



Thematic Review on Legal Arrangements 2023

Background

In response to money laundering and terrorism financing (“ML/TF”) risks associated with legal arrangements, pursuant to Recommendation 25 and Immediate Outcome 5 of the Financial Action Task Force’s Standards on ‘Transparency and Beneficial Ownership of Legal Arrangement’, the SC has in 2023 conducted a study to better understand the efforts taken by intermediaries to enable compliance and mitigate ML/TF risks associated with legal arrangements.

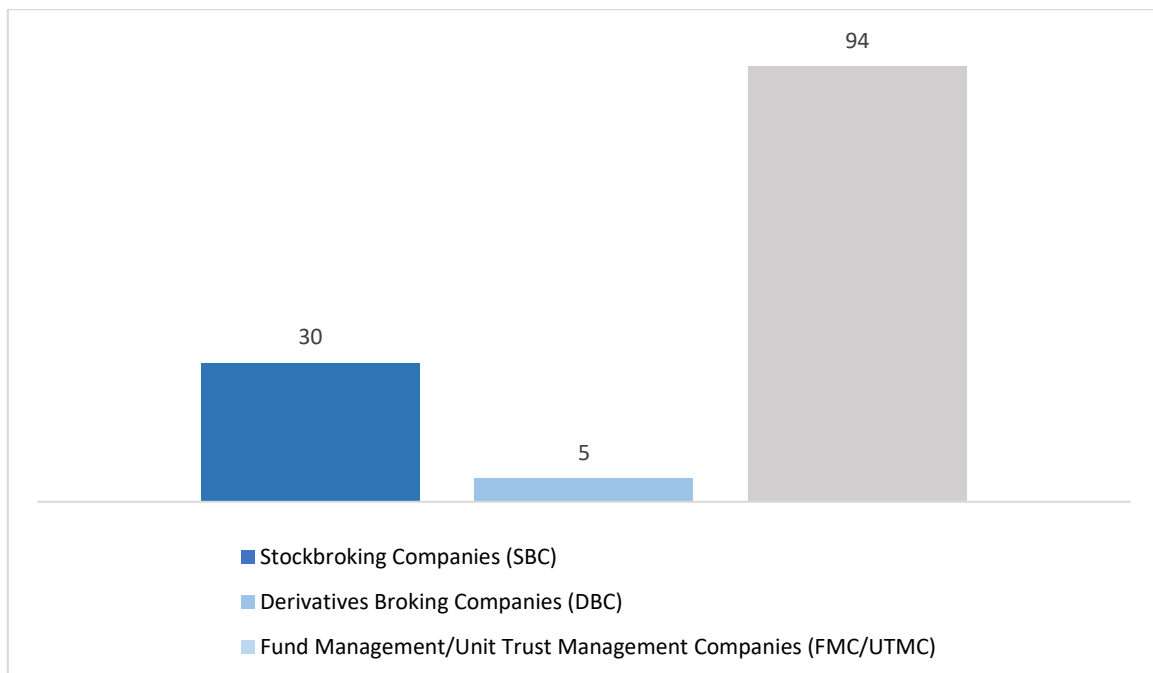
Scope

The review conducted on Legal Arrangements (“LAs”) encompasses express trusts such as private trusts, charitable trusts and foundations, and other similar LAs, including implied trusts and commercial trusts.

The scope of the review was designed to look at the key areas relating to:

- onboarding of LA customers
- business-based risk assessment (“BbRA”) and
- customer risk profiling.

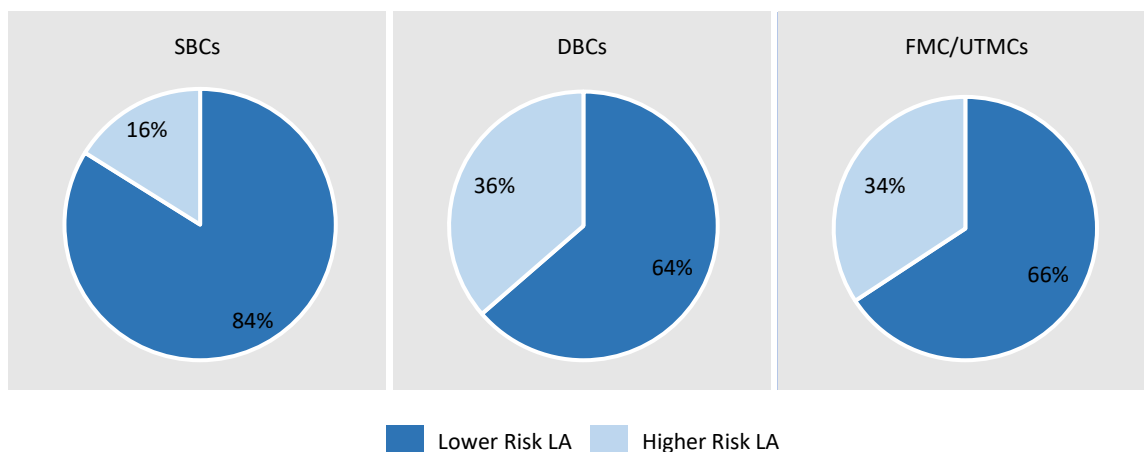
We undertook a review across 129 intermediaries.



