

Approach under the Anti-Money Laundering and Anti-Terrorism Financing Act 2001 (AMLATFA)

Financial Intelligence and Enforcement Department
Bank Negara Malaysia
8 January 2014

Scope

- **Background**

- **Overview of the AML/CFT Regime in Malaysia**

- **Mutual Evaluation of Malaysia 2014**

What is Money Laundering and Terrorism Financing (ML/TF) ?

- 1 Engages, directly/ indirectly, in transactions involve proceeds of unlawful activities
- 2 Acquires, receives, disguise, transfers, converts (..etc) proceeds of unlawful activities
- 3 Conceals, disguise or impedes the establishment of the true nature, origin, location, movement (...etc) with respect to, or ownership of proceeds of unlawful activities



Sec.3 AMLATFA 2001



“Process of financing terrorist activity either through **legitimate** or **illegitimate** source.”



Money Laundering Process - Giving legitimate appearance to 'dirty' money to distance from origin...

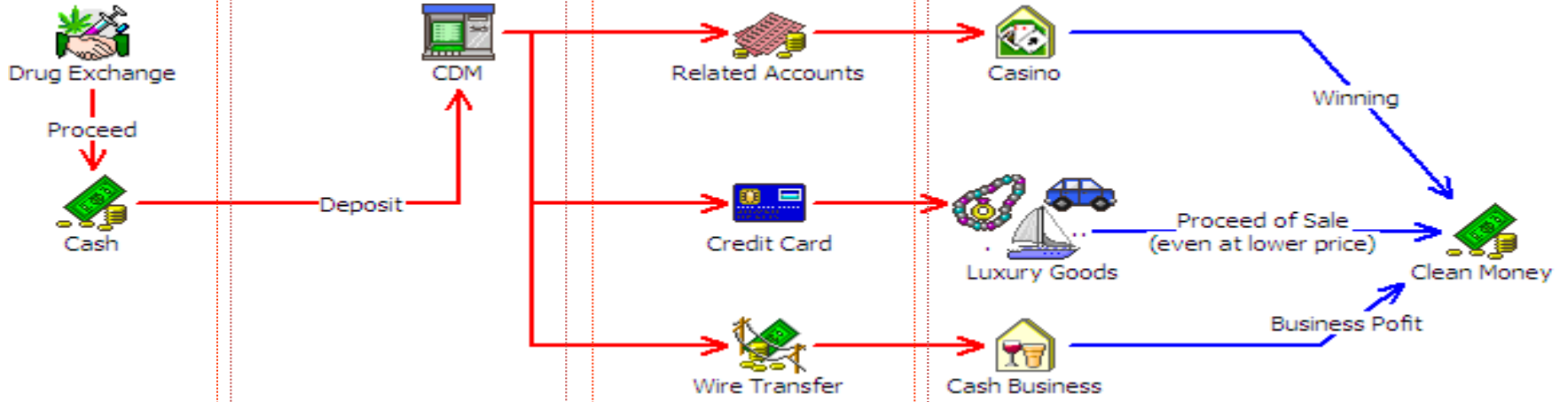
Serious Offences

Laundering of Illegal Proceeds Activities

Placement
to distant sources
from illegal
activities

Layering
making it difficult
to trace origin of
funds

Integration
to give legitimate appearance to illegal
proceeds



• FATF outlines 20 categories of predicate offences related to money laundering activities

Examples:

- Smurfing or structuring
- Setting up cash businesses

Examples:

- Insurance, Investment
- Wire transfer
- Sale of assets
- Trade based

Examples:

- Repatriate money as business income
- Providing business loans

International Efforts to Combat ML/TF

UN Conventions & Resolutions

The Vienna Convention

The Palermo Convention

International Convention for the Suppression of the Financing of Terrorism

Security Council Resolution 1373

Security Council Resolution 1267 and its Successors

Implementing Groups for AML/CFT

Financial Action Task Force (FATF)

- International standard setter for AML/CFT
- Conduct Mutual Evaluation

Asia/Pacific Group on Money Laundering (APG)

- **Conduct Mutual Evaluation of Member Countries**
- Typology Research
- Technical Assistance

Egmont Group of FIU

- International cooperation
- Exchange of financial intelligence, best practices

Other International Bodies

eg. BASEL, IOSCO, IAIS

Malaysia became a member of APG in 2000 and will be undergoing the Mutual Evaluation Exercise (MEE) in 2014. The MEE is aimed at assessing Malaysia's compliance with the FATF Standards of Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT)

Standards by themselves are useless ...

