



Central Depository Services (India) Limited

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COMMUNIQUÉ TO DEPOSITORY PARTICIPANTS

CDSL/OPS/DP/1706

September 04, 2009

GUIDELINES ON ANTI-MONEY LAUNDERING MEASURES

SEBI has issued a Circular, no. **ISD/AML/CIR-1/2009** dated **September 01, 2009** on the subject of **Anti-Money Laundering [AML] Standards / Combating Financing of Terrorism [CFT] / Obligations of Securities Market Intermediaries under Prevention of Money Laundering Act [PMLA], 2002 and Rules framed thereunder.**

DPs are advised to take note of the contents of the said Circular [attached as **Annexure-A**] and ensure compliance.

Queries regarding this communiqué may be addressed to:

- ❑ **CDSL – Principal Officer** K. H. Iyer on (022) 2272-8650. Emails may be sent to: pmla@cdslindia.com / iyerk@cdslindia.com.
- ❑ **CDSL – Helpdesk** on (022) 2272-8642, 2272-8427, 2272-8624, 2272-8693, 2272-8625, 2272-8639, 2272-8663, 2272-1261, 3246-2767, 2272-2075. Emails may be sent to: helpdesk@cdslindia.com.

sd/-

K H Iyer
Assistant Vice President – Operations
& Principal Officer

REMINDER TO DPs

- ✓ Reference communiqué no. **CDSL/OPS/DP/1225** dated **August 07, 2008**
Last date for submission of Audited Financial Statements and Networth Certificate for the year ended March 2009 is **September 30, 2009**.

**OFFICER ON SPECIAL DUTY
INTEGRATED SURVEILLANCE DEPARTMENT**

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ISD/AML/CIR-1/2009

September 01, 2009

To all Intermediaries registered with SEBI under section 12 of the SEBI Act, 1992.

(Through the stock exchanges for stock brokers, sub brokers and depositories for depository participants)

Sub: Anti Money Laundering (AML) Standards/Combating Financing of Terrorism (CFT)/Obligations of Securities Market Intermediaries under Prevention of Money Laundering Act, 2002 and Rules framed there-under.

Dear Sir / Madam,

1. SEBI, vide Master Circular No. ISD/AML/CIR-1/2008 dated December 19, 2008, issued consolidated requirements/obligations to be fulfilled by all registered intermediaries with regard to AML/CFT. In addition to the obligations contained in the Master Circular, following are the additional requirements to be fulfilled or the clarifications with regard to existing requirements:

a. The illustrative list of 'Clients of Special Category' (CSC) as contained in the existing clause 5.4 (Page 16-17 of the Master Circular) shall be read as under:

- i. Non resident clients,*
- ii. High net-worth clients,*
- iii. Trust, Charities, NGOs and organizations receiving donations,*
- iv. Companies having close family shareholdings or beneficial ownership,*
- v. Politically exposed persons (PEP). Politically exposed persons are individuals who are or have been entrusted with prominent public functions in a foreign country, e.g., Heads of States or of Governments, senior politicians, senior government/judicial/military*

officers, senior executives of state-owned corporations, important political party officials, etc. The additional norms applicable to PEP as contained in the subsequent clause 5.5 (Page 19 of the Master Circular) shall also be applied to the accounts of the family members or close relatives of PEPs,

- vi. Companies offering foreign exchange offerings,*
- vii. Clients in high risk countries (where existence / effectiveness of money laundering controls is suspect or which do not or insufficiently apply FATF standards, where there is unusual banking secrecy, Countries active in narcotics production, Countries where corruption (as per Transparency International Corruption Perception Index) is highly prevalent, Countries against which government sanctions are applied, Countries reputed to be any of the following – Havens / sponsors of international terrorism, offshore financial centers, tax havens, countries where fraud is highly prevalent,*
- viii. Non face to face clients,*
- ix. Clients with dubious reputation as per public information available etc.*

- b. The following line is added in the existing clause 9.2 (Page 25 of the Master Circular): “The background including all documents/office records /memorandums/clarifications sought pertaining to such transactions and purpose thereof shall also be examined carefully and findings shall be recorded in writing. Further such findings, records and related documents should be made available to auditors and also to SEBI /Stock Exchanges/FIU-IND/Other relevant Authorities, during audit, inspection or as and when required. These records are required to be preserved for ten years as is required under PMLA 2002.”*
- c. The existing clause 10.2 (h) (Page 27 of the Master Circular) shall be read as: “Unusual transactions by CSCs and businesses undertaken by, offshore banks/financial services, businesses reported to be in the nature of export-import of small items.”*
- d. The following line is added in the existing clause 10.3 (Page 27 of the Master Circular): “The Principal Officer/Money Laundering Control Officer and other appropriate compliance, risk management and related staff members shall have timely access to customer identification data and other CDD information, transaction records and other relevant information.”*

- e. The following new clause numbered 10.5 is added after existing clause 10.4 (Page 27 of the Master Circular):
“Clause 5.4(h) of the Master Circular categorizes clients of high risk countries, including countries where existence and effectiveness of money laundering controls is suspect or which do not or insufficiently apply FATF standards, as ‘Clients of Special Category’. Intermediaries are directed that such clients should also be subject to appropriate counter measures. These measures may include a further enhanced scrutiny of transactions, enhanced relevant reporting mechanisms or systematic reporting of financial transactions, and applying enhanced due diligence while expanding business relationships with the identified country or persons in that country etc.”
 - f. The following new clause numbered 11.4 is added after the existing clause 11.3 (Page 29 of the Master Circular): *“It is clarified that the registered intermediaries, irrespective of the amount of transaction and/or the threshold limit envisaged for predicate offences specified in part B of Schedule of PMLA, 2002, should file STR if they have reasonable grounds to believe that the transactions involve proceeds of crime.”*
 - g. The following line is added in the existing clause 12.1 (Page 30 of the Master Circular): *“The Principal Officer shall have* access to and be able to report to senior management above his/her next reporting level or the Board of Directors.”*
2. An updated list of individuals and entities which are subject to various sanction measures such as freezing of assets/accounts, denial of financial services etc., as approved by Security Council Committee established pursuant to various United Nations' Security Council Resolutions (UNSCRs) can be accessed in the United Nations website at <http://www.un.org/sc/committees/1267/consolist.shtml>. Registered intermediaries are directed that before opening any new account, it will be ensured that the name/s of the proposed customer does not appear in the list. Further, registered intermediaries shall continuously scan all existing accounts to ensure that no account is held by or linked to any of the entities or individuals included in the list. Full details of accounts bearing resemblance with any of the individuals/entities in the list should immediately be intimated to SEBI and FIU-IND.
3. All the registered intermediaries are directed to ensure compliance with the requirements contained in this circular on an immediate basis. Stock exchanges and depositories are also directed to bring

the contents of this circular to the attention of their member brokers/ depository participants, verify compliance during inspections and take appropriate action under their respective Rules/By-laws/Regulations in case of any contravention/ non compliance of this circular or of SEBI Master Circular on AML/CFT.

4. This circular is being issued in exercise of powers conferred under Section 11 (1) of the Securities and Exchange Board of India Act, 1992, and Rule 7 of Prevention of Money-laundering (Maintenance of Records of the Nature and Value of Transactions, the Procedure and Manner of Maintaining and Time for Furnishing Information and Verification and Maintenance of Records of the Identity of the Clients of the Banking Companies, Financial Institutions and Intermediaries) Rules, 2005, to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.

Yours faithfully,

S. Ramann