UNIVERSITI TEKNOLOGI MARA

ANTI-MONEY LAUNDERING COMPLIANCE AMONG TRUST AND COMPANY SERVICE PROVIDERS (TCSPS) IN MALAYSIA: A QUALITATIVE STUDY OF DUTIES, CHALLENGES AND COMPLIANCE BEHAVIOUR

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CONFIRMATION BY PANEL OF EXAMINERS

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ABSTRACT

Money laundering poses a significant threat to the global financial system and non-financial system, which require robust regulatory frameworks and compliance measures to combat illicit financial activities. Both financial institution and non-financial institution are acting as reporting institution under The Anti-Money Laundering, Anti-Terrorist Financing and Proceeds of Unlawful Activities Act of 2001 (AMLA). Among the obligation of reporting institutions under AMLA includes customer due diligence (CDD), record keeping measures, reporting of suspicious transaction (STR) and compliance programs. The current trend of money laundering is through non-financial institutions such as Trust and Company Service Providers (TCSPs), secretarial firms and legal firms. The purpose of this study is to analyse on the compliance duties of TCSPs in Anti-Money Laundering (AML) laws and policy, the challenges faced by them in implementing the duties and the compliance behaviour among the TCSPs. By using a qualitative study, a total number of 15 informants were interviewed using in depth interview and the main informants of this study are company secretary from the secretarial firms, accounting firms and legal firms who have a practising certificates granted by Companies Commission of Malaysia (SSM) in Klang Valley area. The data obtained was triangulated with the information received from Central Bank of Malaysia, Companies Commission of Malaysia (SSM) and from the secondary data. Based on the data collected, the study revealed that most of the company secretaries from the secretarial firms, accounting firms and legal firms are still not complying with the AML duties such as customer due diligence whereby the firms are unable to conduct verification on the data received from clients due to lack of technology use. Besides that, in term of the duty of reporting suspicious transaction report (STR), all the informant had never submitted any report against their clients on the suspicious report to Bank Negara Malaysia although a red flag have been raised against their clients. This is due to lack of awareness of performing the duties of AML. Other than that, in term of record keeping duties, it is found that all the informants did not keep record on the changing clients and no specific training were provided to the staff for AML training. Furthermore, all the informants faced a challenges in implementing the AML duties such as lack of resources in implementing the technology, verification of data, dual roles practiced by the informants, and the cost of compliance. This study provides new insight into the compliance of AML duties by the TCSPs, challenges faced by them in complying with AML law and the compliance behaviour among TCSPs. Thus, it is recommended that future study to focus on the other reporting institutions compliance duties under AML law.

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Abbreviations

AML	Anti-Money Laundering
BNM	Bank Negara Malaysia
CFT	Countering the Financing of Terrorism
SSM	Companies Commission of Malaysia (SSM)
CDD	Customer Due Diligence
DCR	Data and Compliance Report
DNFBPs	Designated Non-Financial Business and Professions
FATF	Financial Action Task Force
FIU	Financial Intelligent Unit
FIED	Financial Intelligence Enforcement Department
ML	Money Laundering
POCA	Prevention of Crime Act 1959 (POCA) and the Proceeds of Crime Act
STR	Suspicious Transaction Report
TCSPs	Trust Company and Service Providers

CHAPTER 1
INTRODUCTION

1.1 Introduction

This chapter focuses on the introduction of the money laundering and compliance of Trust and Company Service Providers (TCSPs) to Anti-Money Laundering (AML) Laws and Policies in Malaysia. Section 1.2 discusses on the background of the study, Section 1.3 explains the problem statement, and Section 1.4 states the research questions. Section 1.5, on the other hand, states the research objectives, and Section 1.6 explains on the information regarding the scope of the study. In addition, Section 1.7 explains the study's significance, Section 1.8 discusses on the definition of the terms and concept use for this study and Section 1.9 discusses on the organisation of the thesis for the study. The last section 1.10 discussed and conclude the Chapter 1 of this study

1.2 Background of the Study

According to Malaysia's National Risk Assessment (NRA 2023), published by Bank Negara Malaysia, disclosed that the issues of fraud, corruption, illicit drug trafficking, organised crime, and smuggling are the most prevalent crimes that pose a high money laundering risk. Among the sectors that are considered as high risk sectors being abused and show a high risk of crimes are banks, lawyers, company secretaries and dealers in precious metal or precious stones. The Basel Anti-Money Laundering (AML) Index 2024, ranked Malaysia 67th out of 203 countries with a score of 5.5. This score indicate Malaysia to take an immediate attention and action to address the issue of money laundering in the country. The issue of money laundering has become an area of concern for the policy makers and academic researcher due to its overwhelming effects on economies regardless of size and income status (Nazar et al., 2024). Traditionally, money laundering is done using financial institutions, including banks, money service businesses, and other entities offering financial services, which are susceptible to money laundering due to the flow of funds and their ability to facilitate transactions (Adilah et al, 2023). The criminals has shifted to non-financial institutions to launder money laundering in order to create more complex structure and to hide from the authority. This can be seen whereby, the criminal masterminds in hiring a talented and creative lawyers, accountants, and other specialists to cover their tracks (Ahmad Tarmizi et al., 2022).

Similarly, it is reported by (NRA 2023), the professional enablers such as lawyer and company secretaries are the sector which may facilitate a legal person being abused for crimes. The facilitation of money laundering using company service providers or professional services such as lawyers and company secretaries are alarming. This can be seen whereby the corporate vehicles play a crucial and legitimate economic role. In certain circumstances, the professional enablers may be abused for illicit purposes by criminals, as they provide an attractive means of concealing and converting the proceeds of crime prior to their introduction into the financial system. These sectors are being abused through the facilitation of placement, layering of illicit proceeds and provision of higher-risk professional services (NRA 2020). This is because the sectors are less regulated compared to the financial institutions sectors (FATF, 2012).

Both financial institution and non-financial institution are the reporting institution under Anti Money Laundering (AML) law. Among the duties that reporting institutions must comply are customer due diligence, record keeping, reporting on suspicious transaction reports and compliance programs, which include the internal control, independent audit functions, training programs, appointment of compliance officers within the reporting institutions and also the establishment of policies and procedures to control the money laundering risks as well as the disclosure of beneficial ownerships (FATF, 2019). The reporting institution are responsible to ensure that they are comply with the requirements and duties under the law. Omar et al. (2015) stated that although laws have been enacted to prevent money laundering, the crimes continue to grow due to several variables. It comprises a lack of awareness and comprehension of legal obligations by professionals and the cooperation of professionals, exceptionally professional accountants, in aiding criminals.

Trust and Company Service Providers (TCSPs) play a vital role in company's formation, management and administration of companies as well as the provision of registered offices, directors and nominee shareholders to customers (FATF, 2019). Their professional services are being abuse by the criminals in seeking advice on the corporate information and financial transaction of the company. By recognizing this risk, company secretaries and TCSPs are being regulated under the law which require them to conduct customer due diligence (CDD), maintain records, report of suspicious transactions and implement the compliance programs. The issues arise when the compliance of such duties are questionable although law have been enacted.

TCSPs faced several vulnerabilities in terms of complying with the requirement on suspicious transaction report (STR) whereby they are unable to identify the suspicious activities of their clients, lack of record keeping for changing clients, lack of verification of customer due diligence (CDD) and lack of policies and procedures developed for the purpose of dealing with clients (BNM, 2024). This can be seen whereby the overall implementation of company secretaries or TCSPs duties as reporting institution are still weak and need to improve on the current implementation in order to ensure compliance. It has become usual for money launderers to employ non-financial industries to launder money laundering through professional services, and the "dirty money" is used for lawful purposes.

Although Malaysia practices a comprehensive anti-money laundering (AML) regime, one of the reasons for the low number of prosecutions is the difficulties faced by the investigating officers in gathering sufficient evidence to support the money laundering charges (Mohamed and Ahmad, 2012; Zolkaflil et al., 2019; Zolkaflil et al., 2021). The complexity of money laundering makes it challenging for gatekeepers, particularly in developing countries, to identify and prosecute money launderers. The following sub-section will explain further the issues and challenges TCSPs faced in complying with AML laws and policies in Malaysia.

1.3 Problem Statement

The risk of corruption in Malaysia have been assessed as high due to several high ranking government officers who have been found guilty, charged and under investigation for corruption (FATF, 2025). Malaysia has been ranked among top three countries out of 43 selected nations with highest proportion of billionaires' wealth originated from the crony capitalism and rent-seeking (National Anti-Corruption

Strategy, 2024-2028). This can be seen in high-profile cases of 1 Malaysia Development Berhad (1MDB), a major financial scandal that emerged in Malaysia in 2015. The scandal involved misappropriating funds from the state-owned investment fund 1MDB, established in 2009 by former Prime Minister Najib Razak. The purpose of the establishment was intended to drive economic development projects in Malaysia. The corruption has involved the misappropriation and laundering of billions of dollars from its accounts and gains from bribery and bond pricing, with fraudulent declarations by its officials and others facilitating the corruption.

Frequently, the illicit funds were transferred and laundered outside of Malaysia. According to US prosecutors, over US$6.5 billion (RM27.34 billion) was transferred from 1MDB "through a complex web of opaque transactions and fraudulent shell companies" to fund spending sprees by corrupt officials and their associates (Tan, 2018). Personal and family intermediaries and proxies were employed to make it difficult to trace the eventual destination and use of illegitimate funds. The duties and responsibility of the reporting institution is being questions for not proper in delivering of their services.

The primary events of the highly complex fraud scheme took place over six years, leaving a long money trail that crossed multiple jurisdictional borders and involved numerous shell companies, international banks, investment companies and even Hollywood celebrities (Jones, 2020). The primary method used in the 1MDB case was establishing and using shell companies as a business investment (US DOJ, 2021). Shell companies are incorporated with minimal assets or operations and are often used for legitimate purposes such as tax planning or privacy protection. These funds were then allegedly used for personal gain, political contributions, and to purchase luxury assets. After several hearings and proved, the Former Malaysian prime minister Najib Razak was found guilty and sentenced to 12 years in prison and a 210 million ringgit ($46.84 million) fine after losing his final appeal against a conviction related to the multibillion-dollar 1MDB scandal, one of the world's largest frauds (The Guardian, 2022). From the case, it can be seen that the 1MDB case had impacted our country in terms of political, economic and social due to the seriousness of the cases, as Malaysia has been labelled as a corrupt country due to the world's largest frauds.

The use of shell companies by 1MDB to make investments and as a place to launder money demonstrates the vulnerability of TCSPs being used as vehicles to launder money laundering and obscure the real beneficial ownership and source of fund. TCSPs are involved in a wide range of services for their clients such as providing registered office, providing nominee director services, acting as director and secretary (FATF 2019). Besides that, the Panama Papers report by the International Consortium of Investigative Journalists, released in 2016, emphasized how many users used shell companies for illegal objectives (Harding, 2016; Obermayer et al., 2016). The primary problems occurs among the TCSPs are non-compliance of AML regulations. Among the compliance of TCSPs in AML regulation are customer due diligence (CDD), record keeping, and suspicious transaction report (STR), and compliance programs. TCSPs have a basic understanding of the money laundering risks that they face. This can be seen whereby the understanding of the money laundering risk is more mature in larger entities (FATF, 2025). Despite extensive AML regulation have been enacted by BNM to the reporting institution, there is empirical understanding of how and why TCSPs comply or fail to comply with AML obligations in practice.

Firstly, TCSPs have a limited understanding of money laundering (ML) risks (Nduka & Sechap, 2021). This can be seen whereby there are many risk that the TCSPs need to assess such as sectoral risk, customer risk, products and services risk and the delivery channel risk before enter into business relationship. The understanding of these risks help TCSPs to be alert on the client risk and take a control measures to mitigate money laundering activities. However, there is limited understanding of those risk by TCSPs and during onsite examination, the reporting institution had not met the obligation especially for smaller firms due to lack of expertise and resources (FATF, 2025).

According to Yusoff et al. (2023) stated that the increasing number of money laundering cases in Malaysia is partly driven by the loopholes in the current regulations and a lack of awareness of AML compliance by the relevant reporting institutions in fighting against money laundering. Similarly, according to BNM in Companies Commission of Malaysia (SSM) Conference 2023, the TCSPs need more understanding of money laundering requirements. The limited understanding of the money laundering risk and their obligations as reporting institutions by TCSPs will lead the criminals to use their professional services to establish a company to launder money which indirectly affects the country's economy. Vitvitskiy et al. (2021) concurred with Lester and Roth (2007) that a lack of adequate training for AML personnel contributes to increased criminal activity. Thus, it indicates that professionals need to be trained with high skills and knowledge of AML regarding the risk of the business they deals with.

Secondly, the TCSP have a poor application of customer due diligence (CDD) whereby CDD remains a significant challenge for the various reporting institutions (Nduka & Sechap, 2021). This can be seen whereby the process of CDD involve the process of identification of the client’s information and risks. The process of identification of CDD can be done manually or by using technology. The smaller TCSPs spend a significant time and resources in identification of beneficial ownership information particularly when a complicated corporate structure are involves while for bigger TCSPs, they tend to have more advanced systems and resources to conduct this CDD (FATF, 2025). Most TCSPs have not conducted risk assessments to determine the appropriate CDD measures to manage and mitigate identified ML risks (simplified, normal or enhanced). TCSPs rely on the official identification documents as part of the CDD verification, however, it is revealed that there is non-compliance of the CDD requirements due to incomplete collection on the nine required data points such as occupation type, nature of employment and other deficiencies in collecting the beneficial ownership (BO) information (FATF, 2025).

Similarly, as reported in SSM National Conference 2023, the TCSPs have lapses in monitoring the activities of their clients after establishing the business relationship. In terms of enhanced due diligence, it demonstrates a near-complete lack of lapse. In addition to that, according to BNM findings during onsite examination of TCSPs in SSM National Conference 2024 reveals that all the TCSPs are inadequate of doing verification of third-party services which lead to non-compliance of CDD. Moreover, the use of technology or digital distribution models, including non-face-to-face channels in the CDD data collection process, has hindered the TCSPs from complying with those duties under the law. It makes the criminals easy to use the services to establish a company without having to go through a detailed process during the establishment of the business relationship.

Thirdly, TCSPs have poor compliance with suspicious transaction reporting

(STR) requirements obligations. This can be seen whereby, BNM has revealed that the percentage of submission of STR by TCSPs increases by 1 per cent only. The number of company's secretaries, who have submitted STR, are an average of 11 STRs annually. This shows a serious problem where the TCSPs are unable to understand, detect the risk of their clients, and unaware of the requirements under the law. Besides that, according to BNM onsite examination in SSM National Conference 2024, it is revealed that the TCSPs failed to raise a red flag of their clients' activities which lead to failure to lodge a STR. The reason for this is because they have no clear understanding of the risk of the clients and yet to identified the actual risk of every client that they have.

Other than that, TCSPs fails to submit STR when the red flags are present among their clients (SSM 2024). This is happened when the customers are appeared in media reports related to misconduct, the TCSPs had not conducted an assessment on whether to submit STR or not. They are confused on their roles as reporting institution. As at February 2025, only 1 number of STRs was received from the company secretaries and it show a low number of STRs being raised by them (FATF, 2025). The reason for poor compliance of STR obligation by TCSPs are due to no suspicious transaction activities identified during the business relationship, unable to determine what is suspicious and the TCSPs do not know on how to report on suspicious activity of their clients (BNM, 2024). From the supervisory observations by BNM & SSM (2024), TCSPs show inadequate in implementing the STR mechanism as they do not ensure confidentiality of the issue and the officer do not independent in deciding whether or not to submit STR. This is due to no risk assessment made against their client to determine the risk of the clients.

Lastly, TCSPs have lack of resources and limited expertise in implementing the AML requirements (FATF, 2025). Basically most of the TCSPs are from smaller organisation which have a limited resources and expertise compared to larger entities. This can be seen whereby the large entities tend to developed more AML requirements compared to smaller entities. This is supported by the study of (Nduka & Sechap (2021) which observed that the TCSPs have lack of AML compliance functions and screening procedures to ensure high hiring standards, lack of independent audit function to test the system and rarely provide AML training to their employees and officers. The TCSPs is required to appoint a compliance officer, to ensure their staff are being well trained to identify the AML risks of their clients, to have a separate independent audit function in order to oversee the implementation of the AML requirements in the firms. Therefore, the study aims to determine the AML compliance of AML law by TCSPs with regards to their duties, challenges and compliance behaviour.

1.4 Research Objectives

The research objectives of the study are stated below:

1) To assess the current implementation of TCSPs AML compliance in Malaysia.
2) To identify the challenges faced by TCSPs in complying with anti-money laundering law in Malaysia.
3) To proposed strategies to enhance the TCSPs AML compliance in Malaysia.

1.5 Research Questions

Based on the statement of problems above, the research questions for this study are as follows:

1) What are the current implementation of TCSPs in compliance to AML laws and policy in Malaysia? (including the customer due diligence measures, the record-keeping measures, the reporting of suspicious transactions and finally, the implementation of compliance programmes)
2) What are the challenges faced by TCSPs in complying with AML laws and policy in Malaysia?
3) What strategies can be proposed to enhance Anti Money Laundering (AML) compliance among TCSPs in Malaysia?

1.6 Scope of the Study

This research primarily examines the trust company and service providers'

(TCSPs) which is the company secretary's compliance with the AML laws as reporting institutions. This research was conducted within the sectors of Trust Company Service Providers (TCSPs) especially the company secretaries, with an emphasis on the gazetted activities and services that they provided, such as assisting in the formation of legal entities, acting or arranging another person to serve as a director of a corporation, providing a registered office, business address, partnership, or any other legal person or arrangement and also acting as or arranging for another person to act as a nominee shareholder for another person.

Among the firms covered for the research studies are secretarial, accounting, and legal firms that provided the gazetted activities such as providing registered office services, formation of company, providing nominee services, acting as director and providing consultation services for the company's management. A total number of 17 informants are being interviewed for the purpose of this study. 15 informants are from the secretarial, legal and accounting firms. The informants from these firms must be a person who obtains a practising certificate from the SSM and they are the focus of this research. This can be seen whereby on 15 March 2019, Section 241 of the Companies Act 2016 came into effect which required anyone who is qualified to act as a secretary to register with SSM and obtain a Practicing Certificate before acting as a company secretary. Lawyers and Accountant and who acted as company secretary, have a practicing certificate under SSM and carry out the gazetted activities under the law are the main focus of this research.

Besides that, in order to strengthen the credibility of this study, firms that have been established for more than five years were selected. As for the informants chosen, the informants are required to have at least five years' experience of working as company secretaries and have a practising certificates in the Company. This is to ensure the experienced that they have will be useful for conducting this study in order to ensure the compliance issues can be determine throughout all the firms. Apart from that, another two informants are from the Financial Intelligence and Enforcement Department (FIED) of Bank Negara Malaysia (BNM) and informants from Enforcement Department of Companies Commission of Malaysia (SSM). These two informants are interviewed to analyse the compliance of AML by the TCSPs and the challenges that they faced while implementing the duties under the law.

Other than that, the research focuses on the informants from Klang Valley area. This is because according to SSM (2024), the total number of the active holders of practising certificates as at February 2024 are 7,864 holders whereby Kuala Lumpur represent 2,244 holders and Selangor represent 1,803 holders. The total number of the holders of practising certificates in Klang Valley area are 4,047 secretaries. Therefore, Klang valley area is a suitable place to study on the compliance of AML law by TCSPs. The Anti-Money Laundering, Guidance of Beneficial Ownership by Bank Negara Malaysia, Guideline for the Reporting Framework for Beneficial Ownership of Legal Persons by SSM, Proceeds of Unlawful Activities Act (AMLATFPUAA) 2001, and the guidelines issued by the Central Bank of Malaysia and SSM will be analysed. The significance of the study will be covered in the following discussion.

1.7 Significance of the Study

This research examines the legal measures taken by the government to ensure compliance with the Anti-Money Laundering and Proceeds of Unlawful Activities Act 2001 (AMLATFPUAA) by Trust Companies and Service Providers (TCSPs) who act as reporting institutions. The findings of this research are hoped to contribute to the body of knowledge and literature about compliance by TCSPs in Malaysia as a reporting institution. The study also contribute to the academic significance, methodological significance, practical significance, and professional significance.

1.7.1 Academic / Theoretical Significance

This study enriched information about the compliance of AML law, duties, challenges and compliance behavior among TCSPs in Malaysia. It represent one of the non-financial sectors as reporting institution in Malaysia. The study focus on the compliance duties of TCSPs, challenges that they faced and the reason for compliance and non-compliance of AML law within the TCSPs sector. There is a limited study done for assessing the compliance of AML duties by DNFBPs, including TCSPs or company secretary in person (Omar et al., 2015; Kamaruddin & Hamin, 2019; Nduka and Sechap., 2021). Most of the researcher focus on the compliance of AML law by financial institution. The study enabled the researcher to understand the actual implementation of the AML law within the sector and the challenges that they faced in complying with the AML law.

1.7.2 Methodological Significance

The study applies three theories which are rational choice theory, transparency theory and principal agency theory for this study. The reason for using these three theories are to examine the AML compliance behavior among TCSPs. The Rational choice theory provides a lens to understand the compliance decision made by TCSPs as they outweigh the cost of compliance and non-compliance when it comes to AML compliance decision. Next, the transparency theory which refer to the role of openness and disclosure of the TCSPs in analyzing how TCSPs implements the customer due diligence, reporting on suspicious transaction report (STR) and disclosure of beneficial ownership of the company. The transparency theory is important to analyze the truthful of the TCSPs in complying with AML law. Lastly, the principal agency theory which refer to the analysis of the roles of TCSPs as reporting institution and as an agent to the clients and regulators which sometimes cause them not to comply due to conflict of interest that they have. The study developed in depth analysis by using all of this theories in order to identify the compliance behavior and challenges faced by TCSPs in implementing their duties as reporting institution under AML law.

1.7.3 Practical/Institutional Significance

The study offers guidance for Bank Negara Malaysia and Companies Commission of Malaysia through the identifying of the challenges faced by TCSPs. The study on the challenges faced by TCSPs helps BNM and SSM to improve the regulations and guidelines by specifically designed for TCSPs. The study provides evidence based recommendations for improving policies, guidelines and training. It is essential to comprehend the TCSP's understanding of AML compliance and its responsibilities under AMLA. When TCSPs understand why compliance is required and how to overcome those challenges, the AML programme will be effective and compliant. The data from the study also helps BNM and SSM in reporting clarity and enhance monitoring mechanism.

1.7.4 Professional Significance

The findings of this study will assist trust companies such as accounting firms, secretarial firms, and law firms to clearly understand their roles as reporting institutions, enabling them to carry out their responsibilities effectively and hold themselves accountable for any actions taken to prevent money laundering crimes. This will enable the TCSPs to have explicit knowledge to deal with clients involved in money laundering and alert them on their responsibilities to report suspicious activity. As a result, TCSPs can adequately carry out their duties, locate businesses that may be involved in money laundering, and report these entities to the appropriate authorities. The TCSPs will have to be more vigilant regarding their clients' transactions and understand when they must disclose suspicious circumstances that occur during the execution of services.

Compliance with AML regulations can help to minimize the risk of sanctions by ensuring that TCSPs are not being used to facilitate money laundering and other illicit activities that can be subject to sanctions. TCSPs, which provide services such as company formation, nominee directors, and registered office facilities, are considered high-risk for money laundering and terrorist financing activities due to the anonymity and ease with which companies can be formed. By complying with AML regulations, TCSPs can help to mitigate these risks and demonstrate their commitment to preventing financial crimes. AML compliance also helps protect the reputation and credibility of TCSPs, and demonstrates to customers and regulators that they are operating responsibly and transparently. In addition, failure to comply with AML regulations can result in severe penalties, including fines and suspension or revocation of licenses, which can significantly impact the business operations of a TCSPs.

1.8 Definition of Terms and Concepts

The definition of term and concept use throughout the research can be seen below. The definition of terms includes the anti-money laundering (AML), Financial Action Task Force (FATF) and Trust Company and Service Providers (TCSPs). While the concept being use for the purpose of this study is concept of compliance.

1.8.1 Anti-Money Laundering (AML)

Money laundering is refer to a process of converting cash, funds and property which have been derived from the criminal activities and to give it a legitimate appearance. It involve the process to clean the dirty money in order to disguise the origin of the money (Bank Negara Malaysia, 2026). Money laundering can be defined as "the process by which proceeds from illegal activities are introduced into the legitimate financial system and are made to appear as though they have been earned legitimately." (FATF, 2021). Besides that, Section 4 of the Anti-Money Laundering Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 (AMLATFA) states that money laundering refers to any person who engages directly or indirectly in a transaction involving the proceeds of an unlawful activity.

Money laundering is processing these criminal proceeds to disguise their illegal origin. This critical process enables the criminal to enjoy these profits without jeopardising their source. Illegal arms sales, smuggling, and the activities of organised crime, including drug trafficking and prostitution rings, can generate massive amounts of proceeds. Misappropriation, insider trading, bribery and computer fraud schemes can also produce large profits and create the incentive to “legitimise” the ill-gotten gains through money laundering.

In addition, money laundering is referred to as the act of introducing funds that have been obtained fraudulently or unlawfully into the system to hide their trustworthy source and sanitise them is known as money laundering. Through a series of transactions meant to conceal the money's true origin, it is possible to make money earned through illicit behaviour appear to have been appropriately obtained (Stessens, 2000). Money laundering in the context of trust company service providers (TCSP) refers to the process of disguising the origins and ownership of funds through the use of trust structures and related financial services. Trust company service providers (TCSPs) are businesses that provide services related to the creation, administration, and management of trusts and other corporate and financial structures. Money launderers can exploit these services to conceal the true origins of illicit funds and make them appear legitimate.

Anti-money laundering (AML) is refers to any measures taken to prevent or combat money laundering and terrorism financing. As for a country, it may include the laws and regulations that are enacted to prevent criminals from laundering activities (Bank Negara Malaysia, 2026). This can be seen whereby, government may imposed the AML duties against the reporting institution in order to prevent the money laundering activities. According to Korejo et al (2021), money laundering is refer to a set of behaviour or action which constitute a crime and the term anti-money laundering is a term use to combat the money laundering activities. For the purpose of this study, money laundering refers to the concealment of illicit funds through legitimate corporate structures and focus on the compliance behaviour among the TCSPs under AML law.

1.8.2 Financial Action Task Force (FATF)

The FATF is the global money laundering and terrorist financing watchdog. The inter-governmental body sets international standards to prevent these illegal activities and the harm they cause to society. As a policy-making body, the FATF works to generate the necessary political will to bring about national legislative and regulatory reforms in these areas. Almost 200 countries and jurisdictions committed to implementing the AML. The FATF has developed the FATF Recommendations**,** or FATF Standards, which ensure a co-ordinated global response to prevent organised crime, corruption and terrorism. They help authorities recover the money of criminals dealing in illegal drugs, human trafficking, and other crimes.

The FATF also works to stop funding for weapons of mass destruction. The FATF reviews money laundering and terrorist financing techniques and continuously strengthens its standards to address new risks, such as regulating virtual assets, which have spread as crypto currencies gain popularity. The FATF monitors countries to ensure they implement the FATF Standards fully and effectively and holds countries to an account that do not comply. The FATF recommendation has three primary objectives: to support the criminalization of money laundering and the financing of terrorism, to ensure that assets linked to money laundering or financing terrorism and to ensure the financial institution and other regulated businesses comply with the recommendations (FATF, 2023).

1.8.3 Concept of Compliance

Compliance can be defined as conformity of behaviour with legal rules and involve measuring, monitoring, and improving compliance with the law (Winter, 1998). Besides that, according to Young (1979), compliance is "a subject's actual behaviour conforming to prescribed behaviour. “Compliance refers to the action of reporting institutions that confirms standards, rules, objectives, laws, and regulations set by authorities. On the other hand, Young (1979) also argued that non-compliance occurs when the actual behaviour is different from the prescribed behaviour. Compliance in the context of money laundering refers to the measures taken by financial institutions and other regulated entities to prevent, detect, and report money laundering activities. Scholars have studied the concept of compliance in relation to money laundering from various perspectives, including the legal and regulatory framework, the impact of cultural and economic factors, and the effectiveness of compliance programs (Ojo and Oloyede, 2015).

For example, some scholars have argued that the legal and regulatory framework for combating money laundering is inadequate and that further measures are needed to ensure effective compliance. Other researchers have examined cultural and economic factors, such as corruption and bribery, in facilitating money laundering and hindering compliance. Additionally, some scholars have studied the design and implementation of compliance programs, including technology and data analysis, to assess their effectiveness in detecting and preventing money laundering. Overall, the literature on compliance in money laundering highlights the importance of solid regulations, cultural and economic conditions supporting compliance, and effective compliance programs. For the purpose of this study, the concept of compliance is use to analyze the compliance of AML compliance behavior and the challenges they faced in complying with the AML duties.

1.8.4 Trust Company and Service Providers (TCSPs)

FATF, (2019) defines Trust Company and Service Providers (TCSPs) as including all individuals or businesses not otherwise covered by the recommendations and providing the following services to third parties as a business. Additionally, the FATF has specified that TCSPs are referred to as providers of trust and company services not covered elsewhere in the FATF Recommendations, and it excludes financial institutions, lawyers, notaries, and other independent legal professionals and accountants. However, the gazetted activities of the TCSPs can be adapted by the profession such as lawyers and accountant due their dual roles as professional under the law. This is because, the lawyers and accountant may act as a company secretary upon receiving the practicing certificate by Companies Commission of Malaysia (SSM) as stated under Section 241 of the Companies Act 2016. Among the gazetted activities provided by TCSPs including company secretary are:

1) Assisting in the formation of legal entities.
2) They are acting or arranging for another person to serve as a corporate director, a partner in a partnership, or a similar position in relation to other legal persons.
3) Providing a registered office, business address, accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement.
4) They are acting as or arranging for another person to act as a nominee shareholder for another person.

FATF (2010) stated that the TCSPs were required to be licenced under domestic law, registered with a relevant supervisory authority in accordance with ML regulations or hold a trust licence or dispensation. Additionally, other entities that were able to act as TCSPs are a person with trust licences or dispensations; authorised persons; trust companies; and consultants. Regarding this research, the definition of TCSPs will include anyone, company secretaries, lawyers and organisation that provides those gazetted activities as per TCSPs.

For this research, the definition of TCSPs will be applied to company service providers which includes the company secretary who provide and engage in the gazetted activities as part of their business and services. Among the firms that provide gazetted activities as per TCSPs are secretarial, accounting, and lawyer firms. Trust and Company Service Providers (TCSPs) play a critical role in the formation, management and administration of companies, as well as the provision of registered offices, directors and nominee shareholders to customers. However, they are considered a high-risk sector for money laundering and terrorist financing due to the anonymity and ease of company formation and the potential for these companies to be used for illicit activities. TCSPs are considered DNFBPs and, thus, are subject to AMLATFA and its regulations. The TCSPs must implement AML measures, such as customer due diligence, risk assessment, and internal controls. They must also register with the Registrar of DNFBPs and appoint a compliance officer.

1.9 Organisation of Thesis

1.9.1 Chapter 1

The first chapter of this research provides an overview of the research topic which the study on the Trust and Company Service Providers (TCSPs) obligation and challenges in complying with Anti-Money Laundering (AML) laws and policy in Malaysia. The first chapter of this study explained the background of the study, the problem statements, research questions, research objectives, the scope of the study, significance of the study, the definition of each of the terms and the roles of TCSPs in implementing the AM obligations under the law.

1.9.2 Chapter 2

Chapter 2 discusses on the money laundering, form of money laundering which includes the shell company, cash smuggling, beneficial ownership, offshore accounts and the professional involvement in the money laundering and the stages of money laundering. Besides that, the implementation of money laundering standards in Southeast Asia also are discussed in details which includes the AML regime in Malaysia and AML regime in United Kingdom. The reporting institutions and the duties of the reporting institution are being discussed in greater details in this chapter. Other than that, Chapter 2 also reviews the literature from the existing research, relevant professional and report from Financial Action Task Force (FATF), Bank Negara Malaysia report and also Companies Commission of Malaysia (SSM) report. The study also found out the theories that fit the study and come out with the theoretical or conceptual framework for the study. This chapter also helps to identified the gaps from the previous researcher and study and make it as a contribution by this study.

1.9.3 Chapter 3

Chapter 3 discusses on the methodology applied in this study including the research design, methodological approach, level of analysis, sample size, techniques, measurement, an overview of data collection and data analysis which are important to the study and to finalize the data collection.

1.9.4 Chapter 4

Chapter 4 represent the findings of the study based on the analysis of the information received from informants. The data is analyse based on the research objectives of this study. The interviewed are done among the informants who are company secretaries from different profession such as secretarial firms, accounting firms and legal firms. The information and data received from informants are discuss in details for each of the roles as a reporting institution and the challenges faced by the company secretaries are identified through the interview session with clients. A clear data from informants enable the researcher to develop the findings and answer the research objectives of this study.

1.9.5 Chapter 5

Finally, chapter 5 explained and discusses on the result of the study which are based on the research objective. The interview questions which represent the data information on the study was discussed in further details. The result of this study provided the data to show the Trust and Company Service Providers (TCSPs) obligations and challenges faced by them in implementing and complying with the Anti-Money Laundering (AML) law and policy in Malaysia. This chapter represent the contribution of this study, proposed a recommendation, outlined the limitations to the study and suggested the improvement for future research. The conclusion discussed in Chapter 5 is the overall conclusion that covered the whole chapters for this study.

1.10 Conclusion

In conclusion, money laundering issues have been widely discussed among countries, especially involving trust companies and service providers. Compliance with AML by TCSPs is essential to combat money laundering and corruption activities in the country. Therefore, the TCSPs must comply with the AML law by identifying and reporting unusual or suspicious transactions to the authorities. Trust company plays a vital role in performing their statutory duties under anti-money laundering law and policy in Malaysia, whereby they act as a middle person for the clients to form a Company. All the information needed shall be available whenever requested by the authorities. TCSP is a person or organization that provides services related to forming, managing, or administrating trusts or companies. Examples of TCSP services include the incorporation of companies, the provision of registered addresses, and the acting of a director or secretary of a company. TCSPs are subject to AML regulations and must take steps to prevent their services from being used for money laundering or other illegal activities. This includes customer due diligence, monitoring transactions, and training employees to recognize and report suspicious activities. Failure to comply with AML regulations can result in severe penalties, including fines, reputational damage, and criminal sanctions. The next part of the chapter will further discuss the terms of money laundering and the background of money laundering in the UK, South East Asia and Malaysia.

CHAPTER 2
LITERATURE REVIEW

2.1 Introduction

This chapter provides a review of the concept of Money Laundering. Section 2.2 explains the definition of money laundering, and section 2.3 discusses the forms of money laundering. Next, section 2.4 discusses about the stages of money laundering which involves three stages: placement, layering and integration. Next, section 2.5 discusses on the implementation of money laundering standards across countries. Furthermore, section 2.6 explores on the reporting institution under anti-money laundering acts in Malaysia. Next, section 2.7 discusses on the duties of TCSPs under AML Law and section 2.8 discuss on the impact of money laundering. Next, Section 2.9 discusses the theories of money laundering and its application in the research. Section 2.10 discussed on the theoretical framework and Section 2.11 discusses on the gaps in the literature and the theories chooses for the study. Lastly, Section 2.12 conclude the Chapter 2 of this study.

2.2 Definition of Money Laundering

Different authors and international bodies have variously defined money laundering. Section 4 of the Anti-Money Laundering Act (AMLA) 2001 defines money laundering as referring to any person who commits a money laundering offence and is subject to a maximum sentence of 15 years in prison and a fine of not less than five times the sum or value of the proceeds of unlawful activity or instrumentalities of an offence at the time the offence was committed, or five million ringgits, whichever is greater. Besides that, as cited by Korejo et al., (2021), money laundering refers to the process of converting unlawful money derived from criminal activity into legal money, which is mixed in with legitimate money to make it appear legitimate, making it extremely difficult to distinguish legitimate from illegitimate money.

Money laundering is a deliberate and complex process by which the proceeds of crime are cached and organised in such a way that they appear to have been acquired legally by criminals. Basically the definition of money laundering more focus on the process of the money laundering occurs and it more related to financial institutions. The process of money laundering can be easily traceable when it involve financial institution and less traceable when it involves non-financial institution. This is because the money being launder in different way and method in order to conceal illicit funds. In the context of TCSPs as non-financial institution, it can be seen the process of money laundering occurs differently as the money are not being directly converted into cash but the money being use in a complex corporate structure by purchasing shell company, invest in the company as a capital for the company and so on. This is a new way of criminals in laundering money without involving financial institutions.

When a criminal activity generates significant profits, the individual or group involved must devise a method of controlling the funds without drawing attention to the underlying activity or the individuals involved. Criminals accomplish this by concealing the source of the funds, altering their form, or relocating them to an area where they are less likely to attract attention. Apart from that, Windischbauer (2008) defines money laundering as “the fraudulent assertion of a legitimate source for an illegally obtained advantage. Additionally, money laundering is an act committed by criminals to conceal and conceal illegal funds by establishing a business and falsely declaring them as a business source. The definition reveals that the money laundering is an action or behaviour implement by individual and it’s a choice that they made and they choose the method to launder money in a different way.

In contrast to the above, the International Monetary Fund (IMF) has defined money laundering as "the process by which the proceeds of illegal activities are introduced into legitimate mainstream of financial commerce, thus providing criminals with access to the benefits of their illegal activities without fear of detection" (IMF, 1997). Additionally, Sherman (2010) defines money laundering as "the process of moving illicit proceeds into the legitimate economy through complex financial transactions designed to hide the true source and ownership of the funds."

Levi and Reuter (2006) define money laundering as "the process of converting proceeds from criminal activity into a form that appears legitimate so that they can be used without suspicion." As observed, there are some slight variations in the definition of money laundering provided by different authors and institutions. Nevertheless, the core idea remains the same, money laundering involves the concealment of the illegal origin of the proceeds of crime, making them appear legitimate in the eyes of the law. These varying definitions highlight the complexity of the issue and the need for a comprehensive and practical regulatory framework to combat money laundering.

From the definitions of money laundering above, it can be concluded that some scholars focus on the legal framework of the Anti-Money Laundering and other (Korejo et al & Sherman) focus on the process of the money laundering take place. It involves a series of transaction which require the launderer to use the financial systems to convert the money into a legitimate money. While Windischbauer (2008) stated that the money laundering is not merely a financial crime but as a systematic threat. The criminals are systematically plan and organize the plan carefully in order to proceed with the illegal action. Money laundering is the deliberate concealment and transformation of illicit proceeds through a financial institution and corporate structure which involves an action to obscure the beneficial ownership. This can be seen whereby the money laundering activities had undermines transparency, erode trust and enable financial crimes to flourish. In order to overcome the issue of money laundering, there is need of the comprehensive regulatory frameworks and enforcement to combat money laundering effectively. The next part of this chapter will explain the stages involved in money laundering.

2.3 Forms of Money Laundering

The process of money laundering has been done through various ways by the money lenders to hide the activity from the law. The forms of money laundering can be categorized as corporate vehicle based laundering, trade-based laundering and finally the professional facilitated laundering. The money laundering activities are being done using these 2 forms in order to conceal the originality of the money and beneficial ownership.

2.3.1 Corporate Vehicle Laundering

2.3.1.1 Shell Company

According to Tiwari. et al. (2020) stated that money laundering via shell companies had received less attention. In other words, efforts to identify shell companies used in illegal activities such as bribery, corruption, and money laundering are still nascent. Shell Companies, also referred to as front companies or anonymous companies, are entities with few operations and assets and, in most cases, no physical presence. Private companies intending to go public may use shell companies. (Tiwari.et al, 2020). Eventhough shell companies have no assets or significant business activities, they are frequently used to transfer "large sums of money worldwide." Additionally, in many jurisdictions, individuals can establish shell companies without revealing the identities of the company's beneficial owners. Beneficial owners are those who control and profit from a shell corporation. In addition, the identity and address of a registered agent are frequently sufficient to establish a shell company (Nicholas Vail, 2018).

Using a shell company can benefit corporations in terms of tax advantage, avoiding legal liability, or facilitating income collection. These are why some people want to use shell companies to operate businesses. A shell company is a front company that is registered and licensed to conduct business, but lacks significant assets and does not engage in significant legal operations. The registered legal business license is being used as a shield-laundering strategy for the illicit activities of this company. These are created in order to conduct "legitimate" commerce. However, it was discovered that they were conducting fraudulent activities under the pretext of "legitimate" businesses (Gobena, 2023). It is difficult for individuals and law enforcement to identify the true owners of shell corporations due to the lack of beneficial ownership disclosure.

This form of money laundering are being use by criminals to form a company without having to go through the process of incorporation of the company and opening of bank account since the shell company already operate with its own bank account. The process of purchasing the shell company is part of money laundering process and it falls under placement and layering stages of money laundering whereby the criminals seek corporate vehicle in order to place the money and make transaction to conceal the originality of the money.

2.3.1.2 Nominee Directors/Shareholders

The nominee directors and shareholders are the person who contribute and facilitate the process of money laundering through a corporate vehicles. This is because the use of nominee's director and shareholders tend to obscure the real beneficial owners. Thus it make easier for the criminals to introduce the illegal proceeds into the financial system without revealing their own identities (Kamaruddin et al, 2025). The layering stages of money laundering occurs when the nominee directors and shareholders play crucial role in managing the business by transferring money across multiple jurisdiction for the purpose of business transactions. Fund can be transferred, invested and purchase of any product or services related to the company.

The integration stage occur when the nominee director and shareholder reinvested the money for a legitimate purpose and act upon the real beneficial owner's wishes. Thus, the nominee director and shareholders allow the criminals to enjoy the wealth of the company without disclosing their real identity. The nominee director and shareholder has no power except to act on behalf of benefit of the real owners. This is where the transparency of the beneficial ownership is important in order to ensure a right owner are being disclose and action can be taken against them for non-compliance of AML law. This is the crucial part of the TCSPs responsibility in order to identify and gather the information about the real beneficial owners as it is part of customer due diligence process where most of the TCSP are still underscore on this duty.

2.3.2 Trade-Based Laundering

2.3.2.1 Cash Smuggling

Cash remains a significant raw material for criminal groups, and many criminals choose to use it as an anonymous financial instrument, even in complex money laundering systems. Cash smuggling can be classified into two types which are cash courier and bulk cash smuggling ("BCS"). BCS transactions typically involve large sums of cash, and smuggling methods involve land or sea border crossings via concealed cash in vehicles or cargo containers (Gobena, 2023). This physical transportation is used as a means of money laundering, and it remains a problem in many nations around the globe. It is a matter of concern for developing nations with cash-based economies and developed nations (FATF, 2015).

Cash smuggling is one form of money laundering where individuals physically transport large amounts of cash across borders without reporting it to customs authorities. When cash is exchanged for goods, the transaction is done immediately; an intermediary is not required, and it is difficult to trace. Due to the anonymity and untraceable of cash and its transactions, criminals use cash to generate illicit proceeds, and cash transactions are essential for laundering illicit funds. Without a paper trace, cash-based money laundering is particularly attractive (Gobena, 2023). The cash smuggling fall in placement stages of money laundering by moving a cash into another jurisdiction, the criminals try to bypass the local reporting requirement. Once smuggled, the cash then can be exchanged for the goods and this is where the layering stages take place. The criminals may use the money to deposit into banking system in order to purchase high value goods. The illegal money use may now turn into legitimate money whereby no authorities can detected the transactions.

This is done to avoid detection and scrutiny by law enforcement agencies and to disguise the source and ownership of the funds. Cash smuggling is considered a severe form of money laundering as it can facilitate a wide range of criminal activities, such as drug trafficking, arms smuggling, and terrorist financing. It is also difficult to detect and prevent as it often involves using complex and sophisticated methods such as hiding cash in luggage, clothing, or other personal belongings. Many countries have implemented strict border controls and reporting requirements for cash movement across borders to combat cash smuggling. For example, in the United States, travellers must report the transportation of more than $10,000 in cash or monetary instruments when entering or leaving the country. Failure to do so can result in the seizure of funds and other legal penalties (FATF, 2013).

2.3.2.2 Offshore Accounts (Shell Banks)

Dowling (2004) defines "offshore" as a "qualitative term" that refers to investments that are solely located in foreign jurisdictions. Offshore banking enables businesses to relocate to a foreign jurisdiction with more favourable tax laws than the investor's home country. For instance, an investor may reside in country A but choose to invest in the more advantageous jurisdiction of country B. Country B is the offshore jurisdiction, as it is the location of investment.

The primary reasons criminals choose to bank offshore are the attractiveness of lax supervisory and regulatory frameworks and the requirement of strict banking confidentiality. This creates a financial system they can easily manipulate for their gain. As for legitimate customers, the benefits of offshore banking include favourable tax regimes, easy access to politically and economically stable jurisdictions (a benefit that is especially beneficial for investors in countries with disruptive political regimes), and the redistribution of global wealth to developing countries. (Young, 2013).

This can be seen whereby the offshore banks promote more benefits in terms of tax, confidentiality and stability which then attract criminals to do money laundering. This type of money laundering is a classic tools being use by criminals to launder money. The money laundering are being introduced to the financial systems by place it into the financial institutions. Then in the layering stage, it can be seen whereby the criminals tend to hide the origins of the funds through a complex transaction. This can be seen whereby the funds are moved from one account to another offshores account then invested in offshore companies or converted the money into different currencies in order to hide the origin of the fund. The integration stage take place once the fund have been converted into different currency, the money then be used by the criminals for investment, purchase high value items and invest in business.

2.3.3 Professional –Facilitated Laundering

2.3.3.1 Beneficial Ownership

The beneficial owners are the person or persons who own or control a legal vehicle. This ownership or control may be exercised in various ways, including holding a controlling ownership interest in a legal person, such as holding 20 to 25 percent shares. Additionally, control of a sizable percentage of voting rights or the ability to name or remove members of an entity's board of directors are examples. Effective control can be achieved in a variety of ways. For instance, control may manifest itself through the exercise of influence over or veto over an entity's decisions, through agreements among shareholders or members, through family ties or other types of connections with decision makers, or the acquisition of negotiable shares or convertible stock from an entity's board of directors. Identifying the beneficial owners can be a time-consuming process that must be done on a case-by-case basis (IDB & OECD, 2019). It is difficult for individuals and law enforcement to identify the true owners of shell corporations due to the lack of beneficial ownership disclosure (Nicholas Vail, 2018).

Anonymity enables a wide variety of illegal activities to be carried out secretly by law enforcement authorities, including tax evasion, corruption, money laundering, and terrorism financing. For instance, money laundering can entail complex operations and transactions designed to make money obtained illegally, such as through drug trafficking or tax evasion, appear legal. This is how money laundering occurs by using the beneficial owners' names and not disclosing their names in the Company (IDB & OECD, 2019). Hence, it is essential to identify the beneficial ownership name and details to track the money laundering process using corporate vehicles.

The concealment of beneficial owners are to avoid the true beneficial owner being exposed to the authorities. This it to avoid any liability that they may face due to non-compliance of the rules and regulations. The criminals may place the funds into the account registered under Shell Company. Next activities of the money launders is to perform a complex transactions by transfer funds between related companies or invest in assets of the company. This is call a layering process whereby the tracing of the money is difficult at this stages due to complex transaction involve. Once the funds has been layered in different layers, the criminals will use the fund to do a legal business as it is legitimate money and belong to them although the real beneficial owners remained unknown. These form of money laundering underscore the critical compliance responsibilities imposed on TCSPs, particularly in relation to customer due diligence and beneficial ownership verification. This is the crucial part of the TCSPs task to identify the real beneficial ownership and report to Companies Commission of Malaysia (SSM).

2.3.3.2 Professional Involvement in Money Laundering

Although there are numerous money laundering methods, it is frequently the professional enabler who holds the key to complex processes that can provide the criminal with the necessary anonymity. Professionals such as lawyers, trust and company formation agents, investment bankers, and accountants are particularly vulnerable to becoming involved intentionally or unintentionally in money laundering transactions (Levi, 2021). FATF Report (2018) defines the term “professional” money launderer as individuals, organisations, and networks engaging in third-party laundering for a fee or commission. This can be seen whereby professional money launderers, such as accountants, lawyers, or company secretaries, may act professionally to serve legitimate clients. They can also be individual criminal organisations with a defined structure and hierarchy or networks of loosely affiliated members that provide services to organised crime groups and criminals.

The primary function of professional money launderers is to assist in money laundering activity, and besides that, they are rarely involved in the illegal activities that generate the proceeds (FATF, 2018). This can be seen whereby professionals are frequently in the best position to facilitate organised money laundering schemes where they are not involved directly with the criminals to launder money; instead, they are being used by the criminals to seek advice and guidance on how to do a specific transaction for the benefit of the criminal clients (Benson, 2020; Lord et al., 2019). Professionals' money launders play a variety of functions within the organisational hierarchy of money laundering (FATF, 2018). They may be designated as administrators who oversee the collection and distribution of funds. They may be used to facilitate communication with other professionals or organisations of professionals who engage in money laundering. In addition, "maintenance of the infrastructure" is a likely occupation (FATF, 2018).

In this case, the professional is tasked with one or more of the following responsibilities: opening bank accounts, issuing credit cards, establishing companies, and recruiting nominees who will serve as managers of a shell company, fictitious beneficiaries of bank accounts, or money transfer agents. Professionals who passively or unknowingly assist criminals in laundering their illicit funds are not considered professional money launderers (Valvi, 2023). These form of money laundering are being done by professional profession such as accountant, company secretaries and lawyers. Their professional services are being used by the criminals to make a plan and to facilitate the money laundering process. The next part of this research will explain further the on the stages and process of money laundering and how the criminals wash their dirty money in these stages and make it legitimate in the eyes of public.

2.4 Stages of Money Laundering

Money laundering is a crime because it enables criminals to conceal their proceeds without being caught or prosecuted. As such, money laundering is a process in which criminals apply various techniques to legalise "dirty money" obtained through illegal activities, including financial, accounting, and legal tools (Aurasu and Rahman, 2016). Apart from the global phenomenon and international challenge, money laundering is extremely difficult to investigate and prosecute due to the complex series of transactions (Buchanan, 2004).

There are three stages involved in the money laundering process: placement, layering and integration. The term "placement" refers to the process by which cash is retained in the financial system or retail economy or is smuggled out of the country. This initial step is the most susceptible to detection by law enforcement. Placement is significant only when funds must be channelled through a legitimate financial system. The logic behind using banks as a placement depot is that the likelihood of tracing the cash's criminal source is significantly reduced if illicit cash is deposited in a bank. Thus, banks are the most attractive repository for soiled cash (Chaikin, 2017). For instance, criminals place money in a financial institution and break the transaction into smaller amounts. The most complex and critical stage is placement, as it eliminates evidence that could enable authorities to trace the origins of funds.

The second stage is layering which refers to the layering of illegal proceeds, during which the money launderer can combine illegal and legitimate proceeds. This step is referred to as 'layering,' as the layers of financial transactions conceal the owners of illegal proceeds and obscure the money trail. Typically, the party involved will engage in complex financial transactions to conceal and mix illegal sources. According to Cox (2014), in a more complicated scheme, the money launderer will move the funds between multiple accounts in multiple jurisdictions and through a series of companies to make the trail as complicated as possible. This effectively obliterates the audit trail and disassociates the criminal proceeds from their source. The funds may be used for any purpose. Before being integrated into the banking system, the funds can spin up to ten times.

The final stage is integration, in which illicit proceeds are reintroduced into the economy as legitimate proceeds. The result of integration is that the proceeds of illegal activity cannot be distinguished from those obtained through legal means (Zul Kepli and Nasir, 2016). If the illicit fund was moved offshore during the placement/layering stage, the launderer can now return it to the home jurisdiction or leave it offshore, and if the former is determined, the fund is returned in a manner that makes it appear as though it was legally earned abroad (Akpomiemie et al., 2018). This article argues that to combat money laundering effectively, it is critical to prevent or, at the very least, detect it at the point of origin. This is possible if the necessary diligence measures are followed.

Basically the three stages model of money laundering are commonly used to explain the process of money laundering take place in the financial system (Raj et al, 2024). By breaking the laundering into stages such as placement, layering and integration, the regulators and compliance officer may easily identify the vulnerabilities of the criminals. This can be seen whereby the placement stage highlight the risks at the entry stage, layering emphasize the criminals activities to conceal the funds origin through a complex transactions and the integration stage show how the illegitimate funds be converted to legitimate funds and introduce back to the financial systems. All the stages are applicable for financial institution and non-financial institution.

The modern money laundering not always go through these three stages in laundering money. This can be seen whereby the criminals may use the three stages without following the sequence to laundering money as the placement and layering may occur simultaneously. The rise of the digital finance including online payment platforms, crypto currencies and other methods make the stages less distinct. It means the new technology in financial system may lead to money laundering which can bypass the local detection systems. On the other hand, the trade-based laundering which involve manipulation of invoices and trade flow will skips the placement stage entirely and embedding the illicit value directly into a legitimate commerce.

To overcome this, the artificial intelligence (AI) is used in the process of detecting the money laundering through the online platform and through the trade-based laundering. This can be seen whereby AI can assist the financial institutions and non-financial institution especially TCSPs in detecting the money laundering activity (Raj et al, 2024). The use of AI helps to facilitate the data, examine data and distinguish the patterns that can reflect the criminal activity. Therefore, the identification of criminal activities in each of the stages are possible by using AI and the effectiveness of AI in AML depends on the quality and quantity of the data available.

The three stages of money laundering mentioned above are still relevant for TCSPs in order to detect the criminal activities at early stage. The first stage is placement which refer to the placement of money for the incorporation of the company or to increase paid up capital for the existing company. This is the stages whereby the TCSPs must ensure the customer due diligence process has been thoroughly done in order to detect the source of the funds. The next stage is layering whereby the client may use the fund to issue dividend for the shareholders and purchasing items for business purpose. The last stage occurs when the company involve in money laundering tend to provide loan for the directors and purchase factory and use the money to enlarge their business. The detection of the money laundering use by the clients is crucial at this part as the money have been introduced back the financial system as legitimate money.

Most importantly, treating the obligation to know your customer (KYC) or customer due diligence (CDD) as critical and core compliance measures that should not be overlooked. The figure 2.1 below shows how the money laundering stages occur which involves three main stages which are placement, layering and integration. (Bank Negara Malaysia, 2021). The following subsection further discusses implementing money laundering standards in Asia.

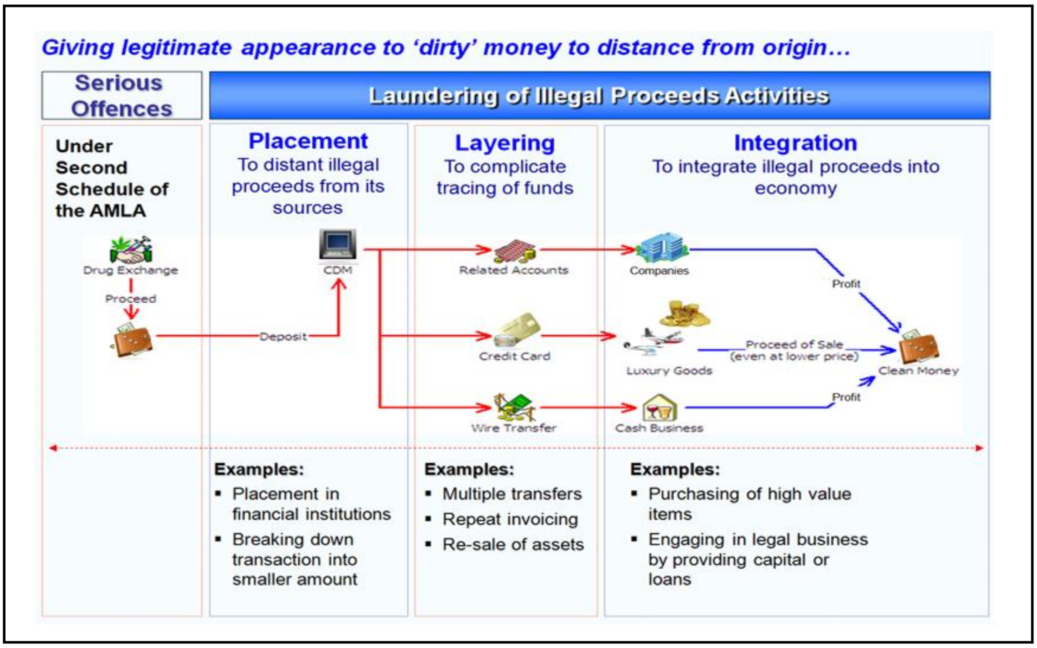

Figure 2.1 Stages of Money Laundering

Source from Bank Negara Malaysia

2.5 Implementation of Money Laundering Standards Across Countries

The implementation of the money laundering standards is varying significantly across countries due to the differences in economic development, regulatory capacity, and the political will. The Anti-Money Laundering (AML) frameworks is an international standard that set by the Financial Action Task Force (FATF) in order to provide guidelines to deals and to combat the issues of money laundering across the countries which involves financial institution and non-financial institutions. The FATF is an inter-governmental body which was established in 1989 by the Minister of its Member jurisdictions (FATF, 2012). The FATF provides 40 recommendations which are widely accepted and being use as a guideline in the AML frameworks.

More than 200 jurisdictions around the word have committed to the FATF Recommendations through the global network of FATF-Style Regional Bodies (FSRBs). The FATF provides a comprehensive blueprint for AML law including the customer due-diligence, record keeping, reporting of suspicious transaction, transparency of beneficial ownership and internal cooperation as well (Aidoo, 2025).

Besides that, FATF also conducts a peer evaluation for member countries to evaluate the compliance of the AML law with these standards. Each of the member countries are being access of their compliance on the FATF recommendations which consider both technical compliance and the effectiveness of the member countries in achieving the actual outcomes.

Therefore is it crucial for all the member countries to follow and adapt the recommendation by FATF as part of their AML regulations in the country. For the purpose of this study, the money laundering standards in Southeast Asia, United Kingdom and Malaysia are being discussed in detail. These countries are being choose in order to provide a meaningful framework to analyse the AML implementation across different legal systems, economic development and the regulatory maturity. The comparative jurisdiction between these countries may help to benchmark relevant country for the excellent and efficient implementation of AML regulations.

2.5.1 Implementation of Money Laundering Standards in Southeast Asia

The implementation of anti-money laundering (AML) standards in Southeast Asia has been a key focus for governments in the region due to its vulnerability to money laundering activities. The Financial Action Task Force (FATF), an intergovernmental organization that sets international standards on AML and countering the financing of terrorism (CFT), has been actively engaging with countries in Southeast Asia to improve their AML/CFT regimes. Financial Action Task Force (FATF) is an inter-governmental body established in 1989 in Paris by the G-7 member states (the United States of America, the United Kingdom, France, Germany, Italy, Canada, and Japan).

The FATF was formed in response to growing concern about the risks confronting the global financial system, particularly the banking system (FATF, 2007a, 2007b). The FATF was established to analyse money laundering trends and techniques, research financial, legislative, and law enforcement programmes sanctioned at the national and international level, assess and monitor country-level compliance, and provide technical assistance as needed (FATF, 2010). As an intergovernmental decision-making body, the FATF is composed of 35 member states, two regional organisations, nine associate members, and several observer organisations, which are the World Bank, the IMF, INTERPOL, and the United Nations, collectively referred to as FATF- STYLE REGIONAL BODIES (FSRBs) (FATF, 2010). The FATF and the FSRBs collectively represent over 180 jurisdictions worldwide. FATF launched its 40 recommendations a year after its inception (Mekpor et al., 2018).

Global money laundering and terrorist financing activities impose significant costs on and cause risks to the world economy. To address these issues, Asian governments and regulators have adopted Financial Action Task Force (FATF) standards to strengthen their anti-money laundering (AML) regimes. The region's economies have strengthened anti-money laundering laws, established financial intelligence units, developed anti-money laundering/counter-terrorist financing supervisory frameworks for financial institutions, and enhanced coordination and cooperation between national agencies and across economies. However, compliance with these standards varies significantly across Asia and remains generally low. This Asia Focus report discusses some unique factors contributing to money laundering in Asia, defines international anti-money laundering and counter-terrorist financing standards, analyses the region's progress toward full compliance with FATF recommendations, and identifies remaining challenges (Susan Desai, 2012).

In 2003, the 40 recommendations were updated to reflect changing trends and methods used by the money launderers, primarily because of globalisation (FATF, 2003). The revision was also prompted by the horrifying events of 9/11 in 2001, which necessitated the addition of nine additional recommendations to address terrorist financing activities, bringing the total to forty-nine FATF Recommendations. The most recent review of the recommendations occurred in 2012, whereby at this time, the recommendations were consolidated rather than expanded, with the 40 recommendations absorbing the additional nine, bringing the total to 40 FATF Recommendations (FATF, 2012). These recommendations are sound, as the FATF is responsible for safeguarding civil liberties, respecting sovereign states, and upholding the principle of deliberative equality in its fight against money laundering and terrorist financing (Wessel, 2006).

Additionally, the FATF Standards have been revised to strengthen requirements for high-risk situations and to allow countries to take a more targeted approach in areas where high risks persist or implementation could be improved. Countries should first identify, assess, and comprehend the risks associated with money laundering and terrorist financing and then implement appropriate countermeasures. The risk-based approach enables countries to adopt a more flexible set of measures within the framework of FATF requirements, allowing them to target their resources better and apply preventive measures commensurate with the nature of risks, allowing them to focus their efforts most effectively (FATF, 2012). FATF has implemented various guidelines, policies, and recommendations for the countries a guideline to combat money laundering. The FATF calls on all countries to take adequate measures to bring their domestic anti-money laundering, counter-terrorist financing, and proliferation financing systems into compliance with the revised FATF Recommendations (FATF, 2012).

Most of the Southeast Asia countries are following the FATF recommendation as a guidelines for their country AML regulations as they use a risk-based approach in combating money laundering activities. Therefore, it is crucial to member countries to go through the evaluation process of their AML regulations implemented in the country. Those country which are not meet the standard are given a recommendation by FATF for further improvement of their AML regulations. The mutual evaluation process of the FATF may impact the reputations and financial environment of the countries (Aidoo, 2025). Therefore it is important for all the member countries to meet the requirements set by FATF to ensure the country reputation are being preserve and able to meet the international standards. The following subsection discusses the AML regime in the United Kingdom.

2.5.2 AML Regime in the United Kingdom

Money laundering has been a significant issue in the United Kingdom for centuries. In the past, it was linked to illegal activities such as smuggling and piracy, with criminals using the financial system to launder their profits. As the financial system in the United Kingdom grew and evolved, so did money laundering techniques. The UK government introduced a series of laws and regulations throughout the 20th century to combat money laundering. However, these laws proved to be inadequate, and the problem continued to grow. In response, the UK government introduced the Proceeds of Crime Act 2002, which significantly strengthened the AML regime in the country. The act made it a criminal offense to launder the proceeds of any crime and gave law enforcement agencies greater powers to seize and confiscate the proceeds of crime. The Money Laundering Regulations 2003 and subsequent updates set out the requirements for businesses to implement AML measures (Reuter, 2018).

The legal framework that underpins the UK's anti-money laundering regime is comprised of the Proceeds of Crime Act – PoCA, 2002, the Money Laundering Regulations – MLRs, 2003(1) and relevant guidelines issued by government and industry advisory bodies" that must be approved by the treasury (Lander, 2006). It began with the Misuse of Drugs Act of 1971, which was ineffective at confiscating proceeds of crime from drug-related activities. In 1986, the Criminal Justice Act 1988 and the Prevention of Terrorism (Temporary Provisions) Act 1989 were enacted to strengthen the anti-money laundering regime further. The POCA entered into force in 2002, adding new dimensions to the UK's anti-money laundering regime. The changes include the establishment of a new Asset Recovery Agency (ARA), the expansion of the scope of confiscation law, new civil forfeiture rights for criminal proceeds, and the elimination of the distinction between drug and non-drug money laundering offences (Aurasu and Abdul Rahman, 2018).

POCA consolidated, updated, and reformed the criminal law relating to money laundering to encompass all criminal offences, including those involving the dealing in criminal property. POCA applies to everyone, except for certain offences involving failure to report (except in the case of a nominated officer) and "tipping off" only applies to those in the regulated sector. POCA is the primary financial crime statute in the UK. This Act is designed broadly and establishes five offences, each of which is defined as relating to benefits obtained by criminal activity. The five offences include concealment, arrangements, acquisition, use, possession, nondisclosure, and tipping off (Adeyemi, A. (2018). Section 1 of the POCA establishes the ARA to investigate criminals and, in certain circumstances, seize their property even if the suspect has not been convicted of a serious offence (POCA, 2002). A team of investigators, lawyers, and accountants can seize money and property if they establish that the assets were obtained dishonestly. The standard of proof will be civil rather than the higher standard used in criminal cases.

POCA acts as a catch-all statute, encompassing a variety of offences relating to forfeiture or cash recovery proceedings. It gets even better with the introduction of civil forfeiture, which allows for depriving one's benefit of money laundering activities even without a criminal conviction. Alternatively, ARA is another new instrument created by this Act, with the primary objective of depriving criminals of profits earned by confiscating "dirty" money. ARA is a critical component of POCA.

Since 2017, the Financial Action Task Force has conducted a review of the United Kingdom's anti-money laundering (AML) and counter-terrorist financing (CTF) regimes (FATF). The United Kingdom received the highest ratings of more than 100 countries evaluated thus far in this round of evaluations. The FATF concluded that the United Kingdom thoroughly understands its money laundering and terrorist financing risks and that our national anti-money laundering and counter-terrorism financing policies, strategies, and activities aim to address the risks identified in our public National Risk Assessments (NRAs).

The United Kingdom has a well-established Anti-Money Laundering (AML) regime developed over many years in response to the threat of money laundering and other financial crimes. This regime includes laws and policies that apply specifically to trust companies. In the UK, the development of AML law and policy for trust companies has been shaped by several critical factors, including:

a) European Union (EU) Directives: The EU has established several AML directives designed to combat money laundering and terrorist financing. The UK has implemented these directives into its national legislation, including laws that apply to trust companies.
b) Financial Conduct Authority (FCA): The FCA is the primary regulatory body for the UK's financial services sector and is responsible for supervising trust companies in accordance with AML requirements.
c) Money Laundering Regulations (MLR): The MLR is a set of regulations the UK government has developed to implement the EU's AML directives. These regulations apply to all trust companies operating in the UK, regardless of size or type.
d) Joint Money Laundering Steering Group (JMLSG): The JMLSG is an industry-led body that guides the UK's financial services sector on implementing AML

requirements. The JMLSG's guidance includes specific guidance for trust companies on the risks they may face and the measures they should take to mitigate them.

e) The Proceeds of Crime Act 2002 (POCA): POCA is a crucial piece of UK legislation designed to combat money laundering and other financial crimes. The Act provides the framework for the UK's AML regime and requires trust companies to take a risk-based approach to AML compliance.

f) The UK's AML regime for trust companies has been developed in response to the evolving threat of money laundering and other financial crimes. Trust companies must implement robust AML policies and procedures to ensure compliance with the laws and regulations that apply to them. These policies and procedures may include customer due diligence measures, reporting suspicious activity, and implementing internal controls to ensure that AML risks are effectively managed. The following subsection continues to discuss the AML regime in Malaysia.

2.5.3 AML Regime in Malaysia

Money laundering activities in Malaysia have been a concern since the 1990s, when the country emerged as a regional financial centre. The government responded by passing the Money Services Business Act in 2001, which established a regulatory framework for money services businesses and required them to comply with anti-money laundering (AML) regulations. The Malaysian government has implemented various measures to prevent, detect, and prosecute money laundering activities in response to this threat. The Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act (AMLA) of 2001, which provides a comprehensive legal framework for AML/CFT in Malaysia, is one of the essential measures. The AMLA mandates that financial institutions and other reporting institutions conduct customer due diligence, monitor transactions, and report suspicious activities to the appropriate authorities (Balogun Aziz, 2019).

In 2001, Malaysia enacted the Anti-Money Laundering and Counter-Terrorism Financing Act (AMLATFA). AMLATFA is implemented by a coalition of law enforcement agencies led by the Malaysian Central Bank, i.e., Bank Negara Malaysia (BNM). AMLATFA criminalises money laundering and requires reporting institutions to implement proper identification reporting procedures and appoint a money laundering reporting officer, educate employees about anti-money laundering (AML) laws, and provide adequate training. Not only does AMLATFA criminalise money laundering, but it also places good corporate governance and senior management accountability. Banks, as the primary reporting entities, have borne the brunt of the law's provisions (Aspalella Rahman, 2015)

It must be stated that banks that implement adequate anti-money laundering measures will make it more difficult for criminals to enter the financial system with their 'dirty money. As a result, Part IV of the AMLATFA imposes specific requirements on banks to combat money laundering. These responsibilities include identifying and verifying customers, reporting cash and suspicious transactions, maintaining records, and establishing a compliance programme. Since 15 January 2002, they have been applied to the banking industry. Indeed, banks are a valuable source of information for law enforcement agencies when it comes to detecting money laundering.

Given the complexity of money laundering operations, BNM issued a new set of guidelines in 2012, Anti-Money Laundering and Counter-Terrorism Financing of Banking and Deposit-Taking Institutions (Sector 1). This new set of guidelines replaces the 2006 Standard Guidelines on Anti-Money Laundering and Counter-Terrorism Financing and Sectoral Guidelines 1 for Banking and Financial Institutions. These Guidelines were issued pursuant to AMLATFA sections 66E and 83. Section 66E empowers BNM to issue relevant guidelines to comply with Malaysia's international obligations. Section 83, on the other hand, refers specifically to the BNM's authority to issue pertinent guidelines while performing its function as Financial Intelligence Unit.

