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Government of India

आज़ादी का अमृत महोत्सव

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AML & CFT GUIDELINES FOR DEALERS IN PRECIOUS METALS AND PRECIOUS STONES, 2023

Subject: Guidelines on Anti-Money Laundering (AML) Standards and Combating the Financing of Terrorism (CFT) - Obligations for Dealers of Precious Metals and Precious Stones under the Prevention of Money Laundering Act, 2002 and Rules made thereunder

1. The Prevention of Money Laundering Act, 2002 ("PMLA") was brought into force with effect from 1st July 2005. Necessary Notifications/Rules under the said Act were published in the Gazette of India on July 01, 2005 by the Department of Revenue, Ministry of Finance, Government of India.

2. As per the provisions of the PMLA, all Designated Non-Financial Businesses and Professions (DNFBPs), which includes the dealers of precious metals and precious stones, shall have to adhere to client account opening procedures and maintain records of such transactions as prescribed by the PMLA and rules notified thereunder.

3. The DNFBPs shall also be required to report the specified transactions, including the suspicious transactions with a view to provide deterrence to the money-laundering and financing of terrorism.

4. In view of the Risk Based Approach (RBA) adopted by the Financial Action Task Force for dealers of precious metals and precious stones and the recommendations made by it, these guidelines in the context of existing anti-money laundering law in the country, viz, the PMLA and the rules made thereunder have been issued for the dealers, who are referred to as the Reporting Entities for the purposes of these guidelines. The guidelines provide an overview on the background and essential principles that concern combating Money Laundering (ML) and Terrorist Financing (TF) as well as a detailed account of the

procedures and obligations to be followed by all reporting entities to ensure compliance with AML/CFT provisions.

5. These Guidelines have been issued in supersession of earlier Guidelines issued on 25.01.2023.

Yours faithfully,

(Dr. Amandeep Singh)
Additional Director General

DGA/Tech/Misc/26/2022-TECH-O/o DG-DGA-HQ-DELHI

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Guidelines for Reporting Entities (Dealers in Precious Metals and Precious Stones) under the Prevention of Money Laundering Act, 2002

Table of contents:

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1. Introduction:

1.1 These guidelines shall be called **Guidelines for Reporting Entities (Dealers in Precious Metals and Precious Stones) under the Prevention of Money Laundering Act, 2002** (hereafter called **"The Guidelines")**. The Guidelines aim to provide a general background and summary of the provisions of the applicable anti-money laundering and anti-terrorism financing legislations in India, viz. the Prevention of Money Laundering Act, 2002 (hereinafter referred to as the "PMLA") and the Prevention of Money Laundering (Maintenance of Records) Rules, 2005 (hereinafter referred to as the "PMLR") and their applicability to and implications for the dealers in precious metals and precious stones in applying certain Anti Money Laundering/ Countering the Financing of Terrorism (AML/CFT) obligations.

1.2 The Guidelines are being issued by the Directorate General of Audit (DGA), Central Board of Indirect Taxes and Customs (CBIC), which has been appointed Regulator on behalf of Central Board of Indirect Taxes & Customs, Ministry of Finance, Govt. of India for this purpose vide O.M. dated 22.11.2021 of the Commissioner (GST-Inv), CBIC **(Annexure-I)**. The broader context for the Guidelines is provided by the Recommendations made by Financial Action Task force (FATF) on anti-money laundering standards and the Guidance on the Risk-Based Approach adopted in its June 2008 Plenary to Combating Money Laundering and Terrorist Financing, which includes guidance for public authorities and designated non-financial businesses and professions (DNFBPs) amongst others.

1.3 The DNFBPs subjected to these Guidelines include the dealers in precious metals and dealers in precious stones (hereinafter also referred to as the "Reporting Entities")

1.4 The PMLA and the rules made thereunder, viz. the PMLR, on implementing a risk-based approach for the Reporting Entities, lay down the principles to be followed by them and highlights risk factors specific to those DNFBPs, alongwith suggestions to minimize the risk of Money Laundering/ Terrorist Financing (ML/TF).