... without effective enforcement



FATF Recommendations are enforced through:

- Mutual Evaluation Exercise (MEE)
- International Cooperation Review Group (ICRG)
- FATF Public Statements

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Overview of AML/CFT Regime in Malaysia

Key Legislation

Anti-Money Laundering and Anti-Terrorist Financing Act (AMLATFA) 2001

Number of Predicate Offences under AMLATFA

288 drawn from 42 legislations

Competent Authority

Bank Negara Malaysia (appointment by Minister of Finance)

Law Enforcement Agencies (LEAs)

1. PDRM
2. Jabatan Kastam Diraja Malaysia
3. SPRM
4. LHDN
5. BNM
6. SC
7. LFSA
8. KPDNKK
9. SSM
10. MITI

Overview of AML/CFT Regime in Malaysia

The Anti-Money Laundering and Anti-Terrorism Financing Act 2001 (AMLATFA)

- Came into force on 15 January 2002 (amended in 2003)*
- Criminalises money laundering and terrorism financing.
- Number of reporting institutions:
 - More than 38,000 entities.
 - Includes financial institutions and designated non-financial business and professions (DNFBPs) sector such as lawyers, accountants, casino and dealers in precious metals and stones
 - Subject to the relevant AML/CFT Policies/Guidelines issued by the supervisory authorities (BNM, Securities Commission and Labuan FSA)

* AMLATFA will be amended this year to ensure compliance with requirements of international standards

Bank Negara Malaysia as Competent Authority under AMLATFA

- Mandated to receive from reporting institutions and analyse:
 - suspicious transaction reports (STR)
 - cash transaction reports (CTR)
- Disseminate financial intelligence to law enforcement agencies and foreign financial intelligence units (FIUs).
- Review and develop AML/CFT policies governing the reporting institutions.
- Acts as Secretariat to the National Coordination Committee to Counter Money Laundering (NCC)

AML/CFT Initiatives are Coordinated via the NCC

National Coordinating Committee to Counter Money Laundering (NCC)

Agencies under the NCC

Supervisory/Regulatory

- Bank Negara Malaysia (FIU)
- Companies Commission of Malaysia
- Labuan Financial Services Authority
- Registrar of Societies
- Securities Commission

Enforcement

- Inland Revenue Board
- Immigration Department of Malaysia
- Malaysia Anti-Corruption Commission
- Royal Malaysian Customs
- Royal Malaysia Police

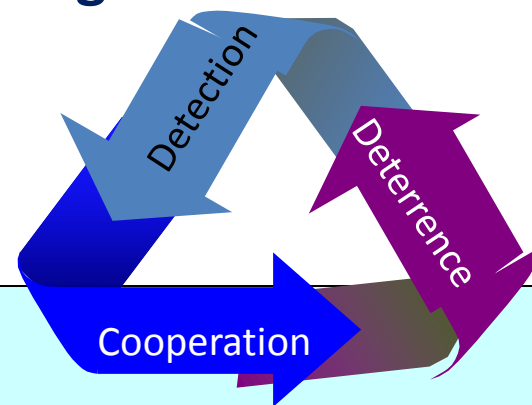
Policy

- Ministry of Finance
- Ministry of Foreign Affairs
- Home Ministry
- Ministry of Domestic Trade Cooperatives and Consumerism
- Attorney-General's Chambers
- Ministry of International Trade and Industry

Objectives:

- ✓ **Develop national policy measures to counter money laundering / terrorist financing (ML/TF)**
- ✓ **Develop and ensure proper implementation of measures to counter ML/TF based on internationally accepted standards**

AML/CFT Measures - 'Double-layer protection' through detection and deterrence frameworks...



