



LAWS OF MALAYSIA

Act A1467

**ANTI-MONEY LAUNDERING AND ANTI-TERRORISM
FINANCING (AMENDMENT) ACT 2014**

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LAWS OF MALAYSIA

Act A1467

**ANTI-MONEY LAUNDERING AND ANTI-TERRORISM
FINANCING (AMENDMENT) ACT 2014**

An Act to amend the Anti-Money Laundering and Anti-Terrorism Financing Act 2001 and the Anti-Money Laundering (Amendment) Act 2003.

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ENACTED by the Parliament of Malaysia as follows:

Short title and commencement

1. (1) This Act may be cited as the Anti-Money Laundering and Anti-Terrorism Financing (Amendment) Act 2014.

(2) Except for section 78, this Act comes into operation on a date to be appointed by the Minister of Finance by notification in the *Gazette*, and the Minister of Finance may appoint different dates for the coming into operation of different provisions of this Act.

(3) Section 78 comes into operation on the date of the publication of this Act in the *Gazette*.

Amendment of long title

2. The Anti-Money Laundering and Anti-Terrorism Financing Act 2001 [*Act 613*], which is referred to as the “principal Act” in this Act, is amended in the long title by substituting for the words “terrorist property and property involved in, or derived from, money laundering and terrorism financing offences” the words “property involved in or derived from money laundering and terrorism financing offences, as well as terrorist property, proceeds of an unlawful activity and instrumentalities of an offence”.

Amendment of section 1

3. Subsection 1(1) of the principal Act is amended by substituting for the words “Anti-Money Laundering and Anti-Terrorism Financing Act 2001” the words “Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001”.

Amendment of section 3

4. Subsection 3(1) of the principal Act is amended—

(a) by substituting for the definition of “unlawful activity” the following definition:

‘ “unlawful activity” means—

(a) any activity which constitutes any serious offence or any foreign serious offence; or

(b) any activity which is of such a nature, or occurs in such circumstances, that it results in or leads to the commission of any serious offence or any foreign serious offence,

regardless whether such activity, wholly or partly, takes place within or outside Malaysia;’;

(b) in the definition of “Bank Negara Malaysia” by substituting for the words “Central Bank of Malaysia Act 1958 [*Act 519*]” the words “Central Bank of Malaysia Act 2009 [*Act 701*]”;

(c) by substituting for the definition of “proceeds of an unlawful activity” the following definition:

‘ “proceeds of an unlawful activity” means any property, or any economic advantage or economic gain from such property, within or outside Malaysia—

(a) which is wholly or partly—

(i) derived or obtained, directly or indirectly, by any person from any unlawful activity;

(ii) derived or obtained from a disposal or other dealings with the property referred to in subparagraph (i); or

(iii) acquired using the property derived or obtained by any person through any disposal or other dealings referred to in subparagraph (i) or (ii); or

(b) which, wholly or partly, due to any circumstances such as its nature, value, location or place of discovery, or to the time, manner or place of its acquisition, or the person from whom it was acquired, or its proximity to other property referred to in subparagraph (a)(i), (ii) or (iii), can be reasonably believed to be property falling within the scope of subparagraph (a)(i), (ii) or (iii);’

(d) by substituting for the definition of “property” the following definition:

‘ “property” means –

(a) assets of every kind, whether corporeal or incorporeal, moveable or immovable, tangible or intangible, however acquired; or

(b) legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including currency, bank credits, deposits and other financial resources, traveller’s cheques, bank cheques, money orders, capital market products, drafts and letters of credit,

whether situated within or outside Malaysia, and includes a legal or equitable interest, whether full or partial, in any such property;’;

(e) by substituting for the definition of “financial institution” the following definition:

‘ “financial institution” means –

- (a) a licensed bank, licensed insurer and investment bank under the Financial Services Act 2013 [Act 758];
- (b) a licensed international Islamic bank, licensed international takaful operator, licensed Islamic bank and licensed takaful operator under the Islamic Financial Services Act 2013 [Act 759];
- (c) a prescribed institution under the Development Financial Institutions Act 2002 [Act 618];
- (d) a licensee under the Money Services Business Act 2011 [Act 731];
- (e) a person licensed or registered under the Capital Markets and Services Act 2007 [Act 671];
- (f) the central depository established under the Securities Industry (Central Depositories) Act 1991 [Act 453];
- (g) a bank licensee, an insurance licensee, a securities licensee and any entity licensed or registered under the Labuan Financial Services and Securities Act 2010 [Act 704];
- (h) an Islamic bank licensee, a takaful licensee, an Islamic securities licensee and any entity licensed or registered under the Labuan Islamic Financial Services and Securities Act 2010 [Act 705]; and
- (i) a person prescribed by the Minister of Finance under section 12A;’;

(f) by deleting the definition of “offshore financial institution”;

(g) by inserting after the definition of “reporting institution” the following definition:

‘ “conveyance” includes any vessel, train, motor vehicle, aircraft and any other means of transport by which persons or goods can be carried;’;

(h) by inserting after the definition of “terrorism financing offence” the following definition:

‘ “money laundering offence” means an offence under subsection 4(1);’;

(i) by deleting the definition of “client”;

(j) by substituting for the definition of “Labuan Offshore Financial Services Authority” the following definition:

‘ “Labuan Financial Services Authority” means the Authority established under section 3 of the Labuan Financial Services Authority Act 1996 [Act 545];’;

(k) by inserting after the definition of “foreign State” the following definition:

‘ “customer” includes a client;’;

(l) by deleting the definition of “money laundering”;

(m) by inserting after the definition of “controller” the following definitions:

‘ “instrumentalities of an offence” means—

(a) any thing which is used in, or in connection with, the commission of any unlawful activity; or

(b) any property which is wholly or partly used in, or in connection with, the commission of any unlawful activity,

whether the thing or property is situated within or outside Malaysia;

“business” means—

(a) any business registered under any written law providing for the registration of businesses;

- (b) a corporation incorporated or registered under the Companies Act 1965 [Act 125] and an associate of that corporation; or
- (c) any venture or concern in any trade, commerce, profession, vocation or any other similar activity, whether or not it is carried on for a pecuniary gain or profit, and whether or not conducted on a regular, repetitive or continuous basis,

and includes all assets derived from or used in or for the purpose of carrying on such business activity, and all interests, rights and liabilities arising from such business activity;’;

- (n) by inserting after the definition of “premises” the following definition:

‘ “capital market products” has the same meaning as in the Capital Markets and Services Act 2007;’;
and

- (o) by inserting after the definition of “Securities Commission” the following definition:

‘ “diminished in value”, in relation to any property, means the whole or part of the property being expended, utilised, destroyed, or being subjected to any dealing, process or other act, so that it ceases to exist, or is reduced in value or size, or is altered in character;’.

Substitution of section 4

5. The principal Act is amended by substituting for section 4 the following section:

“Offence of money laundering

4. (1) Any person who—

- (a) engages, directly or indirectly, in a transaction that involves proceeds of an unlawful activity or instrumentalities of an offence;

- (b) acquires, receives, possesses, disguises, transfers, converts, exchanges, carries, disposes of or uses proceeds of an unlawful activity or instrumentalities of an offence;
- (c) removes from or brings into Malaysia, proceeds of an unlawful activity or instrumentalities of an offence;
or
- (d) conceals, disguises or impedes the establishment of the true nature, origin, location, movement, disposition, title of, rights with respect to, or ownership of, proceeds of an unlawful activity or instrumentalities of an offence,

commits a money laundering offence and shall on conviction be liable to imprisonment for a term not exceeding fifteen years and shall also be liable to a fine of not less than five times the sum or value of the proceeds of an unlawful activity or instrumentalities of an offence at the time the offence was committed or five million ringgit, whichever is the higher.

(2) For the purposes of subsection (1), it may be inferred from any objective factual circumstances that—

- (a) the person knows, has reason to believe or has reasonable suspicion that the property is the proceeds of an unlawful activity or instrumentalities of an offence;
or
- (b) the person without reasonable excuse fails to take reasonable steps to ascertain whether or not the property is the proceeds of an unlawful activity or instrumentalities of an offence.

(3) For the purposes of any proceedings under this Act, where the proceeds of an unlawful activity are derived from one or more unlawful activities, such proceeds need not be proven to be from any specific unlawful activity.

