

## **MASTER CIRCULAR ON MONEY TRANSFER SERVICE SCHEME**

**-COPY OF-  
FEMA MASTER CIRCULAR  
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Money Transfer Service Scheme (MTSS) is a quick and easy way of transferring personal remittances from abroad to beneficiaries in India. Only inward personal remittances into India such as remittances towards family maintenance and remittances favouring foreign tourists visiting India are permissible. No outward remittance from India is permissible under MTSS.

2. This Master Circular consolidates the existing instructions on the subject of “Money Transfer Service Scheme” at one place. The list of underlying circulars/notifications is set out in Appendix.

3. This Master Circular is being issued with a sunset clause of one year. This circular will stand withdrawn on July 1, 2012 and will be replaced by an updated Master Circular on the subject.

### *PART A*

#### SECTION I

#### **GUIDELINES FOR PERMITTING INDIAN AGENTS UNDER MONEY TRANSFER SERVICE SCHEME (MTSS)**

##### Brief Introduction

1.1 Money Transfer Service Scheme (MTSS) is a quick and easy way of transferring personal remittances from abroad to beneficiaries in India. Only inward personal remittances into India such as remittances towards family maintenance and remittances favouring foreign tourists visiting India are permissible. No outward remittance from India is permissible under MTSS. The system envisages a tie-up between reputed moneytransfer companies abroad known as Overseas Principals and agents in India known as Indian Agents, who would disburse the funds to the beneficiaries in India at ongoing exchange rates. The Indian Agent is not allowed to remit any amount to the Overseas Principal. Under MTSS, the remitters and the beneficiaries are individuals only.

##### Statutory Basis

1.2 In terms of powers granted under section 10(1) of Foreign Exchange Management Act (FEMA), 1999, the Reserve Bank of India may accord necessary permission (authorization) to any person to act as an Indian Agent under the MoneyTransfer Service

Scheme. No person can handle the business of cross-border money transfer to India in any capacity, unless specifically permitted by the Reserve Bank.

## 2. Guidelines

### Entry Norms

The applicant should be an Authorised Dealer Category-I bank or an Authorised Dealer Category-II or a Full Fledged Money Changer (FFMC), as defined in the A.P. (DIR Series) Circular No. 25 [A.P. (FL Series) Circular No. 2] dated March 6, 2006.

## 3. Procedure for making Applications

The application for necessary permission to act as an Indian Agent may be made to the Chief General Manager-in-Charge, Forex Markets Division, Foreign Exchange Department, Reserve Bank of India, Central Office, Mumbai-400 001 and should be accompanied by the following documents:

- (a) An undertaking that no cases have been initiated/are pending against the Indian Agent/its directors by any law enforcing agency.
- (b) Name and address of the Overseas Principal with whom the MTS will be conducted.
- (c) Full details of the operation of the scheme by the Overseas Principal.
- (d) List of branches in India and their addresses where MTS will be conducted by the Indian Agent.
- (e) Estimated volume of business per month/year under the scheme.
- (f) Audited Balance Sheet and Profit and Loss Account for the last two financial years, if available or a copy of the latest audited accounts, with a certificate from statutory auditors regarding the position of the net owned funds as on the date of application.
- (g) Memorandum and Articles of Association where either a provision exists for taking up money transfer business or an appropriate amendment thereto has been filed with the Company Law Board.
- (h) Confidential Report from the applicant's bankers (two) in a sealed cover.
- (i) Details of sister/associated concerns functioning in the financial sector.
- (j) A certified copy of the board resolution for undertaking money transfer business.

## 4. Collateral requirement

Collateral equivalent to 3 days' average drawings or USD 50,000 whichever is higher, may be kept by the Overseas Principal with a designated bank in India. The minimum amount of USD 50,000 shall be kept as a foreign currency deposit while the balance amount may be kept in the form of a Bank Guarantee. The adequacy of collateral should be reviewed at half yearly intervals on the basis of remittances received during the past six months.

#### 5. Other conditions

(a) Only personal remittances shall be allowed under this arrangement. Donations/contributions to charitable institutions/trusts, trade related remittances, remittance towards purchase of property, investments or credit to NRE Accounts shall not be made through this arrangement.

(b) A cap of USD 2500 has been placed on individual remittance under the scheme. Amounts up to Rs. 50,000 may be paid in cash to a beneficiary in India. Any amount exceeding this limit shall be paid by means of account payee cheque/demand draft/payment order, etc. or credited directly to the beneficiary's bank account only. However, in exceptional circumstances, where the beneficiary is a foreign tourist, higher amounts may be disbursed in cash. Full record of such transactions should be kept on record for scrutiny by the auditors/inspectors.

(c) Only 12 remittances can be received by a single individual beneficiary under the scheme during a calendar year.

## SECTION II

### GUIDELINES FOR OVERSEAS PRINCIPALS

Indian Agents entering into arrangements with Money Transfer Operators overseas, known as Overseas Principals, may note that only Overseas Principals with adequate volume of business, track record and outreach will be considered under the scheme. Further, since the primary objective of permitting the business of money transfer business in the country is to facilitate cheaper and more efficient means of receipt of remittances operators with limited outreach in terms of branch network in the country and localized operations overseas will not generally be entertained.

Applicant Indian Agents should submit the following documents/comply with the following requirements, in respect of Overseas Principals:

(a) The Overseas Principal should obtain necessary authorisation from the Department of Payment and Settlement Systems, Reserve Bank of India under the provisions of the Payment and Settlement Systems Act, 2007 to commence/operate a payment system.