BNM has established anti-money laundering guidelines, policies, and procedures as part of its Anti-Money Laundering and Countering Terrorism Financing Policy Documents (“AML Policy Documents”). The AML Policy Documents impose reporting institution obligations on non-financial businesses and professional service providers to the financial services industry and financial institutions. This category includes lawyers, company secretaries, accountants, trust companies, and real estate agents (defined by BNM as "designated non-financial businesses and professions" or

"DNFBP").

As for the status of compliance of AML by Malaysia, Malaysia was rated as having "enhanced follow-up by recent Mutual Evaluation Report (FATF and APG, 2018). Enhanced follow-up is" in the Financial Action Task Force's most consistent with the FATF's long-standing policy of dealing with members who have significant deficiencies (in terms of technical compliance or effectiveness) in their anti-money laundering (AML) systems and entails a more intensive follow-up process. In other words, it demonstrates Malaysia's inability to achieve technical compliance standards under the AML framework. Malaysia is, on average, still classified as a medium-risk threat by the ML.

According to the Basel AML Index, an independent annual ranking that assesses the risk of ML and terrorists worldwide, the index has a mixed pattern from 2015 to 2017 and a slight decrease from 2021 to 2022, with a rank of 45 and 54, respectively. However, on average, Malaysia is classified as a country having a medium level of money laundering risk. The vulnerability of Malaysia towards ML is shown at the international level, and thus it indicates Malaysia is not a clean country in terms of money laundering threat (Jamil et al., 2022).

Besides that, the effectiveness of the AML systems in the country remains a significant concern because the average effectiveness of AML systems remains at a critically low level (Basel AML Index, 2022). Malaysia's medium-high risk level for money laundering has prompted the regulator at the Central Bank of Malaysia to express worry about the Financial Institutions' compliance. The penalty imposed by Malaysian law (2001) for non-compliance by financial institutions and their personnel was intended to improve the quality and compliance of the institutions. Despite the banking and money service business (MSB) sectors' high vulnerability to money laundering threats, institutions continue to exhibit concerns with the judgement quality of Suspicious Transaction Reports, most notably the high amount of low-quality of suspicious transaction reports (STR) (Jamil et al., 2022).

Malaysia has implemented anti-money laundering (AML) regulations to ensure compliance among trust and company service providers (TCSPs). These regulations are based on the recommendations from international scholars and experts which is Financial Action Task Force (FATF). One of the key recommendations for TCSPs in

Malaysia is implementing a robust risk management framework. According to a study by scholars at the University of Malaya, "Effective risk management is essential for AML compliance, as it allows TCSPs to identify and mitigate potential risks and vulnerabilities" (Mohd et al., 2016). This includes assessing the risk of money laundering and terrorist financing in different types of transactions and identifying and monitoring high-risk customers.

Next recommendation for TCSPs in Malaysia is using customer due diligence (CDD) measures. According to a study by scholars at the University of Putra Malaysia, "CDD is a crucial aspect of AML compliance, as it helps TCSPs to identify and verify the identity of their customers and assess the risk of money laundering and terrorist financing" (Nordin et al., 2018). This includes collecting and verifying information on beneficial ownership and conducting ongoing monitoring of customer transactions. The customer Due Diligence (CDD) process is crucial in the fight against money laundering. The institution's failure to monitor and superintend the clients who use their services could lead them into trouble. CDD focuses primarily on practical matters such as exchanges of supervisory information and cross-border inspections to enhance supervisory coordination and permits countries to exercise consolidated supervision (Omar et al., 2015).

This CDD process is not being fully implemented by the reporting institutions as only normal information are being gathered during the entrance of business relationship with clients. If TCSP does not properly conduct customer due diligence, they may unknowingly serve high-risk individuals or entities, which can further increase the risk of illicit activities occurring through their services. A third recommendation for TCSPs in Malaysia is using automated systems to monitor and detect suspicious transactions. According to a study by scholars at the University of Technology Malaysia, "The use of automated systems, such as transaction monitoring and suspicious activity reporting, can greatly enhance the effectiveness of AML compliance programs" (Ismail et al., 2020).

Automated systems can also help TCSPs to more effectively identify and report suspicious transactions. Although Malaysia has implemented the recommendation as per international standard for TCSPs to ensure AML compliance, the TCSPs faced challenges in terms of complying with those recommendations. Besides that, there is a gap between technical compliance with standards and the effectiveness of measures in practice is widening (Basel AML Index, 2022). This is due to the fact that the reporting institutions still unable to adapt with the new laws and policy implements against them to combat money laundering. TCSPs in Malaysia should continue to evolve and adapt their AML compliance programs to stay ahead of the ever-evolving threat of money laundering and terrorist financing. The subsequent section will elaborate on the comparison of AML regime in United Kingdom (UK) and Malaysia.

2.5.4 Comparison of AML Laws in UK and Malaysia

Money laundering has been a major issue globally as it is the serious crimes that really affected the economics of the country. Governments continually develop new efforts to combat this crime. Money laundering is used to clean up the proceeds of wrongdoing since it turns "dirty" money into "clean" money. The Proceeds of Crime Act (POCA) of the United Kingdom and the Anti-Terrorism Financing and Proceeds of Unlawful Activities Act (AMLATFPUAA) of Malaysia are compared based on the similarities and differences of both laws' provisions.

Basically the comparison of AML laws in UK and Malaysia are based on the comparison in term of enforcement intensity, supervisory structure and the DNFBPs regulation maturity. Firstly, in term of enforcement intensity, it can be seen whereby UK enforcement of AML law is robust with agencies such as National Crime Agency, Serious Fraud Officer and other which are actively pursuing the money laundering cased. UK also has track record of high-profile prosecutions recovery which reflecting the strong deterrence. As for Malaysia, the law enforcement is led by BNM and MACC. AMLA 2001 provides a strong legal framework for all the reporting institutions. This can be seen whereby the enforcement intensity help to shape the compliance behaviour among reporting institutions.

Secondly in term of the supervisory structure, it can be seen that UK has more multi layered supervision and they are coordinated together. UK adopt all crimes approach in its law in order to combat money laundering in various ways. However for Malaysia, supervision is more centralized and BNM act as the primary regulators for AML compliance and supported with supervisory roles such as SSM, Bar Council and others. Malaysia adopts a list- based approach of predicate offence of money laundering which emphasize on the comprehensive schedule of offences such as drug trafficking, corruption, fraud and terrorism financing.

Thirdly, in term of the DNFBPs regulation maturity, it can be seen than UK are more advance in implementing and identifying the information on beneficial ownership. The information of beneficial ownership has been make publicly available in order to ensure the data transparency. Malaysia has extended AMLA obligations to DNFBPs, however the beneficial ownership transparency remains a challenge as challenge and as reported by FATF (2025) which questions on the accuracy of the beneficial information. The reason for comparison of AML laws in UK and Malaysia is due to the fact that UK is one of the member countries of FATF which have good practiced and comprehensive anti-money laundering (AML) supervision regime (Gov.UK, 2025). The United Kingdom is frequently benchmarked as having good implementation of anti-money laundering (AML) due to its longstanding leadership in financial regulation, its global centre status and its proactive adoption of the international standards. The FATF (2018), reported that UK has a robust understanding of the AML risks and the country is proactively investigates, identifies and prioritise the AML investigation and prosecutions. UK act as a global leader in promoting the corporate transparency due to the country understanding of the money laundering risks posed by legal persons and arrangements.

By benchmarking UK, it allow policy maker and authorities in Malaysia to evaluate the advance economies operationalize the FATF recommendations to combat money laundering threats. This can be seen whereby UK had implemented various legislation across the country which are money laundering regulation, Proceeds of Crime Act 2002 (POCA), Criminal Finances Act 2017, Economic Crime (Transparency and Enforcement) Act 2022 (ECA), Financial Conduct Authority (FCA), Her Majesty's Revenue and Customs (HMRC), National Crime Agency (NCA), Office for Professional Body Anti-Money Laundering Supervision (OPBAS) and sanctions regime (LexisNexis, 2024).

Both POCA of UK and AMLATFPUAA of Malaysia are similar in term of applying the 40 recommendations of (FATF), the international standard of combatting money laundering their countries. This can be seen in year 2002, AMLA in Malaysia was firstly enacted and the 40 recommendations were codified. The Malaysian AMLA was amended in 2003 and renamed as the Anti-Money Laundering and Anti-Terrorism Financing Act 2001 (AMLATFA). In 2007, with regard to the implementation of this Act, Malaysia took its first step towards criminalising money laundering and recognising banking secrecy (Aurasu and Rahman, 2018). In 2015, it was amended to include the forfeiture of the proceeds of illegal activity and the instruments of crime. The legislation was subsequently renamed the Anti-Money Laundering, Anti-Terrorism Financing, and Proceeds of Unlawful Activities Act of 2001 (AMLATFPUAA, 2001). AMLATFPUAA includes instruments such as the investigation of money laundering and terrorism financing offences and the suspension, seizure, and forfeiture of criminal proceeds (AMLATFPUAA, 2001).

While for United Kingdom, before the enactment of the Proceeds of Crime Act 2002 (POCA, 2002), there have been a few other legislation and law enacted in the view of combating the money laundering threats. The country was the first country to outlaw the offence of money laundering which probably determine why the UK is regarded as having the best anti money laundering laws (Anyaoku, 2006). It began with the Misuse of Drugs Act of 1971, in which efforts to confiscate criminal proceeds from drug activities were ineffective. The Criminal Justice Act of 1988 and the Prevention of Terrorism (Temporary Provisions) Act of 1989 were enacted in 1986 as a further attempt to strengthen the AML regime (Pieth and Aiofli, 2004).

Prior to the implementation of the new POCA, POCA 1995 was in effect. The AML regime in the United Kingdom required additional amendments, so in 2002 the Proceeds of Crime Act (POCA) was enacted, introducing new dimensions. The amendments include a new Asset Recovery Agency (ARA), an expansion of the scope of expropriation law, new rights on civil forfeiture of criminal proceeds, and the elimination of the distinction between drug-related and non-drug-related money laundering offences (Pieth and Aioflo, 2004). Both UK and Malaysia adopted a risk-based approach as per the international standard of FATF.

The comparison between UK and Malaysia can be seen in term of the crime approach adopted by both countries, the DNFBPs regulation in term of reporting on suspicious transaction, transparency of beneficial ownership, new updated of AML laws and the Basel AML index score for each of the country. Firstly, the differences of the

AML law between UK and Malaysia are in term of the crimes approach under the AML law of (POCA, 2002) and (AMLATFPUA, 2001). Under (AMLATFPUA, 2001), it has 93 sections which are categorizes as nine parts which are Part 1: Preliminary; Part 2: Money laundering offences; Part 3: Financial intelligence; Part 4: Reporting obligation; Part 4A: Cross-border movements of cash and bearer negotiable instruments; Part 5: Investigation; Part 6: Freezing, seizure and forfeiture; Part 6A: Suppression of terrorism financing offences and freezing, seizure and forfeiture of terrorist property and Part 7: Miscellaneous (AMLATFPUAA, 2001).

While in POCA, it contains of 426 sections which classified into 12 parts namely Part 1: The Assets Recovery Agency, Part 2: Confiscation in England and Wales; Part 3: Confiscation in Scotland; Part 4: Confiscation in Northern Ireland; Part 5: The civil recovery proceedings in the United Kingdom and provisions for the search, seizure and forfeiture of cash; Part 6: Powers the Director of ARA to exercise functions of the Inland Revenue; Part 7: Consolidation, updates and reforms of the criminal law in the United Kingdom in relation to money laundering; Part 8: Powers for use in criminal confiscation, civil recovery and money laundering investigations; Part 9: Confiscation and insolvency proceedings; Part 10: The disclosure of information to and by the Director of ARA and the Scottish ministers; Part 11: Co-operation in investigation and enforcement between the jurisdictions of the United Kingdom and overseas authorities; and Part 12: Miscellaneous and general matters (POCA, 2002).

This can be seen whereby UK has more adopted crimes compared to Malaysia which specifies under the POCA, 2002. POCA consolidated, modernised, and reformed the criminal law pertaining to money laundering to encompass all criminal offences, including all transactions involving illicit property. Certain offences relating to the neglect to report (except in the case of nominated officer) and "tipping off" apply only to those operating in the regulated sector. POCA is a catch-all statute that encompasses a variety of offences relating to forfeiture or cash recovery proceedings compared to Malaysia. This can be seen whereby UK has strengthened its AML framework in relation to enforcement agencies, stronger investigative tools, and a strong mechanism use to help public and private sectors for information sharing. They have many list of industry covered under the AML law.

Furthermore, in terms of reporting of suspicious transaction reports (STR) and reporting of suspicious activity (SAR) by both countries. In Malaysia, it can be seen that, BNM provide a basic guideline and no details explanation and guidance to submit quality STR for reporting institutions as compared to UK. The submission of STR can be made through postage of STR report, email address and fax and there is no online submission or website for submission of STR by the reporting institutions (BNM, 2023). The suspicious transaction reports (STR) must be made to the Financial Intelligence Unit (FIU) under the Central Bank of Malaysia. The guidance provided by BNM to report on STR are by having a listing of do and don't and there is no specific guidance for each of the reporting institutions to submit STR. While in United Kingdom Financial Intelligence Unit (UKFIU) published the Guidance on submitting better quality suspicious activity reports (SARS) and provides a details guidance on how to submit quality SARS.

In January 2023, the National Crime Agency (NCA) issued recommendations for submitting SARs of higher quality. The Guidance includes examples of sanitised SARs and recommendations regarding what firms could have done to provide the NCA with higher-quality information. The SARs should be submitted online. Entities must report suspicious transactions to the National Crime Agency (NCA) through the Suspicious Activity Reports (SARs) regime. The purpose of this report is to demonstrate the best practises for filing a report of suspicious activity and the actions taken by the relevant authorities. SARs can be submitted at any time during a company's customer lifecycle, including before a business relationship is established and after it has ended (Menz, 2023). The NCA provides a high-level summary of SARs reporting on its website, which includes information about the value and use of SARs, reporting obligations and practicalities, as well as guidance on how to submit SARs (NCA, 2023c).

In addition, there is differences in term of reporting of beneficial ownership by UK and Malaysia. Bank Negara Malaysia has implemented a guidance of beneficial ownership to financial institutions and DNFBPs in a year 2020 (BNM, 2023). The purpose of the guidance is to provide guidelines regarding the beneficial ownership obligation under the Anti-Money Laundering Act. Under the Companies Act 2016 of Malaysia, the ultimate owner is a natural person who is classified as the "beneficial owner". The Companies Commission of Malaysia (SSM) has recently issued the

Guideline for the Reporting Framework for Beneficial Ownership of Legal Persons. All companies (domestic and foreign), limited liability partnerships (domestic and foreign), and businesses (sole proprietors and partnerships) must obtain and update their beneficial ownership information by December 31, 2020. The implementation of this requirement follows in the footsteps of numerous countries around the world that have adopted this practice, with the United Kingdom serving as a leader in this regard. The concept of beneficial ownership (BO) is one of the key regulatory policies introduced by the Companies Act 2016 (CA 2016) and is one of the most significant. Since the CA 2016 came into effect on 31 January 2017, companies are required to notify and submit BO information to the Registrar via the submission of an annual return, per section 68 of the CA 2016. Under Section 591 of CA 2016, it is offence to make or authorise the making of a deceptive or misleading statement.

Upon conviction, this person may face imprisonment for a term not exceeding ten (10) years, a fine not exceeding RM3 million, or both. Under this guideline, the companies need to seek and take a reasonable step to identify, obtain, and verify the BO information, record the BO information into the register of BO, keep the BO information accurate and up-to date can be accessed in a timely manner, update BO information if there are any changes and keep the BO information and supporting documents at the registered office. The BO information shall be access by the competent authorities and the law enforcement agencies (SSM Guideline, 2020).

The amendment mad on the Companies Act 2016 Bill 2023, comes into force on April 2024 which address the gaps in the beneficial ownership reporting framework for local and foreign company in Malaysia. Section 60A of the Companies Act (CA) 2016 defines a beneficial ownership as a natural person who is ultimately owns or control company and includes a person who exercise the ultimate effective controls over a company. There are six criteria of the beneficial owners. Under this new CA2016, the companies are required to maintain and update a database of all the beneficial owners' information through e-BOS system as part of their Annual Submissions.

As early this year, SSM has launched an access to beneficial ownerships information in order to enhance corporate transparency (Bernama, 2025). The supply of the beneficial ownership information is currently offered through the counter at Menara SSM@Sentral and will be expanded online later. The beneficial owner information can only be assessed for their own information only. Each of the application is charge with RM20 for each of the company and the application to obtain third party beneficial ownership information must be accompanied by a written authorisation letter from the relevant institution which enable the supply of the information. The beneficial owner information can only be assessed for their own information only.

Basically, the access to beneficial ownership information can only be accessed by Bank Negara Malaysia (BNM), any enforcement agency in Malaysia that responsible for the prevention, detection, and investigation of any serious offence as defined under the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 (Act 613), reporting institution who is conducting the activities listed under the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 (Act 613), and the Ministry of Finance Malaysia (SSM, 2025). From the guidelines and the Companies Act 2016, it is clearly seen that Malaysia has not established a public register, and the beneficial ownership information is not accessible to the general public as compared to UK as it is only available and accessible to competent authority which may encourage criminals to seek for professional to launder money laundering. This is because the information of them as BO are not publicly accessed and the professionals cannot check on the identification of criminal's record or individual behind the corporate vehicles may lead to high number of criminal cases in the country.

In 2016, UK was one of the first nations in the world to establish a public register of the beneficial owners of companies in an effort to combat, among other things, corporate corruption and tax evasion (Tan, 2020). The introduction of the "Persons with Significant Control" (PSC) register in 2016 requires companies to disclose their beneficial owners, reducing the misuse of complex corporate structures for money laundering purposes. The purpose of the establishment it to help combat money laundering and achieve greater transparency in UK.

The PSC register is publicly accessible and can be viewed by anyone. This allows interested parties, such as law enforcement, regulatory authorities, and the public, to access information about a company's beneficial ownership. Companies House in UK makes the register's information readily accessible as both a searchable web interface and structured data in machine-readable format. Additionally, this data is available under an open data licence, allowing other organisations and individuals to utilise it without restrictions (Global Witness Blog, 2017). This can be seen all the beneficial owner's data and information are publicly accessed which may hinder the criminals to launder money through the use of Shell Company and establishment of a corporation. The data are readily available and access at any time by public and the authorities.

Other than that, recently in this year 2023, UK government has published its Second Economic Crime Plan (ECP2) with the aim to reinforce the government's priorities in relation to economic crime which affecting UK and sets out a series of actions for the coming three years. The key outcomes of the plan are to reduce money laundering and recover more criminal assets, to combat kleptocracy and drive down the sanction evasion and to cut fraud in the country (ECP2, 2023). The expanding role of financial technologies and crypto assets in financial crime has posed new challenges for law enforcement and oversight.

The government has made combating fraud a strategic priority, and money laundering continues to connect all financial offences. One of the ECP2 focuses are on 'enablers' or 'professional enablers' of the economic crime. The term 'enabler' is used in various forms throughout the plan. First, it refers to structural factors that facilitate economic crime, such as the ways in which corporations and other corporate structures can be exploited, or technological enablers of money laundering, such as crypto assets and other fintech. Second, the term “enablers” and “professional enablers” refers to the individuals or organisations that provide professional services that enable criminality. Since more than a decade, the term 'professional enabler' has been used in UK organised crime and financial crime policing and policy. Initially, the term referred to members of the financial, accounting, and legal professions who facilitated money laundering on behalf of organised criminals, such as by assisting them to engage in real estate or establish front companies.

The ECP2 definition characterises the behaviour of professional enablers as "deliberate, reckless, improper, dishonest, or negligent through a failure to meet their professional and regulatory obligations." The intended strategy must take into account the various ways in which facilitation can occur, include measures to promote compliance with regulations and, where applicable, professional standards, and provide assistance to professionals who are striving to comply (ECP2, 2023). With the new term "enablers" and "professional enablers" use in UK, it can be seen that the gatekeepers or the reporting institutions are now being categorize as per the term. The action will be taken against individual and the professional for failure to comply of AML law in UK as well as the action of the individual or professional which facilitate in the process involving money laundering.

Lastly, the differences of UK and Malaysia can be seen in the international Basel AML Index 2024 which showed that UK has the best AML practice in term of complying and the effectiveness of the policy in combating money laundering. UK was ranked 140 out of 167 jurisdictions with a score of 4.13 which indicate UK pose a lowest money laundering risk while Malaysia was ranked 67 out of 167 jurisdictions with a score of 5.50 which indicate Malaysia pose a medium high risk of money laundering threats. AMLATFPUAA and POCA are each comprehensible in their own way. They capture all acts relating to money laundering and therefore enable law enforcement to seize criminal proceeds. Although they are comparable, it must be understood that they were enacted based on the nature of each jurisdiction and that they have their own strengths and limitations. The below Table 2.1 shows the comparison of the AML laws in both United Kingdom (UK) and Malaysia.

Table 2.1
Comparison of Anti-Money Laundering (AML) laws in United Kingdom (UK) and Malaysia

United Kingdom (UK)		**Malaysia**
Similarities		
a) Both countries follow the international standard recommended by Financial Action Task Force (FATF). b) Both UK and Malaysia adopt a risk-based approach to AML, focusing resources and due diligence efforts on higher-risk individuals, transactions, and sectors. c) Risk assessments are conducted to identify and mitigate the money laundering and terrorist financing risks specific to each jurisdiction.		
Differences		
	United Kingdom (UK)	**Malaysia**
Regulatory Framework	Proceeds of Crime Act 2002 (POCA) and the Money	Anti-Money Laundering, Anti-Terrorism Financing and

	Laundering Regulations 2022	Proceeds of Unlawful Activities Act 2001 (AMLA)
	i) Comprehensive anti- money laundering law ii) Clear provision of specific Practice Notes and guidelines for legal practitioners on their AML duties	i) AML law - not comprehensive enough ii) No similar & specific guidelines for legal practitioners for their AML compliance
Crimes Approaches in AML Act	i) Adopts all crimes approach to money laundering	i) Adopts a list- based approach of predicate offence of money laundering
Reporting of Suspicious Transaction Report	i) United Kingdom Financial Intelligence Unit (UKFIU) published the Guidance on submitting better quality suspicious transaction report (SARS). UKFIU provides a details guidance on how to submit quality SARS. ii) UK has an online system to submit SARS iii) Entities must report suspicious transactions to the National Crime Agency (NCA) through the Suspicious Activity Reports (SARs) regime.	i) BNM provide a basic guideline and no details explanation and guidance to submit quality STR. ii) The submission of STR can be made through postage of STR report, email address and fax. iii) suspicious transaction reports must be made to the Financial Intelligence Unit (FIU) under the Central Bank of Malaysia
Reporting of Beneficial Ownership	i) The introduction of the "Persons with Significant Control" (PSC) register in 2016 requires companies to disclose their beneficial owners, reducing the misuse of complex corporate structures for money laundering purposes. The PSC register is publicly accessible and can be viewed by anyone. This	i) Under the Companies Act 2016, the ultimate owner is a natural person who is classified as the “beneficial owner”. The ultimate owner is the one who owns the shares of the company. Malaysia has not established a public register, and the

	allows interested parties, such as law enforcement, regulatory authorities, and the public, to access information about a company's beneficial ownership.	beneficial ownership information is not accessible to the general public. The purchase of the information is available for personal information and from the authority only.
New Changes of AML Law	UK government has published its Second Economic Crime Plan (ECP2) in 2023. The key outcomes of the plan are to reduce money laundering and recover more criminal assets, to combat kleptocracy and drive down the sanction evasion and to cut fraud in the country (ECP2, 2023). The new term used individual and reporting institutions which are “enabler” and “professional enabler” and widen the scope of action under these terms.	Companies Commission of Malaysia (SSM) requires companies and limited liability partnerships to identify, obtain and verify the information of the beneficial owners (BOS) and submit to SSM through the Electronic Beneficial Ownership System (e-BOS)
Basel AML Index 2024	UK was ranked 140 out of 167 jurisdictions with a score of 4.13 which indicate UK pose a lowest money laundering risk.	Malaysia was ranked 67 out of 167 jurisdictions with a score of 5.5 which indicate Malaysia pose a medium high risk of money laundering threats.

2.6 Reporting Institutions under Anti Money Laundering Acts (AMLA) in Malaysia

Reporting institutions refer to businesses required by law to report suspicious transactions to the Financial Intelligence and Enforcement Department (FIED) of Bank Negara Malaysia, the country's central bank, and the authorities. All reporting institutions must take preventative measures to avoid their institutions being used as a platform for money laundering and terrorism financing activities. Preventive measures include risk assessment, customer due diligence, submission of suspicious transaction reports (STR) and cash threshold reports (CTR), transaction maintenance and retention, and implementation of an AML/CFT compliance programme that is reflective of the reporting institution's money laundering and terrorism financing risk profile. Both financial sectors and non-financial sectors are the reporting institutions under AMLA. Financial sectors include banking, insurance companies, money services business, electronic money, capital market, development of financial institutions such as Bank Simpanan Nasional (BSN), and other financial institutions such as Lembaga Tabung Haji, Money Lenders, and Pos Malaysia Berhad.

The non-financial institution or Designated Non-Financial Business and Professions (DNFBPs) includes accountants, casino, company secretaries, dealers in precious metals and precious stones, Labuan trust companies, lawyers, pawnbrokers, and trust companies (BNM, 2021). Part IV of AMLA states reporting obligation to Reporting Institutions, which are to implement AML/CFT risk management procedures that are proportionate to the risk of money laundering and terrorism financing, conduct due diligence on customers, maintain accurate records of customers and transactions, implement an anti-money laundering/counter-terrorism financing compliance programme, submit a report of suspicious transactions (STR) and cash threshold reporting (CTR) is required for cash transactions exceeding RM50,000 or the specified amount (BNM, 2022). The figure 2.2 below shows the categories of reporting institutions in Malaysia.

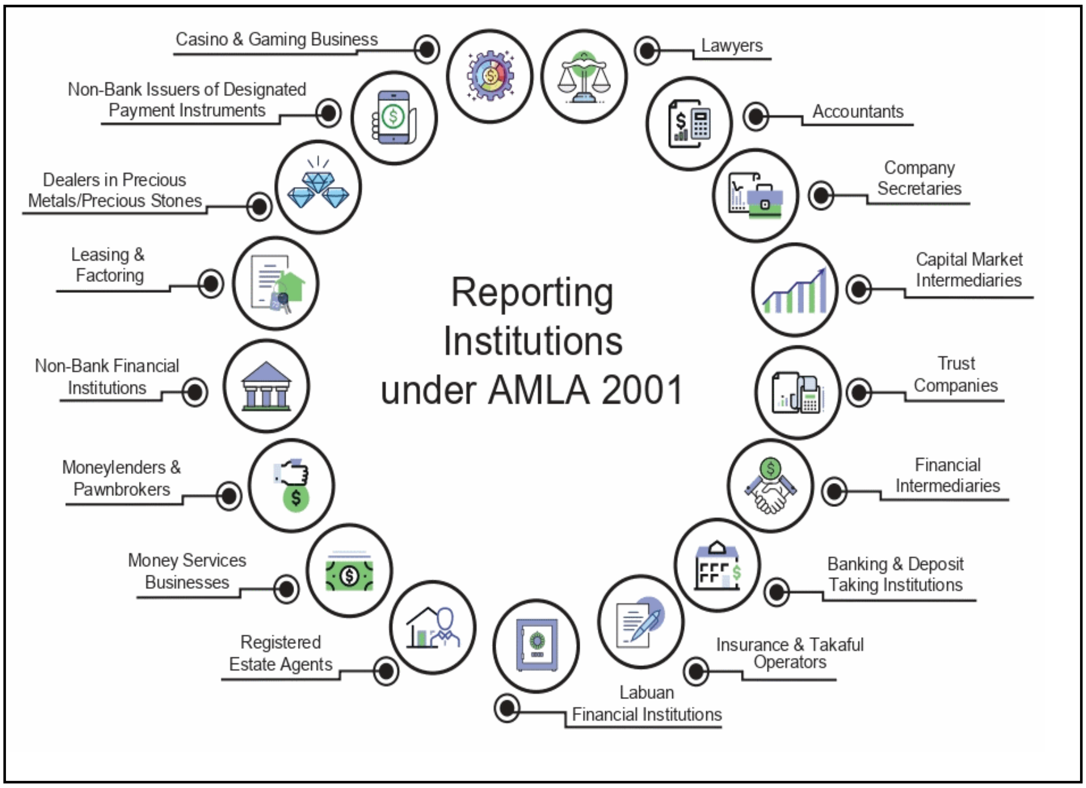

Figure 2.2 Reporting Institution in Malaysia
Source: Bank Negara Malaysia

2.6.1 Financial Institution as Reporting Institution in Malaysia

Financial services organisations are the primary gateways for cash into the financial system and significant facilitators of the global money movement. Additionally, the cash movement through the financial system generates records that can be analysed to determine, demonstrate, or even forecast how money is used or generated (De Goede, 2012). As a result, governments worldwide have enacted legislation requiring financial service providers to analyse how their customers use their products and services to generate intelligence that can aid in crime reduction (Ballet al, 2015). According to the FATF (2012), ML and TF risks are inherent worldwide in all banking systems and other financial institutions. These risks originate from various sources, including geographic locations, types of customers, financial services, products, and transaction channels often used (Nanyun & Nasiri, 2021).

The financial sector tend to be the sector most linked to crimes. This can be seen whereby crimes which require services of this sectors are fraud, corruption and organised crime which allows for the transfer of services (NRA, 2023). As money laundering schemes become more complex and sophisticated and their volume increases, financial institutions are increasingly targeted first (Maalouf, 2012). Therefore, as reporting institutions, the financial institutions which included banks and other financial institutions, need to report on the suspicious transaction that occurs to the relevant authorities to help minimize the risk of ML.

2.6.2 Designated Non-Financial Businesses and Professions (DNFBP) as Reporting Institution in Malaysia

Designated Non-Financial Businesses and Profession (DNFBP) is the FATF catch-all definition for any business or profession that risks money laundering but does not qualify as a financial institution. Thus, the risks associated with this sector stem from the possibility of ML/TF misuse. Certain countries recognised these risks and enacted legislation to prevent the exploitation of non-financial businesses and professions in ML/TF. In 2004, the Designated Non-Financial Businesses and Professions (DNFBP) were required to start complying with AMLATFA 2001 (Normah Omar, 2015).

Designated non-financial businesses and professions (DNFBPs) are significant actors in the formal and informal sectors due to the nature of their services. As a critical role in financial and economic development, the DNFBPs are particularly vulnerable to money laundering (ML) and terrorist financing (TF) risks (Nduka and Sechap, 2021). DNFBPs consist of 9 sectors: legal practitioners, trust company and service providers, real estate agents, and dealers in precious stones and casinos (Newbury, 2017).

As reporting institutions, DNFBPs are required to take appropriate measures to mitigate the risk of money laundering or terrorist financing. DNFBPs must comply with specific requirements under the 2012 FATF Standards, most notably Recommendations 22 (DNFBPs: Customer due diligence) and Recommendation 23 (DNFBPs: Other measures). DNFBPs are expected to comply with relevant FATF Recommendations as reporting institutions, including the requirements to conduct risk assessments, mitigate identified risks, conduct due diligence, maintain proper records, and report suspicious transactions to the Financial Intelligence Unit (FIU). However the implementation of the AML duties is different in actual situation. The professional enablers such as lawyers and company secretaries remain as sectors which contribute to the facilitation of legal person being abused for crimes (NRA, 2023). This is because of the professional services offered by them may be misuse by the criminals in generating idea for money laundering.

The DNFBP sector's potential coverage in implementing their AML/CFT compliance functions is limited to those activities that are particularly vulnerable to money laundering and terrorist financing and are predominately focused on financial transactions conducted on behalf of their clients (Nduka & Sechap, 2021). Similarly, Hamin et al. (2015) identified three critical aspects and responsibilities of internal regulation. First and foremost, customer due diligence. Secondly, submitting suspicious transaction reports or STRs and Cash Threshold Reports or CTRs to Bank Negara's Financial Intelligence Unit or FIU and thirdly, capacity building to provide adequate and applicable resources to financial institutions' compliance sections.

Thus, the DNFBPs must comply with the regulation to combat money laundering in their sectors. Despite many AML duties to comply with, the duty to conduct customer due diligence and record keeping of the DNFBPs are varies in practice as reported by FATF (2025). This can be seen whereby the compliance of this duty are in non-standard situations and it’s relate to the beneficial ownership reporting. Besides that, there is gaps in the record keeping in all DNBPs sectors. Therefore, it is crucial for the regulatory and supervisory authority to ensure the DNFBPs sectors understand the risks of money laundering and perform their roles accordingly in order to combat money laundering or criminals that might use their services for illegal purposes. The Table 2.2 below shows the categories of DNFBPs and their registration authority, and the AML supervisory authorities. Furthermore, the following subsection discusses the TCSPs under the DNFBPs categories of reporting institutions.

Table 2.2
DNFBP Sectors and Registration/Regulatory and AML/CFT Supervisory Authorities (Source: Bank Negara Malaysia)

No.	Sectors	Licensing / Registration Authority	AML/CFT Supervisor
1	Lawyer	i) Respective Registrars of High Court ii) Bar Council Malaysia iii) Sabah Law Society	
2	Accountant	i) Malaysian Institute of Accountants (MIA)	
3	Company Secretaries	i) Companies Commission of Malaysia (SSM)	
4	Trust Companies	i) Companies Commission of Malaysia (SSM)	BNM
5	Dealers in Precious Metals or Precious Stones	i) NONE	
6	Registered Estate Agents	i) Board of Valuers, Appraiser, Estate Agents and Property Managers	
7	Casino	i) Ministry of Finance	
8	Gaming Outlets	i) Ministry of Finance	
9	Labuan Trust Companies	i) Labuan Financial Services Authority	LFSA

The above table shows the DNFBP Sectors and Registration/Regulatory and AML/CFT Supervisory Authorities. As for the lawyers and accountant, they are govern by the respective authority such as Bar Council and Malaysian Institute of Accountants (MIA). Any action done by these respective sectors must follow the rules and regulation as per their registration authority. However, the company secretaries and trust company are govern by the Companies Commission of Malaysia (SSM) whereby any rules and regulations pertaining to companies shall be follow the requirements set by SSM. Basically all of these sectors act as a reporting institutions under the AML law and bound to the requirements of AML regulations in every sectors.

In order to ensure the effectiveness of the AML duties implemented by these sectors, each of the regulatory body is responsible to ensure their respective members are comply with the rules and regulations. The role of the regulatory body will be supervised by the Bank Negara Malaysia in order to ensure all the AML policies are being implemented accordingly by all the sectors. This is because Bank Negara Malaysia is a central body responsible to ensure compliance of all sectors with Anti-Money laundering (AML) standards. BNM issued guidelines, conduct risk based supervision and on site examination in order to ensure the compliance of AML law by all of these sectors.

On the other hand, SSM plays as complementary and supervisory roles to company secretaries and trust company in ensuring the sectors are fully committed to comply with the AML regulations. According to FATF (2025), all the supervisors are guided by the respective supervision, enforcement and penalty frameworks which helps to provide corrective action and punishment for those sector who are not comply with the requirements. This can be seen whereby for company secretary and trust company, the SSM has issued a requirement to report on the beneficial ownership as part of the AML compliance duties among the sectors.

The duty of SSM and BNM in relation to the AML supervisory functions is crucial and challenging. This can be seen whereby BNM is a central body responsible to supervise the financial institution and non-financial institution under AML law while SSM duty is to oversee the corporate entities compliance with AML laws. The company secretaries play a crucial role in ensuring the corporate compliance with AML law. According to FATF (2025), there are significant numbers of deficiencies across all DNFBPs sectors due to enforcement action is seldom taken against DNFBPs. The reality is that the supervisory authority and regulatory authority only understand the risk of money laundering and the importance of combating them. From the site examination, it can be seen that the DNBFPs sectors have basic understanding on the AML risk that they face.

Next, as for the dealers in Precious Metals or Precious Stones, the sector is directly supervised by BNM. The rest of the sectors such as Registered Estate Agents, casinos and gaming outlets are regulate by its regulatory body and supervised by BNM. However, it is different for Labuan Trust Companies whereby the regulatory authority for the sector is Labuan Financial Services Authority (LFSA) and it is supervised by the same authority. The next subsection will explain in detail about the Trust Company and

Service Providers (TCSPs) role as reporting institution.

2.6.3 Trust Company and Service Providers (TCSPs) as Reporting Institution in Malaysia

According to FATF (2010), the term Trust Company and Service Providers (TCSP) include all individuals and entities that create, administer, and manage trusts and corporate vehicles professionally. The registration authority for TCSPs is the Companies Commission of Malaysia (SSM). The FATF Methodology classifies TCSPs as Designated Non-Financial Businesses and Professions (DNFBPs).

Numerous jurisdictions, large and small, have sizable TCSP sectors, and many are still grappling with the best way to exercise effective control over TCSP activity. TCSPs are frequently among the subsidiaries of banks, financial services businesses, law firms, or accounting firms; however, they can also be sole proprietorships. In some jurisdictions, TCSPs provide a broad range of corporate services, which may represent a minor portion of the entity's primary business. Among the services, TCSPs are assisting in forming legal entities, arranging for another person to serve as director or partner, providing a registered office and business address and arranging for another person as a nominee shareholder.

Criminals or individuals may utilise TCSPs to facilitate illicit activities by seeking professional advice and assistance in determining the most appropriate vehicles or jurisdictions to further their ill-intentioned agendas. This potential for abuse of TCSPs contributed to the FATF's 40 + 9 Recommendations being expanded to include lawyers, accountants, and other TCSPs. The amendments focus on Recommendation 5, which addresses customer due diligence and record-keeping, and Recommendations 33 and 34, which address legal person, arrangement, and transparency. According to Organisation for Economic Cooperation and Development (OECD) report (2001), to develop mechanisms to prevent corporate vehicle misuse, supervisors and law enforcement, authorities should ensure that they can obtain and share information on the beneficial ownership and control of corporate vehicles on a timely basis.

2.6.4 Small Size Reporting Institution in Malaysia

On 31 December 2019, BNM published the Anti-Money Laundering (AML), Counter-Terrorism Financing (CFT), and Targeted Financial Sanctions (TFS) Policy Document for Designated Non-Financial Businesses and Professions (DNFBPs) and Non-Bank Financial Institutions (NBFIs) ("2020 Policy Document"). On 1 January 2020, the 2020 Policy Document took effect, superseding the Sector 5 Policy Document. Many compliance departments in DNFBPs, including lawyers, accountants, corporate secretaries, trust companies, and real estate agents, have been scrambling to update and revise their internal anti-money laundering policies, procedures, and checklists to meet their reporting institution obligations. DNFPBs should welcome the changes in the 2020 Policy Document because they clarify some of their reporting obligations.

Introducing a "Small-sized Reporting Institution" significantly changes the new BNM AML Policy Document. The small reporting institution refers to moneylenders, pawnbrokers, and trust companies with annual sales below RM3 million and fewer than 30 employees. Besides that, the term refers to law, accounting, and corporate secretarial practices with five or fewer holders of practising certificates and registered real estate agents with total annual fees of less than RM3 million. The concept of a Small-sized Reporting Institution acknowledges the distinctions in risk profiles and resource availability between larger and smaller reporting institutions.

For instance, Small-Sized Reporting Institutions are not required to have customised anti-money laundering policies, procedures, and controls if they adhere to the 2020 Policy Document's policies and procedures. Besides that, they also are not required to have their Board of Directors approve their review mechanisms, internal control systems and oversight, reporting lines and responsibilities, and internal audit functions. Other than that, the reporting institution is not required to have senior management develop anti-money laundering policies, mechanisms, and procedures, as well as implement training programmes to their staff about money laundering practices and policies. This can be seen whereby the employers are only required to conduct AML screenings on new hires, not on an ongoing basis.

Furthermore, the institutions may employ a simplified approach to employee training and awareness programmes and rely on third-party training. There are not required to have independent audits of their anti-money laundering policies, procedures, and programmes regularly. BNM reveals that about 95.7% of the submission of the Data Compliance Report (DCR) for the year 2021 and year 2022 are from the small size firms. This shows that Malaysia has a high number of small sized firms that provide the gazetted activities as under the law. The table 2.3 below shows on the details of the small sized reporting institution of the DNFBPs sectors.

Table 2.3
Small Sized Reporting Institutions
Source: Bank Negara Malaysia

<table>
<tr><th colspan="2">Sector</th><th>Criteria</th></tr>
<tr><td colspan="2">• Non-bank Financial Institutions
• Moneylenders
• Pawnbrokers
• Trust Companies</td><td>• Total annual sales turnover of less than RM 3 million; AND
• Total number of employees less than 30.</td></tr>
<tr><td rowspan="2">• Dealers in Precious Metals or Precious Stones (DPMS)</td><td>• Companies or businesses carrying on retail business</td><td>• Total annual sales turnover of less than RM 10 million; AND
• Total number of employees less than 30.</td></tr>
<tr><td>• Companies or businesses carrying on wholesale business, i.e. business to business dealings only</td><td>• All such businesses are subject to the exemptions and simplification of AML/CFT/CPF Compliance Programme.</td></tr>
<tr><td colspan="2">• Lawyers
• Accountants</td><td>• Number of practising certificate holders of 5 and below</td></tr>
<tr><td colspan="2">• Company Secretaries</td><td>• 5 members and below of a body prescribed by the Minister under section 235(2)(a) of Companies Act 2016; or
• 5 persons and below licensed as company secretary by the Companies Commission of Malaysia (SSM); or
• 5 persons and below with any combination of the above.</td></tr>
</table>

• Registered Estate Agents	• Total annual fees of less than RM 3 million

2.7 Duties of Trust Company and Service Providers (TCSPs) under AML Law in Malaysia

The duties and obligations of the DNFBPs includes the customer due diligence (CDD), reporting of suspicious transaction report (STR), record keeping, compliance functions which includes four folds which are internal control policies, appointment of compliance officer, independent audit function, and the training and development for the employees. The duties and obligation of the TCSPs will be discuss in greater details as per below. The below figure 2.3 shows the reporting obligation and duties of DNFBPs as a whole under the AML laws.

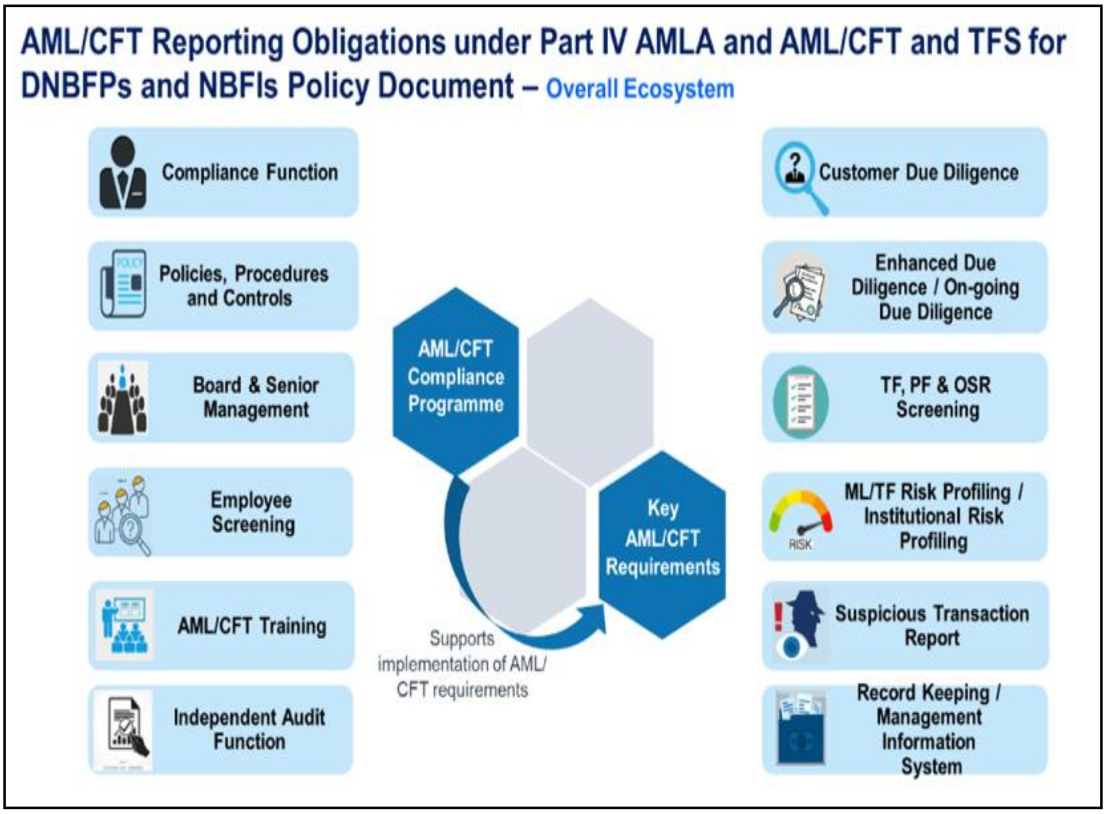

Figure 2.3 AML Reporting Obligations for DNFBPs

Source: Bank Negara Malaysia

2.7.1 Standard Customer Due Diligence (CDD)

TCSPs serve as intermediaries by introducing business to other institutions and handling and managing assets. As gatekeepers to the financial sector, they are uniquely positioned to observe their clients' behaviour and activities, conduct background checks and business activities, collect due diligence information, and evaluate the rationale for prospective and ongoing business. Risk-based analysis (RBA) is essential to the successful implementation of the Recommendations of the FATF. This requires supervisors, financial institutions, and trust and company service providers (TCSPs) to identify, assess, and comprehend their exposure to money laundering and terrorist financing (ML/TF) risks and to implement the most appropriate mitigation measures. This strategy enables them to concentrate their efforts where the risks are most remarkable. TCSPs have the potential to significantly contribute to the detection and investigation of money laundering offences occurring within their domain (FATF, 2010).

TCSPs play a dual role in detection and investigation. Firstly, they must implement effective due diligence measures to collect accurate information about clients and beneficial owners, allowing competent authorities to obtain critical information quickly during an investigation or inquiry. Secondly, it is critical for TCSPs to properly discharge their duty to file suspicious activities report (SAR), as they have the earliest opportunity to identify suspect schemes and arrangements. Not only have these obligations been suggested to aid in detecting money laundering and other crimes, but they may also mitigate the risk of a TCSP being misused in this manner. When detailed information about the individuals who will own and control a business or who will settle and benefit from a trust is obtained, and a service provider fully understands the service they are to provide and why they are to provide it, this should serve to mitigate the risk that any business formed, or trust settled will be used for illicit purposes (FATF, 2010).

2.7.2 Simplified Customer Due Diligence

Simplified Customer Due Diligence (SCDD) is a risk-based approach financial institutions use to streamline their due diligence procedures for low-risk customers. This approach aims to reduce the burden of due diligence while still managing Anti-Money Laundering (AML) risks. Regulation 37 of the UK Money Laundering Regulation 2017 (MLR, 2017) states that a relevant person may apply simplified due diligence measures with a particular business relationship or transaction if the relevant person determines that the business relationship or transaction provides a low risk of money laundering or terrorist financing. According to the new simplified due diligence ruling, the legislation requires CDD for regulated industries; however, an exception applies where a list of low-risk elements exists (ICAEW, 2018).

Referring to the FATF Interpretative Note 2012, several possible countermeasures have been suggested for simplified due diligence. These include verifying the identity of a customer and the beneficial owner after the establishment of a business relationship. Additionally, reducing the frequency of customer identification updates is another potential countermeasure. Another suggestion is to reduce the degree of ongoing monitoring and scrutiny of transactions based on a reasonable monetary threshold. Finally, not collecting accurate monetary information is another option. Financial institutions can use these countermeasures to streamline their due diligence procedures for low-risk customers while managing Anti-Money Laundering (AML) risks. However, it is essential to ensure that appropriate risk criteria and controls are in place to mitigate the risks of Simplified Customer Due Diligence (SCDD). Furthermore, reporting institutions must ensure that SCDD is only applied to low-risk customers and that appropriate due diligence measures are applied to higher-risk customers.

2.7.3 Enhanced Customer Due Diligence

Enhanced client due diligence entails performing more checks on a customer's identification, gathering additional data, and performing further verification. EDD is a process reporting institutions use to mitigate Anti-Money Laundering (AML) risks associated with higher-risk customers. This approach involves a more in-depth analysis of a customer's information and transactions, which may require additional information to be collected to establish the source of funds and wealth.

Regulation 33 of the MLR 2017 states that greater due diligence and continuous monitoring are mandatory in specific scenarios. These include cases with a high risk of money laundering or terrorist financing, business relationships or transactions with individuals established in high-risk countries, correspondent agreements with financial or credit institutions, and dealings with politically exposed persons (PEPs), their family members or known associates. Regulation 35 of the MLR 2017 also requires greater due diligence in cases where fraudulent or stolen identifying information has been submitted by a client and the relevant person intends to continue the business relationship with them.

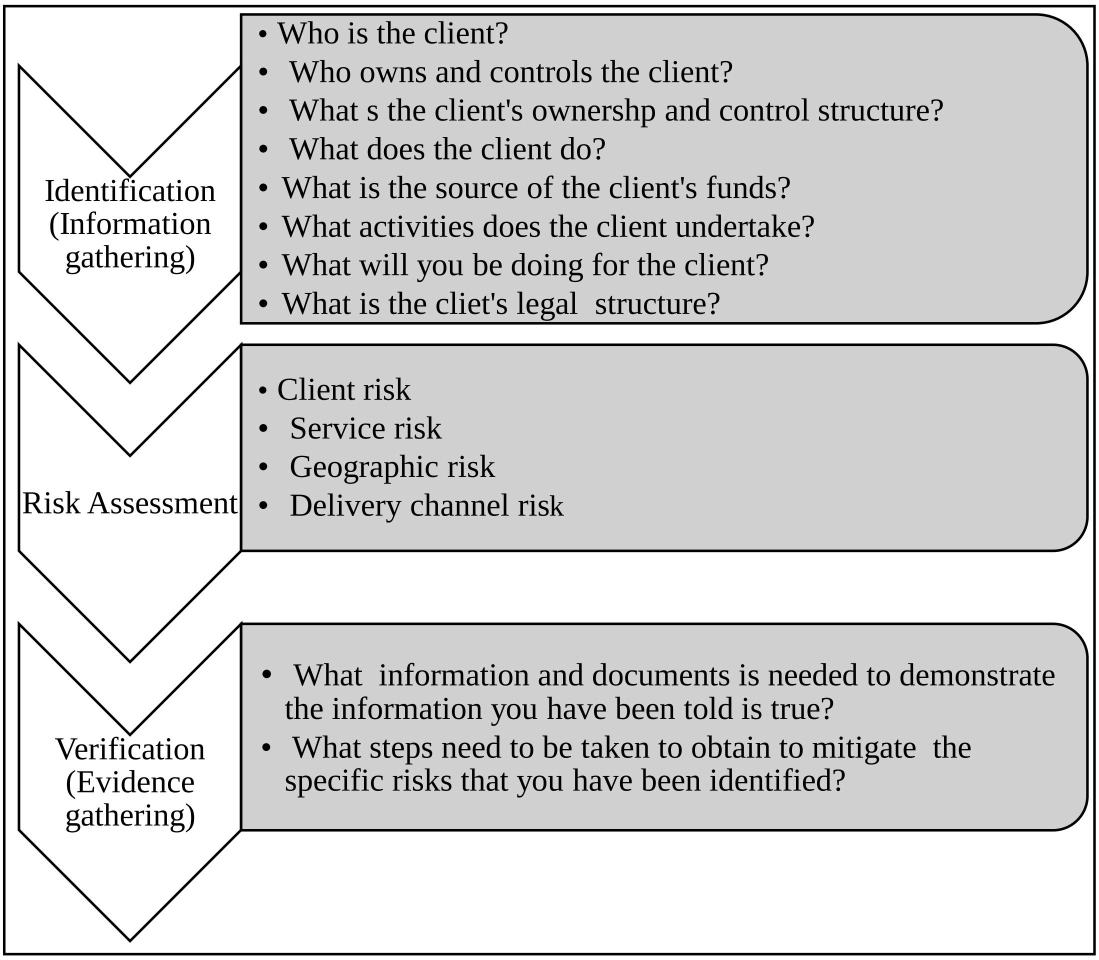

Figure 2.4 Stages of Customer Due Diligence (CDD) Measures

Source: Bank Negara Malaysia

The above figure 2.4 shows the stages of customer due diligence. The stages of customer due diligence (CDD) involve three stages: identification process, risk assessment and verification of the information gathered. Firstly, the identification stage involves gathering information about the client's identity and the purpose of the business relationship. The information gathered includes the customer's full name, photo identification, address, phone number, email address, occupation and tax identification number (CCAB, 2018). As for the corporate client, the information to be gathered would include identifying information about the customer's business model, source of funds and beneficial ownership. Beneficial ownership is a natural person who ultimately owns or controls a legal entity or arrangement (FATF, 2014).

The next stage of CDD is risk assessment, which needs to be performed according to the Risk-Based Approach (RBA) and must reflect the purpose, regularity, and duration of the business relationship and the size of transactions undertaken by the client. The initial risk assessment is based on the information gathered earlier during stage one identification, but this may prompt the gathering of additional information as indicated by the left-hand feedback loop. The right-hand feedback loop shows that additional risk assessment may be required in light of stage three (verification). The Initial Risk Assessment involves collecting information about the customer, including their identity, source of funds, and business activities, and assessing the risks associated with the customer's profile. This assessment considers various factors, such as the nature of the customer's business, geographic location, and past financial activities (FATF, 2012).

The primary objective of the Initial Risk Assessment is to identify customers or business relationships that pose a higher risk of money laundering or terrorist financing. This information helps financial institutions to determine the appropriate level of due diligence and monitoring required for each customer. It also helps institutions to identify and prioritize high-risk customers and allocate resources accordingly (FATF, 2012). The results of the Initial Risk Assessment may lead to further due diligence requirements, such as Enhanced Due Diligence (EDD) or the implementation of additional control measures. Alternatively, the assessment may determine the risk associated with a particular customer is low and that the standard due diligence procedures are sufficient (FATF, 2012).

Once the initial risk assessment has been carried out, evidence is required to verify the information gathered during the first stage. The term is called client verification, which involves validating with an independent, authoritative source that the identity is genuine and belongs to the claimed individual or entity. As for individuals, the verification may require the sight of a passport with a photocopy taken for corporate and others, and it requires verification measures to identify beneficial owners among corporate members. Initial Risk Assessment is a crucial stage in the Anti-Money Laundering (AML) process that involves evaluating the level of risk associated with a customer or business relationship (FATF, 2012). This assessment is conducted during the Customer Due Diligence (CDD) process and helps determine the appropriate level of due diligence and monitoring required for each customer. Financial and non-financial institutions must conduct a practical Initial Risk Assessment to comply with AML regulations and prevent illicit financial activities. (FATF, 2012).

In practical, the compliance of customer due diligence (CDD) by TCSPs is at fair level, enhance due diligence (EDD) is at weak level and the ongoing due diligence is at acceptable level (BNM, 2024). The customer due diligence is a process of gathering the information of the clients before enter into a business relationship. Usually in practiced, the process of gathering basic information are being done by the TCSPs. However for EDD stages, usually the information is gathered from the high risk clients and transactions. Most of TCSPs failed to perform EDD and this appear to be a significant issue (FATF, 2025). Besides that, the TCSPs reliance on the third party services without further verification of the customers identities (SSM, 2024). The gathering of information of the clients are not being fully implemented by TCSPs due to lack of resources to verify the information. This can be seen whereby the DNFBPs sector show non-compliance with the CDD requirements such as incomplete collection on the nine required data points such as occupations type and nature of employment (FATF, 2025).

The data shows that the DNFBPs sector are lack of knowledge and understanding on the importance of gathering the information as part of the AML duties. Despite of regulations and guidelines imposed by the supervisory authority to reporting institution, there is lack of implementation of such duties in practice and it is being done differently without following a proper guidelines. The possible reason for the non-compliance are due to minimal legal action taken against the TCSPs for non-compliance. It is reported that the number of onsite inspections in several sectors such as accountants and trust company sector is very limited and mostly it is covered by offsite supervision (FATF, 2025). Therefore, it is crucial for the regulatory and supervisory authority to monitor the compliance of TCSPs by doing more site examination. The next subsection will discuss on the duty reporting on suspicious transaction.

2.7.4 Suspicious Transaction Report (STR)

Reporting any suspicious transaction is critical for identifying potential money laundering threats and assisting the authorities in conducting timely investigations based on the report (Raja Alias & Mohd Yasin, 2021). According to Bank Negara Malaysia (2021), a suspicious transaction refers to any transaction, including those that are attempted or suggested, regardless of the amount of the transaction, when it appears unusual, has no clear economic purpose, appears illegal, does not correspond to the client's profile or business activities, and contains proceeds from illegal activity. Therefore, this indicates that the customer is involved in money laundering or terrorism financing activities.

While the suspicious transaction report (STR) refers to the document's institutions must send when they are suspected of money laundering transactions involving their clients. The reason for submitting the STR is to provide law enforcement agencies with valuable information and curb money laundering. Malaysia implemented the requirement to report suspicious transactions in 2002. Section 14(b) of the AMLATFA 2001 requires banks to initiate an STR if the identification of the parties to the transaction, the nature of the transaction, or any other circumstances surrounding the transaction raise a reasonable suspicion that the transaction comprises profits of criminal activity (Rahman, 2013).

The obligation to report on STR must be adhered to by financial institutions and non-financial entities, indicating that unclear reasons for suspicion are one of the primary issues faced by both sectors in implementing the STR. In the case of TCSPs, the reporting institution may be required to report suspicious activity and specific suspicious transactions. It thus may make reports on various circumstances, including questionable corporate structures or management profiles that lack a legitimate economic justification (FATF, 2019). Additionally, a TCSP should examine the effectiveness of its system for identifying and reporting suspicious behaviour or transactions periodically. If TCSPs have a suspicion of ML/TF, they should review their existing CDD. The suspicious transaction can be recognized through a diagram show below.

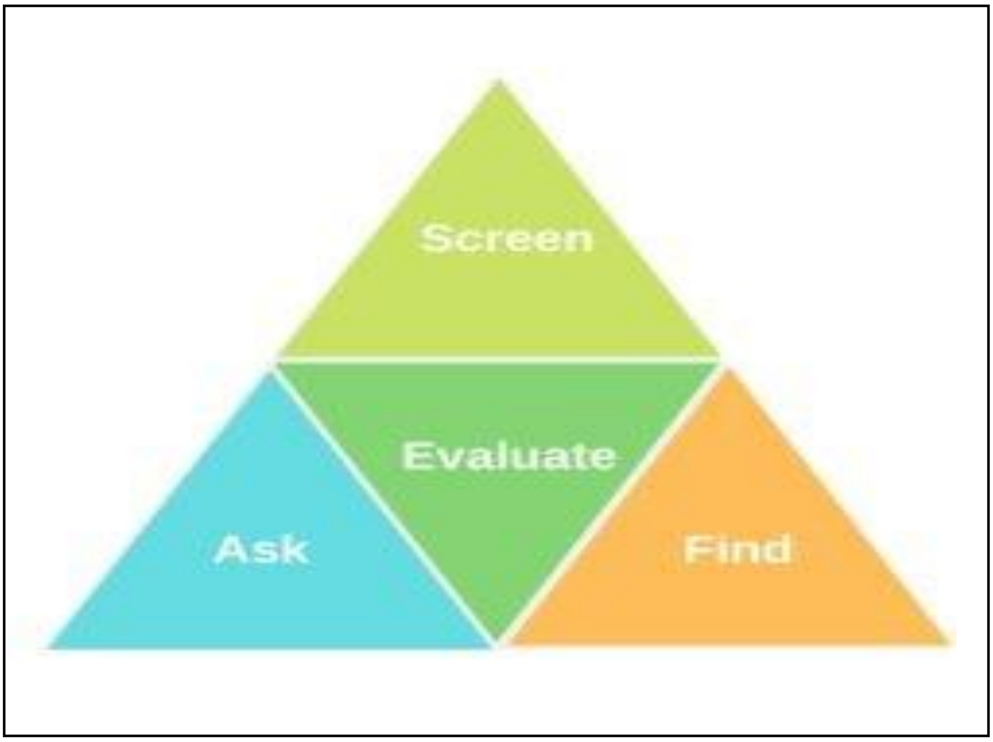

Figure 2.5 Process of Identifying and Reporting the Suspicious Transaction
Source: Bank Negara Malaysia

The Figure 2.5 shows the process involving in reporting the suspicious transaction to Bank Negara Malaysia. The diagram is taken from the Policy Documents of Designated Non-Financial Business and Profession (DNFBPs) by Bank Negara Malaysia (BNM). There are few steps that need to be done by reporting institution before they raise the STR against their clients namely Screen, Ask, Evaluate and Find. Firstly, the reporting institution which is TCSPs need to screen the client information through the customer due diligence process whereby they need to gather information such as identification, nationality, contact details, occupation, nature of business, source of funds, and income (when the client's risk rating is higher) and the purpose of transactions. The Reporting Institution also need to have a clear understanding on the normal activities of their clients so that they can effectively control and reduce the money laundering risk. This is to ensure when there are irregular patterns of their client's activities, they may raise a red flag against their clients.

Secondly, the reporting institution need to ask their clients with an appropriate question related to their client business. They may raise a question involving the activities of their client, business transaction, and any transaction or payment which appear unusual or do not make any economic sense. Thirdly, the employee of the reporting institution need to find out the client's record and review the information. A reasonable question shall be raised against the clients and if the clients are hesitate or are unwilling to share and cooperate in giving information, therefore, it is the first sign that the reporting institution shall trigger in raising an STR as the red flag already existed.

Lastly, the reporting institution need to evaluate the information gathered and consider to submit the STR if they found out that the client is a higher risk client to Bank Negara Malaysia (BNM). The process of reporting STR require the employees of the reporting institution to raise the red flag against the clients to the Compliance Officer (CO) of the company. Upon evaluation of established suspicious, the CO of the reporting institution must submit an STR latest by next working day from the date of establishing the red flag and suspicion against the client. The Reporting Institution are required not to disclose the submission of the STR reported to BNM to clients and any other third party (Mohd Ghani, 2023).

According to Bank Negara Malaysia Annual Report (2020), The Central bank governs and supervises over 30,000 reporting entities in the financial and non-financial sectors under the AML/CFT framework. As the first line of defence against financial crimes, these institutions are subjected to standards established within the appropriate policy documents to identify and reduce ML/TF risks. All the reporting institutions governed under BNM must submit STR for any cases detected. This can be seen whereby in 2020, the total number of STRs submitted by reporting institutions increased by 18% to 133,978. However, recently, in SSM National Conference 2023, BNM reveals that there is suspicious transaction report submitted by TCSPs and there is an absence of appointment of compliance officer in the firms.

The Central bank reported a considerable increase in STR filings involving fraud, illegal gaming, unlawful betting, and suspected tax evasion. Over 80% of 2020 financial intelligence disclosures to law enforcement agencies (LEA) included suspected high-risk crimes, with the majority being a fraud (42 percent). The revelations resulted in the arrest and subsequent prosecution of over 50 individuals implicated in corruption and unlawful gambling. Additionally, these disclosures resulted in the seizure of over RM366 million in profits from crime and the recovery of over RM172 million. The disclosures aided in the freezing of unlawful proceeds hidden abroad and the recovery of fraudulently transferred cash. Although there is an increase number of STR submitted by the reporting institution, the number of the individuals implicated in corruption is low and this is due to the low quality of the STR report submitted by the reporting institutions.

The TCSPs also need to report on suspicious transaction that occurs in their firm when dealing with clients. The duty of STR are applicable to all the reporting institutions whereby such reporting may help authority to further identify the cases accordingly. Reporting on STR is crucial as part of the AML requirements which helps the reporting institution to mitigate the risk of money laundering. In a recent report by SSM (2024), it is stated that the TCSPs failed to submit the STR when the red flag is present. This can be seen whereby the situation occurs when the client appear in the media reports related to misconduct, but no assessment made on whether to submit STR or not.

This indicate lack of knowledge and understanding of the TCSPs with regards to AML compliance and STR report. It is reported that the number of STR report submitted by company secretaries are 1 report in year 2025, and 7 reports in year 2025 for lawyers and zero reports for accountants in year 2025. Thus, it indicate a low number of STRs received by BNM (FATF, 2025). The reason for low number of STR report raised by TCSPs are due to inadequate verification of the clients, no face to face meetings, incomplete record keeping and failure of TCSPs to update the changes in clients record (BNM and SSM, 2024). Inadequate verification may hinder the TCSPs to raise a red flag against the client who has higher potential involving money laundering activities. The STR report will be oversee and supervise by the BNM for all the sectors. It is crucial for the BNM and SSM to do onsite examination in order to ensure the understanding of the TCSPs in identifying the potential risks of their client and when they need to raise an STR against their clients. The next subsection discuss on the duties of record keeping.

2.7.5 Record Keeping

Maintaining records is a critical component of the audit trail used to detect, investigate, and seize criminal or terrorist property or cash. Record-keeping enables investigators to develop a suspect's financial profile, track down the criminal's or terrorist's property or funds, and assist the court in examining all relevant prior transactions to determine whether the property or funds are the proceeds of or relate to criminal offences or terrorist activities. Recommendation, 11 of FATF Recommendations (2021), stated that financial institutions should be compelled to retain all essential records on domestic and foreign transactions for at least five years to respond quickly to information demands from competent authorities. These records must be sufficient to reconstruct individual transactions (including the amounts and types of currency involved and to serve as evidence in the event of criminal activity prosecution.

Besides that, financial institutions are be required to retain all records obtained through CDD measures (e.g., copies or records of official identification documents such as passports, identity cards, or driving licences), account files, and business correspondence, as well as the results of any analysis conducted, for examples, inquiries to ascertain the background and purpose of complex, unusual large transactions), for a minimum of five years after the business relationship ends. By law, financial institutions should be obligated to keep records of transactions and data gathered through Customer Due Diligence (CDD) initiatives. CDD data and transaction records should be available to competent domestic authorities upon request. The same requirements is applicable to TCSPs whereby they need to retain and keep the record of the clients for up to six years. This is to ensure the records are available when needed. The documents such as identification cards, passport copies, documents of incorporation and other information (Kamaruddin et al, 2025).

The current compliance of the record keeping requirements by TCSPs still need to be improve as it show a weak level of implementation among TCSPs (BNM, 2024). This can be seen whereby during onsite examination by SSM, it is found that the TCSPs failed to maintain a record of customers who have resigned or left especially the information pertaining to the CDD. No record being kept by TCSPs for those client who have resigned and the information collected for CDD are insufficient. Record keeping requirement become an issue for the TCSPs due to lack of CDD information gathered from the clients. The next subsection discuss on the compliance program.

2.7.6 Compliance Program

A company has a compliance programme when it has the appropriate procedures and policies in place to ensure compliance with AML/CFT rules. According to Recommendation 25 of the FATF's Forty Recommendations, an organization's AML/CFT policies and processes must be adequate. This compliance programme aims to ensure that an organisation maintains high standards of integrity (Raja Alias and Yasin, 2021). The Bank Negara Sectoral Guidelines Supplement Section 19 of the AMLATFPUAA 2001, providing a compliance programme. It specifies that reporting institutions must create compliance programmes to combat money laundering and terrorist financing proportional to their business's risks and scale. The Sectoral Guidelines emphasise senior management positions, such as the board of directors, for compliance initiatives. Their responsibilities include:

i) Maintaining accountability and oversight for establishing AML policies and minimum standards

ii) Approve policies regarding AML measures within reporting institutions, including those required for risk assessments, mitigation and profiling, CDD, record keeping, on-going due diligence, the report of suspicious transactions, and the fight against terrorism financing.

iii) Establish suitable systems to ensure that AML policies are frequently reviewed and evaluated in accordance with changes and advancements in a reporting institution's products and services, technology, and ML trends.

iv) Develop an effective internal control system for AML and maintain adequate oversight of overall AML measures conducted by a reporting institution.

v) Clarify the lines of authority and responsibility for implementing AML measures and ensure a separation of duty between those implementing policies and procedures and those enforcing controls.

vi) Assure that an effective internal audit function exists that examines and evaluates the robustness of the AML measures.

vii) Analyse the implementation of approved AML policies through regular reporting and updates by the Senior Management and Audit Committee.

viii) Establish a Management Information System (MIS) that reflects the nature of a reporting institution's operations, size, complexity of business operations and structure, risk profiles of products and services offered, and geographical coverage.