(4) A person may be convicted of an offence under subsection (1) irrespective of whether there is a conviction in respect of a serious offence or foreign serious offence or that a prosecution has been initiated for the commission of a serious offence or foreign serious offence.”.

New section 4A

6. The principal Act is amended by inserting after section 4 the following section:

“Offence of structuring transactions to evade reporting requirement

4A. (1) No person shall structure, or direct, assist or participate in structuring, any transaction in the domestic or foreign currency to avoid the application of paragraph 14(1)(a).

(2) Any person who contravenes subsection (1) commits an offence and shall on conviction be liable to a fine of not more than five times the aggregate sum or value of the transaction at the time the offence was committed or to imprisonment for a term not exceeding seven years or to both.

(3) In determining whether a transaction was conducted in contravention of this section, the following matters may be taken into consideration:

- (a) the value of the money or property involved in each transaction;
- (b) the total value of the transactions;
- (c) the period of time over which the transactions took place;
- (d) the interval of time between any of the transactions;
- (e) the locations at which the transactions took place.”.

Amendment of section 5

7. Section 5 of the principal Act is amended—

- (a) in subsection (1), by substituting for the words “money laundering” the words “a money laundering offence”; and
- (b) by inserting after subsection (2) the following subsection:

“(3) Any person who knowingly discloses any false information under this section commits an offence and shall on conviction be liable to imprisonment for a term not exceeding five years and to a fine not exceeding one million ringgit.”.

Amendment of section 6

8. Subsection 6(5) of the principal Act is amended—

- (a) by substituting for the words “fifty thousand” the words “one million”;
- (b) by substituting for the words “one year” the words “three years”; and
- (c) by substituting for the words “to a further fine not exceeding one thousand ringgit for each day during which the offence continues after conviction” the words “shall in addition be liable to a fine not exceeding three thousand ringgit for each day or part thereof during which the offence continues to be committed”.

Amendment of section 8

9. Subsection 8(1) of the principal Act is amended by inserting after the words “reporting institution” the words “(if any)”.

Amendment of section 9

10. Subsection 9(2) of the principal Act is amended by deleting the word “Offshore”.

Amendment of section 10

11. Section 10 of the principal Act is amended—

- (a) in subsection (1), by inserting after the word “Minister” the words “of Finance”; and

(b) in subsection (3)—

(i) by inserting after the words “section 14” the words “or any other information received by it or disclosed to it by any person under this Act”; and

(ii) in paragraph (b)—

(A) in subparagraph (i), by inserting after the word “Minister” the words “of Finance”; and

(B) by inserting after the words “section 14” the words “or any other information received by or disclosed to the competent authority under this Act”.

Amendment of section 12

12. Subsection 12(4) of the principal Act is amended—

(a) by substituting for the words “one million” the words “three million”; and

(b) by substituting for the words “one year” the words “five years”.

New section 12A

13. The principal Act is amended by inserting after section 12 the following section:

“Prescription of additional financial institutions

12A. The Minister of Finance may, on the recommendation of the competent authority, by order published in the *Gazette*, prescribe a person that is carrying on a financial business that is regulated or supervised by or subject to the oversight of a relevant regulatory or supervisory authority pursuant to the laws enforced by such regulatory or supervisory authority to be a financial institution for the purposes of the definition of “financial institution” under subsection 3(1).”.

Substitution of section 14

14. The principal Act is amended by substituting for section 14 the following section:

“Report by reporting institutions

14. (1) A reporting institution shall promptly report to the competent authority—

- (a) any transaction exceeding such amount as the competent authority may specify;
- (b) 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;
- (c) 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.

(2) For the purposes of this section, “transaction” includes any attempted transaction or proposed transaction.”.

New section 14A

15. The principal Act is amended by inserting after section 14 the following section:

“Prohibition against disclosure of reports and related information

14A. (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.

(2) Any person to whom a disclosure of any knowledge, suspicion or information in contravention of subsection (1) has been made who makes a record of the knowledge, suspicion or information, or further discloses that knowledge, suspicion or information to any other person in any circumstances 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.

(3) Subsections (1) and (2) do not apply to the disclosure of information by a person if the disclosure is made—

- (a) in the course of acting in connection with the performance of his duties or the exercise of his functions under this Act;
- (b) for the purpose of informing of the risks involved in dealing with a particular customer, to a related corporation of the reporting institution where that related corporation is incorporated in Malaysia and is engaged in financial services in Malaysia;
- (c) in the course of acting in connection with the performance of his duties as a director, officer or employee of a reporting institution, to the supervisory authority of the reporting institution; or
- (d) with the written authorisation of the competent authority.

(4) For the purposes of subsection (3), “related” in relation to a corporation means related within the meaning of section 6 of the Companies Act 1965.”.

Substitution of section 16

16. The principal Act is amended by substituting for section 16 the following section:

“Customer due diligence

16. (1) A reporting institution—

- (a) shall not open or operate any anonymous account or any account which is in a fictitious, false or incorrect name;
- (b) shall not establish or conduct any business relationship, transaction or activity involving a fictitious, false or incorrect name; and
- (c) shall maintain—
 - (i) accounts in the name of an account holder; and
 - (ii) records or information of any business relationship, transaction or activity in the name of a customer.

(2) A reporting institution shall undertake customer due diligence measures in all or any of the following circumstances:

- (a) 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;
- (b) the transaction or activity to be carried out exceeds such amount as the competent authority may specify;
- (c) there is reasonable suspicion of the commission of a money laundering offence or a terrorism financing offence;

- (d) there is reasonable doubt about the veracity or adequacy of previously obtained customer identification data.
- (3) A reporting institution, in undertaking customer due diligence measures, shall—
- (a) ascertain the identity, representative capacity, domicile, legal capacity, occupation or business purpose of any person, whether he is an occasional or usual customer;
 - (b) 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;
 - (c) 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;
 - (d) 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
 - (e) 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.
- (4) A reporting institution shall conduct ongoing due diligence on all accounts, business relationships, transactions and activities.

(5) The competent authority shall, upon consultation with the relevant supervisory authority of a reporting institution (if any), issue such directions or guidelines to a reporting institution on the undertaking of customer due diligence measures as it considers necessary—

- (a) to give full effect to internationally accepted standards for the detection or prevention of a money laundering offence or terrorism financing offence; and
- (b) to specify additional customer due diligence measures to be undertaken by a reporting institution.

(6) 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.

(7) For the purposes of this Part—

- (a) “transaction” and “activity” includes a single transaction or activity or a series of transactions or activities, as the case may be; and
- (b) “person” includes any person who is a nominee, agent, beneficiary, beneficial owner or principal and any other person specified by the competent authority in relation to a transaction or activity.”.

Amendment of section 17

17. Section 17 of the principal Act is amended—

(a) by substituting for subsection (1) the following subsection:

“(1) 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.”;

- (b) in subsection (2)—
- (i) by inserting after the word “specify” the words “under section 14”;
 - (ii) by substituting for the words “not less than” the words “at least”; and
 - (iii) in the English language text, by substituting for the words “has been” the word “is”;
- (c) in subsection (3), by substituting for the word “record” the words “account, record, business correspondence and document”; and
- (d) in subsection (4)—
- (i) by substituting for the words “one million” the words “three million”; and
 - (ii) by substituting for the words “one year” the words “five years”.

Substitution of section 18

18. The principal Act is amended by substituting for section 18 the following section:

“Opening of account or conducting business relationship, transaction or activity in fictitious, false or incorrect name

18. (1) No person shall—

- (a) open, operate or authorise the opening or the operation of an account; or
- (b) establish, conduct or perform any business relationship, transaction or activity,

with a reporting institution in a fictitious, false or incorrect name.

(2) Where a person is commonly known by two or more names, the person shall not use one of those names when—

- (a) opening, operating or authorising the opening or operation of an account; or

- (b) establishing, conducting or performing any business relationship, transaction or activity,

with a reporting institution unless the person has previously disclosed the other name or names to the reporting institution.

(3) Where a person using a particular name in his dealings with a reporting institution discloses to it a different name or names by which he is commonly known, the reporting institution shall make a record of the disclosure, and shall, upon request in writing from the competent authority, give the competent authority a copy of that record.