(b) The Overseas Principal should be a registered entity, licenced by the Central Bank/Government or financial regulatory authority of the country concerned for carrying

on MoneyTransfer Activities. The country of registration of the Overseas Principal should be AML compliant.

- (c) The Overseas Principal should be well established in the money transfer business with a track record of operations in well regulated markets.
- (d) The arrangement with Overseas Principal should result in considerably increasing access to formal money transfer facilities at both ends.
- (e) The Overseas Principal should be registered with the overseas trade/Industry bodies.
- (f) The Overseas Principal should have a good rating from one of the international credit rating agencies.
- (g) The Overseas Principal should submit confidential reports from two banks.
- (h) The Overseas Principal should submit a report certified by independent Chartered Accountants, regarding steps taken to comply with anti money laundering norms in the home/host country.
- (i) The Overseas Principals will be fully responsible for the activities of their Agents and Sub-agents in India.
- (j) Proper records of remitters as also beneficiaries pertaining to all pay-outs in India are to be maintained by the Overseas Principals. All records must be made accessible on demand to the Reserve Bank or other agencies of the Government of India, viz., Customs, Ministry of Home Affairs, FIU-IND, etc. Full details of the remitters and the beneficiaries should be provided by the Overseas Principals, if called for.

### SECTION III

#### GUIDELINES FOR APPOINTMENT OF SUB-AGENTS BY INDIAN AGENTS

The Indian Agent may appoint Sub-Agents who have place of business and a minimum net worth of Rs. 5 lakh. The Sub-Agents should operate through the Indian Agents and should not deal directly with the Overseas Principal. The Sub-Agents should act on the payment instructions issued by the Indian Agents. The Indian Agents are fully responsible for the activities of their Sub-agents. While the Indian Agents will be encouraged to act as self-regulated entities, the onus of ensuring the proper conduct of activities of the Sub-agents in the prescribed manner will lie solely on the Indian Agents. Every Indian Agent would be required to conduct due diligence before appointing a Sub-agent and any irregularity observed could render the Indian Agent's permission liable for cancellation.

### SECTION IV

## GUIDELINES FOR RENEWAL OF PERMISSION OF EXISTING INDIAN AGENTS

1. Necessary permission to Indian Agents will be issued initially for a period of one year, which may be renewed annually on the basis of fulfilment of all conditions mentioned at section I above and other directions/instructions issued by the Reserve Bank from time to time.

2. The applicant should be an Authorised Dealer Category – I bank or an Authorised Dealer Category -II or a Full Fledged Money Changer.

3. Application for renewal of license should be submitted to the Regional Office concerned of the Reserve Bank under whose jurisdiction the registered office of the Indian Agent falls alongwith the following documents:

(a) An undertaking that no cases have been initiated/are pending against the Indian Agent/its directors by any law enforcing agency.

(b) Volume of business per month/year under the scheme.

(c) Audited Balance Sheet and Profit and Loss account for the last two financial years, if available or copy of the latest audited accounts, with a certificate from the statutory auditors regarding the position of Net Owned Funds on the date of application.

(d) Confidential Report from the applicant's bankers (two) in a sealed cover.

(e) Details of sister/associated concerns functioning in the financial sector.

(f) A certified copy of the board resolution for renewal of permission.

## SECTION V

### INSPECTION OF INDIAN AGENTS

Inspections of the Indian Agents may be conducted by the Reserve Bank under the provisions of section 12(1) of FEMA, 1999.

## SECTION VI

### KYC/AML/CFT GUIDELINES FOR THE INDIAN AGENTS

Detailed instructions on Know Your Customer (KYC) norms/Anti-Money Laundering (AML) standards/Combating the Financing of Terrorism (CFT) for Indian Agents under MTSS in respect of cross-border inward remittance activities, in the context of the FATF Recommendations on Anti Money Laundering standards and on Combating the Financing of Terrorism have been prescribed (Annex I).

## *PART B*

### REPORTS/STATEMENTS

1. A quarterly statement of the volume of remittances received, as per the enclosed format (Annex II) should be furnished to the Regional Office concerned of the Reserve Bank within 15 days from the close of the quarter to which it relates.
2. Agents must arrange to forward to the Chief General Manager-In-Charge, Reserve Bank of India, Foreign Exchange Department, Forex Markets Division, Central Office, Mumbai – 400 001 addresses of their additional locations on a quarterly basis. Further, list of their sub-agents should be furnished at the above address on half yearly basis.
3. Indian Agents should also submit to the Chief General Manager-In-Charge, Reserve Bank of India, Foreign Exchange Department, Forex Markets Division, Central Office, Mumbai – 400 001 and to the Regional Office concerned, the information for the half-year in the format annexed (Annex III) as at the end of June and December every year within the 15th of the following month.

