

YAYASAN BUDI PENYAYANG MALAYSIA (522532-M)



INCORPORATION

A Company Incorporated under The Companies
Act 1965

and

A Company Limited by Guarantee and Not
Having a Share Capital

LAWS OF MALAYSIA

Act 613

Anti-Money Laundering and Anti-Terrorism Financing Act 2001

“money laundering” means the act of a person who—

- (a) engages, directly or indirectly, in a transaction that involves proceeds of any unlawful activity;
- (b) acquires, receives, possesses, disguises, transfers, converts, exchanges, carries, disposes, uses, removes from or brings into Malaysia proceeds of any unlawful activity; or
- (c) 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 any unlawful activity,

INTRODUCTION

For most countries, money laundering and terrorist financing raise significant issues with regard to prevention, detection and prosecution. Sophisticated techniques used to launder money and finance terrorism have increased the complexity of these issues. Such sophisticated techniques may involve: multiple financial transactions, the use of different financial instruments and other kinds of value-storing assets, different types of financial institutions, accountants, financial advisers, shell corporations and other service providers and complex web of transfers to, through, and from different countries.

Money laundering and terrorist financing often display similar transactional features, mostly having to do with concealment and disguise. Both money laundering and terrorist financing can weaken individual Non-Government Organizations, and they are also a threat to a country's overall reputation.

Defining Money Laundering

Money laundering can be defined in a number of ways. But the fundamental concept of money laundering is the process by which proceeds from a criminal activity are disguised to conceal their illicit origins. Most countries subscribe to the following definition which was adopted by the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988) (the Vienna Convention) and the United Nations Convention against Transnational Organized Crime (2000) (the Palermo Convention):

The conversion or transfer of property, knowing that such property is derived from any offense, e.g. drug trafficking, or offenses, or from an act of participation in such offense or offenses, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of such an offense or offenses to evade the legal consequences of his/her actions;

The concealing or disguising the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from an offense or offenses or from an act of participation in such an offense or offenses.

The Financial Action Task Force (FATF) defines the term "money laundering" succinctly as "the processing of...criminal proceeds to disguise their illegal origin" in order to "legitimize" the ill-gotten gains of crime.

Defining Terrorist Financing

Terrorist financing (TF) can be simply defined as financial support, in any form, of terrorism or of those who encourage, plan, or engage in terrorism. The International Convention for the Suppression of the Financing of Terrorism (1999) under the United Nations defines TF in the following manner:

'If any person commits an offense by any means, directly or indirectly, unlawfully and willingly, provides or collects funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out:

- a. An act which constitutes an offence within the scope of and as defined in one of the treaties that is annexed to this convention; or
- b. Any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking any active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing an act

THE OBJECTIVES FOR WHICH THE FOUNDATION WAS ESTABLISHED ARE:

A Trust Foundation incorporated for the objects and purposes of receiving donations, subscriptions and to administer such funds for education, public welfare, research, health, medical and other charitable purposes in MALAYSIA and for the benefit of MALAYSIAN CITIZENS irrespective of race, religion or creed.

The objects of the Foundation shall include without limitation the following objects:-

- A. To foster, develop, promote and or improve the education of deserving persons in any field whatsoever whether primary, secondary or tertiary in such manner as may from time to time be decided upon by the Foundation.
- B. To promote the mental and or material welfare of deserving persons in any manner consistent with the objects of the Foundation.
- C. To provide for and assist any persons who are physically or mentally handicapped or impaired in any manner that the Foundation shall deem fit.
- D. To provide for medical treatment, medicines or otherwise to the needy and suffering.
- E. To assist in the provision of materials and or equipment necessary for the pursuing of any trade or vocation and to provide assist and or establish any manufacturing, handicraft or cultural trade or arts business with a view to enabling such persons to be able to develop skills and to be self reliant and self dependant provided that the Foundation shall not trade or engage in any form of business.
- F. To assist in the promotion of research, development and the furtherance of scientific, technical, industrial, economic, agricultural or environmental fields, cultural, heritage and arts and generally for the advancement and enrichment of mankind.