- (4) For the purposes of paragraphs (1)(a) and (2)(a)—

(a) a person opens an account in a fictitious, false or incorrect name if that person, in opening the account, or becoming a signatory to the account, uses a name other than a name by which the person is commonly known;

(b) a person operates an account in a fictitious, false or incorrect name if that person does any act or thing in relation to the account (whether by way of making a deposit or withdrawal or by way of communication with the reporting institution concerned or otherwise) and, in doing so, uses a name other than a name by which the person is commonly known; and

(c) an account is in a false name if it was opened in a fictitious, false or incorrect name, whether before or after the commencement of this section.

- (5) For the purpose of paragraphs (1)(b) and (2)(b)—

(a) a person establishes a business relationship, transaction or activity in a fictitious, false or incorrect name if that person, in establishing such business relationship, transaction or activity, or becoming a signatory to any agreement or arrangement, uses a name other than a name by which the person is commonly known;

- (b) a person conducts or performs a business relationship, transaction or activity in a fictitious, false or incorrect name if that person does any act or thing in relation to such business relationship, transaction or activity (whether by way of communication with the reporting institution concerned or otherwise) and, in doing so, uses a name other than a name by which the person is commonly known; and
- (c) a business relationship, transaction or activity is in a false name if it was established in a fictitious, false or incorrect name, whether before or after the commencement of this section.

(6) Any person who 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.”.

Amendment of section 19

19. Paragraph 19(2)(b) of the principal Act is amended by inserting after the words “14,” the words “14A,”.

Amendment of section 21

20. Paragraph 21(1)(c) of the principal Act is amended by substituting for the word “clients” the word “customers”.

Amendment of section 22

21. Section 22 of the principal Act is amended—

- (a) in subsection (2), by substituting for the words “High Court” the words “Magistrate’s Court”; and
- (b) in subsection (4)—
 - (i) by substituting for the words “one hundred thousand” the words “one million”;
 - (ii) by substituting for the words “six months” the words “three years”; and

- (iii) by substituting for the words “to a further fine not exceeding one thousand ringgit for each day during which the offence continues after conviction” the words “shall in addition be liable to a fine not exceeding three thousand ringgit for each day or part thereof during which the offence continues to be committed”.

Deletion of section 23

- 22. The principal Act is amended by deleting section 23.

Amendment of section 26

- 23. Section 26 of the principal Act is amended—

- (a) in paragraph (1)(b), by substituting for the words “client,” the word “customer”; and

- (b) in subsection (2)—

- (i) by substituting for the words “one million” the words “three million”;

- (ii) by substituting for the words “one year” the words “five years”; and

- (iii) by substituting for the words “to a further fine not exceeding one thousand ringgit for each day during which the offence continues after conviction” the words “shall in addition be liable to a fine not exceeding three thousand ringgit for each day or part thereof during which the offence continues to be committed”.

Amendment of section 27

- 24. Subsection 27(2) of the principal Act is amended—

- (a) by substituting for the words “one million” the words “three million”;

- (b) by substituting for the words “one year” the words “five years”; and

- (c) by substituting for the words “to a further fine not exceeding one thousand ringgit for each day during which the offence continues after conviction” the words “shall in addition be liable to a fine not exceeding three thousand ringgit for each day or part thereof during which the offence continues to be committed”.

Deletion of section 28

25. The principal Act is amended by deleting section 28.

New Part IVA

26. The principal Act is amended by inserting after Part IV the following Part:

“PART IVA

CROSS BORDER MOVEMENTS OF CASH AND BEARER NEGOTIABLE INSTRUMENTS

Interpretation in relation to this Part

- 28A. (1) In this Part, unless the context otherwise requires—

“business day” means—

- (a) in States where Sunday is observed as the weekly holiday, a day other than a Saturday, Sunday or public holiday; or
- (b) in States where Friday is observed as the weekly holiday, a day other than a Friday, Saturday or public holiday;

“bearer negotiable instrument” includes—

- (a) a traveller’s cheque;
- (b) any negotiable instrument in bearer form, endorsed without any restriction, made out to a fictitious payee or otherwise in such form that title of such instrument passes upon delivery; and

(c) any negotiable instrument that is signed but the name of the payee is omitted;

“authorised officer” means an officer of customs or an officer authorised by the competent authority to perform or assist in the performance of its functions under this Part;

“officer of customs” has the same meaning as in the Customs Act 1967 [*Act 235*];

“commercial goods carrier” means a person who, in the normal course of a business, carries goods or mail for reward, and includes his employee;

“commercial passenger carrier” means a person who, in the normal course of a business, carries passengers for reward, and includes his employee;

“cash” means coin and printed money (whether of Malaysia or of a foreign State) that—

(a) is designated as legal tender; and

(b) circulates as, and is customarily used and accepted as, a medium of exchange in the country of issue;

“printed money” means money comprising a note printed, written or otherwise made on polymer, paper or any other material.

(2) In determining whether an amount of cash or bearer negotiable instruments exceeds the value prescribed by the competent authority under this Part, such amount shall be converted to the currency prescribed by the competent authority at the rate of exchange applicable at the relevant time.

Persons leaving or entering Malaysia with cash or bearer negotiable instruments

28B. (1) Any person leaving or entering Malaysia with an amount in cash, bearer negotiable instruments or both exceeding the value as prescribed by the competent authority by order published in the *Gazette*, shall declare such amount to the competent authority.

(2) For the purposes of this section, a person leaves or enters Malaysia with cash or bearer negotiable instruments if the person brings the cash or bearer negotiable instruments with him in his accompanying baggage or on any conveyance or otherwise.

(3) Any person who contravenes subsection (1) 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.

Movement of cash or bearer negotiable instruments by post, etc.

28c. (1) Any person who moves into or out of Malaysia through the postal, courier or freight forwarding services, or by any other means, any cash, bearer negotiable instruments or both exceeding the value as prescribed by the competent authority by order published in the *Gazette*, shall declare such amount to the competent authority.

(2) Any person who contravenes subsection (1) 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.

Exceptions to requirement to make declaration

28d. (1) Section 28B shall not apply if—

- (a) the person is a commercial passenger carrier; and
- (b) the cash or bearer negotiable instrument is in the possession of the commercial passenger carrier's passenger.

(2) Section 28c shall not apply if—

- (a) the person is a commercial goods carrier;
- (b) the cash or bearer negotiable instrument is carried on behalf of another person;

- (c) the other person has not disclosed to the commercial goods carrier that the goods carried on his behalf include cash or bearer negotiable instruments; and
- (d) the commercial goods carrier does not know and has no reasonable ground to believe that the goods carried on behalf of the other person include cash or bearer negotiable instruments.

(3) The burden of proving the matters referred to in subsection (1) or (2) lies with the person who wishes to rely on that subsection.

Declaration about receipts of cash or bearer negotiable instruments from outside Malaysia

28E. (1) Any person who receives cash or bearer negotiable instruments or both which is moved to the person from outside Malaysia exceeding the value as prescribed by the competent authority by order published in the *Gazette*, shall declare such amount to the competent authority and provide such other information as may be required by the competent authority.

(2) A declaration under subsection (1) shall be made within five business days from the day of the receipt of the cash or bearer negotiable instruments or both.

(3) Any person who contravenes subsection (1) commits an offence and shall on conviction be liable to a fine not exceeding five million ringgit or to imprisonment for a term not exceeding five years or to both.

Declaration to competent authority

28F. (1) A declaration to the competent authority under this Part shall—

- (a) be made in such form as the competent authority may specify; and
- (b) contain full and accurate information relating to the matter being declared as is specified in the form.

(2) A declaration under this Part, except under section 28E, shall be made to the competent authority through an authorised officer.

(3) An authorised officer shall make available to the competent authority, upon the request of the competent authority, within a reasonable time—

- (a) any declaration submitted to the authorised officer;
or
- (b) any information about suspicious cross border movements of cash or bearer negotiable instruments.

(4) Any person who makes a declaration which is false, inaccurate or incomplete 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.

Structuring to avoid declaration under this Part

28G. (1) No person shall structure, or direct, assist or participate in structuring any cross border transportation or movements of cash or bearer negotiable instruments to avoid making a declaration under this Part.

(2) Any person who contravenes subsection (1) commits an offence and shall on conviction be liable to a fine of not more than five times the aggregate sum or value of the amount of cash or bearer negotiable instruments at the time the offence was committed or to imprisonment for a term not exceeding seven years or to both.