1.5 These guidelines also set out the steps that a Reporting Entity shall implement to discourage and to identify any money laundering or terrorist financing activities. The procedures and obligations to be followed by the reporting entities to ensure compliance with Anti Money Laundering/ Countering the Financing of Terrorism (AML/CFT) guidelines are also prescribed.

1.6 The strategies to manage and mitigate the identified money laundering and terrorist financing activities are typically aimed at preventing the activity from occurring through a mixture of deterrence [*e.g.,* appropriate Client Due Diligence ("**CDD**") measures], detection (*e.g.,* monitoring and suspicious transaction reporting), and record-keeping so as to facilitate investigations by the appropriate authorities, wherever required, which are discussed at length here under.

2. Background and Legal framework:

2.1 The PMLA came into effect from 1st July 2005. Necessary Notifications/Rules under the said Act were published in the Gazette of India on 1st July, 2005 by the Department of Revenue, Ministry of Finance, Government of India. For implementation of these guidelines, the provisions of the PMLA and the PMLR are applicable.

2.2 **Definitions under PMLA:** For the purposes of these Guidelines, some relevant definitions under the PMLA and the PMLR are reproduced below. Section numbers and Rules indicate relevant sections of the PMLA and rules of the PMLR, respectively.

(a) Beneficial Owner- Section 2(fa): means an individual who ultimately owns or controls a client of a reporting entity or the person on whose behalf a transaction is being conducted and includes a person who exercises ultimate effective control over a juridical person.

(b) Dealer- Section 2(ib): "dealer has the same meaning as assigned to it in clause (b) of section 2 of the Central Sales Tax Act, 1956 (74 of 1956)"; whereunder a "dealer"

means "any person who carries on (whether regularly or otherwise) the business of buying, selling, supplying or distributing goods, directly or indirectly, for cash or for deferred payment, or for commission remuneration or other valuable consideration, and includes—

(i) a local authority, a body corporate, a company, any co-operative society or other society, club, firm, Hindu undivided family or other association of persons which carries on such business;

(ii) a factor, broker, commission agent, del credere agent, or any other mercantile agent, by whatever name called, and whether of the same description as hereinbefore mentioned or not, who carries on the business of buying, selling, supplying or distributing, goods belonging to any principal whether disclosed or not; and

(iii) an auctioneer who carries on the business of selling or auctioning goods belonging to any principal, whether disclosed or not and whether the offer of the intending purchaser is accepted by him or by the principal or a nominee of the principal"

Explanation I— Every person who acts as an agent, in any State, of a dealer residing outside that State and buys, sells, supplies, or distributes, goods in the State or acts on behalf of such dealer as—

(i) a mercantile agent as defined in the Sale of Goods Act, 1930 (3 of 1930), or

(ii) an agent for handling of goods or documents of title relating to goods, or

(iii) an agent for the collection or the payment of the sale price of goods or as a guarantor for such collection or payment, and every local branch or office in a State of a firm registered outside that State or a company or other body corporate, the principal office or headquarters whereof is outside that State, shall be deemed to be a dealer for the purposes of this Act.

Explanation 2— A Government which, whether or not in the course of business, buys, sells, supplies or distributes, goods, directly or otherwise, for cash or for deferred payment or for commission, remuneration or other valuable consideration, shall except in relation to any sale, supply or distribution of surplus, un-serviceable or old stores or materials or waste products or obsolete or discarded machinery or parts or accessories thereof, be deemed to be a dealer for the purposes of this Act.

(c) Persons carrying on designated business or professions- Section 2(1)(sa)(iv): means dealers in precious metals and precious stones, if they engage in any cash transactions with a customer equal to or above Rupees ten lakhs, carried out in a single operation or in several operations that appear to be linked [Inserted vide Notification G.S.R. 799(E) dated 28.12.2020 issued under F.No. P-12011/14/2020-ES Cell-DOR].

