23. PMLA policy

Policy created by : Anand Jain
Policy reviewed by : Compliance Head
Policy reviewed on : 30th April 2015
Policy approved by : Board of Directors
Policy approved on : 30th April 2015

FOR NSE, BSE, MCX-SX & CDSL
POLICIES & PROCEDURES ADOPTED FOR PREVENTION OF MONEY LAUNDERING
(Issued as per the requirements of PMLA Act 2002)
(First Policy sent to FIU- New Delhi on 8th January 2008)

1. Objective & Policy: Primary objective of our firm would be **'**Prevention of money laundering through designated brokers, intentionally or unintentionally by criminal elements'. It is the policy of our firm to prohibit and actively prevent money laundering and any activity that facilitates money laundering or the funding of terrorist or criminal activities.

2. Principal Officer appointment & duties: Our firm has designated **Mr. Anand Jain** as the principal officer and intimated the authority vide letter dtd. **31.01.07**, thereby complying with the procedure of designating a sufficiently senior person as 'Principal Officer' as required under the Prevention of Money Laundering Act. The principal officer will promptly notify Financial Intelligence Unit (FIU) of any change to the details of our firm. The principal officer will also ensure maintenance of proper records and filing of records with FIU, whenever required.

3. Appointment of Director:
(Director – Ms Madhulika Jain appointed on 14.03.2014 by the company)
i) In addition to the existing requirement of designation of a principal officer, the registered intermediaries shall also designate a person as a "Designated Director". In terms of Rule 2 (ba) of the PMLA Rules, the definition of a designated director reads as under: 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 rules and includes:

- The managing director or a whole time director duly authorized by the board of directors if the reporting entity is a company
- The managing partner if the reposting entity is a partnership firm
- The proprietor if the reporting entity is a proprietorship firm
- The managing trustee if the reporting entity is a trust
- A person or individual as the case maybe, who controls and manages the affairs of the reporting entity is an unincorporated association or a body of individuals, and
- 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.

(ii) In terms of Sec 13(2) of the PMLA act (as amended by the PMLA Act -2012) the director, FIU-IND can take appropriate action, including levying of monetary penalty, on the Designated Director for the failure of the intermediary to comply with any of its AML/CFT obligations.
(iii) Registered intermediaries shall communicate the details of the designated Director, such as, name, designation, and address to the office of the Director, FIU-IND.

4. Know Your Customer Standards: Our KYC policy incorporates the following four elements:

- Customer Acceptance Policy (CAP)
- Customer Identification Procedures (CIP)
- Monitoring of Transactions; and

- Risk Management

Customer Acceptance Policy (CAP)

The following points are kept in mind before accepting the KYC form of a probable client

- No account shall be opened in anonymous or fictitious/benami name(s)
- Parameters of risk perception shall be 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 categorization of customers into low, medium and high risk; Customers requiring veryhigh level of monitoring e.g., Politically Exposed Persons (PEPs) may be categorized under Very High Risk.

The risk to the customer shall be assigned on the following basis:

Low Risk

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 categorized as low risk. The illustrative examples of low risk customers could be salaried employees whose salary structures are well defined, people belonging to lower economic strata of the society whose accounts show small balances and low turnover, Government Departments and Government owned companies, regulators and statutory bodies etc. In such cases, only the basic requirements of verifying the identity and location of the customer shall be met.

Medium Risk

Customers that are likely to pose a higher than average risk to the broker may be categorized 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; such as

- Persons in business/industry or trading activity where the area of his residence or place of business has a scope or history of unlawful trading/business activity.
- Where the client profile of the person/s opening the account, according to the perception of the branch is uncertain and/or doubtful/dubious.

High Risk

The dealers may 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. The examples of customers requiring higher due diligence may include

a) Non Resident Customers,

b) High Net worth individuals

c) Trusts, charities, NGOs and organizations receiving donations,

d) Companies having close family shareholding or beneficial ownership

e) Firms with 'sleeping partners'

f) Politically Exposed Persons (PEPs) of foreign origin

g) Non-face to face customers, and

h) Those with dubious reputation as per public information available, etc.