Questioning and search powers in relation to cash or bearer negotiable instruments

28H. (1) Any person leaving or entering Malaysia shall if required to do so by an authorised officer do all or any of the following:

- (a) declare whether or not the person has with him any cash or bearer negotiable instruments;

- (b) declare the total value of any cash or bearer negotiable instruments that the person has with him;
- (c) declare whether or not a declaration under section 28B has been made in respect of any cash or bearer negotiable instruments that the person has with him;
- (d) produce to the authorised officer any cash or bearer negotiable instruments that the person has with him;
- (e) answer any question that the authorised officer may have with respect to the cash or bearer negotiable instruments.

(2) An authorised officer may, with such assistance as is reasonable and necessary—

- (a) search a person or examine any article, baggage or property which the person has with him for the purpose of finding out whether a person has with him any cash or bearer negotiable instruments in respect of which a declaration under section 28B is required to be made;
- (b) enter any premises and examine or search the premises for the purposes of ascertaining whether there is at or in the premises any cash or bearer negotiable instruments in respect of which a declaration under section 28B or 28C is required to be made;
- (c) board any conveyance and examine or search the conveyance for the purpose of ascertaining whether there is on board the conveyance any cash or bearer negotiable instruments in respect of which a declaration under section 28B or 28C is required to be made;
- (d) open, examine or search any article, container, package, receptacle or any thing found at or in the premises or on the conveyance for the purpose of ascertaining whether or not there is any cash or bearer negotiable instrument in respect of which a declaration under section 28B or 28C is required to be made;

- (e) detain any cash, bearer negotiable instruments or any other thing found in the course of an examination or search under paragraph (a), (b), (c) or (d) if an authorised officer has reason to suspect that such cash, bearer negotiable instruments or other thing may afford evidence relating to the commission of an offence under this Part; or
- (f) take possession of, and remove from the premises or conveyance, any cash, bearer negotiable instruments or other thing so detained.

(3) No person shall be searched under this Part except by an authorised officer of the same gender and such search shall be carried out with strict regard to decency.

(4) Any person who, without reasonable excuse, fails to comply with a requirement under subsection (1), or pursuant to any such requirement knowingly or recklessly makes a declaration or gives an answer that is false in a material particular, 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, and, in the case of a continuing offence, shall in addition be liable to a fine not exceeding three thousand ringgit for each day or part thereof during which the offence continues to be committed.

(5) Any person who fails to comply with any lawful demands of any authorised officer in the exercise of his powers under this Part 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, and, in the case of a continuing offence, shall in addition be liable to a fine not exceeding three thousand ringgit for each day or part thereof during which the offence continues to be committed.

Power of arrest without warrant

28i. An authorised officer investigating an offence under this Part may arrest without warrant any person whom he reasonably believes has committed or is attempting to commit an offence under section 28B or 28c.

Submission of information to competent authority

28j. Notwithstanding the Central Bank of Malaysia Act 2009, the Financial Services Act 2013 and the Islamic Financial Services Act 2013, the Bank may submit to the competent authority information received under section 214 of the Financial Services Act 2013 and section 225 of the Islamic Financial Services Act 2013.

Declaration under this Part deemed to be a declaration in a matter relating to customs

28k. Any declaration required to be made under this Part, except under section 28E, shall for the purposes of the Customs Act 1967 be deemed to be a declaration in a matter relating to customs.

Forfeiture of detained cash or bearer negotiable instruments

28l. (1) Subject to section 61, in any prosecution for an offence under this Part, the court shall make an order for the forfeiture of the cash, bearer negotiable instruments or any other thing which is proved to be the subject-matter or evidence relating to the commission of the offence as it considers appropriate notwithstanding that no person may have been convicted of such offence.

(2) Subject to section 61, where in respect of any cash, bearer negotiable instrument or any thing used in the commission of an offence seized under this Part there is no prosecution or conviction for an offence under this Part, the Public Prosecutor shall, before the expiration of twelve months from the date of the seizure, apply to a judge of the High Court for an order of forfeiture of the cash, bearer negotiable instrument or thing, as the case may be, if he is satisfied that the cash, bearer negotiable instrument or thing is the subject-matter or evidence relating to the commission of such offence.

(3) The judge to whom an application is made under subsection (2) shall make an order for the forfeiture of the cash, bearer negotiable instrument or any other thing used in the commission of an offence if he is satisfied that the cash, bearer negotiable instrument or thing is the subject-matter or evidence relating to the commission of an offence under this Part.”.

Amendment of section 29

27. Section 29 of the principal Act is amended—

(a) in subsection (1)—

- (i) by deleting the word “or” at the end of paragraph (a);
- (ii) by substituting for the comma at the end of paragraph (b) the words “; or”; and
- (iii) by inserting after paragraph (b) the following paragraph:

“(c) an enforcement agency has reason to suspect the commission of a terrorism financing offence, or an offence under section 4A or Part IVA,”; and

(b) in subsection (3), by inserting before the word “as” the words “or any terrorism financing offence, or any offence under section 4A or Part IVA,”.

Amendment of section 31

28. Section 31 of the principal Act is amended—

(a) by substituting for subsection (1) the following subsection:

“(1) Where an investigating officer is satisfied, or has reason to suspect, that a person has committed an offence under this Act, he may, without a search warrant—

- (a) stop, enter, board, inspect, detain and search any conveyance for any property, document or information;

- (b) enter, inspect and search any premises belonging to or in the possession or control of the person or his employee, and in the case of a body corporate, its director or manager for any property, document or information;
 - (c) break open, examine and search any article, container or receptacle found in any premises or conveyance that is being searched;
 - (d) detain, take possession of, and remove from the premises or conveyance any property, document or information found in the premises, conveyance, article, container or receptacle, and detain it for such period as he considers necessary;
 - (e) inspect, make copies of or take extracts from any document or information so detained;
 - (f) search any person who is in, or on, such premises or conveyance, if the investigating officer has reason to suspect that the person has on his person any property, document or information, including personal documents, which in the opinion of the investigating officer are necessary for the purpose of an investigation into an offence under this Act and detain any thing found on such person.”;
- (b) in paragraph (2)(b), by deleting the words “seizure,”;
- (c) by inserting after subsection (2) the following subsection:

“(2A) Where it appears to an investigating officer that by reason of its’ nature, size or amount it is not practicable or it is otherwise not desirable to remove any thing detained by him in the exercise of his powers under this Act, he may, by any means, seal such thing in the premises, conveyance, article, container or receptacle in which it is found, and it shall be an offence for any person without lawful authority to break, tamper with or damage such seal or remove such thing or attempt to do so.”;

(d) in subsection (3)—

- (i) by deleting the words “seize,”; and
- (ii) by substituting for the words “record, report or document” the words “document or information”;

(e) in subsection (4)—

- (i) in paragraph (a), by substituting for the words “record, report or document seized” the words “document or information detained”; and
- (ii) in paragraph (b), by substituting for the words “record, report or document” the words “document or information”; and

(f) in subsection (5), by substituting for the word “present” the words “permitted to attend”.

Amendment of section 32

29. Section 32 of the principal Act is amended—

- (a) in paragraph (2)(b), by substituting for the words “record, report or document” the words “document or information”;
- (b) by substituting for subsections (3) and (4) the following subsections:

“(3) A person to whom an order under paragraph (2)(a) has been given shall—

- (a) attend the examination in accordance with the terms of the order, and shall continue to attend from day to day where so directed until the examination is completed; and
- (b) during such examination, disclose all information which is within his knowledge, or which is available to him, in respect of the matter in relation to which he is being examined, and answer any question put to him truthfully and to the best of his knowledge and belief, and shall not refuse to answer any question on the ground that it tends to incriminate him or his spouse.

(4) A person to whom an order under paragraph (2)(c) has been given shall, in his statement, furnish and disclose truthfully all information required under the order which is within his knowledge, or which is available to him, or which is capable of being obtained by him, and shall not refuse to furnish or disclose the information on the ground that it tends to incriminate him or his spouse.”;

(c) by deleting subsection (5);

(d) in subsection (6), by substituting for the words “subsections (4) and (5)” the words “subsections (3) and (4), as the case requires”; and

(e) in subsection (8)—

(i) in paragraph (b), by substituting for the words “subsection (4)” the words “subsection (3)”;

(ii) by substituting for the words “one million” the words “three million”;

(iii) by substituting for the words “one year” the words “five years”; and

(iv) by substituting for the words “to a further fine not exceeding one thousand ringgit for each day during which the offence continues after conviction” the words “shall in addition be liable to a fine not exceeding three thousand ringgit for each day or part thereof during which the offence continues to be committed”.