In addition to the duties of the Board of Directors, the guidelines also outlined the duties of Senior Management of a reporting institution, which include:

i. To be aware of and comprehend the ML risks associated with business strategies, delivery channels, and geographical coverage of its business products and services offered/ to be offered, including new products, new delivery channels, and new geographical coverage.

ii. To construct AML policies to ensure that they align with the risk profiles, nature of business, complexity, the volume of transactions done by a reporting institution, and geographical coverage.

iii. To design adequate mechanisms and formulate procedures to effectively implement AML policies and internal controls established by the Board, including monitoring and detecting complex and unusual transactions.

iv. To conduct a review and propose to the Board the necessary enhancements to the AML policies to reflect changes in the reporting institution's risk profiles, institutional and group business structure, delivery channels, and geographical coverage.

v. To allocate adequate resources to effectively implement and administer AML compliance programmes that reflect the reporting institution's size, nature, and complexity.

vi. To provide sufficient resources to properly establish and administer AML compliance programmes that reflect the size, nature, and complexity of the institution's operations and risk profiles.

vii. To appoint a Compliance Officer at the management level at the Head Office and designate a Compliance Officer.

viii. To establish sufficient levels of AML training for its employees at all levels within the organisation,

ix. Ensure a proper communication channel is in place to effectively explain AML policies and procedures to all levels of employees in the organization.

x. To ensure the integrity of its employees by creating adequate employee assessment procedures.

xi. To ensure that AML issues raised are promptly handled and to ensure the integrity of its workers by implementing a suitable employee evaluation system.

2.7.6.1 Independence Audit Function

The independent audit function is a critical component of the Anti-Money Laundering (AML) framework, which ensures that reporting institutions' AML policies and procedures are effective and compliant with regulatory requirements (IAASB, 2016). This can be seen whereby the independent audit functions will work separately in order to ensure the AML framework can carry out easily in the organization without any interference. The audit process is important to uncover the gaps in compliance systems such as inadequate beneficial ownership checks or weak suspicious transaction reporting that the internal team may miss. The proactive identification of the gaps helps TCSPs to avoid regulatory sanction and enhance compliance. Besides that, the purpose of having independent audit functions is to test an organization AML framework. Basically the requirement to have independent audit functions is applicable to financial institutions (FATF, 2025). This can be seen whereby the independent audit function requirement is not applicable to small reporting institutions.

An independent audit function conducts regular assessments of an institution's

AML program to identify potential weaknesses and areas for improvement. The Financial Action Task Force (FATF) suggested that an independent audit function should be established to conduct periodic reviews of an institution's AML program (FATF, 2012). The independent auditor should be qualified, independent, and objective and should have the necessary skills and expertise to assess the effectiveness of the institution's AML program (FATF, 2012).

The audit function's scope should include reviewing the institution's AML policies and procedures, assessing the institution's risk management processes, and evaluating the effectiveness of the institution's AML controls (Aidoo, 2025). The auditor should also review the institution's customer due diligence procedures and transaction monitoring systems to ensure compliance with regulatory requirements. By having check and balance on the AML policies implemented in organisation, internal auditors helps to close the vulnerabilities that could be exploited by criminals.

Section 19(1)(c) of AMLATFPUA 2001 stated that an independent audit function should check compliance of AML among the organizations. Regarding the responsibilities of appointing an independent audit function, the Sectoral Guidelines specify that it is the responsibility of the senior management or board of directors of RIs to guarantee that the job of an independent audit is to check and test compliance with AML policies, procedures, and controls, as well as monitor their effectiveness. In addition, an independent audit must determine if the current measures are by the most recent developments and updates to applicable AML regulations.

A nominated auditor must deliver a written audit report to the Board outlining the effectiveness of AML measures and any internal controls and processes deficiencies. As a result, RIs must consider audit findings, implement necessary corrective measures, and submit the changes to the Financial Intelligence and Enforcement Department of Bank Negara Malaysia and its relevant supervisory authorities within ten working days of submitting their Board submission.

Basically, the requirement to have independent audit function is not applicable for small reporting institutions (BNM, 2024). Therefore, small reporting institution TCSPs are not subject to this requirement and need ensure the compliance officer is being appointed in order to ensure the AML requirements are being carry out in daily basis when dealing with clients. However, the data shows there is weak implementation on this requirement among the bigger report institutions (BNM, 2024). The bigger reporting institution need to ensure this requirement are being given priority in order to enhance the compliance of AML requirements in organisation. The next subsection explain on the training program.

2.7.6.2 Training Program

According to section 19(1) of AMLATFPUA 2001, a reporting institution must adopt, create, and execute internal programmes, rules, procedures, and controls to prevent and detect money laundering violations within the reporting institutions. The training programs under subsection (1) include the establishment of procedures to ensure high standards of integrity among its employees and a system to evaluate the personal, employment, and financial background of these employees. Secondly, are on-going employee training programmes, such as "know-your- customer" programmes and instructing employees. Finally, an independent audit function is to check compliance with such programmes. This is to be done to ensure compliance with AML and enhance employees' effectiveness in seeking relevant information from its clients.

Besides that, the requirements for training shall be carry out via on job training and third party training programme for all the reporting institutions (BNM, 2024). The current implementation of training and awareness among TCSPs is worsen as it show a weak implementation. The reason behind this is due to lack of resources and fund to cover the cost of the training programs to employees (FATF, 2025). This can lead to inconsistencies in understanding and compliance of AML requirements and it will affect the implementation process. The larger TCSPs have more available resources to provide training to their staff compared to small TCSPs. The training and awareness on the AML requirements is important for all the employees to learn and understand as they are the main person who deal with clients. When the employees understand the risk of each clients that they deal with, it will help them to prevent further action being taken by criminals to launder money. A comprehensive guidance and training are needed in order to establish a compliance culture within the organisation. The next subsection discuss on the appointment of compliance officer.

2.7.6.3 Appointment of Compliance Officer

A compliance officer is hired as a point of contact for anti-money laundering issues inside reporting institutions (Bank Negara Malaysia, 2022). Section 19 of AMLATFPUA 2001 specifies that each reporting institution must employ a compliance officer. Thus, the BNM Sectoral Guidelines outline each officer's responsibilities, which include ensuring that a reporting institution complies with AML standards. Secondly, AML policies are applied correctly. Thirdly, effective implementation of relevant AML procedures, including customer due diligence, record keeping, ongoing due diligence, reporting of suspicious transactions, and combatting the financing of terrorism. Fourthly, AML procedures are regularly evaluated to ensure they are functional and adequate to address any shift in ML trends.

Fifthly, the communication line between employees and a branch or subsidiary compliance officer, and then to the Compliance Officer at the head office, is safe, and information is kept confidential. Sixthly, all personnel know a reporting institution's AML/CFT measures, including its policies, control systems, and reporting channels. A compliance officer must also generate suspicious transaction reports by a branch's internal compliance officers or those of a subsidiary. Before submitting STRs to the Financial Intelligence and Enforcement Department of the Central Bank, there is also a responsibility to ensure that they have been examined adequately. Lastly, an officer must assess the ML risks related to new products or services resulting from a reporting institution's operational changes, such as implementing new technology and processes.

Following Paragraph 22.4.11 of the Sectoral Guidelines, reporting institutions are expected to notify the Financial Intelligence and Enforcement Department of Bank Negara Malaysia in writing within ten working days after the appointment or modification of a compliance officer. The letter must include the new compliance officer's name, designation, office address, telephone number, fax number, and email address. The Sectoral Instructions provide guidelines on employee screening and training responsibilities and indicate that screening methods must be implemented upon hiring and during employment. In addition, RIs should implement an employee evaluation system appropriate to the scale of their activities and the money laundering risks they face.

An employee's personal information, including work and financial background, should be evaluated as part of his or her performance appraisal. RIs must engage their workers with AML practises and measures awareness training sessions regarding staff training. The training must be frequently administered and enhanced with refresher courses. The training content should emphasise the personal liability of workers who fail to adhere to AML rules. According to the guidelines, the training provided to workers must be appropriate to their level of responsibility for identifying ML/TF activities and the risks of ML/TF faced by reporting institutions. The training should include an overview of the crimes of money laundering and terrorism financing, the requirements and obligations to monitor and report suspicious transactions to a Compliance Officer, and the significance of a customer due diligence (CDD) procedure inside reporting institutions. In addition, the Guidelines emphasize that reporting institutions should train specific personnel, such as front-line employees, employees who form business ties, supervisors, and managers.

Basically, all the reporting institution must appoint a compliance officer at management level to representing their organisation (BNM, 2024). The roles of compliance officer is to act as the reference point of AML matters within the organisation. Besides that, the compliance officer must also have a sufficient stature, authority and seniority in order to participate in discussion on AML policies and to effectively influence the decisions made related to AML matters. The compliance officer is required to have a necessary knowledge and expertise in order to discharge his duties effectively and updated with current AML requirements and changes. The compliance officer also need to ensure the organisation are implementing all the AML requirements effectively. The reporting institution is required to inform the Financial Intelligent and Enforcement Department, Bank Negara Malaysia in writing for the appointment of the compliance officer.

2.7.6.4 Policies and Procedures

Reporting institutions must implement AML policies, procedures, and controls commensurate with their ML risks and their business operations' nature, scale, and complexity (Bank Negara Malaysia, 2019). As a result, reporting institutions must ensure that their policies and procedures remain compliant with regulatory obligations. The requirement demonstrates this for reporting institutions to document any changes to policies, procedures, and controls, to document the communication of those changes to employees, and to make the required information available upon request to the competent authority or supervisory authority. The board is responsible for maintaining responsibility and oversight over establishing AML rules and minimal requirements. In addition, the board has the authority to approve AML policies within the reporting institution, including those required for risk assessment, mitigation, and profiling, customer due diligence (CDD), record keeping, ongoing due diligence, suspicious transaction reporting, and combating the issues of money laundering. Meanwhile, for small-size reporting institutions, this requirement does not apply to them due to the size and complexity of the institutions (Bank Negara Malaysia, 2019).

2.7.7 Beneficial Ownership

A "beneficial owner" is defined by the Financial Action Task Force (FATF) as "the natural person(s) who ultimately owns or controls a customer and the natural person on whose behalf a transaction is being conducted." It also includes individuals with ultimate effective control over a legal entity or arrangement. A beneficial owner owns more than 25 percent of a legal entity's shares or voting rights. Exceeding this threshold, therefore, requires disclosing such a person as the beneficial owner of a company on a centrally held register. Furthermore, the beneficial owner is not always the registered or legal owner of assets, so determining the valid beneficial owner can be challenging (Hook, 2018). Besides that, according to the Companies Act 2016, beneficial ownership can be defined as when a person holds 20 percent of shares in the Company.

In March 2022, the FATF has strengthened the Recommendation 24 (R.24) on the recommendation regarding the transparency and beneficial ownership of the legal persons. The recommendation 24 requires all the jurisdictions to assess and address the risk posed by the legal persons. This recommendation requires the jurisdiction to take a multi approach with a combination of different mechanism in order to collect the beneficial ownership information and to ensure the information collected are available to the competent authorities in a timely manner. This can be seen whereby according to the survey found by the APG members on their member's countries, it is reported that only half of the members surveyed require the beneficial ownership of legal person be recorded in a central registry. However, the basic information of the beneficial ownership information of legal persons was either unavailable, incomplete or inaccessible which hinder the investigations and effective information sharing (APG, 2024).

The main challenges of identifying the real beneficial ownership of the legal person are due to the use of complex beneficial ownership structures whereby the beneficial owner may hide behind through a several layers of entities, offshore entities and the use of sophisticated control mechanisms. The determination of the term complex is determined by the jurisdiction whereby it may depend on several factors such as the legal person's sector, industry, number of employees and income (APG, 2024). The current update of the beneficial ownership reporting in Malaysia can be seen whereby Malaysia through SSM has created a central register of beneficial ownership which could be assess by the regulators only.

The transitional period for the beneficial ownership reporting framework which has been implemented since 1 March 2020 has come to an end when the enforcement of the Companies Act 2016 (Amendment) made on 1 April 2024. This can be seen whereby all the entities are given until 30 June 2024 to submit the information on their beneficial owner ("BO") to the Companies Commission of Malaysia (SSM). The information of the beneficial ownership of the legal person shall be submitted through the Electronic Beneficial Ownership System (e-BOS), which are the new electronic filing platform that offer a more streamlined for submission. The time frame given for the submission of the beneficial ownership information further extend by SSM up to 30 September 2024 (SSM, 2024). This is to provide more time for all the entities to identify and updating the information through the system.

Since the early 2000s, concern about the illegal use of corporate vehicles has grown. Criminals have used a variety of corporate vehicles to conceal their illicit assets while maintaining a legitimate façade. This includes but is not limited to, the use of shell companies and the formation of corporations, partnerships, foundations, trusts, and other types of corporate vehicles with complex ownership and control structures. Due to a lack of transparency regarding the ultimate beneficial owners of these corporate vehicles, governments worldwide have struggled to combat criminal activity effectively.

The Financial Action Task Force (FATF) is an intergovernmental organisation charged with developing internationally recognised anti-money laundering (AML) standards that governments must adhere to combat money laundering. Despite countries' reluctance to acknowledge money laundering as a growing problem, as demonstrated by many countries' slow adoption of domestic anti-money laundering legislation, the FATF has been instrumental in fostering cross-government cooperation to identify domestic vulnerabilities (Aldridge et al., 2018). Notably, the FATF promotes beneficial ownership transparency by urging banks, Trust and Company Service Providers (TCSPs), and other professional intermediaries (such as accountants, lawyers, and tax advisors) to use the “Customer Due Diligence” (CDD) process to verify customers' identification and financial transactions and to ensure compliance with reporting requirements (Le Nguyen, 2018). Furthermore, the subsequent discussion will discuss on the duties of reporting institution which is TCSPs in the submission of data and compliance report to Bank Negara Malaysia.

2.7.8 Data and Compliance Report (DCR)

Data and Compliance Report (DCR) is an annual submission to Bank Negara Malaysia (BNM) by reporting institutions (RI) to report and to evaluate their compliance with AMLA, Anti Money Laundering (AML), Countering Financing of Terrorism (CFT), Countering Proliferation Financing (CPF) and Targeted Financial Sanctions (TFS) in order to identify their exposure to the AML risks. The submission of DCR is mandatory for all the DNFBPs sectors. Among the following sectors are required to submit DCR which are accountants, company secretaries, registered estate agents, lawyers and notaries public, and the dealers in the precious metal or stones.

The requirement for the submission of DCR is issued under Section 8(3)(a) of the AMLA which shall be read together with the Section 143(2) of the Financial Services Act 2013 9FSA) and Section 155(2) of the Islamic Financial Services Act 2013 (IFSA). The enforcement action will be taken against the reporting institution who fails to submit the DCR within the stipulated time (BNM, 2024). The submission of DCR shall be done by the compliance officer appointed for each of the reporting institutions. The Reporting Institution need to appoint the compliance officer by notifying the BNM on the nomination of the compliance officer. The compliance officer is responsible for each of the RI in order to analyse, evaluate and submit the information pertaining to their practice of the AML within the organizations.

The DCR act as one of the supervisory tools adopted by BNM in order to supervise the implementation and compliance level of the DNFBPs sector in complying with the AML laws and policy. The submission of DCR is important as it allows the reporting institution to have a self-assess and understand their firm's infrastructure and readiness to comply with AMLA. Besides that, the information pertaining to the company will be kept confidential and will be used by the BNM for the supervisory and risk assessment purpose. A clear information on the DNFBPs sector compliance of AML will be analyse and improve by BNM. The DCR submissions has become mandatory for the year 2021, 2022 and 2024 whereby in the year 2023, there is no submission of DCR is required. Therefore, the submission of DCR 2024 will include the date from 2023 and the current data of the reporting institution. Besides that, after the submission of DCR, the reporting institution will be given a report card to shows their compliance level on each of the duties and obligations under the law. This is to encourage the reporting institution to make room for improvements for their AML compliance. The gaps identified in the DCR submission will act as a meant for reporting institution to improve their money laundering process, implementation and compliance. There will be no enforcement being taken for the gaps identified by BNM on the compliance of AML by the DNFBPs sectors (BNM, 2021). The next section will explain on the impact of money laundering in term of political, economic and social.

2.8 Impact of Money Laundering

Money laundering is a direct threat to the economy's financial structure. The world's financial centres rely on the stability and security of their infrastructure. Investors place a premium on financial systems that are professionally managed, ethically conducted, and reputable. To operate in this manner, financial centres must adhere to stringent anti-money laundering standards, such as the FATF's 40 recommendations, and effectively enforce those standards (Ribeiro, 2020). In Malaysia, the authorities has identifies fraud, corruption, illicit drug trafficking, smuggling and organised crimes are the highest money laundering threats which follow by tax crimes, forgery, human trafficking, sexual exploitation and environmental crime (NRA, 2023). Besides that, the non-compliance of AML laws may lead to serious issue of money laundering cases in a country especially for TCSPs. This can be seen whereby TCSPs firm are the main firm being look by criminal when they want to set up a new company for the business. Therefore, their service are being exploited by criminals in order to launder money through various way. The compliance of AML law is crucial for all the sectors as the criminal activities will impact the political, economic, and social of the country.

Firstly, in terms of politics, money laundering can erode a country's financial institutions' integrity. Money laundering can also harm currencies and interest rates due to the high degree of integration of capital markets. Laundered money eventually finds its way into global financial systems, where it can destabilise national economies and currencies. This can be seen in the case of 1MDB whereby the impact of the money laundering case to the political landscape and governance structure (Jones, 2020). The controversy led to widespread of public criticism and international criticism of government institutions. By structuring a companies for client, TCSPs may inadvertently facilitate the concealment of politically exposed person assets thereby eroding the democratic accountability. This lead to political elites to shield themselves from scrutiny, weakening the AML enforcement and reduce the public trust in institution. In today’s global economy, nations cannot afford to have their reputations and financial institutions tarnished by an association with money laundering. Additionally, once a country's financial reputation has been tarnished, restoring it is extremely difficult and requires significant government resources to correct a problem that could have been avoided with adequate anti-money laundering controls (Dowell et al, 2001). Therefore it is crucial to ensure the institution is free from money laundering threats.

Secondly, in terms of economics, it can be seen as according to Dowers and Palmreuther (2003) and Drayton (2002), money laundering is detrimental to the economy because it results in monetary and socioeconomic instability, economic distortions, the promotion of corruption, and the vulnerability of the financial system. Similarly, Hendriyetty and Grewal (2017) discovered that money laundering increases criminal activity, expands the shadow economy, and depletes tax revenues. The money laundering will impact the economy since the illegitimate money are being introduce back to the financial system and being use for the purpose of purchasing high value items, use for business capital and purchasing of other valuable assets. As for TCSPs, it can be seen that their professional services are being utilized by the criminals in facilitating the criminal activities. This can be seen whereby the TCSPs can establish a shell companies which being used by criminals to channel the illicit capital into the real estate, financial markets or trade. This undermines the investor confidence and prevent the foreign direct investment in the country. Therefore, it will affect the tax revenues of the country and reduce economic productivity. It is crucial for the TCSPs to understand and risk of the services provided.

On the other hand, Barone et al. (2018) investigated the effect of macroeconomic cycles on illicit capital and money laundering activities to ascertain whether business cycles affect trends and activities in illegal markets and money laundering. The study suggest that the ability of the illegal markets to absorb the illegal capital is closely link to the economic conditions of the country. Therefore, during the economic growth and financial expansion, there is a greater liquidity in financial markets which result in higher level of investment activity and increase of business transactions. These situation provide more opportunities to criminals to take advantage by converting the illegitimate money to legitimate money through various ways. This is supported by the study (Tiwari, Gepp and Kumar, 2020) which discovered that the market's capacity to sustain illegal capital varies across economic cycles. Once money launderers have infiltrated an economy, they will continue to invest by bribing public officials to gain control of the economy's largest sectors (Gjoni et al, 2015). The negative effect of money laundering can be seen as such activity damages the financial sector institution whereby it affects economic growth, reduce productivity in the economy and lead to corruption and crime in the country.

Lastly, in terms of society, money laundering imposes significant social costs and risks. Money laundering is a necessary process for criminal activity to be profitable.

It enables drug smugglers, narcotics traffickers, and other criminals to expand their operations. This increases government costs because of the increased need for law enforcement and health care expenditures, for example, to treat drug addicts and to combat the severe consequences. Besides that, money laundering can be viewed as a multiplier of criminal activity, providing economic power to criminals. As such, it facilitates crime by enabling criminals to utilise their illicit proceeds. The weak compliance of AML laws by reporting institution contribute to the social consequences of the money laundering as it allows the criminals to exploit the advantage of the professional services.

Money laundering facilitates crime by allowing criminal organisations to appear legitimate, allowing them to respond to sponsors, diversify, and expand. In countries with underdeveloped economies and lax anti-crime legislation, there is a negative correlation between economic crime and money laundering, and these adverse effects are often replicated in neighbouring countries with more developed economies. This conclusion was reached following a cost-benefit analysis. Policymakers will adhere to anti-money laundering rules only if the anticipated benefits to the country outweigh the anticipated costs of international engagement (Gjoni et al, 2015). This can be seen whereby TCSPs and other reporting institution are required to implement AML requirements which required them to incurred cost for the beneficial ownership checks, CDD check and suspicious transaction reporting.

The policy makers enforced these obligations in order to ensure the political stability, political legitimacy, economic stability and international integration which outweigh the compliance cost need to bear by TCSPs. When the AML laws are not effectively implemented, the proceeds of the crimes can be channel back to the economic for further illegal activities and therefore it will increase the crimes rates and social instability. By strengthening each of the sectors especially TCSPs, it will help the country to combat and prevent more serious criminals activities which can affect the sectors and country’s reputations. The impact for non-compliance of TCSPs to AML law will cause the public to loose trust towards the professional services provided by the professionals and therefore it will impact their business. The next part of this section will continue to discuss on the theories of money laundering that available to explain the logical reason for compliance or no compliance of AML by TCSPs.

2.9 Theories of Money Laundering

Theories are the tools to explain the situation and event of the issue arise in the research study. Among the theories being use for this research are rational choice theory, transparency theory and the principal agency theory.

2.9.1 Rational Choice Theory

The rational choice theory is an economic theory that asserts that human behaviour is determined by "rational decisions." According to Akers (1990), the rational choice theory postulates that an individual will take criminal or legal actions that maximise payoff and minimise costs. According to the rational choice theory developed by Cornish and Clarke, the selection of a target is founded on a rational decision-making procedure. This decision is based on an approximate cost-benefit analysis comparing the costs and benefits posed by a particular target.

The rational choice theory was extended into criminological perspectives and appears to be related to deterrence theory. The rational choice theory describes how criminals make quantifiable cost-benefit calculations, indicating a preference for simple, rewarding, and safe crimes while considering risk, effort, and potential reward (Clarke, 1997; Tilley, 2009). Lindauer (2009) asserts that rational choice theory originates in economics and is also referred to as rational actor theory. The commission of a crime is determined by its costs and benefits (Clarke and Cornish, 1985; Becker, 1974). The term rationality is referring to the role of reasoning in human behaviour and views crime as the result of an individual weighing the advantages and disadvantages of committing a crime.

According to Townsley and Olivieira (2015) and Shane and Lieberman (2009), man is a rational being who calculates the costs (pain/punishment) and benefits (pleasure/gain) of engaging in criminal behaviour. Gilmour (2016) employs rational choice theory to argue that money laundering is a risk-diversification process in which launderers make rational decisions based on their personal preferences and the circumstances of the situation. In contrast to other illicit decisions, which may be irrational (Clarke and Webb, 1999), it is commonly believed that money laundering decisions are based on a rational evaluation of several direct and indirect factors. The rational choice theory is referred by the criminologist to understand the factors that influences the decisions of criminals in committing crimes, there is a lack of research in using these theories in understanding the perspective of the decision made by reporting institutions in complying with AML duties. There are three dimensions of rational choice perspective which related to the theory of criminology (Akers, 1990), which are:

i) The rationality behind illicit actions and careers
ii) The actual or perceived balance of rewards and costs related to criminal behaviour, and
iii) Background and other relevant variables

This theory is selected as the underpinning theory for the study to understand the rationale behind the choices made by the reporting institutions which is TCSPs in complying with the AML duties imposed by the regulators. This theory is use to answer the research objective number two in the study. As compared to other research conducted, the study focusses on the other side of the story which is the reason for non-compliance of AML duties by TCSPs although law has been imposed against them. According to rational theory, TCSPs are more likely to comply with AML regulations if the costs of non-compliance outweigh the benefits.

The nature, location, and amount of money involved in the predicate crime, the purpose for laundering, and the type of technology required or available influence the choice between criminal and non-criminal actors to launder funds (the criminal launderer is the person who commits the predicate crime and launders the money; the non-criminal launderer is someone unrelated to the crime) (Tiwari et al., 2023). The non-criminal launderer is referred to TCSPs who has no intention of doing the criminal activities. Similarly, the ultimate motivation for money laundering which is integrating the funds into the economy or financing additional criminal activity, influences the wish to maintain anonymity.

Next, the rational theory also suggests that TCSPs may engage in non-compliant behaviors if the benefits outweigh the costs. In 2007, KPMG International Limited (KPMG) reported that the costs of AML compliance increased by 58% in the last three years due to the purchase of software and maintenance. The increased compliance cost included annual subscriptions, system updates, blacklist maintenance costs and continuous new solution offers (KPMG, 2007). The compliance decision will depend on the benefit that TCSP get for the compliance. According to Pahnila et al. (2007), response costs might also include monetary expenses, difficulties in terms of timing, shame, and other undesirable outcomes resulting from an individual's behaviour. Therefore, individuals are reluctant to comply with or adopt new requirements if the new environment substantially increases resources such as time, effort, and money. (Lee and Larsen, 2009). This is related with the decision made by TCSPs in complying with AML duties as the TCSPs are weighing the cost and the benefit that they may get from the act of compliance of the duties.

The rational choice theory explains the relationship between the opportunity for financial crimes and the decision made by individual/professional or TCSPs to engage in money laundering activities. The theory explain that, individual will make a rational decision based on the potential benefits and costs that they get before committing a crime. Similarly when it applies to the decision for the TCSPs to comply with AML requirements such as customer due diligence, record keeping, reporting on suspicious transaction report, providing training and awareness to staff requires them to outweigh the decision accordingly by looking into the risk and advantage that they may face from the decision made by them.

When the cost is more than the benefits that they get, they may tend to ignore the requirements. This can be seen whereby the AML implementation by TCSPs such as customer due diligence and reporting on suspicious transaction are still weak (SSM, 2024). The rationality choice theory examine the behaviour of the TCSPs for choosing to comply and not to comply and it answer the second research objectives which to identify the challenges faced by TCSPs in complying with anti-money laundering laws and policy. The rational choice theory influence the decision made by TCSPs in complying with the AML laws. The rationale behind the AML requirements imposed by regulators to TCSPs are to combat money laundering activities which affect their sectors. The next subsection will discuss in greater details about the transparency theory and its application to the research.

2.9.2 Transparency Theory

The word transparency is derived from the Mediaeval Latin "transparentum" and means to allow light to pass through. Therefore, it is used metaphorically to indicate "being easily discernible." Transparency is sometimes defined as "the open flow of information" and "the release of information by institutions that is relevant to evaluating these institutions" (Hosseini et al., 2018). Therefore, transparency is regarded as a requirement for businesses and their information systems, as it enables them to be held accountable to their stakeholders and their trustworthiness to be measured through the disclosure of relevant institutional information.

Besides that, transparency is defined as "the degree of detail and disclosure about the specific steps, decisions, and judgement calls made during a scientific study" (Aguinis et al., 2018). In the existing literature on money laundering, being transparent and identifying beneficial owners in the background of corporate vehicles have been highlighted as essential controls (Isolauri and Ameer, 2023). This can be seen whereby there is very little scientific evidence to support the long-held assumption that corruption and transparency are linked. While global transparency has increased over the past three decades, perceptions of corruption have not diminished (Pippidi, 2022).

The other definition of transparency is define by Rawlins (2008), transparency is "the polar opposite of secrecy". Rawlins (2008), stated that the characteristics of organisational transparency, begins with integrity, openness, trust, credibility, and ethical behaviour. The effects of organisational transparency are relevant to various disciplines, from economics to taxation and, more specifically, organisational reputation (Balakrishnan, Blouin, & Guay, 2019; Rawlins, 2008, 2009).

Other than that, Akhigbe et al. (2017) discovered that transparency has a beneficial effect on banks' financial performance. Despite evidence of public and private actors' non-compliance with and failure to implement regulations and recommended standards, regulatory authorities and law enforcement agencies have made efforts to increase beneficial ownership transparency based on the widely held belief that increased transparency would aid in the prevention and detection of unlawful activities. There is no prior study implement by the researcher on the transparency in complying of AML duties by non-financial institutions (Hosseini et al., 2018).

Furthermore, the term transparency in ownership refers to identifying majority and minority shareholders, members, beneficiaries, protectors, trustees, founders, and directors, depending on the type of legal entity or natural person in a position to control or benefit from an asset. Additionally, transparency entails understanding other legal entities' controlling structures. After acquiring knowledge of beneficial owners and control structures of entities, effective investigation and enforcement mechanisms regarding the disclosed information must be implemented (Lakhani, 2016). According to FATF Recommendation 24, which addresses the issue of transparency, countries should ensure that adequate, accurate, and timely information on the beneficial ownership of all legal persons is available (FATF, 2014).

Transparency requirements seek to identify the natural persons who ultimately own a controlling interest in a legal person or those who exercise control over the legal person through other means. In practise, ownership transparency can be achieved through a central registry that collects, stores, and verifies the detailed information required to determine the beneficial ownership of all entities, including trusts and foundations. Among the details acquired through the transparency of ownership information are name, legal entity type, formation documents, address of a registered office or principal place of business or address of the entity itself, and name and address of a registered agent. Names and addresses of persons in positions of legal control within the entity such as the role of shell entities, directors, officers, and couturiers); and name and address of a registered agent (Pacini et al., 2019).

The transparency theory argues that, the increase disclosure of the information indicates a greater transparency which lead to improved and efficient of resources allocations. This helps to lessen the information asymmetry. According to Van der Zahn et al. (2007), adopting controlled disclosure and transparency standards is necessary but insufficient to prevent the money laundering crimes. A lack of transparency can erode confidence and give rise to suspicions of unethical or unlawful conduct. This may result in boycotts or other forms of protest against the business in some instances. Thus, while complete transparency is not always possible or desirable, maintaining good relationships with stakeholders requires being transparent and honest in business transactions. Basically, there are four reference model developed under the transparency theory by (Hosseini et al., 2018) which are:

i) the actors involved in the transparency provision process and the information flow among them

ii) the significance of the information made transparent through the disclosure of information,

iii) the usefulness of such information for a particular audience in terms of providing them with decision-making capabilities through the disclosed information,

iv) the quality of the information disclosed to its stakeholders.

Based on the model developed, TCSPs is responsible to identify the actor involved in the beneficial owners and the information needed behind the shareholders. The useful information of the beneficial owners will help the regulators to identify and have a clear information on the clients that involved in criminal activities. The quality of the information disclosed by clients is depends on the process of due diligence made by TCSPs in the process of complying with AML law. The main purpose of transparency is to make quality information available in a meaningful and useful style to the right audience. The concept of transparency is really helpful for regulators and TCSPs in order to determine the right information available at a right time to combat money laundering. The concept of transparency in this study are focusing on the transparent of the information of the beneficial ownership and the requirement of customer due diligence which need to carry out by TCSPs. These responsibilities become a challenge by TCSPs to perform as they are unable to determine the person behind the company due to no proper compliance of AML duties under the law.

The transparency theory above explain on the concept of openness and disclosure of information pertaining to the individual and beneficial ownership. This theory is used to explain on the research objective number one which is to assess the current implementation and current practices of TCSPs AML compliance and policy in Malaysia. By referring to the AML requirements of customer due diligence and transparency of beneficial ownership, it is clear that both requirements required a solid information to support. Therefore, the need of transparency theory in the study in order to ensure the TCSPs are able to gather accurate data and information pertaining to their clients. Similarly, the TCSPs need to ensure the data collected are being verified in order to ensure the accuracy and reliability of the data collected. The transparency theory also explain the relationship between the transparency of beneficial ownership and customer due diligence and the prevention of money laundering.

The disclosure of beneficial ownership and information pertaining to due diligence may help to reduce the risk of money laundering activities. TCSPs face a challenges in verifying the beneficial owner information due to complex structure or foreign owners which indirectly impact their ability to provide an accurate and up to date information. When the transparency of the information is limited, the criminals may exploit this opportunities to launder money through various way. Therefore, it is crucial for TCSPs to comply with this transparency requirement and disclose the information in order to minimize the risk of money laundering. Further, the next topic will discuss on the principal agency theory and its application to the research.

2.9.3 Principal Agency Theory

The Agency Theory describes the best way to organise relationships in which one party determines the work and another party performs the work. In this relationship, the principal hires an agent to perform the work, or to perform a task that the principal cannot or will not perform. In corporations, for instance, the principals are the shareholders who delegate tasks to the agent, i.e., the company's administration. According to agency theory, both the principal and the agent are motivated by their own self-interest (Seven Pillars Institute, 2023). This presumption of self-interest condemns agency theory to inherent conflicts.

Consequently, if both parties are motivated by self-interest, agents are likely to pursue self-interested objectives that diverge from and even conflict with those of the principal. However, agents are expected to act exclusively in the best interests of their principals. An objection to agency theory is that it "relies on the assumption of self-interested agents who seek to maximise their personal economic wealth" (Bruce et al., 2005). The difficulty lies in persuading agents to either set aside their self-interest or work in a manner that maximises both their personal wealth and the wealth of the principal. Thus, a standard of agency duty and action is required, not because agents are inherently self-serving, but because there is the possibility of divergent principal and agent interests. In agency relationships, the agent bears moral responsibility for her actions, which she cannot absolve merely on the basis that she functions as an agent for another.

The problem in the agency arises when there is a conflict between an individual or group's priorities and those of their authorised representative (Kopp, 2023). It is possible for an agent to act against the principal's best interests. The principal-agent problem is as diverse as the roles that can be played by the principal and agent. This can be seen in term of imposing the regulation for TCSPs to comply on AML regulations, may create a conflict for them as an agent, whereby they act as both agent for regulators and criminal clients itself. Money laundering carries an externality, positive or negative, for society. It acts as a bait for one individual and a tool of exploitation for another.

Its multifaceted nature is examined through Provan and Milward's Principal-Agent-Client Model (2001). Provan and Milward's (2001) Network Evaluation Model was initially developed for the health and social sectors. However, this model has been extended and applied to money laundering governance (Hussein Shah et al., 2006). The author evaluates the affectivity of the money transaction network in this model, intending to reduce money transactions through money laundering by enacting laws and procedures and enforcing them through agents. Due to the involvement of multiple stakeholders, network effectiveness is evaluated at three levels: the community, the network itself, and the network's organisational key informants. These levels are significant to three major constituents of the money transaction network: the principal, agent, and client.

The traditional focus of agency theory has been on one agent (the bank) and one principal (the client), with the bank being contracted and incentivized to ensure the best possible outcome for the principal's funds (Naheem, 2020). The underlying premise of this theoretical framework is that the client is always correct in what it desires, and the "problem" is ensuring that the bank does not jeopardise the client's business in its pursuit of profit (Wright et al., 2001).

The difficulty in applying this framework to general banking activity is that it does not take into account the nature of the criminal client's business, as for example, the money laundering; consequently, it does not incorporate the other responsibilities that the bank may have, such as regulation and compliance requirements, which may have an equal impact on the client's business transactions. Similarly, when applying this theory into this study, it can be seen that TCSPs act as an agent to the principal (clients) and also to regulators (BNM and SSM). As an agent, TCSPs need to ensure client interest are being protected and at the same time the TCSPs are able to comply with the AML duties under the law.

TCSPs now have to balance two agency roles between the states and the clients. The regulator is adding more administration and bureaucracy to TCSPs business dealings through know-your-customer (KYC) checks and suspicious transaction reports, which can result in business clients losing money due to delayed transactions or extra administrative costs. There is question raise by the author on how can the bank simultaneously facilitate its client's business and supervise the implementation of international AML initiatives? (Naheem, 2020). This can be seen in this study where the TCSPs are being questionable for their roles as an agent to clients and to the regulators.

Pellegrina and Masciandaro (2008) have applied agency theory to AML regulation and compliance situations in the financial industry. They demonstrated that fundamental cost-benefit analysis would demonstrate that regulation would cease to be a priority as soon as the costs of regulation to the banking sector exceeded the penalties for non-compliance. They warned that constantly increasing regulation was not a long-term solution to AML and CFT issues. Despite this assertion by researchers, the administrative costs of regulation have continued to rise. This has recently been observed with a greater emphasis on gathering beneficial ownership information (Davilas, 2014), which will add to the administrative burden of banks and increase training expenses. According to Pellegrina and Masciandaro (2008), there exists a tipping point at which institutions will determine that the regulatory burden is too great. There is no prior study being implemented against the agency theory to non-financial business.

In this study, it can be seen that TCSPs need to increase the administrative cost in order to comply with AML regulations. Thus, the decision made by them to comply with AML regulations will be a cost for them. Does their interest will be taken into consideration instead of the regulators interest of protecting the states from money laundering threats. Basically, agent will tend to work from a position of self-interest first (Wright et al., 2001). In order for the principal and agent to function effectively, there must be a system of mutual benefit for both parties (Huarng, 1995). This mutual advantage occurs in the client (principal) agent relationship through profit generation. If the client is successful, he or she will continue to support the services of the TCSPs. As if the TCSPs comply the AML regulations, there is a risk of losing a client. Therefore, the TCSPs need to balance between the roles as agent for regulators and clearly identify in order to avoid misuse of power and conflict of interest in delivering and complying with AML duties.

In summary, the agency theory concentrates on the relationship between principals (owners or shareholders) and agents (managers or employees) who act on behalf of principals. The theory addresses issues of trust, potential conflicts of interest, and the alignment of principal and agent interests. In this study, the agency theory helps to understand the relationship between TCSPs and their clients in the context of AML compliance. It highlights the need for regulatory measures to ensure that TCSPs act in the best interests of both their clients and the broader public interest in preventing money laundering and terrorist financing.

All the integrating partners of the financial system, the principal, the agent, and the customer, make logical judgments based on the available options and their preferences. In principle agency theory, the researcher wants to examine the compliance relationship between the principal, agency and clients. This can be seen whereby, as the principle refers to the FATF and BNM law on AML, the agency which refers to DNFBPs must comply with such laws and procedures to serve their clients. In this scenario, the agency acts dual role as an agent to the BNM and as an agent to clients, which sometimes can cause the agent to non-compliance with AML laws and procedures. This situation create conflict of interest which arise from the TCSPs who may prioritize commercial interests, client confidentiality or profit maximization over a strict compliance regulatory obligations. Consequently, inadequate supervision, weak enforcement, and insufficient regulatory oversight may lead to non-compliance of AML requirements. The three theories application for the study can be seen as per below.

Table 2.4
Relationship between theories and Construct

Theory	Key Concept of Theory	Construct Explained	Relationship in Study
Rational Choice Theory - Clarke & Cornish (1987)	Human decision is usually made when it maximizes payoff and minimizes costs	Money laundering risk, decision for compliance of AML regulations	Influence the decision made by TCSPs for compliance with AML obligations
Transparency Theory - Rawlins (2008)	Describes the organisational transparency, begins with integrity, openness, trust, credibility and ethical behaviour	Customer due diligence and transparency of beneficial ownership and reporting on suspicious transaction activities.	Greater transparency in corporate structure may reduce risk of money laundering. Influence the decision to open up and record the information.
Principal Agency Theory - Provan and Milward (2001)	Describes the concept of economics and organizational theory that describes the relationship between two parties	AML compliance by TCSPs, looking on the interest of the principal and agent	Insufficient monitoring may cause information asymmetry and individual interest are given priority over the AML compliance.

2.9.4 Rationale for Theories Selection

2.9.4.1 Rational Choice Theory

The rational choice theory explained on the human decision is made on the cost-benefit calculations which seeking to maximize utility and minimize risks. The rational choice theory is used to explain on the TCSPs compliance behaviour in complying with AML law such as CDD, record keeping, STR, and compliance programs which required them to make decision to comply. The rational choice theory is focus on economic purpose which is financial gains and neglect the regulatory sanctions. Basically the compliance behaviour among TCSPs can be explained by using this theory as the factor that lead to compliance is related with a rational decisions made by TCSPs. This can be seen whereby the TCSPs will choose compliance over non-compliance when they have an enough resources and the sanction imposed by regulators is higher to bear. This is applicable to high enforcement environment. This theory overlooked on the non-economic factor such as professional ethics, reputational integrity and institutional culture that often shaped the compliance behaviour. Therefore, the rational choice theory is choose to explain the TCSPs AML compliance behaviour in the study with regard to their professions which indirectly influence the AML compliance.

2.9.4.2 Transparency Theory

The concept of transparency has become part of the values which reflects the company's strategic and operational framework. This is because transparency is an important agenda in the implementation of the corporate governance in the organisation (Augustino et al, 2023). The transparency in AML compliance is refer to the transparency of the information pertaining to CDD, beneficial ownership and the transparency of the red flag raised against clients which continue with the submission of STR report to BNM. The transparency theory is selected to determine and analysed the TCSPs AML compliance behaviour. This theory explains that the greater the transparency of the information, it shows compliance. The concept of openness strengthen the regulatory effectiveness and reduce opportunities for concealment. However, in case of the dual roles holds by the lawyer required them not to disclose any information of their clients to authority as this is called as special privilege. The concept of transparency in the study conflict with duty to disclose for the lawyers as they need to ensure confidentiality of their client's information and therefore it hinder them from complying with the AML requirements. Therefore, the concept of transparency is applicable to those reporting institution who hold a single position and not for lawyers.

2.9.4.3 Principal Agency Theory

The principal agency theory helps to explained on the compliance of AML law by TCSPs to regulators and their responsibility towards their clients as well. TCSPs plays an important role as mediator between regulators and clients which required them to focus on the regulator's interest which demand for transparency and clients demand for data confidential. The duality of the roles holds by TCSPs complicate the compliance decisions. The duty under AML law requires the TCSPs to gather information on CDD, record keeping, STR, and compliance programs and to serve their clients as well. Thus, this create conflict of interest and information asymmetry between regulators and TCSPs due to their dual roles. It is essential to clarify the dual roles of TCSPs in determining their compliance behaviour. The theory focus on the relationship between principal and agent but does not explain on the wide practice of compliance culture and global regulatory pressures which can shape the compliance behaviour among TCSPs.

Therefore it is important to use all of the three theories to explain on the AML compliance behaviour among TCSPs and the challenges in complying with AML law. By combining all of these theories, it helps to captured the multi-level dynamics which explained on the AML compliance behaviour as the compliance is shaped by individual decision making (rational choice theory), institutional mechanism (transparency) and governance structure (principal agency theory). Thus it helps the researcher to clearly understand the AML compliance behaviour among TCSPs and their challenge.

2.10 Theoretical Framework Developed for the Current Study

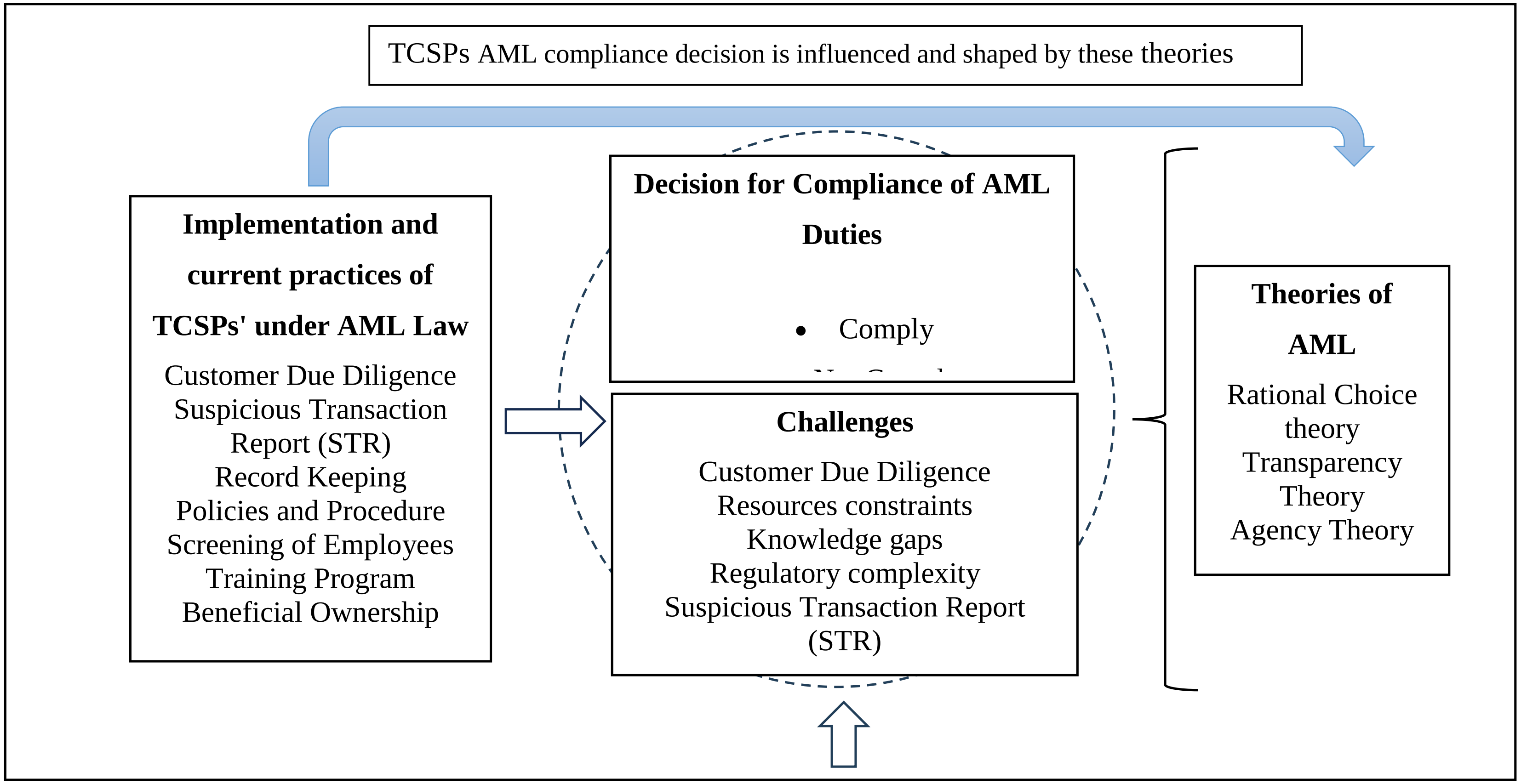

Figure 2.6 Theoretical Framework Developed for Current Study

The Figure 2.6 above shows the theoretical framework developed for the current study. The figure above shows the relationship between the AML duties by TCSPs, the theories being use for the study, the decision for the compliance by the TCSPs and finally the challenges that the TCSPs faced in complying with the duties of AML laws and policy. Basically, the duties of TCSPs includes the duty to implement CDD, reporting suspicious transaction to regulators, the requirement of record keeping, develop the policies and procedures, screening employees during hiring process, training programs and finally the implementation and reporting of the beneficial ownership. The decision made by the TCSPs whether to comply or not to comply on the AML compliance are influence by the theories developed in this study which are the rational theory, transparency theory and agency theory.

Firstly, the rational choice theory suggests that individuals make decisions based on their rational self-interest, weighing the costs and benefits of each option (Scott, 2000). In the context of compliance, this could mean that decision-makers consider the potential risks and benefits of compliance or non-compliance with anti-money laundering regulations. In the context of criminal behavior, the decision taken are based on several factors such as the possible rewards, risks, and the available alternatives. The criminals will weigh the gains and the potential risk that may occurs based on the action taken such as damage to reputation, loss of trust and legal sanctions (Scott, 2000).

This can be seen whereby the TCSPs is required to raise a red flag against their client and to report the suspicious activity to authority and the reporting on beneficial ownership. The decision for the reporting on STR and beneficial ownership can be influence by the rational theory whereby it shaped the compliance decision made by TCSPs. This is because, TCSPs tend to put client interest over the regulators interest in making decision for the compliance by outweigh the benefit that they get from the clients such as payment for the services rendered. Therefore it influence the decision of the TCSPs to report to authority which may lead them to lose clients and income for their company when they comply with the reporting requirements under the law such as STR and beneficial ownership.

Besides that, most of the smaller TCSPs are reluctant to implement the training to staff, screening of employee, develop internal policies and procedure, technology, system or software which can be used to conduct CDD and KYC. This is because they have lack of resources and the compliance cost is high. Therefore they tend to used traditional way of gathering information from clients. The decision made by them not to upgrade the system or software is due to cost calculation made by them as they have to incur cost. The screening of employees and providing training to employees required a cost to implement and therefore they are reluctant to train the staff due to turnover of the employees. On the other hand, the TCSPs. Similarly in the record keeping requirement, the TCSPs is require to keep record on the clients information and the decision to comply for this requirement depends on the TCSPs rationale for keeping the information for existing clients and the clients who resigned from the office. When the compliance cost increase, they tend to ignore the compliance by perform a minimal compliance on the AML requirements.

Secondly, transparency theory emphasizes the importance of information disclosure and transparency in decision-making. This theory suggests that by providing information to stakeholders, decision-makers can ensure accountability and promote better decision-making. The transparency theory is referred to the disclosure of the beneficial ownership information in the company structures. The identification of the beneficial ownership is crucial in combating the financial crimes (Thomas & Dancy, 2020). This is because many criminals are hiding behind the beneficial owners to operate the company without disclosing their profile. It is difficult to trace and prevent the criminal activities when the owner of the assets or fund are concealed through a complex ownership structure (Sihombing, 2023).

From the theoretical framework above, it can be seen that the transparency theory influence the TCSPs compliance of performing CDD, reporting on suspicious transaction and beneficial ownership. This can be seen whereby TCSPs is required to disclose the information pertaining to their clients in case the red flag has been identified and disclosed the information of the beneficial owners by reporting to SSM in e-BOS system. While performing this duty, the TCSPs have conflict to disclose the information due to their professions and the accountability and responsibility that they have with their clients. The regulators demand for compliance and client demand for confidentiality which hinder them not to comply with regulator requirement as to protect the interest of their clients.

However the transparency theory also conflict with the professional profession such as lawyers and accountant for not disclosing their client's information due to special privilege and code of ethics that they need to comply with. The profession of lawyer required them no to disclose any information of their clients and for accountant, they need to comply with code of ethics whereby they are unable to share the financial information of their clients to others. Therefore the compliance of CDD, STR and beneficial ownership can only be done when the regulators determine to what extend the confidentiality of the information can be disclosed to regulator.

Lastly, the Principal-agency theory suggests that there is a principal (e.g., a company) and an agent (e.g., an employee) who acts on behalf of the principal. This theory emphasizes the importance of aligning the interests of the principal and agent to ensure that the agent acts in the best interest of the principal (Hamid et al, 2024). This can be seen whereby TCSPs has dual roles to perform which is to act as an agent or gatekeeper to regulator (principal) and as agent to clients (principal). This duty results in conflict of interest for AML compliance as the TCSPs need to ensure the client's interest are being given priority due to the services they provided to clients are being paid in return. However, TCSPs also need act as gatekeeper to regulator without received anything in return as incentives for their compliance. Therefore, it results in non-compliance of the AML law by TCSPs. This can be seen in the duty of reporting on STR, it is reported by SSM (2024) that no STR report has been made by TCSPs when the red flag is presented. The reason for not reporting is due to TCSPs is protecting their client's interest and their interest instead of complying with regulatory requirements.

According to the study by Wright et al (2001) discovered that, under the agency theory, the agent failed to acknowledge the regulators AML requirements and the compliance obligations which can impact the business transactions. Despite the obligations of the compliance of AML laws and policy, the TCSPs also faced several challenges in term of the implementation of the AML laws and policy within their firms and organisation. This is due to the fact that, the organisation has poor customer due diligence application, resources constraints, knowledge gaps and the regulatory complexity. The challenges faced by the TCSPs can be tackle in many ways by the regulators and the reporting institutions. The contribution of this study will help to analyse the reason for the challenges and suggest ways to improve the compliance of

AML laws and policy by TCSPs. Overall, the application of these theories can help TCSPs to make informed and strategic decisions about compliance with anti-money laundering regulations within their organisation and firms.

2.11 Gaps in the Literature and Theories

Chapter two has reviewed the literature and discusses on various aspect of TCSPs compliance of AML law and money laundering policy in Malaysia. The literature has considered the literature, conceptual and definitional issues, the actors involved and their duties, the concept of compliance and the relationship between those responsibilities to the reporting institution especially TCSPs. Basically there are three types of gaps in the study which are empirical gaps, theoretical gaps, and methodological gaps. Each of the gaps will be discuss further.

2.11.1 Empirical Gaps

Firstly, the existing literature available on TCSPs AML compliance is scars as little research is available on the compliance of reporting institutions especially TCSPs. Most of the literature discussed on the financial institution's compliance with AML law due to their nature of involvement with finances in daily transaction activities (Omar et al., 2015; Kamaruddin & Hamin, 2019; Nduka & Sechap., 2021). This can be seen whereby many researcher focus on the financial institutions compliance with AML obligations rather than non-financial institutions. The reason behind the research could be the financial institution are the main body that dealing with transaction of money and the criminals seek for the banking institution to launder money.

Secondly, the existing literature available on DNFBP’s AML compliance is primarily based on other jurisdictions such as the United Kingdom where the focus of the study is on the professional accountants and lawyers in their AML compliance. However, there is scant literature available in Malaysia on TCSPs’ compliance and very little research available on the collision of AML duties. Based on the gaps in the literature, there is need for the researcher to carry out existing research to fill in the gaps by investigating the TCSPs compliance to AML duties and the challenges that they faced in terms of complying with AML obligations. This is because the TCSPs sector is the main sector where the criminals seek for in order to open a company in Malaysia, to seek for tax advice and management advices. Basically, there are many sectors available under DNFBPs which included company secretaries, accountant, money lenders and others which are not being explore by the researcher.

2.11.2 Theoretical Gaps

Three relevant theories are engaged in the present research, namely the rational theory, transparency theory and principal agency theory. Firstly, the rational choice theory shows that numerous numbers of literature has discussed on the crimes and the cost-benefit analysis that relates to rational choice theory in informing the crimes and the decisions that underlying it. However, there is limited literature available on the application of rational theory in discussing the compliance of TCSPS in AML laws and policy in Malaysia. Besides that, the rational choice theory did not address adequately the institution of organisational factor that influence the AML compliance.

Secondly, the transparency theory which applies to various discipline, organisational reputation, ad economics. Most of the literature review are focusing on the transparency of the financial reporting, tax and the accounts of the Company by the accountants and the tax agents. There is a limited studies on the application of transparency theory in term of the compliance of AML duties by TCSPs. Thus, there is an apparent gap in previous literature conducted on the application of this theory to the research context.

Thirdly, the principal agency theory which explain on the relationship between agents and principal theory and it applies to the health and social sectors. However, there is a lack of literature concerning the compliance of AML laws and policy by TCSPs. The agency theory suggest that the agent need to act for the best interest of the principal and shall not involve in conflict of interest in delivering of their duties as an agent to principal. There is a lack of literature which relates to the theory concerning the compliance of TCSPs in AML laws and policy. Therefore, it is necessary to investigate the application of these three theories in order to facilitate an understanding of the extent of AML compliance by TCSPs and the challenges that they faced adhering to such laws and policy.

2.11.3 Methodological Gaps

The study focus on the qualitative method in determining the TCSPs compliance in AML obligations. This can be seen whereby many existing research including (Normah et al., 2015 & Tiwari, Gepp, & Kumar, 2020), focus on AML research which relied on the quantitative method, secondary datasets and statistical mode such as FATF reports in order to examine the patterns of financial crimes and the compliance of AML obligations by reporting institutions. The quantitative research method focus on the identifying the transaction patterns and risk indicator rather than the organisational, behavioural and institutional factors which may influence the AML compliance practices within reporting institutions.

The reliance of the secondary data source limits the researcher ability to understand the practical challenges faced by the reporting institution especially TCSPs in implementing the AML measures. Therefore, a qualitative research is necessary to address these methodological gaps by providing deeper insight into the experiences, perception and the current implementation of the AML compliance by TCSPs. Through the case studies, the researcher able to explore the institutional dynamics, compliance culture and the barriers that may not be captured through quantitative data analysis.

2.12 Conclusion

This chapter shows that Malaysia was rated as having "enhanced follow-up" in the Financial Action Task Force's most recent Mutual Evaluation Report (FATF and APG, 2018). This shows that Malaysia is enhancing its compliance with AML from time to time and has imposed relevant laws and policies towards reporting institutions. This enables the reporting institutions to comply with the relevant law and reduce the risk of money laundering in the country. While for the United Kingdom, it can be seen that it received the highest ratings of more than 100 countries evaluated thus far in this round of evaluations. The FATF concluded that the United Kingdom thoroughly understands its money laundering and terrorist financing risks and that our national anti-money laundering and counter-terrorism financing policies, strategies, and activities aim to address the risks identified in our public National Risk Assessments (NRAs).

There are many forms of money laundering in the country used by criminals to hide their criminal activities. Among the forms are shell companies, cash smuggling, beneficial ownership, shell banks and professional involvement in money laundering. Besides that, to protect the various stakeholders, the government had imposed laws and policies among the reporting institutions to report on the money laundering activities in their organization. Among the reporting institutions involved are financial and non-financial institutions, including small reporting institutions. Besides that, money laundering has many political, economic and social impacts. Money laundering in the country may also have a negative effect on currencies and interest rates due to the high degree of integration of capital markets. Money laundering is detrimental to the economy because it results in monetary and socioeconomic instability, and finally, in terms of society, it can impose significant social costs and risks.

Under designated non-financial business and profession, TCSPs must disclose money laundering activities within their company. The organisation must execute customer due diligence, simplified customer due diligence, enhanced due diligence, suspicious transaction report, record keeping of their clients, compliance programmes, independent audit function, training programme, and appointment of independent audit functions.

In addition, the principles that explain compliance with TCSP's statutory duties on money laundering are rational theory, transparency theory, principle agency theory and gate-keeping theory. Firstly, rational theory explains that it is human behaviour who decide on the right and wrong of the decision. Secondly is transparency theory, whereby the organization must disclose the beneficial ownership information of their client in order to combat money laundering and misuse of power.

Thirdly, the principle agency theory whereby it can be seen as an organization it acts as a separate legal entity, and it can be sued for any wrongdoers done using the name of the Company. Lastly is a gate-keeping theory, whereby it ca be seen that it refers to the person who has two prominent roles, which are as a professional positioned to prevent wrongdoing through withholding cooperation or consent and a professional who acts as a reputational intermediary by lending reputational capital to the client and taking on some responsibilities for monitoring the accuracy of corporate disclosure. In compliance with money laundering law, TCSPs play an essential role in performing their statutory duties to enhance compliance, detect criminal activities and report to relevant authorities to safeguard the organization from being misused by an irresponsible person. The greater the effectiveness of the AML law, the greater the money laundering compliance costs faced by the reporting institution. The next chapter will continue to discuss the research methodology, including sample size.

CHAPTER 3
RESEARCH METHODOLOGY

3.1 Introduction

This chapter will explain how well the study is carried out, and it consists of research design, sample size, sampling technique, the unit of analysis, the measurement, the data collection, and data analysis related to this research.

3.2 Research Design

According to Sekaran and Bougie (2013), the research design is a plan for collecting, measuring, and analysing data based on the study's research questions. Besides that, research design is a plan or strategy developed by a researcher to carry out a study or research project effectively. According to Creswell (2014), research design is "a blueprint or detailed plan for how a research study is to be conducted". It is a framework that guides the collection, analysis, and interpretation of data in a research project. The research design provides a structure for the research, including the selection of the research method, data collection instruments, and analysis techniques, among others. Case studies, phenomenological studies, grounded theory studies, ethnographic studies, and narrative studies are examples of research designs that can be used to collect data (Creswell, 2013).

The type of investigation used for this study is a case study. Creswell defines case study research as an in-depth, longitudinal examination of a single instance or event, such as a person, group, or organization. According to Creswell (2013), the main goal of case study research is to understand the complex phenomena within a single case and provide a rich and clear understanding of the case. The case study is an in-depth description and analysis of a bounded system (Merriam, 2009). The phenomenological design in qualitative provide a deeper level on interpretation to understand the phenomena through the meaning of experience. The type of case study choose in the study is collective or multiple case study whereby the purpose of the study is to investigate a phenomenon, population or general condition (Merriam, 2009). A multiple sources of information are being used to have a clear understanding and depth analysis of the study.

The study also choose the interpretive qualitative approach which emphasized on the reflexivity whereby the researcher focus on the deeper level to interpret the experiences of the key informants (Creswell, 2013). The interpretive research used issues, language, and approaches to empower the key informants, recognize their silenced voices, respect the individual’s stands and position the researcher’s and key informants views in a historical or personal context (Deem, 2002). This means, the researcher is reporting the study based on the key informants perception rather than her personal opinions.

Basically, the researcher is required to alert on the bias, values and experiences of the key informants in order to ensure the participant’s experienced are being clearly interpret. The researcher study the compliance behaviour among the three type of professional who can act as company secretaries regardless of their professional background. The aim of the interpretive research is to understand and interpret how individuals make sense of their actions, behaviour and social interactions. The information shared between the key informants and researcher, help the researcher to have a clear understanding on how the key informants interpret and implement AML regulations in practice.

According to Jamshed, (2014), these investigations are frequently used when guided by a semi-structured interview guide that the interviewer must explore. Creswell's framework for designing case study research includes several steps:

a) Selecting the case: The researcher must identify a single case or event that will be the focus of the study. This case should be selected based on the research questions and goals of the study and should be relevant and appropriate for the intended audience.
b) Defining the research questions: The researcher must define the research questions that will guide the study. These questions should be specific, focused, and relevant to the studied case.

c) Collecting data: The researcher must collect data from multiple sources, such as interviews, observation, and document analysis, to provide a rich and nuanced understanding of the case.
d) Analysing the data: The researcher must analyse the data collected from multiple sources to understand the complex phenomena within the case. This may involve coding, categorizing, and synthesizing the data.
e) Interpreting the data: The researcher must interpret the data to provide a rich and advance understanding of the complex phenomena within the case. This may involve using theory or existing literature to help explain the findings.
f) Concluding: The researcher must draw conclusions about the complex phenomena within the case and provide recommendations for future research or practice.

Creswell's framework for designing case study research provides a comprehensive and structured approach to conducting case study research. The emphasis on collecting data from multiple sources and the importance of understanding complex phenomena highlight the strengths of this approach, and the considerations for potential limitations provide a balanced perspective on using case studies as a research method. In addressing the research questions and achieving the research objectives, the study adopts a qualitative research methodology as it has been the most appropriate way of obtaining information and data to answer the research question. Qualitative research is the study of the nature of phenomena and is well suited to addressing questions on why something is (or is not) seen, evaluating complicated multi-component interventions, and focusing on intervention improvement.

Document analysis, non-participant observations, semi-structured interviews, and focus groups are the most common techniques for collecting data. The data from case studies are analysed using content analysis. The term "content analysis" refers to examining communication messages. This refers to classifying, summarising, and tabulating verbal or behavioural data through categorization.

Content analysis is a technique for analysing the content of various data types, including visual and linguistic data. It facilitates the categorization of phenomena or events to facilitate their analysis and interpretation. Content analysis is a research method that provides a systematic and objective means to make valid inferences from verbal, visual, or written data in order to describe and quantify specific phenomena (Downe-Wambolt, 1992). The content analysis aims to identify patterns, themes, or trends within the data being analysed. The analysis process minimises the amount of text that is gathered, identifies and combines categories together, and attempts to interpret it (Bengtsson, 2016).

The process of content analysis begins by clarifying what the researcher wants to find out, from whom and how. The purpose of the clarification is to determine the descriptive nature based on the inductive or deductive reasoning. Inductive reasoning is a process of developing a conclusion from the collected data by weaving together the new information into theories (Bengtsson, 2016). The researcher then analyses the text with an open mind in order to identify the meaningful subjects to answer the research questions. While for deduction reasoning, it involves moving from the general to the specific as it begins with a theory, deriving hypotheses from it, testing those hypotheses, and revising the theory (Locke, 2007; Nola and Sankey, 2010).

Basically, there are five main issues to be considered by the researcher in the planning process which are objectives of the research, the sample, and unit of analysis, the method of data collection and the analysis method and the practical implications. Before beginning data collection, the researcher must repeatedly consider these five issues in order to anticipate unforeseen occurrences. In qualitative content analysis, data are presented in the form of words and themes, allowing for interpretation of the results. The choice of analysis method depends on the extent to which the researcher endeavours to reflect informant statements about a subject within the analysis. In turn, this impacts the required number of informants and the method of data collection (Polit & Beck, 2006).

Next, the researcher must determine if the analysis will be manifest or latent. In a manifest analysis, the researcher describes what the informants actually say, remains very close to the text, uses the words themselves, and focuses on the visible and obvious aspects of the text. In contrast, latent analysis extends to an interpretive level in which the researcher attempts to discover the text's underlying meaning which is what the text is discussing (Bengtsson, 2016). In this study, the researcher will use the manifest analysis to analyse the words and text from the interview. The interactions between informants and researchers, both verbal and non-verbal, impact the data collected, which in turn influences the findings of the study. It is essential that the verbal or written questions be appropriately formulated and adapted to the claims of the referenced method in order for the researcher to gain an understanding of the phenomenon being studied (Morse & Richards, 2002). The data in this study will be collected through interviews and discussions which will be captured via audio or video. These recordings are typically transcribed into written form, which is an interpretation process. Detailed transcriptions are required to capture speed, tone of voice, emphasis, timing, and interruptions.

There are four stages involves in analysing the data from the interview session and discussion with the informants which are decontextualization, recontextualization, categorisation and final stage is compilation (Bengtsson, 2016). The first stage is decontextualization where the researcher needs to familiarize herself with the data and need to read through the transcribed text to obtain a sense of the whole before the data can be broken down into a smaller meaning unit. Each identified meaning unit is labelled with a code that should be understood in the context. This procedure is recognized as the "open coding process" in the literature (Berg, 2001).

After identifying meaning units, the second stage is recontextualization, which requires the researcher to determine whether all aspects of the content have been covered in relation to the purpose. When a researcher is intensely engaged with the data, everything appears significant. Nonetheless, a process of distancing is required, and the researcher must be able to let go of irrelevant information that does not correspond to the purpose of the study. The third stage commences the categorization of meaning units. The depth of the meaning units determines the level of analysis that can be conducted. In the categorization process, themes and categories are identified.

The final stage is compilation, in which, following the establishment of categories, the researcher begins the analysis and writing processes. The researcher must consider how the new findings align with the existing literature and whether or not the result is reasonable and logical (Burnard, 1991; Moran & Richards, 2002). This is when the researcher will be able to answer the research questions and satisfy the study's objective. The figure 3.1 below illustrates the content analysis procedure for the study. The following discussion will be on the research sample size.

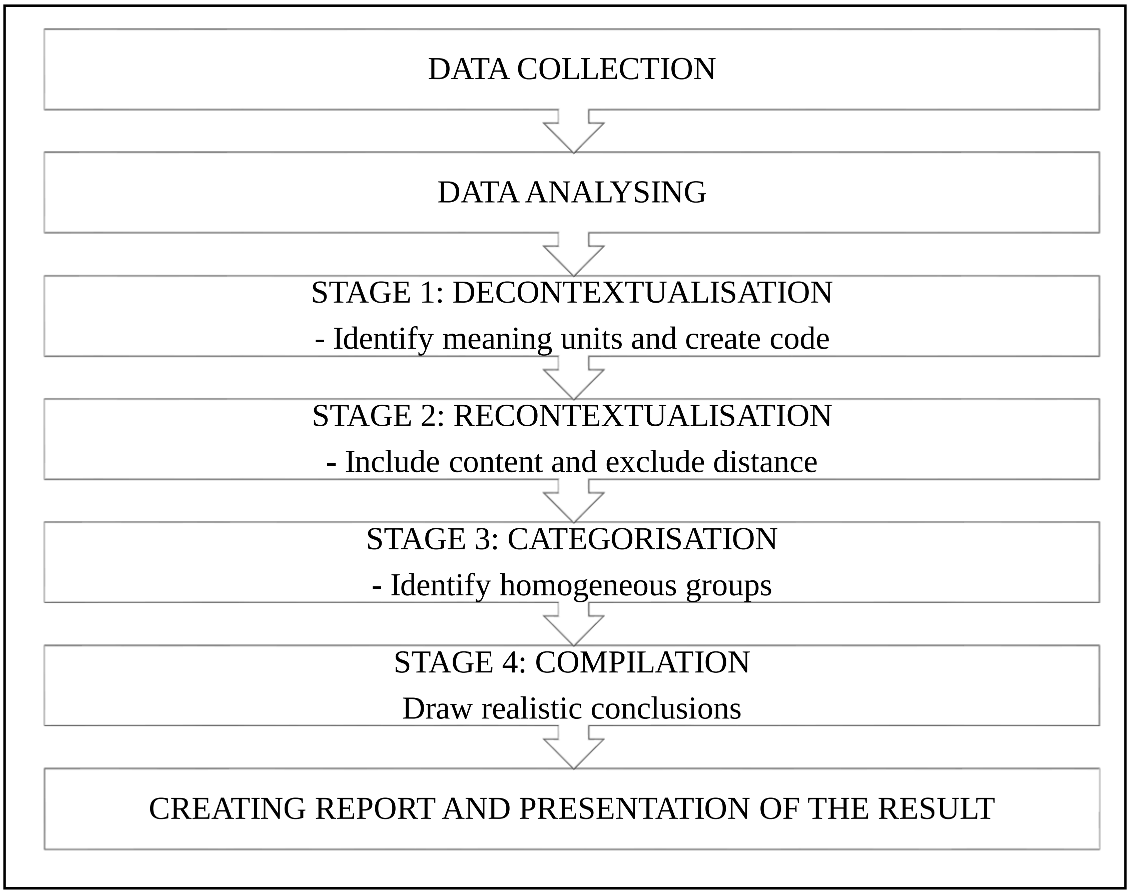

Figure 3.1 The content analysis procedure for the study

3.3 Research Method and Philosophy

3.3.1 Research Method

Research method is refers to the specific method use to collect and analysis the non-numerical data in order to understand the phenomena and experiences in depth. A qualitative research method is used to examine the research problem which addressing the meaning of individuals or groups ascribe to social or human problem (Cresswell, 2018). A common qualitative research method are interview, focus groups, observations and document analysis.