Very High Risk- PEP

Politically Exposed Persons (PEPs)

Clients of special category (CSC)

Such clients include the following

a. Non resident clients
b. High net worth clients
c. Trust, Charities, NGOs and organizations receiving donations
d. Companies having close family shareholdings or beneficial ownership
e. Politically exposed persons (PEP) of foreign origin
f. Current / Former Head of State, Current or Former Senior High profile politicians and connected persons (immediate family, Close advisors and companies in which such individuals have interest or significant influence)
g. Companies offering foreign exchange offerings
h. Clients in high risk countries (where existence / effectiveness of money laundering controls is suspect, where there is unusual banking secrecy, Countries active in narcotics production, Countries where corruption (as per Transparency International Corruption Perception Index) is highly prevalent, Countries against which government sanctions are applied, Countries reputed to be any of the following – Havens / sponsors of international terrorism, offshore financial centers, tax havens, countries where fraud is highly prevalent.
i. Non face-to-face clients
j. Clients with dubious reputation as per public information available etc.

The above-mentioned list is only illustrative and we have to exercise independent judgment to ascertain whether new clients should be classified as CSC or not.

- The dealers shall collect documents and other information from the customer depending on perceived risk and keeping in mind the requirements of AML Act, 2002 and guidelines issued by RBI from time to time.
- The dealers shall close an existing account or shall not open a new account where it is unable to apply appropriate customer due diligence measures i.e., branch is unable to verify the identity and/or obtain documents required as per the risk categorization due to non cooperation of the customer or non reliability of data/information furnished to the branch. The dealers shall, however, ensure that these measures do not lead to the harassment of the customer. However, in case the account is required to be closed on this ground, the dealers shall do so only after permission of Senior Official of their concerned Offices is obtained. Further, the customer should be given a prior notice of at least 20 days wherein reasons for closure of his account should also be mentioned.
- The dealers shall make necessary checks before opening a new account so as to ensure that the identity of the customer does not match with any person with known criminal background or with banned entities such as individual terrorists or terrorist organizations etc. RBI has been circulating lists of terrorist entities notified by the Government of India so that brokers exercise caution against any transaction detected with such entities. The dealers shall invariably consult such lists to ensure that prospective person/s or organizations desirous to establish relationship with the broker are not in any way involved in any unlawful activity and that they do not appear in such lists.
- The dealers shall prepare a profile for each new customer based on risk categorization. The broker has devised a revised Composite Account Opening Form for recording and maintaining the profile of each new

customer. Revised form is separate for Individuals, Partnership Firms, Corporate and other legal entities, etc. The nature and extent of due diligence shall depend on the risk perceived by the dealer. The dealers should continue to follow strictly the instructions issued by the broker regarding secrecy of customer information. The dealers should bear in mind that the adoption of customer acceptance policy and its implementation does not become too restrictive and should not result in denial of brokering services to general public, especially to those, who are financially or socially disadvantaged.

Customer Identification Procedure (CIP)

The following table will be referred for customer identification and verification procedure:

Client's-Constitution	**Proof of identity**	**Proof of Address**	**Others**
Individual	1. Pan card	2. Copy of bank Statement etc	3. N.A
Company	4.Pan card 5.Certificate of Incorporation 6. Memorandum & Articles 7. Board Resolution	8. As Above	9. Proof of Identity of Directors/others authorized to trade
Partnership Firm	10. Pan Card 11. Registration certificate 12. partnership deed	13. As above	14. Proof of Identity of partners/others authorized to trade
Trust	15. Pan Card 16. Registration certificate 17. Trust deed	18 As above	19. Proof of Identity of trustees/others authorized to trade
AOP/BOI	20 Pan Card 21. Resolution of Management 22. Certificate of legal Existence	23 As above	24 Proof of Identity of persons/others authorized to trade

Notes:

- All Pan cards to be verified from Income Tax/ NSDL sites before the account is opened
- If a potential customer refuses to provide the above details or willfully provides misleading details, then our firm will not open the trading account.
- Client records will be maintained for 10 years after closure of Trading account of any client
- Reluctance on the part of the client to provide necessary information or cooperate in verification process could generate a red flag for the member for additional monitoring.