Amendment of section 33

30. Subsection 33(1) of the principal Act is amended by substituting for the words “paragraph 31(1)(e)” the words “paragraph 31(1)(f)”.

Amendment of section 34

31. Section 34 of the principal Act is amended—

(a) in paragraph (a), by inserting after the word “premises” the words “or conveyance”;

- (b) in paragraph (e), by substituting for the words “record, report or document” the words “document or information”;
- (c) in paragraph (f), by substituting for the word “seized” the word “detained”;
- (d) in paragraph (h)—
 - (i) by substituting for the words “or seizure” the words “or detention”;
 - (ii) by substituting for the words “its seizure” the words “its detention”; and
 - (iii) by substituting for the words “record, report or document” the words “document or information”;
- (e) by substituting for the words “one million” the words “three million”;
- (f) by substituting for the words “one year” the words “five years”; and
- (g) by substituting for the words “to a further fine not exceeding one thousand ringgit for each day during which the offence continues after conviction” the words “shall in addition be liable to a fine not exceeding three thousand ringgit for each day or part thereof during which the offence continues to be committed”.

Amendment of section 35

32. Subsection 35(1) of the principal Act is amended—

- (a) by substituting for the words “one million” the words “three million”; and
- (b) by substituting for the words “one year” the words “five years”.

Amendment of section 36

33. Section 36 of the principal Act is amended—

- (a) in subsection (1)—
 - (i) by deleting the words “seizes,”;

- (ii) by substituting for the words “record, report or document which” the words “document or information which”; and
 - (iii) by substituting for the words “record, report or document to” the words “document or information to”; and
- (b) in subsection (3)—
- (i) by substituting for the words “one million” the words “three million”;
 - (ii) by substituting for the words “one year” the words “five years”; and
 - (iii) by substituting for the words “to a further fine not exceeding one thousand ringgit for each day during which the offence continues after conviction” the words “shall in addition be liable to a fine not exceeding three thousand ringgit for each day or part thereof during which the offence continues to be committed”.

Amendment of section 37

34. Section 37 of the principal Act is amended—

- (a) in the shoulder note, by substituting for the words “record, report or document” the words “document or information”;
- (b) by substituting for the words “record, report or document” wherever they appear the words “document or information”; and
- (c) in subsection (3)—
 - (i) by substituting for the words “one million” the words “three million”;
 - (ii) by substituting for the words “one year” the words “five years”; and
 - (iii) by substituting for the words “to a further fine not exceeding one thousand ringgit for each day during which the offence continues after conviction” the

words “shall in addition be liable to a fine not exceeding three thousand ringgit for each day or part thereof during which the offence continues to be committed”.

Amendment of section 38

35. Section 38 of the principal Act is amended—

(a) by substituting for the shoulder note the following shoulder note:

“Detention of property, document or information”;

(b) by substituting for the word “seize” the word “detain”;
and

(c) by substituting for the words “record, report or document” the words “document or information”.

Amendment of section 39

36. Section 39 of the principal Act is amended—

(a) by substituting for the shoulder note the following shoulder note:

“Release of property, document or information detained”;

(b) by substituting for the words “record, report or document” wherever they appear the words “document or information”;

(c) in subsection (1), by deleting the words “seized,”; and

(d) in subsection (3), by substituting for the words “subsections 413(ii), (iii) and (iv)” the words “subsections 413(2), (3) and (4)”.

Amendment of section 40

37. Section 40 of the principal Act is amended by substituting for the words “record, report or document” wherever they appear the words “document or information”.

Amendment of section 44

38. Section 44 of the principal Act is amended—

(a) by substituting for subsection (1) the following subsection:

“(1) Subject to section 50, an enforcement agency may issue an order to freeze any property of any person, or any terrorist property, as the case may be, wherever the property may be, and whether the property is in his possession, under his control or due from any source to him, if—

(a) an investigation with regard to an unlawful activity has commenced against that person; and

(b) either—

(i) the enforcement agency has reasonable grounds to suspect that an offence under subsection 4(1) or a terrorism financing offence has been or is being or is about to be committed by that person; or

(ii) the enforcement agency has reasonable grounds to suspect that the property is the proceeds of an unlawful activity or the instrumentalities of an offence.”;

(b) in subsection (2)—

(i) by deleting the word “and” at the end of paragraph (a);

(ii) by substituting for the full stop at the end of paragraph (b) a semicolon; and

(iii) by inserting after paragraph (b) the following paragraphs:

“(c) where custody and control of the property is taken under paragraph (b), an order to authorise any of its officers to sell any frozen moveable property by a public

auction or in such other manner as may be practicable if the enforcement agency is of the opinion that the property is liable to speedy decay or deterioration;

(d) an order to authorise any of its officers to hold the proceeds of the sale, after deducting therefrom the costs and expenses of the maintenance and sale of the property sold under paragraph (c); and

(e) an order as to the manner in which the property should be administered or dealt with.”;

(c) by substituting for subsection (3) the following subsection:

“(3) In making an order under subsection (1), the enforcement agency may give directions to the person named or described in the order relating to the disposal of the property for the purpose of—

(a) determining any dispute as to the ownership of or other interest in the property or any part of it;

(b) its’ proper administration during the period of the order;

(c) the payment of the costs of that person to defend criminal proceedings against him.”;

(d) in paragraph (4)(c), by substituting for the word “publication” the word “service”; and

(e) by inserting after subsection (7) the following subsections:

“(8) The enforcement agency effecting any order to freeze any property under this section shall send a copy of the order and a list of the frozen property to the Public Prosecutor forthwith.

(9) Where the frozen property is in the possession, custody or control of a financial institution, the enforcement agency shall notify the relevant regulatory or supervisory authority (if any), as the case may be, of such order.

(10) Any person who fails to comply with an order of the enforcement agency issued under subsection (1) commits an offence and shall on conviction be liable to a fine not exceeding five times the sum or value of the frozen property at the time the property was frozen or five million ringgit, whichever is the higher, or to imprisonment for a term not exceeding seven years or to both.”.

New section 44A

39. The principal Act is amended by inserting after section 44 the following section:

“Variation or revocation of order to freeze property

44A. (1) An order to freeze property issued under section 44 may be varied or revoked by the enforcement agency that issued the order—

(a) where an officer senior in rank to the officer who issued the order is satisfied that such property is not liable to seizure under this Act; or

(b) on the application of the person named or described in the order.

(2) For the purpose of paragraph (1)(a), where an officer senior in rank to the officer who issued the order is satisfied that such property is not liable to seizure under this Act, he may vary the order in accordance with paragraph (4)(a) or revoke the order.

(3) For the purpose of paragraph (1)(b), an application shall be made in writing to the enforcement agency specifying the grounds on which the variation or revocation of the order is sought and, on receipt, shall be dealt with by an officer senior in rank to the officer who issued the order.

(4) On consideration of an application under paragraph (1)(b), the senior officer concerned may—

(a) vary the order with regard to—

- (i) the duration of the order;
- (ii) the payment of debts incurred in good faith and due to a creditor before the making of the order under section 44; or
- (iii) the provision of an allocation for reasonable subsistence and other expenses of that person, his family or employees;

(b) revoke such order; or

(c) refuse the application on the ground that there is reasonable suspicion that the property is—

- (i) the subject-matter or evidence relating to the commission of an offence under subsection 4(1) or a terrorism financing offence;
- (ii) terrorist property;
- (iii) the proceeds of an unlawful activity; or
- (iv) the instrumentalities of an offence.

(5) Where the senior officer concerned varies or revokes the order under subsection (2) or (4), he shall release the property or any part thereof as may be relevant to the person named or described in the order.

(6) The officer effecting any release of any property under this section shall make a record in writing in respect of such release specifying in the record in detail the circumstances of, and the reason for, such release, and he shall send a copy of such record to the Public Prosecutor forthwith.

(7) The release of any property under this section does not affect the power of the Public Prosecutor under this Act to seize the property subsequently if the Public Prosecutor is satisfied that the property is—

- (a) the subject-matter or evidence relating to the commission of an offence under subsection 4(1) or a terrorism financing offence;

- (b) terrorist property;
- (c) the proceeds of an unlawful activity; or
- (d) the instrumentalities of an offence.”.