- G. TO PURCHASE, TAKE ON LEASE OR OTHERWISE ACQUIRE FOR THE PURPOSES OF THE FOUNDATION AND TO HOLD ANY ESTATES, LANDS, BUILDINGS, EASEMENTS OR OTHER INTERESTS IN MOVABLE OR IMMOVABLE PROPERTY WHICH MAY BE DEEMED NECESSARY OR CONVENIENT FOR ANY OF THE PURPOSES OF THE FOUNDATION PROVIDED THAT THE FOUNDATION SHALL NOT ACQUIRE, CHARGE, MORTGAGE OR DISPOSE OF ANY LAND WITHOUT THE CONSENT OF THE MINISTER CHARGED WITH THE RESPONSIBILITY FOR COMPANIES.
- H. TO CONSTRUCT, MAINTAIN AND ALTER ANY HOUSES, BUILDINGS OR WORKS NECESSARY OR CONVENIENT FOR THE PURPOSES OF THE FOUNDATION WITH PRIOR APPROVAL FROM THE DIRECTOR OF INLAND REVENUE BOARD.
- I. To let on lease or on hire the whole or any part of the property of the Foundation on such tenure as the Board shall determine.
- J. To purchase, acquire, hold and sell shares, stocks, debentures, bonds, obligations and securities issued or guaranteed by the Malaysian Government, State Government or public body or authority and such stocks, bonds, shares, securities or other investments of whatever nature as the Trustees shall at their discretion think fit PROVIDED that the Foundation shall not develop or turn into account any interest in such securities for commercial purposes.
- K. TO INVEST IN MALAYSIA OR IN ANY PART OF THE WORLD WITH THE PRIOR CONSENT OF THE MINISTER, THE MONEYS OF THE FOUNDATION NOT IMMEDIATELY REQUIRED IN SUCH MANNER AS FROM TIME TO TIME MAY BE DETERMINED, PROVIDED THAT THE FOUNDATION SHALL NOT INVEST IN OR INCORPORATE ANY SUBSIDIARY COMPANY SAVE WITH CONSENT OF THE MINISTER.
- L. Generally to do all such other lawful things as are incidental or conducive to the attainment of the above objects and the exercise of powers of the Foundation.

PROVIDED that;

- i. THE FOUNDATION SHALL NOT SUPPORT WITH ITS FUNDS ANY POLITICAL ORGANISATION OR SOCIETY OR ENDEAVOUR TO IMPOSE ON OR PROCURE TO BE OBSERVED BY ITS MEMBERS OR OTHERS ANY REGULATIONS, RESTRICTIONS OR CONDITIONS WHICH, IF ANY, OF A TRADE UNION WITHIN THE MEANING OF THE TRADE UNION ORDINANCE.
- ii. THE FOUNDATION SHALL NOT DEVELOP OR TURN INTO ACCOUNT FOR COMMERCIAL PURPOSES AND SHALL NOT TRADE OR ENGAGE IN ANY FORM OF BUSINESS PROVIDED ALWAYS THAT NOTHING HEREIN SHALL DISALLOW THE FOUNDATION FROM ENGAGING IN ANY BUSINESS VENTURE, PROJECTS OR DEVELOPMENT OF LANDS PROVIDED HOWEVER THAT THE FOUNDATION SHALL AT ALL TIMES ENSURE SUCH VENTURES, PROJECTS OR DEVELOPMENT ARE IN LINE WITH THE CHARITABLE OBJECTIVES OF THE FOUNDATION AND SUCH TERMS AND CONDITIONS AS STIPULATED BY THE DIRECTOR GENERAL OF INLAND REVENUE.

- iii. There shall be a Board of Trustees or Directors for the Management of the affairs of the Foundation.

- iv. The income and property of the Foundation where so ever derived shall be applied solely toward the promotion of the objects of the Foundation, and no portion thereof shall be paid or transferred directly or indirectly by way of dividends, bonus or otherwise howsoever by way of profit to the members of the Foundation PROVIDED that nothing herein shall prevent the payment of good faith, of remuneration to any officer or servant of the Foundation in return for any professional services rendered to the Foundation. But no remuneration or the benefit in money's worth shall be given by the Foundation to any member of the Board except repayment of out-of-pocket expenses and further no part of any income or assets of the Foundation shall be paid or distributed in any manner whatsoever to the children, siblings and/or the parents of the members of the Board.

- v. NO PERSON SHALL BE APPOINTED AS TRUSTEE/DIRECTOR OF THE FOUNDATION UNLESS HIS APPOINTMENT HAS BEEN APPROVED BY THE MINISTER.
- vi. THE BOARD AND THE MEMBERS OF THE FOUNDATION SHALL ALWAYS ENSURE THAT THE FOUNDATION OR THE FUND OF THE FOUNDATION IS NOT BEING USED FOR ANY FORM OF POLITICAL ACTIVITY OR FOR UNLAWFUL PURPOSE OR ANY PURPOSE PREJUDICIAL TO OR INCOMPATIBLE WITH PEACE, WELFARE, SECURITY, PUBLIC ORDER, GOOD ORDER OR MORALITY IN MALAYSIA OR FOR ANY PURPOSE PREJUDICIAL TO NATIONAL SECURITY OR PUBLIC INTEREST.
- vii. THE FOUNDATION SHALL APPLY IN THE FOLLOWING YEAR NOT LESS THAN 50% OF ALL INCOME AND DONATIONS RECEIVED OR WHATEVER PERCENTAGE APPROVED BY THE DIRECTOR-GENERAL OF INLAND REVENUE FOR NON-COMMERCIAL PURPOSES AND SOLELY TOWARDS THE PROMOTION OF THE OBJECTS OF THE FOUNDATION.
- viii. The Liability of the members is limited.