## *ANNEX I*

### *KYC/AML/CFT GUIDELINES FOR INDIAN AGENTS*

#### SECTION I

**KNOW YOUR CUSTOMER (KYC) NORMS/ANTI-MONEY LAUNDERING (AML) STANDARDS/ COMBATING THE FINANCING OF TERRORISM (CFT)/OBLIGATION OF AUTHORISED PERSONS (INDIAN AGENTS) UNDER PREVENTION OF MONEY LAUNDERING ACT, (PMLA), 2002, AS AMENDED BY PREVENTION OF MONEY LAUNDERING (AMENDMENT) ACT, 2009 – CROSS BORDER INWARD REMITTANCE UNDER MONEY TRANSFER SERVICE SCHEME**

#### 1. Introduction

The offence of Money Laundering has been defined in section 3 of the Prevention of Money Laundering Act, 2002 (PMLA) as “whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected with the proceeds of crime and projecting it as untainted property shall be guilty of offence of money laundering”. Money Laundering can be called a process by which money or other assets obtained as proceeds of crime are exchanged for “clean money” or other assets with no obvious link to their criminal origins.

#### 2. The objective

The objective of prescribing KYC/AML/CFT guidelines is to prevent the system of cross border inward money transfer into India from all over the world under the MTSS from being used, intentionally or unintentionally, by criminal elements for money laundering or terrorist financing activities. KYC procedures also enable Authorised Persons, who are Indian Agents under MTSS [referred as APs (Indian Agents) hereinafter] to know/understand their customers and their financial dealings better, which in turn help them manage their risks prudently.

### 3. Definition of Customer

For the purpose of KYC policy, a 'Customer' is defined as :

u a person who receives occasional/regular cross border inward remittances under MTSS;

one on whose behalf a cross border inward remittance under MTSS is received (*i.e.* the beneficial owner)

[In view of Government of India Notification dated February 12, 2010 - Rule 9, sub-rule (1A) of PML Rules - 'Beneficial Owner' means the natural person who ultimately owns or controls a client and or the person on whose behalf a transaction is being conducted, and includes a person who exercises ultimate effective control over a juridical person].

### 4. Guidelines

#### 4.1 General

APs (Indian Agents) should keep in mind that the information collected from the customer while making payment of cross border inward remittances is to be treated as confidential and details thereof are not to be divulged for cross selling or any other like purposes. APs (Indian Agents) should, therefore, ensure that information sought from the customer is relevant to the perceived risk, is not intrusive, and is in conformity with the guidelines issued in this regard. Any other information from the customer, wherever necessary, should be sought separately with his/her consent.

#### 4.2 KYC Policy

APs (Indian Agents) should frame their KYC policies incorporating the following four key elements:

- (a) Customer Acceptance Policy;
- (b) Customer Identification Procedures;
- (c) Monitoring of Transactions; and

(d) Risk Management.

#### 4.3 Customer Acceptance Policy (CAP)

(a) Every AP (Indian Agent) should develop a clear Customer Acceptance Policy laying down explicit criteria for acceptance of customers. The Customer Acceptance Policy must ensure that explicit guidelines are in place on the following aspects of customer relationship in the AP (Indian Agent).

(i) No remittance is received in anonymous or fictitious/benami name(s). [APs (Indian Agents) should not allow any transaction in any anonymous or fictitious name (s) or on behalf of other persons whose identity has not been disclosed or cannot be verified in view of Government of India Notification dated June 16, 2010 Rule 9, sub-rule (1C)].

(ii) Parameters of risk perception are clearly defined in terms of the nature of business activity, location of customer and his clients, mode of payments, volume of turnover, social and financial status, etc. to enable categorisation of customers into low, medium and high risk (APs may choose any suitable nomenclature *viz.* level I, level II and level III). Customers requiring very high level of monitoring, *e.g.* Politically Exposed Persons (PEPs) may, if considered necessary, be categorised even higher.

(iii) Documentation requirements and other information to be collected in respect of different categories of customers depending on perceived risk and keeping in mind the requirements of Prevention of Money Laundering Act, (PMLA), 2002, as amended by Prevention of Money Laundering (Amendment) Act, 2009, 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, as well as instructions/guidelines issued by the Reserve Bank, from time to time.

(iv) Not to make payment of any remittance where the AP (Indian Agent) is unable to apply appropriate customer due diligence measures *i.e.* AP (Indian Agent) is unable to verify the identity and/or obtain documents required as per the risk categorisation due to non-cooperation of the customer or non reliability of the data/information furnished to the AP (Indian Agent). It is, however, necessary to have suitable built in safeguards to avoid harassment of the customer. In the circumstances when an AP (Indian Agent) believes that it would no longer be satisfied that it knows the true identity of the customer, the AP (Indian Agent) should file an STR with FIU-IND.

(v) Circumstances, in which a customer is permitted to act on behalf of another person/entity, should be clearly spelt out, the beneficial owner should be identified and all reasonable steps should be taken to verify his identity.

(b) APs (Indian Agents) should prepare a profile for each new customer, where regular cross-border inward remittances are/expected to be received, based on risk categorisation.



The customer profile may contain information relating to customer's identity, social/financial status, etc. The nature and extent of due diligence will depend on the risk perceived by the AP (Indian Agent). However, while preparing customer profile, APs (Indian Agents) should take care to seek only such information from the customer, which is relevant to the risk category and is not intrusive. The customer profile is a confidential document and details contained therein should not be divulged for cross selling or any other purposes.

