



# Legal Persons Risk Assessment (LPRA) 2024



## Overview

The LPRA 2024<sup>1</sup> took into consideration the recent revision to Recommendation 24 of the FATF Standards and multiple data points, as well as input from various stakeholders, including the private sector.

The revision<sup>2</sup> to Recommendation 24 requires countries to assess risks posed by Legal Persons (LPs) created (a) in the country; and (b) abroad (i.e., foreign-created LPs with sufficient links<sup>3</sup> to Malaysia). It also requires a multi-pronged approach for collection of beneficial ownership (BO) information, to ensure it is available to competent authorities in a timely manner.

The overall money laundering (ML) risk rating for LPs in Malaysia has increased from low to **medium**, which correlates to the global emerging risk of LPs being abused for ML. Given the change in risk and evolution of financial crime landscape, all competent authorities and

relevant stakeholders should remain cautious and vigilant as LPs can be misused for ML purposes by perpetrators trying to circumvent AML measures, disguise their identities and conceal source of illegitimate funds. The TF risk however remains low.

The risk drivers for **Medium** net ML risks in Malaysia, is influenced by the inherent nature of domestic LPs-

- Size of domestic LPs (1.6 million), including considerable size of dormant LPs (more than 50% of domestic LPs);
- Ease of incorporating domestic LPs;
- Exposure to high-risk individuals;
- Likelihood of exploitation to facilitate higher risk crimes, such as fraud; and
- Evolution of financial crime landscape, e.g., the use of shell companies to facilitate scam operations.

### Latest trends/ red flags to look out for!

Use of foreign nationals to incorporate LPs and open bank accounts in Malaysia-

1. Forged documents, including fake tenancy agreements
2. False details such as potentially fictitious e-mail address
3. Multiple passport holders, which obscure their true identities

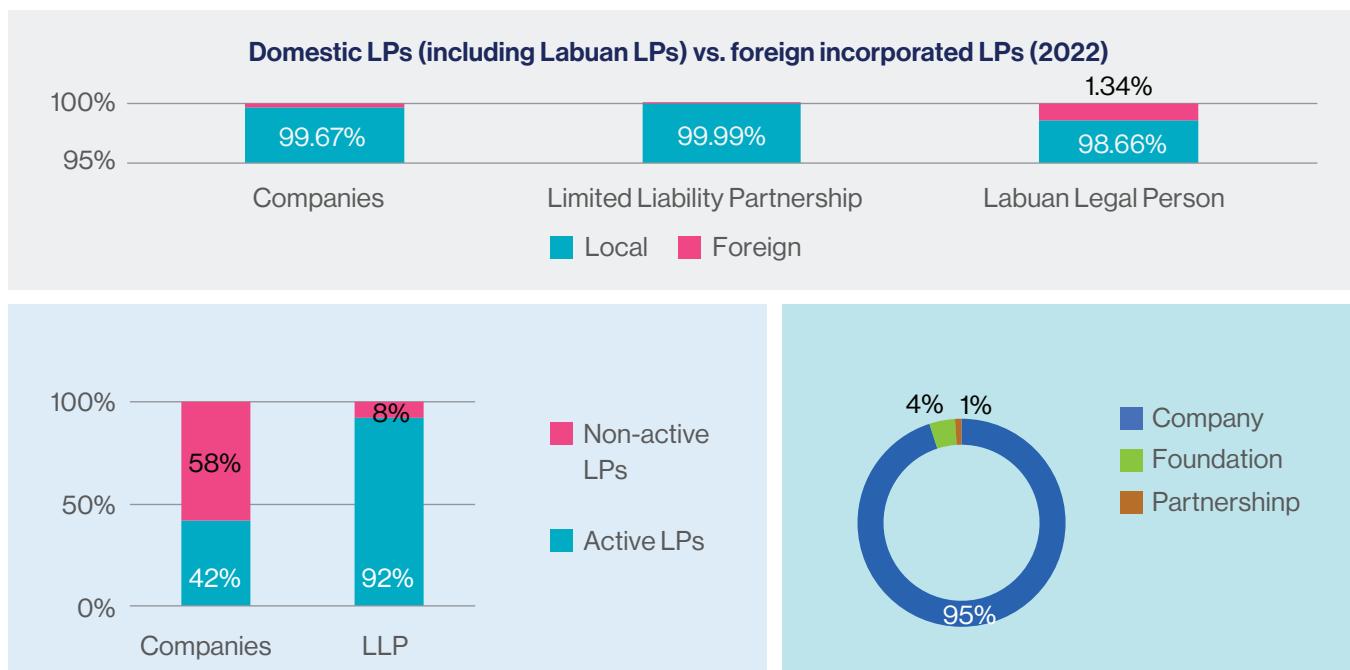
<sup>1</sup> LPRA 2024 is the second iteration of LPRA conducted on legal persons in Malaysia and it is carried out under the auspices of the Legal Persons and Legal Arrangements Sub-Committee (LPLA) of the NCC.