5. Record maintenance: Record keeping/ Retention of records/Freezing of Records

The principal officer should maintain such records that are sufficient to permit reconstruction of individual transactions (including the amounts and types of currencies involved, if any) so as to provide, if necessary, evidence for prosecution of criminal behavior.

Should there be any suspected drug related or other laundered money or terrorist property, the competent investigating authorities would need to trace through the audit trail for reconstructing a financial profile of the suspect account. To enable this reconstruction, registered intermediaries should retain the following information for the accounts of their customers in order to maintain a satisfactory audit trail:
(a) the beneficial owner of the account;
(b) the volume of the funds flowing through the account; and
(c) for selected transactions:
• the origin of the funds;
• the form in which the funds were offered or withdrawn, e.g. cash, cheques, etc.;
• the identity of the person undertaking the transaction;
• the destination of the funds;
• the form of instruction and authority.
Registered Intermediaries should ensure that all customer and transaction records and information are available on a timely basis to the competent investigating authorities. Where appropriate, they should consider retaining certain records, e.g. customer identification, account files, and business correspondence, for periods which may exceed that required under the SEBI Act, Rules and Regulations framed there-under PMLA 2002, other relevant legislations, Rules and Regulations or Exchange bye-laws or circulars.
More specifically, all the intermediaries shall put in place a system of maintaining proper record of transactions prescribed under Rule 3, notified under the Prevention of Money Laundering Act (PMLA), 2002 as mentioned below:
(i) All cash transactions of the value of more than rupees ten lakh or its equivalent in foreign currency;
(ii) 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;
(iii) 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 has taken place;
(iv) All suspicious transactions whether or not made in cash and by way of as mentioned in the Rules.
Intermediaries are required to maintain and preserve the following information in respect of transactions

referred to in Rule 3 of PMLA Rules:

I. the nature of the transactions;

II. the amount of the transaction and the currency in which it denominated;

III. the date on which the transaction was conducted; and

IV. the parties to the transaction.

Retention of Records

Intermediaries should take appropriate steps to evolve an internal mechanism for proper maintenance and preservation of such records and information in a manner that allows easy and quick retrieval of data as and when requested by the competent authorities. Further, the records mentioned in Rule 3 of PMLA Rules have to be maintained and preserved for a period of ten years from the date of cessation of the transactions between the client and intermediary.

As stated in para 5.5, intermediaries are required to formulate and implement the client identification program containing the requirements as laid down in Rule 9 and such other additional requirements that it considers appropriate. The records of the identity of clients have to be maintained and preserved for a period of ten years from the date of cessation of the transactions between the client and intermediary.

Thus the following document retention terms should be observed:

(a) All necessary records on transactions, both domestic and international, should be maintained at least for the minimum period prescribed under the relevant Act (PMLA, 2002 as well SEBI Act, 1992) and other legislations, Regulations or exchange bye-laws or circulars.

(b) Records on customer identification (e.g. copies or records of official identification documents like passports, identity cards, driving licenses or similar documents), account files and business correspondence should also be kept for the same period.

In situations where the records relate to on-going investigations or transactions which have been the subject of a suspicious transaction reporting, they should be retained until it is confirmed that the case has been closed.

6. Monitoring & Reporting of Suspicious Transactions:

Ongoing monitoring of accounts is an essential element of an effective Anti Money Laundering framework. Such monitoring should result in identification and detection of apparently abnormal transactions, based on laid down parameters. Members should devise and generate necessary reports/alerts based on their clients profile, nature of business, trading pattern of clients for identifying and detecting such transactions. These reports/alerts should be analyzed to establish suspicion or otherwise for the purpose of reporting such transactions.

