

PREVENTION OF MONEY LAUNDERING ACT-2002 (PMLA)

Abbreviations

- ✓ **PMLA – Prevention of Money Laundering Act, 2002**
- ✓ **FIU-IND – Financial Intelligence Unit - India**
- ✓ **AML – Anti Money Laundering**
- ✓ **STR – Suspicious Transactions Report**

BACKGROUND

- ✓ **PMLA brought into force w.e.f. 1st July, 2005 by an act of Parliament**
- ✓ **Financial Intelligence Unit- India (FIU-IND) is the authority to implement the provisions of the Act**
- ✓ **FIU-IND obtains data from various intermediaries, processes the same and if necessary passes it on to the agency such as police, I-tax for investigation**
- ✓ **Act applicable to banking companies, financial institutions and all the intermediaries associated with the security market and are registered with SEBI under section 12 of SEBI act, 1992**

BACKGROUND ..

- ✓ **The application of AML measures by market intermediaries has been emphasized by International Regulatory agencies as a key element in combating money laundering.**
- ✓ **Financial Action Task Force (FATF) is the agency who evaluate the member countries and certify whether they are compliant or not**
- ✓ **India has been confirmed as one of the country that is compliant with AML regulations during December 2010**

WHAT IS MONEY LAUNDERING

- **Moving illegally acquired cash through financial systems so that it appears to be legally acquired**
- **The 3 stages of money laundering are detailed below:**
 - Placement: The physical disposal of cash proceeds derived from illegal activity**
 - Layering: Separating illicit proceeds from their source by creating complex layers of transactions**
 - Integration: Creating an impression of apparent legitimacy to such wealth**

ANTI MONEY LAUNDERING MEASURES - COMPLIANCE REQUIREMENTS

SEBI MASTER CIRCULAR CIR/ISD/AML/3/2010 DT. 31.12.2010

Appointment of Principal Officer

- **Identify a Principal Officer**
- **Should be in senior position and able to function with independence and authority and have access to top management**
- **Intimate- Name, Contact address, phone number and e-mail address to:**

**Addl. Director,
Financial Intelligence Unit- India,
Ministry of Finance, 6th fl. ,
Hotel Samrat,
Chanakya Puri, New Delhi- 110021**

Principal Officer's Responsibilities

- **Ensure compliance with PMLA**
- **Evolve internal mechanism to ensure proper process flow to scrutinise and identify potentially suspicious transactions and timely reporting**
- **Respond promptly to any request for information by FIU, regulators, statutory authorities and CDSL**
- **Ensure awareness of PMLA provisions among all the staff**
- **Adopt written procedures (internal policy) and send a hard/soft copy to FIU-IND**

Internal Policies, Procedures & Controls

- **Internal policy document shall cover**
 - **Policy for acceptance of clients**
 - **Procedure for identifying the clients**
 - **Transactions monitoring**
 - **Reporting suspicious transactions**
- **Periodical Review of Policy**
 - **Policy should set out the process and periodicity for review of policy**
 - **Review should be by an official other than the one who originally prepared the policy**

POLICY FOR ACCEPTANCE OF CLIENTS

- No account is opened in fictitious/ benami names**
- Categorise clients into low, medium and high risk on the basis of perceived risk**
- This requires knowledge about client's nature of business, location, social and financial status etc.**
- Circumstances in which client is permitted to act on behalf of another person to be verified**
- Revisit CDD process when there are suspicions of money laundering or financing of terrorism**

POLICY FOR ACCEPTANCE OF CLIENTS

- Checks and balances to ensure that identity of the client does not match with any person having known criminal background or is not a banned entity**
- Indicative lists of websites for verification are www.watchoutinvestors.com, www.worldcheck.com etc**
- Revisit CDD process when there are suspicions of money laundering or financing of terrorism**

CLIENTS OF SPECIAL CATEGORY (CSC)

