Anti-Money Laundering Laws: Enhancing the Agility of the Enforcement Authority in Malaysia

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Abstract

Money laundering may be defined as the process of cleaning 'dirty money' derived from criminal activities so that it appears to have originated from legitimate sources. It helps distance criminals from the proceeds of the underlying crimes so that they can enjoy their ill-gotten gains without fear of prosecution and confiscation. As such, money laundering not only encourages crime, but if left unchecked, it can also pose devastating political, social and economic consequences for any countries. The underlying rationale behind anti-money laundering (AML) laws is that if money laundering is criminalized and criminal proceeds are confiscated, crime will no longer pay and there will be less motivation for criminals to commit crimes. In fulfilling its international obligations and commitment in the war on money laundering, Malaysia passed Anti Money Laundering and Anti-Terrorism Financing Act (AMLATFA) in 2001. AMLATFA is implemented by multi-law enforcement authorities led by Bank Negara Malaysia. AMLATFA also provides more powerful and innovative measures which may facilitate the recovery of illegal proceeds from money laundering and any other serious crimes.This paper will focus on the provisions relating to the investigation of money laundering and measures for the freezing, seizure and forfeiture of criminal proceeds under AMLATFA. It is hoped that this piece of information will provide a better insight for the law enforcement officialson some legal issues that have arisen in implementing the AML laws in Malaysia.Indeed, the AML laws should be allowed to operate effectively and efficiently to bring criminals to justice.

Keywords: Money Laundering, Law Enforcement Authority, Bank Negara Malaysia

Introduction

Money laundering is not a new phenomenon, but has been around for a long time. Throughout the ages, criminals have tried to disguise the true origin of the proceeds of crimes. Money laundering may be defined as a process of cleaning 'dirty money' which is normally derived from criminal activities, so that it appears to have originated from a legitimate source. In Malaysia, money laundering is considered a relatively new form of commercial crime that had just been codified as a criminal offence. It can also be categorized as a form of white collar crime.[1]

[1] *Pendakwa Raya v OngSehSen* [2010] 7 CLJ 220.

The act of conversion and concealment is considered crucial to the laundering process.[2] Effective laundering obscures the original source of the illegal funds and the money can be accessed legitimately and used freely by criminals. It has been pointed out that money laundering activities are a combination of the launderer's imagination, networks of contact and professional expertise.[3] In fact, criminals have been very inventive in finding ways to launder their tainted funds. Modern communication technology and the complexity of the financial systems have greatly assisted the laundering process.

The criminalization of money laundering is considered a new tool in the fight against criminal activities. It is evident that criminal organizations often rely on professional launderers to wash their ill-gotten gains. Therefore, effective investigation and prosecution of the launderers and the confiscation of the funds in the possession of the launderers can have significant impact on the criminal organizations finances.[4] The rationale behind this approach is that it would not only reduce the ability of criminal organizations to finance further criminal operations but also lead to the successful prosecution of the perpetrators.

Recently,many countries have implemented AML legislation and Malaysia is no exception. Malaysia passed the Anti-Money Laundering and Anti-Terrorism Financing Act (AMLATFA) in 2001. AMLATFA introduces a mechanism for the investigation of money laundering and provides measures for the freezing, seizure and forfeiture of criminal proceeds.AMLATFA is implemented by multi-law enforcem nt authorities led by Bank Negara Malaysia. As at July 2010, 94 money laundering cases are in various stages of prosecution in Malaysia with more than 3000 charges involving proceeds amounting to RM1.2 billion.[5]

It is generally accepted that the law enforcement officials are under increasing pressure to detect and deter money laundering activities. This is due to the secrecy and complexity of its process.As such, this paper will focus on the provisions relating to the investigation of money launderingand measures for the freezing, seizure and forfeiture of criminal proceeds under AMLATFA.Before examining the law, it would be worthwhile to look at the dangers posed by money laundering.

The Dangers Posed by Money Laundering

The International Monetary Fund has estimated that the value of money laundered to be between US$600 million and US$1.5 trillion, which is about two and five percent of the world's GDP. It has been reported that money laundering is the third largest business after petroleum and currency trading.[6] Money laundering is a global problem and in fact, it can pose devastating economic, social

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[2]Rick McDonell, 'Money Laundering Methodologies and International and Regional Counter-Measure.'*Gambling, Technology and Society: Regulatory Challenges for the 21st Century Conference* (Sydney, 7-8 May 1998).

[3]William Gilmore 'International Initiatives', in Parlour, International Guide to Money Laundering Law and Practice (1995) 12.