Effective preventive measures

- AML/CFT reporting & compliance programme
- Customer due diligence
- Red flag on suspicious and high risk transactions
- Record keeping

Effective
Preventive measures

ML/TF Risks
and Threats

Comprehensive legal &
enforcement framework

Comprehensive legal & enforcement framework

- Criminalisation of ML/TF
- Fully functional FIU - receive, analyse, disseminate STR/CTR
- Adequate investigation powers
- Freezing, seizure & forfeiture of properties

Domestic & International Cooperation as Fundamental

AML/CFT Measures- ML/TF detection & deterrence - financial institutions (FIs) are the main gatekeepers...

FIs - Detection



Reasons:

- Huge volume and amount of transaction from various locations
- Inconsistent with their age (20-30years old)
- Reported to be working with one company

FIU - Analysis



Findings:

- Suspected to be involved in illegal activities
- Camouflage the illegal activities with legal business (computer)

LEA - Investigation



- ✓ Surveillance
- ✓ Investigation



Findings:

- Confirmed the involvement in illegal gambling, gangsterism and illegal money lending
- Using the account of its employee to avoid detection

...close relationship between FIs, FIU and LEAs successfully unveiled the illegal activities

Breakdown of Predicate Offences by the LEAs

No	LEAs	Legislations	No. Of Predicate Offence under AMLATFA
1	PDRM	Penal Code	119
		Anti-Trafficking in Persons Act	24
		Betting Act	2
		Kidnapping Act	3
		Internal Security Act	2
		Dangerous Drugs Act	6
		Dangerous Drugs (Forfeiture of Property) Act	3
		Firearms (Increased Penalties) Act	1
		Explosive Act	5
		Common Gaming Houses Act	2
		Corrosive and Explosive Substances and Offensive Weapons Act	1
		Moneylenders Act	1
		Pawnbrokers Act 1972	1
		Malaysian Timber Industry Board (Incorporation) Act 1973	1
2	JKDM	Customs Act 1967	3
3	SPRM	Malaysia Anti-Corruption Commission Act	10
4	LHDN	Income Tax Act	3
5	MITI	Strategic Trade Act 2010	13
6	SSM	Companies Act	11
		Kooto Funds (Prohibition) Act	1

Breakdown of Predicate Offences by the LEAs

No	LEAs	Legislations	No. Of Predicate Offence under AMLATFA
7	BNM	Banking and Financial Institutions Act	7
		Development Financial Institutions Act	3
		Insurance Act	5
		Exchange Control Act	4
		Islamic Banking Act	2
		Money Changing Act	2
		Payment Systems Act	2
		Takaful Act	5
	AMLATFA	1	
8	SC	Futures Industry Act	11
		Securities Commission Act	2
		Securities Industry Act	11
9	LFSA	Labuan Offshore Securities Industries Act	3
		Offshore Banking Act	3
		Offshore Insurance Act	1
		Labuan Trust Companies Act	1
10	KPDNK	Copyright Act	1
		Optical Disc Act	2
		Trade Description Act	1
		Direct Sales and Anti-Pyramid Scheme Act 1993	2
		Control of supplies Act 1961 and Control of Supplies Regulations 1974	3