(c) For the purpose of risk categorisation, individuals (other than High Net Worth) and entities whose identities and sources of wealth can be easily identified and transactions by whom by and large conform to the known profile, may be categorised as low risk. Customers that are likely to pose a higher than average risk should be categorised as medium or high risk depending on customer's background, nature and location of activity, country of origin, sources of funds and his client profile, etc. APs should apply enhanced due diligence measures based on the risk assessment, thereby requiring intensive 'due diligence' for higher risk customers, especially those for whom the sources of funds are not clear. Examples of customers requiring enhanced due diligence include (a) nonresident customers; (b) customers from countries that do not or insufficiently apply the FATF standards; (c) high net worth individuals; (d) politically exposed persons (PEPs); (e) non-face to face customers; and (f) those with dubious reputation as per public information available, etc.

(d) It is important to bear in mind that the adoption of customer acceptance policy and its implementation should not become too restrictive and must not result in denial of cross border inward remittance facilities to general public.

(e) With a view to preventing the system of cross border inward money transfer into India from all over the world under the MTSS from being used, intentionally or unintentionally, by criminal elements for money laundering or terrorist financing activities, 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 (Indian Agents) should carry out full scale customer due diligence (CDD) before making payment of any remittance.

#### 4.4 Customer Identification Procedure (CIP)

(a) The policy approved by the Board of APs (Indian Agents) should clearly spell out the Customer Identification Procedure while making payment to a beneficiary or when the AP has a doubt about the authenticity/veracity or the adequacy of the previously obtained customer identification data. Customer identification means identifying the customer and verifying his/her identity by using reliable, independent source documents, data or information. APs (Indian Agents) need to obtain sufficient information necessary to establish, to their satisfaction, the identity of each new customer, whether regular or occasional. Being satisfied means that the AP must be able to satisfy the competent authorities that due diligence was observed based on the risk profile of the customer in compliance with the extant guidelines in place. Such risk based approach is considered

necessary to avoid disproportionate cost to APs (Indian Agents) and a burdensome regime for the customers. The APs (Indian Agents) should obtain sufficient identification data to verify the identity of the customer and his address/location. For customers that are natural persons, the APs (Indian Agents) should obtain sufficient identification document/s to verify the identity of the customer and his address/location. For customers that are legal persons, the AP (Indian Agent) should (i) verify the legal status of the legal person through proper and relevant documents; (ii) verify that any person purporting to act on behalf of the legal person is so authorised and identify and verify the identity of that person; and (iii) understand the ownership and control structure of the customer and determine who are the natural persons who ultimately control the legal person. Customer identification requirements in respect of a few typical cases, especially, legal persons requiring an extra element of caution are given in paragraph 4.5 below for guidance of APs (Indian Agents). APs (Indian Agents) may, however, frame their own internal guidelines based on their experience of dealing with such persons, their normal prudence and the legal requirements as per established practices. If the AP (Indian Agent) decides to undertake such transactions in terms of the Customer Acceptance Policy, the AP (Indian Agent) should take reasonable measures to identify the beneficial owner(s) and verify his/her/their identity in a manner so that it is satisfied that it knows who the beneficial owner(s) is/are [in view of Government of India Notification dated June 16, 2010 - Rule 9 sub-rule (1A) of PML Rules].

(b) Some close relatives, *e.g.* wife, son, daughter and parents, etc. who live with their husband, father/mother and son/daughter, as the case may be, may find it difficult to undertake transactions with APs (Indian Agents) as the utility bills required for address verification are not in their name. It is clarified, that in such cases, APs (Indian Agents) can obtain an identity document and a utility bill of the relative with whom the prospective customer is living along with a declaration from the relative that the said person (prospective customer) wanting to undertake a transaction is a relative and is staying with him/her. APs (Indian Agents) can use any supplementary evidence such as a letter received through post for further verification of the address. While issuing operational instructions to the branches on the subject, APs (Indian Agents) should keep in mind the spirit of instructions issued by the Reserve Bank and avoid undue hardships to individuals who are, otherwise, classified as low risk customers.

(c) APs (Indian Agents) should introduce a system of periodical updation of customer identification data, if there is a continuing relationship.

(d) An indicative list of the type of documents/information that may be relied upon for customer identification is given in SECTION II. It is clarified that permanent correct address, as referred to in SECTION II means the address at which a person usually resides and can be taken as the address as mentioned in a utility bill or any other document accepted by the AP for verification of the address of the customer. When there are suspicions of money laundering or financing of the activities relating to terrorism or where there are doubts about the adequacy or veracity of previously obtained customer identification data, APs (Indian Agents) should review the due diligence measures including verifying again the identity of the client and obtaining information on the

purpose and intended nature of the business relationship, as the case may be. [In view of Government of India Notification dated June 16, 2010 - Rule 9 sub-rule (1D) of PML Rules].

(e) Payment to Beneficiaries

(i) For payment to beneficiaries in Indian Rupees, the identification documents, as mentioned at SECTION II, should be verified and a copy retained.

(ii) A cap of USD 2500 has been placed on individual remittances under the scheme. Amounts up to Rs. 50,000 may be paid in cash. Any amount exceeding this limit shall be paid only by means of cheque/D.D./P.O., etc. or credited directly to the beneficiary's bank account. However, in exceptional circumstances, where the beneficiary is a foreign tourist, higher amounts may be disbursed in cash. Only 12 remittances can be received by a single individual during a calendar year.