Amendment of section 45

40. Section 45 of the principal Act is amended—

(a) in subsection (1)—

- (i) by inserting after the words “relating to” the words “the commission of”; and
- (ii) by inserting after the words “terrorist property” the words “, proceeds of an unlawful activity or instrumentalities of an offence”;

(b) by inserting after subsection (3) the following subsections:

“(3A) However no service under subsection (3) shall be required where such seizure is made in the presence of the person against whom proceedings under this Act are intended to be taken, or in the presence of the owner of such property or his agent, or in the case of a ship or an aircraft, in the presence of the master or pilot, as the case may be.

(3B) The investigating officer effecting the seizure shall send a copy of the list of the movable property seized to the Public Prosecutor forthwith.”; and

(c) in subsection (4), by substituting for the words “subsection (2)” the words “subsection (1)”.

Amendment of section 46

41. Section 46 of the principal Act is amended—

(a) in paragraph (4)(b)—

- (i) by substituting for the words “two times” the words “five times”;

- (ii) by substituting for the words “two years” the words “seven years”; and
 - (iii) by substituting for the words “to a further fine not exceeding one thousand ringgit for each day during which the offence continues after conviction” the words “shall in addition be liable to a fine not exceeding three thousand ringgit for each day or part thereof during which the offence continues to be committed”;
- (b) in subsection (6), by substituting for the words “shares, securities, stocks, debentures” the words “capital market products”; and
- (c) by inserting after subsection (7) the following subsection:
- “(8) Any seizure order made under this Act may at any time be varied or revoked by the enforcement agency with the consent of the Public Prosecutor and the Public Prosecutor may give any direction of an ancillary or consequential nature, or which may be necessary, for giving effect to, or for the carrying out of, such variation or revocation.”.

Amendment of section 48

42. Section 48 of the principal Act is amended—

- (a) by substituting for the words “record, report, document” wherever they appear the words “document, information”;
- (b) in paragraph (2)(a), by substituting for the words “record, report or document” the words “document or information”;
- (c) in subsection (3), by substituting for the word “securities” the words “capital market products”; and
- (d) in subsection (4)—
 - (i) by substituting for the words “one million” the words “three million”;

- (ii) by substituting for the words “one year” the words “five years”; and
- (iii) by substituting for the words “to a further fine not exceeding one thousand ringgit for each day during which the offence continues after conviction” the words “shall in addition be liable to a fine not exceeding three thousand ringgit for each day or part thereof during which the offence continues to be committed”.

Amendment of section 49

43. Section 49 of the principal Act is amended—

(a) in subsection (1)—

- (i) by substituting for the word “believe” the word “suspect”;
- (ii) by inserting after the words “written notice” the word “require”; and
- (iii) in paragraph (a), by deleting the word “require”;

(b) by inserting after subsection (1) the following subsection:

“(1A) In addition, if the Public Prosecutor is satisfied on information given to him by an investigating officer that it is necessary for the purpose of any investigation under this Act, the Public Prosecutor may by written notice require any person to furnish any information which in the opinion of the Public Prosecutor will be useful for or relevant to an investigation under this Act within such time as he may specify in relation to any person, question or matter.”;

(c) in subsection (2)—

- (i) by substituting for the words “records, reports or documents” the words “documents or information”; and
- (ii) by substituting for the words “subsection (1)” the words “this section”;

(d) in subsection (3)—

- (i) by substituting for the words “subsection (1)” the words “this section”;
- (ii) by substituting for the words “one million” the words “three million”;
- (iii) by substituting for the words “one year” the words “five years”; and
- (iv) by substituting for the words “to a further fine not exceeding one thousand ringgit for each day during which the offence continues after conviction” the words “shall in addition be liable to a fine not exceeding three thousand ringgit for each day or part thereof during which the offence continues to be committed”;

(e) in subsection (4)—

- (i) by deleting the words “or direction”; and
- (ii) by inserting before the word “state” the words “furnish such information to the Public Prosecutor within the time specified in the notice and to”; and

(f) in subsection (5)—

- (i) by substituting for the words “records, reports or documents” the words “documents or information”; and
- (ii) by substituting for the words “subsection (1)” the words “this section”.

Amendment of section 50

44. Section 50 of the principal Act is amended—

(a) by substituting for subsection (1) the following subsection:

“(1) Where the Public Prosecutor is satisfied on information given to him by an investigating officer that any movable property or any accretion to it which is—

- (a) the subject-matter or evidence relating to the commission of an offence under subsection 4(1) or a terrorism financing offence;

- (b) terrorist property;
- (c) the proceeds of an unlawful activity; or
- (d) the instrumentalities of an offence,

is in the possession, custody or control of a financial institution, he may, notwithstanding any other written law, by order direct that such movable property or any accretion to it in the financial institution be seized by the investigating officer or by order direct the financial institution not to part with, deal in or otherwise dispose of such movable property or any accretion to it, in whole or in part, until the order is varied or revoked.”;

- (b) by inserting after subsection (1) the following subsection:

“(1A) The investigating officer effecting a seizure under this section shall forthwith notify Bank Negara Malaysia, the Securities Commission or the Labuan Financial Services Authority, as the case may be, of any order made under subsection (1).”;

- (c) in subsection (3)—

- (i) by substituting for the word “two” the word “five”;
- (ii) by substituting for the words “one million” the words “five million”;
- (iii) by substituting for the words “one year” the words “seven years”; and
- (iv) by substituting for the words “to a further fine not exceeding one thousand ringgit for each day during which the offence continues after conviction” the words “shall in addition be liable to a fine not exceeding five thousand ringgit for each day or part thereof during which the offence continues to be committed”; and

- (d) by deleting subsection (4).

Amendment of section 51

45. Section 51 of the principal Act is amended—

(a) by substituting for subsection (1) the following subsection:

“(1) Where the Public Prosecutor is satisfied on information given to him by an investigating officer that any immovable property is—

- (a) the subject-matter or evidence relating to the commission of an offence under subsection 4(1) or a terrorism financing offence;
- (b) terrorist property;
- (c) the proceeds of an unlawful activity; or
- (d) the instrumentalities of an offence,

the Public Prosecutor may by order direct that such immovable property be seized by the investigating officer.”;

(b) by inserting after subsection (1) the following subsection:

“(1A) Where any immovable property is seized under this Act, the seizure shall be effected—

- (a) by the issue of a Notice of Seizure by the Public Prosecutor setting out in it the particulars of the immovable property which is seized in so far as such particulars are within his knowledge, and prohibiting all dealings in such immovable property;
- (b) by serving a copy of such Notice on the owner or person in possession, custody or control of the immovable property, if known;
- (c) by posting, where practicable, a copy of such Notice at a conspicuous place on the immovable property; and
- (d) by serving a copy of such Notice on the Land Administrator or the Registrar of Titles, as the case may be, in Peninsular Malaysia, or on

the Registrar of Titles or Collector of Land Revenue, as the case may be, in Sabah, or on the Director of Lands and Surveys or the Registrar responsible for land titles, as the case may be, in Sarawak, of the area in which the immovable property is situated.”;

(c) in subsection (2), by substituting for the words “subsection (1)” the words “subsection (1A);

(d) in subsection (5)—

- (i) by substituting for the word “twice” the words “five times”;
- (ii) by substituting for the words “one million” the words “five million”;
- (iii) by substituting for the words “one year” the words “seven years”; and
- (iv) by substituting for the words “to a further fine not exceeding one thousand ringgit for each day during which the offence continues after conviction” the words “shall in addition be liable to a fine not exceeding five thousand ringgit for each day or part thereof during which the offence continues to be committed”; and

(e) in subsection (6)—

- (i) by substituting for the words “subsection (1)” the words “subsection (1A)”;
- (ii) by substituting for the word “twice” the words “five times”;
- (iii) by substituting for the words “one million” the words “five million”;
- (iv) by substituting for the words “one year” the words “seven years”; and
- (v) by substituting for the words “to a further fine not exceeding one thousand ringgit for each day during which the offence continues after conviction” the

words “shall in addition be liable to a fine not exceeding five thousand ringgit for each day or part thereof during which the offence continues to be committed”.