They are three types of interview method which are highly structured, semi structured and unstructured interview questions (Merriam, 2009). The highly structured interview refer to wording of questions is predetermined and its refer to the oral form of a written survey. While the semi structured interview is guide with mix and less structured interview questions. The use of semi structured question is to identify a specific data from the key informants. Next, as for the unstructured interview, it is refer to open ended questions. Since the study adopt the case study method, therefore it is crucial for the researcher to use the interview methods to gain the knowledge and information with regards to the study. The researcher prepare a semi structured interview question for all the TCPSs firms and different set of questions to Companies Commission of Malaysia (SSM) and Bank Negara Malaysia (BNM).

The purpose of the interview questions are to have a clear and depth understanding on the subject matter with regards to compliance behaviour and the roles of the regulators in monitoring the TCSPs in complying with the AML law. . This is supported with the study by Hartley (2004) which emphasised that the case study research consist of detailed investigations on the phenomena. Therefore, the study focus on the TCSPs, SSM and BNM in order to deeply understand the compliance behaviour among TCSPs and the regulators. The research study use the primary data from the interview session with the key informants and the secondary data from the academic journals, FATF reports, BNM reports, guidelines and other sources in order to interpret and support the study.

3.3.2 Research Philosophy

Basically there are four assumption of qualitative research study which are ontological, epistemological, axiological, and methodological assumptions (Cresswell, 2018). The ontological assumption is refer to the nature of reality, epistemological is refer to the initiative of researcher to get close to the key informants, axiological is refer to the roles of values and the methodological assumption is refer to the process of the research and the language of the research. For the purpose of this study, the ontological and epistemological assumption are discuss in details. Firstly, ontological assumptions is refer to the nature of reality and its characteristics. This can be seen when the researcher conduct qualitative study, the researcher interpret the idea of the multiples realities. The ontological assumption of interpretivism is relativism where it suggest that the reality is socially constructed and may be different to individuals' perspectives.

Secondly is epistemological assumptions where researcher try to get as close as possible to the key informants being studied. Basically the knowledge gains from the key informants are through the subjective experiences of the key informants. It is important to conduct the studies in the field where the key informants belong and this is the important aspect for understanding the details of conversation between the key informants. From this, a subjective evidence is assemble based on the individual's views (Cresswell, 2018). This can be seen whereby the research philosophy being use by the researcher for this study is epistemological assumptions. This is because the researcher try to get close as possible with the key informants from TCSPs firm which includes secretarial, legal and accounting firms in order to understand the compliance behaviour among the three professionals firms. Besides that, through this assumptions, the researcher able to understand and examine the current compliance behaviour among all the key informants, the challenges that they faced in complying with AML laws. This is because compliance behaviour is influenced by the professional judgment, organisational practice and the regulatory interpretation by the TCSPs.

The epistemological perspective of the research can be categorized as positivist, interpretive/constructivist, critical, and postmodern/post-structural (Merriam, 2009). For the purpose of this study, the interpretive /constructivist will be used. The purpose of using an interpretive perspective is to ensure the researcher can describe, understand and interpret the data received. Interpretivism is a research paradigm that emphasises the subjectivity of human experience and the significance of comprehending the meanings and interpretations that individuals attach to their experience (Cresswell, 2018). The researcher interpret the key informants experienced into a valuable meaning by recognising the participant's background. The information that the researcher get from the key informants will help to shape the interpretation of the study on how individual make sense of regulatory compliance and how the interpretations shape their compliance practices. Besides that, the compliance behaviours are shaped by the organisational culture, professional judgment, regulatory expectations and the institutional pressures from the regulators.

The most important aspect of qualitative research is giving an in-depth interpretation of the decision to comply with TCSP to AML duties and responsibilities. The use of case study analysis, epistemological assumptions and the interpretivism approach help the researcher to clearly understand the current practices of the AML laws by TCSPs and the compliance behaviour among the three professional firms which represents a TCSPs firms. The interpretivism approach support the transactional method of inquiry whereby the researcher has a personal interaction with the case as the researcher developed a relationship between the researcher and key informants (Hyett et al, 2014). Therefore, it is crucial for the researcher to have a close relationship with the participant during the interview session in order to ensure the accuracy and the reliability of the data collected. The researcher act as a mediator to inform the world through the participant's perspective. The next chapter further discusses the sample size of this research.

3.4 Sample Size

Sample size in qualitative research refers to the number of key informants or cases included in a study. In qualitative studies, the sample size is often determined by theoretical saturation or data saturation, which is the point at which new information or themes cease to emerge from the data. Morse (1995) defines sample size in qualitative research as "the number of key informants or cases needed to achieve saturation, the point in data collection and analysis when no new information is obtained. This definition emphasizes the significance of attaining a point of data richness where no new insights emerge. Besides that, Patton (2002) defines sample size as "the number of individuals or cases selected for study," where the research objectives determine the sample size, the nature of the research questions, and the required level of detail and richness in the data. Both scholars emphasized that the value of the qualitative sample is lies in depth rather than breadth. Morse's idea of saturation explained that once data collection produce no new insight, adding new participants does not enhance the understanding. The concept of theoretical saturation implies that sample size is determined through ongoing analysis. By reaching a point where additional data no longer contribute to conceptual insights, this approach ensure that qualitative study achieved the depth.

In qualitative research, the most prevalent criterion for evaluating the adequacy of purposive samples is saturation (Henin and Kaiser, 2022). Glaser and Strauss (1967) developed the concept of saturation as "theoretical saturation" as part of their pioneering grounded theory approach to qualitative research. As described by Glaser and Strauss (1967), saturation is achieved when the researcher has collected enough data that no new themes or categories emerge from the analysis. Similarly, Charmaz (2006) defines saturation as the point when no new data are emerging in subsequent interviews, and when the researcher is confident that the data collected is representative of the phenomenon being studied.

The grounded theory emphasises the construction of sociological theory using textual data to explain social occurrences. The more effective use of saturation focuses more on evaluating sample size than the data required to construct theory (as in theoretical saturation). When used in a broader context, saturation refers to the point in data gathering when no new issues or insights are uncovered, and data begin to repeat, indicating that sufficient sample size has been reached and further data collecting is unnecessary.

Saturation is a crucial indicator that a sample is suitable for the phenomenon under study that data obtained have caught the range, complexity, and complexities of the topics under study and exhibits content validity (Francis et al., 2010). Reaching saturation has evolved into a crucial aspect of qualitative research that contributes to the robustness and validity of data gathering (O'Reilly and Parker, 2013). Selecting the most appropriate informants to get a valid result when investigating the Compliance of Trust and Company Service Providers (TCSPs) duties and responsibilities under AML law and policy in Malaysia is crucial. For this research, the sample size chosen is from the secretarial, accounting, and law firms that provided the gazetted activities as per TCSPs and Bank Negara Malaysia (BNM) and Companies Commission of Malaysia (SSM) as the authorities responsible to check on the compliance of TCSPs. For each of the firm selected, 5 firms will be interviewed to assess on the compliance duties of TCSPs in AML law and policy.

Basically, the same interview questions are being used for all the firms and different sets of question are being used for the key informants from Financial Intelligence and Enforcement Department (FIED), Bank Negara Malaysia (BNM) Enforcement Department Unit of Companies Commission of Malaysia (SSM). The Figure 3.2 below show the sample size of the study. Thus, to identify the appropriate sample size, the researcher used the saturation concept, in which the sample size is assessed based on the researcher's interpretation. Saturation occurs when new data collection does not provide the researcher with new insights into the subject under investigation. As for BNM, the division that responsible to ensure compliance will be interview. Qualitative research aims to elicit diverse opinions from a small sample size, and one individual's opinion is sufficient to generate a code (part of the analysis framework). There is a point of diminishing returns with larger samples, as more data does not always result in more information. Instead, it results in repeating the same information (saturation).

In qualitative research, there are standard recommendations for the number of interviews that should be completed to assure data quality. Creswell (2009) suggests five to twenty-five interviews, while Morse (2000) suggests thirty to fifty. In addition, Bertaux (1981) claimed that a minimum of 15 interviews is required for a qualitative investigation. According to Kuzel (1992), six to eight interviews are required to study a homogenous sample. It can be seen that the number of sample size are differently stated according to the scholars. The researcher believe that the number of sample size is important as the saturation point as it is. This is because saturation point can only be achieve when the study do not generate new findings. Therefore regardless of the number of sample size is choose, a saturation point must be achieve and the achievement of the point is more important compared to the sample size.

The suggested sample size is conceptually helpful and cannot be established precisely in advance, but it estimates the number of key informants to be included in a study. However, Kumar (2005) emphasises that the number of key informants is not the essential factor if the purpose of the study is to explore and characterise phenomena-related concerns to establish new evidence. In qualitative research, saturation should precede the number of key informants, notwithstanding the latter's importance. It is more critical to guarantee that the data is complete (Dibley, 2011) than the number of key informants (Burmeister & Aitken, 2012).

Consequently, the number of key informants in qualitative research should be proportional to the breadth and depth of the data. The concept of saturation is frequently stated in qualitative studies. Data saturation is refer to the point in the research where there is no new information is discovered from the data analysis and if it is continue, the same findings will be begins and continue in the analysis process (Guest et al, 2006). Therefore no new finding will be discover once the saturation point is achieved. The redundancy of the same findings is the signals to the researcher that the data collection is ceased. Basically there are few factors affecting the sample size saturation in qualitative research which are study process, data complexity, participant's homogeneity, research design, number of themes, data quality and the resources and time constraints (Ahmed, 2025). All of this factors need to analyse by the researcher before conclude the saturation point of the study.

From this research, it can be seen that about 15 firms have been interviewed which consists of the secretarial firms, legal firms and accounting firms. About 15 transcribed data have been analysed by the researcher. The process occurred when the researcher create a theme from each of the transcribed data. The researched found out that the same codes, categories and theme are being developed for the last transcript whereby no new findings are being developed from the last transcript data. The last transcript data which is focus on the secretarial firm shows a similar findings. Therefore, a saturation point is achieved by the researcher and the researcher conclude that no further data collection is needed to support the study as the researcher could not find any new findings from the study based on the themes created. The last transcribe data has achieved the saturation point in the study. Besides that, the department of Financial Intelligence and Enforcement Department (FIED) of Bank Negara Malaysia (BNM) and the Enforcement Department of Companies Commission of Malaysia (SSM) are being interview for the purpose of triangulation of the study. The sample size chosen can be seen in the figure 3.2 below. The next part discusses the sampling techniques used in the research.

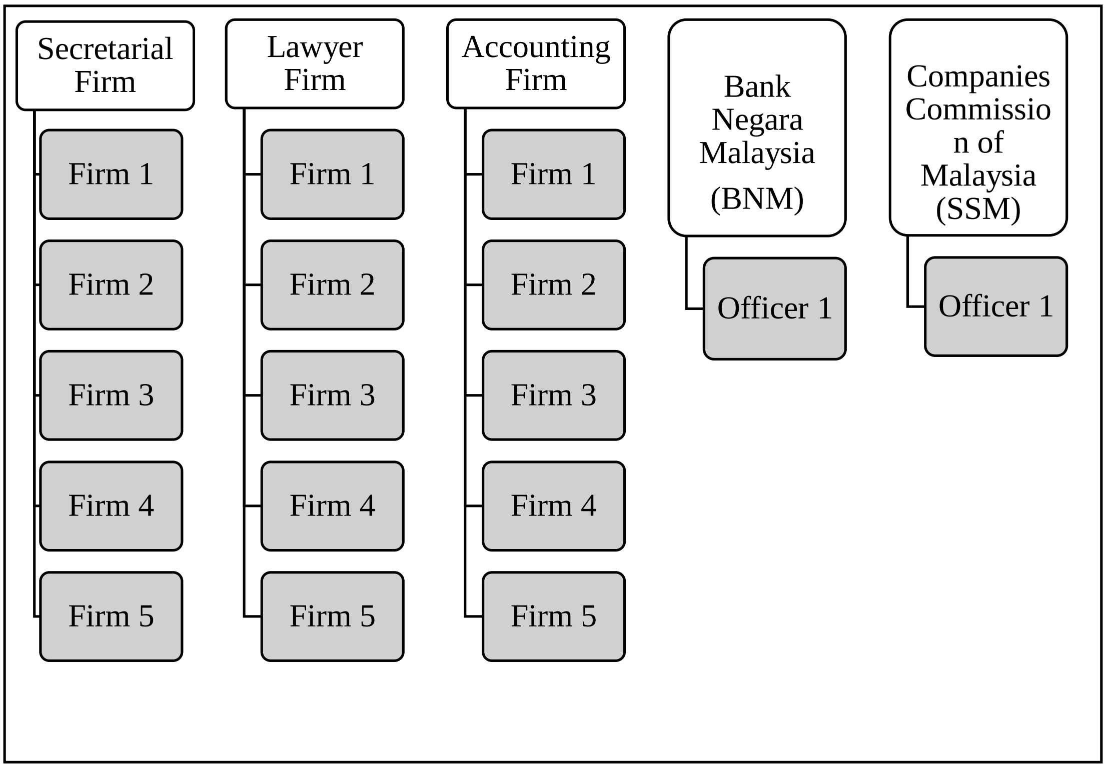

Figure 3.2 Sample Size

3.5 Sampling Technique

Sampling is selecting enough elements from the population, making it easier to generalize such properties or characteristics to the population elements (Sekaran, 2013). There are four types of sampling techniques under qualitative study which are purposive sampling technique, convenience sampling, snowball sampling and theoretical sampling. Firstly is purposive sampling technique. Purposive sampling, also known as judgement sampling, is the purposeful selection of a participant based on the attributes that the individual possesses. It is a method that does not require underlying hypotheses or a predetermined number of key informants. This involves identifying and selecting proficient and knowledgeable individuals or groups on a topic of interest (Etikan et al, 2016). The researcher determines what information is required and then seeks out individuals who possess the necessary knowledge or experience and are ready to supply it. It is usually applied in qualitative research to discover and choose information-rich situations to use available resources efficiently.

Secondly, the convenience sampling technique refers to selection of sample size based on the time, money, location, and availability of the key informants. This type of sampling technique is not credible and label as poor due to no information-rich case (Merriam, 2009). This can be seen whereby under this sampling, the researcher will simply choose the sample size which can suits the research study. Thirdly, the snowball sampling is the most common form of purposeful sampling. It involves locating a few key informants who can easily meet criteria that the researched has established. (Merriam, 2009). The key informants then introduce a new participant for the researcher as referrals. This sampling become bigger until the researcher reach the information-rich cases. Lastly, theoretical sampling which involve in the process of data collection to generate a theory. This approach allow researcher to refine their research questions and theory based on the data collection. This sampling is use when the researcher conduct grounded theory research (Sago, 2023).

For the purpose of this study, the researcher used a purposive sampling technique to select the sample size. The reason for choosing the purposive sampling technique because the researcher want to examine the specific participant's compliance behaviour which focus on the TCSPs and AML compliance. Therefore it is crucial to select the criteria that meet the objective of this study. The other sampling methods such as snowball, theoretical and convenient sampling are not suitable for this study as the main purpose of this study is to analyse the compliance behaviour among the specific TCSPs and the role of regulators in AML laws.

The informants of this study are chosen based on the convenience of the researchers. The informants select small to medium-sized firms that offer regulated services such as company registration, nominee services, and providing a registered address, including secretarial, accounting, and legal firms. The small medium size reporting institution is refer to the firm who has less than five practicing company secretaries and the revenue less than RM3 million. From each of the firms choose, five practicing company secretaries was interviews. The characteristic of the firms must be five years and above, and provided the gazetted activities such as assisting in the formation of legal entities, acting or arranging for another person to serve as a director of a corporation, a partner in a partnership, or a similar position in relation to other legal persons, providing a registered office, business address, or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement and acting as or arranging for another person to act as a nominee shareholder for another person.

Besides that, the firms and the company secretaries must have experienced in complying with the AML Law. Any firms that may have a compliance officer or not shall be acceptable for the interviews. The company secretaries that involve in the interview session must hold a practising certificate issued by Companies Commission of Malaysia (SSM) as stated under Section 241 of the Companies Act 2016. For the purpose of this study, secretaries, lawyers and accountants who hold a valid practising certificate issued by SSM are selected. Additionally, company secretaries must have a minimum of five years of experience in the secretarial field to be included. Other than the characteristic of the firms are excluded from the interview. Archaya et al. (2013) contend that purposive sampling is often chosen because the informants are at the right place at the right time and less expensive. The selected sample size will aid the researcher in determining the current AML compliance practices of TCSPs.

Apart from that, the purposive sampling technique chosen may create bias due to reliance on the professional networks and regulatory referrals. This can be seen whereby the researcher focus on the professionals who have practising certificates and a minimum of five years experienced only to be the sample size of this study. The purposive sampling technique used may limits the inclusion of the other professional who have practising certificates and less experienced in the secretarial line. The key informants who have less experienced in the subject matter may not be able to meet the research objectives. Since the study purpose is to select an information-reach key informants who possess a relevant knowledge and experienced related to the phenomenon study (Merriam, 2009), the researcher has carefully identify and select the criteria of key informants that meet the criteria of the study in order to ensure the accuracy and reliability of the study and finally meets the research objectives.

Other than that, BNM and SSM are the informants for the research. The purpose of an interview with BNM and SSM for research on money laundering are to gain insights and information on how the organization detects, prevents, and investigates money laundering activities within the non-financial sector and how do the ensure compliance among TCSPs. The interview involved discussion with BNM and SSM's policies, procedures, and controls for identifying and reporting suspicious transactions, as well as its role in enforcing anti-money laundering. Overall, the interview provides valuable insights into the efforts of Bank Negara Malaysia and SSM in combating money laundering through TCSPs and help researchers to better understand the non-financial sector's role in preventing illicit financial activities. The following part will discuss the unit of analysis of the research.

3.6 Units of Analysis

Unit of analysis refers to aggregating the data collected during the subsequent data analysis stage (Sekaran & Bougie, 2013). The "unit of analysis" refers to the portion of content that will serve as the foundation for judgments made during code development (Roller & Lavrakas, 2015). The primary unit of analysis for this study will be the key informants from small and medium-sized TCSPs that provide gazetted services and activities such as the formation of the company, registering address, nominee directors and others which includes secretarial firms, accounting firms and legal firms. Besides that, the focus of the interview involve a person who have practising certificate issued by SSM. The researcher was interested in examining the firms' structure, culture, and decision-making process in complying with AML laws. The researcher gathered data from secretarial, accounting, and law firms and treated it as an individual data source. This is to ensure the reliability of the data collected. The choice of unit of analysis is a crucial decision in qualitative research, as it will shape the research question, research design, and data analysis techniques used in the study.

3.7 Measurement

The measurement is defined as setting numerical values to attribute the objects of the research study (Sekaran & Bougie, 2013). It means that the measurement is made to compare the different values of each attribute, whereby the value is developed based on the opinions and experiences of the participants themselves. In this study, the researcher will determine and access the compliance behaviour of TCSPs in Malaysia and the challenges they faced in complying the AML law. Thus, the researcher employs face-to-face semi-interviews and observations to explore in detail certain phenomena that occur which is related to the compliance behaviour among TCSPs.

Similarly, the fundamental objective of purposive sampling is to discover and select persons who are highly knowledgeable about a given area of interest (Palinkas et al, 2015). The study focus on compliance behaviour among TCSPs and the challenges that they faced in complying with AML law. The measurement in the study is refer to the interpretation of participants' narratives in order to capture the patterns of AML compliance behaviour among them. This can be seen whereby three firms are involved in the study which are secretarial firm, accounting firm and legal firm. Each of the participants from these firms represent a different professional body which are performing the roles of company secretaries.

The interpretations of the interview questions are important source of information in the study. Therefore, in order to ensure the accuracy of the interpretations from the participants, the researcher use member's checking approach which required the participants to review the summaries of the interview or interpretations and confirm on the meanings which represent their perspectives. This process helps to reduce the misinterpretation of the data and helps the researcher to determine and examine the compliance patterns among TCSPs and their challenges. The table below shows the research questions, research objectives and the interview questions that being use for the interview session. The interview questions are related to the duties of TCSPs as reporting institutions. The questions answered by key informants are being used to analyse and determine the compliance behaviour among TCSPs and the challenges they faced. The table 3.1 below shows the questions used during the interview session which follow by research objectives and the research questions that to be answer by the participants.

Table 3.1
Research Objective, Research Question and Interview Questions for Trust Company and Service Providers (TCSPs)

Research Objectives	Research Questions	Interview Questions
1) To assess the implementation and the current practice of TCSPs AML compliance in Malaysia.	1) What are the implementation and current practices of TCSPs in compliance to AML law and policy in Malaysia (including the customer due diligence measures, the record-keeping measures, the reporting of suspicious transactions and finally, the implementation of compliance programmes)?	1) Are you aware of TCSPs firms' obligation under AMLATFPUAA 2001? (Source: Bank Negara Malaysia) 2) How does your firm comply with AMLA? 3) What is the procedure of your firm procedure in accepting new clients? 4) Do you assess your existing clients when you are instructed or acting on behalf of them? 5) Does your firm have a proper record-keeping procedure and what are the minimum period of the records being kept? (Source: Bank Negara Malaysia) 6) In what situation would you describe a suspicious transaction? Do you have any experience on it? 7) Do your firm have any Anti-Money Laundering Compliance Program which include Training & Awareness, Policies & Procedures, Independent Audit Function and the appointment of compliance officer? (Source: Bank Negara Malaysia)

		8) How do you ensure that employees are properly trained and aware of the record-keeping requirements to maintain AML compliance? 9) Are you aware that all reporting institution need to submit Data and Compliance Report (DCR) to Bank Negara Malaysia and does your firm submit the DCR report? (Source: Bank Negara Malaysia)
2) To identify the challenges faced by TCSPs in complying with anti-money laundering law.	2) What are the challenges faced by TCSPs in complying with AML law and policy?	10) What challenges do your firm face in complying with anti-money laundering legislation? 11) What are the key challenges in conducting thorough customer due diligence (CDD) and Know Your Customer (KYC) processes, and how do these challenges impact compliance efforts? (Source: Bank Negara Malaysia) 12) How do your firm align the interests of the principals (clients, regulatory authorities, etc.) and agents (TCSP employees) to ensure compliance with anti-money laundering (AML) regulations? 13) How does your firm balance the roles as gate keeper and agent to Bank Negara Malaysia and to your own clients? 14) How do your firm utilize the information and risk assessment to make rational compliance decisions? (Source: Bank Negara

		Malaysia)
3) To propose recommendations and guidelines to improve the TCSPs AML compliance in Malaysia.	3) How could TCSPs compliance and practices under AML laws and policy in Malaysia be improved?	15) What is the key factor that your firm consider when making compliance-related decisions? 16) How do your firm establish and maintain transparent relationships with clients, regulatory authorities, and other stakeholders in the compliance process? 17) In future, what is the prospect of secretary complying under with the AML statutory duties? 18) What is your opinion about the effectiveness of the existing regulatory framework for TCSPs in preventing and detecting money laundering activities? 19) How do your firm establish and maintain transparent relationships with clients, regulatory authorities, and other stakeholders in the compliance process? 20) In what circumstances does your firms need to raise the red flag for issue of money laundering among clients? 21) How would you recommend to resolve this compliance issues to further enhance compliance among TCSPs?

Basically, the above interview questions design into three categories according to the research objectives of the study. The questions developed to examine the AML compliance behaviour among TCSPs and the challenges they faced in implementing the AML duties. Each of the duties under the AML law are being questioned to the participants in order to analyse the patterns of compliance for each of the firms selected. The data are gathered from the interview questions and the documents analysis which involves articles, FATF reports, BNM reports, SSM reports and other documents analysis in order to ensure the objectives of the study are met. The data gathered from the interview then being interpret by the researcher in order to identify the AML compliance patterns and behaviour among the TCSPs firms. From the data interpretation, the researcher able to provide an insight on the issue of compliance among TCSPs. The below figure show the key operation for the study.

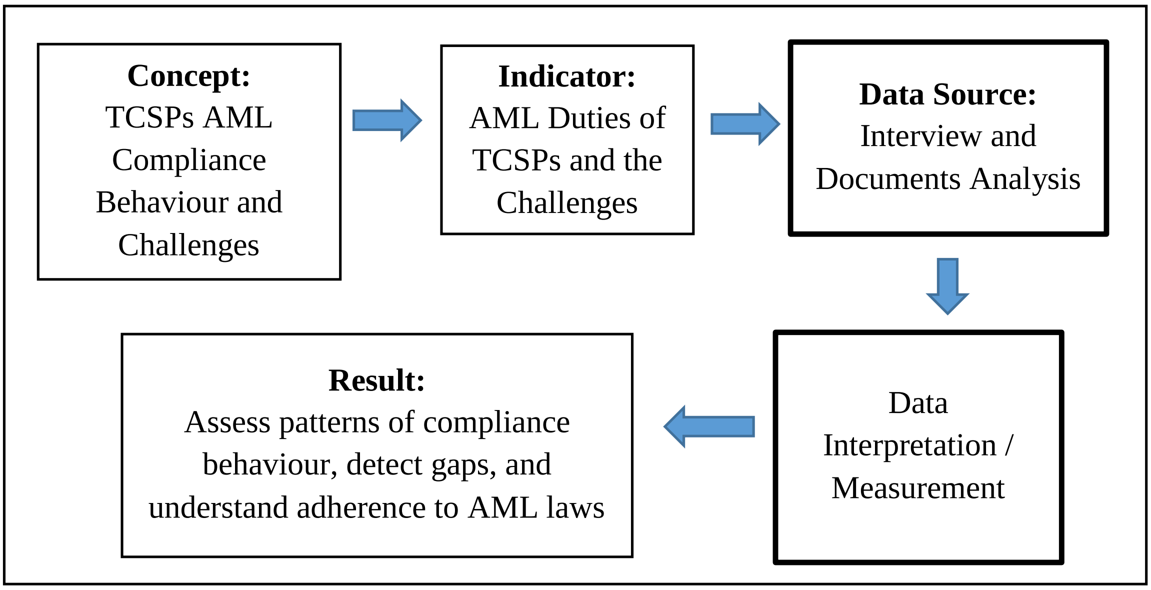

Figure 3.3 The key operations of the Study

3.8 Data Collection

The study aims to investigate the duties and challenges encountered by Trust and Company Service Providers (TCSPs) in complying with AML laws and policies in Malaysia. For this research, face-to-face semi-structured interviews and observations are being used to collect data for the case studies. According to Jamshed

(2014), these interviews are frequently used when guided by a semi-structured interview guide that the interviewer must explore.

In addressing the research questions and achieving the research objectives, the study adopts a qualitative research methodology as it has been the most appropriate way of obtaining information and data to answer the research question. The researcher used primary and secondary data to collect the primary data because the researcher did not get the data directly from the secondary data. Thus, it leads the researcher to find the data through observation, semi-structured interviews, and other method. Besides that, among the secondary date being used in gathering the data are through the internet, journals, government reports, annual books and other sources which can supply the correct and relevant information regarding the research. Figure 3.3 below shows the interview procedure for a semi-structured interview

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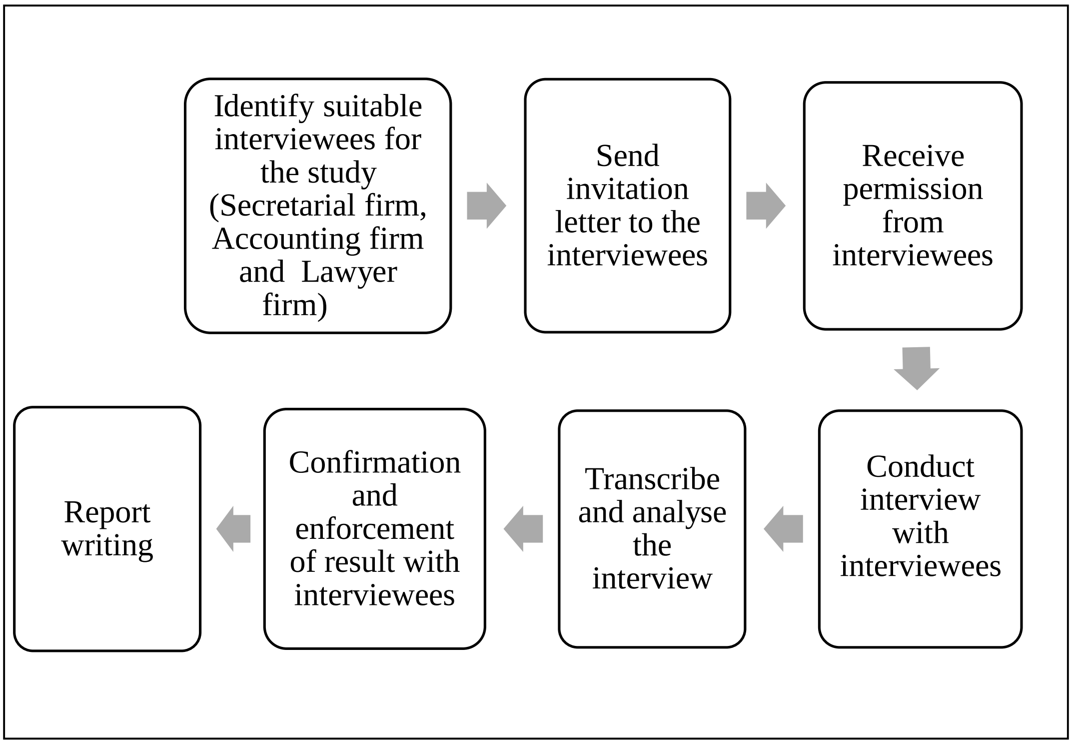

Figure 3.4 Interview Procedures

It is important to determine the interviewees for this study to ensure the researcher has resourceful information from the interviewees. Interviewees are selected to contribute to the researcher's understanding of the phenomenon under study (Merriam, 2009). The characteristic of interviewees is from law firms, accounting firms, and secretarial firms. The categories of the firms chosen have the criteria of providing the trust company and service providers such as providing services of nominee directors, incorporation of the company, consulting company and other related services. This is to ensure the firms selected are bound to the compliance duty of AML law and policy.

The invitation letter was sent to the respective interviewees or respondent by explaining the issues and seeking their participation in the interviews. Since the study involves sensitive issues of money laundering compliance, it is expected that the agencies may require further explanations of the needs for their participation. Therefore, a follow-up call and email are made to the informants in order to check their availability for the interview session. A further explanation are explained to informants on the study to ensure the understanding of the informants on the subject matter. Thus, it makes easier for the informants to collect information through the interview session.

After receiving the invitation letter, the researcher will email the respondent the letter of agreement to participate in the interview. The researcher will receive the list name of the informants and the contact details. Some of the interview session are conducted at a place convenient for the informants while some other informants prefer to make a video conference through zoom or Google meet for the interview session. All the interviews attended directly and via video conference are being recorded clearly. A permission is granted by the informants upon request from the interviewer.

The semi-structured interview questions are prepared before the interview session. The study's research questions are used as guidance to enhance the questions so that it can provide more specific and detailed questions to ask the informants. The questions aim to provide a better understanding of the current practice of the compliance of TCSPs in AML duties, responsibilities and the challenges faced by TCSPs in compliance of AML laws and policy. The next subsection explains in details on the interview protocol in the study.

3.8.1 Interview Protocol

An interview guide refers to the protocol which gives direction for conducting data gathering process and the analysis (Hunter, 2011). It serves as a framework for conducting interviews in a consistent and systematic manner. "An interview protocol is a predefined set of questions and guidelines designed to guide the interviewer during an interview, ensuring a standardized approach for collecting data and obtaining specific information from the interviewee" (Creswell, 2013). The protocol involves a discussion on the ground with the participants on their personal experiences (Swap et al, 2001). The interview protocol provides consistency and direction for the interviewer in the discussion process.

3.8.1.1 Background

This study aims to assess the compliance behavior of TCSPs in AML law and policy in Malaysia. For this study, two types of groups will be chosen for interviews: TCSPs and the regulators of AML. As for TCSPs, among the firms involves are secretarial firms, accounting firms, and lawyer firms which provide and regulate the activity of the TCSPs such as formation of company, providing nominee directors, providing service of the shell company and any other activities and services related to TCSPs duties and responsibilities. All the firms choose are based in Klang Valley. The second group involves BNM and SSM whereby the division to be interview under BNM is an officer from the FIED which regulates the AML law and officer from Enforcement Department of SSM. Both groups are essential to interview as they can help to provide solutions to enhance AML compliance among TCSPs in the future. As for TCSPs, the study aims to identify the compliance behaviour and challenges faced by the reporting institutions in complying with AML, while for regulators, it helps to identify room for improvement in terms of enhancing AML compliance and improving the way TCSP comply with the law and policy as it will helps to overcome the issue of money laundering among the TCSPs.

3.8.1.2 Procedures

Once the background and the sample size have been identified by the researcher, the next action is to list down all the TCSPs firms which are available in Klang Valley area. The researcher search the list of the TCSPs firms available in Klang Valley area and gather the contact numbers for each of the firms. The researcher then call each of the firms listed to inform on the researcher interest to interview the company secretary for the purpose of the research study. Once the researcher have gather information for the email and person in charge, the researcher then began to draft the application letter and emailed to the respective firms accordingly.

The interview procedures began with the application letter that was sent to the respective firms to seek their permission to allow the interview to be conducted with any of the representatives who act as company secretary of the firms and who have experienced in complying with AML law. Out of 20 firms being calls and emailed, the researcher received almost 16 replies from the TCSPs firms. The process of collecting, emailed and waiting for the replies from all the firms took about two weeks. Follow-up calls and email are being done to explain further on the subject matter and the need of their cooperation in the study.

Once the permission to interview is granted, the study then communicated with the person accountable for the interview on the suitable time and place to conduct the interview. The researched fixed the times and date for all the firms based on the participants availability. The interview is conducted on a one-to-one basis, lasting between one and two hours, depending on the interviewee's information. The researcher obtained an ethical approval from the institution prior to data collection process. The researcher are given about nine months to do data collection for the study. On the day of the interview, the participants will be informed on the purpose of the interview and provided with an information sheet detailing the study’s objectives, their rights, and the voluntary nature of the participation including the consent of the participants to involve in the interview process. The consent forms are signed by all the participants for the interview. To ensure data protection, all the recording and transcripts are securely stored and access is restricted to the researcher only. Besides that, the identification of the participants are anonymous and all the data will be retained and destroyed in accordance with the institutional guideline after the completion of the study.

Once the researcher has received the consent, the interview then begins by asking the interview questions. The interview sessions with all the TCSPs firms took about two months to complete. The whole interview sessions are recorded and transcribed verbatim to ease the study's analysis process. Once the interview session completed, the researcher thanks the participants for the time allocated for the interview session. Next, the researched began with transcribing the data accordingly for each of the firms. The researcher also begin to create a themes and codes for the data transcribed and run the analysis in order to analyse the AML compliance behaviour among the firms and the challenges they faced by using Atlas software.

Below are the interview protocols to be follow and the guideline for the researcher to ask during the interview questions related to the objectives of the study. The interview protocol can be seen as follow:

1. Begin the interview by providing introductory comments:
   a) Introduce yourself
   b) Thank everyone and welcome them for participating in the interview.
   c) Seek consent from the interviewee.
   d) Inform interviewee on the data protection measures taken for the study.
   e) Provide a brief overview of the research and objective of the research. Explain and discussion on the questions of the research and ensure that he or she understand the questions.
   f) Let the interviewee know that the interview will be recorded using voice recorders and there will be some note taking during the interview session.
2. Provide basic guideline for the interviewee.
   a) If he or she feels uncomfortable with the questions, he or she has the right to pass to any question, you have the right to leave or pass on any questions.
   b) Explain and discuss on the questions and make sure that he or she understands the questions.

3. An opening question will be asked by interviewer regarding participant' background and his or her organization, such as name, position and working experience. The session then continues with asking interview questions.
4. The interviewer then asks if there are any other questions or comment upon the interview conducted.
5. Thank the individual for participating in the interview. Assure him or her of confidentiality of response and potential future interviews.

Table 3.2
Research Objectives and the Interview Questions

Research Objectives	**Questions**	**Key Informants**
Objective 1 To assess the implementation and the current practice of TCSPs AML compliance in Malaysia.	- Are you aware of TCSPs obligation under AMLATFPUAA 2001? - How does your firm comply with AMLA? - What is the procedure of your firm procedure in accepting new clients?	TCSPs
Objective 2 To identify the challenges faced by TCSPs in complying with anti-money laundering law.	- What challenges do your firm face in complying with anti-money laundering legislation? - What are the key challenges in conducting thorough CDD and KYC processes, and how do these challenges impact compliance efforts?	TCSPs, BNM and SSM
Objective 3 To propose recommendations and guidelines to improve the TCSPs AML compliance in Malaysia.	- What is the key factor that your firm consider when making compliance-related decisions? - How would you recommend to resolve this compliance issues to further enhance compliance among TCSPs?	

3.9 Data Analysis

Qualitative data are complex and comprised of transcripts of face to face interviews, focus group discussions and documents (Kuckartz, 2019). The analysis of qualitative data is refer to classifying and evaluating the linguistic material in order to make statements of implicit and explicit meaning (Jowsey et al, 2021). This can be seen whereby the data analysis helps the researcher to interpret the verbal communication in order to understand the meaning. The study developed a face-to-face interview and therefore the data was analyse using ATLAS TI software to examine the compliance behaviour among TCSPs and the challenges faced by them in complying with AML law.

Basically there are three types of data analysis involved on qualitative study which are inductive analysis, deductive analysis and hybrid data analysis. The inductive analysis allow research finding to emerge from the significant theme to discover new insights or to develop a theory for the study (Thomas, 2003). The code use to label the data are develop during the coding process. Next, the deductive data analysis occurs when the codes to be used to analyse the study are predetermined and it is based on previous research or conceptual framework or model (Vears & Gillam, 2022).

The deductive data analysis is use for the study as the researcher developed codes before begins the data analysis process. The process of coding, followed by comparing, grouping and sub-dividing groups of codes, results in content categories and subcategories rather than "themes. While the hybrid data analysis is refer to combination of both data analysis which are inductive and deductive data analysis (Kaur et al, 2025). This approach seeks to establish a coding framework which are structure and focused while maintaining the grounded study. Basically there are six steps commonly used in analysing the qualitative data and the steps do not have to be sequential.

3.9.1 Prepare and Organize the Data for Analysis

The preparation of data analysis starts with the organization of data collection into file folders to ensure the availability of the information are available when needed.

All the raw data recorded are being stores in one folder for each of the categories of the firms. While one folder is created to store all the information such as documents, observations, reports, journals and guidelines which are related to the study. All the folder created are being duplicated and save in the other computer as a backup file for the original data.

Next, the transcription of data collection begins by transforming the interview recording into a text data or transcript data. The researcher need to listen to the audio tapes several times in order to transcribe all the important details of the information by recording the participant’s words exactly as they were spoken. This is because every words is significant in the transcription process. In order to check the transcribe data, the researcher read all the transcribe data to get familiar with the data transcribe and cross check with the interview recording to ensure all the wordings are correctly determined. The study analyse the data collection through the use of Atlas ti software as it offers a complete tool kit of coding, data organisation and visualization through a creation of networks to show the relationship of the data presents.

3.9.2 Explore and Code the Data

The second step is to explore and coding the data. The process involve is to read the transcripts several times in order to identify the themes and categories. Basically the study used a deductive data analysis whereby the codes are being created based on the indicators of the study which are the AML compliance duties and challenges in implementing the AML law. The study developed a theoretical framework to clearly understand the existing theories involve, concepts and construct from the literature that guide the analysis. Based on the theoretical framework and research objectives, the researcher predefined the codes and categories that will be used to analysed the data. Once the researcher is familiarize with the study, the researcher able to create a code and themes for the study.

3.9.3 Theme Development

The third process involve in the data analysis is the themes development for the study. The themes are created based on the theoretical framework created and the themes are create before the data analysis starts. The researcher identify the relevant themes to analyse the compliance behaviour of TCSPs. Once the themes are created, the researcher need to familiarize with the themes and to view it several times in order to ensure a correct themes are created for the study. The information and data chosen by the informants are being dragging and put into one group to differentiate the keywords and key themes of the study. The researcher then completed all the data and categorised the data accordingly to the specific themes. Furthermore, the researcher then analyses the data based on the key theme and sub themes created and interpret the findings in the research study.

3.9.4 Interpretations of Findings

Finally, once the codes and themes are created, the data can be analysed by exploring connections between nodes, examining emerging patterns and themes and generating reports for the research findings. The data can be interpreted by looking at the patterns and themes that have emerged from the analysis. The finding can be used to develop a deeper understanding of the research questions and to generate insight and recommendations for future research or practice. A qualitative interpretation findings requires the researcher personal view to examine the correct meaning of the study and interpretation.

This is because, the study involve a close contact with the participants and therefore it is a good condition to disclose the real meaning of the data. Next, the study make a critical comparison which can contribute to the knowledge and findings of the data by doing triangulation of the study with the regulators and documents analysis. The last process of interpretation is to find out the limitations faced by the study and suggest to overcome it. Next subsection will discuss on the data reliability and validity.

3.10 Data Reliability and Validity

3.10.1 Data Reliability

Data reliability is refer to the consistency and dependability of the data collection and analysis process. In term of qualitative research, the reliability of the data collection is crucial as it refer to the trustworthiness of the procedures and the stability of the interpretations. The qualitative data that achieve the reliability indicates that the process is transparent and it can be followed by others who want to do the similar findings (Christou, 2025). While reliability refers to the degree in which the other researcher who perform the similar observations in the field and analysis such as reading and field note transcribed from narrative data will generate the same interpretations and results. In order to ensure the reliability of the data analysis, few criteria need to be examined which are audit trail, members checking, reflexivity and triangulation of the data.

Firstly, is the audit trail. The audit trails are performed in order to keep a record of what has been done in an investigation. It is refer to the transparent descriptions of the research up to findings of the research. According to Halpern (1983), among the categorization for reporting the information are raw data, data reduction and analysis products, data reconstruction and synthesis products, process notes, materials relating to intentions and dispositions, instrument development information and reflexivity. Firstly, the raw data of the research includes all the raw data interviews transcripts, the written field notes, unobtrusive measures which the documents. All the data are being kept in a folder to ensure the availability of the data.

Secondly, the data reduction and analysis of products which includes the summaries of each of the notes and theoretical notes. The interview data transcripts are being use for the data analysis. The interview data were imported to the Atlas ti software for the process of coding and naming the data. Next, the data reconstruction and synthesis products which includes the structures of the categories such as themes, definitions, and relationships), findings and conclusions and a final report which includes and connect to the existing literatures and integration concepts, relationships and interpretations. The researcher then create a themes to analyse the data and create categories to differentiate the information based on the AML indicators. This is to ensure a correct categories are being chosen for the themes of the study.

The next criteria is members checking which refer to the process of checking on the research study. According to Lincoln and Guba (1985), the members check is important in order to strengthen the study’s credibility. The process of members check can be done formally or informally as the process take place during the normal course of observation and conversation. The key informants also can be asked to read the transcripts of dialogue that have been participated by them. In order to ensure the reliability of the study, the researcher also use a members checking to confirm the data received from the interview with the participants. The researcher choose one TCSPs from each of the secretarial, legal and accounting firms for the members checking. The company secretaries from these firms are required to confirm the data transcribed from the interview with the firms in order to ensure all the information are correctly presented without personal bias and to ensure accuracy of the information provided.

Next, in term of reflexivity, it is refer to the attempt of uncovering one's underlying epistemological assumptions as the reason for formulating the study in a particular way and implicit assumptions, biases or prejudices about the context (Guba and Lincoln, 1982). The reflexivity is refer to the researcher's awareness and critical reflection on how their personal background and experienced may influence the research process and interpretation of data. This is because the researcher s directly involved in the process of data collection, interpretation and analysis which means their perspective may indirectly affect how the data are understood. The concept of reflexivity require researcher to continuously reflect on their roles and reports on what have been discussed with participants rather than providing her own personal views. This can helps the researcher to minimize bias and maintain the consistency in the data analysis.

Lastly, triangulation of the study which refer to the method in which two or more approaches are combined in one method (Flick, 2018). This can be seen whereby the few approaches such as individually in-depth interviews, group interviews and observations were combines in an ethnographic approach. The triangulation method may enhance the credibility as it is used to expand the understanding of the research study. In this study, data triangulation was applied by comparing the information obtained from the interview with TCSPs with the regulatory documents, official guidelines and reports related to AML compliance. This is to ensure and verify the practices of AML compliance were consistent with the AML requirements.

3.10.2 Data Validity

The data validity is refer to the appropriateness of the tools, processes and data of the qualitative research (Leung, 2015). The validity focuses on how the research represents the participant's realities and how well the finding of the study can be trusted. The concept of trustworthiness is used in the research in order to ensure the validity of the research. Trustworthiness is refers to the degree of the confidence that the findings are credible, reliable, and accurately represent the participants' perspectives in the study. According to Lincoln and Guba (1985), the concept of validity or trustworthiness is accessed by four criteria which are credibility, transferability, dependability and conformability.

Firstly, the credibility is refer to the truthfulness. This is similar to the internal validity in research, confidence in the truth of the findings. The strategy use is to spend enough time with the key informants in order to build trust and gain a deep understanding of the context. This can be seen whereby the researcher takes about one to two hours to interview the participants for the purpose of the study. The discussions between the participants involves the ideas and experienced of the participants in the AML compliance and therefore it helps to reach a rich data. The data and information received from the participants are cross check with the data received from the BNM, SSM and other documents analysis in order to compare the actual practices of AML compliance by TCSPs from the regulatory requirements. The researcher then formed a conclusion for the study and therefore it enhance the credibility of the study.

Secondly, the transferability which shows that the findings of the research have applicability in the context. This can be seen whereby the researcher need to provide a detailed and rich descriptions of the research context and key informants so that the findings are transferable to their settings. Lincoln and Guba (1985) indicated the term descriptions as a way of achieving the external validity. By describing the phenomenon in a sufficient detail, the researcher can evaluate the extent to which the conclusions drawn are transferable to other times, settings, situations and people. Through in depth analysis of the interview with TCSPs, the researcher able to present the views of the TCSPs in AML compliance clearly and the challenges that they faced while complying with AML law.

Thirdly, dependability which refer to consistency. The following technic which is inquiry audit may be used in order to ensure the dependability of the research. The inquiry audit process involves a researcher who is not involved in the process to examine both of the process and products of the research (Pandey & Patnaik, 2014). The term use to describe and establish the dependability is audit trial (Merriam, 1995). In order for the audit to take place, the investigator must describe date in details such as how it was collected, how categories were derived and how decisions were made throughout the inquiry. The purpose of the audit trial is to evaluate the accuracy and to check whether the findings, interpretations and conclusions are supported by the data. The feedback received from the external researcher or expert can lead to additional data gathering and development of stronger data findings.

In order to ensure the reliability of the study, the researcher seek for the expert in AML law to check and verified on the interview questions in order to ensure all the questions really meets the objectives of the study. This is to ensure a correct questions able to gather a rich information from the participants. The researcher also documented all the process involves for the study in order to ensure all the stages including the analysis are being carry out clearly and accordingly.

Lastly is the conformability which refers to the degree of neutrality or the extent of how the findings of a study are shaped by the informants and not researcher bias, motivation or interest. The concept of conformability is comparable to the concern of the objectivity in qualitative research. The researcher use the interview data and supporting documentary evidence for the interpretation of the data. The process of triangulation is used to ensure the findings of the study is accurate. This is to ensure the researcher are not interpreting the study based on the researcher's opinions or interest.

3.11 Data Triangulation

The qualitative research can never capture an objective trust or reality of the data (Merriam, 2005). However, there are few strategies used in order to improve the data credibility of the findings. According to Wolcott (2005), indicated that the credibility of the data can be achieve when there is an increase of the correspondence between research and the real world. This can be done through a study known as triangulation.

Triangulation of data is important in order to establish a reliability in the research study. The triangulation of data is refer to the use of multiple methods, sources or perspectives in order to validate the research results. According to Denzin's (1978), proposed four types of triangulations which are multiple methods, multiples source of data, multiple investigators and the multiple theories to confirm the findings of the data collection. Firstly, the triangulation of data using multiple methods of data collection refer to the situation whereby the data received from interview can be checked against the observations on the site and the documents related to the subject matter. Therefore, the triangulation of data involves the process of interviews, observations and documents to support the data.

Secondly, the triangulation using multiple sources of data is refer to the process of comparing and cross-checking on the data collected through an observation at different times or different places, or interview data collected from the people with different perspectives or from follow-up interviews with the same people. Thirdly, triangulation using multiple investigator which occurs when there are multiple investigators collecting and analysing the data. It means that a multiple researcher is used in order to analyse the same data set (Patton, 2002). Each researcher will have their own perspective and expertise to the analysis of the data. Once the data has been analysed by the researcher, the researchers need to compare their findings. While the triangulation using multiple theories in approaching data is less common in qualitative research.

In the context of this research, in order to ensure the reliability of the data, the data triangulation using multiple sources of data are being use for this research, The data collected from the informants from secretarial, accounting and legal firms are being analyse and the triangulation of data being use in order to analyse the compliance of the AML duties by the company secretaries. The data received from the informants are being check through with the interview data received from Bank Negara Malaysia and Companies Commission of Malaysia (SSM) in order to ensure the validity and the reliability of the data analysis. Besides that, the secondary data and information also being used in this research such as BNM report, SSM Conference report, Financial Action Task Force (FATF) report, journals and other updated news on the compliance of AML laws and policy by TCSPs.

The triangulation process in the study involved several steps. Firstly, the interviewed data were transcribed and coded according to AML compliance indicators which are customer due diligence, record keeping, reporting of suspicious transaction and compliance programs. The responses received from the participants reflects the participant's experienced and practices in AML compliance. The study focused on this indicators in order to triangulate the data with other multiple sources.

Secondly, from the interviewed with FIED of BNM and Enforcement Department of SSM, the researcher transcribed the data received and identify the key indicators which reflects the AML compliance indicators as well. This is to ensure the data can be triangulated with the data received from BNM and SSM. The researcher also reviewed the relevant regulatory documents, official guidelines, compliance guidelines, and other official policy documents issued by FATF, BNM, and SSM. All of this reports and documents are being examined by the researcher in order to understand the formal requirements, the result of the previous practices and the gaps involves in the AML compliance by TCSPs.

Thirdly, the researcher compared the interview findings with the information obtained from the BNM, SSM and other documents. This steps involved a cross-checking process which helps the researcher to determine whether the AML compliance practices by TCSPs are aligned with the regulatory requirements and official guidelines. Besides that, the researcher also examined the roles of BNM and SSM in monitoring and guiding the TCSPs in AML compliance. All the AML duties indicators are being cross-checked with the interviewed data from BNM, SSM and other documents in order to support the study.

The final steps of triangulation involved in finding the similarities, differences and gaps between the interviewed responses and the documented regulatory requirements were analysed and interpret. The current practices of AML compliance of TCSPs are examines and cross check with the reports and findings from the interview in order to identify the reality of the AML compliance behaviour among TCSPs and the challenges they faced in practices. This comparison allowed the researcher to obtain a comprehensive understanding of AML compliance behaviour among TCSPs. Though a multiple sources of cross-checking, the study enhance the credibility and the conformability of the findings by drawing a conclusion for this study.

3.12 Qualitative Study

Qualitative research is defined as an activity that located the observer in the world. It also involve a set of interpretive and material practice that make the world visible. These practices make them to change the world and turn the world into a series of representations which includes interviews, conversations, photographs, recordings, and memos. In other word, the qualitative study involves a study in a natural phenomenon and attempting to make sense and interpret on the data collection (Denzin and Lincoln, 2000).

The study adopts a qualitative research design to explore the AML compliance behaviour among TCSPs and the challenges faced by TCSPs in complying with AML law. A qualitative approach is appropriate for the study as it allows for in-depth understanding of meanings, behaviour and social context that cannot be captured through the quantitative measures. Specifically, the study also focus on the phenomenological design to uncover and interpret the reason for compliance behaviour among TCSPs. This is because the study analyse three firms which focus on secretarial, accounting and legal firms which emphasized on the AML compliance behaviour among three different firms which operates as company secretary as well.

3.13 Pilot Study

The pilot study represents a good research design. The term pilot study is defined as a small-scale test of the methods and procedures to be used on a large scale (Hazzi & Maldaon, 2015). The small-scale test guides the researcher to plan for a large scale. The purpose of the pilot study is to improve the quality and efficiency of the main study. Thus, the pilot study helps the researcher improve its semi-structured interview questions if there are some weaknesses. The researcher performed an informal study regarding the AML compliance of TCSPs in order to seek for the ideas, to test the research instruments and to examine whether the research study is relevant to the company secretary.

A five company secretaries were chosen from the secretarial firms in Klang Valley to answer the interview questions developed for the study. The company secretaries are chosen for the pilot study since the study focus on the company secretary or TCSPs as the main informants of the study. The company secretaries were choses in Klang valley area due the availability of the company secretaries during the pilot study. The company secretaries chosen was from the small size reporting institution. The reason for the interview is to examine the company secretary's understanding on the research study and to check the reliability of the interview questions. From the five interviewed session with the company secretaries, it is found that all the company secretaries understand the need to comply with money laundering law. However the actual implementation of the AML law within their firms are still questionable.

This is because the result of the pilot study shows that the company secretary are not complying with AML law and really alert on the requirements under the Companies Act 2016 only. This can be seen whereby some of the secretarial firm did not perform the customer due diligence and know your customer (KYC) whereby the information that they gathered are only the basic information for the purpose of incorporating the company. The company secretary still has lack of awareness and understanding on the AML compliance and they failed to report on suspicious transaction when the red flag is presented.

During the pilot study, few issues were identified that could affect the quality of the data. For instances the length of the interview questions is an issue as it repeated the same questions. Therefore the researcher reduce some of the questions which are not important. The next issue is the term use in the research questions such as risk assessment whereby some of the participants are not clear on the term use which prompted researcher to simplify the terminology and provide the explanatory examples. Besides that, due to the sensitive topics related to AML compliances gaps caused participants to hesitate in sharing information which lead the researcher to rephrasing the questions focus on process rather than individual shortcomings and emphasize the confidentiality assurance. During the pilot study, it was revealed that the interview time were longer than expected due to discussions with the participants. Beginning the researcher set a limit for interview duration to one hour. Due to insufficient time, the researcher extend the interview duration between one hour to two hours per interview in order to have a clear discussions and improved the likelihood of collecting rich and meaningful data for the study.

3.14 Conclusion

For this study, qualitative research will be performed to collect data throughout the study. The type of investigation used for this study is a case study whereby an interview session will be conducted to gather information from the informants. The most prevalent strategies for gathering data include document analysis, non-participant observations, semi-structured interviews, and focus groups. Case study data are analysed through content analysis. The term "content analysis" describes the examination of communication messages. This refers to the classification, summarization, and tabulation of verbal or behavioural data via categorization.

The sample size of this study is assessed based on the researcher's interpretation through the saturation concept, whereby it aims to elicit diverse opinions from a small sample size, and one individual's opinion is sufficient to generate a code. In qualitative research, there are standard recommendations for the number of interviews that should be completed to assure data quality. Creswell (2009) suggests five to twenty-five interviews, while Morse (2000) suggests thirty to fifty. In addition, Bertaux (1981) claimed that a minimum of 15 interviews is required for a qualitative investigation. According to Kuzel (1992), six to eight interviews are required to study a homogenous sample.

The suggested sample size is conceptually helpful and cannot be established precisely in advance, but it estimates the number of key informants to be included in a study. However, Kumar (2005) emphasises that the number of key informants is not the most important factor if the purpose of the study is to explore and characterise phenomena-related concerns to establish new evidence. In qualitative research, saturation should precede the number of key informants, notwithstanding the latter's importance. It is more important to guarantee that the data is complete (Dibley, 2011) than the number of key informants (Burmeister & Aitken, 2012).

The data gathered will be analysed using the ATLAS TI software which enables the researcher to conduct a wide range of analyses. Atlas ti is a qualitative data analysis (QDA) software application developed by QSR International. Atlas ti aids qualitative researchers in the organisation, analysis, and discovery of insights from unstructured or qualitative data such as interviews, open-ended survey responses, journal articles, social media content, and web content, where in-depth levels of analysis on small or large volumes of data are required. It is important to choose qualitative research for this study in order to gain an in-depth understanding of the challenges faced by TCSPs in adhering to their AML legal obligations.

CHAPTER 4
FINDINGS AND ANALYSIS

4.1 Introduction

This chapter is divided into seven major sections. The first part introduces this chapter. The second part discusses the profile of the informants in the research, which includes the sample size of the study. The third part of this research explain on the findings of the research on the perception of money laundering while the fourth section discuss on the duties of the reporting institutions under Anti-Money Laundering Law which includes the responsibilities of customer due diligence (CDD), record keeping, suspicious transaction report (STR), compliance programs which have four folds namely training and development, internal control, independent audit function, and appointment of compliance officer.

The fifth part of this chapter explains the challenges faced by TCSP in implementing the AML compliance duties. The sixth section explains the transparency of beneficial ownership, and the last part concludes the whole section.

This chapter will explain in detail the research findings and data analysis using the Atlas Ti software based on the research objectives for qualitative findings. The chapter will discuss the evidence and the data collected from several case studies involving small- to medium-sized firms in Kuala Lumpur and Klang Valley. The primary data from the case studies were triangulated with the data collected from the regulators' monitoring of TCSPs' compliance, including from the companies' secretaries, the Financial Intelligence Unit (FIED) of the Central Bank of Malaysia and the Companies Commission of Malaysia (SSM).

A total of 15 informants were interviewed during this data collection process. The 15 informants' case studies, which are from secretarial, accounting and lawyer firms, were undertaken with the aim to examine the compliance of company secretaries with their anti-money laundering (AML) statutory obligations under the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 (AMLATFPUAA 2001). The present study was conducted to answer the research questions stated in Chapter One, which is related to the extent of the compliance of

Trust and Company Service Providers in Malaysia with their statutory obligations under AMLATFPUAA 2001. The first research question focused on an investigation into the implementation and current practices of TCSPs in compliance with AML law and policy in Malaysia (including the customer due diligence measures, the record keeping measures, the reporting of suspicious transactions and finally, the implementation of compliance programmes.

Meanwhile, the second research question concerned with the challenges faced by the TCSPs in complying with Anti-Money Laundering (AML) law and policy. Finally, the third research question examines how the existing AML legal framework and policy could be improved to enhance the level of compliance among Company Secretaries in Malaysia. For this study, the research questions will explore the theoretical level of analysis in terms of how the rational choice theory, transparency theory and agency theory influence the decision of the TCSPs in complying with the AML law and policy in Malaysia. The findings of the research show the key point with regard to AML laws and policy compliance and practices by the TCSPs within their firms.

4.2 Profile of Informants

The following Table 4.1 illustrates the overview of the informants from the firms who were involved in this case study. A total of three types of firms, including legal firms, accounting firms and secretarial firms, were involved in this study. Each of the firms represents five companies that provide the gazetted activities of the Trust or Company and Service Providers (TCSPs). Besides that, the SSM and BNM were also involved in this study to analyse the current implementation of the AML laws and the implementation of the reporting institution. All the firms' details will be discussed in greater detail in this study.

Table 4.1
List of Informants

INFORMANTS				
Cosec Firm	**Acc Firm**	**Legal Firm**	**Companies Commission of Malaysia (SSM)**	**Bank Negara Malaysia (BNM)**
Cosec Firm 1 Cosec Firm 2 Cosec Firm 3 Cosec Firm 4 Cosec Firm 5	Acc Firm 1 Acc Firm 2 Acc Firm 3 Acc Firm 4 Acc Firm 5	Legal Firm 1 Legal Firm 2 Legal Firm 3 Legal Firm 4 Legal Firm 5	Compliance Department	Enforcement Department

4.2.1 Cosec Firm 1

Cosec Firm 1 was founded in 2016. The firm currently offers a range of services including secretarial, accounting, human resources, and business consultation services. The firm employs two company secretaries, two trainers, two assistant company secretaries, one admin executive, two account executives, one human resource executive, and two corporate communication executives. The firm is classified as a medium-sized secretarial firm and is situated in Setia Alam, Shah Alam. The firm now possesses over three thousand active clients. The organisation has been awarded three times for their exceptional service achievements. The participants in this firm have more than five year experienced in secretarial and accounting field which provides more insights into the AML compliance implementation. The participants also have experienced in dealing clients who involve in money laundering activities which indirectly affect their firm’s reputation.

4.2.2 Cosec Firm 2

The Cosec Firm 2 was established in the year 2000, and the firm is located at Petaling Jaya, Selangor. The firm provides wide range of services including general practice, corporate finance, insolvency/corporate recovery, corporate governance, taxation services and others. Each of the departments is handled by a professional. This firm is a member of MGI Worldwide, where the firm benefits from the connections of people worldwide for the services that they provide. MGI Worldwide operates as a network that adheres to strict quality control measures. As a firm member, they need to undergo regular assessments of quality assurance systems and procedures to ensure compliance with international standards. The participant of this firm have more than thirty years experienced in handling secretarial and compliance matters. This can be seen whereby the participant are really aware on types of clients that they are handling with. The participant provide a brief explanation on the compliance matter with regards to the suspicious transaction involving political person. The participant also highlighted the constraint on the AML compliance faced by them and suggested a way for improving the AML compliance in the future.

4.2.3 Cosec Firm 3

The Cosec Firm 3 was established in 2019, and the firm is located in Kuala Lumpur. The firm provides a wide range of services such as company incorporation, company secretary, Audit submission, Ministry of Finance (MOF) registration, professional visa, Dewan Bandaraya Kuala Lumpur (DBKL) license and tax submission. The firm has one company secretary and three supporting staff to ensure the operation of the firm. The company secretary has more than 25 years of experience in a secretarial background and has more than two hundred actives clients that engage with their services. However, this participant has lack of implementation of AML compliance in the firm as the participant are not alert on the current requirement of the AML compliance. The participant also provide suggestion that the regulators shall provide more comprehensive understanding and use an effective approach to reach the reporting institution in order to enhance their knowledge. This participant provide a meaningful finding on why the implementation of AML compliance is still lacking among TCSPs.

4.2.4 Cosec Firm 4

Cosec Firm 4 was established in 2017 and is located in Shah Alam, Selangor. The firm has more than two thousand active clients and provides services such as secretarial services, Ministry of Finance (MOF) services, and other services. Currently, the firm has one company secretary and other supporting staff. Basically, the participant of this firm is complying with AML law. However, some of the implementation of AML compliance such as reporting on suspicious transaction and reporting on beneficial ownership are still questionable as the participant tend to approach client to advise them first instead of reporting it to BNM. This is to protect the interest of the clients and to avoid any problems which may affect their firm’s reputation. In term of training and awareness, it can be seen that the participant provided a training and sharing session with their client on weekly basis in order to discuss on issues arises when dealing with clients. Therefore, this approach able to provide their staff with a sufficient knowledge and updated with current AML regulations requirement.

4.2.5 Cosec Firm 5

The Cosec firm 5 was established in 2018 as secretarial firm and located at Shah Alam, Selangor. The firm provides services such as book publication, company registration, human resource management and other services related to the secretarial. The firm has more than 10 staff and 500 clients. All the clients are active. The secretary of the firm has more than 10 years of experience in secretarial services, which helps them to sustain in the field. The participant of this firm has experienced involving police case with regards to money laundering done by clients. This can be seen whereby the participant had been queried by Police due to the money laundering activities involved by their clients. The participant has experienced in dealing with the companies which involved a political person which required them to imposed enhance due diligence against the clients. This firm also has a good CDD compliance whereby the firm use a system of KCY from CTOS in order to identify and gather the information of their clients before accepting the business offer. The participant provide more knowledge on how the KYC and CDD should be done and how the other TCSPs firms may adopt this process in order to comply with AML compliance as well as to protect the company secretary from falling with criminals.

4.2.6 Acc Firm 1

Accounting firm 1 was established in 2018 and located at Jalan Ipoh, Kuala Lumpur. The firm provided services such as book-keeping, secretarial, payroll, and other services related to the administration of the Company. Currently, the firm has two secretaries and three staff who handle the management of the company. The Company Secretary has more than five years experienced in handling book-keeping and secretarial services. The firm has more than two hundred clients who engage with their services, including foreigners from China, India and other countries as well. Basically, the main business of this participant is account and book-keeping, however due to higher demand from clients, the participant also include the secretarial services in the firm in order to provide better services. The participant in this firm has valid license to act as a company secretary. From the compliance perspective, it can be seen that the firm is not really alert on the AML compliance and the dual roles that they need to perform as company secretary and accountant. The participant tend to focus on accounting role in delivering their services. In term of the customer due diligence, there is no further checking and verification of the customer being done as they only gather a basic information to open a company. While in term of suspicious transaction report, it is reported that the firm had never raise any STR report to BNM against their clients.

4.2.7 Acc Firm 2

The Accounting firm 2 is established in 2016 and it is located at Cyberjaya, Selangor. The firm was established with the aim of helping entrepreneurs to solve the management problems and helping start-up companies to grow further. With the experience that the firm has as Company Secretary, Accountant, and Entrepreneurs, it has helped many clients to solve their problems in the management of the Company. The firm is managing over three hundred companies' profiles. The participant in this form provide an important finding of the study on why the accounting firm is lacking in AML compliance compared to other firms. The participant in this firm focus on the accounting job more than the secretarial job. This can be seen whereby the participant revealed that they had never submitted the data and compliance report to BNM as they are not aware on such requirements. This show that the firm still not really aware of their task as reporting institutions.

4.2.8 Acc Firm 3

Accounting Firm 3 was incorporated in 2019 to provide accounting and secretarial services. The firm has one secretary and two employees. The secretary has more than five years of experience in these fields. The firm is enlarging its services from time to time. The participant in the firm argue that the requirement under AML law has impact them due to fact that they need to report on suspicious activity of their clients. However, the interest of the firm are not being focus by the government. The participant also have experienced in dealing with potential criminal client whereby the participant tend to questions the potential criminal on the business that they want to operate. Basically this firm used a manual way to do CDD and KYC in dealing with clients. This participant also highlighted why they are considering in complying with AML law requirements such as reporting on suspicious transaction of their client. This is because they are afraid of losing clients when they do so and this will affect their business as well.

4.2.9 Acc Firm 4

The firm was incorporated on 2011 to provide services such as secretarial services, registration of Ministry of Finance (MOF), registration of CIDB, and management of the company including the registration of business license, application of Employment Provident Fund (EPF), Social Security Organization (SOCSO) and Good and Service Tax (GST). The firms have more than one thousand companies which have been registered, and about seven hundred accounts are being handled by them. They have more than ten years of experience in handling clients and their accounts. Basically this firm have a good practices in AML compliance. However, the participant aware the need to enhance their AML implementation in practices as some part of the requirements are not being implemented well. The participant provide an important issue of practising as dual roles in AML compliance. They are aware on the extra care that need to be consider when dealing with clients. As for the reporting on suspicious transaction against client, this firm had never report on STR and usually directly deals with client in order to clarify on accounting issues.

4.2.10 Acc Firm 5

The Accounting Firm 5 was established in 2015 and it is composed of 50 individuals, including Chartered Accountants, Tax Agents, and Company Secretaries. The firm offers services such as Accounting Services, Company Secretary, SST Professional Assistance, Human Resource Management and Services, and Taxation Advice. Currently the firm has a company secretary responsible for the main firm and the other branch. The firm has about five branches in Malaysia that provide the same services for clients. Basically the participant from this firm has experienced in various fields and the values of the information shared during the interview are really useful for the study. This firm have few departments which perform separate functions. For example, the secretary department are the department involved in the process of CDD, KYC and gathering information from clients. The firm manually gather the information of clients and record it. Basically the secretary in this firm act as compliance officer to represent the firms. The participant also disclosed that they only gather information for new clients, however, the information of existing clients are remained the same as no further checking on the activities of business of the existing clients.

4.2.11 Legal Firm 1

The Legal Firm 1 was established in 2020 with the aim of providing quality and efficient legal services by a group of professionals who collaborate and synergise their specialisation and expertise in a diverse range of legal services. As a comprehensive legal services provider, the firm's objective is to provide a one-stop centre for corporate and litigation services. All the partners have a legal background, and one of the partners has a company secretary background, which enables them to provide secretarial services as well as to their clients. Among the services and practice areas of the legal firms are Civil Litigation, Criminal Litigation, Company Secretary, Corporate Governance & Advisory, Real Estate & Property, Pusaka, Hibah & Syariah Advisory, Will, Trust, Probate & Administration of Estate and Training & Seminars.

The participant from this firm provide a useful information for the study on the dual roles of the legal practitioner and the company secretary. The participant disclosed the duty of the legal practitioner when it comes to the disclosure and reporting on suspicious transaction of the clients whereby as a legal practitioner, sometimes they are unable to proceed further to report due to sensitive information being disclosed to them for the purpose of legal advice. The company also had never make report on suspicious activity by clients as they are really choosing their clients accordingly. They are really aware on their roles as reporting institution and keep updated with the current AML law implemented and apply it to practices.

