

*Compliance with Prevention of Money
Laundering*

The Prevention of Money Laundering act, 2002 has come into effect from 1 July 2005. As per the provisions of the Act, every banking company, financial institution and intermediary (which includes a stock-broker, sub-broker, share transfer agent, banker to an issue, trustee to a trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and any other intermediary associated with securities market and registered under section 12 of the Securities and Exchange Board of India Act, 1992) shall have to:

- ✓ Maintain a record of prescribed transactions
- ✓ Furnish information of prescribed transactions to the specified authority
- ✓ Verify and maintain records of identity of clients
- ✓ Preserve the records for a period of ten years from the date of cessation of transactions with clients.

The Following points needs to be taken cognizance of in order to adhere to the Anti-Money Laundering policy framed under the Prevention of Money Laundering Act, 2002.

I. Customer Due Diligence Process

- ✓ Obtain sufficient information to identify persons who beneficially own or control securities accounts. Wherever it is apparent that the securities acquired or maintained through an account are beneficially owned by a party other than the client, that party should be identified using client identification and verification procedures.
- ✓ Verify the customer's identify using reliable, independent source documents, data or information.
- ✓ Identify beneficial ownership and control.
- ✓ Verify the identify of the beneficial owner of the customer
- ✓ Conduct on-going due diligence and scrutiny to ensure that the transactions being conducted are consistent with our knowledge of the customer, his business/risk profile, taking into account where necessary, the customer's source of funds.

For existing clients processes could include

- Review of KYC details of all the existing active clients in context to the PMLA 2002 requirements.

- Classification of clients into high, medium or low risk categories based on KYC details, trading activity etc for closer monitoring of high risk categories etc.
- Obtaining of annual financial statements from all clients, particularly those in high risk categories.
- In case of non individuals additional information about the directors, partners, dominant promoters, major shareholders to be obtained.

II. Customer Acceptance Policy

- ✓ Ensure that the existing guidelines regarding Customer/business acceptance is strictly followed. Existing /past relationship with the client should be verified and ensured that the client is not on the negative list/defaulters list.
- ✓ A detailed search to be carried out to find that the Client is not in defaulters/negative list of regulators.
- ✓ In case of corporate client, the antecedents of the company (change of name and registered office in particular) and of all promoters and directors is to be traced.
- ✓ An opinion report must be obtained from the bankers/institutions financing the client.
- ✓ In case of individuals they are to be classified into different categories of risk depending the volume of transactions, trading turnover, manner of payment etc. High Net worth Individuals, Trusts, Charities, NGO, companies with close family shareholding, Politically Exposed Persons, non face to face customers, clients with dubious reputation, clients in high risk countries, etc constitute High Risk Category. In case of High Risk Category, due care and caution should be exercised at the acceptance stage itself. The profile of Clients has to be updated regularly.
- ✓ An assessment should be made of the financial worthiness of the client by obtaining appropriate declarations at KYC stage. This information should be subsequently used for monitoring whether the transactions of the clients are within the declared means and if the values of the transactions are increasing the client should be asked to disclose the increasing sources.
- ✓ A thorough assessment should be carried out to ascertain whether the client is dealing with us on his own behalf or some one else is the beneficial owner. This will be particularly relevant in broking and Demat accounts. (For example while Mr. A may be our client as per the documents, Mr. B may be giving instructions all the time). If there are doubts, before acceptance of the clients, thorough due diligence should be carried out to establish the genuineness of

the claims of the clients. Secrecy laws shall not be allowed as a reason to disclose true identity of the beneficiary/transacting party.