[4]R E Bell, 'Prosecuting the Money Launderers Who Act for Organized Crime', 8.
Available at http://www.iap.nl.com/journal/paper/article_prosecution.html (14 July 2007)

[5]NorhashimahMohdYasin& Mohamed HadiAbd Hamid, 'Public Interest as the Paramount Consideration in Sentencing for Money Laundering Offences: A Comparative Analysis' (2011) 3 *Shariah Law Report*, xxxiv.

[6] NA, 'Call for banks to report suspicious dealings' *New Straits Times* 7 June 2001.

and political consequences for countries, especially for the developing countries and those countries with fragile financial systems.

Money laundering also compromises the stability, transparency and efficiency of financial systems.[7] The September 11 tragedy, the BCCI collapse in 1991 and the Bank of New York scandal in 1999 have all exposed the dangers posed by money laundering to the banks and financial systems.[8] Banks exposed to money laundering suffer the risk that their reputation and good name could be tarnished. To make matters worse, money laundering increases the prospect of internal fraud and other criminal activities which could result in financial failure.[9]

Apart from endangering financial institutions, money laundering also increases the threat posed by serious crime, by providing funds for reinvestment that allow the criminal enterprise to continue its operations. Undoubtedly, the harm done by money laundering to the economy and the community is the same as that done by the underlying crime itself.[10]

It must also be remembered that money laundering, if left unchecked, could undermine democratic institutions and threaten good governance by promoting public corruption through kickbacks, bribery, illegal campaign contributions, collection of referral fees and misappropriation of corporate taxes and license fees.[11]

Challenges Faced by Law Enforcement Agencies

It is widely recognized that combating money laundering is extremely difficult even for countries with ophisticated anti-money laundering regimes. The main problem is the sophistication of money laundering methodology. Money laundering operations involve a wide range of techniques from the simplest one, such as the currency smuggling to the most sophisticated one. It is often facilitated by professionals such as lawyers, bankers and accountants. Shell companies, shell banks, secrecy laws, offshore jurisdictions, trusts and lawyer-client privilege have all been used to hide the true beneficial owners of the illicit funds.[12] Indeed, the lack of transparency as to ownership is seen as a major obstacle to prosecuting either the launderer or the ultimate owner of the funds.

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[7] Ian Kaminski 'International Banking and Money Laundering' (2004) 23 ANNRBFL 210

[8] P S Russel, 'Money Laundering: A Global Challenge '(2004) *The Journal of AmericanAcademy of Business, Cambridge* 259, 259.

[9] B L Bartlett 'The Negative Effects of Money Laundering on Economic Development' (2002) Platypus Magazine 18.

[10] S M Levy, *Federal Money Laundering Regulation: Banking, Corporate and Securities Compliance* (2003) 71.

[11] W R Schroeder, 'Money Laundering: A Global Threat and the International Community Response.' (2001) 70(5) *FBI Law Enforcement Bulletin,* 1, 1.

[12] For further details see United Nations Office for Drug Control and Crime Prevention, 'Financial Havens, Banking Secrecy and Money Laundering.' 1998 8 UNDCP Technical Series, 60.
Available at http://www.imolin.org/finhaeng.html (14 March 2006)

The modern money launderer makes use of a whole range of international financial systems including wire transfers, private banking, correspondent banking and electronic money. The use of international wire transfers has been discovered to be an efficient method of laundering criminal proceeds.[13] In the Bank of New York scandal for instance, it was reported that about US$7.5 million was laundered through 87 000 electronic transfers into one account.[14] The use of electronic money poses a new challenge for the law enforcement authorities because the anonymity features of electronic money will make the source of illegal funds almost untraceable.[15] This phenomenon certainly poses considerable burdens on the detection and investigation of money laundering.

It has been pointed out that the difficulties in combating money laundering is also directly or indirectly linked to the application of banking secrecy and the lack of multilateral cooperation among international community.[16] To make matters worse, banking secrecy and offshore financial centres provide multiple opportunities for criminals to disguise the ownership of their illicit profits. This is because these centres offer high levels of banking secrecy which prohibits the disclosure of customer's information even to the law enforcement officials.[17] For this reason, there have been various initiatives to tackle this problem. To date, most anti-money laundering laws require the secrecy rule to be lifted for the purposes of information sharing and mutual assistance in money laundering investigation. In fact, this measure has established a new avenue of intelligence which has greatly assisted the detection of the money laundering.