A list of circumstances, which may be in the nature of suspicious transactions, is given below. This list is only illustrative and whether a particular transaction is suspicious or not will depend upon the background, details of the transactions and other facts and circumstances:

i) Clients whose identity verification seems difficult or clients appear not to cooperate
ii) Substantial increase in activity without any apparent cause
iii) Large number of accounts having common parameters such as common partners / directors / promoters / address / email address / telephone numbers / introducers or authorized signatories;
iv) Transactions with no apparent economic or business rationale
v) Sudden activity in dormant accounts;
vi) Source of funds are doubtful or inconsistency in payment pattern;
vii)Unusual and large cash deposits made by an individual or business;
viii)Transfer of investment proceeds to apparently unrelated third parties;
ix) Multiple transactions of value just below the threshold limit specified in PMLA so as to avoid possible reporting;
x) Unusual transactions by CSCs and businesses undertaken by shell corporations, offshore banks /financial services, businesses reported to be in the nature of export-import of small items.;
xi) Asset management services for clients where the source of the funds is not clear or not in keeping with

clients apparent standing /business activity;

xii)Clients in high-risk jurisdictions or clients introduced by banks or affiliates or other clients based in high risk jurisdictions;

xiii)Clients transferring large sums of money to or from overseas locations with instructions for payment in cash;

xiv) Purchases made on own account transferred to a third party through off market transactions through DP Accounts;

xv) Suspicious off market transactions;

xvi)Large deals at prices away from the market.

xvii) Accounts used as 'pass through'. Where no transfer of ownership of securities or trading is occurring in the account and the account is being used only for funds transfers/layering purposes.

xviii)Trading activity in accounts of high risk clients based on their profile, business pattern and industry segment.

Broad categories for reason of suspicion are given below:

- Suspicious criminal background of the client
- Multiple accounts having coomon account holder or introducer or authorized signatory with no rationale
- Unusual activity in dormant accounts or in aberration to past activities
- Source of funds are doubtful
- Appears to be case of insider trading
- Suspicious off-market transactions
- Value of transaction being inconsistent to client's financial standing

7. Reporting of Suspicious Transactions to FIU IND

Processes for alert generation, examination and reporting should include

- Audit trail for all alerts generated till they are reported to FIU / closed
- Clear enunciation of responsibilities at each stage of process from generation, examination, recording and reporting
- Escalation through the organization to the principal officer designated for PMLA
- Confidentiality of STRs filed
- Retention of records

All cash transaction requiring reporting will be done in CTR format and in the manner and at intervals prescribed by FIU IND.

We will make a note of all transactions that have not been explained to the satisfaction of our principal officer and thereafter report the same to FIU IND.

Wherever we have reason to suspect any criminal activity, illegal activity, activity involving evasion of PMLA regulations and unlawful business activity, then the same would be tracked and reported promptly.

As and when any suspicious transactions or any transaction whether within the permissible regulation limits but constituting an anomaly would be tracked and reported to FIU/BSE/SEBI/CDSL or concerned regulatory bodies.

For CDSL-"*Blng024900_fui"* file should be monitored for abnormal DP transactions on fortnightly basis or as and when received from CDSL. Any aberrations should be noted. Possibility of fraudulent or suspicious trades should be traced, inquired for and then reported to the concerned authority.

In terms of the PML Rules, intermediaries 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, New Delhi-110021.
Website: http://fiuindia.gov.in

Intermediaries shall carefully go through all the reporting requirements and formats enclosed with this circular. These requirements and formats are divided into two parts- Manual Formats and Electronic Formats. Details of these formats are given in the documents (Cash Transaction Report- version 1.0 and Suspicious