#### 4.5 Customer Identification Requirements – Transactions by Politically Exposed Persons (PEPs) – Indicative Guidelines

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. APs (Indian Agents) should gather sufficient information on any person/customer of this category intending to undertake a transaction and check all the information available on the person in the public domain. APs (Indian Agents) should verify the identity of the person and seek information about the source/s of wealth and source/s of funds before accepting the PEP as a customer. 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 (Indian Agents) should also subject such transactions to enhanced monitoring on an ongoing basis. The above norms may also be applied to transactions with the family members or close relatives of PEPs. The above norms may also be applied to customers who become PEPs subsequent to establishment of the business relationship. These instructions are also applicable to transactions where a PEP is the ultimate beneficial owner. Further, in regard to transactions in case of PEPs, it is reiterated that APs (Indian Agents) 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 transactions of which a PEP is the ultimate beneficial owner.

#### 4.6 Monitoring of Transactions

Ongoing monitoring is an essential element of effective KYC procedures. APs (Indian Agents) can effectively control and reduce their risk only if they have an understanding of the normal and reasonable receipt of remittances of the beneficiary so that they have the means of identifying receipts that fall outside the regular pattern of activity. However, the extent of monitoring will depend on the risk sensitivity of the remittance. APs (Indian

Agents) should pay special attention to all complex, unusually large receipts and all unusual patterns which have no apparent economic or visible lawful purpose. APs (Indian Agents) may prescribe threshold limits for a particular category of receipts and pay particular attention to the receipts which exceed these limits. High-risk receipts have to be subjected to intense monitoring.

Every AP (Indian Agent) should set key indicators for such receipts, taking note of the background of the customer, such as the country of origin, sources of funds, the type of transactions involved and other risk factors. APs (Indian Agents) should put in place a system of periodical review of risk categorization of customers and the need for applying enhanced due diligence measures. Such review of risk categorisation of customers should be carried out periodically.

APs (Indian Agents) should exercise ongoing due diligence with respect to the business relationship with every client and closely examine the transactions in order to ensure that they are consistent with their knowledge of the client, his business and risk profile and where necessary, the source of funds [In view of Government of India Notification dated June 16, 2010 -Rule 9, sub-rule (1B)].

APs (Indian Agents) should examine the background and purpose of transactions with persons (including legal persons and other financial institutions) from jurisdictions included in the FATF Statements and countries that do not or insufficiently apply the FATF Recommendations. Further, if the transactions have no apparent economic or visible lawful purpose, the background and purpose of such transactions should, as far as possible, be examined and written findings together with all the documents should be retained and made available to the Reserve Bank/other relevant authorities, on request.

#### 4.7 Attempted transactions

Where the AP (Indian Agent) is unable to apply appropriate KYC measures due to non-furnishing of information and/or non-cooperation by the customer, the AP should not undertake the transaction. Under these circumstances, APs should make a suspicious transactions report to FIU-IND in relation to the customer, even if the transaction is not put through.

#### 4.8 Risk Management

(a) The Board of Directors of the AP (Indian Agent) should ensure that an effective KYC programme is put in place by establishing appropriate procedures and ensuring effective implementation. It should cover proper management oversight, systems and controls, segregation of duties, training and other related matters. Responsibility should be explicitly allocated within the AP (Indian Agent) for ensuring that the APs' policies and procedures are implemented effectively. APs (Indian Agents) should, in consultation with their Boards, devise procedures for creating risk profiles of their existing and new customers and apply various anti money laundering measures keeping in view the risks involved in a transaction.

(b) APs' (Indian Agents) internal audit and compliance functions have an important role in evaluating and ensuring adherence to the KYC policies and procedures. As a general rule, the compliance function should provide an independent evaluation of the AP's (Indian Agent's) own policies and procedures, including legal and regulatory requirements. APs (Indian Agents) should ensure that their audit machinery is staffed adequately with individuals who are well-versed in such policies and procedures. The concurrent auditors should check all cross border inward remittance transactions under MTSS to verify that they have been undertaken in compliance with the anti-money laundering guidelines and have been reported whenever required to the concerned authorities. Compliance on the lapses, if any, recorded by the concurrent auditors should be put up to the Board. A certificate from the Statutory Auditors on the compliance with KYC/AML/CFT guidelines should be obtained at the time of preparation of the Annual Report and kept on record.

#### 4.9 Introduction of New Technologies

APs (Indian Agents) should pay special attention to any money laundering threats that may arise from new or developing technologies including transactions through internet that might favour anonymity and take measures, to prevent their use for money laundering purposes and financing of terrorism activities.

#### 4.10 Combating Financing of Terrorism

(a) In terms of PML Rules, suspicious transaction should include *inter alia* transactions which give rise to a reasonable ground of suspicion that these may involve the proceeds of an offence mentioned in the Schedule to the PMLA, regardless of the value involved. APs (Indian Agents) should, therefore, develop suitable mechanism through appropriate policy framework for enhanced monitoring of transactions suspected of having terrorist links and swift identification of the transactions and making suitable reports to the FIU-IND on priority.

(b) APs (Indian Agents) are advised to take into account risks arising from the deficiencies in AML/CFT regime of certain jurisdictions *viz.* Iran, Uzbekistan, Pakistan, Turkmenistan, Sao Tome and Principe, Democratic People's Republic of Korea (DPRK) as identified in FATF Statement ([www.fatf-gafi.org](http://www.fatf-gafi.org)) issued from time to time, while dealing with individuals from these jurisdictions. In addition to FATF Statements circulated by the Reserve Bank of India from time to time, (latest as on July 1, 2011, circulated *vide* the A.P. (DIR Series) Circular No. 66 dated May 20, 2011), APs (Indian Agents) should also consider using publicly available information for identifying countries, which do not or insufficiently apply the FATF Recommendations. All AP (Indian Agents) are accordingly advised to take into account risks arising from the deficiencies in AML/CFT regime of these countries, while entering into business relationships and transactions with persons (including legal persons and other financial institutions) from or in these countries/jurisdictions and give special attention to these cases.