<sup>2</sup> Public statement on revisions to Recommendation 24: <https://www.fatf-gafi.org/en/publications/Fatfrecommendations/R24-statement-march-2022.html>.

<sup>3</sup> Entities set up in different jurisdictions, which have permanent establishment or significant business activity/investment in Malaysia, ongoing business relations with FIs or DNFBPs or is a tax resident in Malaysia.

## Executive Summary

### Landscape of LPs in Malaysia



#### Domestic LPs

- Out of 1.6 million domestic LPs, 98% comprising companies (~1.5 mil) and the remaining are limited liability partnerships (LLP, ~37k).
- About 43% (~667k) of companies remain active, whilst the remaining 57% (~867k) have either been wound up, dissolved or struck off.

#### Labuan LPs

- Out of 5,087 active Labuan LPs, 95% are Labuan incorporated companies (4,847), and the remaining comprising Labuan foundations (190) and Labuan partnerships (50).

#### Foreign Incorporated LPs with sufficient links

The parameters below highlights the key areas considered as sufficient links relevant to Malaysia's foreign-created LP landscape:

- Business Presence** (via registration): Very small exposure (0.2%) of foreign incorporated LPs registered in Malaysia (~1.3k), compared to the total population of LPs as of 2022. Foreign LPs operating any business in Malaysia are also required to register with the Inland Revenue Board Malaysia for taxation purposes.
- On-going business relations with FIs/DNFBPs:** Investment banks are identified as having **higher exposure to foreign LPs**, when compared to other FIs/DNFBPs. Nevertheless, the number of foreign LP customers of the investment banks **remains low** (consisted of only 1.32% as compared to domestic LPs). **Other FI sectors** (i.e., money services businesses, life / general insurance products/ CMI ) **have lower / minimal exposure** of foreign non-individual customers LPs due to the low on-boarding / subscription of foreign LP customers to the types of products offered.
- Low presence of foreign-created LPs** as DNFBP clients as compared to domestic LPs.

#### Observation on 'businesses'

- In Malaysia, businesses are not categorised as LPs. Risk posed by businesses are addressed through due diligence of individuals. Only domestic natural persons can apply for a business registration.
- Businesses operating in Peninsular Malaysia are registered under the Registration of Business Act 1956 (ROBA). Whilst in East Malaysia, businesses are registered by the respective State Authorities.
- As of December 2022, only 18% (~1.64 mil) businesses were active/ existing in Peninsular Malaysia.

## Methodology

The methodology developed to conduct the risk assessment on LPs in Malaysia is akin to the National Risk Assessment (NRA), taking into consideration quantitative and qualitative aspects. Involvement of both the public and private sectors at the assessment stage (data collection, discussion of risk, etc) and validation of findings,<sup>4</sup> ensures a comprehensive understanding of the ML/TF risks, enabling the formulation of appropriate mitigating measures.

## Key Findings: Inherent Risk and Control Measures

Legal Persons	Inherent Risk		Control Measures		Net Risk	
	ML	TF	ML	TF	ML	TF
Domestic LPs	Medium	Low	Adequate	Adequate	Medium	Low
Labuan LPs	Low	Low	Strong	Strong	Low	Low
Foreign LPs with sufficient links	Low	Low	Adequate	Adequate	Low	Low



### Inherent Risk

**Domestic LPs:** Less than 10% of domestic LPs have foreign directors, shareholders or partners, of which less than 6% are from high-risk countries. Key observations on ML:

- Low number of domestic LPs subjected to ML investigation (0.045% out of overall number of LPs in Malaysia).
- Common domestic LP sectors involved or misused includes construction, manufacturing, and wholesale and retail trade.