(d) Precious metal-Section 2(sb): means gold, silver, platinum, palladium or rhodium or such other metal as may be notified by the Central Government.

(e) Precious stone- Section 2(sc): means diamond, emerald, ruby, sapphire or any such other stone as may be notified by the Central Government.

(f) Regulator- Rule 2(1)(fa)(iii) of the PMLR: means the Central Board of Indirect Taxes and Customs, constituted under Central Boards of Revenue Act, 1963, with respect to the dealers in precious metals and precious stones [inserted vide G.S.R. Notification 800(E) dated 28.12.2020 issued under F.No. P-12011/14/2020-ES Cell-DOR].
The Directorate General of Audit (DGA), Central Board of Indirect Taxes and Customs (CBIC), has been appointed Regulator on behalf of Central Board of Indirect Taxes & Customs vide O.M. dated 22.11.2021 of the Commissioner (GST-Inv), CBIC.

3. Purpose of the guidelines:

3.1 The purpose of these guidelines is to explain the risk-based approach, outline the core principles involved in applying the same and indicate best practices in the design and implementation of an effective risk-based approach.

3.2 The purpose of these guidelines is also to establish a mechanism with the dealers in precious metals and dealers in precious stones that will be mutually beneficial to combating money laundering and terrorist financing.

3.3 These guidelines are meant to be followed by dealers in precious metals and precious

stones, if they engage in any cash transactions with a customer equal to or above Rupees ten lakhs, carried out in a single operation or in several operations that appear to be linked. These dealers have been notified by the central government under F.No. P-12011/14/2020-ES Cell-DOR dtd 28.12.2020 as 'Persons carrying on designated business or profession' under Clause (iv) of Sub-section (sa) of Section 2 of PMLA. They are also referred to in these guidelines as 'Reporting Entities'.

3.4 Section 269ST of Income Tax Act, 1961, states that *No person shall receive an amount of two lakh rupees or more – (a) in aggregate from a person in a day; or (b) in respect of a single transaction; or (c) in respect of transactions relating to one event or occasion from a person, otherwise than by an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account.* Section 271DA of Income Tax Act, 1961, states that any person who receives an amount in violation of the terms and conditions of Section 269ST will be held liable to pay a penalty equivalent to the amount received in cash.

3.5 In view of above provision, it is perceived that dealers in precious metals and/or stones will not normally engage in cash transactions with a customer for amount equal to or above Rupees ten lakhs. A dealer may, however, make a payment in cash for amount equal to or above Rupees ten lakhs (for example, for purchase of old jewellery from customers, or in conscious violation of Section 269ST of Income Tax Act due to an exigency, etc). The dealer needs to register itself with the Director, FIU-IND at the first instance of engaging in cash transaction with a customer equal to or above Rupees ten lakhs, carried out in a single operation or in several operations that appear to be linked. Thereafter, the dealer has to meet all AML/CFT norms detailed in these guidelines.

4. Obligation to establish policies and procedures under PMLA:

4.1 Every reporting entity is required to have an AML/ CFT program in place in order to discharge its statutory responsibility to detect possible attempts of money laundering and financing of terrorism. Each reporting entity shall consider carefully the specific nature of its business, organisational structure, type of client and transaction, etc. to satisfy itself that the measures taken by it are adequate and appropriate and follow the

spirit of the suggested measures as laid down in the PMLA. Each reporting entity shall also satisfy itself that such measures are effectively implemented.

4.2 Diamonds, jewels and precious metals have unique physical and commercial properties which carry value in small, easily transportable quantities. The dealers need to apply risk assessment to money laundering and terrorist financing in a similar manner as the risks of theft and fraud is assessed and applied.

4.3 In order to combat the menace of money-laundering, terror financing and other related serious crimes, Rule 7(3) of the PMLR casts an obligation on every reporting entity to evolve an internal mechanism in respect of these guidelines to detect transactions as specified under Rule 3(1) and furnishing information about such transactions. The obligation of reporting entities to effectively serve to prevent and impede money laundering and terrorist financing and to observe such internal controls not only by them but also by their designated Director, officers and employees is a legal requirement under Rule 7(4) of the rules. It is without ambiguity that the success of internal policies and procedures will be dependent largely on how effectively these are outlined and implemented.