4.2.12 Legal Firm 2

The firm was established in 2009 in Shah Alam, Selangor. The Company Secretary has more than 14 years of experience in the field of legal and corporate services. The firm has more than 37 employees. The participant from this firm aware on AML compliance involving them as reporting institution. Among the requirement which difficult for them to implemented is the duty to report on suspicious transaction as they are really afraid of losing their clients. Besides that, the participant mentioned the importance of having a policy and procedure at the firm level in order to ensure the smoothness of the implementation of the compliance. The participant also agreed on the importance of training and awareness to staff as the firm keep providing and sharing information to all the staff through email to ensure the staff are keep align with the objective of the company and the regulator to combat money laundering.

4.2.13 Legal Firm 3

The firm has been established since 1902 and the firm is located at Jalan

Dutamas, Kuala Lumpur. The firm has experience in dealing with significant corporate and commercial transactions associated with or materially impacting social, economic and financial developments in Malaysia. The firm has also acted on some of the most difficult and complex cases, in which the decisions have significantly shaped the laws of the country. The firms' clients range from government authorities and companies, conglomerates, financial institutions and multinational corporations to small and medium-sized enterprises (SMEs), start-ups and private individuals. The firms provide a wide range of services including Construction & Engineering Disputes, Corporate, Dispute Resolution, Employment & Industrial Relations, Energy, project & Infrastructure, Intellectual Property, International Arbitration, Regulatory & Compliance, Tax, Customs, & Trade and white-collar crimes.

This is among the firm which have a good compliance in term of customer due diligence, record keeping, reporting on suspicious transaction report and the compliance programs. The participant in this firm has more than twenty years of experienced in secretarial line. Basically the firm is working together with the legal department in order to ensure the quality of the services provided. The firm are really aware on the AML compliance requirements against the company secretary and legal practitioner. This can be seen whereby, the firm keep updated with the current AML regulation and implemented in in their firm. Besides that, the firm also ensure all the staff are being given an enough training and awareness on the money laundering and its prevention as every week the company will have the training session for all the staff. The participant also mentioned that they have no problems of complying with the AML law as it already become part of their compliance duties.

4.2.14 Legal Firm 4

The legal firm was established in 1975 and located at Bukit Damansara, Kuala Lumpur. The firm provided services such as Arbitration & Alternative Dispute Resolution, Aviation, Banking & Finance, Capital Markets, China Desk, Commercial law, Company Secretarial Support, Competition law, Construction, Dispute Resolution, E-Commerce, Employment & Industrial Relations, Energy, Environmental, Social and Governance (ESG), Finance Technology, Foreign Investment, Healthcare & Medical law, and other services as well. The firm has won a few awards due to its excellent services provided. The participant from this firm has more than 15 years experienced in the legal line and secretarial line. The participant really understand about the AML compliance duties. The participant mentioned that those firms with no legal background faced difficulties in interpreting and implementing the requirements under the law. Those firms with legal background is more alert and aware on the requirements and able to implement it effectively compared to those who are not. The participant also mentioned that the firm are really choosing their clients in order to ensure a quality clients are being selected in order to maintain a good name of the firm and the professionals.

4.2.15 Legal Firm 5

The firm was established in the year 2007 and it is located at Jalan Tuanku Abdul Rahman, Kuala Lumpur. The firm shared values such as trustworthy, reliable, understanding and efficient, which describe them as a firm preferred by clients to solve their problems. Besides that, the firm also provides a wide range of services including Civil Litigation, Corporate Matters, Litigation and Dispute Resolution Department, Election Law, Employment Law, Probate and Administration of Estates, Real Estate and Property and Secretarial Services. The firm has experienced and skilful staff that helps the firm to grow well. The participant form this firm has more than 30 years experienced in dealing with clients. Basically the participant disclosed that the process of CDD among the client is difficult to obtain as the client sometimes don’t want to share their personal information. The process of verification of data also difficult to be done as it is time consuming and therefore it will affect the business as well. An effective CDD can only be done if the information are easily available for the reporting institution. The participant also mentioned that they had never report on suspicious transaction as they tend to resigned as company secretary when they found out any suspicious activities.

4.2.16 Companies Commission of Malaysia (SSM)

The Companies Commission of Malaysia (SSM) is a statutory body that was established as a consequence of a merger between the Registrar of Companies (ROC) and the Registrar of Businesses (ROB) in Malaysia. Its primary responsibility is to regulate businesses and companies. On April 16, 2002, SSM was placed into operation. SSM's primary function is to operate as an agency responsible for the incorporation and registration of companies, in addition to disseminating information regarding companies and businesses to the general public. In order to maintain positive developments in the corporate and business sectors of the Nation, SSM fulfils its function as the leading authority for improving corporate governance by conducting comprehensive enforcement and monitoring activities to ensure compliance with business registration and corporate legislation.

SSM is responsible for the administration and enforcement of the following legislation including Companies Commission of Malaysia Act 2001, Companies Act 2016 (Act 777), Interest Schemes Act 2016 (Act 778), Registration of Business Act 1956 (Act 197), Limited Liability Partnership Acts 2012 and Trust Companies Act 1949 9Act 100). On 22 August 2022, the Bank Negara Malaysia and Companies Commission of Malaysia (SSM) signed a term of collaboration (TOC) to strengthen the regulation and supervision of anti-money laundering, countering financing of terrorism and targeted financial sanctions. The TOC between the two institutions sets out the regulatory and supervisory responsibilities of BNM and SSM in regulating and supervising the company secretaries and trust companies. (The Edge, 2022). Bank Negara has appointed SSM as supervisory regulators to monitor company secretaries and trust companies' compliance in terms of money laundering.

This can be seen in that when SSM has issued a Guideline for the Reporting Framework for Beneficial Ownership of Legal Persons. All companies (local and foreign), limited liability partnerships (local and foreign) and businesses (sole proprietors and partnerships) have up to 31 December 2020 to obtain and update their beneficial ownership information. The law has come into effect on 1 April 2024, requiring all company secretaries to seek and update the beneficial ownership information of their clients by 30 June 2024. The period is extended up to 30 September

2024 to enable the company secretaries to seek the real beneficial ownership in the company and update the SSM through the system e-boss.

The system is created by SSM to gather all the beneficial ownerships of the companies that operate in Malaysia. The reason for such implementation is to ensure that adequate, accurate and timely information is available on the beneficial ownership of legal persons. The informant from SSM provide a rich information on the AML compliance by company secretaries. SSM also mentioned that they make an inspection randomly to the secretarial firms to inspect on the AML compliance especially in reporting of beneficial ownership. SSM disclosed that the firms are still not aware on the importance of having a good record keeping in the firms.

4.2.17 Bank Negara Malaysia (BNM)

Bank Negara Malaysia is known as the Central Bank of Malaysia and it commenced operations on 26th January 1959. The Central Bank of Malaysia Act 2009 governs Bank Negara Malaysia. Bank Negara Malaysia is responsible for the promotion of financial and monetary stability. The objective is to establish an environment that is conducive to the sustainable expansion of the Malaysian economy. Bank Negara Malaysia has been instrumental in the success of the financial inclusion agenda by significantly contributing to the development of the financial system infrastructure. This is to guarantee that financial services are accessible to all economic sectors and societal segments.

Furthermore, Bank Negara Malaysia is responsible for the nation's payment systems infrastructure, which is focused on the security and efficiency of the financial systems. Besides that, Bank Negara Malaysia also act as the chair and secretariat of the inter-agency platform, which is the National Coordination Committee (NCC). The NCC, which was established in 1999, is responsible for coordinating, implementing, and monitoring Malaysia's anti-money laundering and counter-financing of terrorism (AML/CFT) initiatives.

The NCC comprises three main sub-committees, namely the Financial Intelligence, Law Enforcement and Prosecution (FLEP), Financial Sector Sub-Committee (FSSC) and the Designated Non-Financial Businesses and Professions Sub-

Committee (DSC). Among the members of NCC are Attorney General's Chambers, Bank Negara Malaysia, Companies Commission of Malaysia (SSM), Immigration Department of Malaysia, Inland Revenue Board of Malaysia, Labuan Financial Services Authority, Malaysian Anti-Corruption Commission, Ministry of Domestic Trade and Consumer Affairs, and Ministry of Finance.

The participant for this research is an investigator with a comprehensive background in financial investigations, with a particular emphasis on the prevention of money laundering and the financing of terrorism (AML/CFT). The participant is also an AML/CFT practitioner and trainer for financial institutions. The respondent conducts a series of awareness programs and training sessions covering a wide range of AML/CFT and compliance topics including Malaysia AML/CFT regime, Know Your Customer (KYC) procedures, Identification of Beneficial Owners (BO), Suspicious Transaction Reporting (STR), handling Politically Exposed Person (PEP), Red Flags in Money Laundering, Terrorism Financing and Proliferation Financing, AML/CFT Investigations and many topics which falls under the Money Laundering issues.

The participant has also worked with Bank Negara Malaysia as a Financial Investigator, where the respondent has gained significant experience in financial investigations related to money laundering and financial crimes. The informant mentioned the constraint to achieve a full compliance among the TCSPs due to no exposure of knowledge being given to them. The participants sharing on the BNM roles as regulator plays an important role in shaping the country to achieve a higher level of AML compliance. Besides that, the participant acknowledge that there are many regulations being amended for the purpose of AML law. Therefore it create confusion among the reporting institutions. Next, the discussion will be on the findings of the study which will be explained further.

4.3 Finding of the Research Study

The research findings are based on the interview questions used to questions the TCSPs including secretarial, accounting, and legal firms. The key themes of the interview questions are being developed to analyse the findings of this research. This section presents the empirical findings of the research with regard to the perception and the awareness of money laundering crime within the secretarial profession. The fieldwork conducted has focused on the issue of the risk and vulnerabilities of the TCSPs and company secretaries to the crime of money laundering. The perception of the duties, risks and vulnerabilities is crucial to this study. Therefore, it is essential to examine the issues within this research in order to understand the realities faced by the informants, which are the TCSPs, in fighting money laundering through the compliance with AML laws and policy. The findings of this research can be seen based on the themes and sub-themes of the study below.

Table 4.2
Key Themes and Sub Themes of the Study

No.	Key Themes	Sub Themes	Research Objectives
1	Perception of Money Laundering	-	**To assess the implementation and the current practice of TCSPs AML compliance in Malaysia**
2	Awareness of Money Laundering	-	
3	Perception of compliance of AML by TCSPs	-	
4	Duties of Reporting Institution under Anti-Money Laundering (AM) Law: Customer Due Diligence	i) Customer Due Diligence ii) Enhance Due Diligence iii) Politically Exposed Person (PEPs) iv) Procedures use by Informants	
5	Record Keeping	-	
6	Suspicious Transaction Report (STR)	i) Awareness of STR ii) Red flag of STR iii) Report of Suspicious Transaction (STR) by informants iv) Conflict of Interest v) Professional Ethics vi) Duty of Confidentiality or Special Privilege	
7	Compliance Programs - Employees Training and Awareness - Policies, Procedures and Controls - Senior Management - Employee Screening	i) Awareness of duties ii) Employees training for existing and new employees iii) Firm perceived procedures iv) Independent Audit	

	Requirement	Function	
	- Independent Audit Functions		
8	Appointment of Compliance Officer	i) Awareness of duties of compliance officer ii) Submission of Data and Compliance	
9	Awareness on the Exception of Small Reporting Institutions	-	
10	Challenges in Implementing AML Compliance Duties	i) Customer due diligence ii) Record keeping iii) Compliance programs iv) Size of business v) Cost of compliance vi) Training and development of AML knowledge vii) Tick box approach viii)TCSPs as agent of Principal ix) Different profession with the same roles as reporting institutions x) Compliance challenges faced by Reporting Institutions (TCSPs)	**To identify the challenges faced by TCSPs in complying with anti-money laundering law.**

4.3.1 Perception of Money Laundering by TCSPs

Money laundering is a crime that occurs all over the world without the exclusion of the TCSPs or the company secretary. The risk of the TCSPs was identified by the FATF in 2001 as discussed in Chapter Two of this thesis. In Malaysia, it can be seen that the inclusion of DNFBPs took place in 2003, whereby the DNFBP sector has a responsibility to act as a reporting institution to BNM with regard to their sector. BNM has implemented a policy and regulation of the DNFBPs sector against the reporting institution which is DNFBPs. The reporting institution is required to comply with the requirements of the CDD, record keeping requirements, reporting of STR and the compliance programs which have been discussed in Chapter Two of this thesis.

The perception of money laundering by TCSPs can be seen in terms of the TCSPs' awareness and obligation under the law. All the reporting institutions, including DNFBP, are acting as a gatekeeper in order to prevent and overcome money laundering crimes within their field. The reporting institution has been assigned duties under the law in order to cope with the issue of money laundering in their sector. The evidence from the case studies shows that most of the informants and firms are aware of their duties and obligations under the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 *(*AMLATFPUAA 2001).

Evidence gathered from the case studies shows that the informants from the secretarial firm, accounting firm and legal firm are aware that their professionalism and services are being used by the criminals, and they are vulnerable to the crime of money laundering. The awareness of the duties and obligations under the law can be seen in terms of the guidelines provided by BNM and SSM on money laundering and the beneficial ownership reporting requirements. The perception of secretarial firms towards the money laundering activities that may occur through the services provided is in terms of the paid-up capital of the company. This is the issue being raised by the respondent regarding the vulnerabilities of the TCSPs towards money laundering crimes. The red flag that most of the secretarial firms found out is in terms of client who want to raise the company's capital through the increase of paid-up capital of the company, change of directorship and shareholders of the company. The secretarial firms are aware of their clients' activities which may lead them to suspicious against the client.

Besides that, as for the accounting firm, it can be seen that they are also aware of the duties imposed on them as a reporting institution. The perception of the accounting firm on the vulnerabilities of the TCSPs can be seen in terms of the exploitation and misrepresentation of the company’s financial statement to hide certain information which may be valuable for clients. The reason for this exploitation and misrepresentation is to avoid the high tax payment to Inland Revenue Board, to hide some sensitive information about the company's financial statements and so on.

The informants are aware that their services are being manipulated and used by criminals to conceal the actual information. Despite the awareness shown by the accounting firm, the study found that two firms are unaware of their roles and obligations under the law due to a lack of knowledge and understanding of the AML laws and policy. This can be seen when the informants have no idea of the compliance of AML by the company secretary and the issues that arise in delivering their professional services. Other than that, the legal firms show that the legal lawyers and company secretaries are really aware of the money laundering activities that occur nowadays. The issue that concludes their perception on the compliance of money laundering is the issue of the special privilege that becomes their concern due to the dual role being performed by them as a legal lawyer and a company secretary. This special privilege led them to a dilemma in reporting certain information about their clients, which falls under the sensitive information that should not be shared with anyone. Among the responses from the informants from the three firms can be seen below.

"Yes, we are aware and we comply in accordance with AMLA Act 2001 and the relevant guidelines". Accounting Firm 3

"We are not complying with all the AML laws as it does not apply to all the small reporting institutions". Secretarial Firm 3

"We are aware of the general requirement of the AML for the reporting institution". Accounting Firm 1

"I have double reporting duties, and I have to report to BNM as company secretary and as a lawyer. This will touch on the special privilege of the lawyer when it comes to the duty to report on certain information to BNM." Lawyer Firm 1

"I really don't know seriously looking into the general perspective of the AML law".

Accounting Firm 4

Basically there are different perceptions being described by the participants from secretarial, legal and accounting firms due to different experienced and exposure of the firms towards AML law. Despite being a company secretary, the participants also act as accountants and legal practitioner in their firms and the nature of the services provided are different. This can be seen whereby the secretarial firms focus on the issue of increase paid-up capital, accounting firm focus on the exploitation and misrepresentation of the company's financial statement and the legal firm concern on the special privilege that hinder them to report or disclosure the information of their clients as part of compliance requirements.

Each of the firms often view AML compliance differently according to their lens. Besides that, the size of the firms plays an important role in describing the participant's perception towards AML compliance. This is because a larger firms often have dedicated compliance officers and policies in firms compared to the smaller firms (FATF, 2025). The perception of the money laundering by TCSPs can be seen in term of the risk they associate with, professional roles, level of experienced and institutional responsibilities. This can be seen whereby the accounting firm tend to have more experienced in dealing with clients who have potential financial fraud due to misrepresentation of data in financial statements.

The perception of money laundering vary significantly depending on the seniority of experienced in TCSPs services. Senior TCSPs often view money laundering as a strategic and reputational risk. They recognize that weak controls can damage client trust, attract regulatory sanctions, and undermine the long term sustainability of their business. This can be seen whereby their perspective in money laundering is shaped by their experienced in broader systemic risks which enable them to comply with AML law and take a preventive measure into the business strategy. However, for junior TCSPs, it can be seen that junior TCSPs perceived AML law obligations as operational tasks or compliance checklist. The focus of junior TCSPs is to comply with minimum requirements without fully appreciating the reason for the AML law obligation. From the study, it can be seen that TCSPs who have more than twenty years experienced tend to have different perception and views on the money laundering compliance which help the firms to implement the strategy and requirements under the law into practice. However the junior TCSPs who have below than ten years experienced tend to have a different perception whereby they think that the AML obligation is burden for them as they need to implement it without any incentives.

On the other hand, the perception of regulators and practitioner are differently being view. The regulators see money laundering as a primarily threat to the financial integrity and national security which required them to imposed such regulations to all the reporting institutions. The regulator roles includes to setting rules, monitoring compliance and ensuring that TCSPs able to implement the AML law as their practice in the firms. The practitioner, however, approach the AML obligation as a practical standpoint to balance client services and operational efficiency. The practitioner feel that regulators imposed such regulation to small reporting institution without fully understand the realities of their services on data to day operations. Thus, this create a stress to TCSPs in complying with AML law and therefore it will impact the level of compliance among TCSPs.

Similarly, several informants from the secretarial and accounting firm are unaware of the AML laws and duties being imposed against them due to a lack of knowledge and awareness. While the triangulation of data obtained from Bank Negara Malaysia (BNM) and Companies Commission of Malaysia (SSM) revealed that although guidelines and awareness are being given to TCSPs, the compliance rate of the TCSPs and company secretaries are still low and there are some issues especially in term of the enhanced customer due diligence, reporting on suspicious transaction report and the record keeping of the client's information and statutory documents are not being comply by the TCSPs. The reason for that is that no clear procedures and internal policy are being developed by the TCSPs following the BNM and SSM guidelines on the internal activities of their clients that might lead to money laundering activities.

4.3.2 Awareness of Money Laundering Activities by TCSPs

Awareness of money laundering activities is refers to the knowledge, understanding and recognition of money laundering activities, risks and the regulatory obligations that reporting institutions must have. The awareness of the money laundering activities is refer to the ability of the TCSPs to identify the suspicious activities, understand the method use to conceal the illicit funds and the risk assessment against the clients. The awareness of money laundering activities among the firms is important as it can help the company secretaries to identify the risk and red flags against their clients. The awareness of money laundering within each of the firms can only be identified by them as they are the ones who deal with the clients and know about their nature of business. BNM also suggested that all reporting institutions develop a set of red flags that may occur within their firms and among their clients based on the business activities operated by them. The red flag is refer to the activities of the clients which may raise a suspicious to TCSPs. This is to ensure all clients' activities are being given concern and alert by the TCSPs which is the company secretary.

From the findings of this research, it can be seen that most of the company secretaries are not really aware of the potential criminals who might use their services to launder money. This is because there are no internal policies and procedures at the firm level being developed by them to identify and assess the risk of their clients when it comes to business relationships. Despite the guidelines provided by BNM, most of the company secretarial firms do not have these guidelines to do the risk assessment against their clients. One of the secretarial firms has a good implementation system in identifying the risk of each client that they are handling, as the firm uses the CTOS software to identify the information and risk of the clients.

The TCSPs asked questions and gather information about their clients through the process of CDD and KYC, and no further information is gathered or questioned about their clients after the relationship is created. The only issue triggered by the secretarial firm in terms of money laundering activities is when the company decide to raise the share capital of the company. This is where the company secretary tends to identify the information pertaining to the client’s request by further questioning them on the source of the funds used to raise the company’s capital.

Besides that, as for the accounting firm, the awareness of money laundering will be different as the clients who engage their services are engaging with two other services, namely book-keeping services and secretarial services. These two services may be easier for the TCSPs with dual roles in determining the clients' actual money laundering activities. This is because they are the ones who deal with the clients on the secretarial services and at the same time look into their company’s financial report, which may provide them with a clear picture of the company’s financial status. The issue raised by the accounting firm that provides the secretarial services is the funds received from the client to finance their company’s capital, and the issue of not disclosing on the financial report of the Company. The accounting firm seems unaware of the risk of money laundering in secretarial services as the focus of the firm is more on the accounting purpose.

Other than that, the awareness of money laundering activities by the legal firms can be seen as high due to their dual roles as lawyers and company secretaries. This can be seen where the legal firms usually have their compliance department in determining the client’s information and the risk they possess before engaging in the business relationship. This department helps the legal professional to identify the risk of the clients and handle them accordingly. The issue that concerns them is the issue of special privilege that may affect their disclosure of their clients' information. The legal firm must identify and verify the information before disclosing it to others due to their special privilege. The special privilege refers to the privilege that the lawyer has whereby they cannot disclose any information about their clients to anyone, including the government. Basically the risk assessment of the clients is crucial in order to determine the possible methods of money laundering being done by clients. This is to ensure the TCPSs take precaution before the criminals activities occurs. Among the responses from the respondent can be seen below.

“We do ask the client when they want to raise paid-up capital of the Company by asking whether the source of the money comes from money laundering activities or a different source”. Secretarial Firm 2

We have resigned as Company Secretaries for almost 200 companies after the “Know your customer” policy was introduced. This is done by using CTOS software. Secretarial Firm 5

“For almost one hour we questioned our client on the source of the funds that he received”. Secretarial Firm 1

"When the client is on boarding, we will do the due diligence which is the initial stage. If all information is okay, then we will rate the client based on the risk that the client possesses". Legal Firm 4

Table 4.3 below shows an overall awareness of money laundering activities by TCSPs with regard to their job specifications.

Table 4.3
Overall Awareness of Money Laundering Activities by TCSPs

Type of Firms	**Overall Awareness of Money Laundering Activities by TCSPs**
Cosec Firm	Not aware on the potential money laundering activities of the clients as no information on the client's risk being identified.
Accounting Firm	Not aware on the money laundering activities through the secretarial services but aware on the accounting parts due to dual roles as company secretary and accountants.
Legal Firm	Really aware on the money laundering activities and red flag against their clients as they have dual roles which are legal lawyer and company secretary. The legal firms are really aware on the potential activities of their clients that might lead them to raise a red flag against the clients.

Basically the table above show the differences of awareness of money laundering activities by all the TCSPs firms. The overall finding of this study shows that the secretarial firm are not aware of their services that might be misused by criminals whereby they have no risk assessment to check against their clients. Despite the guidelines provided by BNM and SSM to gather information on individuals, the firm show no policies and procedure are implemented in the firms to ensure the compliance process being done smoothly. This reflects the current implementation of AML compliance by TCSPs.

Next, for the accounting firm, it can be seen that the firm only focus on the financial transparency and regulatory reporting and declined the roles as company secretary roles in assessing the compliance requirements. The compliance of AML law is determine by the profession that they hold. As for the company secretary itself, they have a valid license and they are acting solely as company secretary without any other roles. However, for the accounting firms and legal firms, they are bound with the prescribed body as supervisory body to monitor the AML compliance. Therefore, the firms tend to focus on their supervisory body instead of SSM in implementing the AML law. This is call as professional culture and ethical standards that may shape the attitude of TCSPs in AML compliance. Next, as for the legal firm, it can be seen that the firm have a good compliance with AML law generally due to their legal background and experienced in interpreting the law.

Based on the data triangulation observed from Bank Negara Malaysia and SSM, it is reported that most of the TCSPs sectors do not have an internal policy and checklist to ensure an appropriate implementation of customer due diligence (CDD) measures on customers. This can be seen when there is a gap in customer information verification. Besides that, the professions of the participants from all the firms developed a compliance culture due to different level of knowledge and exposure. This gap leads the TCSPs to be unaware of the client's risk and the potential money laundering activities that might happen among the clients in using the company's resources.

4.3.3 Perception of Compliance of Anti-Money Laundering (AML) by Trust Company and Service Provider's (TCSPs)

The AML requirement emphasises the importance of the compliance officer in the financial institution and DNFBPs sectors to comply with AML requirements under the law which are customer due diligence, reporting of suspicious transaction, record keeping and compliance programs which includes the independent audit function, internal policy and providing the training to the staff. The duties and the requirements under AML have been discussed in detail in Chapter 2 above. The duties imposed against the TSCPs have created a perception in TSCP firms according to the professional services they provided.

The perception of the compliance of AML by a secretarial firm can be seen as they are aware of the duties and obligations under the AML laws; however, the implementation and the compliance of AML within the firm are being questioned. This is because the TCSPs from this firm are complying at a minimum level while simply applying the duties of AML such as customer due diligence, record keeping, reporting of STR, appointment of compliance officer, training and development and so on. The duties of the CDD, STR, record keeping and other duties are not well complied with the secretarial firm. This can be seen in that some of the informants said that they cannot cope with all the duties under AML laws due to many regulations being updated on the AML laws and policy. This is supported with the argument that while they are looking for ways to adapt to the current implementation of AML laws, they have to be prepared to change the policy of the firm, and this situation leads them not to comply due to their inability to adapt with the current changes of the AML laws and policy.

Besides that, the informants also stated that they have no clear understanding of the AML laws, especially in terms of reporting STR, due to no examples of cases or situations being given to them to apply within their firms with regard to clients' activities that need to raise a red flag. The BNM required the reporting institution to come out with their red flag activities within the firms without giving a proper exposure on the issue concerned. Next, as for an accounting firm, the perception of compliance under AML laws and policy is different from that of a secretarial firm. The accounting firm is taking lightly the compliance of AML, although they are the ones who may easily identify the wrong presentation of the company's financial report. Other than that, the requirement under the law for the role of company secretary is also not being given consideration due to the dual role being held by them. Two out of four firms are not aware of the current updated implementation of AML laws and policy. This can be seen whereby some of the firms are not submitting the data and compliance report (DCR) to Bank Negara Malaysia (BNM) due to a lack of awareness and understanding on the importance of such requirement. As for secretary from accounting firms, it can be seen that they have access to the financial reporting of the Company, which may enable them to detect early activities of money laundering by their clients within the firms.

The accountant who provided the gazetted activities as per TCSPs shall be more alert to their dual role as the reporting institution. One of the informants responds that they are not aware of the DCR requirements as they have not received any update from the BNM on the matter. The secretary from this firm also questioned the requirement for compliance of AML against the TCSPs by BNM due to the burdens for them to engage with their clients in identifying the potential red flags against money laundering.

While for the legal professional, who is the lawyer firm, it can be seen that their perception of the compliance of AML laws and policy is considered easy and not much different from what they have practised.

The legal professional is being updated on the current issues and updates of the Money Laundering Act and requirements. However, for some legal firms, they have an issue in implementing the duties and obligations under AML laws and policy which include the duties to perform KYC, CDD, STR and record keeping. This is due to the fact that, some legal professionals vs company secretaries are unable to gather detailed information of their clients due to the burden of their work. They gather basic information for further enhancing the business relationship. The implementation of AML laws and policy within the firms is different due to different firms and practices.

Although the company secretaries are the ones who are responsible for the duties as compliance officers in the Company for handling any related cases of money laundering, the approach that the secretaries use is different. The secretaries from legal firms have a good compliance level compared to secretarial firms and accounting firms. This can be seen where the legal firm's secretaries are more updated with the law, regulations and guidelines from time to time and apply those regulations of anti-money laundering law within their firms to safeguard and prevent their firm or services from being misused by money launderer or their clients. Among the responses of secretaries from the secretarial firm, accounting firm and legal firm can be seen below.

"Compliance is very important to me. If they don't comply, I will send 2-3 reminder letters and so on and finally I will resign if they don't comply with the instructions. I don't like being involved in problems". Secretarial Firm 2

"Yes, we always take an alert on AMLA and registered ourselves as a compliance officer with Bank Negara Malaysia". Accounting Firm 3

"We do have a guideline and questionnaire, it just we put it in the Google form format". Legal Firm 1

"In terms of compliance enforcement, for example, if BNM has made cosec compulsory,

it has to be done, and the client has to inform the client what it is, right? At that time, we will really enforce because it is not easy for us to convince the client, to contact the client, to convince people and the other is to charge people for the compliance that we want to do". Secretarial Firm 1

"We continuously access it so we monitor whether any adjustment needs to be made, it depends on a case-by-case basis. Initially, maybe he has no risk, but eventually if he engages in some kind of investment or property, then we need to relook at whether he has protected potential risk" Legal Firm 4.

"If you ask people who were practising, they would normally say, whatever requirement that is, we shall meet it. Legal Firm 3

"We have an internal policy mechanism as we are a law firm and need to act as a reporting institution". Legal Firm 2

Table 4.4
Overall Perception of Compliance of Anti-Money Laundering (AML) Laws and Policy by Trust Company and Service Provider's (TCSPs)

Type of Firms	**Overall Perception of Compliance of Anti-Money Laundering (AML) by Trust Company and Service Provider's (TCSPs)**
Cosec Firm	The Company secretary aware on the minimum duty imposed by BNM and SSM with regards to money laundering especially in term of submitting the Data and Compliance Report (DCR) to BNM, reporting on beneficial ownership and reporting on suspicious transaction report (STR) only. The other requirements under the laws are not being observed as they have lack of knowledge and awareness on the current requirements.
Accounting Firm	The Company secretary are not aware on the requirements under the law and taking lightly on the compliance of the AML law. They have implemented a minimum compliance without referred to the guidelines and policy provided by BNM.
Legal Firm	The Company secretary aware on the guidelines and law imposed against them including the requirement for legal practitioner and

	they have a good compliance of AML. All the requirements under the law are being preserved when it comes to decision of taking clients.

Based on the triangulation of data with BNM and SSM, it is reported that the TCSPs are complying with AML law without further aware on the other requirements such as record keeping for change client, enhance due diligence for political person, and the reporting on beneficial ownership. According to FATF (2025), it is reported that the TCSPs need to enhance the reporting of the beneficial ownership in order to ensure the accuracy of the information on beneficial owners. Besides that, SSM (2024), also mentioned that the TCSPs have lack of understanding and exposure on the criminal activities involving professional services. Despite the AML requirement imposed, BNM found out that the submission of DCR among TCSPs show high compliance among smaller firms compared to larger firms. BNM also reported that other requirements such as reporting on suspicious transactions, enhance policies and procedures of the firms can be further improve by larger firms compared to smaller firms. This is due to the fact that larger firm have more resources compared to smaller firms.

4.4 Duties of Reporting Institutions – Trust Company and Service Provider (TCSPs) under Anti-Money Laundering (AML) Law

The duties of a reporting institution are important as they are the gatekeepers of the country when it comes to money laundering issues. The duties of a reporting institution which is a Designated Non-Financial Business Profession (DNFBP) were implemented by Bank Negara Malaysia (BNM) in 2003 as discussed in Chapter Two of this research. The inclusion of DNFBP as a reporting institution has make them to comply with the requirements under the AML laws which are the customer due diligence (CDD), record keeping, reporting of suspicious transaction report (STR), and compliance programs which comprise of four-fold namely independent audit function, appointment of compliance officer, internal control and providing training and development. All these duties are essential in determining the compliance of AML by TCSPs. However, the compliance requirements for the small and medium reporting institutions are different as they are required to comply with the duties of CDD, record keeping, reporting of STR, appointment of a compliance officer and training and development of their staff. The compliance of AML requirements and duties under the law can be seen in the implementation and practice of the TCSPs in this study. Further explanation on the findings of the research will be discussed below.

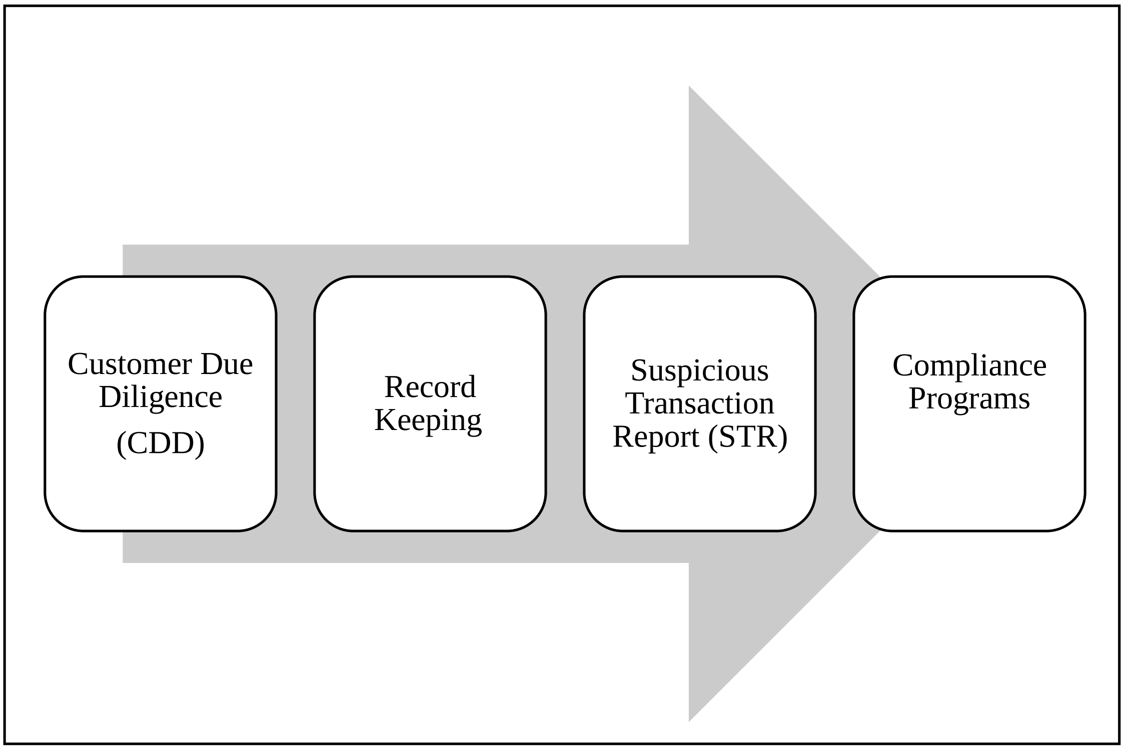

Figure 4.1 Duties of TCSPs under AML law

4.4.1 Customer Due Diligence (CDD)

Customer Due Diligence is the process of identifying and verifying the information of the customers (Bank Negara Malaysia, 2022). The customer due diligence is done towards the customers to identify and gather important information about the clients including the background of the clients, the beneficial owners of the Company, source of funds and the potential risk of the customers before the business relationship is entered. The CDD is a primary tool for the reporting institution to combat money laundering. This is because the data gathered and recorded from the process of KYC and CDD can help the TCSPs to identify the client risk and develop a procedure to deal with the clients. The customer due diligence measure is being discussed in

Chapter 2, where the CDD measure can be divided into three categories: identification of information, risk assessment and verification of the information.

The CDD forms can be obtained through the Bank Negara Malaysia (BNM) website as they can be used by the reporting institutions as a guideline for them in seeking and verifying information about their clients. The duties of a reporting institution in terms of customer due diligence are crucial in identifying and verifying the potential clients who may pose a risk of doing money laundering. According to the SSM National Conference 2024, represented by Bank Negara Malaysia, it is evident that these responsibilities are still insufficient among reporting institutions, particularly company secretaries. There is inadequate identification of customer details during the commercial engagement with clients. The transactions were executed via a third-party service provider without verifying the true identities of the customers, resulting in possible fraud concerns. The Diagram 4.2 below shows the process of the customer due diligence which needs to be performed by all reporting institutions with regard to AML law.

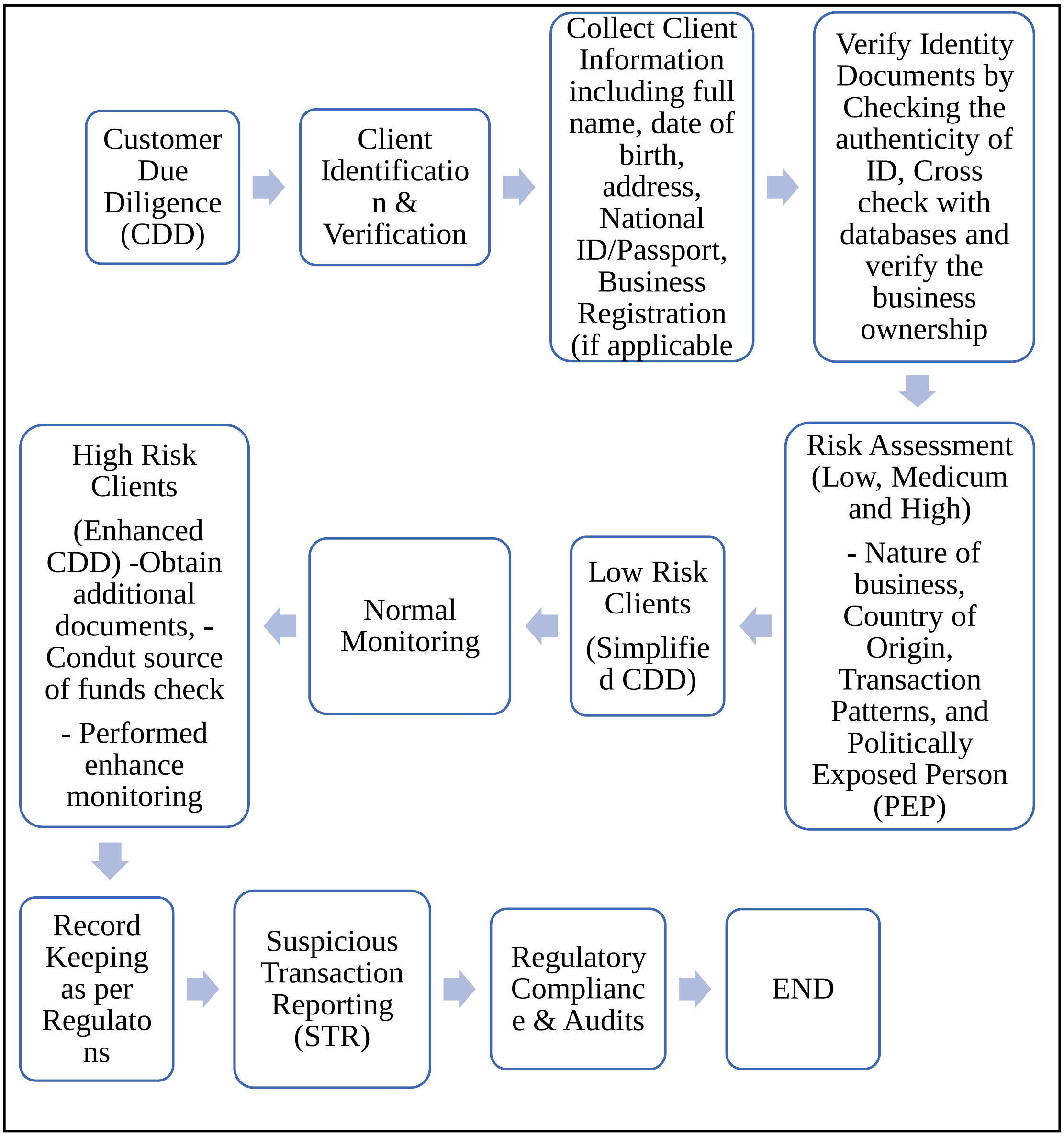

Figure 4.2 Process of Customer Due Diligence (CDD)

From the findings of the research, it can be seen that the process of identifying and gathering the information of the clients by the informants is mostly the same for all the firms, including a secretarial firm, accounting firm and a legal firm. This can be seen the way of gathering information about the clients and their risk are through a manual checking by asking the clients on the information such as the identification copy, email address, residential address, phone number, the proposed name of the company, the number of shares in the company, the details of other directors and the nature of business of the company. Related information on the clients is gathered for the purpose of incorporating a company. Basically, there is no further verification being done by TCSPs which is the company secretary side on the information received by the clients. The TCSPs solely relies on the information that they received from clients and proceed with the formation of the company. No additional information is being asked pertaining to AML of their clients.

However, the interested part of one of the informants from a secretarial firm shows a high responsibility in AML compliance and they are really committed in complying with AML law. This action can be seen when the firm is using a software system namely Credit Tip-Off Service (CTOS) to gather information about their clients before the business relationship starts. Under the CTOS system, there is one part of Know Your Customer (KYC) which exists in the system which helps many users to identify and gather data on the individual before they start a business. From there, the company secretary can easily identify the risks of particular clients.

While for other secretarial firms, all the informants are doing KYC and CDD through clients by questioning the clients' information manually. No further forms or internal policy are being developed by the firms to gather the information of their clients. All the data is being collected through an email, phone call, WhatsApp messages and through walk-in clients. Only the basic information which are related to business is being questioned. Further questions on their client's background are not being questioned to secure the business transaction as they are afraid to ask clients further questions on the source of funds, the real beneficial ownership of the company and the purpose of the business.

The KYC and CDD process is being done manually without a proper guideline recommended by the BNM whereby there is no risk assessment is made against their clients after the information is gathered. This is the problem where the TCSPs cannot differentiate the potential risk of their clients on money laundering activities. The TCSPs are not assessing their clients' risk before the business relationship is entered. The secretarial firm did not have a proper procedure or internal policy for accepting new clients and assessing the risk of the clients. Without further assessing the client's risk, the TCSPs are unable to identify the potential risk that the client may bring to their business. No informants are aware of the guidelines provided by BNM on the risk assessment of their clients. When there is no risk assessment, it is difficult for TCSPs to raise a red flag against their clients in case the clients are involved in money laundering activities. They have lack of knowledge on this matter and not aware of the updated guidelines and update on the AML law. The only matter that they are considering in terms of compliance is the requirements under the Companies Act 2016 and the guidelines issued by Companies Commission of Malaysia (SSM). Therefore, the requirements of the CDD under AML laws are not being complied with by the informants from the secretarial firms.

Next, as for the accounting firm, it can be seen that the process of gathering information of the client through the process of KYC and CDD is being done manually without referring to the guidelines provided by the Bank Negara Malaysia (BNM) on the CDD process and risk assessment. There is no risk assessment being done by informants from the accounting firm to analyse the risk of each client that they are handling. The client's basic information is being gathered and the informants run the insolvency check to check the status of bankruptcy of the client before they enter into business relationship with the clients.

On the other hand, there are no face-to-face conversations with foreign clients as the informants will liaise with the local director to check and update on the company's information and filing of statutory records to SSM. As for the foreign client, no more checking is being done against them due to the limited resources of the firm to gather information. The informants only rely on the information provided by the local directors to further enhance the business relationship. The company secretary from the accounting firm is not really aware of the guidelines on the risk assessment provided by BNM and they have not created any internal policy within their firm to deal with the money laundering risk among their clients.

In addition, the process of gathering information for KYC and CDD is different for a legal firm. The legal firm has a compliance department consisting of lawyers who will further check and gather information about the clients before they decide to enter a business relationship with them. The legal firm will identify the information of the clients locally and internationally and verify the information of the client's background before they engage with the clients. This is being done manually by asking the clients directly and making the risk assessment of the clients based on the guidelines provided by Bank Negara Malaysia on the CDD and risk assessment requirement. Upon satisfaction of the compliance department, the client will be accepted as their client. However, no further checking on the client's background is conducted after the business relationship is established between them.

Besides that, two informants from the legal firm acknowledge that they are unable to gather all the clients' information when they are having a peak period or busy. There is some information remains unknown to the company secretary from a legal firm such as the occupation of the client, the source of income and the background of the client itself. The only information being discussed is pertaining to the business transaction such as the nature of business, number of shares, the details of director and shareholders and the proposed company's name for the business. No further discussion on the experience of the client on the business being analysed before engaging them in business transaction.

Basically the duty to conduct CDD is link to the theory of transparency in the study. This can be seen whereby TCSPs is required to gather information and do KYC on their clients. The transparency of the information collected is important as part of the risk assessment. However, TCSPs tend to collect a basic information in order to proceed further on the business relationship as to make business for the company. This is related to the rational choice theory whereby the company secretary make decision not to comply with CDD measures as to close deals and benefit the company. Therefore they make a decision based on the cost analysis by analysing the cost and the benefit that they get when assessing the CDD and KYC information. For example, the TCSPs may not further verified on the residential address, occupation and the valid visa of the director in order to help them to form a company. Similarly, about the beneficial owner's information whereby the TCSPs tend to report on the information of BO based on the number of shares appeared in the SSM documents instead of verifying the information before reporting to SSM. The responses from all the firms on the customer due diligence can be seen below.

"Customer due diligence in our firm is average, what the firm wants to do, right? So, we might even do our due diligence maybe as little as possible". Secretarial Firm 4

"We will have a meeting with the client to have a basic understanding of the background

and nature of the business before accepting a new client". Accounting Firm 2

"I haven't done CDD and risk assessment on my clients so far. I need to raise awareness on doing that in the future." Secretarial Firm 3

"We are holding on the concept of KYC and we do KYC through CTOS software whereby we are able to gather information of the clients including the background, whether the client has criminal records, any potential relationship with politician, blacklist status and other information as well". Secretarial Firm 5

"We don't have a proper form for doing CDD and risk assessment of the client. We gathered information manually from the client". Accounting Firm 1

"We do have a Google form for doing CDD and KYC of the client whereby the client must fill in the information online and we will further discuss whether to enhance CDD or not for that client depending on their risk". Legal Firm 1

We have a KYC questionnaire that needs to be answered by client through an email and the client needs to bring the documents when they come to our office". Legal Firm 4

Based on the data triangulated from BNM and SSM, it is reported that the company secretaries still show a lack of compliance with the requirement of customer due diligence (CDD). This can be seen whereby from the observation of BNM and SSM, there is an absence of internal policy and checklist to ensure appropriate implementation of CDD measures on customers, there is gaps in verification of customer information, gaps in identifying and recording on the beneficial information and the absence on AMLA sanctions screening on the customers. Further explanation will be on the types of customer due diligence that need to be performed by the reporting institution, TCSPs. Under the customer due diligence (CDD), there are three types of CDD that need to be performed by the reporting institutions: simplified customer due diligence, enhanced customer due diligence, and the identification on the politically exposed person (PEP).

4.4.1.1. Simplified Customer Due Diligence

Simplified Customer Due Diligence is the lowest level of customer due diligence (CDD) that the reporting institutions may employ. It refers to the identification of the customer's name, identification card number, passport number, copies of the identification, residential and mailing address, and date of birth and nationality of the customers. This refers to basic information gathered before the business relationship was entered into. Once the basic information has been gathered, the verification of that information will take place. The verification of the information will depend on the type of customers and the risk they possess. This research indicates that the majority of secretarial, accounting, and legal firms do simplified customer due diligence before establishing business relationships with clients. The risks associated with customers are being overlooked, as the primary objective of getting into business relationships is to maximise the company's profits.

Besides that, client's information on residential address is sometime over-looked by company secretaries. There are many clients who misuse the residential address and this involves those foreign clients especially. The company secretaries are not checking and verifying the information of the residential address for their clients and simply accept the information given by the client without further verification. Furthermore, the TCSPs have not implemented the BNM guidelines on risk assessment and KYC in these three firms. This is the same as reported by Bank Negara Malaysia in SSM National Conference 2024, which indicates that the CDD requirement is still lacking among the company secretaries in gathering and verifying the information from their clients.

4.4.1.2 Enhance Due Diligence

Enhanced due diligence is a process that involves verifying and enquiring about the source of funds and wealth of the customers (Bank Negara Malaysia, 2022). If customers have undergone risk profiling, the reporting institution is obligated to investigate this information as part of their enhanced due diligence obligations to their customers. The customer is at a higher risk of money laundering when they are identified and assessed, regardless of the transaction amount. Furthermore, the information of clients, whether they are local or foreign, who are politically exposed persons (PEPS) or when a domestic PEP is assessed and has a potential high risk of money laundering, the information such as the source of wealth and funds, must be obtained. The information about the origin of a certain asset utilized in conjunction with commercial relations with the reporting institutions is referred to as the source of funds.

On the other hand, the source of wealth pertains to the origin of an individual's total assets. Paperwork and information that may indicate an individual's wealth include inheritance paperwork, property titles, and copies of trust deeds, audited financial statements, salary details, tax reports, and bank statements. The reporting institution may have access to these documents depending on the services they offer their customers. In this study, it can be seen that the reporting institution which is the Company Secretary may have access to the information of their customers up to the identification card and details of their customers instead of the documents which may contain the source of funds and source of wealth. The enhanced CDD is not being done by the reporting institutions to their clients due to a lack of awareness and knowledge of identifying the risk of their customers.

Besides that, the fund and the source of wealth are not being enquired by the firms as the information taken for the business relationship are the basic information of the customers and the type of business they want to enter into. The reporting institutions that have access to the information of the sources of funds and source of wealth are among accountants and tax agents who handle their business transactions and bookkeeping. Among the responses from the informants on the enhanced CDD can be seen below. From the study, it can be concluded that all the company secretaries in secretarial accounting and legal firms lack of enhanced due diligence in gathering information of their clients. This is the same as the triangulation of the data by SSM and BNM which reported that the company secretary sectors show an absence of the enhanced due diligence because the risk of the clients is not being assessed and no screening is conducted against the clients by the company secretary. Among the responses from the informants can be seen below.

"So far we don't see that, we see that he just wants to open the company, we open the

company". Secretarial Firm 3

"From the secretary point of view, so far there is no form for clients to fill up. For our accounting, we ask client to verified information through WhatsApp and there no proper form to fill up by customers". Accounting Firm 4

4.4.1.3 Politically Exposed Person (PEPs)

A politically exposed person (PEP) refers to someone who holds or has held a significant position of authority (FATF, 2013). The positions of numerous PEPs are susceptible to abuse for the purpose of laundering illicit funds or committing other predicate offences, such as corruption or extortion. Due to the risks linked to PEPs, the FATF Recommendations mandate the implementation of supplementary AML/CFT procedures for commercial ties involving PEPs. These requirements are preventive rather than criminal and should not be construed to imply that all PEPs engage in illicit activities. An enhanced diligence shall be performed towards PEPs to ensure the transparency of the data and information received.

In this study, it can be seen that some of the firms are engaging with the PEPs and thus they need to take extra precautions to gather information, perform CDD about them and the risks associated with them. This can be done through a check on the database and a declaration from the clients themselves. From the findings of the study, it can be seen that some of the informants have dealt with politicians who being called as politically exposed persons (PEPs). When it comes to dealing with PEPs, extra precautions shall be taken in terms of the risk associated with PEPs to ensure that money laundering activities can be detected earlier, as most politician sometimes involves themselves in criminal activities. Among the responses received from informants on the customer due diligence involving PEPs risk can be seen below.

"We do KYC before registration or appointing directors. Our KYC is through CCRIS systems because it can show the details of the information about the person".

4.4.1.4 Procedure use by Informants

The customer due diligence is important for every reporting institution in combating money laundering. The first step of getting the client's information is through the CDD and Know Your Customer (KYC). This step is crucial for every reporting institution to gather information and assess the risk for each client they deal with. The steps of collecting information from the client are being done differently for each of the firms in this study, although they have a similar role as company secretary. This can be seen whereby most of the informants from secretarial firm, accounting firms, and legal firms has no guideline on how to identify and verify their client's information as they only gather basic information including name, identification copy, passport copy, the type of business that the client want to open, whether they have residential address in Malaysia, phone number, email address, and the number of shares that their client want to have in the Company.

Other than that, there is no further clarification provided by the secretary towards their clients in terms of verifying the information that they received from their clients including from local clients and overseas clients. Most secretarial firms did not assess their client risk when it comes to business transactions. The usual practices of the company secretary in these firms are the same as they have no internal policy in place to deal with the clients. From the research findings, it can be seen that one of the secretarial firms uses CTOS software to do the KYC or CDD. This software involves a monthly subscription for the services provided. From this software, the secretary is able to identify the information of the company including the name, financial stability of the clients, the financial score of the individual, any criminal cases involving the client and the potential risk that this client may have before entering into the business relationship. Since the software is costly to subscribe, many firms do CDD and KYC manually instead of using any software or database.

The CDD done by reporting institutions is not enough as it is similar to the National Conference 2024 report which emphasises the inadequacies of verification made by company secretaries towards their clients. This conference was presented by BNM on the recent findings during onsite examination which disclosed that there is non-compliance of CDD among the secretaries in Malaysia in gathering the information of their clients before the business relationship. This will lead to a high risk of accepting criminal clients which will lead to money laundering by this client.

Next, as for the accounting firm, it can be seen that the firm has no internal policy and the requirements under the law are not really being complied with. This is because when the informants from the accounting firm is being questioned on the submission of the Data Compliance Report (DCR), only two out of five firms submit their DCR report to BNM on the AML. Most of the informants from the accounting firm are not aware of the requirement for the submission. Besides that, the information gathered for the purpose of KYC and CDD is being gathered manually and no further clarification or verification was made. The only concern of the informants is mainly on the accounting records of the clients. Although BNM has given guidelines on the risk assessment form, none of the company secretaries from the secretarial and accounting firms perform the assessment in order to identify the client's risk.

While for the legal firm, the practice of the informants in performing the CDD is different as they have a lawyer and compliance department who will check through and do verification of the information received from the clients. Upon satisfaction of the documents and information received, only the next process takes place. The company secretary from a legal firm has a good practice as all the guidelines and updates on the AML news by BNM, SSM and Bar Council are being given full attention. They do have their own internal policy in accepting new clients and dealing with clients who might be involved in money laundering activities. Among the responses from the TCSPs on the interview questions can be seen below.

"From the secretary point of view, so far there is no more form. We ask the questions to verify the client through WhatsApp like that. So, there is no proper form that need client to fill up for due diligence".

"When client referred to us, there is additional they want to start up. We will of course ask them their background; are they have any experiences in this business or is it a new start up for trial for them or kind of things. I will question them". Accounting Firm 3

Table 4.5
Findings on the Compliance Duties of Customer Due Diligence by TCSPs

Type of Firms	Status of Compliance – Customer Due Diligence	Data Triangulation with BNM and SSM
Secretarial Firm	A minimum amount of information is gathered during the business transaction. No guidelines are followed by Cosec in performing CDD.	Inadequate verification of third-party services which leads to the duty of CDD as non-compliance.
Accounting Firm	A minimum amount of information is gathered during the business transaction. No guidelines are followed by Cosec in performing CDD.	
Legal Firm	Have a good practice of doing CDD by following BNM guidelines and a few firms are still not doing full CDD towards their clients.	

The table 4.5 above shows the overall findings of the study on the duties of customer due diligence among TCSPs. The data triangulate from BNM and SSM shows that the company secretary still failed to observe customer due diligence requirements within their firms for many reasons. One of the reasons is that, they have no idea what information to ask clients and have failed to identify the risk of their clients as no internal policy or compliance culture has been developed within their firm. Similarly, FATF (2025) reported that supervisors still continue to identify numerous cases of non-compliance among TCSPs on CDD requirements. TCSPs gather information without fulfilling on the nine required data points such as occupation type and nature of employment and faced other deficiencies in collecting the BO information.

The possible key challenges faced by TCSPs in implementing CDD include inconsistent implementation of CDD measures which create gaps in customer risk assessment, complex regulatory compliance that institutions must navigate and the difficulties in integrating with advance technologies such as artificial intelligence (AI) into existing systems and the cultural resistance within the organisations that hinder the compliance of due diligence process (Yusof et al, 2025).

The implementation of CDD measures among the firms varies differently according to the professions and type of firms as their experienced reflects the compliance culture of the firms. The data triangulation for CDD compliance shows that TCSPs faced challenges in implementing the CDD measures and therefore the TCSPs need to improve the compliance of CDD by using AI to help to identify the data of the clients. Through this, it will help TCSPs to effectively and efficiently gather an accurate information of their clients. The next section will discuss the record keeping duties of the reporting institution.

4.4.2 Record Keeping

Record keeping is crucial for reporting institutions to preserve customers' records. Reporting institutions must uphold precise and comprehensive records of transactions, customer identity, and suspicious activities to adhere to AML regulations. Reporting institutions must maintain relevant records, such as business correspondence, folders, accounts, and documents related to transactions, particularly those acquired during the CDD process. These documents encompass the results of any analysis conducted and the documents that are used to verify the identity of customers and beneficial owners. Keeping records must be current and pertinent (Bank Negara Malaysia, 2019). According to Bank Negara Malaysia, the record keeping shall be kept by the reporting institution for a period of 6 years following the date of completion of the transaction or termination of the business relationship or occasional transaction. While according to the Companies Act 2016, companies have to retain the accounting records for 7 years.

On the other hand, the lawyers are required to maintain a record keeping for 6 years from the date the file or matter is concluded or when no further business is pending. The findings of this study show that the company secretaries from secretarial firms, accounting firms, and law firms do have a system of record keeping within their firms. Some of the firms maintain and keep the record keeping up to 10 years, especially by lawyers. Unfortunately, the firms do not keep the record keeping requirement in terms of maintaining the information of the clients who change the secretary. This happened due to the change of secretary and resignation of the secretary by the firms upon the instruction from the clients.

This is similar to the findings of Bank Negara Malaysia on site examination and reported in the SSM National Conference 2024 which shows that the company secretaries failed to maintain records of their customers who have resigned or left, particularly information required for to customer due diligence. This can be observed in the absence of appropriate documentations and the retention of customer due diligence (CDD) information for former clients who have changed the company secretary for their company.

Basically from the findings of the study shows that the TCSPs comply with record keeping requirements for the existing clients between six to 10 years and this is related to the rational theory whereby the TCSPs keep records and track of the active clients instead of resigned clients. This can be seen whereby the TCSPs tend to analyse the rationale behind the record keeping requirement for the active clients and resigned clients. The purpose of business is to generate income and therefore the TCSPs tend to focus on client who can generate income for them instead of resigned clients. Apart from that, the record keeping also require a space to maintain the record and by keeping those resigned clients record may fill up the space that they have in the office. The informants also disclosed that they have no awareness on keeping the record of resigned clients as once the company secretary resigned from the company, the TCSPs tend to handover all the files and records of the company to the new secretary as they don't find the importance of keeping those record. Among the responses from the respondent on the record keeping of the Company from the study can be seen below.

"No, because if they change the company secretary, then all the official documents we keep will go to them". Secretarial Firm 2

Table 4.6
Findings on the Compliance Duties of Record Keeping by TCSPs

Type of Firms	Status of Compliance - Record Keeping Procedure	Data Triangulation with BNM and SSM
Secretarial Firm, Accounting Firm and Legal Firm	Comply with keeping the records and files of statutory documents of active clients for more than six years.	Incomplete Record Keeping of Resigned Clients. The status of record keeping for the statutory documents on active companies is compiled. However, the Company Secretary failed to maintain records of customers who have resigned or left the company when the customer changes the Company Secretary

Table 4.6 above shows the findings on the compliance of record keeping duties by TCSPs within the firms. From the data triangulation with SSM and BNM, it shows that the requirement of record keeping is comply by TCSPs. It can be seen that all firms are aware of the record keeping requirements and able to keep the statutory files and documents more than six year for each client. However, the TCSPs failed to comply with the record keeping requirements such as identity of the customers, the identity of the beneficial owners, identity of the person conducting the transactions and the type of transactions, the origin of transactions, origin and the destination of the transactions and any other important information.

This is supported with onsite examination by SSM and BNM in 2024 found out that there is lack of proper documentation and retention of CDD information for former clients who have changed the company secretary services. The TCSPs tend to provide all information and files to the new company secretary without keeping it at their registered office. The TCSPs is required to keep the record of the clients more than the stipulated time in order to ensure the information is available when required by authority (Tarmizi et al, 2022). Next, the duty of Suspicious Transaction Reporting (STR) will be discussed in details.

4.4.3 Suspicious Transaction Report (STR)

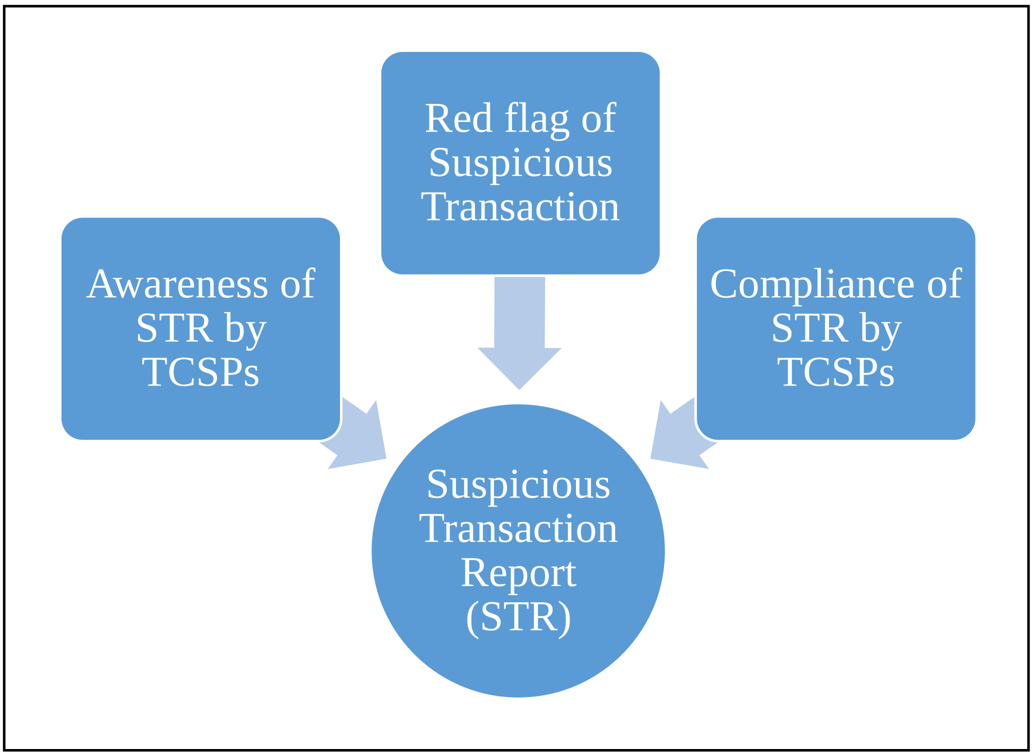

Figure 4.3 Suspicious Transaction Report (STR)

The concept of "suspicious transaction" is a great significance because it is a critical indicator for the identification of potential illicit activities within the financial system. A STR is a document that a Reporting Institution must submit to the FIED of Bank Negara Malaysia whenever it suspects or has reasonable grounds to suspect that a transaction (including attempted or proposed) is suspicious, irrespective of the amount involved (Bank Negara Malaysia, 2022). The requirement to report suspicious transactions was established in Malaysia in 2002. Section 14(b) of the AMLATFA mandates that a reporting institution file a STR when the identification of the individuals involved in the transaction, the transaction itself, or any related circumstances raises suspicion that the transaction pertains to proceeds from illegal activities (A. Rahman, 2013).

Whether a transaction is suspicious is based on specific criteria concerning abnormalities in customer behaviour, transaction limits, transaction patterns, transaction profiles, transaction frequency, customer identification, and the number of beneficiaries (Amicelle and Iafolla, 2017). Therefore, it is important to conduct a risk assessment on each client during the business relationship with clients. It is to ensure sufficient information about the client's risk and background is identified and kept for record purposes. The information can be used when a case involves clients in money laundering activities or any red flags raised against clients. The process of gathering information to report on STR can be done by the employees in the firm by asking the four key points discussed in Chapter 2 of this study. Among the processes are screening the client, asking the client some questions, finding relevant record of information and finally, the Compliance Officer needs to evaluate the information before submitting the STR report to Bank Negara Malaysia (BNM).

The findings of this study evaluated and determined the company secretary's awareness of the suspicious transaction among their clients, the red flag risk among their clients and the compliance of the STR reporting by company secretary in secretarial, accounting and legal firms. Generally, no STR submissions or reports made by the TCSPs against their clients. The reason for the non-submission is the company secretary's lack of knowledge and awareness of the suspicious transaction in their firm. Therefore, it is important to identify, determine the awareness and the red flags of the clients before the compliance officer makes the suspicious reporting against their client to Bank Negara Malaysia.

4.4.3.1 Awareness of Suspicious Transaction Report (STR)

The awareness of suspicious transaction reports is important for the reporting institution in order to identify the potential risky activities that lead to money laundering among their clients. From the data collection of this study, it can be concluded that most of the firms including the secretarial, accounting and legal firms are aware of the potential suspicious transactions among their clients. However, no report has been filed against their clients for STR, and the situation remains internal to the firm. The reporting institution addresses suspicious or potentially risky clients by engaging in discussions with them and emphasising the significance of refraining from involvement in money laundering, as well as the potential legal consequences they may face. The reason for the discussion is to maintain a good relationship with their clients and the reporting institutions are afraid of losing clients.

Another potential reason disclosed by informant for the awareness of STR is that, they are not aware of the suspicious transaction activity of their clients as they are not involved in the day-to-day transaction of their clients. Besides that, most of the firms stated that they are not having any suspicious transaction made by their clients. Therefore, no STR report has been made to Bank Negara Malaysia. TCSPs serve as officers of the company and thus they are accountable for assisting clients to comply with the regulations outlined in the Companies Act, 2016. Omar et al. (2015) highlighted that despite implementing laws to combat money laundering, the offences persistently rise due to several factors. It entails a lack of awareness and understanding of legal requirements among professionals, as well as the complicity of professionals, particularly accountants, in facilitating criminal activities as mentioned in Chapter 2 above.

On the other hand, the reason for non-compliance of STR is that the company secretaries lack knowledge and understanding of the legal requirements. Besides that, the firm's compliance officer also did not identify the potential risk through the CDD process and red flags against their clients according to the services provided to clients. They failed to develop an internal policy on money laundering against their clients. Therefore, this is the main reason why the reporting institutions are unable to raise the red flag against their client's eventhough there is a potential risk of their clients being involved in money laundering activities. Due to their ignorance of the law and awareness, they failed to report to BNM on such activities. The informants' responses on the suspicious transaction reporting can be seen below.

"When I am suspicious against the client about money laundering, I would advise them. Advise them and show all the relevant provisions of the law and penalty is high after all this money laundering will be tried in court. Besides that, telling them about the consequences of the action made so they would afraid". Secretarial Firm 1

"I have one client who is a foreigner and he wants to increase the paid-up capital of the Company up to 3 million. He provided the bank statement to us. The bank statements show the amount for 3 million with the figure of cents. The action has raised us to be

suspicious against the client. Therefore, we checked with other secretaries and found out that the bank statement provided by the foreigner is fake as the bank statement is being edited to show the amount of 3 million so that he can raise the company's paid-up capital. The bank statement appears to be original bank statement. Therefore, we rejected the application. On the other hand, there is no STR was raised against the client to Bank Negara Malaysia. We settled this issue internally. Secretarial Firm 2

4.4.3.2 Red Flag of Suspicious Transaction Report (STR)

Red flags are referred to as situations that require the STR to be submitted by the reporting institution. These red flags vary depending on the sector and type of business the reporting institution involves. Red flags are discordant behaviour indicating that the account holder is acting imprudently (Abdul Rani et al, 2022). The reporting institution must be noticeably sharp in taking signals from the Know Your Customer (KYC) information and transaction monitoring analysis to raise a red flag against the clients. Among the general red flags are client who avoids personal contact without a logical explanation, customers who refuse to provide information required by the reporting institutions, customers who have previously been convicted of any serious crime, customers who are under investigation, customer who provides falsified records and others. The reporting institutions are required to establish the internal red flags to detect suspicious transactions (Bank Negara Malaysia, 2019). From the study, it can be seen that the TCSPs are doing their clients' KYC and due diligence before entering into a business relationship. The amount of due diligence done by them is still not enough to detect the potential risk of their clients.

The red flag against the potential risk client can be raised when the information about the risks is at hand. In the SSM National Conference 2023, the Bank Negara Malaysia identified gaps in activity monitoring by reporting institutions concerning their clients, as well as a lack of red flags and suspicious transaction reporting mechanisms. Consequently, they could not obtain adequate information about their clients' risks. From the study, it can be seen that all the firms, including secretarial, accounting and legal firms, do not have a good customer due diligence process in identifying the clients' risk. This can be seen where the company secretary in all the firms is not performing thorough KYC and CDD against their clients. They only gathered information pertaining to the registration of the Company and no further clarification on the employment of the clients and other details. The red flag can only be raised when sufficient information and proof pertaining to client are available. The next section will explain the reporting of STR by TCSPs against their clients.

4.4.3.3 Reporting of Suspicious Transaction Report (STR) by TCSPs

The STR shall be reported by the reporting institution to the FIED of Bank Negara Malaysia. Each of the reporting institution are required to appoint a Compliance Officer to represent their firms. A compliance officer is the primary authority for anti-money laundering and counter financing of terrorism matters within the reporting institution (RI). The Compliance Officer is in charge of filing the cash threshold reports and suspicious transaction reports to BNM and ensuring that the reporting institution complies with AML/CFT regulations (Bank Negara Malaysia, 2022). The STR report shall be submitted when the compliance officer or reporting institution has a reasonable ground to suspect that the transaction including attempted or proposed regardless of amount appears unusual, has no clear economic purpose, appears illegal, involves proceeds from an unlawful or instrumentalities of an offence and the officer indicates that the customer is involved in the money laundering or terrorism financing.