To-date, there is no TF cases involving domestic LPs.

**Labuan LPs:** Only 3% of Labuan IBFC LP's beneficial owners are PEPs, of which less than 1% are from high-risk countries. Low number of ML investigations and no TF-related investigation. Additionally, there was low usage of nominee arrangements and no tax evasion investigation on Labuan LPs.

**Foreign LPs:** No ML/TF investigations and prosecutions involving foreign LPs with sufficient links to Malaysia. Foreign LPs are less prevalent in Malaysia and evidence of misuse is not observed during the period of review.



### Control Measures

**Domestic LPs:** Adequate control measures provided by the law, where only minor gaps observed on BO reporting and nominee risk. This is mitigated by:

- Amendments to Companies Act 2016;
- Supplemented by intensified supervisory activities via onsite and off-premises monitoring; and
- Training and awareness sessions conducted for Self-Regulated Bodies (SRBs) and industry players.

**Labuan LPs:** Good controls, legislative requirements and compliance measures, including Labuan tax regulatory reform, fit and proper assessment and supervisory activities.

**Foreign LPs:** Adequate monitoring through risk-based supervisory activities and various legislative requirements/ compliance measures by respective law enforcement and supervisory bodies.

<sup>4</sup> This includes involvements of multiple key stakeholders such as the Malaysian law enforcement authorities, relevant financial and DNFBP sector players and participation in focus group discussions for the NRA

## Highlights of threats and vulnerabilities



### Key Trend and Common Modus Operandi involving LPs

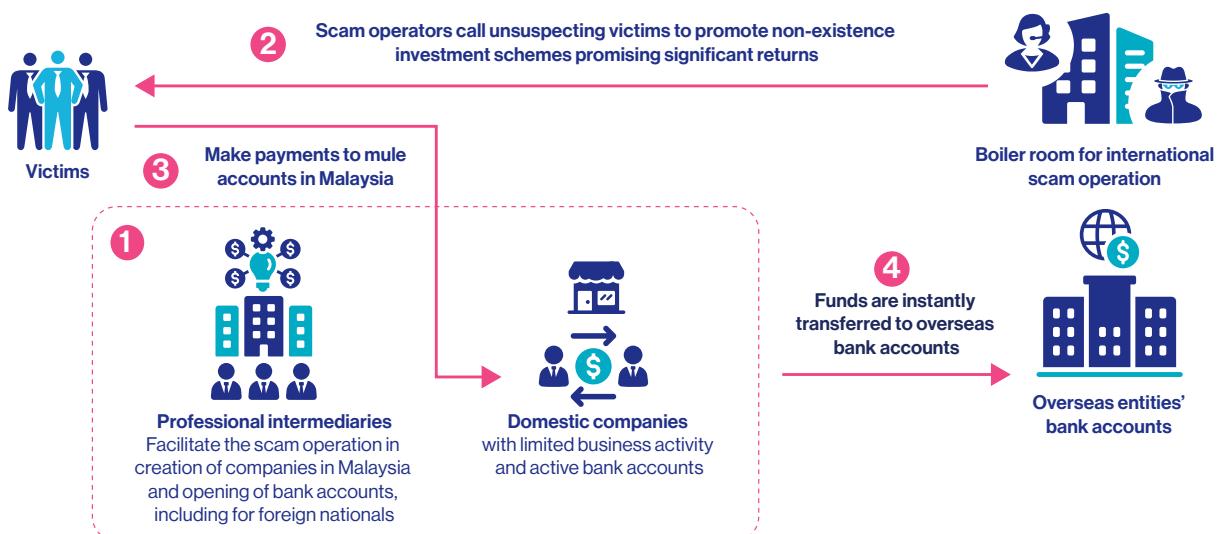
- The use of LPs in top 5 high-risk crimes, as per National Risk Assessment.
- Some LPs are being abused for **cyber-enabled scams** and **fraudulent investment schemes**.
- Shell companies with **limited business activity but active bank accounts**.
- Use of forged documents, including **fake tenancy agreements**, to enable foreign nationals to incorporate LPs in Malaysia.
- The use of false details such as potentially fictitious e-mail address.
- Multiple passport holders, which obscure their true identities
- Sophisticated modus operandi that includes **multijurisdictional splitting** and creation of Malaysian bank accounts by LPs with foreign directors, especially to facilitate international scam operations.