- ix. IF UPON THE WINDING UP OR DISSOLUTION OF THE FOUNDATION THERE REMAINS, AFTER THE SATISFACTION OF ALL ITS DEBTS AND LIABILITIES, ANY PROPERTY WHATSOEVER, THE SAME SHALL NOT BE PAID TO OR DISTRIBUTED AMONG THE MEMBERS OF THE FOUNDATION BUT SHALL BE GIVEN OR TRANSFERRED TO SOME OTHER INSTITUTION OR INSTITUTIONS OR ORGANISATION HAVING OBJECTS SIMILAR TO THE OBJECTS OF THE FOUNDATION AND HAVING BEEN APPROVED BY THE DIRECTOR-GENERAL OF INLAND REVENUE.

- ix. TRUE ACCOUNTS SHALL BE KEPT OF THE SUMS OF MONEY RECEIVED AND EXPENDED BY THE FOUNDATION AND THE MANNER IN RESPECT OF WHICH SUCH RECEIPT AND EXPENDITURE TAKES PLACE, AND OF THE PROPERTY, CREDITS AND LIABILITIES OF THE FOUNDATION AND SUBJECT TO ANY REASONABLE RESTRICTIONS AS TO THE TIME AND MANNER OF INSPECTING THE SAME THAT MAY BE IMPOSED IN ACCORDANCE WITH THE REGULATIONS OF THE FOUNDATION FOR THE TIME BEING BE OPEN FOR INSPECTION OF THE MEMBERS. ONCE AT LEAST IN EVERY CALENDAR YEAR THE ACCOUNTS OF THE FOUNDATION SHALL BE EXAMINED AND THE CORRECTNESS OF THE BALANCE SHEET ASCERTAINED BY ONE OR MORE QUALIFIED AUDITOR OR AUDITORS AND THE SAME SHALL BE SUBMITTED TO THE DIRECTOR-GENERAL OF INLAND REVENUE ANNUALLY.

FOCUS ACTIVITIES – PENYAYANG

1. NURTURING PRODUCTIVE & RESPONSIBLE CITIZENS

“WHOLESOME FAMILIES PULSE OF THE NATION”/KELUARGA BAHAGIA NADI KESEJATERAAN NEGARA”

- A nationwide tour in collaboration with state governments and the Ministry of Women, Family and Community Development.
- Carnivals, Seminars (Meeting of Minds), Workshops



2. EDUCATION

- Tadika Tuttur
- Seminar & Workshops – Rural and Urban Poor constituencies
- Education & career fairs
- Free Tuition Classes



3.HEALTH

- Provision of Chemoports
- Positive Image Putrajaya Hospital
- Institute Kanser Negara – Positive Image Cancer Support (PICS)
- Sahabat IKN – volunteer corp
- Lymphedema Training Courses



4. VOLUNTEERISM

- Sahabat Penyayang – BudiPenyayang programs for Hari Raya, Chinese New Year, Deepavali and Christmas
- Kelab Penyayang – 22 Universities (Kelab Penyayang Summit/Piala Sukarelawan Menteri Pendidikan)



5. CULTURE & HERITAGE

- The Revival of the Nyonya Kebaya
- Symposium
- Showcase
- Travel Exhibition (Malaysia, Singapore, Australia)
- The Promotion of the Batik Industry
- Malaysia Batik Crafted For the World Movement
- Piala Seri Endon
- Kuala Lumpur International Batik Convention & Exhibition
- Batik Fun Walk
- Galeri Seri Endon
- KL Performing Arts Centre (KLPAC)



6. Pusat Budi Penyayang

- Sinar warga – activities for local residents (Health, Skills Building)
- Sinar Budiman – Educational Programs for Teachers & Students



SOURCES OF FUNDING

1. Corporate Donations
2. Individual Donations
3. Government Project Funding
4. Members Annual fees
5. Rental from Property
6. Batik Outlet/Positive Image
7. Pusat Budi Penyayang (Community centre)
8. Sale of Books/Magazines
9. Profit Bearing Accounts (Fixed deposits) – Islamic

MECHANISM FOR RECEIVING FUNDS

1. Deposits Direct Through Bank Account (bank informs Penyayang immediately if there is any deposits)
2. Cheques received by hand/post/events (Only by the CEO)

INTERNAL CHECK AND BALANCE (INTERNAL POLICY)

1. All donations from any individual/corporate house will be investigated for origins

- Penyayang does not accept money from;
 - a. Tobacco companies
 - b. Proceeds from gambling
 - c. Anonymous Donors
 - d. Overseas Funding

2. Research & Development Department

- This department within Penyayang is tasked with investigating funding sources which are considered peculiar and not recognizable
- the department will provide information to the CEO's Office which will then decide if a meeting is required with the donor before accepting

3. Board of Trustees

- The Board of Trustees is made up of eminent personalities from the corporate sector, the Board is independent of the Management and is considered a second layer of check and balance.

4. Minister's Consent

- The Foundation is bound by the policies set by the Minister of Domestic Trade, Co-operatives and Consumerism.
- The Foundation has to seek and obtain permission from the Minister before it purchases or sells any properties
- The Foundation also has to get the Minister's permission before it decides to embark on any trade activity.