- ✓ No account should be opened in a fictitious name/benami name or on an anonymous basis.
- ✓ No client should be accepted where it is not possible to ascertain the identity of the client, or the information provided is suspected to be non-genuine, or if there is perceived non-cooperation of the client in providing full and complete information.
- ✓ In the case of Clients who want to act through agent under Power of Attorney, a notorised power of attorney should be obtained. Original of the POA should be verified. Care should be taken to ensure the genuineness of the client.
- ✓ While accepting FIIs/sub accounts as clients, reports in market/public knowledge regarding their investment behavior (for e.g. whether they allow their investment vehicle to be used by others; whether they issue underlying participatory notes) should also be considered.
- ✓ Know Your Client forms prescribed by SEBI/stock exchanges/Depositories, duly signed by the client should be obtained before acceptance of the clients.

III. Customer Identification Policy

- ✓ Before opening the accounts, there should have to be a personal interaction with the client except in the case of NRIs where the power of attorney holder is the Authorised Dealer Bank.
- ✓ Before opening the accounts in case of companies any one of the following viz main promoter/ Managing Director/ whole time director / key management person and in the case of partnership any one of the active partners should be met in person.
- ✓ Caution is to be exercised when identifying companies which appear to be 'shell companies' or 'front companies'. Shell/front companies are legal entities which have no business substance in their own right but through which financial transactions may be conducted.
- ✓ In case of clients acting through Power of Attorneys the Principal and agent should come in person for the first time, except where the client is a NRI and the designated branch of the Authorised Dealer Bank is holding the power of attorney. Photos of both to be obtained along with signatures on the photos. The KYC Form, Member Constituent Agreement and the Risk Disclosure Document must compulsorily be signed by the Client himself and not by the POA holder except in case of NRI clients if the POA holder is the designated

branch of the authorized dealer.

- ✓ Original of un-expired Photo identity of individual/promoter/director to be verified by company official for identifying the client. Signature of the persons should be obtained on the photos. Photocopy of the proof should be taken by company official who should also certify thereon about having verified with the unexpired original.
- ✓ In case of individuals **Proof of Identify** (as prescribed by SEBI) should be established by way of any of the following documents; (un-expired original document shall be verified)
 - MAPIN Card
 - PAN Card
 - Passport
 - Voter ID
 - Driving license.
 - Photo Identify card issued by Employer registered under MAPIN

Photo copy of the proof should be taken by our official who should also certify thereon about having verified with the unexpired original.

- ✓ **Proof of address:** Any of the following address proof to be obtained (un-expired Original should be verified)
 - Passport
 - Voter ID
 - Driving license
 - Bank pass book
 - Latest Rent agreement
 - Ration card
 - Latest Flat maintenance Bill
 - Latest Telephone bill
 - Latest Electricity Bill
 - Certificate issued by employer registered under MAPIN
 - Insurance policy

Photo copy of the proof should be taken by company official who should also certify thereon about having verified with the unexpired original.

In the case of joint account, the above procedure should be carried out for all the persons who hold the joint account.

- ✓ Where the client is a company, certified copies of the following documents shall be obtained:

- Certificate of Incorporation
- Memorandum and Articles of Association
- Copies of the balance sheet for the last 2 financial years (Copies of annual balance sheet to be submitted every year)
- Copies of latest shareholding pattern, including list of all those holding more than 5% in the share capital of the company, duly certified by the company secretary/whole time director/MD (copy of updated shareholding pattern to be submitted every year)
- Copy of resolution from the Board of Directors approving participation in equity /derivatives/debt trading and naming authorized persons for dealing in securities and power of attorney granted to its managers, officers or employees to transact on its behalf, and
- Photographs of whole time directors, individual promoters holding 5% or more, either directly or indirectly in the shareholding of the company and of persons authorized to deal in securities. Identification documents (identity and personal address) for the above as applicable to individuals in respect of managers, officers or employees holding an attorney to transact on its behalf.

Care should be taken if the persons mentioned in the Memorandum and Articles of Association as promoters/first directors are different from the current promoters/directors. If the name/address of registered office has been changed, reasonable enquiries should be made.

Proof of address of the registered office of the company, being one of the relevant documents as in the case of individuals should also be taken.