As already noted, money laundering operations often involve cross-border transactions. It involves several countries, many entities and numerous bank accounts. In the light of this, law enforcement authorities require assistance from foreign jurisdictions when obtaining important evidence. However, such assistance depends on the mutual legal assistance treaty with the particular foreign country and such measures are effective only when foreign authorities wish to be cooperative. In reality, mutual legal assistance process is cumbersome and time consuming.

Another barrier to successful prosecution of money laundering is the difficulty for the prosecutor to prove the link between money laundering offence and the specific predicate offence from which the fund is generated. This is because normally criminals will merge proceeds of different crimes in order to make it impossible to differentiate the source of the proceeds.[18] Furthermore, lack of uniformity among the jurisdictions in relation to predicate offences makes the problem more severe. For example, Australia considers tax evasion as a predicate offence, but in Malaysia tax evasion is not a

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[13] J R Richards *Transnational Criminal Organizations, Cybercrime and Money Laundering: A Handbook for Law Enforcement Officers, Auditors and Financial Investigator* (1998) 81.

[14] P S Russel, above n8.

[15] S Philippsohn 'The Dangers of New Technology-Laundering on the Internet' (2001)5(1) *Journal of Money Laundering Control*, 87.

[16] William Gilmore, *Dirty Money: The Evolution of Money Laundering Counter-Measures* (1995) 14.

[17] Jack A Blum et al, 'Financial Havens, Banking secrecy and Money Laundering' Issue 8, UN Office for Drug Control and Crime Prevention (UNDCP) Technical Series, 1998.

[18] R. E. Bell, above n4, 2.

predicate offence because it is treated as a civil offence.[19]Therefore, money launderers will continue manipulating the loopholes to stay one step ahead of the law enforcement authorities.

Investigation of money laundering

As mentioned earlier, AMLATFA is implemented by multi-law enforcement agencies led by Bank Negara Malaysia (BNM). AMLATFA has given investigation powers not just to BNM but also to other law enforcement agencies, such as the Police and Anti-Corruption Agency (ACA). In practice, money laundering related to drug offences for instance, may be investigated by the Police whereas money laundering related to corruption may be investigated by the ACA. On the other hand, BNM may investigate money laundering offences relating to the banks and financial institutions.

Given the complex nature of money laundering, an investigating officer is given wide powers and may search, seize and arrest without a warrant.[20] Section 32 of AMLATFA empowers the officer to examine any person in money laundering investigation. Under subsection (4), the person must answer all questions put to him or her by the officer except questions which may incriminate him or her in some way. It is clear that this provision applies the common law privilege against self-incrimination.[21] Any person who fails to cooperate with the investigating officer may be held liable for an offence under subsection (8).

If the investigating officer wants to examine a person currently in a foreign jurisdiction, the officer can request attendance of such person by virtue of section 9 of Mutual Assistance in Criminal Matters Act 2002 (MACMA).[22] It must be noted that the attendance of such person is on a voluntary

[19]NorhashimahMohd. Yassin, Legal Aspects of Money Laundering in Malaysia from the Common Law Perspective (2007) 169.

[20] Anti-Money Laundering and Anti-Terrorism Financing Act 2001, s 31.

[21]Lord Goddard in *Blunt v Park Lane Hotel Ltd.[1942] 2 ICB 253* explained the common law privilege against self-incrimination as follows:

'It is a fundamental principle of the common law that, in civil and criminal cases, a person is not obliged to answer any question or produce any document if the answer or document would have a tendency to expose that person, either directly or indirectly, to a criminal conviction the imposition of a penalty or the forfeiture of an estate.'

[22] Section 9 of MACMA states as follows:

(1) The Attorney General may request the appropriate authority of a foreign State to assist in arranging for the attendance in Malaysia of a person in the foreign State for the purpose of giving any evidence or assistance if he is satisfied that –

(a) there are reasonable grounds to believe that the person is capable of giving such evidence or assistance relevant to a criminal matter involving a serious offence; and

(b) the person consents to travel to Malaysia for the purpose of giving such evidence or assistance.

(2) The Attorney General may make arrangements with the appropriate authority of the foreign State for the purpose of the attendance of that person in Malaysia, his return to the foreign State and other relevant matters.

basis. Therefore, if the person refuses to attend, he or she cannot be compelled to do so under MACMA. Nevertheless, the Attorney General could request the appropriate authority of a foreign state to arrange for the relevant evidence to be obtained and sent to Malaysia under section 8 of MACMA.

