

Compliance with FDI norms-Half yearly certificate from Statutory Auditors of NBFCs

Circular No. DNBS (PD).CC. No 167/03.10.01/2009-10, dated 4-2-2010

NBFCs having FDI whether under automatic route or under approval route have to comply with the stipulated minimum capitalisation norms and other relevant terms and conditions, as amended from time to time under which FDI is permitted.

2. As such these NBFCs are required to submit a certificate from their Statutory Auditors on half yearly basis (half year ending September and March) certifying compliance with the existing terms and conditions of FDI. Such certificate may be submitted not later than one month from the close of the half year to which the certificate pertains, to the Regional Office in whose jurisdiction the head office of the company is registered.

The 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) Amendment Rules, 2009 (the Rules)

Circular No. IRDA/F&I/CIR/AML/16/02/2010, dated 3-2-2010

The PMLA Rules, 2005 have been amended in 2009 vide Government of India, Gazette Notification GSR 816 (E) dated 12th November 2009 .

2. Some of the stipulations in the said Rules have already been communicated to the Insurance Companies vide IRDA Circular Ref: 30/IRDA/AML/CIR/AUG-09 dated August 24, 2009.

3. The following are the additional stipulations in accordance with the Rules which require compliance (Clause references of Master Circular on AML guidelines is provided alongside, for ready reference):

i. Insurance companies are hereby, advised to report any suspicious transactions as defined under clause 3.1.6, to FIU-IND (including attempted transactions, whether or not made in cash) irrespective of the monetary value involved in such transactions.

ii. It is emphasized that while establishing identity of customers in compliance with KYC norms under clause 3.1.1, insurance companies will have

a. to identify the beneficial owner and take all reasonable measures to verify his/her identity to their satisfaction that they know who the beneficial owner is. ('Beneficial owner' for this purpose means 'the natural person(s) who ultimately owns or controls a customer and/or the person on whose behalf a transaction is being conducted. It also incorporates those persons who exercise ultimate effective control over a legal person or arrangement.)

b. document the identity and address of the customer, duly certified by an authorized person as identified by the insurer

c. where a client is a juridical person, verification of identity is required to be carried out on persons purporting to act and is authorized to act on behalf of a client

iii. All transactions involving receipts by non-profit organizations (either in the form of assignments and/or in the form of top-up remittances) of value more than Rupees ten lakhs, or its equivalent in foreign currency, should be reported to FIU-IND by 15th day of next succeeding month.

4. Insurance companies are advised to strictly follow the amended provisions of the PMLA Rules and ensure compliance.

5. The circular comes to effect immediately.