#### 4.11 Principal Officer

(a) APs (Indian Agents) should appoint a senior management officer to be designated as Principal Officer. Principal Officer shall be located at the head/corporate office of the AP and shall be responsible for monitoring and reporting of all transactions and sharing of information as required under the law. 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 thereunder, as amended from time to time. The Principal Officer should also be responsible for developing appropriate compliance management arrangements across the full range of AML/CFT areas (e.g. CDD, record keeping, etc.). He will maintain close liaison with enforcement agencies, APs (Indian Agents) and any other institution which are involved in the fight against money laundering and combating financing of terrorism. To enable the Principal Officer to discharge his responsibilities, it is advised that that the Principal Officer and other appropriate staff should have timely access to customer identification data and other CDD information, transaction records and other relevant information. Further, APs (Indian Agents) should ensure that the Principal Officer is able to act independently and report directly to the senior management or to the Board of Directors.

(b) The Principal Officer will be responsible for timely submission of CTR and STR to the FIU-IND.

#### 4.12 Maintenance of records of transactions/Information to be preserved/Maintenance and preservation of records/Cash and Suspicious Transactions Reporting to Financial Intelligence Unit- India (FIU-IND)

Section 12 of the Prevention of Money Laundering Act (PMLA), 2002, as amended by Prevention of Money Laundering (Amendment) Act, 2009, casts certain obligations on the APs (Indian Agents) in regard to preservation and reporting of transaction information. APs (Indian Agents) are, therefore, advised to go through the provisions of Prevention of Money Laundering Act, (PMLA), 2002, as amended by Prevention of Money Laundering (Amendment) Act, 2009 and the Rules notified there under and take all steps considered necessary to ensure compliance with the requirements of Section 12 of the Act *ibid*.

##### (i) Maintenance of records of transactions

APs (Indian Agents) should introduce a system of maintaining proper record of transactions prescribed under Rule 3, as mentioned below:

(a) all cash transactions of the value of more than Rupees ten lakh or its equivalent in foreign currency;

(b) all series of cash transactions integrally connected to each other which have been valued below Rupees ten lakh or its equivalent in foreign currency where such series of transactions have taken place within a month and the aggregate value of such transactions exceeds Rupees ten lakh;

(c) all transactions involving receipts by non-profit organisations of value more than Rupees ten lakh or its equivalent in foreign currency [In view of Government of India Notification dated November 12, 2009 - Rule 3, sub-rule (1) clause (BA) of PML Rules];

(d) all cash transactions where forged or counterfeit currency notes or bank notes have been used as genuine and where any forgery of a valuable security or a document has taken place facilitating the transaction; and

(e) All suspicious transactions whether or not made in cash and by way of as mentioned in the Rules.

(ii) Information to be preserved

APs (Indian Agents) are required to maintain all necessary information in respect of transactions referred to in Rule 3 to permit reconstruction of individual transactions including the following information:

- a. the nature of the transaction;
- b. the amount of the transaction and the currency in which it was denominated;
- c. the date on which the transaction was conducted; and
- d. the parties to the transaction.

(iii) Maintenance and Preservation of Records

(a) APs (Indian Agents) are required to maintain the records containing information of all transactions including the records of transactions detailed in Rule 3 above. APs (Indian Agents) should take appropriate steps to evolve a system for proper maintenance and preservation of transaction information in a manner that allows data to be retrieved easily and quickly whenever required or when requested by the competent authorities. Further, APs (Indian Agents) should maintain for at least ten years from the date of transaction between the AP and the client, all necessary records of transactions, both with residents and non-residents, which will permit reconstruction of individual transactions (including the amounts and types of currency involved, if any) so as to provide, if necessary, evidence for prosecution of persons involved in criminal activity.

(b) APs (Indian Agents) should ensure that records pertaining to the identification of the customer and his address (*e.g.* copies of documents like passport, driving license, PAN card, voter identity card issued by the Election Commission, utility bills, etc.) obtained

while undertaking the transaction, are properly preserved for at least ten years from the date of cessation of the business relationship. The identification records and transaction data should be made available to the competent authorities upon request.

(c) In paragraph 4.6 of this Circular, APs (Indian Agents) have been advised to pay special attention to all complex, unusual large transactions and all unusual patterns of transactions, which have no apparent economic or visible lawful purpose. It is further clarified that the background including all documents/office records/memoranda pertaining to such transactions and purpose thereof should, as far as possible, be examined and the findings at branch as well as Principal Officer's level should be properly recorded. Such records and related documents should be made available to help auditors in their day-to-day work relating to scrutiny of transactions and also to Reserve Bank/other relevant authorities. These records are required to be preserved for ten years as is required under 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.

#### (iv) Reporting to Financial Intelligence Unit – India

(a) In terms of the PML rules, APs (Indian Agents) are required to report information relating to cash and suspicious transactions to the Director, Financial Intelligence Unit-India (FIU-IND) in respect of transactions referred to in Rule 3 at the following address:

The Director,  
Financial Intelligence Unit-India (FIU-IND),  
6th Floor, Hotel Samrat,  
Chanakyapuri, New Delhi-110021.