- ✓ Where the client is a partnership firm, certified copies of the following documents
 - Registration certificate
 - Partnership deed and
 - Identification documents (identity and personal address) for the above as applicable to individuals in respect of partners, managers, officers or employees holding an attorney to transact on its behalf.
 - Proof address of the firm on the basis of relevant documents as applicable to individuals.
- ✓ Where the client is a trust certified copies of the following documents;
 - Registration certificate
 - Trust deed and
 - Proof of identity and address of the trustees as applicable to the individuals.
- ✓ In the case of broking transactions, care should be taken to ensure that the orders are placed by the client and not by others on behalf of the client. If the client proposes to authorize another person to place orders on his behalf, a

properly executed irrevocable power of attorney should be obtained and the person who will be placing orders shall also be identified using the above procedure. Ordinary Letters of authority shall not be accepted. Periodical statement of accounts should be sent to the client (and not power of attorney holder) at his address mentioning that if he does not respond within 30 days of date of receipt of the letter, the contents shall be taken as approved.

- ✓ DP services (when commenced) should not be offered on a standalone basis (i.e. without broking relationship).
- ✓ After opening broking / DP accounts, a letter of thanks should be sent by registered post/speed post, at the recorded address. Transactions should not be allowed if the mail comes undelivered. The undelivered envelope should be retained with the KYC papers for further inquiries, if necessary.

IV. Monitoring of Transactions

- ✓ Client accounts to be monitored at least once in a calendar quarter and any exceptions need to be reported to the management and compliance department. If any transaction appears to be suspicious, it is to be reported to the Compliance Department immediately.
- ✓ An illustrative list of circumstances which may be in the nature of suspicious transactions is given below.:
 - Clients whose identity verification seems difficult or clients appear not to cooperate
 - Substantial increase in activity without any apparent cause
 - Large number of accounts having common parameters such as common partners / directors / promoters / address / email address / telephone numbers / introducers or authorized signatories;
 - Transactions with no apparent economic or business rationale
 - Sudden activity in dormant accounts;
 - Source of funds are doubtful or inconsistency in payment pattern;
 - Unusual and large cash deposits made by an individual or business;
 - Transfer of investment proceeds to apparently unrelated third parties;
 - Multiple transactions of value just below the threshold limit specified in PMLA so as to avoid possible reporting;

- Unusual transactions by CSCs and businesses undertaken by shell corporations, offshore banks /financial services, businesses reported to be in the nature of export-import of small items.;
 - Asset management services for clients where the source of the funds is not clear or not in keeping with clients apparent standing /business activity;
 - Clients in high-risk jurisdictions or clients introduced by banks or affiliates or other clients based in high risk jurisdictions;
 - Clients transferring large sums of money to or from overseas locations with instructions for payment in cash;
 - Purchases made on own account transferred to a third party through off market transactions through DP Accounts;
 - Suspicious off market transactions;
 - Large deals at prices away from the market.
 - Accounts used as 'pass through'. Where no transfer of ownership of securities or trading is occurring in the account and the account is being used only for funds transfers/layering purposes.
 - Trading activity in accounts of high risk clients based on their profile, business pattern and industry segment.
- ✓ Care should also be taken if the clients make high value payments (Rs. 10 lakhs and above) from bank accounts not declared to company in the KYC forms, or when they make payments through Demand Drafts (and not through cheques drawn on their declared bank accounts) the details of such transactions should be noted in a separate register.
 - ✓ Caution should exercise if there any high quantity/value off-market transactions in DP accounts. Caution should also be exercised if large credits in a broking account are advised to be transferred to any broking account with us.
 - ✓ The Compliance department shall undertake random checks as to the nature of the transactions and if they are suspicious transactions.

V. Maintenance of Records

- ✓ Company is required to maintain and preserve the following information in respect of transactions (Cash & Suspicious) referred to in Rule 3:
 - (i) the nature of the transactions;
 - (ii) the amount of the transaction and the currency in which it was denominated;
 - (iii) the date on which the transaction was conducted; and
 - (iv) the parties to the transaction

- ✓ All records including customer identification, account files and business correspondence to be maintained in hard and soft form for a period of ten years

- ✓ In the case of transactions where any investigations by any authority has been commenced and in the case of transactions which have been the subject of suspicious transaction reporting all the records shall be maintained till the authority informs of closure of the case.