Section 8 was discussed in the case of *Tan Sri Eric Chia Eng Hock v Public Prosecutor [2006] 3 CLJ 693*. Here, the appellant was tried in the Sessions Court on a charge of criminal breach of trust. During the trial, the Public Prosecutor (PP) applied for the admission of certain evidence obtained in Hong Kong by a magistrate of Hong Kong pursuant to the Attorney General's request under section 8(1) of the MACMA. Unfortunately, the Session Court rejected the PP's application on the ground that section 33 of the Evidence Act 1950 is applicable to the Hong Kong evidence and that the pre-conditions for admissibility laid down in the section had not been fulfilled. The PP then appealed to the High Court which ordered that the evidence obtained in Hong Kong be admitted as evidence in the trial. The appellant then appealed to the Court of Appeal but it was dismissed.
In the Court of Appeal, Abdul Aziz Mohamad, JCA discussed the application of section 8 of MACMA in the following terms:

> It is clear from the section that its scheme is to enable evidence in the form of testimonies or things to be taken or obtained in a foreign State for the specific purposes of being used as evidence in criminal proceedings in Malaysia...To me it was obvious that the scheme of s 8 of the MACMA is entirely different from the scheme of s 33 of the Evidence Act 1950 and that therefore any requirement for the admission of evidence under s 33 belongs exclusively to the scheme of s 33 and cannot extend so as to be a part of the scheme of s 8.

Here, it appears that the application of MACMA could facilitate investigation of money laundering particularly in obtaining important evidence from foreign jurisdictions. However, in reality, it must be borne in mind that the process is very costly and time consuming. It must be noted that MACMA and AMLATFA are special laws and extra territorial in scope. Therefore, it is critical to ensure that the effectiveness of these laws is not hampered by any legal or technical obstacles.

Freezing, Seizure and Forfeiture of property

Part VI of AMLATFA provides for standardized mechanisms applicable to all law enforcement agencies for freezing, seizure and forfeiture of property suspected to be involved in money laundering activities. One of the most powerful provisions of AMLATFA is the avenue to freeze property by the law enforcement agencies for the purpose of investigation before affecting a seizure. Section 44 provides that the freezing order is valid for 90 days and it will expire unless the person is charged.[23] It has the effect of making it impossible for a person to deal with his property except for the reasons in subsection (3) (b).[24] The person can also be banned from leaving Malaysia.[25]

[23] Anti-Money Laundering and Anti-Terrorism Financing Act 2001, s 44(5).
[24] Disposal of property for the purpose of-

It must be noted that the freezing order under section 44 is not reviewable by the court. In *KhorPeng Chai &Ors v Bank Negara Malaysia &Anor [2011] 1 LNS 216,*MohdZawawiSalleh J noted that the purpose of section 44 is to assist in investigation where there are reasonable grounds to suspect that a money laundering offence has been or is being or is about to be committed.As such, the court will not interfere wlth the enforcement authority as it could jeopardize the investigation process.

The procedure for seizure is provided under sections 45 to 54 of AMLATFA. The procedure of seizure varies depending on whether the property is movable or immovable or whether is in a financial institution or not. Section 45 covers the seizure of movable property. This section, however, is not applicable to any movable property in a financial institution.[26] Section 46 sets out the manner in which the seizure of movable property is to be effected. As a rule, it will be affected by removing the movable property from the possession of the person from whom it is seized and placing it in the custody of such person and at such place as the investigating officer determines.[27] However, if it is not practicable, the property may be left at the premises in which it is seized under the custody of such person.[28]

The power of seizure of movable property in a financial institution is conferred specifically under section 50. This can be considered another innovative tool introduced by AMLATFA. The order is to secure the evidence for the purpose of money laundering prosecution. The seizure order can only be issued by the public prosecutor if it is satisfied that movable property including monetary instruments is the subject matter of money laundering offence. However, the public prosecutor must consult with the relevant supervisory body, such as BNMor Securities Commission. Non-compliance with the order is an offence and subject to the penalty prescribed by AMLATFA.[29] Section 50(2) gives the business entities, its employees and agent's immunity against any criminal or civil proceedings as a result of complying with the seizure order.

It is important to note that the seizure order under section 50(1) is also not reviewable by the court. In *City Growth SdnBhd&Anorv. The Government of Malaysia*[2005] 7 CLJ 422, the applicants applied an order to quash the order made by the Deputy Public Prosecutor against their bank accounts. The order made in pursuant to section 50(1) of AMLATFA. The issue here is whether such order is reviewable by way of judicial review. The court refused the application and held that the deputy public prosecutor was performing his duty under section 50(1) of the Act and therefore could not be accountable by way of judicial review.