Website – <http://fiuindia.gov.in/>

(b) APs (Indian Agents) should carefully go through all the reporting formats. There are altogether four reporting formats, as detailed in SECTION III, viz. (i) Cash Transactions Report (CTR); (ii) Electronic File Structure-CTR; (iii) Suspicious Transactions Report (STR); and (iv) Electronic File Structure-STR. The reporting formats contain detailed guidelines on the compilation and manner/procedure of submission of the reports to FIU-IND. It would be necessary for APs (Indian Agents) to initiate urgent steps to ensure electronic filing of all types of reports to FIU-IND. The related hardware and technical requirement for preparing reports in an electronic format, the related data files and data structures thereof are furnished in the instructions part of the formats concerned.

(c) In terms of instructions contained in paragraph 4.3(b) of this Circular, APs (Indian Agents) are required to prepare a profile for each customer based on risk categorisation.



Further, *vide* paragraph 4.6, the need for periodical review of risk categorisation has been emphasized. It is, therefore, reiterated that APs (Indian Agents), as a part of transaction monitoring mechanism, are required to put in place an appropriate software application to throw alerts when the transactions are inconsistent with risk categorization and updated profile of customers. It is needless to add that a robust software throwing alerts is essential for effective identification and reporting of suspicious transactions.

#### 4.13 Cash and Suspicious Transaction Reports

##### (A) Cash Transaction Report (CTR)

While detailed instructions for filing all types of reports are given in the instructions part of the related formats, APs (Indian Agents) should scrupulously adhere to the following:

(i) The Cash Transaction Report (CTR) for each month should be submitted to the FIU-IND by 15th of the succeeding month. Cash transaction reporting by branches to their controlling offices should, therefore, invariably be submitted on a monthly basis and APs (Indian Agents) should ensure to submit CTR for every month to FIU-IND within the prescribed time schedule.

(ii) While filing CTR, details of individual transactions below Rs. 50,000 need not be furnished.

(iii) CTR should contain only the transactions carried out by the AP on behalf of their customers excluding transactions between the internal accounts of the AP.

(iv) A cash transaction report for the AP as a whole should be compiled by the Principal Officer of the AP every month in physical form as per the format specified. The report should be signed by the Principal Officer and submitted to the FIU-IND.

(v) In case of Cash Transaction Reports (CTR) compiled centrally by APs (Indian Agents) for the branches at their central data centre level, APs (Indian Agents) may generate centralised Cash Transaction Reports (CTR) in respect of branches under central computerized environment at one point for onward transmission to FIU-IND, provided:

(a) The CTR is generated in the format prescribed by Reserve Bank in Para 4.12(iv)(b) of this Circular.

(b) A copy of the monthly CTR submitted on its behalf to the FIU-IND is available at the branch concerned for production to auditors/inspectors, when asked for.

(c) The instruction on 'Maintenance of records of transactions', 'Information to be preserved' and 'Maintenance and Preservation of records' as contained above in this circular at Para 4.12(i), (ii) and (iii) respectively are scrupulously followed by the branch.

However, in respect of branches not under central computerized environment, the monthly CTR should be compiled and forwarded by the branch to the Principal Officer for onward transmission to the FIU-IND.

(B) Suspicious Transaction Reports (STR)

(i) While determining suspicious transactions, APs (Indian Agents) should be guided by definition of suspicious transaction contained in PML Rules, as amended from time to time.

(ii) It is likely that in some cases, transactions are abandoned/aborted by customers on being asked to give some details or to provide documents. It is clarified that APs (Indian Agents) should report all such attempted transactions in STRs, even if not completed by customers, irrespective of the amount of the transaction.

(iii) APs (Indian Agents) should make STRs if they have reasonable ground to believe that the transaction, including an attempted transaction, involves proceeds of crime generally irrespective of the amount of transaction and/or the threshold limit envisaged for predicate offences in part B of Schedule of Prevention of Money Laundering Act, (PMLA), 2002, as amended by Prevention of Money Laundering (Amendment) Act, 2009.

(iv) The Suspicious Transaction Report (STR) should be furnished within 7 days of arriving at a conclusion that any transaction, including an attempted transaction, whether cash or non-cash, or a series of transactions integrally connected are of suspicious nature. The Principal Officer should record his reasons for treating any transaction or a series of transactions as suspicious. It should be ensured that there is no undue delay in arriving at such a conclusion once a suspicious transaction report is received from a branch or any other office. Such report should be made available to the competent authorities on request.

(v) In the context of creating KYC/AML awareness among the staff and for generating alerts for suspicious transactions, APs (Indian Agents) may consider the following indicative list of suspicious activities.

Some possible suspicious activity indicators are given below:

- u Customer is reluctant to provide details/documents on frivolous grounds.
- u The transaction is undertaken by one or more intermediaries to protect the identity of the beneficiary or hide their involvement.
- u Large amount of remittances.
- u Size and frequency of transactions is high considering the normal business of the customer.

The above list is only indicative and not exhaustive.

(vi) APs (Indian Agents) should not put any restrictions on payment to beneficiaries where an STR has been made. Moreover, it should be ensured that employees of APs shall keep the fact of furnishing such information as strictly confidential and there is no tipping off to the customer at any level.

