lack of awareness and understanding of AML/CFT obligations and risks.

Bank Negara Malaysia has, increasingly over the years, taken more stringent enforcement actions on reporting institutions for non-compliances with AML/CFT requirements. While the focus so far has been on financial institutions, Bank Negara Malaysia will continue to pursue enforcement actions against all reporting institutions, where warranted.

In this regard, it is of utmost importance for the DNFBP sectors to understand the vulnerabilities of its sector to ML and TF risks that its products or services may be exploited by criminals to advance ML and TF related crimes, and be vigilant in protecting themselves from being abused or inadvertently facilitating ML or TF activities. In this manner, the DNFBPs in general and legal professionals in particular, are in a position to detect irregularities in the transactions and discharge their obligation in submission of suspicious transaction reports to Bank Negara Malaysia, in a timely manner.

So, how can we mitigate the risk of inadvertently facilitating ML and TF activities? Apart from

elevating our understanding and subsequent implementation of your AML/CFT reporting obligations, or preventive measures, there should also be efforts to:

1. keep ourselves abreast with recent and emerging trends of ML/TF;
2. abide by all ethical obligations and applicable professional rules; and also
3. properly distinguish between legitimate client requests and transactions or structures that may be intended for criminal activities or to frustrate law enforcement.

Today's conference seeks to address the concerns raised by legal professionals that are often cited as a hurdle or stumbling block to effectively implement AML/CFT obligations. Themed, "Building AML/CFT Compliance Effectiveness: Risks and Challenges", the conference will have:

1. discussions on the application of risk-based approach;
2. a discussion on AML/CFT compliance vis-à-vis the legal professional privilege and professional secrecy;
3. sharing of experience or best practices by industry players; and
4. finally, sharing by law enforcement agencies on ML and TF cases involving abuse of lawyers and other gatekeepers, to facilitate ML and TF related crimes or activities.

Before I end, I wish to highlight two key updates:

1. first, Bank Negara Malaysia is in the midst of finalizing revision to Sector 5 Policy Document (or the AML/CFT Guidelines issued pursuant to the AMLA) and will be issuing the exposure draft in September. All reporting institutions are invited to provide comments and views on the draft which may be organized through relevant licencing authorities, self-regulatory bodies, industry associations or directly to Bank Negara Malaysia; and
2. second, I would also like to take this opportunity to remind all reporting institutions, that Bank Negara Malaysia is increasing its supervisory and enforcement of AML/CFT compliance, in which we intend to pursue more deterrent action including taking appropriate enforcement actions under the AMLA, for any identified non-compliances, beginning 2020.

As such we urge all reporting institutions present today to engage and discourse any compliance issues with the wide ranging of experts that we have lined up for this conference.

With that, I wish everyone a fruitful discussion ahead and Selamat Menyambut Hari Kemerdekaan.