4.4 To comply with these obligations, every reporting entity shall establish appropriate policies and procedures for the prevention of ML and TF and ensure their effectiveness and compliance with all relevant legal and regulatory requirements. The reporting entities shall:

(i) issue a statement of policies and procedures for dealing with ML and TF reflecting the current statutory and regulatory requirements;

(ii) ensure that spirit of these guidelines and internal policies and procedures are understood by all staff members;

(iii) regularly review the policies and procedures on the prevention of ML and TF to ensure their effectiveness. To ensure the effectiveness of policies and procedures, the person doing such a review shall, as far as possible, be different from the one who has framed them;

(iv) adopt client acceptance policies and procedures and undertake Client Due

Diligence (CDD) measures to the extent that is sensitive to the risk of ML and TF depending on the type of client, business relationship or transaction;

(v) have a system in place for identifying, monitoring and reporting suspected ML or TF transactions to the law enforcement authorities; and

(vi) develop mechanism/s through training/ workshops, etc. to make their staff aware and vigilant to guard against ML and TF.

4.5 Maintenance of records: As per the provisions of Section 12 of the PMLA, every reporting entity shall have to maintain a record of all the transactions; information relating to such transactions, whether attempted or executed, the nature and value of which has been prescribed in Rule 3 of the PMLR and to maintain record of documents evidencing identity of its clients and beneficial owners as well as account files and business correspondence relating to its clients as detailed in the foregoing part of these guidelines.

4.6 Transactions defined for the purpose of reporting: Such transactions include:

(i) All **cash** transactions of the value of more than Rs. 10 lakh or its equivalent in foreign currency.

(ii) All series of **cash** transactions integrally connected to each other which have been individually valued below Rs. 10 lakh or its equivalent in foreign currency where such series of transactions have taken place within a month and the monthly aggregate exceeds an amount of Rs. 10 lakh or its equivalent in foreign currency.

(iii) 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.

(iv) Suspicious Transaction Reporting, as provided for in Para 4.8 below.

4.7 Know Your Client (KYC) and Client Due Diligence (CDD): As provided under Section 11A of the PMLA read with Rule 9 of the PMLR, it is incumbent upon every Reporting Entity to follow certain client identification procedures in respect of the

buyers and sellers of precious metals and precious stones and monitoring transactions of a suspicious nature for the purpose of reporting it to the appropriate authority. These 'Know Your Client' guidelines have been revisited in the context of the Recommendations made by the Financial Action Task Force (FATF) on Anti Money Laundering (AML) standards and on Combating Financing of Terrorism (CFT). The dealers/ reporting entities are advised to ensure that an appropriate policy framework on 'Know Your Client' and Anti Money-Laundering measures is formulated and put in place. Principally, these CDD measures are required to be followed when the Reporting Entities engage in any cash transaction with a client equal to or exceeding rupees fifty thousand, as prescribed under Rule 9(1)(b)(i) of the PMLR. It is clarified that this threshold is different from the threshold of Rs. 10 lakhs, which is for the purpose of reporting of transactions.

4.8 **Suspicious Transaction Reporting:** In line with FATF Recommendation 20, Rule 8(2) read with Rule 3(1)(D) of the PMLR provides for prompt reporting of a suspicious transaction, which includes an attempted suspicious transaction, to the Financial Intelligence Unit (FIU-IND), Govt. of India as mentioned at Para 8.1, if a reporting entity suspects or has reasonable grounds to suspect that funds used by a client are the proceeds of a criminal activity, or are related to terrorist financing. A suspicious transaction shall be reported within **seven** working days of its occurrence.

It is clarified that for the purpose of suspicious transactions reporting, apart from 'transactions integrally connected', 'transactions remotely connected or related' shall also be considered.