VI. Principal Officer

- ✓ To designate the Compliance Officer as the Principal Officer who shall be responsible for implementation and compliance of this policy. His illustrative duties will be as follows:
 - Monitoring the implementation of Anti Money Laundering Policy
 - Reporting of transactions and sharing of information as required under the law
 - Liasoning with law enforcement agencies
 - Ensuring submission of periodical reports to Top Management. The monthly compliance report shall henceforth mention if any suspicious transactions are being looked into by the respective business groups and if any reporting is to be made to the authorities.
 - Providing clarifications to staff members on the provisions of the Act, Rules, Guidelines and the policy of the company.

VII. Reporting to Financial Intelligence Unit-India

- ✓ In terms of the PMLA rules, Company is required to report information relating to cash and suspicious transactions to the Director, Financial Intelligence Unit-India (FIU-IND) at the following address:

Director, FIU-IND,
Financial Intelligence Unit-India,
6th Floor, Hotel Samrat,
Chanakyapuri,
New Delhi-110021.

- ✓ Company should adhere to the following:
 - The cash transaction report (CTR) (wherever applicable) for each month should be submitted to FIU-IND by 15th of the succeeding month.
 - The Suspicious Transaction Report (STR) should be submitted within 7 days of arriving at a conclusion that any transaction, whether cash or non-cash, or a series of transactions integrally connected are of suspicious nature.
 - The Principal Officer should record his reasons for treating any transaction or a series of transactions as suspicious. It should be ensured that there is no undue delay in arriving at such a conclusion.
 - All cash transactions where forged or counterfeit currency notes or bank notes have been used as genuine or where any forgery of a valuable security or a document has taken place facilitating the transactions;” to be reported not later than seven working days from the date of occurrence of such transaction
 - The Principal Officer will be responsible for timely submission of CTR and STR to FIU-IND;
 - Utmost confidentiality should be maintained in filing of CTR and STR to FIU-IND.
 - Not to put any restrictions on operations in the accounts where an STR has been made.

VIII. Staff Hiring, Awareness and Training :

- ✓ Company should have adequate screening procedures in place to ensure high standards when hiring employees. It should identify the key positions within their own organization structures having regard to the risk of money laundering and terrorist financing and the size of their

business and ensure the employees taking up such key positions are suitable and competent to perform their duties. The company must provide proper anti money laundering and anti-terrorist financing training to their staff members.

- ✓ Staffs who deal directly with the public are the first point of contact with potential money launderers. Their efforts are therefore vital to the reporting system for such transactions. Staff should keep abreast of the practices to identify suspicious transactions and on the procedure to be adopted when a transaction is deemed to be suspicious. In short, employees must familiarize themselves with their customers' normal trading activities and usual market practices in order to recognize anomalous behavior. Suspicions concerning the source of assets or the nature of a transaction may not be ignored. It is the active responsibility of every person at the company to seek to ensure that the firm's facilities are not being misused.
- ✓ Staff should also not disclose to the customer concerned nor to other third persons that their transaction is deemed suspicious or if information may be transmitted to the authorities.

IX. Audit Testing of Anti Money Laundering Policy :

- ✓ The implementation of Anti Money Laundering Policy will be subject to periodic audit specifically with regard to testing its adequacy to meet the compliance requirements. The audit/testing will be conducted by company's own personnel (not involved in framing or implementing the AML program) or it may be done by a qualified third party. The report of such an audit/testing will be placed before the senior management for making suitable modifications/improvements in the AML Policy

X. To comply with circulars issued, amendments made to Rules, Regulations and Act pertaining to Anti-Money Laundering.

- ✓ Organisation needs to comply with the amendments made to Rules, Regulation and Act, circulars issued by the relevant authorities from time to time.

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