From the research study, it can be seen that none of the informants from secretarial, accounting and legal firms have experience in raising the red flag and filing a STR against their clients to Bank Negara Malaysia. Although they have experience with red flag clients, they tend to settle the problems that arise within themselves without involving the regulators. The informants from a secretarial firm found out that they have an issue with their clients with regard to the increase of share capital of the company; however, they have not raised any red flags against their clients and do not report any STR to BNM. The reason for not doing that is to maintain a good relationship with clients, fear of losing clients, and to ensure a continuous business transaction between their clients. This is similar to the report of Bank Negara Malaysia in the SSM National Conference 2024, which shows that there is no submission of suspicious transaction report files by the Company Secretaries.

Besides that, the reason for not reporting on STR is to give a chance to their clients by advising them on the good and bad impact of doing suspicious transactions or any activities that can relate to money laundering activities. Other than that, it is reported that most of the company secretaries have no internal policy and guidelines to list out the activities of their clients which may trigger as a red flag related to money laundering activities. This is interrelated with the process of CDD and KYC whereby the process of gathering information and assessing the risk of clients is really important to prevent money laundering activities among clients.

The reason for non-submission is due to inadequate verification of third-party services which lead to non-compliance with customer due diligence duties. Firms address issues by engaging in discussions with their clients regarding the arising problems, the associated risks, and viable solutions. Additionally, certain secretarial firms may quit as company secretary by submitting a resignation letter to the company's registered office, as stipulated in Section 237 of the Companies Act 2016. Resignation occurs when clients are unable to defend themselves against the queries made by the company secretary, and it is seen as a final step in dealing with the irresponsible clients who pose an elevated risk of engaging in money laundering activities. The failure of the company secretary to gather information and assess their clients, the higher the risk of the clients being involved in money laundering activities.

Basically the duty of reporting suspicious transaction is related to the rational theory and transparency theory adopted in the study. This can be seen whereby in term of highlighting the red flags against the clients and reporting on the STR to BNM require the TCSPs to make a rational decision by analysing the consequences of the action. The cost analysis of the action will be assessed by TCSPs. From the findings, it can be seen that, the informants reluctant to raise a report on STR against their clients to BNM as to protect and give chance to their clients to make a change.

Besides that, one of the informant from accounting firm mentioned that by raising the STR to BNM, the firm tend to lose the clients and this will affect their business as well as they are from small firms. The impact of losing clients are huge for small firms compared to larger firms. Apart from that, in term of transparency theory, the TCSPs who act as reporting institution is required to disclosed any information pertaining to clients and raise STR when necessary to BNM in order to ensure they have taken a prevention measures to combat money laundering activities. However, due to dilemma between the duty to report to BNM and the duty to preserve the interest of clients, they tend to choose to protect the interest of themselves instead of the BNM to combat money laundering. All the theories used in the study are interrelated and able to shows the AML compliance behaviour among TCSPs. The finding shows that the current implementation of the STR are still left behind and need to improve by the TCSPs in recognizing the importance of raising the red flag against their clients and reporting to BNM.

Table 4.7
Findings on the Compliance Duties of Reporting of Suspicious Transaction Report (STR) by TCSPs.

Type of Firms	**Secretarial Firms**	**Accounting Firms**	**Legal Firms**
Awareness of STR by TCSPs	The company secretaries are aware of the suspicious transaction, which mainly involved increasing the company's share capital. Other than that, they did not determine any internal policy or client risk.		
Red Flag of Suspicious Transaction	The red flag of the client is determined without further action taken.		
Compliance of STR by TCPSs	**No compliance of STR**		
Data Triangulation with BNM and SSM	All the company secretaries made no STR report. According to Bank Negara Malaysia in SSM National Conference 2024, there are no submissions of suspicious transaction report made by the TCSPs in the event of red flags are present.		

From the findings, it can be seen that all the company secretaries from secretarial, accounting and legal firms find difficulties to report suspicious transactions to BNM even though the red flag is present among their clients. This can be seen in the approach being used by them to engage with problematic clients which involves advising them what is right and wrong and explaining the consequences of violating the law. The company secretary is reluctant to report against their clients to ensure their relationship with clients is maintained without any problems which may affect their business.

It is reported by BNM, the number of suspicious transaction report submitted by reporting institution stood to at 317,435 in 2023 and up to 31% from the 242, 914 STRs recorded in the previous year. The reporting institution financial institutions, non-bank financial institutions, and designated non-financial businesses and professions (The Edge, 2024). Besides that, according to a recent report by Bank Negara Malaysia in SSM National Conference 2024, there are no submissions of suspicious transaction reports made by the TCSPs in the event of red flags being present. This is similar with the report of Bank Negara Malaysia in SSM National Conference 2023 which reported that the submission of suspicious transaction report remains very low level among the DNFBPs. This is due to a lack of awareness of the scope of the obligations to report on the attempted transactions (SSM National Conference, 2023). The rise in suspicious transaction reports against the potential risk client may help combat money laundering activities.

Other than that, the secretary from the accounting firms has a high chance of detecting the transaction of money laundering activities of their clients, because the accounting records are being prepared by them for their clients. This enables the reporting institution to detect suspicious transactions early and raise a red flag, and file a STR report against their clients. From the perspective of the informants, no STR report was made against their clients, and if any problems are encountered by TCSPs, the issue will be settled between them based on the informants' experienced. On the part of the accounting firm, the accountant will ensure all the accounts queries are being answer by clients together with the supporting documents to ensure a proper account and audit will be done against their company’s accounts. The accounting firm's secretary is more focused on the accounting parts despite acting as the company secretary.

On the other hand, the legal firm also did not report on the STR against their clients although the red flag is present. The legal firm has its own compliance department which will thoroughly check and verify the information of the clients before they engage in the business relationship. They are rarely engaging with problematic clients. However, some clients are involved in misleading in terms of payment. The action taken by the company secretary in the legal firm is that they advised their clients accordingly and no report to BNM on the red flag present. Any problems which clients have raised will be settled internally without further reporting to BNM.

The data triangulation with Bank Negara Malaysia and Companies Commission of Malaysia (SSM) shows that there are no STR reports submitted by the company secretary even though there are red flags present. According to FATF (2025), most of the TCSPs sector deficiencies is related to implementation of CDD obligations in identifying and reporting on STR and internal controls. The reason for non-submission of STR is due to lack of knowledge and exposure on how and when to raise the STR against their clients as they have not identify the possible risk of their clients at the first place.

Besides that, the TCSPs also do not have an internal policy as part of the internal control of the company to combat money laundering. The common way of understanding the money laundering is through the misuse of the financial institution instead of non-financial institution. This concept make them refuse to accept that the services provided by them to clients may be exploited for illegal activities. The acceptable level of STR implementation is 5 percent as reported by BNM in year 2024. Besides that, TCSPs failed to raise STR due to lack of CDD implementation towards clients. This can be seen whereby CDD is a regular procedure which aims to identify the potential risks in business and help to protect the institution from customer and counterparty risks (Jamil et al, 2024). Failure to identify the risk means failure to raise a red flag against their clients. This is supported by BNM and SSM (2024) which found that TCSPs still have not implemented the CDD and risk assessment of the clients as it shows a weak level of implementation. Another issue is that the process of CDD is being done through non face to face methods without further validation and verification of the data received from clients.

The process of gathering information is being done manually by TCSPs despite the technology and system that are available. This is because TCSPs has lack of resources to implement the use of technology in the process of CDD. The use of technology, AI, data analysis enhance the compliance process and reduce the potential for fraud (Smith et al., 2023). The understanding of the larger TCSPs in using automated systems to verify BO information and monitor suspicious activity is higher compared to smaller TCSPs (FATF, 2025). Therefore, it is crucial for the TCSPs to gather information through CDD process to assess the risk of the clients and keep record on the information to ensure an accurate data being gathered and verified. The following section discusses the duties of the company secretary in terms of compliance programs.

4.4.4 Compliance Programs

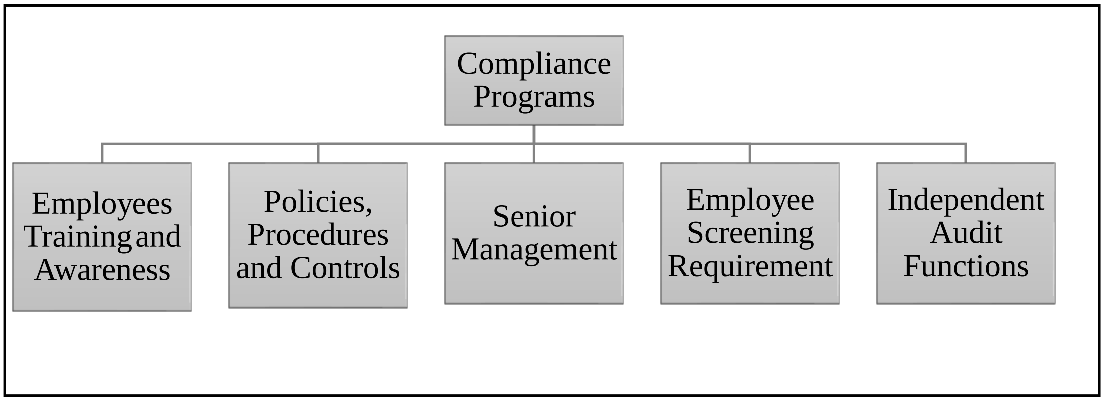

Figure 4.4 Compliance Programs under AML duties

Compliance programs are one of the duties of reporting institutions under the AML law. The Compliance program under AML law includes employee training and awareness, policies, procedures, and Controls, requirements on senior management, employee screening requirements, and independent audit functions. As for a small reporting institution, the following exemptions from requirements are applied. The small reporting institutions are referred to as institution with less than 3 million of the total sales turnover and have fewer than 30. As for the TCSPs, it is referred to the institution that has less than five members of a body Prescribes by the Minister under Section 235(2)(a) of Companies Act, 2016 or less than five person and below licensed as company secretary by the SSM or any combination of the above (Bank Negara Malaysia, 2024).

The exemption of the duties under AML laws for small-sized reporting institutions can be seen in terms of the requirement that the policies, procedures and controls do not apply to the reporting institution. However, the reporting institution at a minimum needs to adopt the BNM policy documents as part of their policies and procedures. Besides that, the Board and senior management requirements do not apply. But the approval of the overall compliance programs and enhancing due diligence are still under the accountability of the individual who has control over the operations of the company. Other than that, the requirement on the employee screening shall be applied upon the initial hiring by the reporting institutions. Next, the employee training and awareness programs shall be adopted in a simplified approach and can be done through job training and third-party training program. Lastly, the independent audit functions requirements for shall be exempted for the small reporting institutions.

The findings show that most of the reporting institutions are small sized reporting institutions with below than five people who act as company secretaries in the firms. Therefore, the requirement of the policies, procedures, and controls, employee screening procedures and requirements on the employee training and awareness shall be complied with, while anything other than that shall be exempted. The next section explains the awareness of the duties of AML under the law by TCSPs.

4.4.4.1 Awareness of Duties under Compliance Programs of the AML Law

The research analysis shows that all the company secretaries from secretarial, accounting, and legal firms are really aware of their duties as reporting institutions under the AML law. This can be seen in that all 15 informants from the firms are aware of their duties under the law and additional precautions that need to be taken based on their firms, although they carry out the same functions as TCSPs but the nature of their business is different. They are really aware of their duties in terms of customer due diligence, record keeping, and reporting of suspicious transaction report (STR). However, the implementation of the duties of AML is different from each of the firms due to the differences in background, profession and practice.

The awareness of the duties of AML law among all the firms is limited as they have no knowledge and understanding of the duties under the compliance programs. Basically, all the firms are following the compliance requirements under the Companies Act 2016 and the AML compliance in terms of submitting the data and compliance report and the recent update is the reporting and submission of the beneficial ownership to the Companies Commission of Malaysia (SSM). The other duties under the law which is providing training to staff, employee screening procedures and policies are not being observed by all the firms. This is because they have no clear understanding of the AML requirements under the law and are not being updated with the current updates on the AML duties and not alert on the guidelines and policy implemented by BNM and SSM.

From the research, it can be seen that, the secretarial firm and accounting firm did not have an internal policy or adopt the BNM policy paper as part of their internal policy in implementing the AML duties such as the customer due diligence, risk assessment of the clients, and the reporting of the suspicious transaction. When the informants were asked about the policy paper by BNM, nobody responded and they had no idea about the policy paper that could be used as part of their internal policy in dealing with clients. The situation seems that all the company secretaries from the secretarial and accounting firms had never read the policy and guidelines implemented by BNM for the sector. Therefore, they have no knowledge of adapting the policy paper as part of their internal procedures in assessing the clients. This is a serious problems of the TCSPs when they are not following the guidelines and policy implemented against them and adopt it as part of the company policy in combating money laundering.

Apart from that, as for the legal firms, all the informants are really aware of the current rules and regulations and keep themselves updated with the current information and changes through the Bar Council, Bank Negara Malaysia and the SSM. Each of the rules and regulations is being updated and in line with the current implementation of the AML Law. The awareness of the AML duties under the law is restricted to what applies within the firms. The practice of this firm can be seen in that all the informants have a detailed application form adopted from Bank Negara as part of their policy and procedures in dealing with clients. The clients need to fill in the information as requested and the process of verification of the information will take place upon the submission of the form to the company secretaries. Once the company secretary or compliance department is satisfied, the client will be allowed to form a Company under this firm.

4.4.4.2 Employees Training for existing employees and new employees

Employees are essential in the organization to enhance the performance of the Company. Employees' training and awareness are one of the requirements under the duties of the TCSPs. From the findings, it can be seen that the secretarial firms, accounting firms and legal firms provide internal training to existing and new employees. The training includes the company secretarial practices and current updated AML law, regulations and guidelines from the Companies Commission of Malaysia

(SSM) and Bank Negara Malaysia (BNM).

Usually, the training of the employees within the firms focusses on the individual who has a valid license to practice as a Company Secretary. Once the Company Secretary attends the training from SSM, Bank Negara Malaysia, Bar Council, Maicsa and other agencies, the knowledge gained from the training will be shared with their employees. The training given to the employees is different based on the professionalism of the firms. The training and awareness provided among the staff are different according to their professions.

From the study, it can be seen that the secretarial firm is providing training to their employees in terms of performing the duties under AML law which includes KYC, CDD, STR and record keeping of the Company. However, the understanding and the number of training sessions provided to staff are questionable. This is because there is no specific training implemented by SSM or BNM to discuss the internal policy and red flags of the firm. Therefore, the firm has no knowledge and awareness of implementing the AML requirements within the firm and to their clients. This is where the information of clients is not being given importance and the client risks are not being accessed by the company secretary. The firm also did not engage all of their staff for the training as they had to incur costs for the training despite the updated AML law. They keep on updating whichever requirements they may follow and ignore those they cannot afford to follow. There is no internal policy being developed by the reporting institution in dealing with risky clients as they also lack knowledge and understanding of the assessment of the clients.

Secondly, the accounting firm usually shares general knowledge with its existing employees and new employees. This is due to the fact that the accounting firms are involved in numbers and accounts. The secretarial services provided are just a part of the business they offer to their clients. Knowledge-sharing among their employees is limited and not as detailed as that of the secretarial firms. The turnover of employees is quite high for accounting firms. The accounting firm did not give importance to the secretarial task as they just follow whichever they need to follow as per the Companies Act 2016. This can be seen where some of the accounting firms did not submit the requirement by Bank Negara Malaysia on the Data and Compliance Report (DCR) due to a lack of knowledge and awareness of the importance of the DCR data to BNM.

Lastly, the legal firms show a high commitment in providing training to their existing employees and new employees. The firms usually will send their employees for internal training and have a weekly meeting among the staff to ensure that they comply and are updated with the current news and update on the AML law, rules, and regulations including legal update. This can be seen where the firm has its own compliance department which will discuss and gather all the employees on the updated data and requirements under the law. This is to ensure all the staff are being updated with current law and requirements so that they may able to deliver and advice their clients accordingly. The turnover of employees in these firms is quite rare, and thus this is the reason why they are really good at complying with the AML law and regulations.

4.4.4.3 Firm Perceived Procedures

The procedures of AML policy developed by the firms are different according to their professions and services. This can be seen in a secretarial firm where most informants did not adopt the guideline provided by Bank Negara Malaysia to identify the risk of the clients. The process of gathering client information is being done through face-to-face, online, third-party, WhatsApp, and email conversation. There are no specific forms that the informants from the secretarial firm adopt to provide to their clients as part of their responsibilities in terms of identifying the risk of the customers or to do KYC of the customers.

One of the informants from the secretarial firm was found to use CTOS software in identifying the client’s risk and the information of the clients. This firm has a good procedure in identifying the risk of the new and existing clients as every year the secretarial department will run a check on their clients before the submission of Annual Return. If there is any red flag against their clients, the secretarial department will discuss with their clients and when there is no room for discussion and improvement with the clients, the Secretary will issue a resignation letter. This is to avoid the risky client who may have an impact on the secretarial firms and the secretaries themselves. Despite their awareness of their reporting obligations, this demonstrates that they have yet to implement the BNM guideline.

While other company secretaries do CDD and KYC manually and sometimes the important information is not being raised against the clients, to ensure they do not lose the clients by asking too many questions. The company secretary is asking related questions for the purpose of incorporating the company. Before the requirement of beneficial ownership and AML became stringent, the company secretaries were more likely to gather simple information for the purpose of registration of the company and no further details were asked especially in terms of their occupation, the source of their income and other related information. There is no internal policy being developed by the secretarial firm to deal with clients and identify the clients' red flags.

Besides that, as for the accounting firm, it can be seen that the accounting firm does not have a proper procedure for obtaining information about clients and the risk of clients. There is no AML procedure or guideline from BNM being adopted by this firm. The normal procedure of taking on a client is being practised in the firm, whereby the secretarial department in this firm will run through an insolvency check to analyse the detailed information of the clients. The detailed analysis of the clients takes place when the firm is instructed to prepare the accounts for the Company. From here, there will be a verification of the transaction details which are questionable through the preparation of the accounts. There is no additional software being use by this firm in order to check on the client's information. Despite BNM and SSM are providing the guidelines, there is still lack of verification being done by the firms in gathering the information and the risk of their clients. This information is valuable in determining the clients and the risk that they have towards the money laundering.

Next, for the legal firms, it can be seen that the company secretary has to go through a detail identification and verification of the clients before the business relationship is entered. The research found that the legal firms have a better compliance in terms of doing their duties on customer due diligence and KYC. Most of the legal firms' clients who engage the secretarial services are the one who engage with their legal services as well. The legal firms adopt the guidelines given by BNM on the form to identify the information and the risk of the clients as part of their AML procedure in the firm. Upon submission of the form by clients to the Company Secretary, the form will be verified by a compliance department team member to ensure the information received is correct and satisfactory. The business relationship will be entered into if no suspicious or red flags against the clients. The legal firm has its guidelines based on the

BNM guidelines on the compliance of AML. They follow the guidelines when engaging with clients.

4.4.5 Independent Audit Function

The internal audit function is referred to as a regular independent audit of the institution's AML/CFT measures to ensure compliance with AMLA, subsidiary legislation, relevant documents issued by the competent authority, and applicable laws and regulations (Bank Negara Malaysia, 2019). The independent audit function shall be separate from the compliance functions, enabling the independent judgment on the AML compliance. This requirement applies to big companies, and small-sized reporting institutions are exempted from this requirement. From the analysis of the study, it can be seen that out of 15 informants from the secretarial, accounting and legal firms, there are only 2 firms from the legal firms which have the independent audit function. These legal firms have an independent team in their firm to look into the compliance of AML and update with the current rules and regulations. The rest of the informants from the firms do not have independent audit functions as they are exempted from the duties under the law. Although the duties of the independent audit function and certain requirements have been exempted as most of the informants were unaware of the requirement under the law.

4.4.6 Appointment of Compliance Officer

A compliance officer is an individual who is accountable for guaranteeing that the reporting institution adheres to the AML regulations. Besides that, the compliance officer is responsible for reporting suspicious transaction reports (STR) and cash threshold reports (CTR) to Bank Negara Malaysia (BNM). The compliance officer serves as a point of contact for reporting institutions on anti-money laundering and counter-terrorism financing (AML/CFT). Under the AML law, every reporting institution must appoint the compliance officer by notifying BNM on the appointment of the Compliance Officer. Basically, the role of a compliance officer includes ensuring that the reporting institutions put in place the adequate AML/CFT polices as required by the law, to ensure proper implementation of those AML/CFT policies, to ensure all relevant staff are aware of the firm's AML/CFT measures, to establish a relevant internal criteria or red flags to detect the suspicious transactions, to evaluate the internal generated suspicious transaction or red flag before reporting to BNM and also to regularly access the AML/CFT control measures and procedures.

The data analysis from this research shows that every respondent from the secretarial, accounting and legal firms has appointed their compliance officer within their firms. The compliance office is appointed to ensure compliance with AML and to be in line with the guidelines of the BNM on the AML regulations. As for the secretarial firm, it can be seen that the compliance officer is being appointed among the senior staff who have experience in providing secretarial services. The senior staff appointed is responsible for ensuring the submission of the Data and Compliance Report to SSM and for ensuring that there is an internal policy developed by the compliance officer to identify the potential threats and risk among their clients.

Basically, the secretarial firm has shown good compliance in terms of appointing the compliance officer within their firm. Although the compliance officer has been appointed, four out of five secretarial firms show that nothing is being done by the compliance officer in terms of developing any internal regulations and procedures for tackling the money laundering issues and risk among their firms. The secretarial firm depend on the regulators and supervisory roles to provide them with guidelines to combat money laundering and identify the potential risk of their clients within the firms.

Besides that, for an accounting firm, it can be seen that the compliance officer was appointed from the secretarial department as well as to ensure the firm is in line and complies with the regulations. Anything with regards to the law and regulations, the compliance officer from the secretarial department is responsible for reporting to Bank Negara Malaysia. The compliance officer in an accounting firm is being appointed for the sake of the requirement under the law. There are nothing being done by the compliance officer to improve the compliance level of AML law within the firm.

While for legal firms, it can be seen that although the firm has separated the role of the legal advisory and secretarial services, the compliance officer of these firms is appointed from the legal lawyer who has significant experience in legal advisory services. Anything regarding the internal policy of the firm are being referred to the legal team and the compliance officer. The identification and verification of the client's information are being processed by this team. The compliance officer in this firm also is regularly conduct internal training programs to ensure that the staff are well aware of the red flags of the firm. The firm has its own internal procedure to be followed apart from the BNM and SSM guidelines. The firm has a really good compliance of AML law.

4.4.6.1 Awareness of Duties of Compliance Officer

The reporting institution's responsibilities extend beyond submitting suspicious transaction reports (STRs) and cash threshold reports (CTRs) to Bank Negara Malaysia. A compliance officer ensures that an organization follows legal standards, regulatory obligations, and internal procedures. Their awareness of duties encompasses some critical areas for protecting the organization from legal risks and upholding ethical standards. From the analysis of this study, it can be seen that all the informants know that their firm needs to appoint a compliance officer as per Section 19(4) of AMLA. All informants from secretarial, accounting and legal firms have appointed their Compliance Officer.

The compliance officer is responsible for developing the internal procedure in dealing with potential risks of money laundering within the firm. The duties of the compliance office are still questionable by firms as the firms have no knowledge and awareness of the duties that need to be performed by the compliance officer. This can be seen in a secretarial firm, where the compliance officer is the company secretary itself and the awareness of duties among the secretaries is still low in terms of delivering the duties of the compliance officer in the firm.

This is because besides the duties of a compliance officer of AML to Bank Negara, the company secretaries have their own work and task as a secretary. The duties of a compliance officer are limited to the submission of the appointment of the compliance officer to BNM, the submission of the Data and Compliance Report (DCR) to BNM, and preparing the right procedure in accepting new clients. There is no discussion, internal procedure for assessing the existing and new clients, to evaluate the

AML compliance within the firm and there is no room for improvement within the firm. Basically, there is no session made for the discussion of AML and the risk within their team. The only discussion made with their team is on the client's portfolios. There is no further internal policies developed by the compliance officer in the Company to enhance the efficiency of complying with AML law. All the rules, regulations, and guidelines are being followed by the regulators and the supervisory roles such as the Companies Commission of Malaysia (SSM).

Besides that, for accounting firms it can be seen that all the respondent have appointed their compliance officer. The awareness of compliance officer duties under an accounting firm is still low as 1 out of 4 informants are not submitting the Data & Compliance Report (STR). The reason for not submitting the report by the firm's compliance officer is quite shocking because they are not aware of the requirement for the submission. This shows that the compliance sometimes did not know their duties and roles under the law, especially regarding Anti- Money Laundering (AML) law.

Next, in terms of legal firms, it can be seen that all the informants are aware of the requirements under the law to appoint a compliance officer and the duties of a compliance officer under the law. The legal firm has a separate compliance team to ensure that the management and the group of companies under this firm are adhering to rules, regulations, and guidelines, and comply with the AML requirement. Suppose Bank Negara Malaysia imposes any new guidelines, the compliance department will conduct a meeting with the members of the companies to discuss the potential efforts that they may undertake on their behalf for the benefit of their company and the state. The compliance officer will try to develop an internal policy to deal with the money laundering risk and ensure all departments comply. Thus, it shows that they have a good awareness of the compliance officer's duties and perform their task accordingly.

The data triangulation from BNM and SSM shows that the TCSPs has lack of implementation of the compliance programs which includes employees training and awareness, policies, procedures and controls, senior management, employee screening requirement and independent audit functions. This is supported with the analysis from the DCR data submitted by TCSPs in 2021 and 2022 shows that TCSPs have a weak level of implementation of the compliance programs within the firms. Firstly, in term of training and awareness, TCSPs has lack of resources to implement or attend the comprehensive training programs which are related to AML law (FATF, 2025). This can lead to inconsistencies in understanding and compliance with AML requirements. This is because all the staff in the firms need to be trained with the AML requirements in order to ensure they have a clear understanding to identify the potential risk of the clients who involve in the money laundering activities. The education programs and training to all the staff helps to enhance the understanding of the AML requirements.

Secondly, the policies, procedure and control of the organisation are limited and varies according to the profession of the firms. This can be seen whereby the legal firms' have more internal control policies compared to secretarial and accounting firms. Besides that, the TCSPs also have internal policy control process and procedures which are specifically related to their business activities only without further focus on the AML obligations (FATF, 2025). Thirdly, in term of senior management roles in firms, it can be seen every firms have a senior management officer which refers to company secretary itself who helps to check on the policies, controls and procedures implemented. Basically the senior management and company secretary is the same person. The staff is required to check with the company secretary before establishing any new business transaction with clients. Basically, the finding of the data shows that the secretary is the one who instruct employees to perform task including to establish new company for clients without further checking on the risks of the clients. The role of senior management is important as they are the main person in the company who have more experienced in handling with clients.

Besides that, the senior management also need to ensure the new employees need to be screening in order to ensure a right candidate meet the right work. BNM guidelines also mentioned on the minimum screening requirements for TCSPs to screening the employees' previous employment records and criminal records before hire them as employees. The requirements extends to all employees except for those in administrative functions. The findings of the data shows that the secretarial firm and legal firms have low turnover compared to accounting firms. Therefore it is crucial for accounting firm to enhance the screening process during the hiring process.

4.4.7 Other duties under AML - Submission of Data and Compliance Report (DCR) to Regulators by TCSPs

The Designated Non-Financial Business and Professions (DNFBPs) are required to submit a mandatory Data and Compliance Report (DCR) to Bank Negara Malaysia (BNM) as a reporting institution. DCR is a form of supervisory engagement by BNM which includes the questions on how the reporting institution has met the Anti-Money Laundering, Countering Financing of Terrorism, Countering Proliferation Financing (AML/CFT/CPF) requirements and exposure to money laundering and risks that the reporting institution faced. The DCR is issued pursuant to Section 8(3)(a) of the AMLA and to be read together with Section 143(2) of the Financial Services Act 2013(FSA) and Section 155(2) of the Islamic Financial Services Act 2013(IFSA). The submission of DCR is mandatory for all reporting institutions and failure to submit it may result in enforcement action being taken against the reporting institutions.

The earlier DCR submission requirement by BNM is in the year 2021 and the upcoming DCR submission for the reporting institution is in 2024. All the reporting institutions are given a period for submission from 15 October 2024 to 15 January 2025 and no further extension of time will be provided to the reporting institution to submit the DCR. The DCR shall be submitted by the compliance office appointed in every institution. If there is no compliance officer appointed, the reporting institution needs to submit the application for the appointment of the reporting institution by notifying BNM. It is reported by BNM that the total submission of data and compliance report in 2022 is 72% which shows 55% increase in submissions from DCR 2021 while the non-submission of DCR 2022 by Company Secretaries shows about 27% (Bank Negara Malaysia, 2024). The information provided by RIs is confidential and will be utilised by BNM for supervisory purposes and risk assessment.

From the research interview with the informants, it can be concluded that the company secretaries' awareness of submitting the DCR report is low as they have no knowledge and guidelines for submitting the DCR to BNM. The submission of DCR made to BNM is based on what they understand and some of the questions remained unanswered due to a lack of knowledge on the questions being raised by BNM. Besides that, due to the lack of practice of AML guidelines within the firm have make them know nothing on the importance of DCR submission. It can be seen that 9 out of the 15 informants from the secretarial firm, accounting firm, and legal firms have submitted their DCR report for the years 2021 and 2022. While about six informants from accounting firms said that they never submitted the DCR and were not aware of it, and one of them said that they only submit one DCR to BNM.

Firstly, the secretarial firm, the compliance officer from this firm is aware of the requirement of BNM which requires the reporting institution to submit the DCR and they are submitting the DCR for the sake of complying with Bank Negara Malaysia. The compliance officer faced an issue in understanding the reason for the submission. Most of them simply answered the questions without referring to the current implementation of their internal AML policy within the firms. BNM gives no guidelines to reporting institution to answer the DCR questions. The company secretaries tend not to answer certain questions which they don’t know and are unclear about. Due to that, the result of the DCR submission may vary and not be accurate in analysing the compliance level of AML duties among the reporting institutions. Upon the submission of the DCR, the BNM will issue a report card based on the analysis of the answers towards AML so that the reporting institution may have better improvement on the parts which they are still lacking. Most of the informants from this firm are not aware of the report card given, and there is no further discussion with their team member on the way to do improvements within their department. Among the responses from the respondent can be seen below.

Secondly, for the accounting firm, the findings show that they have lack of awareness in terms of following or being updated with the current changes on the rules, regulations, and guidelines of the regulators in terms of AML law. The reason for this action is that they are the ones who involved in preparing accounts for the clients; thus, this is not something they bother. The secretaries from the accounting firm do not really understand and have a lack of knowledge on the questions being raised through DCR submission. Besides that, they are not aware of such requirements imposed by BNM against them on the submission of DCR. One of the informants from the accounting firm responds to the submission of DCR, as they have submitted the DCR to BNM once. After that, no further submissions were made by them. No importance has been given by the company secretaries of this firm in complying with the requirements. The rest of the informants have submitted their DCR, however, the quality of DCR submitted is being questioned due to no proper answer being given, some left unanswered due to no knowledge on the subject matter and lack of awareness on the duties of a compliance officer within the firms. One of the informants from this firm are not aware of the requirement and their obligation to submit the DCR to Bank Negara Malaysia (BNM) when asked about the submission of DCR.

Lastly, for a legal firm, all the informants have submitted the DCR 2021 and 2022. However, one firm did not submit the DCR report as the firm is not aware of the requirement by BNM. The informants respond to the DCR by providing comments such as they do not know to answer the questions in DCR, they faced an issue in submitting the DCR and there is no guideline given by BNM to reporting institution to answer the DCR questions. The DCR was submitted to comply with the requirements of BNM. One of the informants also said that during the submission of DCR, they have not yet implemented any rules and regulations on the internal procedure for AML. They have just answered the questions blindly, and some of the questions under DCR are not being answered by the reporting institution. Among the self-assessment made by TCPSs are in term of customer due diligence, customer risk profiling, enhance due diligence, suspicious transaction reporting, record keeping, management information system, compliance officer functions, policies & procedures, management oversight, employee screening procedures, employee training & awareness, independent audit function and the risk assessment.

The reason why this situation occurs is due to no monitoring by supervisory authority. 95.7% who submitted the DCR are from small size reporting institution which typically operated with limited resources, manpower, and technical expertise. Smaller firm are unable to comply with the requirements as not all requirements are able to conduct by them due to the size of the firms. This can be seen whereby the TCSPs is given a period of time to submit the DCR for their company and therefore the TCSPs think that the submission is for the purpose of complying with the AML law rather than the reflection of their practices. Since it is using a self-declaration mechanism, the TCSPs tend to submit the DCR questions without implementation of the actual requirements. Upon submission of the DCR, BNM will issue a report card to shows the company current compliance level and highlighted the area of AML requirement which need to be improve. This is shows that the DCR is similar to box-ticking compliance rather than actual compliance.

Besides that, TCSPs have lack of understanding on the requirements by law as the AML law requirements are more technical. The firms respond to the DCR based on what they have practices in the firms rather than following the AML requirements. The firms also responds to reporting form without adequate knowledge. The compliance behaviour among TCSPs can be relate with rational theory in the study whereby the TCSPs tend to submit the DCR as part of their compliance towards AML requirements. Failure to submit the DCR may result the BNM to take action against the compliance officer, and therefore TCSPs make a decision to comply regardless of their current practices in order to avoid any action being taken against them. The TCSPs also fulfil the responsibility of the regulators by complying with the requirements and thus it fulfil the principal agency theory where the agent is required to act on the best interest of principal. The responds from the informants from all the firms can be seen below.

"The DCR 2021 was submitted but for DCR 2022, we have not submitted it as we don't have time to submit". Secretarial Firm 2

"We heard the DCR from our friend who is in the same line of complaints on this and that and many questions are being asked by BNM, thus we are really confuse when we are answering the questions. Some of the parts are not being answered by us and we have submitted the DCR to BNM". Secretarial Firm 3

" I am not sure. What report is it? I have never submitted the DCR". Accounting Firm 2

"Yes, we are aware and submitted it upon request". Accounting Firm 3

"Yeah, headache but we do submit it. We do it because we are being instructed to submit". Legal Firm 2

"Sometimes what we submit is incomplete in terms of KYC as there is some missing information that we did not enter it". Legal Firm 1

"Yes. The report is actually submitted by our compliance department". Legal Firm 3

The data triangulation with Bank Negara Malaysia (BNM) on the submission of DCR report can be seen as weak among the reporting institutions. BNM (2024), 95.7 per cent of the reporting institutions that submitted the Data and Compliance Report (DCR) are among the small-sized reporting institutions. The DCR submitted shows a weak level of compliance among the reporting institutions. This is because all the reporting institutions have low level of understanding in term of performing the customer due diligence, enhance due diligence, suspicious transaction report, understanding on the compliance officer functions, no policies and procedures being developed by the reporting institutions, the importance of employees training and development are not being focus and no risk assessment of the clients being done by the reporting institutions. The reporting institution needs to improve the level of understanding and awareness of the importance of the DCR report and implement the duties under the law within their firm for better enhancement. The figure below shows the overview of the compliance level of the Data and Compliance Report for 2021 and 2022.

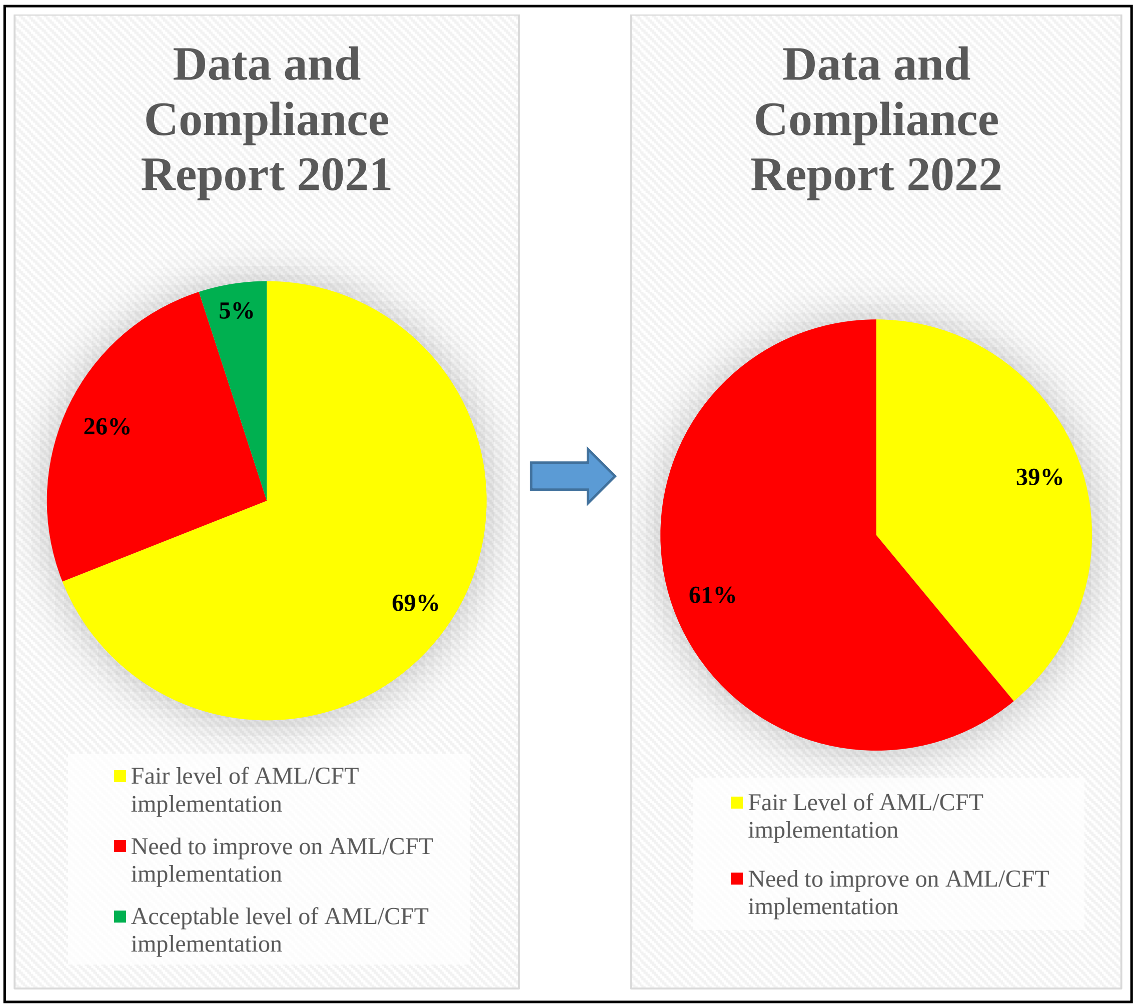

Figure 4.5 Overview of compliance level of Data and Compliance Report for 2021 and 2022

Source: Bank Negara Malaysia

From the figure above, it can be seen that the level of AML compliance and implementation is still low among the reporting institutions. This can be seen whereby for the year 2021, the acceptable level of implementation is only five percent while in year 2022 of DCR submission shows no acceptable implementation among the reporting institutions. This shows that reporting institutions lack knowledge, awareness and understanding of the implementation of AML compliance at the firm level, which hinders them from reporting on the current implementations. The reason for the drop is due to the self-assessment made TCSPs in their firm which reflects the implementation of the firm in complying with AML requirements. The data above shows the difficulties of TCSPs in meeting with the regulatory expectations in relation to AML compliance.

The trend of the implementation of AML law in 2021 and 2022 reflects the level of readiness of TCSPs to perform core AML obligations particularly in areas of customer due diligence, enhanced due diligence (EDD), ongoing due diligence (ODD), and suspicious transaction reporting (STR). These areas show a weak performance which contributed to the drop of the acceptable level of compliance in 2021. This is because such requirements require more resources to perform in order to ensure the accuracy of the information. Since the smaller TCSPs has lack of resources to implement those duties, they tend to comply it as much as they can at the firm level which sometimes does not meet the objectives of the requirements.

Besides that, uncertainty of the reporting requirements, limited training and technical guidelines hinder TCSPs to carry out their duty effectively. Training and awareness to staff is an important tools to maintain AML effectiveness (Bahrin et al., 2022). This is because a good knowledge, skills and behaviour developed by staff may lead them to become expert in combating money laundering. From the above, it can be concluded that all the reporting institutions still have not understood the duties imposed on them under the AML laws and policy, as the figure shows 61 per cent of the reporting institutions still need to improve in terms of the implementation of the AML procedures. Therefore, the reporting institutions especially TCPSs should improve their understanding on the AML law and aware of the requirements under the law so that they can implement a good AML/CFT within their firms.

4.4.8 Duties of Reporting on the Beneficial Ownership

The transparency of beneficial ownership is an essential factor in identifying the information of the Company that is involved in money laundering activities. Transparency of beneficial ownership requirement has become effective since 1st April 2024 when the SSM launched the Electronic Beneficial Ownership System ("e-BOS System") and updated the Guidelines for the Reporting Framework for Beneficial Ownership of Companies ("Revised Guidelines"). Thus, this requires the reporting institution especially company secretaries to report on the beneficial ownership of their clients by submitting the information through the system e-BOS and upon the submission of the Company's annual return. To identify or disclosed the transparency of beneficial ownership, it requires a both side responsibilities which are the company secretaries and the clients need to have a good communication and understanding on the subject matter to gather the information due to the guidelines being imposed recently. It is reported by the Companies Commission of Malaysia (SSM) that, on 31st December 2024, about 602,105 out of 691,960 active companies on the SSM register complied with the requirement to submit the beneficial ownership information. The compliance rate for the submission of beneficial ownership is 87.05 per cent (Bernama, 2025).

The requirement for submitting the beneficial ownership is a challenge for the company secretaries as they must send notice to identify the relevant and actual beneficial owners of the company to their clients. Most of the company secretarial firms, accounting firms, and legal firms find it difficult to gather the information of the beneficial ownership of their clients due to complex ownership structures. This can be seen that most of the company's beneficial ownership will have multiple layers of beneficial owners which may be challenging to identify as companies want to conceal the interest of the real beneficial ownership. Besides that, although the information and knowledge have been given to clients to report on the beneficial ownership, the informants find it difficult to get the information promptly due to the attitude of their clients. The reporting institution wants to gather information and disclose it into the e-BOS system, but is unable to do so due to the delay by the clients, as they do not want their company's beneficial ownership to be disclosed.

In addition to that, there is still a lack of knowledge and understanding by the stakeholders on the importance of disclosing the beneficial owners to the Company. The challenges faced by the reporting institutions in this research can be seen in that the informants need to make the stakeholders of the company understand on the knowledge and information about the beneficial ownership and AML compliance. This is to ensure all the clients can cooperate in gathering the information pertaining to the beneficial owners of the Company.

Other than that, the reporting of beneficial ownership is time-consuming for all the informants from secretarial firms, accounting firms and legal firms due to the preparation of the documents and the update of the information on the SSM e-BOS system online. This requires more time to update for each of the Companies or clients depending on the number of clients the informants have. The TCSPs, which are the secretaries from these three firms, are required to incur costs for the BO reporting to SSM and thus they issue a bill to clients for the work they did on their behalf. This led to clients incurring additional costs, as some of the clients are not aware of the reporting of BO and keep arguing about the cost being charged to them.

The reporting institution faces difficulty in convincing the clients to pay for the services they rendered due to a lack of knowledge and understanding by the clients of BO reporting. There is a potential reputational harm or legal consequences due to non-compliance, imposing significant pressure on company secretaries or reporting institutions to uphold precise and clear documentation. Below are responses from the informants from secretarial firms, accounting firms, and legal firms about challenges in the transparency of beneficial ownership.

Basically the duty of reporting on beneficial ownership can be relate with the transparency theory used in the study whereby the TCSPs has a duty to disclosed the information pertaining to beneficial owners through e-BOS system to SSM. The beneficial owner information begins with the CDD, EDD and KYC of the clients whereby TCSPs need to ensure they have gathered an accurate information on clients and beneficial owners including the foreign clients which involve many layers of beneficial owners. TCSPs need to ensure the transparency of the beneficial ownership when reporting to SSM in order to ensure the information reported is correct.

Besides that, the duty of reporting on beneficial ownership also relate with the principal agency theory whereby the agent which is refer to the TCSPs as reporting institution is responsible to comply with the AML requirements and act on the best interest of the clients. This is because TCSPs act as dual agency role to two principal which are regulators and clients. Therefore the decision of disclosing the information on beneficial owners might be misused by TCSPs in order to protect the client's interest for not disclosing the real beneficial owners of the company.

The triangulation of data with BNM and SSM shows that the reporting on beneficial ownership shows a positive impact as most of the TCSPs are reporting on beneficial owners to SSM. However, the accuracy of the information reported to SSM is questionable due to no further checking on the BO information reported to SSM. The accuracy of the beneficial ownership information registered in e-BOS system relies on TCSPs who act as gatekeepers and required to identify, verify and lodge with SSM on the BO information. Basically, SSM conduct joint onsite inspections with the BNM on company secretaries and it is found that the total number of inspection being done in year 2024 is 11 only which show the need to improve on this inspection (FATF, 2025). This is to ensure the TCSPs understand the way of reporting on BO information effectively and efficiently. Although TCSPs need to report on beneficial ownership information to SSM, the access to the BO information is limited to the authority only and not for public. Furthermore, the overall summary of the duties of the company secretaries under the AML law will be presented in the table below.

Getting information on time is a challenge. Secretarial Firm 1

If we are too strict with clients in terms of regulations, we will lose the clients. Secretarial Firm 2

Clients tend to sign the beneficial ownership information without further disclosing the information of the real beneficial owners. Secretarial Firm 4

There is a lack of involvement of the clients in the process of gathering information of the beneficial owners of the Company. Accounting Firm 4

Some clients tend to conceal the real beneficial ownership of the Company by not disclosing the name and by following the SSM documents on the details of directors and shareholders. Accounting Firm 4
Because it's a PEP, we still have to ask more questions. Right? So, so that's the kind of challenge having to question more and hoping the client wouldn't be upset. Legal Firm 1

When we are the secretary of the firm, we do know who the real beneficial owners of the Company is. If we only provide legal advice, we are unable to detect the real beneficial owners of the Company. Legal Firm 5

We sent out the forms for the BO, I think only fifteen percent reverted the forms of BP. The rest of the clients, we have to chase them and give them reminder and some of them don't understand what BO is so we have to explain. Legal Firm 3

4.4.9 Professional Ethics and Duty of Confidentiality or Special Privilege

Professional ethics refers to the code of ethics that provides a clear understanding of the principles, responsibilities, and limitations of the collective ethics of the individual who is in a profession (Payne et al, 2020). There is a set of principles that the professional needs to consider and give priority when providing their professional services to people. These professions include lawyers, accountants, company secretaries, doctors and so on. The focus of the professional ethics in this study is the ethics of the TCSPs which are the company secretaries who carry dual roles in their professions. This includes the accountant and lawyers who has a practising certificate granted by SSM to allow them to act as a company secretary besides their other professions.

The issue that arises in the compliance of AML by TCSPs is the special privilege issue that is possessed by lawyers acting as a company secretary to the Company. In a standard law system such as the UK, Australia and Malaysia, the legal profession privilege refers to the principle that communications between the professional legal advisor and his or her clients are to be treated as confidential and cannot be disclosed to anyone including the government. The issue of special privilege arises when the lawyer acting on their client's behalf is the company secretary of the client's company, whereby they are required to comply with the AML laws and policy. Under this law, there is a requirement to raise a red flag and report on STR when there is suspicious activity by their client.

This dual role has created tension and stress among lawyers when it comes to the duty of compliance with AML, whereby all lawyers who act as company secretaries are in a dilemma in delivering their professional services to clients. They need to keep the information of their clients private and confidential, and at the same time they need to report on the red flags that arise among the clients and report to BNM. The duty of compliance by a legal lawyer who acted as company secretary is found difficult as they need to balance both roles in satisfying their clients and comply with the AML laws and policy.

The findings show that the legal lawyers who act as a company secretary are facing a dilemma when it comes to the duties of compliance with AML laws. The TCSPs are unable to report to BNM when it comes to their clients' issues such as reporting on the information of the directors and shareholders of the company due to their special privilege. Some material information is really confidential and cannot even be disclosed even to the government or BNM. The informants from the research find it difficult to separate and differentiate the information of clients they received to do AML reporting and at the same time not to disclose the information which are sensitive among their clients. The identification of the case related to legal clients and secretarial clients shall be differentiated accordingly on what can be reported and what cannot be reported as it takes more time for the lawyer to do that. They have to think separately as a lawyer and the company secretary when it comes to their clients' sensitive information. The issue of special privilege is a hot topic among lawyers and is being debated by them not to include them as a part of the reporting institution due to the special privilege that they have.

"If the client appoints us as a lawyer for litigation purposes, then we provide you with the privilege. If you appoint us to make a transaction, or to do anything, appoint a trust to the administrator or incorporate the company and then the privilege is what is qualified subject to certain criteria". Legal Firm 1

"For the purpose of special privilege, we have to identify the information that needs to be reported and to what extent the information should be reported to Bank Negara and it is time-consuming for doing that". Legal Firm 2

"The company secretary is also an officer of the company, so in terms of privilege, it depends on whose information we handle. If it's a company information and overlapping is okay but if it is the director or shareholders' information and of course certain things are privileged. Legal Firm 5

*"As for the client's information, we have a core for non-*disclosure *which includes social and confidential. For compliance purposes we have to refer to the legal department to verify the information". Legal Firm 3*

From the findings reported, it can be seen that all the legal firms are facing difficulties in identifying the information they can reveal and the information they are supposed to keep confidential. This will influence the decision that they make for the sake of compliance with AML laws while they have to jeopardize the client's information to report to BNM. Thus, it will enable the clients to lose confidence and trust in the lawyers who provide secretarial services as well. There is a risk of losing clients by this firm who have the special privilege when the clients' information is not being kept private and confidential. Basically the transparency theory is used to explain the special privilege and code of ethics hold by the legal practitioner and accountant. This can be seen whereby the transparency theory require the TCSPs who act as a legal practitioner to disclose the information of the clients under the AML law requirements.

This requirements has violated the special privilege and code of ethics hold by both professionals which are lawyers and accountant. This is because as a lawyer, they are not supposed to share and disclose any confidential information of their clients to public or even in the court. This is to ensure the client rights are being preserved under the law. However the duty to disclose is against their profession as a lawyer and therefore it is difficult for them to comply with transparency of the beneficial ownership which hold a sensitive information they are not supposed to disclose. Similarly as for accountant, they cannot simple disclose the information of their client's information pertaining to financial statements which will be against the code of ethics. The special privilege hold by lawyers are more important and serious compared to the accountants.

4.4.10 Summary of AML Duties Compliance by TCSPs

Table 4.8
Summary of AML Duties Implemented by TCSPs in all the Firms and Data Triangulation with BNM and SSM

AML Duties	Secretarial Firm	Accounting Firm	Legal Firm	Data Triangulate with BNM and SSM
Customer Due Diligence	Comply at minimum level and not referring the guidelines provided by BNM	Comply at minimum level and not referring the guidelines provided by BNM	Comply at a minimum level and guidelines from BNM	i) Risk assessment on customers is not conducted. ii) Absence of Enhance due diligence (EDD) because of no screening conducted on customers.
Record Keeping	Comply at a firm level and no record was keep for changing clients			Incomplete record keeping for resigned clients and changing clients.
Suspicious Transaction Report	No STR report submission			Absence of internal policy and checklist on red flag detection to support STR reporting
Compliance Program: **i) Training and Development**	Providing internal training and no specific training on AML for the staff	Providing coaching to staff internally and no specific training on AML for the staff	Providing internal training to staff and no specific training on AML	Low level of engagement for training by company secretaries in term of AML law
ii) Policies, Procedures and	No specific guideline imposed for AML risk assessment and to deal with client			Absence of internal policy

Internal Control				and checklist to ensure appropriate implementation of CDD measures on customers
iii) Employees Screening Requirement	Medium turnover of employees	High turnover of employees	Low turnover of employees	-
Independent Audit Function	-	-	-	-
Appointment of Compliance Officer	The firms appoint the compliance officer to represent their firms			Although compliance officer already appointed, the function of the CO is questionable due to low implementation of AML law and procedures
Submission of Data and Compliance Report (DCR)	Four out of Five informants only submitted the DCR for year 2021 and 2022.	All the informants had never submitted the DCR for the year 2021 and 2022.	All the informants have submitted the DCR for year 2021 and 2022.	Majority of Reporting Institution are self-assessed with "WEAK" level of AML implementation and no improvement observed from DCR 2021 to DCR 2022
Identification and reporting on beneficial owners of the Company	The company secretary submitted beneficial owners' information based on the number of shares hold by the shareholders. The company secretaries find it is difficult to gather the information from clients as no			Gaps in identifying and recording the beneficial ownership information by

cooperation in providing the information in a timely basis.	Company Secretaries

The table above shows a summary of the AML duties implemented by the company secretaries in all the firms and the summary of data triangulated with the Bank Negara Malaysia (BNM) and Companies Commission of Malaysia (SSM). Although they are from different firms, the role of company secretary is the main target for the research. Despite the AML law, policies and guidelines imposed by BNM and SSM, the compliance with AML laws is still low among the company secretaries and the gaps are identified by both BNM and SSM in a joint supervision of the company secretaries' firms. The company secretary needs to enhance their knowledge and explore the requirements under the law and implement those requirements in their firms and engage all the employees to comply to enhance the understanding and compliance level of AML law. The cooperation between company secretaries and their staff and clients are encouraged to enhance the importance of reporting under the AML law.

Basically it can be seen that, the findings of the study shows that requirements on customer due diligence among all the firms are at minimum level while the requirement on suspicious transaction report show no STR was raised by TCSPs in the even the red flags is present which lead to non-compliance of the requirement. TCSPs only obtained a basic information of their clients without further doing EDD and risk assessment on their clients. Basically these AML requirements is related to the principal agency theory, rational theory and transparency theory which being adopted in the study. Under the principal agency theory, it can be seen that TCSPs plays a vital role as an agent to clients and regulators. Therefore, both parties interest need to be fulfil. The problem arise when the TCSPs unable to prioritize the parties' interest and tend to act based on their interest while complying with AML law requirements.

This can be seen in the finding of the study whereby the TCSPs choose not to further gathered information about the clients by doing EDD and risk assessment as they want to enter into business relationship and generate an income for their company. On the other hand, the TCSPs failed to report on suspicious transaction against their client due to the reason of protecting their client interest as well as their interest. The action of the TCSPs create a potential agency problem particularly focus on the information asymmetry. TCSPs who liaise directly with clients possess more information about their clients compared to regulators but due to business purpose they don't always disclosed those information to the authority. This is related with the transparency theory which requires TCSPs to disclose the information in order to enhance transparency on the information received. TCSPs failed to do so as a result of their reluctant to share the information as clients are part of their business. As a result, TCSPs failed to fully comply with the AML requirements of customer due diligence and reporting on suspicious transaction of their clients.

Besides that, in term of rational theory, it can be seen that since the requirement of conducting the CDD require information management system such as CTOS and other, implementation of training and awareness programs to staff require resources to be implemented. TCSPs failed to implement the use of AI in the CDD process, implement more frequent training related to AML to staff due to lack of resources due to smaller firms compared to larger firms. They make decision based on the rational choice theory in analysing the cost and benefit of complying with the requirements as well as in spending money to purchase system for CDD process and providing training to staff. The rational decision that they make reflects the AML compliance behaviour among them. All the firms show no submission of STR and comply at minimum level for the CDD requirements which reflects the firm's compliance depends on the professions of the company secretary.

Next, the requirement for record keeping is being comply by TCSPs as all the firms kept the record of their client up to 6 years and the findings shows that, the firms failed to keep information and documents related to change clients. This is related to the rational theory whereby the TCSPs has to allocate extra space to keep the record of the change clients. Since the change client could not benefit them, therefore they make a decision not to keep the record of the clients without knowing the purpose of keeping those documents.

Apart from that, the AML requirement for internal policy can be seen that all the firms have not implementing an internal policy to deal with money laundering risks among their clients. They failed to list the risk associated with their clients. While the requirement for appointment of compliance officer are being fully implemented by TCSPs from all the firms. Basically the compliance officer is responsible to develop the internal policy to deals with the clients in all the firms. However, the roles of compliance officer is passive as the TCSPs only focus on the main nature of business of the firms. The finding shows that the compliance officer is appointed for the purpose of submitting the DCR only and not for developing policy and procedures in the firms.

Lastly, in term of the requirement for submission of DCR, it can be seen that the secretarial firms and legal firms submitted the DCR for year 2021 and 2022 while the accounting firms show no submission was made for DCR for both year. The profession of the firms plays a vital role in determining the compliance behaviour among the firms. From overall of the study, it can be seen that the transparency theory, rational theory and principal agency theory plays an important tools to identify the TCSPs compliance behaviour in AML law. These theory were used to identify the reason for TCSPs compliance and non-compliance in certain AML requirements. The findings shows that, all the TCSPs duties are related with the individual choice to comply and they make decisions based on the knowledge, experienced and level of understanding that they have with regard to AML compliance. The theories used in the study also able to identify the challenges that they faced in complying with AML law.

4.4.11 Awareness on the Exception of Duties of AML by Small Reporting Institutions under AML Law

A small reporting institution refers to a reporting institution that meets the criteria and parameters for their respective DNFBPs, and it is a non-bank financial institution (BNM, 2024). Reporting institutions are required to apply the risk-based approach to identify, assess and understand the money laundering to which they are exposed and take reasonable measures to encounter it. The AML law applies to all reporting institutions, including financial and non-financial institutions. Small-sized reporting institution under the category of company secretaries is refer to the firms who has five members and below of a body prescribed by the Minister under Section 235(2)(a) of Companies Act, 2016 or 5 person and below licensed as company secretary by the Companies Commission of Malaysia (SSM) and five person and below with any combination of the two criteria mentioned above. (BNM, 2024). There is an exemption or simplification of the AML law that applies to these small-sized reporting institutions. This exemption is to enhance the quality of AML compliance and ensure the smoothness of the reporting institution in identifying the money laundering threats according to their organisation size.

Among the exemptions or simplifications that apply under the law are the requirements for policies, procedures, and controls, whereby small-sized reporting institutions are required to develop AML policies and procedures that are suitable and updated with the current regulatory framework for their organisation. BNM has been simplified it by instructing the small-sized reporting institutions to adopt the guidelines and the policy documents developed by BNM as part of their policies and procedures.

Besides that, the requirements on the board do not apply, requirements on the senior management do not apply too. However, the overall Compliance Programme and enhanced due diligence is still within the accountability of the individual with control of the overall operation of the reporting institutions. In addition, the employee screening requirement shall be applied upon initial hiring and the employee training and awareness programme requirement shall be adopted in simplified approach, such as via on-the-job training and their party training programme. Lastly, the independent audit functions requirement shall be exempted for small reporting institutions.

From the research interview and analysis, it can be seen that the level of awareness of the reporting institutions under secretarial firms, accounting firms and legal firms is still low as they don’t know the small-sized reporting institutions and its exemption under the AML law. Firstly, the secretarial firms' understanding of the requirements under the law is limited to the knowledge and experience that they have instead of learning it through the news and social media.

Secondly, the informants from the accounting firm, are also unaware of this exemption and the application of the requirements under the law. They tend to analyse and follow blindly the requirements under the law. The compliance officer in the organisation need to be responsible for sharing the knowledge and updates on the current regulation framework so that all the employees may have knowledge of the AML issues.

Lastly, the legal firm shows that the informants are committed and are being updated with the legal requirement within their firms. This can be seen in that most of the informants have a compliance team in gathering and discussing the information about AML issues and policies in the firms. Although they are aware of the exemption for the small-sized reporting institution, they are following the requirements and guidelines regulated by BNM. This is to ensure that their firms are committed to combating money laundering activities and threats.

The data triangulation of the study shows that the TCSPs are unaware on the small reporting institution exemption on certain AML requirements such as independent audit function and other requirements. The TCSPs also not aware on the policy guidelines imposed by BNM for TCSPs sector as they follow on the requirements on the beneficial ownership as part of their AML compliance according to SSM requirements. The other requirements which imposed by BNM have been overlooked by them due to the focus of TCSPs on their professions such as accountant and legal practitioner despite being a company secretary.

4.5 Challenges faced by TCSPs in Implementing Anti-Money Laundering (AML) Compliance Duties

The Bank Negara Malaysia (BNM) has implemented rules, regulations, laws, and guidelines for all reporting institutions to adhere to combat the threat of money laundering that occurs frequently. The reporting institution serves as a gatekeeper to prevent money launderers from exploiting the country. All reporting institutions are required to adhere to the law. Even though the law has implemented rules, regulations, guidelines, and laws for reporting institutions, they faced challenges in carrying out their AML duties, which have sometimes hampered their ability to obtain accurate information to analyse the potential risks that the firms and the country face.

From the interview of the study, it can be seen that the reporting institutions from secretarial, accounting and legal firms faced a challenge in implementing the duties to Bank Negara Malaysia (BNM). Although the three firms have different portfolios, the main role being analysed is the role of company secretaries in different firms and the way they comply with the AML law, and what challenges they faced in implementing their roles in their daily business relationship with their clients. Among the challenges faced by TCSPs in implementing the AML compliance duties are:

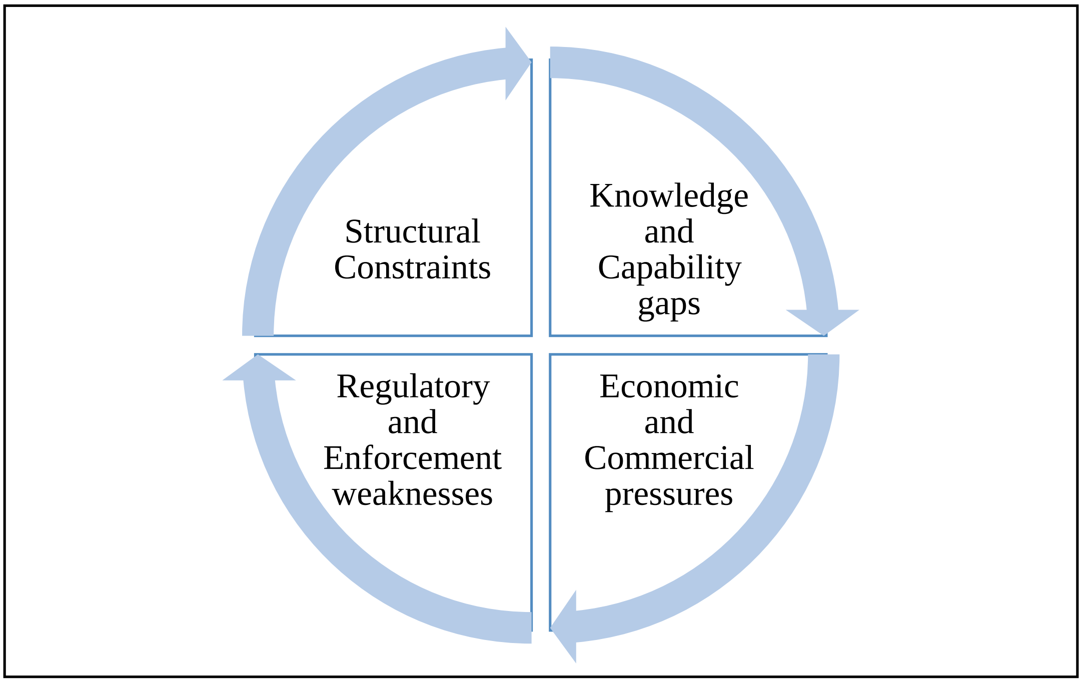

Figure 4.6 Challenges faced by TCSPs in implementing AML Compliance duties

4.5.1 Structural Constraints

Structural constraints refer to the firm's limitations and operational limitations that hinder the effective implementation of AML compliance measures. The structural constraint are particularly relevant for small TCSPs firms compared to larger firms whereby with a limited resources available, it may affect the ability and capacity of the firms to fulfil their AML obligations.

4.5.1.1 Customer Due Diligence

Firstly it can be seen in term of the CDD requirements under the law which require the firm to conduct CDD and KYC in an effective method to enhance the accuracy of the data. The CDD and KYC is the main challenges faced by all the firms as 14 out of 15 informants are doing the CDD and KYC through a gathering of information directly from clients through face-to-face communication, email, WhatsApp, and phone calls which being called as manual way of collecting data. However the TCSPs lapse in the verification of the data gathered whereby they solely depends on the information shared by clients. In order to verify the information received, the TCSPs required a good system and AI to conduct the due diligence and to do verification. This is lack among all the firms in the study whereby they are using manual way of doing verification. They have lack of resources in implementing a system and software to do CDD and KYC among their clients.

Besides that, due to lack of data being gathered from clients, the TCSPs tend to skip the risk assessment of the clients due to insufficient data in hand. This lead the action to serious problem whereby the TCSPs are unable to raise a red flag against their clients as they do not identify the client risk at the first place. The internal policy of the firms is important in ensuring the process of CDD can be done accordingly by any staff in the firms even when the compliance officer is not in the firms.The findings shows that the secretarial and accounting firms did not have their own internal policy to deal with clients and the protocol to do CDD in the firms. However, the informants from legal firms are aware on the guidelines to implement the CDD and some of the firms adopt this as part of their policy to conduct CDD.

The practices of a legal firm are quite different compared to a secretarial and accounting firm, in terms of doing KYC and CDD for their clients, they have a Compliance Officer Department which will check, identify and verify the information gathered from the client before entering into the business relationship. The challenges faced by firms in implementing the CDD and KYC is differ from the experienced of the firms and the background of the informants in implementing the CDD. A good CDD require an accurate information to further analyse the risk of the clients. The responses from secretarial, accounting and legal firms can be seen below.

"*CDD is just a prevention but it doesn't mean 100%, and it raises our responsibilities and obligations to comply with it". Accounting Firm 3*

"My point of view is that we don't have any system to trace the client's information

before we enter into a business relationship". Secretarial firm 4

"When approaching clients for the CDD, they get offended that we are asking too many questions. The client is asking why you are asking this personal thing. We have to explain to them the reason for the question being asked". Legal Firm 4

4.5.1.2 Record keeping

The second constraints faced by TCSPs in term of keeping the data, information, documents and files of the clients for up to six years. Record keeping is essential for all reporting institutions to ensure all the information is available when needed. Most of the informants from secretarial, accounting and legal firms are really aware of the record keeping requirement. This can be seen in that most of the firms are maintaining the record keeping at the Company's registered address which includes the register book, minute's book and the secretarial files. The documents that shall be kept at the registered office include the resolutions, change of directorship and any other transaction involving the Company. However, the TCSPs acknowledged that have an inadequate data storage infrastructure to maintain those records. TCSPs need to incur extra money to purchase the online storage systems as well as the physical space to ensure they have enough space to keep the records.

The challenges faced by the informants from secretarial, accounting, and legal firms are in terms of keeping the information and files for the existing clients or the client who change the secretary of the existing Company. Basically, there is no record of the transfer Company or change of secretary for the Company being kept at the office. This may lead the criminal clients to easily plan criminal activities without leaving a trace of their company's and transaction records. The informants from the secretarial, accounting and legal tend to hand over the record keeping including the secretarial files and any other documents related to the Company to the clients when they change the secretary or leave the Company.

4.5.2 Economic and Commercial Pressures

The challenges faced by TCSPs such as cost of compliance and conflict of interest can be relate to economic and commercial pressures. This is the main challenges faced by TCSPs in implementing compliance culture in the firms. The economic and commercial pressures may hinder the TCSPs to implement effective AML compliance.

4.5.2.1 Cost of Compliance

The cost for compliance is increasing rapidly due to technological advancement. Compliance costs increase from time to time due to local, national and international regulations that change rapidly. When the company operates in the jurisdiction, the company need to comply with the regulations of the country. The cost of compliance also includes the cost for establishing a compliance culture within the Company to ensure compliance towards the AML law and policy in Malaysia. The challenges faced by the reporting institution including secretarial, accounting and legal firms are in terms of the cost of compliance. This can be seen where they need to establish more rigid regulations or procedures towards their client in identifying the client's information pertaining to business transactions. The cost of compliance is really high to be borne by the reporting institutions which are the three firms, due to their small business size. There is no compliance department being established within the secretarial and accounting firm. However, for legal firms, it can be seen that they have their own compliance department that is responsible for the compliance issues and matters related to regulations, guidelines, and procedures. They are being updated and checked by the department to ensure the legal firm is in line with the current regulations.

The compliance culture can be created if there is a technology developed by the firms to do KYC, CDD, checking on clients' information and others. For them to have accurate, timely, and full information, the firm may need to upgrade its internal systems and procedures. This may incur cost which will be a burden for those small businesses. The informants from the secretarial firms agreed that the compliance requires a cost to be implemented but due to the small size of their businesses, the compliance is not relevant to be imposed on the reporting institution which includes TCSPs. Most of the informants are not ready to change the ways they are doing the AML compliance by replacing AI to do that as it involve cost and exposure on the system to be implemented.

Besides that, the TCSPS also need to incur cost to send their staff for training as the AML requirements are change from time to time and therefore they need to upgrade the knowledge of AML through training. This is because, through training and awareness it helps the TCSPs to better understand the AML requirements and implementing it. For smaller firms, this cost is really high for them bear as they have a limited resources and clients.

4.5.2.2 Conflict of Interest

Conflict of interest arises under the principal-agent theory. Agency theory refers to the interaction between a principal, who assigns specific responsibilities and decisions, and an agent, who executes them (Bendickson et al, 2016). As mentioned earlier in Chapter 3 on the agency theory, it can be seen that there is a conflict of interest between the reporting institution which includes TCSPs, Clients and Bank Negara Malaysia. The TCSPs have a dual task in ensuring that both the primary principal's interests are considered without jeopardising their relationship. The Anti-money laundering legislation constitutes a fundamental aspect of the reporting and compliance obligations for both financial and non-financial services worldwide. Naheem (2020) indicated that the increased focus on AML legislation and compliance has established an additional principal-agent relationship among regulators, reporting institutions, and clients.