- **CSC are to be treated as high risk clients**
- **Non Residents, trusts, charities, Cos having close family shareholdings, non face to face clients etc are CSCs**
- **Politically Exposed Persons (PEP) are those who are entrusted with prominent public functions in a foreign country such as heads of states or governments, senior government/ military/ judicial officials etc.**

CLIENTS OF SPECIAL CATEGORY (CSC)

- **Enhanced due diligence for high risk clients and PEPs**
- **Prior approval of senior management for establishing business relationship with PEP**
- **Timely access to client identification data and CDD information and txn records**
- **Clients of high risk countries such as those having unusual banking secrecy, active in narcotics production etc are subjected to enhanced scrutiny of txns and due diligence**

CLIENT IDENTIFICATION PROCEDURE

- **Obtain sufficient info to identify persons who beneficially own or control the securities account**
- **Identify natural person who ultimately control legal person**
- **Verify customer's identity using reliable, independent source documents, data or information**
- **Conduct on going due-diligence and scrutiny of txns and account through out the course of business relationship**

Suspicious Transactions

- **Transactions that give rise to a reasonable ground of suspicion that it may involve proceeds of crime or may involve financing of the activities relating to terrorism**
- **Appears to be made in circumstances of unusual or unjustified complexity**
- **Appears to have no economic rationale or bonafide purpose**

Suspicious Transactions

- **STR to be filed within 7 working days from the date of detection to FIU-IND**
- **Report all attempted and abandoned txns of suspicious nature also**
- **Ensure continuity of txns and maintain confidentiality**
- **Prohibited from disclosing (tipping off) that STR is filed**

Suspicious Transactions

- STR can be in physical or electronic format
- Electronic format can be downloaded from FIU website www.fiuindia.gov.in
- STR to be reported directly to FIU-IND
- Intimate count of STR to CDSL before 7th of subsequent month
- 'NIL' report need not be sent
- Records of reporting to be maintained

Record Keeping and Retention of Records

- **DPs should take all reasonable care to store Hard copy of all relevant documents.**
- **Records are to be maintained in such a way that retrieval should be possible within a short time**
- **Proper back-up of softcopy should be maintained and the restoration and retrieval of data should be possible within a short time.**
- **Backed up media should be periodically checked to ensure data integrity**

Record Keeping (continued . . .)

- **Retention of records in case of account opening form should be 10 years from the time of closing of the account**
- **Retention of records in case of transaction instructions should be 10 years from the date of the transaction**
- **In case of records relating to ongoing investigations or transactions of suspicious nature the record to be retained till it is confirmed that the case has been closed**

Hiring of employees

- **Set-up Policy for recruitment of staff to ensure adequate screening to ensure high standards**
- **Ensure that the staff being appointed do not have suspicious background or doubtful integrity and are suitable and competent to perform their duties**

Training

- **Training on AML and CFT should be given to all the new staff**
- **On going employee training programme to be carried out so that staff are adequately trained.**
- **Educate clients by preparing AML and CFT specific literature/ pamphlets etc.**

CDSL Support

- **Alerts every fortnight**
- **Alerts based on various parameters**
- **Alerts sent through billing folder**
- **DPs to identify suspicious txns in the light of financial status and nature of business of the client**
- **Maintain a Register and record the action taken**
- **Monitor other transactions also**

Designated Individuals/ Entities

- **Implementation of UN Security Council Resolutions/ EU Common Position and Regulations**
- **Consolidated List of Individuals and entities subject to sanction measures and UNSC Resolutions 1267 and 1822 on Taliban/ Al-Qaida**
- **In case any account /asset of designated entities/individuals is found, details to be conveyed through CDSL to SEBI for further action**

- ***For further assistance, kindly contact***

Mr. Krishnamurthy Iyer
Asst Vice President & Principal Officer
Central Depository Services (India) Ltd.
17th Floor, P J Tower, Dalal Street
Fort, Mumbai – 400 001
Tel: (022) 22728687
Fax: (022) 2272-3199
e-mail : iyerk@cdslindia.com
Web-site: www.cdslindia.com

Thank you !