4.9 A suspicious transaction is defined under rule 2(g) of the PMLR as a transaction, including an attempted transaction, **whether or not made in cash**, which, to a person acting in good faith-

(a) gives rise to a reasonable ground of suspicion that it may involve proceeds of an offence specified in the Schedule to the Act, regardless of the value involved; or

(b) appears to be made in circumstances of unusual or unjustified complexity; or

(c) appears to have no economic rationale or bona fide purpose; or

(d) gives rise to a reasonable ground of suspicion that it may involve financing of the activities relating to terrorism.

Explanation- Transaction involving financing of the activities relating to terrorism includes transaction involving funds suspected to be linked or related to, or to be used for terrorism, terrorist acts or by a terrorist, terrorist organisation or those who finance or are attempting to finance terrorism.

5. Detailed Guidelines on Anti Money-Laundering and combating the financing of terrorism Procedures:

5.1 Appointment of a Designated Director and a Principal Officer:

In line with the provisions of Rule 7 of the PMLR, every reporting entity shall appoint:

(i) a Principal Officer and,

(ii) a Designated Director

Names, designation, telephone number and addresses (email addresses) of Principal Officer and the Designated Director including any changes therein shall be intimated to the Office of the Director, FIU-IND and Regulator governing the reporting entity.

5.1.1 Principal Officer: The Principal Officer is defined under Rule 2(f) of the PMLR as an officer designated by a reporting entity. The Principal Officer would act as a central reference point in facilitating onward reporting of suspicious transactions and for playing an active role in the identification and assessment of potentially suspicious transactions and shall have access to and be able to report to senior management at the next reporting level or the Board of Directors. It is desirable that the 'Principal Officer' is of a sufficiently senior position and is able to discharge the functions with independence and authority.

5.1.2 **Designated Director:** A reporting entity shall also appoint a person as a 'Designated Director' as provided under Rule2 (ba) of the PMLR, which is defined as:

"Designated director means a person designated by the reporting entity to ensure overall compliance with the obligations imposed under chapter IV of the Act and the Rules and includes –

a) The Managing Director or a Whole-Time Director duly authorised by the Board of Directors if the reporting entity is a company;

b) The managing partner, if the reporting entity is a partnership firm;

c) The proprietor, if the reporting entity is a proprietorship firm;

d) The managing trustee, if the reporting entity is a trust;

e) a person or individual, as the case may be, who controls and manages the affairs of the reporting entity if the reporting entity is an unincorporated association or a body of individuals; and

f) such other person or class of persons as may be notified by the Government if the reporting entity does not fall in any of the categories above."

5.1.3 The Designated Director and the Principal Officer shall be responsible for the following to combat money laundering/ countering the financing of terrorism:

(a) Furnishing of the information under Rule 8 (1) of the PMLR, as prescribed under sub rule (1) of Rule 3 of the said rules on monthly basis, **by 15th day of the succeeding month,** in prescribed **Format** to the Director, Financial Intelligence Unit (FIU), Govt. of India. However, the information in respect of a suspicious transaction shall be furnished **within seven working days** of its occurrence as per Rule 8(2) of the PMLR, as mentioned at Para 4.8. Such information shall include any attempted transactions, whether or not made in cash;

(b) Evolving an internal mechanism with regard to any guidelines issued by the Regulator or the Director, FIU-IND and for furnishing information as prescribed under sub rule (1) of Rule 3 of the PMLR;

(c) Communication of group policies relating to prevention of ML and TF to all management and relevant staff that handle account information, money and client

records, etc. within their organisation;

(d) Client acceptance policy and client due diligence measures, including requirements for proper identification, such as:

(i) Maintenance of records;

(ii) Compliance with relevant statutory and regulatory requirements;

(iii) Cooperation with the relevant law enforcement authorities, including the timely disclosure of information; and

(iv) Role of internal audit or compliance function to ensure compliance with the policies, procedures and controls relating to the prevention of ML and TF, including detection of suspected money laundering transactions.