Amendment of section 52

46. Section 52 of the principal Act is amended—

(a) by inserting after subsection (1) the following subsection:

“(1A) The investigating officer effecting the seizure shall send a notice of the seizure to the Public Prosecutor forthwith.”; and

(b) by substituting for subsection (6) the following subsection:

“(6) Any person who contravenes this section commits an offence and shall on conviction be liable to a fine not exceeding five million ringgit or to imprisonment for a term not exceeding seven years or to both, and, in the case of a continuing offence, shall in addition be liable to a fine not exceeding five thousand ringgit for each day or part thereof during which the offence continues to be committed.”.

New section 52A

47. The principal Act is amended by inserting after section 52 the following section:

“Expiry of seizure order

52A. A seizure order made under this Act shall cease to have effect after the expiration of twelve months from the date of the seizure order, or where there is a prior freezing order, twelve months from the date of the freezing order, if the person against whom the order was made has not been charged with an offence under this Act.”.

Substitution of section 53

48. The principal Act is amended by substituting for section 53 the following section:

“Prohibition of dealing with property outside Malaysia

53. (1) Where the Public Prosecutor is satisfied that any property is—

- (a) the subject-matter or evidence relating to the commission of an offence under subsection 4(1) or a terrorism financing offence;
- (b) terrorist property;
- (c) the proceeds of an unlawful activity; or
- (d) the instrumentalities of an offence,

and such property is held or deposited outside Malaysia, he may make an application supported by an affidavit to a judge of the High Court for an order prohibiting the person by whom the property is held or with whom it is deposited from dealing with the property.

(2) Upon being satisfied that such property is—

- (a) the subject-matter or evidence relating to the commission of an offence under subsection 4(1) or a terrorism financing offence;
- (b) terrorist property;
- (c) the proceeds of an unlawful activity; or
- (d) the instrumentalities of an offence,

the Court shall make an order prohibiting the person by whom the property is held or with whom it is deposited from dealing with the property.

(3) An order made under subsection (2) shall cease to have effect after the expiration of twelve months from the date the order was made if the person against whom the order was made has not been charged with an offence under this Act.”

Amendment of section 55

49. Section 55 of the principal Act is amended—

(a) by substituting for subsection (1) the following subsection:

“(1) Subject to section 61, in any prosecution for an offence under subsection 4(1) or a terrorism financing offence, the court shall make an order for the forfeiture of any property which is proved to be—

- (a) the subject-matter or evidence relating to the commission of such offence;
- (b) terrorist property;
- (c) the proceeds of an unlawful activity; or
- (d) the instrumentalities of an offence,

where—

- (aa) the offence is proved against the accused; or
- (bb) the offence is not proved against the accused but the court is satisfied that—
 - (i) the accused is not the true and lawful owner of such property; and
 - (ii) no other person is entitled to the property as a purchaser in good faith for valuable consideration.”;

(b) in subsection (2)—

- (i) by inserting after the word “disposed of,” the words “diminished in value”; and
- (ii) by substituting for the word “fine” the words “civil debt due to the Government of Malaysia and shall not be subject to any period of limitation prescribed by any written law”; and

(c) by substituting for subsection (3) the following subsection:

“(3) In determining whether the property is—

(a) the subject-matter or evidence relating to the commission of an offence under subsection 4(1) or a terrorism financing offence;

(b) terrorist property;

(c) the proceeds of an unlawful activity; or

(d) the instrumentalities of an offence,

the court shall apply the standard of proof required in civil proceedings.”.

Amendment of section 56

50. Section 56 of the principal Act is amended—

(a) by substituting for subsection (1) the following subsection:

“(1) Subject to section 61, where in respect of any property seized under this Act there is no prosecution or conviction for an offence under subsection 4(1) or a terrorism financing offence, the Public Prosecutor may, before the expiration of twelve months from the date of the seizure, or where there is a freezing order, twelve months from the date of the freezing, apply to a judge of the High Court for an order of forfeiture of that property if he is satisfied that such property is—

(a) the subject-matter or evidence relating to the commission of such offence;

(b) terrorist property;

(c) the proceeds of an unlawful activity; or

(d) the instrumentalities of an offence.”;

(b) in subsection (2), by substituting for paragraph (a) the following paragraph:

“(a) that the property is—

- (i) the subject-matter or evidence relating to the commission of an offence under subsection 4(1) or a terrorism financing offence;
 - (ii) terrorist property;
 - (iii) the proceeds of an unlawful activity; or
 - (iv) the instrumentalities of an offence; and”;
- and

(c) by substituting for subsection (4) the following subsection:

“(4) In determining whether the property is—

- (a) the subject-matter or evidence relating to the commission of an offence under subsection 4(1) or a terrorism financing offence;
- (b) terrorist property;
- (c) the proceeds of an unlawful activity; or
- (d) the instrumentalities of an offence,

the court shall apply the standard of proof required in civil proceedings.”.

New section 56A

51. The principal Act is amended by inserting after section 56 the following section:

“Forfeiture order not to be affected by acquittal

56A. The fact that a person has been acquitted of a serious offence or a foreign serious offence shall not affect the power of the court to issue a forfeiture order.”.

Amendment of section 58

52. Section 58 of the principal Act is amended—

(a) in subsection (2)—

- (i) by substituting for the word “apply” the words “refer the claim”;
- (ii) by substituting for the words “Sessions Court” the words “High Court”; and
- (iii) by substituting for the word “court” wherever it appears the word “Court”; and

(b) by inserting after subsection (4) the following subsection:

“(5) In this section, “purchaser in good faith for valuable consideration” means any transferee, assignee, chargee, mortgagee, pledgee, holder of a lien, or lessee, of any property where the transfer, assignment, charge, mortgage, pledge, lien, or lease was obtained by him for adequate valuable consideration in money or money’s worth, without notice—

(a) that the property is—

- (i) the subject-matter or evidence relating to the commission of an offence under subsection 4(1) or a terrorism financing offence;
- (ii) terrorist property;
- (iii) the proceeds of an unlawful activity;
or
- (iv) the instrumentalities of an offence;
or

(b) of any circumstances from which, if reasonable inquiries had been made, it might have been discovered that the property is—

- (i) the subject-matter or evidence relating to the commission of an offence under subsection 4(1) or a terrorism financing offence;

- (ii) terrorist property;
- (iii) the proceeds of an unlawful activity;
or
- (iv) the instrumentalities of an offence.”.

Substitution of section 59

53. The principal Act is amended by substituting for section 59 the following section:

“Pecuniary orders

59. (1) For the purpose of proceedings under section 55 or 56, the court shall issue a pecuniary penalty order against a person from whom property is forfeited in respect of benefits derived by the person from—

- (a) the commission of an offence under subsection 4(1) or a terrorism financing offence;
- (b) terrorist property;
- (c) the proceeds of an unlawful activity; or
- (d) the instrumentalities of an offence.

(2) The court may, if it considers appropriate, assess the value of the benefits so derived and order that person to pay to the Federal Government a pecuniary penalty equivalent to that amount.

(3) Where a forfeiture order has been made under section 55 or 56 against any property which is—

- (a) the subject-matter or evidence relating to the commission of an offence under subsection 4(1) or a terrorism financing offence;
- (b) terrorist property;
- (c) the proceeds of an unlawful activity; or
- (d) the instrumentalities of an offence,

the pecuniary penalty to be paid under subsection (2) shall be reduced by an amount equivalent to the value of the property as at the time of the making of the order under subsection (2) and any such penalty shall be recoverable as a civil debt due to the Government of Malaysia and shall not be subject to any period of limitation prescribed by any written law.

(4) In determining whether the benefit is derived from—

- (a) the commission of an offence under subsection 4(1) or a terrorism financing offence;
- (b) terrorist property;
- (c) the proceeds of an unlawful activity; or
- (d) the instrumentalities of an offence,

the court shall apply the standard of proof required in civil proceedings.”.

Amendment of section 60

54. Section 60 of the principal Act is amended—

(a) in subsection (1)—

- (i) by inserting before the word “release” the words “with the consent of the Public Prosecutor”;
- (ii) by substituting for the words “as he” the words “as the Public Prosecutor”; and
- (iii) by substituting for the words “if he” the words “if the Public Prosecutor”; and

(b) by inserting after subsection (2) the following subsection:

“(3) For the purpose of subsection (1), the Public Prosecutor may give any direction of an ancillary or consequential nature, or which may be necessary, for giving effect to, or for the carrying out of, such release of property.”.