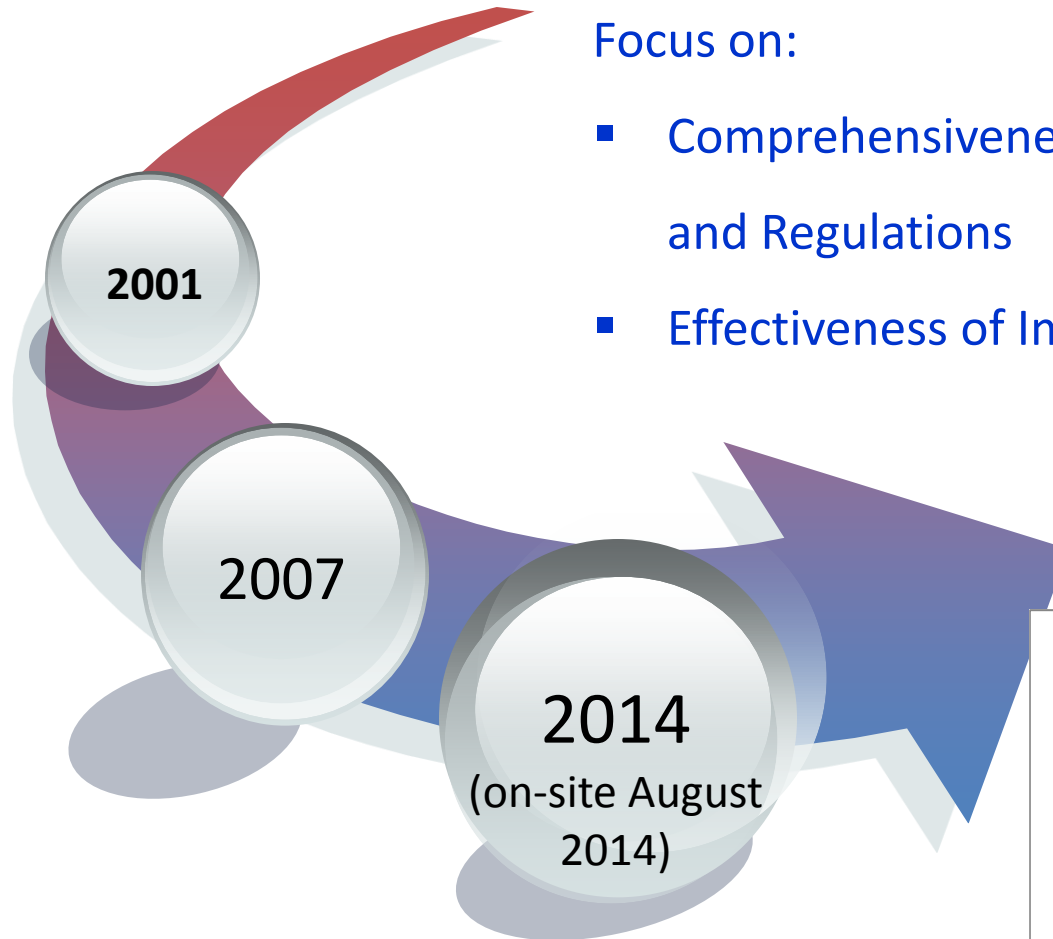
Reporting Institutions under the AMLATFA

2002	Commercial banks, Investment banks, Islamic banks, Insurers, Insurance brokers, Takaful operators, Offshore banks, Offshore insurers, Offshore trust companies, Money changers
2003	Pilgrims Fund Board, Pos Malaysia Berhad, Bank Simpanan Nasional, Bank Kerjasama Rakyat Malaysia Berhad, Licensed casino
2004	Stockbrokers, Futures brokers, Accountants, Lawyers, Company secretaries
2005	Licensed gaming outlets, Notaries public, Bank Pertanian Malaysia, Offshore listing sponsors, Offshore trading agents
2006	Trust companies, Real estate agents, Moneylenders, Pawnbrokers, Non-bank designated payment instrument issuers, Unit trust management companies, fund managers, future fund managers, Non-bank remittance operators, Malaysia Building Society Berhad
2007	Moneylenders in Sabah, Sarawak and Labuan, Sabah Credit Corporation, Borneo Housing Mortgage Finance Berhad, Leasing and factoring businesses, Electronic money issuers, SME Bank, Dealers in precious metals or precious stones, Insurance financial advisers
2009	Bank Pembangunan Malaysia Berhad, Export-Import Bank of Malaysia Berhad
2010	Licensed wholesale money changing operators

Scope

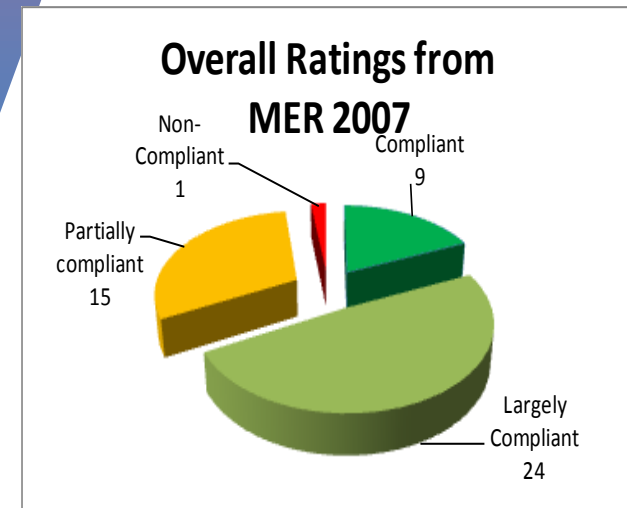
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Malaysia will be among the first country to be assessed under the new FATF methodology based on the Revised FATF Standards.