5.2 Client Due Diligence (CDD) Measures and Know Your Client (KYC) norms:

5.2.1 In consonance with the basic principles of the KYC norms as prescribed in the PMLA or the rules made there under, all reporting entities shall frame their own internal directives based on their experience in dealing with their clients and legal requirements as per the established practices.

5.2.2 In accordance with Rule 9 of the PMLR, each reporting entity shall adopt written procedures to implement the anti-money laundering provisions as envisaged under the PMLA, related to the **'Client Due Diligence Process'**.

5.2.3 Considering the potential threat of transactions in precious metal and precious stones by a money launderer / terrorism financier, the reporting entities should make reasonable efforts to determine the true identity of all clients engaging in sale and purchase of precious metal and precious stones. Where a client is a juridical person, verification of identity is required to be carried out on beneficial owners and persons purporting to act and are authorised to act on behalf of a client. Effective procedures should be put in place to obtain requisite details for proper identification of new clients. Special care has to be exercised to ensure that the transactions are not under anonymous or fictitious names.

5.3 Enhanced Due Diligence:

5.3.1 In tune with the FATF Recommendation 19, Section 12AA of the PMLA prescribes for the reporting entities to perform enhanced due diligence for higher-risk clients, business relationships and transactions. Recommendation 12, which prescribes measures to be taken for Politically Exposed Persons (PEPs), provides for additional measures for specific clients and activities, which are considered to be a higher risk scenario requiring enhanced CDD. 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.

5.3.2 Conducting enhanced due diligence should not be limited to merely documenting income proofs. They should be more rigorous and robust measures than normal KYC. These measures should be commensurate with the risk. While it is not intended to be exhaustive, the following are some of the reasonable measures in carrying out enhanced due diligence:

(i) More frequent review of the clients' profile/transactions,

(ii) Application of additional measures like gathering information from publicly available sources or otherwise,

(iii) Review of the clients' information at senior level of the reporting entity,

(iv) Reasonable measures to know the client's source of funds commensurate with the assessed risk of client and product profile which may include:

  (a) conducting independent enquiries on the details collected on /provided by the client where required,

  (b) consulting a credible database, public or other, etc.

5.4 Policy for client acceptance and risk assessment (Risk Based Approach):

5.4.1 Within the provisions of Rule 9 of the PMLR, the KYC policy shall clearly spell out the client identification procedure to be carried out at different stages, i.e., while establishing the relationship with client, while carrying out transactions with a client or when the reporting entity has doubts regarding the veracity or the adequacy of previously obtained

client identification data.

5.4.2 It is generally recognized that certain clients may be of a higher or lower risk category depending on the circumstances such as the client's background, type of business relationship or transaction, etc. In order to identify the types of clients that are likely to pose a higher-than-average risk of ML or TF, the reporting entities shall develop client acceptance policies and procedures. It would help in applying client due diligence on a risk sensitive basis. The risk assessment shall be documented and shall be made available to the Director, FIU/ Regulator as and when required. The following safeguards are to be followed while accepting the clients:

a) The clients should be categorised in two categories, viz. high risk and low risk.

b) Factors of risk perception for monitoring suspicious transactions of the clients are clearly defined having regard to clients' location, nature of business activity, trading turnover etc. and manner of making payment for transactions undertaken.

c) Individuals (other than High Net Worth) and entities whose identities and sources of wealth can be easily identified and transactions in whose accounts by and large conform to the known profile may be categorised as low risk. The salaried employees whose salary structures are well defined, people belonging to lower economic strata of the society, government departments and government owned companies, regulators and statutory bodies may fall under the low-risk category. In such cases, the basic requirements of verifying the identity and location of the client need to be ensured and a simplified client due diligence process should be followed. However, in case a client's profile is found to be inconsistent with his transactions, an enhanced due diligence may be resorted to.

d) The clients with dubious reputation as per available public information are considered as high risk, requiring EDD.

e) In cases where the appropriate CDD measures to identify the profile of a client cannot be applied or it is not possible to ascertain the identity of the client, or the

information provided by the client is suspected to be false or non–genuine, the reporting entity shall not enter into a transaction with such client. In such cases, a suspicious activity report shall be filed.

f) In cases, where the identity of a client is ascertained as having a criminal background, a suspicious transaction report shall be filed.