### Key Risk Drivers and Facilitators

- Ease of creation of LPs in both onshore and Labuan, including by foreign nationals.
- The use of mules as directors/ shareholders to obscure perpetrators' true identities.
- The use of technology in creating forged documents that may appear legitimate.
- Facilitation by professional enablers/ intermediaries.

## Case study: International Investment Fraud Syndicate



The modus operandi for the syndicate was to offer fake investment portfolios, through advertisements on social media (with clickbait on interesting investment scheme) and telephone calls. Unsuspecting victims will be required to register to be contacted by the syndicate members.

The syndicate had been in operation since 2019 and had amassed almost RM200 mil after duping victims in Country A and Country B. Further investigations revealed that the syndicate had its Headquarters in neighbouring Country X and was part of an international scam ring that had duped more than 69,000 victims from various countries.

It was also discovered that Malaysians were also involved as professional enablers/facilitators in managing "Boiler Room" operations in the country. The professional enablers/facilitators were responsible to create **mule companies and**

**mule accounts** used by the syndicate to receive the monies from the victims.

In February 2023, the authorities conducted 24 simultaneous raids across call centres, companies and houses in the Klang Valley and Penang, busting an investment syndicate masterminded by citizens of Country B. As a result, 14 individuals from Malaysia, Country B and Country Y identified as owner, operator and facilitator of the "Boiler Room" operation were detained. 21 non-citizen operators were detained under the Immigration Act 1959.

In March 2023, several company secretaries' premises were also raided.

Four nationals from Country B were charged and convicted at the Sessions Courts and were sentenced to jail and fines. RM11.6 mil in cash, in multi-denomination was also seized.

## Key Recommendations

A set of recommendations was developed to address the identified gaps and will form the basis for the action plans in the NCC Roadmap 2024 - 2026, which encapsulates key action plans to be fulfilled by member agencies and relevant Ministries.

LP Overall Net Risk	
ML	TF
Medium	Low

### A Transparency of BO information

- ❑ **Enhance regulatory environment** to elevate transparency of BO information
  - Optimise the BO registry (e-BOS) by CCM as a centralised system to streamline BO information, enabling LEAs and public authorities to swiftly and efficiently assess LP risks using information available from a direct source.
  - Enhanced obligation to comply with the BO reporting framework introduced via the amendments to the Companies Act 2016 and the upcoming proposed amendment to the LLP Act 2012.
- ❑ **Introduce Discrepancy Reporting Measures** on BO information
  - The discrepancy reporting framework by CCM will allow action to be taken on material discrepancies. Accordingly, this will support the accuracy and completeness of BO information within the registrar. LFSA also will be introducing a similar mechanism for Labuan entities (i.e., discrepancy reporting).
- ❑ **Introduce Declaration of Status** to enhance transparency of BO
  - For Labuan IBFC LPs, declaration of the nominee director and shareholder status to be included as part of LP registration process.

### B Collaboration with stakeholders

- ❑ Authorities in Malaysia are recommended to:
  - Continue utilising the e-BOS registry to analyse and detect cases as well as address threats of ML/TF involving or facilitated by LPs.
  - Continue to strengthen collaboration through public-private partnerships on information sharing (e.g. best practices on BO compliance, latest trend and ML/TF risk involving LPs) through platforms such as MyFINet and the Compliance Officers' Networking Group (CONG).

### C Continuous monitoring on RIs' compliance and awareness

- ❑ Supervisory authorities to continue monitoring and consider enforcement action on BO related non-compliances (e.g., failure to conduct Customer Due Diligence (CDD), identify BO)
- ❑ Enhanced awareness by self-regulatory bodies (SRBs) and industry associations on relevant BO transparency requirements.

## Risk Outlook

ML net risk emanating from LPs will likely remain at Medium in the next 3 years. However, it is important to observe its potential linkages with other higher-risk crimes (such as fraud/scams) which could shift to an upward trend due to the evolution of financial crimes. While TF risk for LPs in Malaysia will likely remain as low.