Landscape

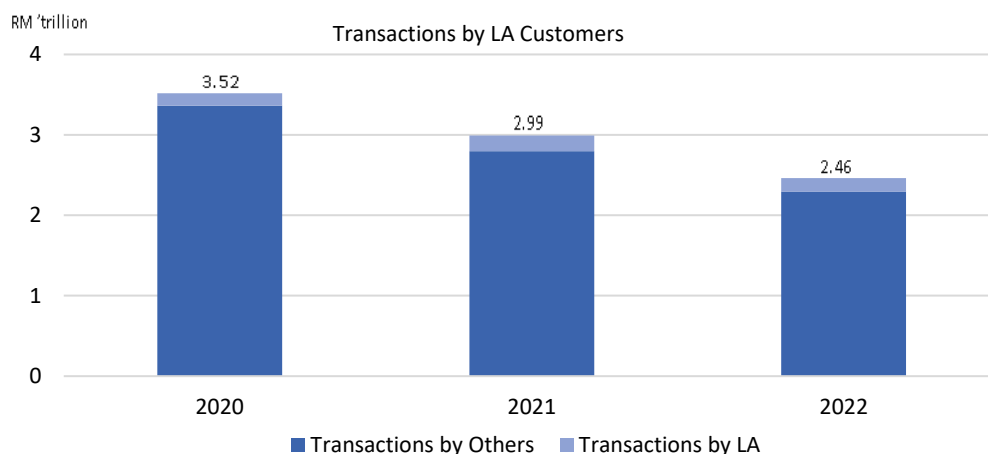
Within the stockbroking, derivatives broking, and unit trust/fund management (collectively known as “reporting institutions”) sector, LA customers represent a minimal share, accounting for about 2,140 customers or less than 0.1% of total customers as at end 2022.

Low proportion of higher risk LAs



Cumulatively, inward (injection/deposit) and outward (redemption/withdrawal) transactions contributed less than 6% of the total transactions of RM8.97 trillion from 2020 to 2022.

Small proportion of transactions by LAs relative to total transactions from 2020 to 2022



The SC’s findings

The thematic review highlights the stockbroking, derivatives broking, and unit trust/ fund management sector's encouraging commitment to addressing ML/TF risks associated with LAs. While the exposure to LA customers remains minimal, the sector has diligently incorporated the ML/TF risks from LA customers into its customer and/or institutional risk assessment and relevant control mechanisms, revealing a robust, comprehensive approach to risk management.

As the sector evolves and adapts to emerging challenges, continued vigilance in addressing LA-related risks remains essential to maintain the sector's resilience against ML/TF threats. The SC remains dedicated to upholding the highest standards of compliance and promoting a secure financial environment.

Examples of good practices

Comprehensive Risk Assessment:

Reporting Institutions (“RI”) have considered ML/TF risks associated with LAs as part of their BbRA. This demonstrates a comprehensive approach to risk management, ensuring that potential risks tied to LAs are accounted for within the broader context of client risks.

Database:

The RIs maintain databases within their systems, containing information on their LA customers' beneficial owners (BOs). This practice enhances transparency and due diligence efforts, ensuring that BO information is readily accessible for compliance purposes.

Diverse Risk Criteria:

RIs utilize multiple risk criteria when assessing LA customers' ML/TF risks during onboarding and ongoing monitoring. This practice underscores the industry's recognition of the multi-faceted nature of LA-related risks and the need for a nuanced evaluation approach. *See diagram 1.*

Risk-Based Approach (RBA):

There is no disparity in the set of parameters or criteria used for ongoing monitoring compared to other client types or segments. All RIs apply RBA for ongoing due diligence in line with the customers' risk profiles. See diagram 1.

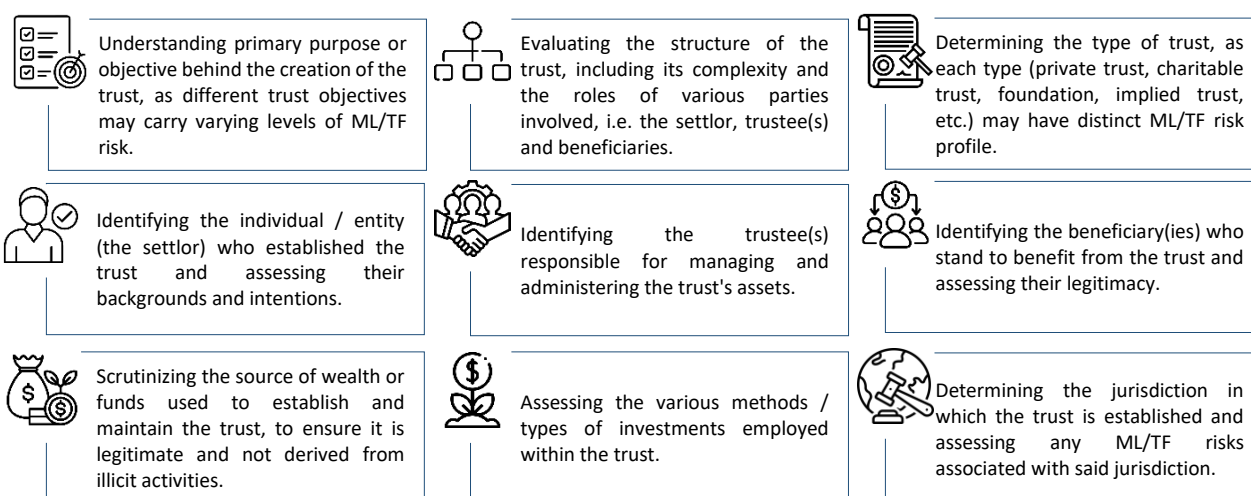


Diagram 1: The risk considerations by the RIs as part of its onboarding and ongoing monitoring of LA customers