(i)determining any disputes as to the ownership of the property;
(ii) its proper administration during the period of the order;
(iii) the payment of debts due to creditors prior to the order;
(iv) the payment of money to the person or his family;
(v) the payment of the costs in criminal proceedings.

[25] Anti-Money Laundering and Anti-Terrorism Financing Act 2001, s 44(4).
[26] Anti-Money Laundering and Anti-Terrorism Financing Act 2001, s 45(4).
[27] Anti-Money Laundering and Anti-Terrorism Financing Act 2001, s 46(1).
[28] Anti-Money Laundering and Anti-Terrorism Financing Act 2001, s 46(2).
[29] Anti-Money Laundering and Anti-Terrorism Financing Act 2001, s 50(3).

Raus Sharif J, at p.424 noted:

> Looking at the order of the Deputy Public Prosecutor as well as the provision of s.50(1) of AMLA, I am of the view that the order of the Deputy Public Prosecutor is not reviewable under O.53 of the [Rules of High Court]. To me, s.50 (1) of AMLA is part and parcel of the investigation process into an offence under s.4 (1) of AMLA. It appears that in order to facilitate the investigation into the offence of money laundering, the law has provided with the Public Prosecutor the power to assist the investigating officer. Clearly, s.50(1) of AMLA was enacted to enable the Public Prosecutor or his Deputy to make an order of seizure of movable properties in the possession of the financial institutions by ordering the financial institutions not to part, deal in, or otherwise dispose of such property or any part of it until the order is revoked or varied. Thus, by issuing the said orders the Deputy Public Prosecutor was merely exercising a function under AMLA.

The seizure of immovable property is provided under section 51. In this matter, the provisions of the land law are also applicable. Section 52 specifically deals with seizure of a business related to the person against whom prosecution for an offence under the AMLATFA is intended to be commenced, or a business in which a relative or an associate of such person is involved. It must be noted that the enforcement agency is empowered to seize the business as well as to make certain orders in relation to the activities carried on by the business, its accounts, its profits, directors, officers and employees of the business.[30]

Section 52, for instance, was used by the police to seize the finance of Invent QjayaSdnBhd in February 2005. The order was issued following reports of fraud involving RM50 million. The administrator was appointed to supervise, direct and control the company's business. However, in December 2005, the seizure order has been revoked and the company's business had been handed over to its directors and executive officers.[31] It appears that this provision may place significant burden on the business subjected to the order. The business for instance, may be directed to receivership and therefore could suffer tremendous damage as the result of the order. However, no action can be taken against the enforcement agency because section 77 of AMLATFA gives them immunity. In addition to this, section 57 does not allow the validity of the freeze or seizure order to be challenged.

Sections 55 and 56 of AMLATFA deal with forfeiture of property. Section 55 states that forfeiture order can only be issued against property that are proved to be the subject matter or have been used in the commission of money laundering offence. The court will issue a forfeiture order if the offence is proved against the accused or if the offence is not proved against the accused, the court must satisfied that the accused is not the true or lawful owner of such property and that no other person is entitled to the property as a purchaser in good faith for valuable consideration.[32]

It is interesting to note that in determining whether the property is the subject matter of money laundering offence, or whether the property has been used in the commission of such offence,

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[30] Anti-Money Laundering and Anti-Terrorism Financing Act 2001, s 52(1).
[31] M Mageswari 'Police revoke seizure order issued against InventQjaya' *The Star* January 10, 2006.
[32] Anti-Money Laundering and Anti-Terrorism Financing Act 2001, s 55(1).

section 55(3) allows the court to apply the civil standard of 'balance of probabilities'.[33] This is because the normal criminal standard of proof which is beyond reasonable doubt is extremely difficult to be met in proving the criminal proceeds. However, standard of proof beyond reasonable doubt must be applied in the conviction of money laundering offence.

Section 56 allows the forfeiture of property if within twelve months of the seizure, there is no prosecution or conviction has been made and the court is satisfied that such property has been obtained as a result of money laundering offence.[34] It appears that this measure demonstrates the shift from a pure conviction based approach to a civil recovery approach which is achieved through proceeding against the property itself and is independent of any criminal charges against the owner of the property.[35] It is submitted that this approach has the potential to be extremely effective particularly in the following circumstances where:[36]

(i) the property owner may have died;

(ii) there has been an acquittal in criminal proceedings;

(iii) there has been a criminal conviction but the confiscation hearing has failed;

(iv) the defendant is not within the jurisdiction;

(v) the name of the property owner is unknown; or

(vi) there is insufficient evidence to prosecute for a criminal offence.