This is a similar statement to that of Pellegrina and Masciandaro (2008) that the Bank, as the agent, must reconcile two agency responsibilities between the states and the clients. In applying to the context of this study, it can be seen that the reporting institution TCSPs has dual roles as an agent to the principal, which are the clients and the regulators and Bank Negara Malaysia. The conflict of interest between the TCSPs, clients and Bank Negara Malaysia arise when it comes to compliance with the AML regulations. Bank Negara Malaysia has imposed a law and regulation of AML for the reporting institutions to comply with. The roles of the reporting institution include the duties to do customer due diligence (CDD), record keeping, reporting suspicious transaction report (STR), compliance programs including training and awareness, appointment of a compliance officer and other duties under the AML law.

The issues arise when the agent, TCSPs or reporting institution is unable to make a report of suspicious transactions that happened among their clients (principal), even though the red flag has been raised within the institutions. This is supported by finding of Naheem (2020), which indicates that the roles of these agencies are in conflict due to the regulator's imposition of additional administration and bureaucracy on banking transactions through KYC checks and suspicious transaction reports, potentially resulting in financial losses for business clients due to delayed transactions or increased administrative expenses.

This can be seen from the research that most of the firms have never filed any suspicious transaction reports to Bank Negara Malaysia although they already have a red flags client within their firms. The reasons for not reporting STR are fear of losing clients, too much administrative work, maintaining a good relationship with clients, and safeguarding the client's interest instead of the state. Omar, Mohd-Sanusi, and Prabowo (2015) assert that the absence of an awareness campaign by the Financial Investigation Unit (FIU) of the Central Bank to educate the TCSPs in Malaysia resulted in insufficient knowledge within the accounting profession regarding the submission of STR to the FIU. Most of the informants agreed that the client's interest is their top priority and at the same time, the duties for the compliance of AML are being done at a minimum level only. This is just for the sake of doing compliance only. Among the responds from the informants can be seen below when being asked about the suspicious transaction report files against their clients. The relationship between agent and principal can be seen in the diagram below.

"When it comes to red flags of the client, we give advice first. Next, if he does it again, so we don't have a compromise. Because it involved a risk" Legal Firm 1

"When I am suspicious of the client about money laundering, I would advise them". Secretarial Firm 2

"If I act in the interests of Bank Negara Malaysia, I need to lose my business, if I work for my client and act in their favour, I can't be responsible to the government right. Of course, my client is doing business on a small scale. We don't have this kind of money

laundering activity. I know that". Accounting Firm 4

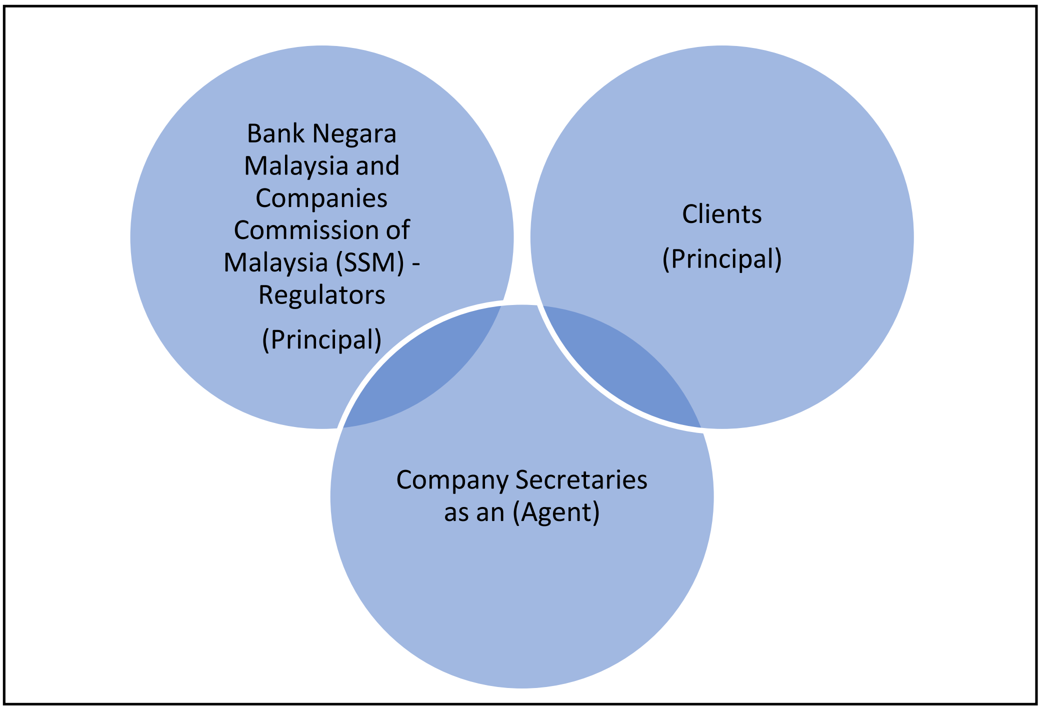

Figure 4.7 Relationship between the Company Secretaries as an Agent to Regulators and Clients

Diagram 4.3 above shows the relationship between the company secretaries as agents to the Bank Negara Malaysia, Companies Commission of Malaysia (SSM) and the clients themselves. The relationship between them is interrelated as the clients need to comply with the rules and regulations set out under the AML law and the Companies Act 2016. While the company secretaries must ensure the compliance of AML requirements and the law of their clients and report to BNM and SSM in case there are any potential money laundering cases and other issues.

The conflict of interest arises when the agent, who is the company secretary, is unable to deliver their duties to the principal which is the regulators in reporting the unusual activity of their clients and they are simply accepting clients without further assessing the risk of the clients. The conflict of interest happens when the agent wants to safeguard the interest of the principal who may provide them benefits in terms of money and other benefits. This is when the agents cannot lodge a report to the regulators or principal due to their interest in serving the clients with an expectation of getting something in return. The conflict of interest usually arise among the smaller firms compared to larger firms due to their exposure of knowledge, understanding and experienced of the AML requirements. The bigger firms have more quality clients who are more established compared to smaller firms. The conflict of interest can only be tackled when the TCSPs able to do what is right under the law.

4.5.3 Knowledge and Capability Gaps

4.5.3.1 Training & Development

Training and development of AML knowledge are important for every reporting institution including secretarial, accounting and legal firms. The training and development are really crucial to cultivate a compliance culture among the staff in the firms as well as the clients. The challenges faced by the secretarial, accounting and legal firms can be seen in terms of a lack of training and development in implementing the AML requirements. The lack of guidance for the reporting institutions causes them challenges in applying the culture of compliance within their firms due to a lack of knowledge and guidance on the AML regulations and procedures to be applied towards their clients. Besides that, due to a lack of training and knowledge received by the firms, they cannot share the knowledge with their staff due to a lack of understanding of the current regulations and the guidelines change from time to time by the regulators. This makes them unable to focus on the guidelines for implementing the compliance culture within the firms.

"We do have training for our team. But to properly and efficiently engage training to all of our staff is impossible as we sometimes are unable to develop and implemented the AML rules, regulations and laws due to rapid changes and updates from Bank Negara Malaysia". Secretarial Firm 4

"We did not send out staff to training in AML law. We implemented based on the guidelines from SSM". Secretarial Firm 2

As for training, we only provide an internal training; however, we did not touch on the

AML policy and regulations. It's about more to information sharing between the staff. Accounting Firm 3

"Usually, for new staff on boarding, I will provide specific training to that person. If there is any update on the new AML law, I will go for training personally and be updated with the current changes of the law and do the practical approach within the firms. The training given is more towards a practical approach towards the staff within the firm. Legal Firm 1

4.5.3.2 Tick Box Approach

The challenges faced by the informants from the secretarial, accounting and legal firms in terms of gathering information. Most of the clients disclosed the information through a tick box approach which sometimes left the information unable to be gathered by the firms. This leads the reporting institution to be unable to classify the information and the risk that the client possesses in maintaining the business relationship. This can be seen in terms of reporting beneficial ownership to the SSM, the informants from the secretarial firm provide to their client a form to be completed by the client in terms of gathering the information pertaining to background information and beneficial ownership.

The responses from the client are different as they sometimes cannot answer the questions and leave it blank and some of the clients are just doing a tick box approach only. This may hinder the reporting institution from reporting the information to the authority. The reason for this is that the clients themselves did not have an understanding and knowledge on the AML and there is no sense of responsibility to report on the information requested. Among the responses from the client can be seen below. As for a secretarial firm, the clients usually sign the documents without further declaring the information as they will ask the secretary to do it for them. As for an accounting firm, one of the informants' responses was that they do not have a sample of forms to be filled out by the clients. Therefore, there are no forms or documents sent to clients for signing. In this case, the information disclosed by the clients is not enough to cover the compliance of KYC and CDD.

As for legal firms, usually the clients are more direct in answering some of the questions from the secretary due to different professional backgrounds. Most of the firms will ensure all information is accurate and do a check before further enhancing the business relationship. However, one of the legal firms disclosed that they face challenges in getting the information from the clients because clients feel offended when the company secretary questions them. The tick box approach often occurs to all the firms regardless of the size of the firms and the experienced level of the TCSPs. This is because clients want the information being gathered in an effective way without having to disclose the details of the information. The responses from the informants can be seen below for each of the firms.

When we want to get a response from the client for the beneficial ownership documents and form, one of the responses from the client is I will sign the documents, then you help me fill in the details. All information is with you, right? Secretarial Firm 4
There are no written documents or any forms or something we can provide to the customers to fill out as a result of getting the information from the client as it is not being standardised yet. So how do you want to escalate to the client since we don't have that? Accounting Firm 4

Not all of the clients want to disclose information especially in terms of transactions. Example of general questions that we ask the client, "What kind of business are you doing?" and the answer from him will be like twisting the story. Accounting Firm 3

The challenges we faced when approaching clients for the CDD and beneficial ownership information, they get offended that we are asking too many questions. Accounting Firm 5

When we want to send in the CDD and beneficial control information for some clients, it is hard to find the information we need. They do not revert the form. They act as though they do not know. Law Firm 4

4.5.3.3 Different Profession with same roles as Reporting Institutions

The TCSPs plays an important roles as reporting institutions, and they are the ones referred to by the clients when it comes to the formation of companies and any other related services of the Company. Anyone who is granted by SSM the practising certificate regardless of any institutions is entitled to act as a Company Secretary. The roles of the professionals from each of the firms such as secretarial, accounting and legal firms are different. However, they are carrying the same functions as reporting institutions to BNM and the way they comply with AML law and regulation varies due to the differences in their educational background, business background and working experience.

Company secretaries frequently face substantial obstacles when they collaborate with professionals from various backgrounds who operate in comparable capacities, particularly in the context of reporting institutions. These issues emerge from disparities in expertise, priorities, and regulatory comprehension. The dual role of the secretaries for an accounting firm and a legal firm will be more challenging when deciding for the Company. The company secretaries are the ones who are responsible for handling all the secretarial matters regardless of their profession as accountant and lawyer. In Malaysia, it can be seen that accountants and lawyers can act as a company secretary, whereby they will have a dual role as reporting institutions.

From the research study, it can be seen that for a secretarial firm, the duties under the AML law are more direct to them as they hold one position at a time. While for the accounting and legal firms, it can be seen that the one who acted as company secretary is the one who has another qualification and practice, such as a chartered accountant or as a lawyer. This dual role of the secretary makes it difficult for them to align with the compliance standard. This is because the accounting firm and legal firms may have different guidelines, regulations and practices for the compliance of AML. The professionals from different fields may interpret the regulatory requirements differently based on their professionalism and experience in the field. Besides that, the dual roles may create an overlapping responsibility, which may confuse the reporting institutions on which of the specific duties they need to follow.

Besides that, as for legal firms, it can be seen that the company secretaries in the legal firms faced a challenge in the disclosure of the information of the clients to BNM whereby the legal professional cannot simply disclose the information to BNM as they have a confidentiality of information that shall be kept by the lawyer for their clients. The term call for the disclosure of information is a privilege of disclosure. The privilege of disclosure by lawyers, often known as attorney-client privilege, is a fundamental legal principle that safeguards conversations between a lawyer and their client. It ensures confidentiality, allowing clients to talk openly without risk of their disclosures being revealed.

The roles of Company Secretaries require the disclosure of information pertaining to CDD, KYC, and beneficial ownership of the company and any other really important information. The reporting institution which is a legal firm, encounter a dilemma when it comes to the duty of disclosure of information as they are not aware of the information that shall be kept confidential and the information that can be disclosed. This is because the regulators require the disclosure of information that is sometimes sensitive for the legal professional to share due to the privilege of disclosure. These are the challenges faced by the accounting and legal firms which sometimes may hinder them from complying with the AML law and policy due to differences in their profession and practice.

4.5.4 Regulatory & Enforcement Weaknesses

4.5.4.1 Suspicious Transaction Report (STR)

From the field work of the study, it can be seen that the TCSPs faced a challenge in term of reporting the STR to Bank Negara Malaysia eventhough the firm have identified the red flag against their clients. The reason for non-compliance of the STR is due to lack of knowledge on the client risk by the TCSPs firm. Only certain issue such as raise of share capital is given a red flag by the TCSPs due to the involvement money in the company’s bank account. Other than the issue of raised of capital in the company are being ignored by the TCSPs as they think that the other issues are not important to raise a red flag.

Besides that, from all the firms interviewed, none of the firms have raised the

STR against their clients due to the relationship that they have with their clients. The reason behind this are due to the fact that all the firms did not have an internal policy and checklist that they categorized the red flag against the client's activities. They have not develop a checklist that fall under the category of suspicious transaction. Therefore, it is difficult for them to raise suspicious against their clients as there are no checklist and internal procedure develop by them in order to identify the activities that done by clients which falls under suspicious transactions. The main challenges of TCSPs is to categorize which behaviour or action of their clients that required them to raise red flags and when to report such activities to BNM through STR report.

In addition, The TCSPs are in dilemma when it comes to the STR report against their clients as they want to maintain a good relationship with their clients despite the red flags that the clients have. The TCSPs tend to provide an advisory service for those clients that fall in the category of red flag. One of the issues arise among the secretarial firm is in term of raising the share capital by the company. The issue that the firm faced is when the client did not bank in the amount of the share capital to be injected to the company. The client provides a false bank statement to show the amount of the money bank into the company to the company secretary. The duty of TCSPs is to identify and verify the bank statement and the amount of the injected capital to the company. The TCSPs later found out that the client involves in forgery the bank statement for the purpose of injecting capital to the company. The company secretary then did not proceed further on the increase of share capital of the company and tend to advice the clients and resigned as the company secretary on the particular company.

From the issue arise, there are no STR report being filed against the company and the director of the company on the issue of the false bank statement raised by the client. This shows that, the TCSPs did not want to involve in the problems when the TCSPs firm tend to ignore the case and taking a decision internally by resigning as a company secretary for that particular firm. There is lack of knowledge and awareness among TCSPs in raising the STR against the problematic clients. Failure to do so will result the criminals to exploit the services provided by doing the activities that against the law. Both accounting and legal firms also did not raised the STR against their clients even when the red flag is there. The company secretary from the accounting firm can be seen have an access to the financial statements of the company.

The issue arise when the client are unable to provide supporting documents on the requested information on their financial accounts. This lead the information presented are not accurate. The TCSPs in this firm tend to settle it within themselves until the firm satisfied with the justification given by the clients. The firm also do not have the checklist and internal procedure when dealing with clients especially when dual role are being implemented. They tend to follow the roles which they have expertise which is the roles as accountant instead of company secretary. The roles of company secretary tend to ignore by the firm when it comes to the compliance of AML duties under the law. While for legal firm, it can be seen that the issue arise is in term of the special privilege that they possess while acting as company secretary. They have a duty for not disclosing the information of their clients to third party. This issue have cause dilemma for legal firm to raise the STR against their clients as they have dual roles of responsibilities that need to be preserved. Therefore, it's crucial for legal firm to file STR against their clients when they found of the red flag against the clients. The legal firms also did not have the internal checklist and policy to deals with clients.

The STR can only be raised when the process of customer due diligence is being done clearly and accurately against the clients. All the information received by the TCSPs shall be kept in the registered office in order for them to track back the record of the clients when the red flag is identified. Therefore, the STR report is important in combating the money laundering among the corporate structure. All the firms also need to ensure the process of CDD are being carry out clearly and accurately in order to identify the type of risk for each of the clients. The firms also need to develop their own internal policy and checklist in identifying the suspicious activity among their clients. The suspicious activity is different among the business sectors as from the study it can be seen that the legal firm and accounting firms may triggered something related to account and law when it comes to STR reporting. Therefore, the compliance officer or the reporting institution need to ensure they know their clients and the risk that the clients bring to their business and how to overcome the risk and to comply with the AML Laws and regulations.

4.5.4.2 Compliance Challenges encountered by TCSPs

Complying with AML laws and regulations is critical for company secretaries. However, due to the dynamic and strict nature of AML regimes, various issues arise. These difficulties arise from changing regulatory requirements, operational complexities, and the necessity for successful implementation. This can be seen where the AML law changes accordingly based on the FATF recommendations. Thus, it requires all the reporting institutions to comply and be updated with the current changes and apply the law and regulation within their institutions. This situation hinders them from having a better understanding of the law since the existing law and guidelines are being implemented, the reporting institutions will try to adapt and understand the information on the law and guidelines and try to implement the law. When the law keeps changing, it affects the reporting institutions in terms of compliance since they have lost their interest to comply due to the burden to understand the law and to comply it. The understanding and knowledge of the reporting institutions vary according to their professionalism and experience.

Recent updates on beneficial ownership require all reporting institutions, especially company secretaries in Malaysia, to report on the beneficial ownership of their clients to SSM through a system called e-boss. The company secretaries must update the register of the beneficial ownership of their clients through the systems. The challenges faced by the company secretaries are to gather the information from the clients and persuade them to disclose the company's beneficial ownership. It is found that the secretarial firm faces challenges, as most of the informants in this research agree that they are unable to gather an accurate information of the Company's beneficial ownership. This is due to the client’s not having an understanding of the importance of disclosing beneficial ownership.

Besides that, one of the informants from a secretarial firm also said that it is time-consuming when they want to get the information from the clients on beneficial ownership. The respondent also argues that a lack of technology development and software to identify the client's information makes them unable to detect the clients who have the potential to do money laundering. The other informants also argue that the compliance of AML shall be apply to small firms as they cannot detect the case of money laundering by the clients since they are not the ones who manage and are involved in the transactions of the Company. The reason for this is that the respondent said that when they implement the AML law strictly, they are afraid of losing clients and at the same time, they have to comply by doing extra tasks for the AML compliance without getting any benefits or income from the regulators.

As for the accounting firm, it has been argued by the informants that it is time-consuming and there is a cost incurred in doing compliance with AML. This is because the accounting firm needs to incur an extra time for the AML training for all employees in order to explain to each of the clients the importance of AML law and the reason for compliance. Other than that, the respondent from the accounting firm also encounters problems where they are not aware of the law and policy updates on the compliance of AML by regulators. Some of the firms are not aware of the documents and forms that shall be given to their clients for the KYC and customer due diligence of their clients. The secretarial roles in the accounting firm is challenging as some clients do not understand their roles as gatekeepers and reporting institutions to BNM. This hinders the compliance of AML by the accounting firm.

In addition, the legal professional, which is a law firms, encounter a problem when it comes to compliance with AML in terms of reporting on the beneficial ownership of the Company. This can be seen where the legal professional has a special privilege called the privilege of disclosure. The privilege disclosure means that the legal professional cannot disclose certain information of their clients to the BNM due to their special privilege. This means the clients can freely and clearly share the information with the legal professional without bias and without being afraid of the data being leaked. The responsibilities of the legal professional or lawyers are to preserve the information and not to disclose the information to others including regulators. The role of a company secretary in a legal firm is challenging as they have a dual role as company secretary and lawyer which requires them to act in a good faith for the benefit of their clients. Due to this role clashing with AML compliance, the legal professionals may take a step back when it comes to issues and matters related to the disclosure of information about their clients. They have to preserve the privileged disclosure to prevent their client’s information from being disclosed to public.

Basically the challenges faced by TCSPs in complying with AML law is differentiate by the firm size, experienced level and the regulatory exposure. This can be seen whereby a larger firm tend to have more resources compared to smaller firms in implementing the CDD process, record keeping, training and development for the staff. The finding shows that all the firms have a limited resources in enhancing their AML implementation in the firms as they still use a manual way of gathering information from clients. They tend to struggle with the compliance cost in implementing the AML requirements under the law. Besides that, in term of the experienced level, it can be seen that the TCSPs who have longer experienced in law background tend to have more compliance compared to those who are not from legal background. This can be seen whereby the TCSPs in legal firm show a compliance and alert on the policy and guidelines implemented by regulator and they adapt it as part of their policy in the firms. On the other hand, it can be seen that the accounting firm show a lack of compliance of AML requirements whereby they tend to focus on the accountant roles and implement AML requirements based on their supervisory authority. The higher the experienced the company secretary possess in the firms, it helps them to fully understand the AML requirements and can overcome the challenges in implementing the AML requirements.

Next, in term of regulatory exposure, it can be seen that the firms with low exposure on the regulator requirements on AML law are not prioritize the compliance which lead to non-compliance of AML law. This can be seen in the finding of the study which show accounting firm has lack of law exposure whereby they are not alert on the changes and any updates implemented by BNM such as DCR submission. They tend to ignore the obligation as they not aware on such requirement. However, the regulator exposure can be seen as high in legal firms whereby the TCSPs alert on the current changes in AML law and the new requirement implemented by regulator. They tend to keep updated with the AML law. The higher the regulatory exposure to firms, the higher the compliance level of the firms. Among the informants, the challenges of AML compliance can be seen below.

"We want disclosure by the client but he doesn't disclose. Secretarial Firm 1

From my point of view, we don't have a system that we can trace the client's information *thoroughly. Secretarial Firm 4*

We don't have a proper record of the information as the compliance with AML involves many issues. We are unable to cover and implement every aspect under the law due to time-consuming and rapid changes of the law by the regulators. Secretarial Firm 2

"The latest development of law and regulation makes us to incur cost in order to keep update and alert. It is a high obligation and it is time-consuming to assess to the clients. Accounting Firm 1

There are no written documents or any forms being provided by the regulators for customers to fill out on the KYC, customer due diligence and beneficial ownership information. The documentation for seeking the information is not yet being finalised or standardised by the regulators. So how do you want to escalate to the client since we don't have that? Accounting Firm 3

We are unable to act as a gatekeeper as some clients did not understand our role as gatekeepers. For example, when we ask about the KYC information, the client may give us wrong information for the purpose of entering the business relationship which we sometimes are unable to check and verify the information received from the clients. Accounting Firm 4

Not really. We don't think the procedure is very laborious. I think its okay. The law is more straightforward. Now, like two more steps, three more steps that need to be done and more towards admin tasks. Legal Firm 4

Although we have a policy and procedures, when a client steps into the firm and we have to do KYC and CDD, due to the high volume of clients, we tend to ignore and forget to seek information from clients for the KYC and CDD. Legal Firm 5

As for the reporting requirement, we will report at a minimum level and we don't go above and beyond because we are afraid of the client's privilege, the sensitive information that might be disclosed when we do so. Thus, it will also get us into trouble.

Legal Firm 2

4.6 Implementation of Theoretical Frameworks in the Findings of the Study

The findings of the study show that company secretaries faced many challenges in complying with the AML duties under the law. The reason for non-compliance sometimes depends on the circumstances of the company secretaries. The relationship between the compliance duties of the company secretaries can be explained by using the theoretical framework developed for the study. The Diagram 4.8 below shows the theoretical framework and the explanation for each of the theories related to the decision of the company secretaries or TCSPs in complying with the AML duties under the law.

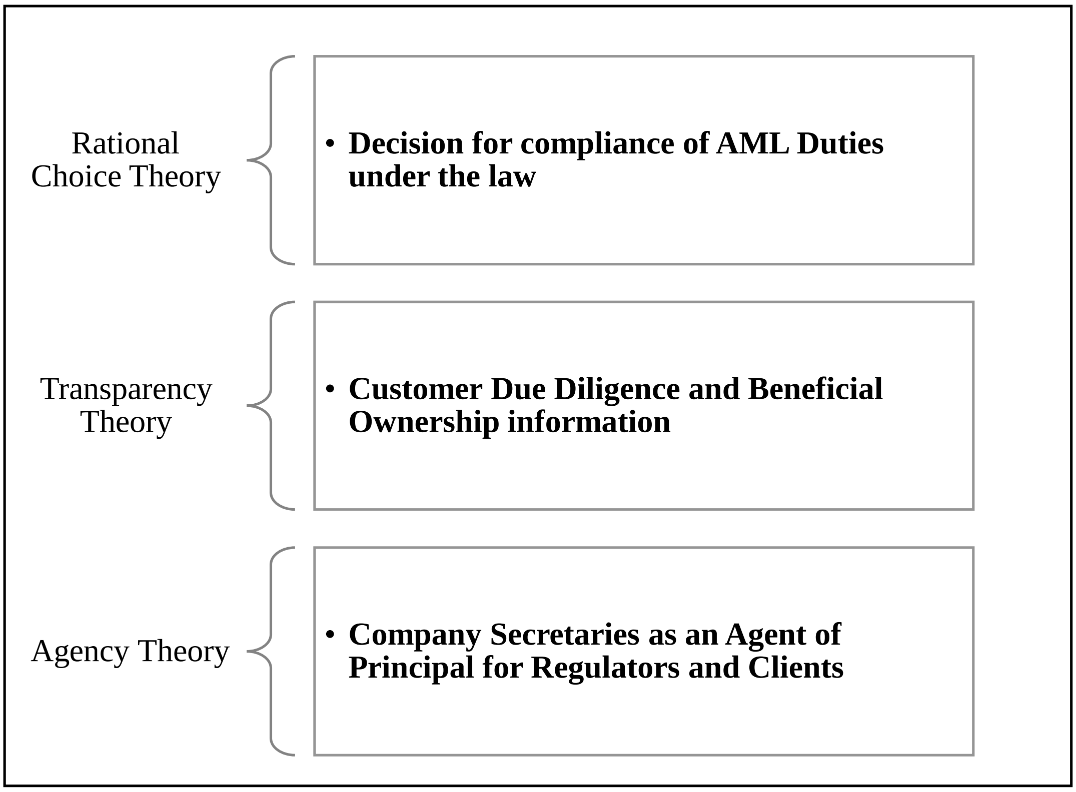

Figure 4.8 Implementation of Theoretical Framework in the Finding of the Study

4.6.1 Rational Choice Theory - Decision for compliance of AML Duties under the law

As being discussed earlier in Chapter 2, the rational choice theory is a rational decision determines a theory that explain on the decision made by human. The sensible decision usually made by human beings after considering the benefit that they may receive in return based on the decision made. In the context of this study, it can be seen that the decisions made by all the company secretaries or TCSPs in all the firms with regard to the compliance of AML law and duties are being determined by their own rational decisions based on the benefits and advantages they get. This can be seen in that the findings of the study show that all the firms, especially secretarial and accounting firms, do not have their internal policy for handling clients. This is because they have lack of awareness on the guidelines and policy imposed by regulator. This can be seen in the process of gathering the information of clients, which starts with the customer due diligence, know your customers and assessing the clients' risk.

The problem arises when the TCSPs do not comply with the duties of performing CDD and reporting on STR against their clients. The reason for this action is because the TCSPs analyse the cost and benefit of performing CDD and reporting of STR may cost them to incur cost and lose clients. From the findings it can be seen that, all the TCSPs firms are reluctant invest in new software to perform CDD due to higher cost of compliance that need to bear by them. Apart from that, in term of reporting on STR, all the TCSPs firms also had never submitted STR report to the BNM after red flag has been identified. This is because the TCSPs are making decision to advice their clients for the consequences of their action and ask their clients to be careful and correct their mistakes instead of reporting it to BNM. The rationale behind this action is to protect their clients as they are generating income for TCSPs. By reporting them to authority, it will lead them to lose clients and income in future. This shows the AML compliance behaviour among TCSPs is shaped by the rational choice theory which influence the decision made by them in complying with AML law.

In terms of record keeping of the clients, it can be seen that the TCSPs firms keep the record for the existing clients. However, as for those clients who have resigned and changed company secretaries, no record is kept at the registered office of the company secretaries. This is because the documents, information and files required more space physically and digitally which required them to incurred extra cost for keeping. The cost that need to be bear by them influence their decision to comply with the requirements and therefore the findings show the result of non-compliance on the record keeping measures.

Next, in terms of policies and procedures of the firms, it can be seen that the secretarial and accounting firm did not have any internal policies and procedures or at least adopt the BNM policy documents as part of their policy in dealing with clients. They have run the business and dealt with clients with the minimal requirement of the information which they think is necessary for the business transactions. The reason for no policies and procedures implementing in the firms is due to the decision made by TCSPs as they informed that the policy and procedures complicated the business operations as clients not like to be questions with many confidential and sensitive information pertaining to their personals and company.

Therefore, in order to serve the clients, TCSPs is not implementing or adopting such policy implemented BNM to them as they have their own company policy which are more flexible. This is the rationale behind the decision made which shaped their decision not to comply which is more to economic reason for non-compliance with AML law. While for a legal firm, it can be seen that they have a good practiced in dealing with clients, as they have a compliance department to seek and verify the information received from clients before the business transaction starts. They also adapt the guidelines and policy implemented by BNM as part of their policy to deal with clients. The professional background of the TCSPs plays an important role in shaping their compliance decisions which sometimes being ignored in this theory.

Lastly, in terms of the training and development of the staff, it can be seen that most of the secretarial, accounting and legal firms are providing internal training only without incurring costs for their staff in AML laws requirements. The decision is to minimise the cost of the training incurred for the employees and company are facing with employees turnover which results in non-compliance. This result in non-compliance with the training to employees which in return it will impact the compliance level of TCSPs in the firms. The staff are also not being updated with the current changes and implementation of the AML law within the firms. Any decisions made regarding compliance of AML duties are influenced by the benefits and advantages that the firms and the company secretary get in return. Due to their smaller size of the company, TCSPs have lack of resources to implement the compliance cost which influence their decision to comply or not comply on certain requirements or with minimal compliance. This is the main challenges that they faced when it comes to AML compliance cost.

The rational choice theory in the study able to determine the compliance behaviour among TCSPs in complying with AML duties under the law. TCSPs also able to explain the challenges faced by them due to the compliance behaviour decision made by them in dealing with clients. Compliance practices are different according to firms due to the exposure of the knowledge and awareness. Basically the theory also failed to recognize the professional duty of the TCSPs in complying with AML law as they need to act professionally despite analysing the cost and benefit. The AML compliance can be enhanced when the non-economic approach is applicable to TCSPs whereby when the cost of non-compliance is higher, it enhance the compliance of AML duties by TCSPs.

4.6.2 Transparency Theory - Customer Due Diligence and Beneficial Ownership information

Transparency theory refers to the disclosure of information. Transparency is important for company secretaries and their clients. In the context of this study, it can be seen that the duty of customer due diligence and know your customer requires clients to disclose the information as requested. The issue arises when the information requested is not being provided by the clients due to confidential and privacy issue. The transparency of information is important to combat money laundering as the information will be used to counter check the real beneficial owners of the company as the criminals tend to conceal behind the beneficial owners to do criminal activities.

The disclosure of information is important for the company secretaries and firms in assessing the clients' risks with regard to money laundering cases. This can be seen in that the secretarial firms and accounting firms did not have an internal policy for gathering information about the clients. The information requested is based on the type of business that they want to operate. No further questions are being asked to clients concerning the beneficial owners of the company. TCSPs only reported the beneficial ownership information based on the available documents from incorporation of company for direct beneficial owners while for complex structure of beneficial owners, they failed to gather the information. There are lack of information disclosure by the clients regarding the company's beneficial owners.

Besides that, in terms of gathering data through CDD and reporting of STR, it can be seen that the company secretaries from all the firms are not implementing full CDD especially for client who is political person and reporting on their client's red flag to BNM as part of protecting their clients. The TCSPs failed to comply on the AML requirement which influenced by the transparency theory and required them to be open and transparent in disclosing the information of their clients. . The disclosure of information from clients is limited for the company secretaries and accounting firms as they are not enhancing their CDD and KYC process as the information are being collected manually and no verification is made on the information collected.

Basically the concept of transparency is conflicted with the professional duty of lawyer and accountant as they have a special privilege and code of ethics which hinder them from being transparent on the client's information to authority. The important consideration is given to lawyers who have a special privilege which required them to keep the information of their clients without disclosing to any other parties due to the information is confidential. This conflict with the transparency theory which required them to disclosed on the client information as part of the compliance under AML law. The TCSPs from legal firms agreed that they are unable to comply with transparency requirements under the law as it against their special privilege as a lawyer and they can be sued for non-compliance of the special privilege requirements under their professions. The transparency theory explains that even the law required the TCSPs to comply on the transparency requirement, their profession determine whether they can apply and comply the requirements or not. This is because it involve a special consideration to be taken when making decision to report and disclosed the information to regulators.

The transparency theory highlighted the importance of information disclosure and reporting mechanism in enhancing the accountability among the TCSPs. This can be seen whereby under AML compliance, the transparency is promoted through requirements such as customer due diligence documentation, STR reporting and the compliance of beneficial reporting. The study identifies the patterns of reporting among the TCSPs in term of CDD, STR and reporting on beneficial ownership may not always accurately reflects the AML practices. This reflects the AML compliance behaviour among TCSPs in term of transparency. This theory helps to address the research objective of identifying the current practices of the TCSPs in AML compliance and their challenges in implementing the transparency requirements which influenced by transparency theory.

4.6.3 Agency Theory - for Regulator and Clients

TCSPs play an important role in the organisation as they are the key agents in the corporate governance framework mediating between the Company (principal), Regulators which include BNM (Principal) and its stakeholders (clients). While fulfilling the roles of the company secretary and as a reporting institution to BNM, several challenges may arise between the principal and the agent in delivering their job responsibility. Among the challenges faced by the TCSPs and as a reporting institution is to balance the dual accountability that they hold towards their principal which includes clients and the regulators. This is because the regulators implemented a law, rules and regulations about money laundering which apply to all including financial and non-financial institutions.

Thus, this requires them to balance the roles that they are doing and at the same time the principal (clients) interest is being taken into consideration in delivering the services. This is to ensure no conflict of interest in providing the services to clients. This dual obligation frequently results in situations in which the expectations of one party clash with the priorities of another. For instance, while the principal may prioritise profit maximisation and reduction of disclosures, regulators require rigorous compliance with transparency and regulatory norms and the reporting institution which is TCSPs prioritises to maintain the client’s relationship, maximise profits and comply with the AML regulations.

Within the context of this research, it can be seen that the reporting institutions which are the secretarial, accounting and legal firms act as agents to their clients and regulators. Therefore, they have a dual role of responsibilities and interests that need to be considered when making compliance-related decisions. The compliance-related decision varies according to the firms, as different professional firms may have different practices of doing compliance as agents to the clients and regulators. The primary operation of business is to maximise profits.

The secretarial firm faced a challenge in performing the compliance of AML duties due to safeguarding the interests of the clients instead of regulators. This can be seen why the secretarial firm tends to focus on clients as they receive a portion of the pay from the services rendered to clients. At the same time, regulators are not given any compensation for the act of compliance. They prioritise the firm's and client's interests over the regulators' interest which can be seen in terms of raising the suspicious transaction report, all of the informants said that they do not raise the STR. The TCSPs informs the clients of the red flags that arise within the Company and asks them to settle them instead of reporting to regulators. This shows that they prioritise the interest of the clients and ignoring the interest of the regulators towards them. This is to ensure the agent's interest also being preserved while serving the clients.

While for an accounting firm, it can be seen that all the informants from the accounting firm never raised the STR due to a lack of knowledge on when to raise STR and they just request the clients to provide information that they request. The role of agents in accounting firms can be seen that they are acting as an intermediate whereby both the interests of the principal of clients and regulators are considered. However, the priority is given to their clients due to the income that they receive from the clients instead of regulators. Most of the informants are afraid of losing their clients if they are too straight in enhancing the compliance of AML towards the clients. The informants argue that they have not received any benefit from the regulator by doing their duty to report on the suspicious transaction report of their clients. They tend to advise their clients when any red flags arise regarding the issue of money laundering. Besides that, the company secretaries in the accounting firm did not want to be involved in prolonged procedures when reporting on the STR.

Other than that, in terms of legal firm, it can be seen that the reporting institutions are doing well in complying and balancing the roles of the agents to their clients and the regulator (Bank Negara Malaysia). All the informants said that they are just following the rules and regulations by instructing clients to provide them with relevant information pertaining to the services given. They would not further process the application without prior checking by their compliance team. Among the responses from the informants from secretarial, accounting and legal firms can be seen below.

Basically the principal agent theory help to explain the regulatory relationship between the principal and agent which emphasized on the problem of information asymmetry and the conflict of interest between both parties. The study identified that some firms comply with regulatory requirements without fully implementing such requirements. This behaviour can be further explained through this theory where regulators depends on the self-reporting mechanism such as compliance declarations and documentation to monitor the compliance. Client are demanding on the quality of services and protection of their data and information from leaked. This theory clarifies that the governance relationship between regulators and TCSPs shows a misaligned incentives and monitoring challenges which affect their AML compliance.

The theory assume regulators are effective principals which not always in the case of the jurisdiction with weak institutions or corruption. It also neglect the interest of the other principal (regulators) when fulfilling the interest of other principal (clients) and the other way around. This may lead to challenges for the TCSPs in complying with the AML law as the TCSPs are no able to differentiate which principal's interest is more important to fulfil and the result of the decision may cause them to incurred cost. This shaped their decision by taking into consideration of the factor that affect themselves as agent and other principals.

The findings of the study reveals that all the TCSPs tend to put their clients first before regulators requirement as they are protecting their company's interest to gain more profits for the company. This is happened when it comes to duty of reporting STR, reporting on beneficial ownership, compliance with CDD measures and the compliance programs. The trend of the compliance among TCSPs is worsened as they are unable to understand the real compliance purpose which can impact them and the country. This dual agency role explains much of the tension in compliance behaviour.

"When I am suspicious of the client about money laundering, I would advise them" Secretarial Firm 2

Some of the clients are making mistakes or involved in money laundering, like one of *the cases of or clients, who did not aware that he was being used to do money laundering. As for this case, we will not report STR as we will advise him on the consequences of the money laundering and the legal action taken against the criminal. Secretarial Firm 5*

If I act in the interests of Bank Negara, I need to lose my business. If I work for my clients and focus on them, then I can't be responsible to the government, right? My client is very small-scale and doesn't involve in money laundering activities. Accounting Firm 4

All of us know that we are a law firm or Cosec firm. Therefore, we are officers of the court. The Cosec is an officer of the company. We have to comply with the SSM regulations. So, we all know that is our priority. So, we do not compromise on the law. Everybody knows why we are doing this and how we do it. So, I think it's all about, you know what you're doing. You know why you're doing it. You know how to do it. Everything is aligned. That's it. Legal Firm 5

I said to balance would be to comply with the bare minimum, whatever that we can do just to comply with reporting if we go above and beyond and are afraid there is another issue. Legal Firm 2

4.7 Conclusion

The compliance level of AML among the TCSPs including company secretarial, accounting, and legal firms is different according to their professions and experience. The secretarial firms, accounting firm and legal firm have their own of way in doing compliance of AML including know your customers (KYC), customer due diligence (CDD), reporting on the suspicious transaction report (STR), record keeping, compliance programs including providing training and development, appointment of compliance officer, and independent audit function within the firms. The main duties under the compliance of AML law are KYC, customer due diligence (CDD), suspicious transaction report (STR) and record keeping, which applies to small and medium companies in Malaysia.

The reporting institutions of these three firms face challenges in complying with AML law within their firm. Among the challenges faced by the reporting institution are in term of gathering the information about the clients, CDD, gathering information on the beneficial ownership of the clients, ensuring the clients record being updated and being kept in the Company in case clients left or change company secretary services, technology challenges in term of updating and investing in the right technology for doing CDD and KY of the clients. The reporting institutions also need to keep updated with the current implementation of the law to really create a compliance culture within the firms.

The challenges faced by the reporting institution which is TCSPs shall be corrected and improved from time to time to ensure a high compliance of AML by the reporting institutions. Education and knowledge sharing within the firm on the importance of AML and the guidelines shall be given to all the employees in the firm as well as the stakeholders of the company including the clients to enhance their knowledge on AML and thus this will help to improve the compliance level. The understanding of AML compliance is really important to create good communication between the principal and agents (regulations, clients and company secretaries) to maintain a good relationship without fear of losing the clients.

From the perspectives of the informants from the research, it can be seen that the secretarial, accounting and legal firms still need time to improve their AML compliance level within their firms. The understanding level of the secretarial firm and accounting firm on the AML law is still lacking as some of the firms are unaware of the current implementation of the law and some of them are unable to adapt the AML law as part of their internal policy in gathering information from the clients. The information received from clients on their background and the beneficial ownership is really important in preventing the money laundering cases in the country.

This is to ensure the information is available on time and can be accessible at any time by the regulators when it comes to money laundering cases. Besides that, all the firms still lack knowledge and awareness on the implementation of the AML law within their firms. None of the firms have developed a red flag list based on the services they provide to their clients. This is because the red flags of their clients can only be assessed by them and what they categorise as red flags are the issues that they need to report to BNM. The company secretaries play an important role as agents to the clients and principal. Therefore, it's the duty of the company's secretaries to deliver the information and explain the importance of complying with AML laws.

While for legal firms, it can be seen that the firms are really having a good understanding of the implementation of the AML law and the guidelines and most of the firms are adapting the guidelines on AML as part of their internal guidelines in preventing money laundering within their firms. However, one of the informants stated that due to dual roles as legal advisor and company secretaries, sometimes they cannot fulfil all the requirements under the law when it comes to gathering the clients' information. Some information is not being provided to the clients due to the dual roles that they are carrying. In conclusion, all the firms are aware of the compliance with AML by the reporting institutions. The way of compliance with AML is different due to the differences in the profession in which they are carried out. The dual functions of the legal firm serving as company secretary and legal counsel must be more transparent, ensuring that all material requiring disclosure is made public, while information not subject to disclosure remains confidential.

The data triangulation with Bank Negara Malaysia (BNM) and Companies Commission of Malaysia (SSM) shows that the implementation of AML laws and policy among the company secretaries is still low and needs to be improved from time to time. Among the requirements that require improvement are in terms of customer due diligence, whereby the company secretaries are required to do risk assessment and enhance owing diligence against their clients. This part seems to show no improvement among the company secretaries. The requirement to report on suspicious transactions (STR) are still low among them due to not understanding what actions that can be considered as red flags against their clients. These requirements are inter-related whereby to raise a red flag against the clients, the company secretary needs to ensure the customer due diligence, risk assessment and enhance due diligence have been done against their clients. This is to help raise a red flag against their clients in case their clients are involved in money laundering activities.

Besides that, in terms of the training and development of the staff, it can be seen that the engagement level of company secretaries in AML training and other related training is still low. This is why they lack understanding in the implementation of AML law within their firms. As for the record keeping requirements, it seems that all the company secretaries kept a record of changes to clients or resigned clients due to a limited space at their firm. The other issue is in terms of submitting the data and compliance report (DCR) and reporting beneficial ownership of the company. As for the submission of DCR, it can be seen that there is a need for room of improvement as the implementation level of AML requirements within the firms is considered weak. Next, the requirement that company secretaries record beneficial ownership reveals a flaw since they could not determine the actual beneficial owners of the business because the clients did not supply the necessary information. Therefore, it is crucial for a company secretary to develop an internal AML policy in dealing with clients to enhance the compliance with AML among them.

The compliance with AML is really important to be implemented by all the firms in order to ensure they are in line with the nation’s aims in fighting money laundering issues in the country. The fight against money laundering requires efforts from all the reporting institutions under the law as they are the primary source of the criminals when it comes to the activities of money laundering. The reporting institution needs to act as a gatekeeper in preventing the criminal from freely laundering the money. The requirements of AML law for all reporting institution are really important and should be given attention to improve compliance to combat money laundering. The higher the compliance level among the reporting institutions, the criminal will be afraid to do money laundering activities by using the companies. Therefore, this will enhance the country's aim to combat money laundering.

CHAPTER 5
DISCUSSION, CONCLUSION AND RECOMMENDATIONS

5.1 Introduction

The evidence reported in the previous chapter has explained the extent of the Anti-Money Laundering (AML) compliance under the Anti-Money Laundering and Anti-Terrorism Financing, Proceeds of Unlawful Activities Act 2001 by the TCSPs which are Company Secretaries in the secretarial firm, accounting firm and legal firms. The regulators have imposed the statutory duties of AML for all the reporting institution on them due to the vulnerabilities of their services and duties that they carry. The findings presented in Chapter 4 have clearly shown that there is a low level of compliance among the TCSPs from secretarial, accounting and legal firms with regard to the statutory duties imposed against them under the AML law. The diagram below shows the overall study of this research. The low level of compliance among the company secretaries from these firms is mainly due to the reluctance of the company secretaries to be the gatekeepers and too many stringent regulations that they need to impose against their clients regarding AML law.

This chapter will further discuss on the empirical evidence found in the three case studies reported in the previous chapter. Furthermore, this chapter aims to discuss the central argument of this research which is linked to the research questions, research objectives and the findings of the case study, and previous work conducted in this field. The analysis in this chapter is guided by the study's central arguments, which are twofold. Firstly, the reluctance by the TCSPs, who are company secretaries from secretarial, accounting firm and legal firm to comply with the AML law is mainly due to their lack of knowledge, awareness and understanding towards the AML duties and the importance of complying with this law. Secondly, there are the challenges faced by them in complying with the AML law and the presence of business rationality based on the cost-benefit analysis in implementing the AML program within the secretarial firms.

The discussion will commence with the principal findings of the case study concerning the research questions formulated in Chapter One. In conjunction with the actual implementation of the statutory obligations by the secretarial, accounting, and legal firms, this chapter will also address the evidence discovered in the case study. In the subsequent section of this chapter, several recommendations will be proposed and discussed. These new recommendations will suggest a few initiatives that policy makers, the Financial Intelligence Unit and Enforcement Department (FIED) of the Central Bank of Malaysia, the Companies Commission of Malaysia (SSM), and Company Secretaries can implement to fulfil their legal obligations. The proposed initiatives will assist regulators, including gatekeepers and reporting institutions, in improving their knowledge and comprehension of AML compliance and their responsibilities. As a result, it will raise the degree of compliance among Malaysia's TCSPs.

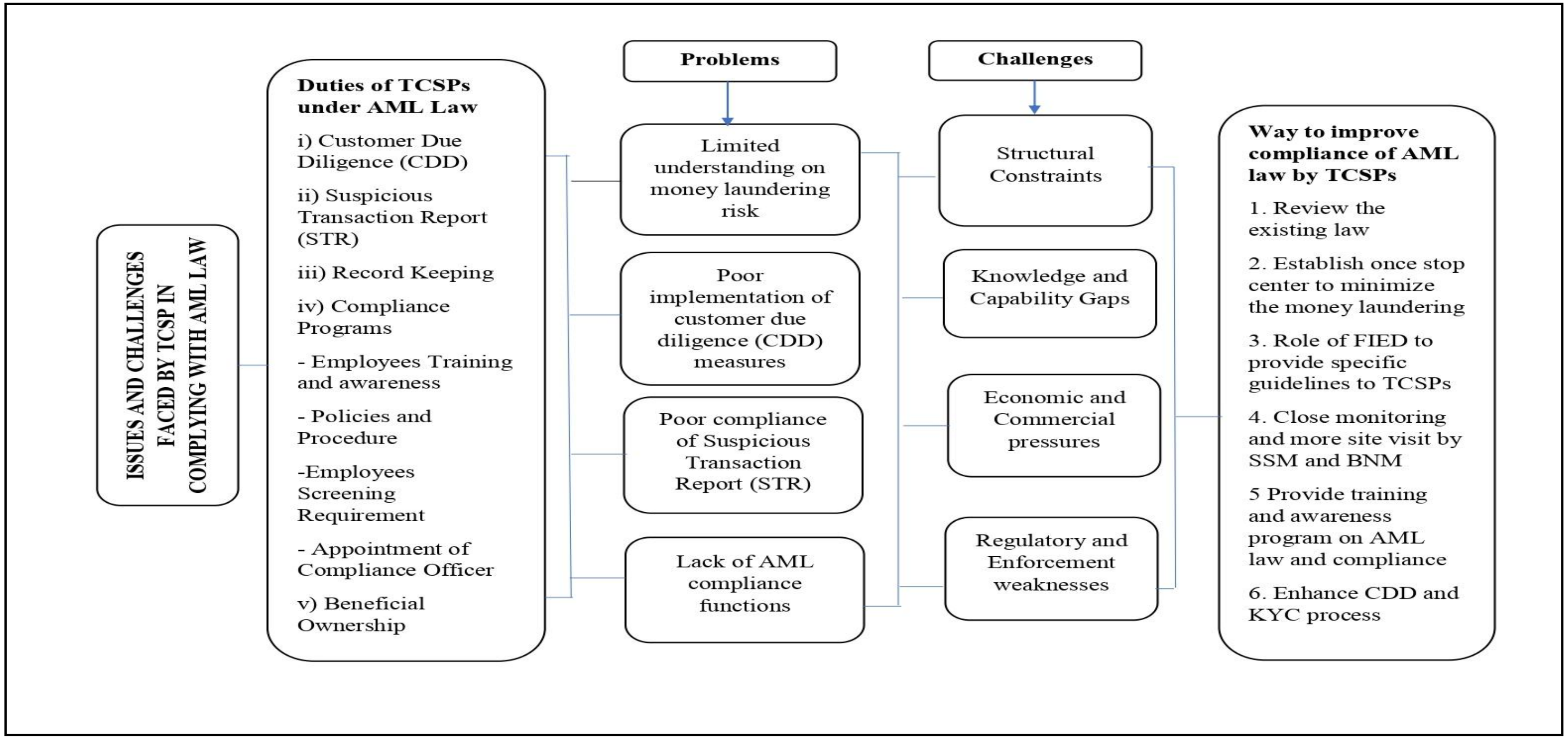

Figure 5.1 Duties and Challenges Faced by Trust Company and Service Providers (TCSPs) in Complying with Anti-Money Laundering (AML) Law

5.2 Key Findings of the Research

From the findings of this study, it can be seen that secretarial firms, accounting firms and legal firms have different perspective and practices of AML compliance in their firms eventhough they act as a company secretary. This is because due to different professions hold by them as individual. The study analyse the AML compliance among the company secretaries from all the firms. Basically, the theoretical framework used in the study such as rational choice theory, transparency theory and principal agency theory helps the study to understand the current compliance behaviour among the TCSPs in each of the AML requirements under the law.

The rational choice theory explains why TCSPs choose to comply and not to comply with specific requirement under the law such as customer due diligence, reporting on suspicious transaction and reporting on beneficial ownership as they analyse the cost and benefit that they get in complying with AML law. This can be seen whereby informants stated that sometimes they feel reluctant to disclosed and report STR to BNM as they want to protect the interest of the clients as well as their interest. This can be seen whereby the actual compliance of STR is zero and it is confirmed by the BNM and SSM on site examinations where they identified that TCSPs failed to submit the STR when they have raised a red flag against their clients. The missing values of the TCSPs is the sense of responsibility to report on the criminal activities of their clients. The knowledge, experienced, and exposure to the regulatory requirements plays an important roles in shaping the TCSPs compliance behaviour in the firms.

In term of transparency theory, it can be seen that the requirement such CDD, reporting on beneficial ownership and raising the red flags of the clients are important in order to determine the risk of the clients. All the firms are reluctant to disclose the information of their clients to authority and no transparent in the information shared to authority. This can be seen whereby transparency of the information can only be achieved if the TCSPs cooperate to share it as they are the one who deals directly with clients and they have all the information of the clients. This theory is used to identify the transparency of the information shared by TCSPs in complying with AML law.

Other than that, in term of principal agency theory, it is used in the study to determine the compliance behaviour between the TCSPs to regulators and TCSPs to clients. This theory examines a conflict of interest and information asymmetry between the regulators, TCSPs and clients. In the context of the AML regulatory framework, it can be seen that regulator act as principal and TCSPs act as agents who is responsible in implementing AML requirements such as CDD, record keeping, STR, compliance programs and reporting on beneficial ownership. The TCSPs typically have a greater knowledge of the clients and the internal operations including the risk assessment practices, beneficial ownership information, internal compliance controls and procedures that need to be implemented. While the regulator usually rely on the periodic reporting, documentation and inspections to assess the compliance of the reporting institutions. The conflict of interest occurs when the TCSPs tend to comply AML requirements in the paper or documentation while actually ignore the actual implementation.

While complying with AML law, TCSPs also need act as agent to their clients which requires them to implement and act in good faith in delivering the professional services to their clients. Due to dual roles implemented by the TCSPs such as accounting firms and legal firms, this create a conflict of interest for them to raise a report against their clients. This is because the nature of their duty as accountant and legal practitioner required them to keep any information which are confidential whereby they are unable to disclose it to public. The principal agency theory determined the challenges that they faced in implementing the AML compliance among TCSPs. The theories used in the study helps the researcher to clearly identify the AML compliance behaviour among TCSPs and their challenges in complying with the law.

The theories able to answer the research questions that underpin in the study in term of the implementation and current practices of TCSPs in compliance with AML law and policy in Malaysia including the CDD measures, record keeping measures, reporting on suspicious transaction and the implementation of the compliance programs within the firms. The implementation of the AML compliance highlighted the AML compliance behaviour among three different case studies in the firms. The theories used in the study able to explain the compliance, reason for non-compliance and the challenges faced TCSPs in implementing the duties. The TCSPs analyse the compliance of AML by determined the cost and benefit that they get when implementing such duties

5.2.1 Overall Implementation of AML Duties by TCSPs for All the Firms

In answering the first question, the study found that the TCSPs in Malaysia were appointed as reporting institutions effectively from September 2004. The AML duties imposed against the reporting institution which TCSPs are to combat money laundering activities. The overall implementation of the AML duties by the all the firms can be seen in term of customer due diligence (CDD), record keeping measures, the reporting of suspicious transactions (STR) and finally the implementation of the compliance programs which includes the internal control, appointment of compliance officer, independent audit functions, and the training and development and finally the compliance on the beneficial ownership requirements.

5.2.1.1 Secretarial Firm

The research focusses on the company secretaries, whereby the scope of the responsibilities is being categorised under TCSPs. The secretarial firm's compliance with AML laws and policy can be categorised as low level of AML compliance due to the several duties under the law which are not being imposed by them due to lack of knowledge, understanding and awareness of the current updates of the AML laws and policy by the regulators. Firstly, in terms of customer due diligence (CDD), it can be seen that the informants from the secretarial firm are doing simple CDD for their clients before the business relationship is entered into. The basic information gathered by the informants from this firm is name, address, email address, phone number, identification copy, nature of business, and the suggested name for the incorporation purpose.

However the data completion on the nine required data points such as occupation type and nature of employment are incomplete and they have other deficiencies in collection the beneficial information as well (FATF, 2025). This can be seen whereby no further checking and analysis of the client’s risk and the background of the clients, including their occupation, experience in doing business, the real beneficial owners of the company and the source of income of the clients being accessed. The information gathered is limited which makes them unable to assess the client’s risk.

The CDD requirement is related with the rational theory used in the study as it can be seen whereby the rational theory suggest that human decision is determined by the cost and benefit that an individual get. In the context of AML compliance among TCSPs, it can be seen that TCSPs try to comply with AML requirement on customer due diligence as what their firms able to perform as they have a limited resources in order to enhance the quality of the information gathered. There are no information publicly available to check on the individuals' details except authority being given to certain institutions such as Bank, Police and other institution. TCSPs only relies on the manually collected information especially related to the formation of the company. From the findings, it can be seen that most of the firms are not questioning their clients source of income and their background before enter into business relationship. This is lacking part of the TCSPs compliance behaviour.

Under the rational theory, the compliance behaviour of TCSPs is influenced by the analysis of the cost and benefit of doing such requirements where the firm access the potential benefits and risks associated with the regulatory compliance. As for the formation of the company, as long as TCSPs received the payment from clients and the information related to formation of company is completed, they tend to proceed with the clients and formed the company without further checking. This is the main reason for the decision made by them in gathering the information of the clients. The information being checked by TCSPs is in term of bankruptcy status, which required by Companies Act to ensure the directors appointed are no bankrupt.

For example, one of the informants from the secretarial firm which used software in doing KYC and CDD which is the use of CTOS to gather the information of the clients before the business relationship is entered into. This CTOS help them to identify detailed information of the clients and thus it helps them indirectly in complying with AML requirements and gathered information such as the criminal record of the clients, the financial status of the clients and other information which are useful to assess the risk of the clients. The other secretarial firms are doing it manually in gathering information about their clients. Some of the information is unknown until further issues are raised by clients during the business relationship. This is supported by the report from Bank Negara Malaysia (BNM) in the SSM National Conference 2024 which stated that there is inadequate verification of the CDD made by the company secretaries. In order to ensure effective way of doing CDD, TCSPs is required to develop and implement a software in each of the firms in order to enhance the CDD and KYC process. This is to ensure they have details information of their clients and assess the risk of the clients accordingly and this is part of the preventive measures taken by them in combating money laundering. The rationale behind this compliance is to ensure the TCSPs are not being misused by criminals and to enhance the compliance of TCSPs in AML law.

Other than that, in term of reporting on suspicious transaction, it can be seen that none of the informants from the secretarial firm have filed the STR against their clients even when the red flag is present. Among the possible red flag stated by informants are in term of raising the capital for the company. This is the main red flag that occurs among all the firms whereby they know something is not right on the source of the income, however they choose not to report due to lack of knowledge on STR and they don't want to involves in enquires process by authority. This requirement is related to the transparency theory and principal agency theory whereby the TCSPs is required to be transparent in disclosing the information that they have on their clients. The transparency theory helps TCSPs to achieve high compliance level of AML requirements when they are willing to share and report on the wrongdoing of their clients.

While the principal agency theory explain the duty that the agent (TCSPs) have between the regulators (Principal) and client (Principal). While delivering of their services, the TCSPs tend to put their interest above other principal (regulators) in dealing with client which sometimes hinder them to comply with AML law. This can be seen in term of reporting the red flag by submitting the STR report to SSM. The findings of the study identify that all the firms choose not to submit the STR against their clients as they want to maintain a good relationship with their clients and to protect their interest which is to generate income for the company instead of reporting it. The TCSPs tend to advice their clients accordingly in order to avoid being involved in laundering activities and to ensure their clients comply with the requirements under the law. The agency theory explained the reluctance of the other party to comply due to some reason. However, as a professional firms, the duty to disclose the information of the client is important in order to minimize the risk of money laundering.

Furthermore, in terms of record keeping, all the informants show a good compliance with maintaining the record of their client's information for more than seven years. This includes the information pertaining to clients, resolutions, minute's book and the secretarial files. However, the record keeping for the clients who change the company secretary and leave the company is not being maintained by the existing company secretarial firms. The findings shows that the TCSPs are unable to keep record on the change client due to not enough space and they have no responsibility towards the resigned clients. Similarly, it is reported that record keeping procedures are not really being observed by the company secretary in terms of changes to clients and resigned clients (SSM & BNM, 2024). The requirements to keep a record is up to 6 years and all secretarial firms are aware on this requirement.

In addition, in term of compliance programs such as independent audit function, training and awareness, internal control and appointment of a compliance officer are being accessed in the study. The independent audit function and internal control requirement is exempted for small reporting institution. However, the TCSPs need to adopt the BNM policy guidelines as part of their internal policy and procedures to deal with clients. There is limited internal procedure being developed by TCSPs in dealing with AML compliance requirements in the firms. This can be seen from the finding of the study, all the secretarial firms are not aware on the BNM guidelines and policy imposed to help TCSPs to do risk assessment and adopt it as part of their internal controls and policy in dealing with clients. Basically, the company secretaries from secretarial firms are doing risk assessment based on the routine work that they imposed against the clients. No risk assessment and customer risk profiling being done. The requirement for appointment of a compliance officer by TCSPs are being complies by all the secretarial firms as this is one of the requirement before the submission of DCR.

While for training and development requirements, it can be seen that all the informants still lack of training and understanding on the information and knowledge on the AML laws and policy. This is because all the training is being given to the compliance officer, who is the company secretary, and the information is not being passed or shared with the other colleagues within the firm. This requirement required TCSPs to spend extra money to send their staff for training and this is limited for the firms as the cost of the training is higher from time to time. The rational theory is used to determine this compliance behaviour among TCSPs as the cost of the training will be the issue for the TCSPs despite the knowledge that they could gain from the training. Therefore, any information and free training imposed by BNM, SSM and other body shall be well used by the TCSPs in order to enhance their knowledge and experienced in complying with AML requirements. The TCSPs need to create a culture of knowledge sharing and a culture of compliance to enhance compliance with AML within their firms.

Next, in terms of the duties of reporting and submitting the data and compliance report to BNM, it can be seen that 3 out of five informants are only aware of and submit the data and compliance report to BNM. The other two informants are not aware on the requirement for the submission of the DCR. This shows that the secretarial firms lack up-to-date, awareness and knowledge on their duties as reporting institutions. Due to burden of their daily job, it prevent them to focus on the AML compliance requirements. As for reporting on the beneficial ownership, some firms did not send notice to their clients to identify the beneficial owners of the company as they only reported based on information available in SSM documents on the particulars of the shareholder. This duty is related to the transparency theory in the study which required the TCSPs to be transparent in information sharing to enhance an effective compliance process.

Although SSM has given the guidelines on the beneficial ownership, the requirement under the law still not met by the company secretaries in performing their duties. Therefore, the overall implementation of AML compliance within the secretarial firms can be rated as low due to their lack of knowledge, understanding and awareness of the AML laws, policy and guidelines. The rational theory, transparency theory and principal agency theory helps to explain the compliance behaviour among the TCSPs .The firm needs to keep updated with the current changes in the law to enhance compliance among them. The firm also need to ensure all the guidelines, policies and procedures being given by BNM and SSM are being implemented at their firms and the awareness shall being given to their employees as well to enhance their knowledge on the AML duties and to encourage them to be more responsible in performing the duties under the law.

5.2.1.2 Accounting Firm

Next, as for the accounting firm, it can be seen that the implementation of AML compliance is still low among the TCSPs, which is the company secretaries due to no internal policies and procedures being implemented accordingly. The secretarial and accounting firms are the same as the informants from these firms still inadequate of knowledge and awareness of the correct implementation of AML laws and policy within their firms. Although the accounting firm has a different role compared to a secretarial firm, the roles of secretary within the firm are being analysed and studied in this research.

In terms of CDD and KYC, the firms are still lacking in gathering the detailed information about their clients. The basic information as mentioned in the secretarial firm is being gathered and the company's incorporation process can be easily done in this firm. Some of the information about the clients such as background of the clients, experienced in doing business and the source of income are left unknown by the informants. The simple questions asked for the business purpose which enables the clients to incorporate a company easily. As for the foreign directors, the face-to-face verification is sometimes done by the informants. The ways of their communication to gather and verify information are through WhatsApp messages and email.

There is no further checking on the foreign client’s background. As long as the foreigner wants to start a business in Malaysia, the informants from this firm will have basic knowledge and ensure that the foreigner has a residential address in Malaysia before they can proceed with the company's incorporation. The informants from this firm are looking for profit instead of compliance with AML. When there is thorough checking on the clients, they fear losing clients. No further guidelines and policy are being follow by the accounting firm as part of their policy. Even though BNM already provided the policy documents as a guideline for the firm to perform customer due diligence, four out of five informants were not aware of the policy documents by BNM. Only one respondent uses the BNM policy documents as a guideline in gathering the client's information as part of their CDD and KYC process.

Apart from that, regarding STR requirement, the informants from this firm have a similar perspective as a secretarial firm due to no STR report being raised to BNM, although there are red flags raised among their clients. The reason for no submission of

STR is due to a lack of knowledge on what to report, when to report and to whom to report. The red flag raised against the clients will be informed by the informants towards the clients and asked to verify the information without further reporting the STR to BNM. The informants tend to advise their clients on the issues that arise so that their clients can settle the issues internally without having to involve the authority to investigate. The failure to report on the suspicious transaction report is because the informants did not fully assess their client risk during the CDD process. Therefore, it is difficult for them to categorise the clients based on the risk and unable to identify their clients' red flags.

Furthermore, in terms of record keeping requirements under the law, it can be seen that the accounting firm does have proper record keeping procedures for the statutory files and the accounting records which they keep for more than 7 years. Unfortunately, the record keeping for the clients who change the secretary and change the accountant is not being kept by them. All the files and records will be returned to the clients when they change the secretary or accountant for their company. This requirement is still low in compliance by the informants from these firms.

In addition, in terms of compliance programs, it can be seen that the requirements for appointment of a compliance officer and training and development are being complied with by the informants from the firm at a minimum level. The appointment of a compliance officer is being made among the company secretaries. The training and development of the staff within the firm is inadequate due to a lack of training and knowledge given to their staff in terms of AML compliance. Besides that, the informants from the accounting firm are not aware of the updated AML laws and policy as well as the guidelines for AML compliance by TCSPs. The compliance with AML can be seen as low when no Data and Compliance Report (DCR) submitted to BNM for the years 2021 and 2022.

The responses from the informants are that they are not aware of such implementation and the requirement for their side to submit the DCR. There is a lack of awareness of AML compliance among the companies’ secretaries from the accounting firm. The main focus of the firm is to generate income from the book-keeping services that they provide, while at the same time they are offering the secretarial services to their clients to generate revenue for their firms as well as to give a one-stop Centre for the clients to do business. Thus, it will be easier for the clients to let one group of companies handle the secretarial, accounting, tax, and audit services in one firm. Overall implementation of AML compliance among the TCSPs from these firms is still low and needs to be improved to combat money laundering activities by using companies.

5.2.1.3. Legal Firm

The legal firm is involved in legal advisory services to the clients. Besides that, the legal professional can also act as a company secretary under the law. Some legal professional firms provide secretarial services to their clients as part of their service. The legal firm's compliance with AML laws and policy can be seen as different compared with secretarial and accounting firms. The informants which who are TCSPs from the legal firms are really committed and comply with the AML laws and policy. This can be seen in that they are really alert to the current update of the AML laws and policy and will quickly implement the requirement under their firm. In terms of customer due diligence, all the informants from the firms are really committed and responsible in gathering the information, doing KYC and CDD of their clients. Most of their clients are from the legal profession who engage with the legal services. There is no technology used for the purpose of gathering information about the clients. All the informants are relying on manual checking and verification from the clients themselves. All the informants from the legal firm have their own compliance department which enables the secretarial department to further discuss, gather information and verify the information of their clients through this department.

The compliance department is responsible for ensuring the client's data and information are being kept safely without worry. In order to enter a business relationship, there is a verification of documents and details information of the clients by the compliance department. Upon satisfied with all the supporting details, the legal professional cum company secretaries will proceed for the incorporation of the Company. As for foreign clients, there is a checking and verification of the clients' information before the business relationship is created. However, one of the legal firms agreed that there is a lack in terms of CDD and KYC compliance of the clients, whereby they are unable to gather the information due to the many clients they need to handle at one time. They are unable to have full information about the clients, including the client's occupation, to verify the residential address of the clients, and other information pertaining to the incorporation of the Company.

Next, regarding suspicious transaction report (STR), it can be seen that no informants from the legal firm have raised the STR report to BNM on the issues that arise. Although there are red flags being raised against their clients, the informants from the legal firm tend to settle the issue internally without making report to BNM on the issue raised. In this STR compliance, it can be seen that legal firms do not comply. The informants from the legal firm said that they have no issues with their clients, as all the clients are being chosen wisely to become their clients. A thorough check of the information and verification is being done for each of the secretarial clients. Furthermore, in terms of record keeping, the requirement under the law to keep the records for more than 6 years is being complied with the informants from all legal firms. The only requirement which the informants are not fulfilling are those clients who change the secretarial services, whereby they are not keeping the record of the information pertaining to clients once the clients already change the company secretary. In this part, there is a lack among the secretaries from the legal firms.

Lastly, in terms of compliance programs, it can be seen that all the informants are really aware of the requirements under the compliance programs whereby they comply with those requirements such as the appointment of a compliance officer, providing the training and development to the staff, internal control procedures and the independent audit functions. All the firms appointed their legal professional as their compliance officer and submit the report to BNM on such appointment. All the firms also have their own compliance department which is responsible for auditing the internal control policies and procedures as well as to do independent audit function on the compliance of AML laws and policy being complied by the other departments. Any queries pertaining to compliance issues are being raised against the compliance department to ensure the things are right and being done properly by following the procedures. Overall implementation and compliance level of TCSPs from the legal firm can be seen as compliant, as the informants have a better understanding of the legal and policies since they are from legal professional backgrounds.

Therefore, it can be concluded that although there are three case studies in the research, the compliance level of TCSPs from the secretarial firms and accounting firm is still low due to a lack of awareness, knowledge and understanding among the reporting institution. Despite the legal firm having good compliance with AML laws and policy, there are some requirements under the AML law that are not being considered due to high number of clients at one time. Some part of the AML requirements is being implemented within the firms and some are not. This is due to the fact of the TCSPs are choosing the requirements that really suit them and at the same time, they are not willing to lose their clients in the process of complying with AML laws and policy. The overall compliance level of AML laws and policy among TCSPs under all the firms is still low and needs improvement for better compliance. This is to ensure that when there is high compliance with AML laws and policy among the TCSPs, it will help them to combat money laundering activities that could happen among their clients by using their professional services. The summary of the compliance with the duties under AML laws can be seen below.