Amendment of section 61

55. Section 61 of the principal Act is amended—

(a) in subsection (2)—

(i) by inserting before the words “section 55” the words “subsection 28L(1) or”; and

(ii) by inserting after the word “subsection” the words “28L(2) or”; and

(b) in paragraph (4)(b), by inserting after the words “subsection 4(1)” the words “or Part IV_A,”.

Amendment of section 62

56. Section 62 of the principal Act is amended by inserting after the word “section” the words “28L or”.

Amendment of section 63

57. Paragraph 63(2)(b) of the principal Act is amended—

(a) by deleting the word “or” at the end of subparagraph (i);

(b) by substituting for subparagraph (ii) the following subparagraph:

“(ii) cannot be found or apprehended by the enforcement agency after reasonable effort to do so at the end of a period of six months from the date on which the investigation referred to in paragraph (a) was commenced;” and

(c) by inserting after subparagraph (ii) the following subparagraphs:

“(iii) evades an enforcement agency;

(iv) has been charged with a serious offence and a warrant of arrest cannot be executed after reasonable effort to do so at the end of a period of six months from the date of issuance of the warrant of arrest; or

- (v) has been charged with a serious offence and cannot be extradited by the enforcement agency after reasonable effort to do so at the end of a period of six months from the date of issuance of the warrant of arrest.”.

Amendment of section 66A

58. Section 66A of the principal Act is amended—

- (a) by deleting the figure “(1)”; and
- (b) in the definition of “relevant regulatory or supervisory authority”, by deleting the word “Offshore”.

Amendment of section 66B

59. Subsection 66B(4) of the principal Act is amended—

- (a) by substituting for the words “one million” the words “three million”; and
- (b) by substituting for the words “one year” the words “five years”.

Amendment of section 66C

60. Subsection 66C(2) of the principal Act is amended by substituting for the words “specified in the order” the words “designated by the Security Council of the United Nations”.

Amendment of section 66D

61. Subsection 66D(5) of the principal Act is amended—

- (a) by substituting for the words “one million” the words “three million”; and
- (b) by substituting for the words “one year” the words “five years”.

Amendment of section 66E

62. Subsection 66E(5) of the principal Act is amended by substituting for the words “one hundred thousand” the words “one million”.

Amendment of section 66F

63. Section 66F of the principal Act is amended—

- (a) in the shoulder note, by deleting the word “Offshore”;
and
- (b) by deleting the word “Offshore” wherever it appears.

Amendment of section 67

64. Subsection 67(2) of the principal Act is amended—

- (a) by substituting for the words “one million” the words “three million”;
- (b) by substituting for the words “one year” the words “five years”; and
- (c) by substituting for the words “to a further fine not exceeding one thousand ringgit for each day during which the offence continues after conviction” the words “shall in addition be liable to a fine not exceeding five thousand ringgit for each day or part thereof during which the offence continues to be committed”.

New section 75A

65. The principal Act is amended by inserting after section 75 the following section:

“Stay of proceedings

75A. Where there is a need to obtain evidence from a foreign State, the court shall, upon application by the Public Prosecutor, stay the proceedings under this Act until such evidence is obtained.”.

Substitution of section 78

66. The principal Act is amended by substituting for section 78 the following section:

“Service of notices or orders

78. (1) A letter containing a notice, order or other document to be served by an enforcement agency under this Act shall be deemed to be addressed to the proper place if it is addressed to the last-known address of the addressee.

(2) Any notice or order issued or made under this Act shall, where it is required to be served on a natural person, be served by—

- (a) delivering it personally to the person for whom it is intended;
- (b) delivering it to an adult person at the last-known place of residence, occupation or business of the person for whom it is intended; or
- (c) sending it by registered post to the person for whom it is intended.

(3) If the officer effecting any notice or order under subsection (2) is satisfied, for reasons to be recorded by him in writing, that the notice or order cannot be served in the manner provided in paragraph (2)(a), (b) or (c), the notice or order shall be served by—

- (a) affixing the notice or order on a conspicuous place at the immovable property, if any, in relation to which the notice or order is issued or made, or on a conspicuous part of the premises in which the person for whom the notice or order is intended is known to have last resided, to have been last employed or to have last carried on business; and
- (b) publishing the notice or order in one newspaper circulating in the area in which the person for whom the notice or order is intended is known to have last resided, to have been last employed or to have last carried on business.

(4) Any notice or order issued or made under this Act on any company or body, whether corporate or unincorporate, shall be served by delivering the notice or order at its place of business to a servant, agent or officer of such company or body, or, where the officer effecting the notice or order is satisfied, for reasons to be recorded by him in writing, that the notice or order cannot be so delivered, by affixing the notice or order on a conspicuous part of the premises at the last-known place of business of the company or body for whom the notice or order is intended, and by publishing the notice or order in one newspaper circulating in the area in which the last-known place of business is situated.”.

Amendment of section 79

67. Subsection 79(3) of the principal Act is amended—

- (a) by substituting for the words “one million” the words “three million”; and
- (b) by substituting for the words “one year” the words “five years”.

Amendment of section 80

68. Section 80 of the principal Act is amended by substituting for the words “or IV” the words “, IV or IVA”.

Amendment of section 81

69. Subsection 81(1) of the principal Act is amended—

- (a) by deleting the word “Offshore”; and
- (b) by substituting for the words “an offshore financial institution” the words “a financial institution registered under the Labuan Financial Services and Securities Act 2010 or the Labuan Islamic Financial Services and Securities Act 2010”.

Amendment of section 82

70. Subsection 82(1) of the principal Act is amended by substituting for paragraph (e) the following paragraph:

“(e) by any person against property belonging to, or operated or controlled by, in whole or in part, the Government of Malaysia or the Government of any State in Malaysia, including diplomatic or consular premises of Malaysia, any citizen of Malaysia, or any corporation created by or under the laws of Malaysia located outside Malaysia;”.

Amendment of section 83

71. Section 83 of the principal Act is amended by inserting after the words “money laundering” the words “and terrorism financing”.

Amendment of section 84

72. Subsection 84(2) of the principal Act is amended—

(a) in paragraph (c)—

(i) by substituting for the words “one million” the words “three million”; and

(ii) by substituting for the words “one year” the words “five years”; and

(b) in paragraph (d), by substituting for the words “one thousand ringgit for each day that the offence continues after conviction” the words “five thousand ringgit for each day or part thereof during which the offence continues to be committed”.

Amendment of section 86

73. Section 86 of the principal Act is amended by substituting for the words “two hundred and fifty thousand” the words “one million”.

New section 86A

74. The principal Act is amended by inserting after section 86 the following section:

“Attempts, abetments and criminal conspiracies

86A. (1) Any person who—

- (a) attempts to commit an offence under this Act;
- (b) does any act preparatory to, or in furtherance of, the commission of an offence under this Act;
- (c) abets or is engaged in a criminal conspiracy to commit (as those terms are defined in the Penal Code) an offence under this Act, whether or not the offence is committed in consequence of it,

commits an offence and shall be liable on conviction to the penalty provided for that offence.

(2) A provision of this Act which refers to an offence under a specific provision of this Act shall be read as including a reference to an offence under subsection (1) in relation to the offence under that specific provision.”.

Amendment of section 89

75. Section 89 of the principal Act is amended—

- (a) by substituting for the words “one million” the words “three million”;
- (b) by substituting for the words “one year” the words “five years”; and
- (c) by substituting for the words “to a further fine not exceeding one thousand ringgit for each day during which the offence continues after conviction” the words “, shall in addition be liable to a fine not exceeding three thousand ringgit for each day or part thereof during which the offence continues to be committed”.

New section 91A

76. The principal Act is amended by inserting after section 91 the following section:

“Particulars of charge

91A. When a person is charged with an offence under this Act, it shall be sufficient to specify the gross sum in respect of which the offence is alleged to have been committed and the dates between which the offence is alleged to have been committed, without specifying particular items or exact dates, and the charge so framed shall be deemed to be a charge of one offence within the meaning of section 164 of the Criminal Procedure Code provided that the time included between the first and last of such dates shall not exceed twelve months.”.

Change in reference to short title of Act

77. All references to the Anti-Money Laundering and Anti-Terrorism Financing Act 2001 in any written law or document shall, when this Act comes into operation, be construed as references to the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001.

Amendment of section 14 of Anti-Money Laundering (Amendment) Act 2003

78. The Anti-Money Laundering (Amendment) Act 2003 [*Act A1208*] is amended by deleting paragraph 14(*a*).