5.5 Reliance on Third Party KYC:

The reporting entity is solely responsible for undertaking Client Due Diligence and Enhanced Due Diligence measures. However, subject to the provisions of Rule 9(2) of the PML (Maintenance of Records) Rules, 2005, a reporting entity may rely on a third party for obtaining the KYC information. It shall be ensured by the reporting entity that the third party is not based in a country or jurisdiction assessed as high risk.

5.6 Suspicious Transaction Monitoring and Reporting

5.6.1 Reporting entities shall ensure that appropriate steps are taken to enable suspicious transactions to be recognized and have appropriate procedures for reporting suspicious transactions.

5.6.2 Any suspicious transaction shall be immediately notified to the Principal Officer or the Designated Officer within the reporting entity. The notification may be done in the form of a detailed report with specific reference to the clients, transactions and the nature /reason of suspicion. However, it shall be ensured that there is continuity in dealing with the client as normal until told otherwise and the client shall not be told of the report/ suspicion.

5.6.3 It is likely that in some cases transactions are abandoned or aborted by clients on being asked to give some details or to provide documents. It is clarified that reporting entities shall report all such attempted transactions in STRs, even if not completed by clients, irrespective of the amount of the transaction.

6. Liability for failure to fulfil obligations:

As prescribed under Section 13 of the PMLA, any reporting entity may be required to get

its records audited by a Chartered Accountant appointed by the Central Government. A monetary penalty may also be imposed on the reporting entity, its director or the employees for failure to fulfil the obligations cast upon them by the PMLA or rules made there under. A delay in not reporting a transaction as prescribed under these rules shall also constitute violation of the PMLA and the rules made thereunder.

7. Illustrative list of documents required for KYC:

As required under rule 9 of PMLR, the following is an illustrative list of documents, any of which may be obtained from the clients for ascertaining their identity under KYC requirement:

Features	Documents
Accounts of individuals	
- Legal name and any other names used	(i) Passport (ii) PAN card (iii) Voter's Identity Card (iv) Driving licence (v) Identity card issued by the employer (vi) Letter from a recognized public authority or public servant verifying the identity and residence of the client
- Correct permanent address	(i) Telephone bill (ii) Bank account statement (iii) Letter from any recognized public authority (iv) Electricity bill (v) Ration card (vi) Letter from employer (vii) any one document which provides client information to the satisfaction of

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	the reporting entity
Accounts of companies - Name of the company - Principal place of business - Mailing address of the company - Telephone/Fax Number	(i) Certificate of incorporation and Memorandum & Articles of Association (ii) Resolution of the Board of Directors to open an account and identification of those who have authority to operate the account (iii) Power of Attorney granted to its managers, officers or employees to transact business on its behalf (iv) Copy of PAN allotment letter (v) Copy of the telephone bill
Accounts of partnership firms - Legal name - Address - Names of all partners and their addresses - Telephone numbers of the firm and partners	(i) Registration certificate, if registered (ii) Partnership deed (iii) Power of Attorney granted to a partner or an employee of the firm to transact business on its behalf (iv) Any officially valid document identifying the partners and the persons holding the Power of Attorney and their addresses (v) Telephone bill in the name of firm/ partners

सत्यमेव जयते
लेखापरीक्षा महानिदेशालय
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INDIRECT TAXES & CUSTOMS

Accounts of trusts & foundations - Names of trustees, settlers, beneficiaries and signatories - Names and addresses of the founder, the managers/directors and the beneficiaries - Telephone/fax numbers	(i) Certificate of registration, if registered (ii) Power of Attorney granted to transact business on its behalf (iii) Any officially valid document to identify the trustees, settlors, beneficiaries and those holding Power of Attorney, founders/managers/ directors and their addresses (iv) Resolution of the managing body of the foundation/association (v) Telephone bill

8. Cash and Suspicious transactions reporting to Financial Intelligence Unit-India (FIU-IND):

8.1 In terms of the PML Rules, reporting entities are 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, NewDelhi-110021.