#### 4.14 Customer Education/Employees' Training/Employees' Hiring

##### (a) Customer Education

Implementation of KYC procedures requires APs (Indian Agents) to demand certain information from customers which may be of personal nature or which has hitherto never been called for. This can sometimes lead to a lot of questioning by the customer as to the motive and purpose of collecting such information. There is, therefore, a need for APs (Indian Agents) to prepare specific literature/pamphlets, etc. so as to educate the customer of the objectives of the KYC programme. The front desk staff needs to be specially trained to handle such situations while dealing with customers.

##### (b) Employees' Training

APs (Indian Agents) must have an ongoing employee training programme so that the members of the staff are adequately trained to be aware of the policies and procedures relating to prevention of money laundering, provisions of the PMLA and the need to monitor all transactions to ensure that no suspicious activity is being undertaken under the guise of remittances. Training requirements should have different focuses for frontline staff, compliance staff and staff dealing with new customers. It is crucial that all those concerned fully understand the rationale behind the KYC policies and implement them consistently. The steps to be taken when the staff come across any suspicious transactions (such as asking questions about the source of funds, checking the identification documents carefully, reporting immediately to the Principal Officer, etc.) should be carefully formulated by the APs (Indian Agents) and suitable procedure laid down. The APs (Indian Agents) should have an ongoing training programme for consistent implementation of the AML measures.

##### (c) Hiring of Employees

It may be appreciated that KYC norms/AML standards/CFT measures have been prescribed to ensure that criminals are not allowed to misuse the system of money transfer under MTSS. It would, therefore, be necessary that adequate screening mechanism is put in place by APs (Indian Agents) as an integral part of their recruitment/hiring process of personnel to ensure high standards.

Note : The above KYC/AML/CFT Guidelines would also be applicable *mutatis mutandis* to all Sub-agents of the Indian Agents under MTSS and it will be the sole responsibility of the APs (Indian Agents) to ensure that their Sub-agents also adhere to these guidelines.

SECTION II

CUSTOMER IDENTIFICATION PROCEDURE FEATURES TO BE VERIFIED AND DOCUMENTS THAT MAY BE OBTAINED FROM CUSTOMERS

Features	Documents
– Legal name and any other names used	(i) Passport (ii) PAN card (iii) Voter’s Identity Card (iv) Driving licence (v) Identity card (subject to the AP’s satisfaction) (vi) Letter from a recognized public authority or public servant verifying the identity and residence of the customer to the satisfaction of the AP
– 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 (subject to satisfaction of the AP).
	(any one of the documents, which provides customer information to the satisfaction of the AP will suffice).

SECTION III

LIST OF VARIOUS REPORTS AND THEIR FORMATS

1. Cash Transaction Report (CTR)
2. Electronic File Structure CTR
3. Suspicious Transaction Report (STR)
4. Electronic File Structure STR

Note : Formats of the above reports are given in A.P. (DIR Series) Circular No. 18 [A.P. (FL Series) Circular No. 5] dated November 27, 2009.

*ANNEX II*

*STATEMENT SHOWING DETAILS OF REMITTANCES RECEIVED THROUGH MONEY TRANSFER SCHEME DURING THE QUARTER ENDED*

Name of the Agent in India

.....  
 .....

<i>Name of the Overseas Principal</i>	<i>Total amount of foreign currency received (in USD)</i>	<i>Rupee equivalent</i>


Note : This statement is required to be submitted to the concerned Regional Office of RBI, FED within 15 days from the close of the quarter to which it relates.

*ANNEX III*

*STATEMENT OF COLLATERAL KEPT BY INDIAN AGENTS*

Name of the Indian Agent

.....  
 .....

<i>Name of the Overseas Principal</i>	<i>Total amount of foreign currency received during the past 6 months in USD</i>	<i>Amount of Collateral obtained in USD</i>	<i>Collateral kept in the form of</i>	<i>Last review of adequacy of collateral along-with the observations</i>

*APPENDIX*

**LIST OF CIRCULARS/NOTIFICATIONS WHICH HAVE BEEN CONSOLIDATED IN THE MASTER CIRCULAR ON MONEY TRANSFER SERVICE SCHEME**

Sl. No.	Notification/Circular	Date
1.	Notification on MTSS	June 4, 2003
2.	A.P. (DIR Series) Circular No. 18 [A.P. (FL Series) Circular No. 5]	November 27, 2009
3.	A.P. (DIR Series) Circular No. 19 [A.P. (FL Series) Circular No. 2]	November 25, 2010
4.	A.P. (DIR Series) Circular No. 21 [A.P. (FL Series) Circular No. 4]	November 30, 2010
5.	A.P. (DIR Series) Circular No. 24 [A.P. (FL Series) Circular No. 5]	December 13, 2010
6.	A.P. (DIR Series) Circular No. 26 [A.P.(FL Series) Circular No. 7]	December 22, 2010
7.	A.P. (DIR Series) Circular No. 28 [A.P.(FL Series) Circular No. 9]	December 22, 2010
8.	A.P. (DIR Series) Circular No. 50 [A.P.(FL Series) Circular No. 12]	April 6, 2011

9.	A.P. (DIR Series) Circular No. 52 [A.P.(FL Series) Circular No. 14]	April 6, 2011
10.	A.P. (DIR Series) Circular No. 62	May 16, 2011
11.	A.P. (DIR Series) Circular No. 64	May 20, 2011
12.	A.P. (DIR Series) Circular No. 66	May 20, 2011