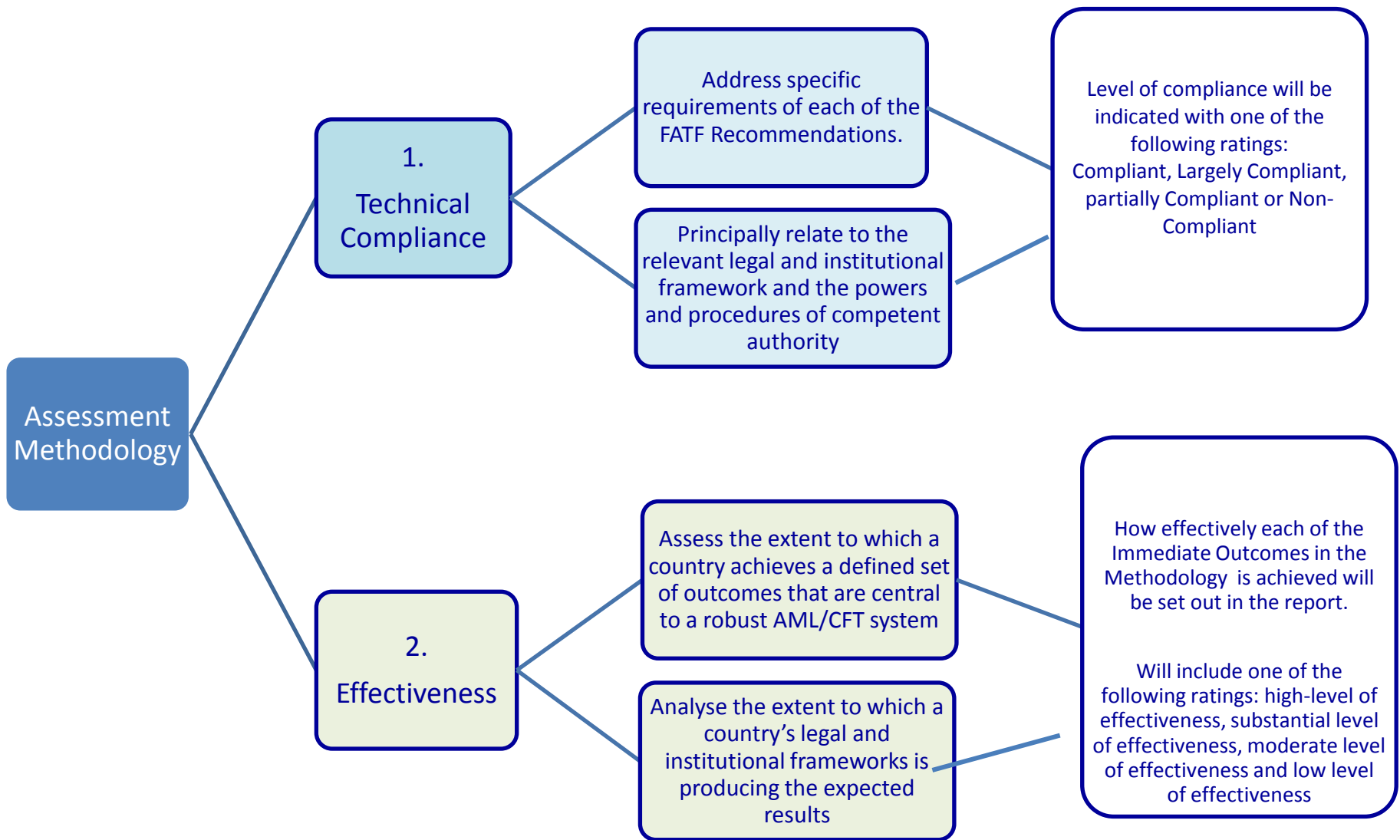


Focus on:

- Comprehensiveness of AML/CFT Laws and Regulations
- Effectiveness of Implementation