Therefore, this measure is welcome because it can be utilized by the law enforcement authorities to recover the criminal proceeds even though the criminals cannot be prosecuted for money laundering offence because such offence is difficult to prove. Again, in determining whether or not the property has been obtained as a result of or in connection with money laundering offence, the court may apply the civil standard of balance of probabilities.[37]

It appears that in confiscating criminal proceeds under AMLATFA, the court may transfer the burden of proof to the defendant to rebut the assumption that the property is derived from criminal activities. In fact, reversal onus of proof provisions is expressly encouraged by Article 12(7) of the UN Convention against Transnational Organized Crime and Article 5(7) of the Vienna Convention 1988. The justification for reversing the burden of proof is that information regarding the origin of the money is within the defendant's knowledge and to impose on the prosecution the burden of proving

[33] See also Anti-Money Laundering and Anti-Terrorism Financing Act 2001, s 70.
[34] Anti-Money Laundering and Anti-Terrorism Financing Act 2001, s 56(1).
[35] John L Evans, 'International Money Laundering: Enforcement Challenges and Opportunities' (1996) 3(1) *Southwestern Journal of Law and Trade in the Americas*, 1, 3.
[36] Anthony Kennedy, 'An Evaluation of the Recovery of Criminal Proceeds in the United Kingdom' (2007) 10(1) *Journal of Money Laundering Control*, 33, 37.
[37] Anti-Money Laundering and Anti-Terrorism Financing Act 2001, s 56(4).

its illegitimate origin would be too burdensome.[38] Also, it has been argued that without reversing the burden of proof, forfeiture laws would become ineffective.[39]

It must be noted that both forfeiture provisions under sections 55 and 56 are subject to notice being given to the third parties so that bona fide third parties that have an interest in the property can make their claim in court under section 61. However, the onus is on the claimant to prove that:[40]

(a) The claimant has a legitimate interest in the property;

(b) No participation, collusion or involvement with respect to the money laundering can be imputed to the claimant;

(c) The claimant lacked knowledge and was not intentionally ignorant of the illegal use of the property, or if he had knowledge, did not freely consent to its illegal use;

(d) The claimant did not acquire any right in the property from the suspect; and

(e) The claimant did all that could reasonably be expected to prevent the illegal use of the property.

Furthermore, for the recovery of proceeds of crime which have been disposed of or cannot be traced, section 59 of AMLATFA empowers the law enforcement agency to apply pecuniary order where the court, upon conviction, can order the accused to pay as penalty, an equal amount to the value of the gross benefits derived from the proceeds of crime.

Conclusion

Criminals resort to money laundering to conceal the proceeds of their criminal activities so that they can enjoy the profits of their crimes and reinvest them in future criminal operations. It is evident that money laundering can have devastating impacts on the social, economy and political of a country. Therefore, most countries including Malaysia have established measures to combat the menace.

AMLATFA was enacted with the aims to criminalize money launderingas well as to remove the profits out of crimes through confiscation. The legislation provides innovative tools for the law enforcement officials to follow the money trail which it is hoped will eventually lead to those who committed the predicate crimes. It also provides authorities with the powers to confiscate the proceeds of crime and thereby prevent the reinvestment of the proceeds in future criminal activities. This is seen as a new law enforcement strategy to combat crimes and it is believed that

[38] R. E. Bell, above n4, 5.

[39] Anthony Smellie, 'Prosecutorial Challenges in Freezing and Forfeiting Proceeds of Transnational Crime and the Use of International Asset Sharing to Promote International Cooperation.' (2007) 8(2) *Journal of Money Laundering Control*, 104, 107.

[40] Anti-Money Laundering and Anti-Terrorism Financing Act 2001, s 61(4).

this approach is more effective than the traditional approach which only punished the individual criminal but failed to diminish the criminal operations.

Ultimately, the innovative tools under AMLATFA are futile if the law enforcement officials do not have sufficient knowledge and skills in this area of concern. For this reason, effective training is imperative for the law enforcement officials to assist them in developing important evidence to support successful money laundering prosecutions and significant confiscation order against the proceeds of crimes in Malaysia.Combating money laundering is very difficult and challenging, but it is not impossible with the formulation of a comprehensive strategy by the law enforcement authorities.