

CIRCULAR NO 18/RBI.

Dated: November 25, 2010

A.P. (DIR Series) A.P. (FL/RL Series) Circular No.01

Know Your Customer (KYC) norms/ Anti-Money Laundering (AML) standards/ Combating the Financing of Terrorism (CFT)/ Obligation of Authorised Persons under Prevention of Money Laundering Act, (PMLA), 2002, as amended by Prevention of Money Laundering (Amendment) Act, 2009- Money changing activities

Attention of the Authorized persons is invited to the A.P. (DIR Series) Circular No. 17 [A.P.(FL/ RL Series) Circular No. 04] dated November 27, 2009 on **Know Your Customer (KYC) norms/ Anti-Money Laundering (AML) standards/ Combating the Financing of Terrorism (CFT)/ Obligation of Authorised Persons under Prevention of Money Laundering Act, (PMLA), 2002, as amended by the Prevention of Money Laundering (Amendment) Act, 2009 in respect of money changing activities.**

Suspicion of money laundering/terrorist financing

2. With a view to preventing the system of purchase and/ or sale of foreign currency notes/ Travellers' Cheques by Authorised Persons (APs) from being used, intentionally or unintentionally, by criminal elements for money laundering or terrorist financing, it is clarified that whenever there is suspicion of money laundering or terrorist financing or when other factors give rise to a belief that the customer does not, in fact, pose a low risk, APs should carry out full scale customer due diligence (CDD) before undertaking any money changing transaction.

Filing of STR

3. In terms of the instructions contained in Para 4.3 (iv) of the circular dated November 27, 2009 referred to above, APs should not undertake any transaction where they are unable to apply appropriate customer due diligence measures. Similarly, in terms of instructions contained in Para 4.4 (g) of the circular dated November 27, 2009, relationship with a business entity/ ies like a company/ firm / trusts and foundations should be established only after conducting due diligence by obtaining and verifying prescribed suitable documents. When a business relationship is already in existence and it is not possible to perform customer due diligence on the customer in respect of the business relationship, APs should terminate the business relationship and make a Suspicious Transaction Report to FIU-IND. It is clarified that in the circumstances when an AP believes that it would no longer be satisfied that it knows the true identity of the customer (individual/ business entity), the AP should also file an STR with FIU-IND.

Politically Exposed Persons (PEPs)

4. In terms of instructions contained in Para 4.5 (iii) of the circular dated November 27, 2009 referred to above, the decision to undertake a transaction with a PEP should be taken at a senior level which should be clearly spelt out in the Customer Acceptance Policy. APs should also subject such transactions to enhanced monitoring on an ongoing basis. Similarly, where a customer subsequently becomes a PEP after a business relationship has already been established, enhanced CDD should be performed on such customers and decision to continue business relationship with the PEP should be taken at a sufficiently senior level. It is clarified that the instructions contained in paragraph 4.5 (iii) of the circular dated November 27, 2009 referred to above are also applicable to individual transactions/ business relationship where a PEP is the ultimate beneficial owner. Further, in regard to individual transactions/ business relationship in case of PEPs, it is reiterated that APs should have appropriate ongoing risk management procedures for identifying and applying enhanced CDD to PEPs, customers who are family members or close relatives of PEPs and individual transactions/ business relationship of which a PEP is the ultimate beneficial owner.

Principal Officer

5. With reference to Para 4.12 of the circular dated November 27, 2009 referred to above, regarding appointment and responsibility of the Principal Officer, it is clarified that the role and responsibilities of the Principal Officer should include overseeing and ensuring overall compliance with regulatory guidelines on KYC/ AML/ CFT issued from time to time and obligations under the Prevention of Money Laundering Act, 2002, as amended by Prevention of Money Laundering (Amendment) Act, 2009, rules and regulations made there under, as amended from time to time.

6. These guidelines would also be applicable mutatis mutandis to all agents/ franchisees of Authorised Persons and it will be the sole responsibility of the franchisers to ensure that their agents/ franchisees also adhere to these guidelines.

7. Authorised Persons should bring the contents of this circular to the notice of their constituents concerned.

8. The directions contained in this Circular are issued under Section 10(4) and Section 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and also under the **Prevention of Money Laundering Act, (PMLA), 2002, as amended by Prevention of Money Laundering (Amendment) Act, 2009** and 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, as amended from time to time. Non-compliance with the guidelines would attract penal provisions of the Acts concerned or Rules made there under.

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