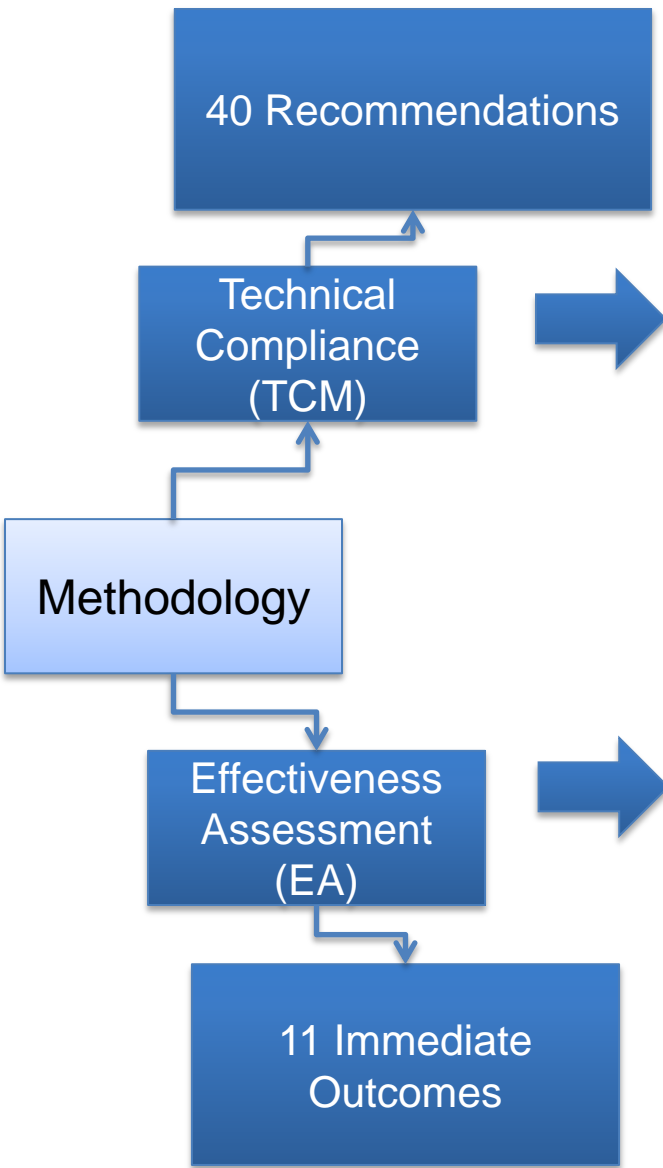


MEE 2014 will be more onerous - Assessment will be based on the two inter-linked components under the New Methodology



The Methodology for 2014 Mutual Evaluation

Focus: law, enforceable means and institutional framework



Technical compliance ratings

Compliant	C	There are no shortcomings.
Largely compliant	LC	There are only minor shortcomings.
Partially compliant	PC	There are moderate shortcomings
Non-Compliant	NC	There are major shortcomings
Not applicable	NA	A requirement does not apply, due to the structural, legal or institutional features of a country.

When deciding on the level of shortcomings for any Recommendation, assessors should consider, having regard to **the country context, the number and the relative importance** of the criteria met or not met.

Effectiveness ratings

High level of effectiveness	The Immediate Outcome is achieved to a very large extent. Minor improvements needed.
Substantial level of effectiveness	The Immediate Outcome is achieved to a large extent. Moderate improvements needed
Moderate level of effectiveness	The Immediate Outcome is achieved to some extent. Major improvements needed.
Low level of effectiveness	The Immediate Outcome is not achieved or achieved to a negligible extent. Fundamental improvements needed.

Focus: implementation and desired outcomes

Way forward...

Ensuring effectiveness of AMLCFT measures is difficult, but necessary. Above all, it requires good understanding, seamless coordination & concerted effort of all stakeholders at both domestic and international levels...

“The effectiveness of money laundering offences as a legal tool would be enhanced with an increase in the maximum term of imprisonment available under the AMLATFA, and with a more speedy resolution of the matters once charged.”

“It is recommended that Malaysia... take steps to ensure the speedy resolution of money laundering prosecutions.”

APG Mutual Evaluation Report on Malaysia 2007