Website: http://fiuindia.gov.in

8.2 Format for reporting Transactions:

The reporting transactions, including suspicious transactions made or attempted, as required under Rule 7(2) of PMLR, is as per the procedure and format laid down by FIU-IND.

8.3 Prohibition on tipping off and maintaining confidentiality of information:

8.3.1 Reporting entities and their directors, officers and employees (permanent and temporary) shall be prohibited from disclosing ("tipping off") that a STR or related information is being reported or provided to the FIU-IND. This prohibition on tipping off extends not only to the filing of the STR and/ or related information but even before, during and after the submission of an STR. Thus, it shall be ensured that there is no tipping off to the client at any level. It is clarified that the reporting entities, irrespective of the amount of transaction and/or the threshold limit envisaged for reporting under PMLA, 2002, shall file STR if they have reasonable grounds to believe that the transactions involve proceeds of crime.

8.3.2 Reporting entities shall ensure that Every information collected from the customer, maintained, verified and furnished to the FIU, including the Cash Transaction Reports and Suspicious Transaction Reports shall be kept confidential and details thereof shall be kept strictly confidential and details thereof shall not be divulged to anyone.

8.3.3 Reporting entities, its directors and employees shall not be liable to any civil or criminal proceedings against them for furnishing information relating to cash transactions and suspicious transactions to the Director, FIU-IND.

9. Implementation of Section 51A of the Unlawful Activities (Prevention) Act, 1967 (UAPA):

9.1 The Ministry of Home Affairs (MHA) Order dated 2nd February, 2021 issued under F.No. 14014/01/2019/CFT under Section 51A of the UAPA provides that the reporting entity should not enter into a transaction with a client whose identity matches with any person in the sanction list or with banned entities and those reported to have links with terrorists or terrorist organizations. A list of individuals and entities subject to UN sanction measures under UNSC Resolutions (hereinafter referred to as 'designated individuals/entities') is compiled by the Ministry of Home Affairs (MHA). The reporting entities shall periodically check the MHA website for an updated list of banned entities. The reporting entities shall maintain an updated list of designated individuals/entities in electronic form and run a check on the given parameters on a regular basis to verify whether designated individuals/ entities have entered into a transaction with them.

9.2 An updated list of individuals and entities which are subject to various sanction measures as approved by the Security Council Committee established pursuant to UNSC 1267 can be accessed from the United Nations website at http://www.un.org/sc/committees/1267/consolist.shtml.

9.3 By virtue of Section 51A of the UAPA, the Central Government is empowered to freeze, seize or attach funds of and/or prevent entry into or transit through lndia any individual or entities that are suspected to be engaged in terrorism.

9.4 Reporting entities shall ensure that no transactions are ever made with any of the entities or individuals included in the list and if it has happened, details of all such clients shall immediately be intimated to the Regulator and FIU-IND

10. Recruitment and training of employees:

10.1 Recruitment of Employees:

The reporting entities shall have adequate screening procedures in place to ensure high standards when hiring employees. They shall 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.

10.2 Employees' Training:

Reporting entities must have an ongoing employee training programme so that their staff is adequately trained in AML and CFT procedures. Training requirements shall have specific focuses for frontline staff, back-office staff, compliance staff, risk management staff and staff dealing with new clients. It is crucial that all those concerned fully understand the rationale behind these guidelines, obligations and requirements, implement them consistently and are sensitive to the risks of their systems being misused by unscrupulous elements.

These guidelines have been issued under the provisions of the Prevention of Money-Laundering Act, 2002 and the rule made thereunder, more specifically, the Prevention of

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Money-Laundering (Maintenance of Records) Rules, 2005. For any clarifications on these guidelines or removal of doubts, the provisions of the said act and rules may be referred.