Table 5.1
Summary of the Duties of TCSPs under the AML Law

Duties of Company Secretaries Under AML Law	**Secretarial Firm**		**Accounting Firm**		**Legal Firm**	
	Comply	**Not Comply**	**Comply**	**Not Comply**	**Comply**	**Not Comply**
1. Customer Due Diligence:	/		/		/	
i) Risk Assessment		/		/		/
ii) Know Your Customer	/		/		/	
iii) Enhance Customer Due Diligence (EDD)		/		/		/
2. Record Keeping	/		/		/	
i) Existing client	/		/		/	
ii) Resigned client and Change Client		/		/		/
3. Suspicious		/		/		/

Transaction Report						
i) Internal list of red flags		/		/		/
ii) Raise a red flag		/		/		/
iii) Reporting of STR to BNM		/		/		/
4. Compliance Program:	/		/		/	
i) Training and Development to staff	/		/		/	
ii) Policies, Procedures and Internal Control		/		/		/
iii) Employees Screening Requirement		/		/		/
5. Submission of Data and Compliance Report (DCR)	**3**	**2**	**2**	**3**	**4**	**1**
6. Reporting of Beneficial Ownership	/		/		/	

Table 5.1 above summarises the compliance among the company secretaries in all the firms. It shows the overall compliance among them. Although some of the duties show the compliance, the actual compliance is being determined through the interview session with them which they disclosed as part of their practices towards the compliance of AML in their firms. The compliance behaviour among all the firms can be seen in term of the theories used in the study which are rational theory, transparency theory and principal agency theory. Each of the AML duties implemented by TCSPs are influenced and can be explained by using the theoretical perspective of the study.

Firstly, the requirements on customer due diligence, reporting on suspicious transaction and reporting on beneficial ownership can be explained by using the rational choice theory, principal agency theory and transparency theory. This can be seen whereby the AML requirements functions as regulatory mechanism designed to influence the decision-making behaviour of reporting institution. The requirements of CDD requires the TCSPs to identify the clients and assess the risk associated with business relationships and the information gathered through CDD is useful for the STR and beneficial ownership reporting. TCSPs decision in complying with AML regulations is influence by the cost and benefit analysis which they analyse the cost that they need to bear in order to enhance the CDD process and the benefit that they get.

The rational choice theory explains that human decision is make based on the analysis of the cost and benefits. This can be seen whereby all the firms are not using any software to do CDD, gather information and verified information that they received from clients. The process of gathering information being done manually and only one firm implement CDD by using CTOS system. The informant informed that the CTOS software able to fulfil the regulatory requirements in gathering the data and information of the clients as all the individual data is available through the software.

Similarly, the information gathered through the process of CDD helps TCSPs to raise a red flags against their client which will later help them in reporting the STR and beneficial ownership of the clients. It is a duty of the TCSPs to disclose the information pertaining to their clients to authority when needed. However the transparency of the information is limited when the TCSPs hold a dual roles as legal practitioner and accountant as they have special privilege not to disclose the information. The transparency theory used in the study is able to enhance the duty of the TCSPs in AML reporting and it is limited when the TCSPs perform dual roles functions. It is argued by the legal practitioner that the AML requirements on transparency of beneficial ownership and raising the STR sometimes against the special privilege that they have in dealing with clients.

While in term of reporting the STR to BNM, it is found that all the firms in the study had never raised any STR against their clients. This behaviour can be explained through the use of theoretical framework on principal agency theory. This can be seen whereby the TCSPs act as agent to clients and agent to principal. The agent is required to comply all the AML requirements under the law and have to act in the best interest of the clients. This dual roles may create conflict of interest between TCSPs, regulators and clients. This is because for the sake of their business reputation, TCSPs would not report on STR against their clients as they choose to settle and advice their clients internally. The findings of the study shows that all informants are not willing to raise STR reports against their clients after the red flag is found. The TCSPs tend to resigned from the company when they found suspicious activity of their clients. This behaviour actually create an information asymmetry between the TCSPs and regulators whereby the TCSPs holds more knowledge and information of the respective clients compared to regulators. This information is valuable for the regulators to take action against the respective criminals.

Next, in term of the training and awareness program, it can be seen that the TCSPs has lack of implementation on the training and awareness. The rationale behind the lack of implementation is due to limited resources that they have in the firms. The TCSPs need to analyse the cost of the training before implement it as they are from smaller firms. Basically larger firms have more resources compared to smaller firms. The overall AML compliance behaviour among TCSPs can be analyse through the decision and actual compliance of the TCSPs. Their decision is influence by numerous factor such as size of firms, experienced level of the TCSPs and the exposure they have in AML regulations.

The triangulation of data discussed in Chapter 4 of this study concluded that all the company secretaries, regardless of the firm are not complying with the AML law as they have a low understanding and awareness of the requirements imposed against them. They are still not clear on the duties of a compliance officer with regard to AML laws and policy. The BNM and SSM reported that there are gaps in the customer due diligence process, record keeping, suspicious transaction report (STR), training and development of the staff, submitting the DCR report and gaps in identifying the beneficial ownership of the company. These gaps can only be improved through the engagement of the company secretaries in complying with the law and reporting to BNM on matters related to money laundering.

5.2.2 Challenges Faced by TCSPs in Compliance Obligations as Reporting Institutions

Basically, from the findings it can be seen that there are specific challenges that the TCSPs faced in complying with and implementing the AML laws and policy as part of their internal policy within the firm or reporting institutions. Among the challenges that the TCSPs faced are in term of knowledge and reporting gaps, technological limitations, financial and resources constraints and training and human resource constraints.

5.2.2.1 Knowledge and Reporting Gaps

The knowledge and awareness of TCSPs in AML compliance is important as they need to update the current AML implementation according to the requirements under the law. The TCSPs faced challenges in knowledge and reporting gaps whereby from the findings it can be seen that all the firms failed to report on the STR to BNM after they have raised a red flags against their clients. From the actual practise of the firms, it can be seen that they have not implemented any internal policy and procedures to deal with AML requirements. The STR report begin with the CDD process whereby this is lacking among all the firms as they cannot verify the information gathered from client due to limited knowledge and awareness in doing CDD. A good CDD will enable the TCSPs to raise red flags against their clients and report on STR when applicable.

Besides that, the TCSPs also failed to identify the risk associated with their clients due to poor CDD. BNM and SSM have encourage TCSPs to have their own risk assessment strategy in the firms as they know better their services and clients and therefore they are able to list the potential activity of their client which may need them to raise a red flag. This includes the increase of share capital, the sales of the company, the frequent changes of the directors and shareholders and other related activities of the Company. The lack of knowledge on the subject matter will lead the TCSPs to be unable to detect the red flags of their clients.

From the findings of the study, it can be seen that, the TCSPs understand and know the consequences of not reporting the STR when they have raise a red flag, however there is a reporting gaps in the firms as not everyone understand the AML requirements especially the junior staff. It is reported by BNM and SSM (2024) which show all the firms have lack of implementation of the AML requirements under the law which show their level of knowledge and practices in actual circumstances. The knowledge and awareness of the AML requirements should be implemented and communicated to all the staff in the firms in order to create a compliance culture in the firms which may help the firms to comply with AML requirement effectively and efficiently.

Other than that, it can be seen in term of reporting gaps in the beneficial ownership. The duty to identify and report on the beneficial ownership is challenging for all TCSPs as most of the client tend to tick the box instead of reporting the beneficial owner's information. The identification of beneficial owners of the company can be more challenging as it involves a complex ownership structure of the company which requires more inspection that needs to be done to ensure the information given by clients are accurate. The identification of the real beneficial owners of the company can be done before the acceptance of the clients into the business relationship, whereby the CDD and KYC is really important in identifying the details of the clients and their risk. By having a good knowledge in implementing the requirements, it can helps the company to enhance compliance duty.

5.2.2.2 Technological limitations

The use of technology plays a vital role in shaping compliance behaviour among TCSPs. This can be seen whereby all the firms are not using a technology advancement in complying with AML requirements due to lack of resources as they are from small size firms. From the finding of the study, it can be seen that all the firms are still conducted KYC and CDD manually by asking questions directly to the clients. This exposed the firms to received misleading information without effective verification mechanism. Inconsistent implementation of CDD measures creates a gap in customer risk assessment among reporting institutions (Yusof et al, 2025). The manual process of collecting data from clients may lead to false information collected which do not present the clients accurately. The process of CDD and KYC of the clients either from local or foreign requires more time for the identification and verification of the information received from clients. Thus, there is a risk that clients will change to another company's secretarial services due to the delay in verifying the clients' information.

The adoption of technological tools such as CTOS or AI driven compliance software may help to speeding the verification process, reduce delays and enhance accuracy. However, this cause TCSPs to face a financial burden when implementing this systems as they are smaller firms. Larger firms have no problems in implementing the software or AI in enhancing their AML compliance. The result in the compliance culture is reactive rather than proactive where firms meets the minimum requirements in order to avoid penalties rather than embedded the AML principals into their operations. The use of technology can facilitate the TCSPs in identifying the information in a timely manner, processing, analysis and help the TCSPs to identify and manage the money laundering risk more effectively (FATF, 2021). Moreover, the technological limitation also interact with other challenges as without digital tools, the process of identifying the beneficial owners become complex especially cased involving foreign client or layered ownership structures. TCSPs only relies on the information declaration by clients rather than doing further verification and the reporting on this requirements can be classifies as surface level of compliance. The technological disparity shapes the compliance behaviour across the sectors as it remain the best tools to use to enhance the accuracy of the data.

5.2.2.3 Financial and Resources Constraints

Financial challenges is one of the limitation that occurs in smaller firms compared and resources to larger firms. This is the main constraints that they faced where it shape the AML compliance behaviour of the TCSPs. This can be seen whereby the cost of compliance is sometimes burdensome for TCSPs as they need comply with AML regulation and required to invest in technology, monitoring reporting systems and the training and development programs for all the staff in order to enhance their knowledge and compliance. From the finding of the study, it is reported that sometimes the TCSPs willing to invest in the technology to perform CDD, KYC, and reporting on beneficial ownership, however, their clients are not willing to pay for the services rendered due to high charge imposed by TCSPs to them. This discourage TCSPs to invest more on technology to cope with AML requirements. They tend to comply based on what they have practiced in their firms.

The resources constraints is refer to the challenges that TCSPs faced in interacting with human capital. Training staff in AML specific procedures is costly and require firms to spend money for the training. As for smaller firms, it is limited due to limited financial resources that they possess. However, some of the firms are sending the company secretary only to attend training as to enhance the knowledge and compliance behaviour among them. All the staff in the firms are not attending any training as they are doing work based on the instruction of the company secretary. The issue of the training can be seen in term of the contents of the training whereby the training and seminars attended by the TCSPs mostly are the topics which relates to their professions such as corporate governance, tax and audit. This behaviour may limits the compliance behaviour among the TCSPs as no priority being given for the AML training.

The other issue concern is in term of training provided to staff whereby the high turnover of the staff may lead the firms to incur more cost for training and development of the staffs. From the findings, the secretarial and accounting firms have a medium and high turnover rate of employees compared to the legal firms. This can be seen whereby the TCSPs need to incur costs to provide training to the staff who engage with the firm. It is time-consuming as once the training has been given to the existing employees, they tend to leave the company for certain reasons. The management of the firm needs to bear the cost for providing the training to their staff as they are unable to keep sending their staff for training due to the fear of losing money for the training.

The TCSPs tend to give internal training and having a discussion on their own for the implementation of AML which sometimes hinders the staff from having a better understanding of AML compliance. This will lead the staff to be unable to cope with the implementation of AML within the firm and unable to deliver good and quality services to the clients. However, the large firms of TCSPs have enough resources to implement training and development towards their staff to enhance the compliance of AML. The larger firm of TCSPs has a lower rate of turnover compared to smaller firms. This large firm is able to cope with the changes in the implementation of AML. Therefore, it is crucial to overcome this challenges in order to enhance the AML compliance behaviour among TCSPs. The next section will discussed on the application of theories in the study.

5.3 Application of Theory in the Study

The theoretical framework adopted in the study will explain further on the AML compliance behaviour and the challenges they faced in complying with AML law and policy.

5.3.1 Rational Choice Theory

Basically the AML compliance behaviour can be explained by the theoretical framework used in the study. The rational choice theory is an economic theory which mentioned that the rational decisions made by human is determined by analysing the cost and benefit which influence their decisions making. Piquero et. al, (2016) argued that the act of committing a crime is a rational choice made by the offenders which is motivated by self-interest and is based on the consideration of the risk and rewards that they get in return. The rational decision made is influenced by the individual's beliefs and organisational context. The rational theory refers to the theory that a human's decisions are made by a sensible decision themselves after considering the risk and the rewards they get for the decision made. Gilmur's (2016) study indicates that the cash-intensive business is more vulnerable to money laundering activities due to the difficulty for regulators to identify criminal activities by using the companies. The new company can be easily established without strict regulations. Under this theory, it can be seen that the criminals commit crimes due to practical ways of achieving the desired benefits such as money, material goods, prestige, sexual gratification, and domination of others (Buchanan, 2018).

The rational choice theory is useful in explaining the compliance behaviour among TCSPs. The compliance behaviour among all TCSPs in the study reflects the rational calculations among them in compliance decision made by them. The rational choice theory helps to explain why TCSPs often adapt the minimalist compliance rather than full compliance of the AML duties. This is because most of the TCSPs compliance in CDD, STR and record keeping and compliance programs are limited as they comply for the purpose of meeting the compliance requirements rather than implementing it as part of their internal control in the firms. This is because the TCSPs have to incur cost for the purpose of upgrading their systems, technology, and trained staff. When these cost seem to be outweigh the benefits, the firm adopt the minimalist compliance and ensure that they are no lose anything despite being complied with AML requirements.

The rational choice theory assume on the rationality of the AML compliance behaviour among TCSPs which influence the decision made by TCSPs in complying with AML law. However, in reality the compliance behaviour is not shaped by the rational choice theory alone. This can be seen whereby regulatory culture in the firms may shape the decision of the TCSPs in complying with AML law. The finding shows that the TCSPs tend to submit the beneficial ownership information to SSM in a timely manner due to heavy compound and penalty imposed by SSM against the company secretary who failed to submit in time. This shows that when the enforcement is strict and penalties are severe, TCSPs are more likely to view non-compliance as too risky and shifting the cost benefit analysis towards compliance. From the findings, it can be seen that, AML compliance behaviour of legal firms are better compared to secretarial and accounting firms. This is because they have knowledge and exposure of the legal background and have a strong law enforcement which helps them to perform better and complied with AML law.

Besides that, an individual who are from professional background may have more rationale to comply with the AML law compared to those who are not. This is because the human decision is made based on their knowledge background and experienced that shape the compliance decision. Through the rational choice theory, it can be concluded the non-compliance of AML duties by TCSPs is shaped by their decisions based on cost and benefit analysis which sometimes the smaller firms are unable to cope with the compliance cost. This is because the process of CDD and KYC required the firms to invest in technology and they are unable to do that due resources constraints and therefore they comply at minimum level.

While the regulatory culture helps to determine how serious the firms weighted the sanctions and therefore it will lead them to enhance compliance behaviour among the TCSPs. When the requirement under the law becomes mandatory for all the TCSPs, they tend to comply with the law due to the fear of being taken action by the regulators. This is where the rational choice theory applies in terms of how TCSPs comply with the law and requirements of AML under the law. The study contributes that the AML compliance behaviour is shape by the rational choice theory, however the decision made is influence by the regulatory factors and other environment factors which shape the decision of the TCSPs in complying with the AML law. The following section will discuss the transparency theory.

5.3.2 Transparency Theory

The concept of transparency theory in money laundering is to establish an openness and accountability in the financial systems to combat illicit activities. The transparency theory argues that increased disclosure of information is an indicator of greater transparency (Tadesse, 2009). The transparency in the beneficial ownership refers to the identification of the real beneficial owners of the company which is the natural person who ultimately owns a controlling interest in a legal person or by other means. FATF (2021) examined that transparency as a cornerstone in AML framework. The transparency theory emphasized the disclosure of information as a mechanism to reduce corruption and illicit activity.

The transparency of the information in complying with AML law is refer to the duties such as CDD, reporting on suspicious transaction and reporting on beneficial ownership information to authority. These measures are intended to identify the information pertaining to clients, source of income the real owner who is benefiting from the company which helps to reduce the money laundering activities. The information gathered through the process of CDD is useful to analyse the risk of the clients and it ease the process of raising the red flag and reporting on beneficial ownership. Greater transparency of the information means greater compliance among TCSPs as it shows their efforts in compiling the information gathered and report to authority.

From the findings of the study, it can be seen that the TCSPs failed to implement CDD, EDD, reporting on suspicious transaction. As for the CDD requirements, it can be seen that only information related to formation of company is gathered and no STR reports were raised by TCSPs towards their clients in the study. While in term of reporting on beneficial ownership, TCSPs tend to report on the beneficial ownership information to SSM based on the information of the shareholders which they obtained from the SSM documents of the Company. However, the accuracy of the information is questionable as no verification on the information gathered by TCSPs (FATF, 2025). The AML behaviour of TCSPs demonstrated the resistance to disclose the information which reflects the tension between the regulatory demands and professional obligations. The resistance to disclose on the information of the clients is because they have a limited resources to invest in technology and software which can be used in identifying and verifying the information of their clients. Due to lack of risk assessment assessed among their clients, they reluctant to shares the information.

The AML requirement required TCSPs and other reporting institutions to disclose the information of their clients based on the AML requirements implemented such as CDD, STR and reporting on beneficial ownership. However, the disclosure of the information by TCSPs in this study is limited due to dual roles holds by the TCSPs. This can be seen whereby the company secretary from accounting firms and legal firms hold a dual roles as accountant and legal practitioner while practiced as company secretary. The client confidentiality obligations are deeply embedded in professional practice. Legal practitioner have special privilege and accountants have code of ethics which prevent them to disclose the confidential information of the clients. The AML law on the other hand require the reporting institution to disclose the information which create conflict with these duties among legal practitioner and accountant.

The conflict between the transparency and confidentiality usually occurs in implementing AML compliance among legal practitioner. The concept of transparency demand openness and clear information while the confidentiality protect client’s privacy. Professional confidentiality is the main reason why legal practitioner who act as company secretary are unable to disclose the information of their clients as this is important features of the legal profession to uphold the right to a fair trial and the rule of law. Similarly, for accountant whereby they have a code of ethics which requires them to ensure confidentiality obligation in reporting on the financial statements. The professional background of the TCSPs may limits the disclosure of the information and therefore it hinder compliance and reporting on STR against the clients.

Besides that, the cultural and institutional factors also affect the transparency. This can be seen whereby the organisational culture represent a set of shared values, beliefs, norms and behaviour that shape the members in an organisation on how they communicate and make decisions (Abdalla et al., 2020). The transparency in an organization refers to open communication, accessibility of information, clarity in decision-making, and accountability for acts which means the organization enable the access of the information to all the relevant authority.

The AML compliance behavior among TCSPs in secretarial firm shows a medium compliance as they have awareness on the AML requirements imposed against them. This can be seen in term of the duty of submitting the DCR report to BNM. However, the accounting firm on the other hand can be seen as they are not really aware on the AML requirements imposed against the reporting institution as most of them are not submitting the DCR and report on the STR. This AML compliance behavior shows by these firm reflects the cultural factors that shaped the compliance behavior among them. As for the legal firms, it can be seen that the TCSPs able to adopt the BNM policy guidelines as part of the internal policy for their company in dealing with clients. This shows that the culture of the TCSPs may shape their compliance behavior among the professionals.

While the institutional is refer to the regulatory culture and enforcement capacity which shape the transparency obligations. This can be seen with higher level monitoring and on site examination by SSM and BNM may shape the compliance culture among TCSPs. This can be seen whereby the number of site visit examination being done by SSM are 11 in year 2024 which show a lower number of inspection being done (FATF, 2025). The institutional factor may affect the TCSPs compliance to AML as the higher number of inspection and monitoring is being done by authority, it helps to enhance the disclosure of information as the TCSPs may develop an institutional trust against the authority which enable them to be more transparent in reporting on the STR and disclosing the client’s information. Therefore the transparency theory is important in determining the compliance behaviour among TCSPs and it demonstrated that AML compliance effectiveness not only depends on the regulatory requirements but also on how professional obligations and their culture background shape the compliance behaviour. The institutional factor also determine the compliance behaviour among TCSPs as it enable the TCSPs to develop a sense of trust and enhance the reporting compliance.

5.3.3 Principal Agency Theory

The principal agency theory was developed by Provan and Milward in 2001, which was developed for the health and social sectors. However, this theory has been extended and applied to money laundering governance (Hussein Shah et al., 2006). The intention of using this model is to reduce money transactions through money laundering by the implementation of the AML laws and policy, and enforcing them through agents. The term principal refers to a person who owns the company and the agent refers to a person who manages the firm's business on behalf of the principal. These two parties reside under one firm but may have different agendas, goals and interests. This is where the conflict exists and this conflict is referring to the agency problem.

Chowdhury (2004), described that the conflict of interest between these two parties is due to the agency cost that emerges from the separation of ownership from control, different risk preferences, information asymmetry, and short-term involvement of the agents in the organisation. The finding of this research shows that there is a principal agency problem that occurs between the regulators (principal), clients (principal) and TCSPs (agents) in the context of this study. The principal in the study refers to the Bank Negara Malaysia, SSM and the clients themselves. While the agent in this study refers to the TCSPs which are the company secretaries regardless of their professions.

The principal agency theory explains the conflict between the regulators as principal and TCSPs as agents. The regulators expect the TCSPs to act as a gatekeeper by imposed the AML duties towards them while TCSPs also act as agent to clients whose interest may be conflict with the regulator demands. This situation creates a conflict and agency problem whereby TCSPs may unable to comply with the AML requirements in order to retain clients and prioritizing the private incentives over public obligations. The principal agency theory in the study capture conflict of interest in AML compliance behaviour among TCSPs whereby the TCSPs need to balance the roles as agent to fulfil the demands from the regulators and clients. This can be seen in the finding of the study which indicate the agency problems where all the TCSPs are unable to report on STR after red flags has been identified by them. This shows that they have a problem in balancing the roles of both principal which are regulators and clients. The clients demands is refer to confidentiality, discretion and loyalty and their priority is to ensure privacy and protection of the sensitive information while the regulators demands is refer to the transparency, disclosure, and proactive disclosure on the STR and beneficial ownership information. This is because the regulator priority is to protect the institution from being abused and used by criminals to do criminal activities.

TCSPs faced an accountability issue in balancing the roles as agent to regulators and agent to their clients. The professional from all the firms are bound to the ethical codes of conduct where they need to protect the client information and yet AML law imposed a requirement which requires TCSPs as reporting institution to provide information to regulators. The TCSPs has responsibility and accountability towards both principals in the study. The compliance behaviour and the responsibility of the TCSPs towards their clients can be seen in term of reporting on STR whereby all the firms had never raised STR against their clients when the red flag is present. The finding also shows that the company secretaries tend to advice their clients to take preventive measures without reporting such action to authority. This shows they are accountable and responsible towards their client by jeopardize the interest of the regulators. The accountability of the TCSPs are measure by the compliance of the AML requirements.

The accountability structures sometimes pull the professional such as legal practitioner and accountant who perform a dual roles to opposite directions whereby these professional may hesitate to report on STR due to their nature of services which hinder the reporting. This become the challenges for TCSPs to report against their client. By complying with AML requirements means the TCSPs have to breach the client trust in order to comply with AML compliance. This is because TCSPs afraid on the risk of regulatory sanctions. A strong regulatory cultures may enhance TCSPs to comply with AML law while in weak regulatory culture, TCSPs tend to comply the AML law at minimal compliance.

Therefore, the theory explains the need for balancing the roles by clarifying the duties and accountability of the TCSPs to regulators and clients. By having a clear understanding on the responsibility and accountability, it helps to shape the AML compliance behaviour among TCSPs and the cost of the compliance is bear by the clients as the TCSPs need disclose the information to regulators in order to avoid heavy penalty and regulatory actions. The classic agency assumptions is not apply in the study as the agent need to be responsible with two principals instead of one principals which applies to classic agency assumptions. The TCSPs in the study act as agent and they are not entitled to any incentives from regulators or clients expect for the payment paid for the services rendered by TCSPs to their clients.

5.4 Suggestion and Recommendation

From the findings presented in Chapter Four regarding the compliance of AML laws and policy and the challenges faced by TCSPs in implementing the laws and policy, it is proposed that several practical measures should be undertaken to improve the AMLATFPUAA 2001 and the extent of the compliance by the reporting institutions which are TCSPs. The recommendations are divided into three sections which focus on the research objectives of the study which the implementation related recommendations, challenges specific recommendations and the synthesis of both recommendations.

5.4.1 Recommendation to TCSPs

5.4.1.1 The TCSP need to Foster a Culture of Compliance

The TCSPs should enhances the culture of compliance among their staff by exposing their staff to AML knowledge and training. This is because TCSPs have lack of implementation in the internal procedures in implementing the AML compliance such as CDD, KYC and STR. By providing the knowledge and training to their staff, it help to foster the compliance culture among the staff as they will keep updated on the current implementation of AML law and policy. Besides that, TCSPs also should keep updated with the current AML regulation and guidelines in their firms and develop a set of procedure to deal with their clients.

5.4.1.2 The TCSPs Should Maintain the Professionalism of the Professions

The TCSPs should maintain a professionalism of the professions that they holds in implementing the AML requirements. This can be seen as accountant and legal practitioner holds two roles which requires them to maintain the professionalism of the profession in implementing the STR and reporting on beneficial ownership of the company. The lawyer is given the privilege not to disclose any communication between them and their clients to anyone including the court as it is confidential and therefore the lawyer need ensure that they did not report on any confidential information to authority in complying with AML law as they need to preserve the client's information. The disclosure of information is important in enhancing the transparency, however the confidentiality is required when it involves extra requirement to be consider by the professionals.

5.4.1.3 The TCSP should Enhance their KYC and CDD Compliance

The TCSPs should enhance their KYC and CDD compliance in order to enhance the quality of the data gathered from the clients. This can be seen whereby TCSPs only gathered limited information related to formation of company manually and not focus on the important data points which enhance KYC and CDD. The TCSPs should use and adopt the software and AI driven system to perform KYC and CDD effectively and efficiently in order to ensure the accuracy of the data gathered. This is because the risk assessment of the clients are important in combating money laundering. The technology is important in identifying the client's information accurately and in a timely manner. The TCSPs need to incur cost in adopting technology in their CDD requirements.

5.4.2 Recommendation to Regulator

5.4.2.1 The Regulators should introduce a Tiered, Risk-Based Compliance Framework for TCSPs by Differentiate the Obligations Requirements Based on Size, Client Risk Exposure and Services Complexity

This can be seen whereby the TCSPs applies AML duties inconsistently due to their size, limitations in resources and client risk profile. This can be seen whereby as for smaller firms, the AML requirement should be more simplified such as focus on the CDD and basic reporting requirements as they have limited resources in operating their firms. The client risk profile also should guide the AML obligations as the smaller firms usually deals with low risk clients such as local SME which have more direct transparent ownership compared to larger firms. Firms engaging with high risk client should be closely monitor by regulators. The services complexity should determine compliance obligations whereby normally small size reporting do not involve in complex services such as trust management, nominee arrangement or offshores structuring which demand for comprehensive compliance systems.

5.4.2.2 The regulators should Introduce a Legal Protection for Professionals who Report STR in Good Faith

The TCSPs from secretarial, accounting and legal firms often resist to disclose the information of their clients due to fear of losing clients. The finding of the study shows that no firms had report on STR when they have raised a red flag. Therefore, in order to enhance transparency of disclosure, the regulators should introduce a legal protection for professionals who report STR in good faith. This is to reduce the breach of the confidentiality and encourage proactive compliance among TCSPs. Besides that, in order to ensure the transparency and confidentiality of the information reported, the regulator should provide clear guidance on the boundaries between the professional privilege and AML obligations which helps to minimize the ethical dilemma among TCSPs.

5.4.3 Combine Recommendations

5.4.3.1 AML Training Programmes should be Institutionalised for TCSPs and make it as Mandatory for License Renewal

This can be seen that, all the TCSPs are aware on the AML compliance, however the actual practices of the AML requirements especially on STR reporting, beneficial ownership and ongoing monitoring is still lacking by TCSPs as no STR was raised by All the TCSPs in the firms. The training and awareness program shall be part of the Continuing Professional Education (CPE) hours and make it mandatory for the company secretaries to renew their practising certificate under SSM. This is to ensure that the company secretaries are kept updated with the current implementation of AML laws and policy.

5.4.3.2 BNM and SSM should Closely Monitor the TCSPs by doing more Inspection on Site Visit to Enhance the Compliance among TCSPs

The BNM and the SSM shall have close monitoring on the TCSPs' compliance with AML law by having more site visits to all the firms in order to ensure the TCSPs are in line with the guidelines imposed against them. This is because the findings shows that there are limited on-site inspection being done in year 2024. The inspection on site visit to TCSPs firms helps the firms to understand the compliance necessity and develop trust against the regulators and therefore it encourage disclosure of the transparency in STR and beneficial ownership reporting. The site visit also helps the TCSPs to clearly understand the demands and requirements required by the regulators in AML duties and enhance the compliance duties

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5.5 Contributions of the Study

The study provides an understanding on the compliance of AML duties by Trust Company and Service Providers (TCSPs). The roles of the TCSPs in combating crimes and corruption are really significant as they are the gatekeeper of the country and company. There are four type of contributions of the study as follow.

5.5.1 Theoretical Contributions

The studies provides an important contribution to the body of knowledge on the AML compliance behaviour among TCSPs and the challenges they faced in implementing the compliance duties. This can be seen whereby the existing literature often focus on the financial institutions. The study also extend the theoretical understanding of the AML compliance behaviour among three firms which are secretarial firms, accounting firms and legal firms as they can act as company secretaries regardless of their professional background. The TCSPs are required to balance the dual roles of responsibility and accountability towards serving clients and reporting to BNM. Basically the study provides comprehensive theoretical model of AML compliance behaviour and challenges faced by TCSPs in complying with AML law requirements.

AML laws by TCSP as reporting institution to Bank Negara Malaysia (BNM). Besides that, this study also provides an important information on the challenges faced by the TCSPs in complying with the AML duties that have been imposed by the authority against them. Despite being a company secretary and take care the company, the TCSPs also are responsible to implement the roles as gatekeeper in identifying the beneficial owner of the company and to report against any suspicious transaction against the company to Bank Negara Malaysia (BNM). This study provide a clear understanding on the roles of the TCSPs and reporting institution to Bank Negara Malaysia on the money laundering aspects.

5.5.2 Empirical Contributions

The study provides more specific evidence in determining the actual implementation of the AML laws compared to the requirements under the law and the challenges faced by the TCSPs in implementing the duties. The study reveals that the challenges faced by each of the firms representing the TCSPs. Basically the study is focus on one of the non-financial institutions roles in complying with AML law. The study also provides regulators and scholars with a clearer picture of how AML laws are experienced in practice, highlighting the gaps between policy design and implementation.

5.5.3 Methodological Contributions

The study contributes by analyzing the AML compliance behavior among the three types of firms and different professional background which implement the same roles as TCSPs. This comparative approach allows the understanding on how different professional background implement the AML duties and requirement in their firms compared to others. This can be seen whereby different professional cultures and institutional settings shape the compliance behavior. The study developed a cross-professional analysis of AML compliance duties within the TCSPs firms. Besides that, the study also provide a brief explanation on why the AML compliance behavior varies according to the professions.

5.5.4 Practical/Policy Contributions

The study also contributes in term of providing a practical guidance to the stakeholders such as FIED, Bank BNM & SSM to enhance TCSPs compliance under AML law and policy. This can be seen whereby the study had analyse the compliance duties of the company secretaries from secretarial firm, legal firm and accounting firm and therefore the data and analysis from the study can help the authority to improve the policy and guidelines given to TCSPs in enhancing their roles as reporting institution and gatekeeper of the company. The study also close the gaps between academic analysis and policy application whereby it offer a better steps for enhancing compliance among TCSPs. Therefore, the study ensure that the AML requirements should be follow by the reporting institution as the study reveals the actual compliance of AML duties from the AML framework.

5.6 Limitations of the Study

Based on the research study done during this study, the study discovered a few limitations during the process of the completion. Firstly, a limited study and research was done on the topic of the compliance of AML laws and policy among company secretaries and TCSPs in Malaysia. There are limited journals and articles academically are available on the subject matter. There are many academic literatures done on the compliance of AML laws and policy by financial institutions compared to DNFBPs. Therefore, it is really crucial to examine the other country practices on the AML duties by company secretaries or TCSPs as whole. Secondly, the study focusses on the company secretaries or TCSPs which are from secretarial firms, legal firms and accounting firms and therefore it cannot conclude the compliance of AML laws and policy by those firm as a whole. This limitation restricted the depth of the insight of the compliance practices and challenges faced by the TCSPs in Malaysia.

Lastly, the study lack of quantitative enforcement data to show the compliance and challenges faced by TCSPs in implementing the AML laws and policy in Malaysia. This can be seen whereby there are no statistics available to shows the data of compliance of AML laws and policy by TCSPs in Malaysia. The government agencies and regulatory authorities usually treats the data as private and confidential and therefore it is not allowed for public to access. The lack of transparency of data hinders the ability to access the actual data available in comparing the actual level of enforcement, measures and the effectiveness of the regulatory supervision in ensuring the compliance of AML laws and policy by DNFBPs.

5.7 Future Research

There are several areas for future research that could be further explored regarding compliance of money laundering in Malaysia. Firstly, the research of this topic can be done by using quantitative methodology in order to measure the effectiveness of the compliance of AML laws and policy by the TCSPs which is the company secretary. This is because the current research adopts the qualitative approach for analysing the compliance of AML laws and policy by the TCSPs.

The second future research work that can be done is to enhance this research by broadening the sample size of the research through a focus on the company secretaries from the secretarial practice only. Thirdly, the next research could be the identification of the compliance level of other Designated Non-Financial Business Professionals (DNFBPs) such as casinos, accountants, moneylenders, and metal dealers to measure the extent of their compliance with AML laws and policy. Fourthly, the research could also include the comparative analysis of AML legislation in the UK for benchmarking purposes. This area of research is important and needs to be investigated to assist company secretaries in enhancing their compliance with AML laws and policy, and to implement their statutory duties under the law. Thus, it will help the government and FIED to identify the gaps and look for ways to improve the compliance of AML laws and policy for all the reporting institutions.

5.8 Conclusion

This research has shown and validated that the compliance of AML laws and policy by the TCSPs, which are company secretaries, is at a relatively moderate level. Some of the statutory duties under the law which are customer due diligence, reporting of suspicious transaction report (STR) are relatively low among all the firms in the study. Besides that, the theory used in the research can be explained that the compliance decisions made by the TCSPs are relatively influenced by the cost-benefit analysis, whereby the TCSPs choose to comply or not to comply with those statutory duties after considering the benefits they receive from complying with AML laws. The TCSPs tend not to comply due to a lack of awareness and knowledge of the current updated AML laws and policy.

The primary data presented in Chapter Four and the secondary data in Chapter One and Two revealed that all three research questions and objectives had been answered. Firstly, the first research question had revealed the current implementation of AML laws and policy among the company secretaries whereby some of the duties under the law are unable to be complied with by the company secretaries due to several reasons. The extent of their compliance with the law is minimal due to the existence of the legal, operational and technical challenges which have been discussed in Chapter Four. The final research question is to overcome the challenges faced by TCSPs in complying with AML laws and policy. The ways to overcome the challenges are to keep compliant and keep updated on the changes of the law from time to time as discussed in Chapters Four and Five.

The research question is connected with the application of the rational choice theory, transparency theory and the principal agency theory in order to provide an insight into the research. The rational choice theory indicates that the decision made for the compliance of AML statutory duties under the law is influenced by the cost-benefit analysis whereby the compliance decision is made when there is a benefit that both parties get. This can be seen in that all the companies are being established for the purpose of generating profits. Therefore, the decision made for the compliance under the law will take into consideration the clients and the TCSPs need to ensure they balance the interest of the clients and their own interests as well as to be aligned with the AML laws.

Besides that, the transparency theory explained the disclosure of the beneficial ownership of the company which also included the process of gathering information for KYC and CDD process. The transparency theory requires all the TCSPs to gather the information of their clients and keep it in the registered office and shall ensure the information can be accessible on time when needed. The last theory is principal agency theory, which explains the roles of TCSPs as the agent to the client and the agent to BNM while ensuring compliance under the law. These roles are sometimes misused by the agent which is TCSPs due to a conflict of interest between the clients and BNM.

Most company secretaries tend to put their clients first when it comes to compliance under the law due to the compensation received from the services given to clients. The TCSPs tend to advice in a good manner before raising any red flags against their clients. This can be seen in that none of the secretarial, accounting and legal firms had raised a red flag and reported on STR to BNM against their clients for any issue they encountered within the firms on the money laundering activities.

Finally, the ways TCSPs can improve compliance with AML laws and policy are suggested and recommended in the present chapter. The recommendations include the role of the government, the role of the FIED, the role of the Companies Commission of Malaysia (SSM) and the role of the TCSPs, which are themselves company secretaries. Hence, the proposed suggestions and recommendations have answered the third research question and achieved the third research objective. In conclusion, the compliance of AML laws and policy among TCSPs (company secretaries) is relatively low as some of the statutory duties under the law are not being implemented due to a lack of awareness and knowledge on the implementation of AML laws and policy.

Besides that, the TCSPs are not being given a proper guidance especially to those small medium reporting institutions which make them reluctant to comply due to no understanding of the AML laws and policy. These shortcomings necessitate an evaluation of the current legislation and the efficacy of the regulators and SSM to improve their adherence to the AML framework. The responsibility of preventing money laundering in the country relies not only on the government and FIED but also on the reporting institutions which is TCSPs that serve as the primary line of defence against money laundering activities. Therefore, it is hoped that the findings of this research can assist TCSPs which are company secretaries, in order to improve their statutory obligations under the AML laws and policy.

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APPENDICES

APPENDIX 1
Interview Questions

Dear participant,

My name is Nursyakila Binti Kamaruddin and I am a PhD candidate at Faculty of Administrative Science & Policy Studies, Universiti Teknologi MARA (UiTM). I am conducting research entitled “A Study on the Challenges faced by Trust and Company Service Providers (TCSPs) in complying with Anti-Money Laundering (AML) Laws and Policy in Malaysia” as a partial requirement for the Doctoral program. The aim of the study is to assess the implementation and the current practice of TCSPs AML compliance in Malaysia and to identify the challenges faced by TCSPs in complying with Anti-Money Laundering Law. Your participation will help to ensure the credibility of the interviews and that the findings are valid.

It would be greatly appreciated if you could spare some valuable time to participate in this interview. This interview should take no more than approximately 15-20 minutes to complete. This interview also will use a voice recorder to record the conversations during the interviews. For your information, all data provided by the participant is STRICTLY CONFIDENTIAL and will be used only for academic purposes. Your cooperation and participation in this important interview are appreciated. Thank you again for taking the time to assist me in making this research a successful one.

Peserta yang dihormati,

*Nama saya Nursyakila Binti Kamaruddin dan saya merupakan seorang calon PhD di Fakulti Sains Pentadbiran & Pengajian Polisi, Universiti Teknologi MARA (UiTM). Saya sedang menjalankan satu kajian bertajuk “*Kajian mengenai Cabaran yang dihadapi oleh Syarikat Amanah Dan Penyedia Perkhidmatan (TCSPs) dalam mematuhi Undang-Undang Anti Pencegahan dan Penggubalan Wang Haram di Malaysia*” yang merupakan sebahagian syarat untuk program kedoktoran. Tujuan kajian ini adalah untuk untuk menilai pelaksanaan dan amalan semasa TCSP pematuhan AML di Malaysia dan untuk mengenal pasti cabaran yang dihadapi oleh TCSP dalam mematuhi Undang-undang Pencegahan Pengubahan Wang Haram Penyertaan anda akan membantu dalam memastikan kredibiliti temu ramah dan juga memastikan penemuan kajian adalah sahih.*

Saya juga menghargai sekiranya anda dapat meluangkan sedikit masa berharga anda untuk turut serta dalam temu ramah ini. Dijangkakan bahawa temu ramah ini tidak akan mengambil masa lebih daripada 20-30 minit untuk dilengkapkan. Temu ramah ini juga akan menggunakan perakam suara untuk merakam perbualan semasa temu ramah. Untuk makluman anda, segala data yang diberikan oleh peserta adalah SULIT dan akan digunakan hanya bagi tujuan pembelajaran sahaja.. Kerjasama dan penyertaan anda dalam temu ramah penting ini amat dihargai. Terima kasih sekali lagi *kerana meluangkan masa untuk membantu saya dalam menjayakan penyelidikan ini.*

CONSENT FORM
Borang Izin

To become a subject in the research, you or your legal guardian is advised to sign this Consent Form.
Untuk menyertai kajian ini, anda atau penjaga sah anda diperlukan menandatangani Borang Izin ini.
I herewith confirm that I have met the requirement of age and am capable of acting on behalf of myself /* as a legal guardian as follows: Saya dengan ini mengesahkan yang saya telah memenuhi syarat umur dan dalam keadaan yang berkeupayaan untuk bertindak untuk diri sendiri/ *sebagai penjaga yang sah dalam perkara-perkara yang berikut:

1. I understand the nature and scope of the research being undertaken.
1. Saya memahami ciri-ciri dan skop kajian ini.
2. I have read and understood all the terms and conditions of my participation in the research.
2. Saya telah membaca dan memahami semua syarat penyertaan kajian ini.
3. All my questions relating to this research and my participation therein have been answered to my satisfaction.
3. Saya berpuas hati dengan jawapan pada kemusykilan saya tentang kajian ini.
4. I voluntarily agree to take part in this research, to follow the study procedures and to provide all necessary information to the investigators as requested.
4. Saya secara sukarela bersetuju menyertai kajian ini dan mengikuti segala atur cara dan memberi maklumat yang diperlukan kepada penyelidik seperti yang dikehendaki.
5. I may at any time choose to withdraw from this research without giving reasons.
5. Saya boleh menarik diri daripada kajian ini pada bila-bila masa tanpa memberi sebab.
6. I have received a copy of the Subjects Information Sheet and Consent Form.
6. Saya telah pun menerima satu salinan Borang Maklumat dan Borang Izin.
7. Except for damages resulting from negligent or malicious conduct of the researcher(s), I hereby release and discharge UiTM and all participating researchers from all liability associated with, arising out of, or related to my participation and agree to hold them harmless from any harm or loss that may be incurred by me due to my participation in the research.
7. Kecuali kecederaan yang disebabkan kelalaian dan kecuaian oleh penyelidik, saya dengan ini melepaskan dan menggugurkan UiTM dan semua penyelidik dari semua laibiliti berhubung dengan, wujud dari atau berkaitan dengan penyertaan saya dan bersetuju untuk menjadikan mereka tidak bertanggunggan terhadap apa-apa kerugian atau kecederaan yang mungkin akan saya tanggung disebabkan penyertaan saya.

Nama Subjek/ Wakil Sah yang berkuatkuasa Tandatangan

No. Kad Pengenalan	Tarikh
Nama Saksi	Tandatangan
No. Kad Pengenalan	Tarikh
Nama Penyelidik/Pengambil Izin	Tandatangan
No. Kad Pengenalan	Tarikh

PART A: BACKGROUND OF KEY INFORMANTS/REPRESENTATIVE

(Bahagian A: Latar Belakang Peserta/wakil

No.	**Details*/Perkara***	
1	Name/*Nama*	
2	Department/Bahagian	
3	Gender/*Jantina*	
4	Years of Experienced /Tahun Pengalaman	

PART B: THE MAIN INTERVIEW QUESTIONS

(Bahagian B: Soalan temubual yang utama)

No.	**Interview Questions / *Soalan Temuduga***
1	Are you aware of Trust and Company Service Providers' (TCSPs) firms' obligation under AMLATFPUAA 2001? *Adakah anda sedar tentang kewajipan firma Syarikat Amanah Dan Penyedia Perkhidmatan (TCSPs) di bawah AMLATFPUAA 2001?*
2	How does your firm comply with AMLA? *Bagaimanakah firma anda mematuhi AMLA?*
3	What is the procedure of your firm procedure in accepting new clients? *Apakah prosedur firma anda dalam menerima pelanggan baharu?*
4	Do you assess your existing clients when you are instructed or acting on behalf of them? *Adakah anda menilai pelanggan sedia ada anda apabila anda diarahkan atau bertindak bagi pihak mereka?*
5	Does your firm have a proper record-keeping procedure and what are the minimum period of the records being kept? *Adakah firma anda mempunyai prosedur penyimpanan rekod yang betul dan apakah tempoh minimum rekod disimpan?*
6	In what situation would you describe a suspicious transaction? Do you

	have any experience on it? *Dalam situasi apakah anda akan menggambarkan transaksi yang mencurigakan? Adakah anda mempunyai pengalaman mengenainya?*
7	Do your firm have any Anti-Money Laundering Compliance Program which include Training & Awareness, Policies & Procedures, Independent Audit Function and the appointment of compliance officer? *Adakah firma anda mempunyai sebarang Program Pematuhan Pencegahan Pengubahan Wang Haram yang merangkumi Latihan & Kesedaran, Polisi & Prosedur, Fungsi Audit Bebas dan pelantikan pegawai pematuhan*?
8	How do you ensure that employees are properly trained and aware of the record-keeping requirements to maintain AML compliance? *Bagaimanakah anda memastikan bahawa pekerja dilatih dengan betul dan mengetahui keperluan penyimpanan rekod untuk mengekalkan pematuhan Anti Pencegahan Wang Haram?*
9	Are you aware that all reporting institution need to submit Data and Compliance Report (DCR) to Bank Negara Malaysia and does your firm submit the DCR report? *Adakah anda sedar bahawa semua institusi pelapor perlu menyerahkan Laporan Data dan Pematuhan (DCR) kepada Bank Negara Malaysia dan adakah firma anda menyerahkan laporan DCR?*
10	What challenges do your firm face in complying with anti-money laundering legislation? *Apakah cabaran yang dihadapi oleh firma anda dalam mematuhi undang-undang anti-pengubahan wang haram?*
11	What are the key challenges in conducting thorough customer due diligence (CDD) and Know Your Customer (KYC) processes, and how do these challenges impact compliance efforts? *Apakah cabaran utama dalam menjalankan proses usaha wajar*

	pelanggan (CDD) dan Kenali Pelanggan Anda (KYC) yang menyeluruh, dan bagaimanakah cabaran ini memberi kesan kepada usaha pematuhan?
12	How do your firm align the interests of the principals (clients, regulatory authorities, etc.) and agents (TCSP's employees) to ensure compliance with anti-money laundering (AML) regulations? *Bagaimanakah firma anda menyelaraskan kepentingan prinsipal (pelanggan, pihak berkuasa, dsb.) dan ejen (pekerja TCSPs) untuk memastikan pematuhan terhadap peraturan anti pencegahan pengubahan wang haram (AML)?*
13	How does your firm balance the roles as gate keeper and agent to Bank Negara Malaysia and to your own clients? *Bagaimanakah firma anda mengimbangi peranan sebagai pengawal pintu dan ejen kepada Bank Negara Malaysia dan kepada pelanggan anda sendiri?*
14	How do your firm utilize the information and risk assessment to make rational compliance decisions? *Bagaimanakah firma anda menggunakan maklumat dan penilaian risiko untuk membuat keputusan pematuhan yang rasional?*
15	What is the key factor that your firm consider when making compliance-related decisions? *Apakah faktor utama yang dipertimbangkan oleh firma anda semasa membuat keputusan berkaitan pematuhan?*
16	How do your firm establish and maintain transparent relationships with clients, regulatory authorities, and other stakeholders in the compliance process? *Bagaimanakah firma anda mewujudkan dan mengekalkan hubungan telus dengan pelanggan, pihak berkuasa kawal selia dan pihak berkepentingan lain dalam proses pematuhan?*
17	In future, what is the prospect of secretary complying under with the AML statutory duties? *Pada masa hadapan, apakah prospek setiausaha mematuhi kewajipan*

	berkanun Anti-Pencegahan Pengubahan Wang Haram (AML)?
18	What is your opinion about the effectiveness of the existing regulatory framework for TCSPs in preventing and detecting money laundering activities? *Apakah pendapat anda tentang keberkesanan rangka kerja kawal selia sedia ada untuk Syarikat Amanah Dan Penyedia Perkhidmatan (TCSPs) dalam mencegah dan mengesan aktiviti pengubahan wang haram?*
19	How do your firm establish and maintain transparent relationships with clients, regulatory authorities, and other stakeholders in the compliance process? *Bagaimanakah firma anda mewujudkan dan mengekalkan hubungan telus dengan pelanggan, pihak berkuasa kawal selia dan pihak berkepentingan lain dalam proses pematuhan?*
20	In what circumstances does your firms need to raise the red flag for issue of money laundering among clients? *Dalam keadaan apakah firma anda perlu menaikkan bendera merah untuk isu pengubahan wang haram di kalangan pelanggan?*
21	How would you recommend to resolved this compliance issues to further enhance compliance among TCSPs? *Bagaimanakah anda akan mengesyorkan untuk menyelesaikan isu pematuhan ini untuk meningkatkan lagi pematuhan dalam kalangan.*

END OF QUESTIONS

- SOALAN TAMAT -

Thank you for your cooperation.

Terima kasih atas kerjasama anda.

APPENDIX 2
Interview Protocol

RESEARCH TITLE

A STUDY ON THE CURRENT PRACTICES AND THE CHALLENGES FACED BY TRUST AND COMPANY SERVICE PROVIDERS (TCSPS) IN COMPLYING WITH ANTI-MONEY LAUNDERING (AML) LAWS AND POLICY IN MALAYSIA

Time of Interview : ________________________________

Date : _________________________________

Place : _________________________________

Interviewer : __________________________________

Interviewee : ___________________________________

CONSENT FORM FOR INTERVIEW PARTICIPANT

Consent Form

To become a subject in the research, you or your legal guardian are required to sign this Consent Form.
I herewith confirm that I have met the requirement of age and am capable of acting on behalf of myself / as[2] a legal guardian as follows:

1. I understand the nature and scope of the research being undertaken.
2. I have read and understood all the terms and conditions of my participation in the research.
3. All my questions relating to this research and my participation therein have been answered to my satisfaction.
4. I voluntarily agree to take part in this research, to follow the study procedures and to provide all necessary information to the investigators as requested.
5. I may at any time choose to withdraw from this research without giving any reason.
6. I have received a copy of the Subjects Information Sheet and Consent Form.
7. Except for damages resulting from negligent or malicious conduct of the researcher(s), I hereby release and discharge UiTM and all participating researchers from all liability associated with, arising out of, or related to my participation. I agree to hold them harmless from any harm or loss that may be incurred by me due to my participation in the research.

Name of Subject/Legally authorized representative (LAR) Signature

I.C No Date

Name of Witness
Signature

I.C No Date

Name of Consent Taker
Signature

I.C No Date

APPENDIX 3
Ethic's Approval

www.uitm.edu.my

UNIVERSITI TEKNOLOGI MARA

Pejabat
Timbalan Naib Canselor
(Penyelidikan dan Inovasi)

Reference : 600-TNCPI (5/1/6)
Our reference : REC/01/2024 (PG/MR/3)
Date : 20 جمادي الأخير 1445H
2 January 2024

Ms Nursyakila binti Kamaruddin - 2020222104
(Supervisor: Assoc. Prof. Dr Nor Suziwana binti Tahir)
Faculty of Administrative Science & Policy Studies
Universiti Teknologi MARA
40450 Shah Alam
SELANGOR

سلام عليكم ورحمة الله وبركاته and Greetings

Ms Nursyakila

APPROVAL LETTER - UiTM RESEARCH ETHICS COMMITTEE

Thank you for submitting your research proposal to the Research Ethics Committee (REC). After considering your application, the Committee approved your proposal titled "A Study on The Challenges Faced by Trust and Company Service Providers (TCSPS) in Complying with Anti-Money Laundering (AML) Laws and Policy in Malaysia (*Kajian Mengenai Cabaran yang Dihadapi oleh Syaikat Amanah dan Penyedia Perkhidmatan* (TCSPS) *dalam Mematuhi Undang-Undang Anti Pencegahan dan Penggubalan Wang Haram di Malaysia*)" in the Klang Valley.

Details of the approval are as follows:

Ref. number:	REC/01/2024 (PG/MR/3)
Approval Period:	2 January 2024 until 30 September 2024
Authorised personnel:	1. Nursyakila binti Kamaruddin 2. Assoc. Prof. Dr Nor Suziwana binti Tahir Dr Sarina binti Othman

The UiTM Research Ethics Committee operates in accordance to the ICH Good Clinical Practice Guidelines, Malaysian Good Clinical Practice Guidelines and the Declaration of Helsinki. The approval of this project is conditional upon your continuing compliance with these guidelines and declaration.

We draw to your attention the requirement that a report on this research, must be submitted every 12 months from the date of the approval or on the completion of the project, whichever occurs first. Failure to submit reports will result in withdrawal of consent for the project to proceed. Amendments, if any, to the study documents are to be submitted to the REC for approval.

If you require further information, please contact the REC Secretariat at 03-55448069/03-55442794 or email at recsecretariat@uitm.edu.my.

اوسها، تقوى، موليا
"MALAYSIA MADANI"
"BERKHIDMAT UNTUK NEGARA"

Yours sincerely,

EMERITUS PROFESSOR DATO' DR RAYMOND AZMAN ALI
Chairman
UiTM Research Ethics Committee

c.c.: Deputy Dean (PJI), Faculty of Administrative Science & Policy Studies, UiTM

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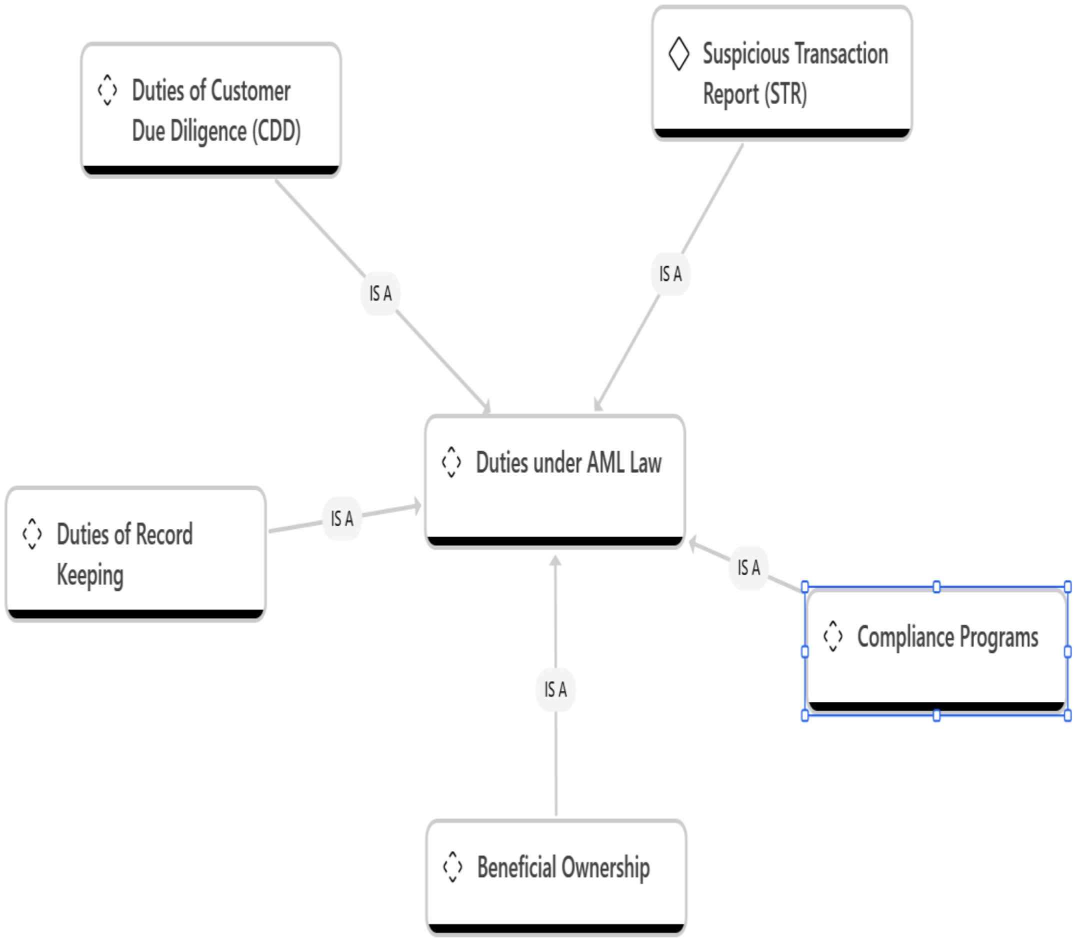
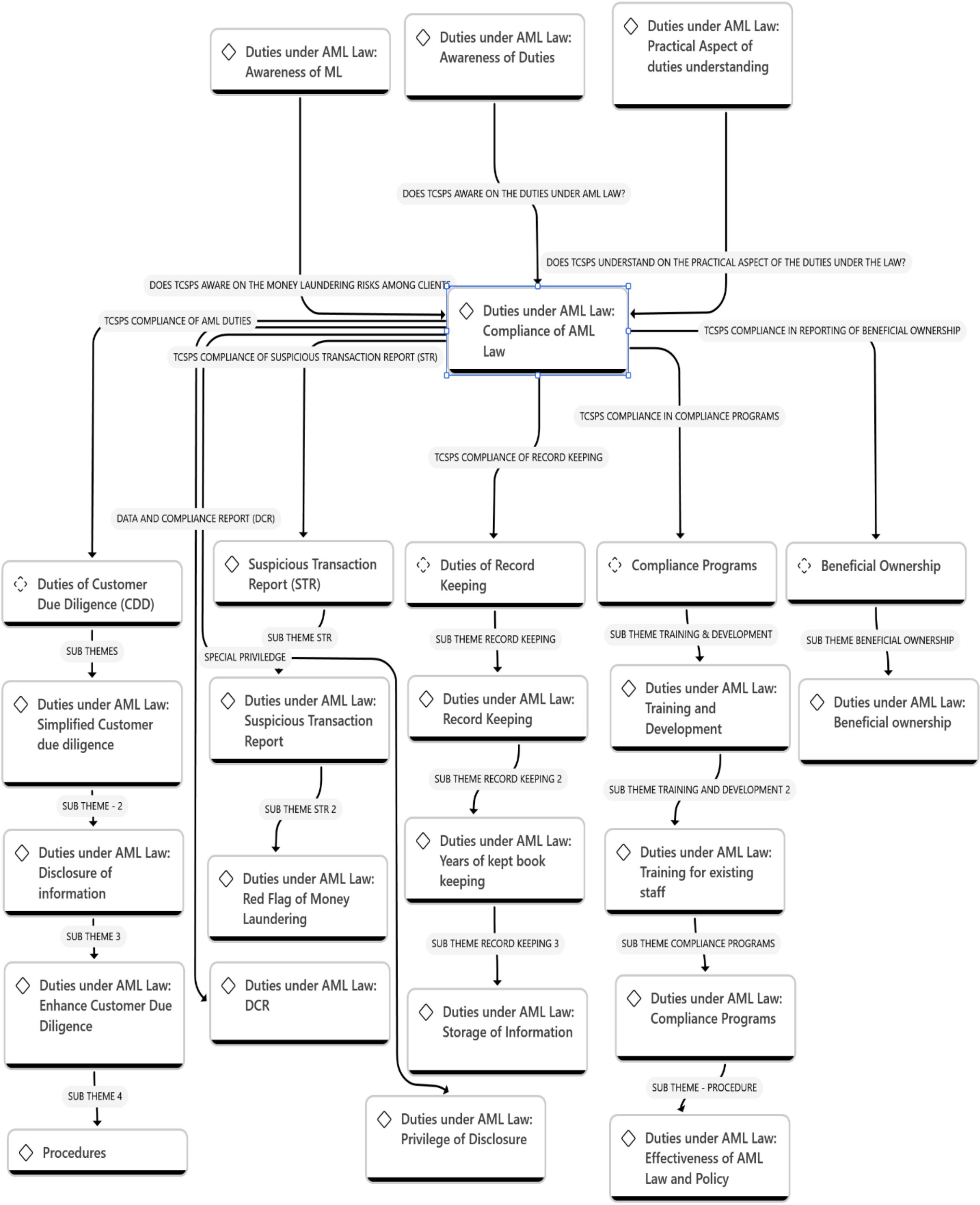
UiTM di hatiku

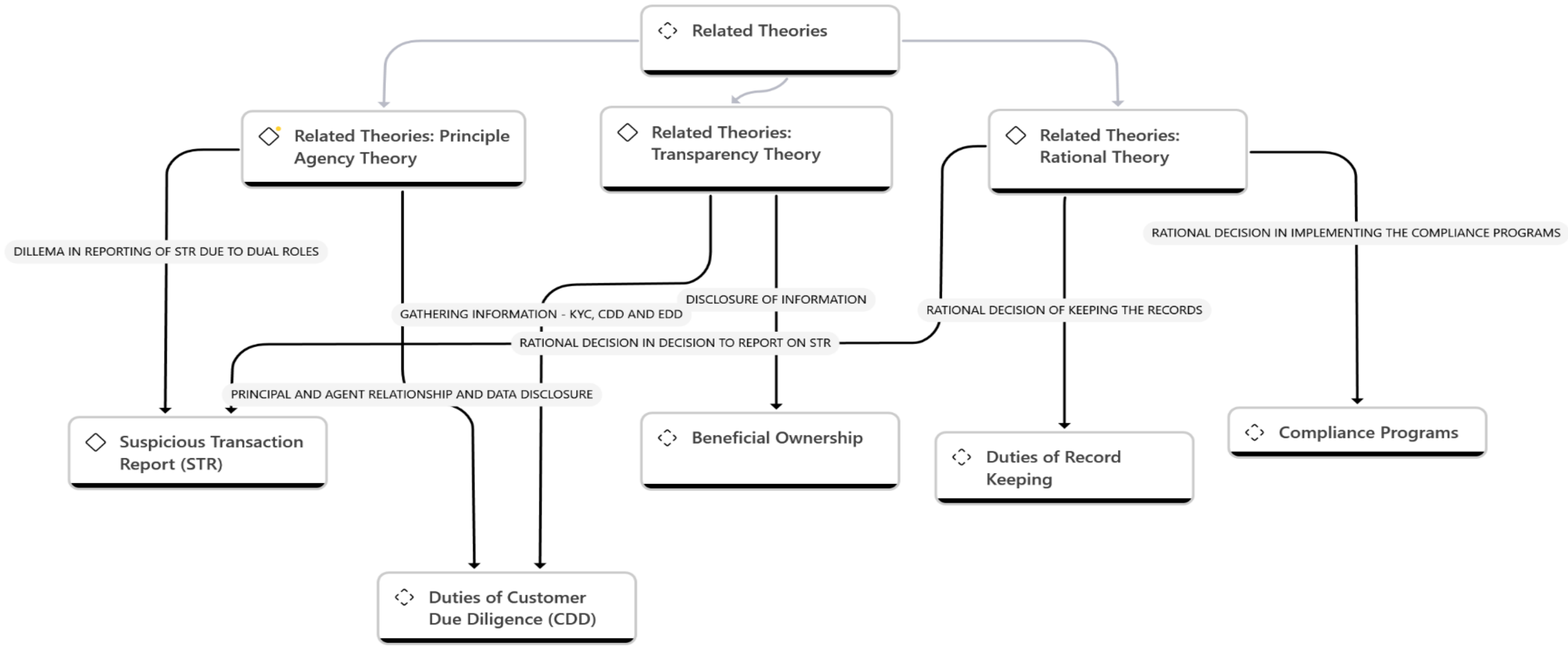
APPENDIX 4
Duties of TCSPs under AML Law



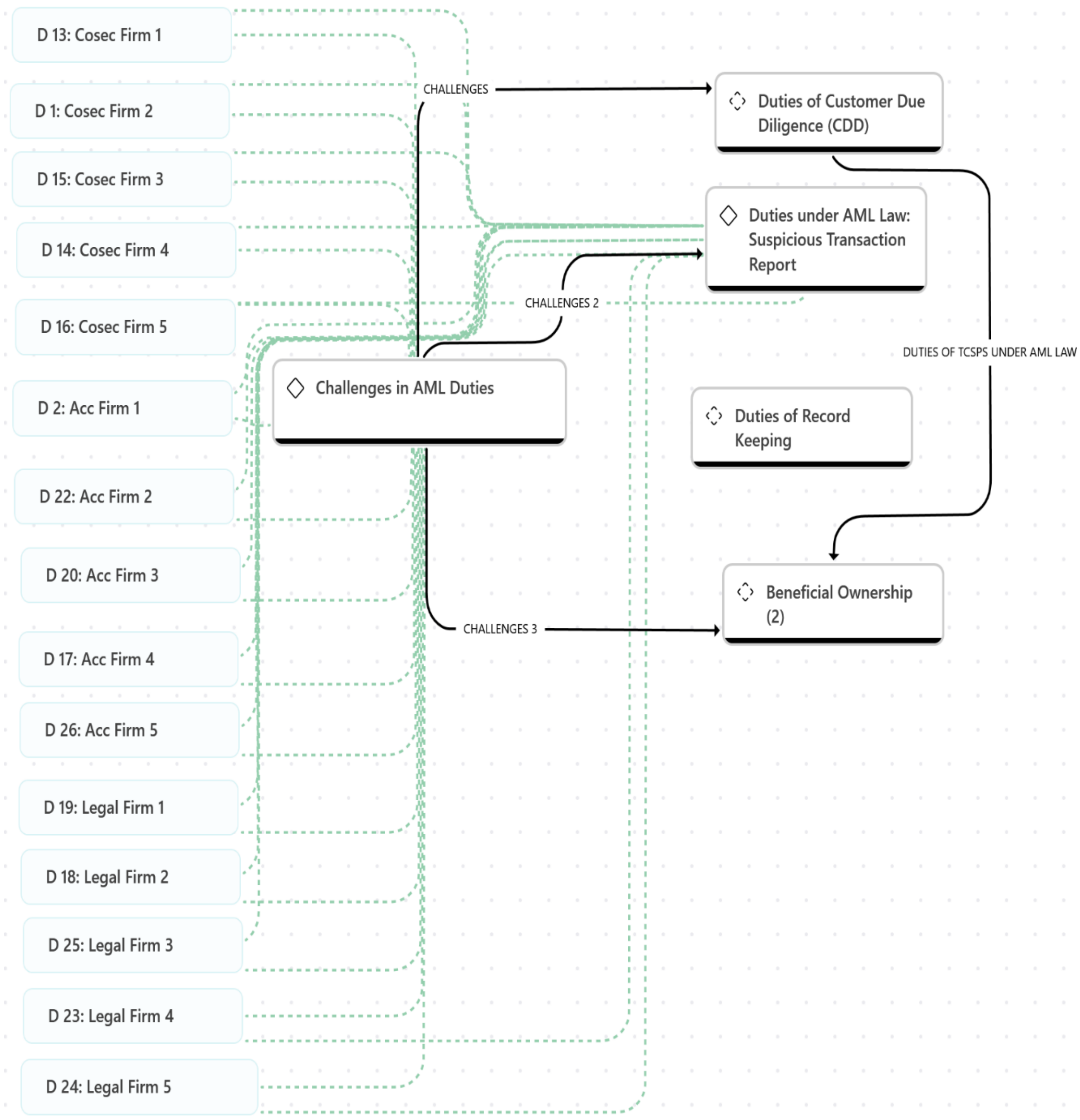
APPENDIX 5
Key Themes and Sub Themes of the Study



APPENDIX 6
Related Theories



APPENDIX 7
Challenges of AML Duties by TCSPs



AUTHOR'S PROFILE

Nursyakila Binti Kamaruddin was born on April 07, 1991. She graduated with Bachelor of Corporate Administration (Hons) from the University of Teknologi MARA, Malaysia in 2014 and obtained her Master's degree of Corporate Administration from the University of Teknologi MARA in 2017. She joined Sim & Co. Corporate Services Sdn. Bhd. as Company Secretary in 2019. Her employment experience includes as Part time lecturer in Victoria College and Contract Customs Officer at Jabatan Kastam Wilayah Persekutuan Kuala Lumpur.

LIST OF PUBLICATIONS

Kamaruddin. N, Tahir, N. S., Othman, S., Kamaruddin, S. (2025), "Compliance of corporate gatekeepers under AML regime in Malaysia: issues and challenges". Journal of Money Laundering Control, Vol. 28 No. 4-5 pp. 665–679.

Kamaruddin. N, Tahir, N. S., Othman, S., Kamaruddin, S. (2025), Regulating Beneficial Ownership Practices in Malaysia. Journal of Administrative Science

Kamaruddin, S., Kamaruddin, N., Ikhsan, M.I., Saufi, N.N.M. (2025). Navigating the Issues and Challenges of Accountants' AML Compliance in Malaysia. In: Alareeni, B. (eds) The Digital Edge: Transforming Business Systems for Strategic Success. Studies in Systems, Decision and Control, Vol 604. Springer, Cham.