Transactions Report version 1.0) which are also enclosed with this circular. These documents contain detailed directives on the compilation and manner/procedure of submission of the manual/electronic reports to FIU-IND. The related hardware and technical requirement for preparing reports in manual/electronic format, the related data files and data structures thereof are also detailed in these documents. Intermediaries, which are not in a position to immediately file electronic reports, may file manual reports with FIU-IND as per the formats prescribed. While detailed instructions for filing all types of reports are given in the instructions part of the related formats, intermediaries shall adhere to the following:
The Cash Transaction Report (CTR) (wherever applicable) for each month shall be submitted to FIU-IND by 15th of the succeeding month. The Suspicious Transaction Report (STR) shall be submitted within 7 days of arriving at a conclusion that any transaction, whether cash or non-cash, or a series of transactions integrally connected are of suspicious nature. The Principal Officer shall record his reasons for treating any transaction or a series of transactions as suspicious. It shall be ensured that there is no undue delay in arriving at such a conclusion. The Principal Officer will be responsible for timely submission of CTR and STR to FIU-IND; Utmost confidentiality shall be maintained in filing of CTR and STR to FIU-IND. The reports may be transmitted by speed/registered post/fax at the notified address. No nil reporting needs to be made to FIU-IND in case there are no cash/suspicious transactions to be reported.
Intermediaries shall not put any restrictions on operations in the accounts where an STR has been made. Intermediaries and their directors, officers and employees (permanent and temporary) shall be prohibited from disclosing ("tipping off") the fact 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 registered intermediaries, irrespective of the amount of transaction and/or the threshold limit envisaged for predicate offences specified in part B of Schedule of PMLA, 2002, shall file STR if they have reasonable grounds to believe that the transactions involve proceeds of crime.

8. AML Record keeping

i. ***STR Maintenance and confidentiality***

Confidentiality of STRs and other supporting documents will be maintained. Only law enforcement or regulatory authorities need be informed about it. Any request for STR information would not be entertained and request will be informed to FIU IND immediately. Separate filing for STRs will be maintained. Principal Officer will handle all requests related to it.

ii. ***Responsibility for AML records and SAR filing***

Principal Officer will be in charge of record keeping of STRs.

iii. ***Records required***

As part of our AML program, our firm will create and maintain STRs and CTRs and other relevant documentation about customer identity/verification. Such records will be maintained for at least ten years.

9. Ongoing training to Employees:

Principal Officer would be responsible to impart necessary training to employees. Employees will be sensitized of the requirements under PMLA and the procedures laid down by the member. It will be ensured that all the operating and management staff fully understands their responsibilities under PMLA for strict adherence to customer due diligence requirements from establishment of new accounts to transaction monitoring and reporting suspicious transactions to the FIU. Annually, training programmes would be imparted wherever required for new staff, front-line staff, sub-brokers, supervisory staff, controllers and product planning personnel, etc. Training may include written materials like pamphlets, audio/video Cds, in-person lectures and professional seminars. Employees of the compliance department should be asked to attend BSE/NSE/CDSL Compliance training program.

10. Audit/Testing of Anti Money Laundering Program.

The Anti Money Laundering program will be subjected to periodic audit specifically with regard to testing its adequacy to meet the compliance requirements. An internal auditor or any qualified professional will do the audit/testing. The report of such an audit/testing should be placed before the senior management for making suitable modifications/improvements in the AML program.

11. Employee conduct and Accounts

Employees conduct and accounts would be subjected to scrutiny under the principal officer. Supervisors and managers performance will be annually reviewed. In turn, principal officer's accounts and performance will be reviewed by Board of directors.

12. Confidential reporting of AML non-compliance

Any violation of firm's AML program should be reported to the principal officer, unless the violation implicates Principal Officer himself, in that case, the report should be forwarded to chairman of the board. Reports should be confidential and employee will face no retaliation for doing so.

13. Board of Directors Approval:

We have approved this AML program as reasonably designed to achieve and monitor our firm's ongoing compliance with the requirements of PMLA and the implementing regulations under it.

14. Investor Education

Implementation of AML/CFT measures requires intermediaries to demand certain information from investors which may be of personal nature or has hitherto never been called for. Such information can include documents evidencing source of funds/income tax returns/bank records etc. This can sometimes lead to raising of questions by the client with regard to the motive and purpose of collecting such information. There is, therefore, a need for intermediaries to sensitize their clients about these requirements as the ones emanating from AML and CFT framework. Intermediaries shall prepare specific literature/ pamphlets etc. so as to educate the client of the objectives of the AML/CFT programme.

15 Reliance on third party for carrying out Client Due Diligence (CDD)

Registered intermediaries may rely on a third party for the purpose of (a) identification and verification of the identity of a client and (b) determination of whether the client is acting on behalf of a beneficial owner, identification of the beneficial owner and verification of the identity of the beneficial owner. Such third party shall be regulated, supervised or monitored for, and have measures in place for compliance with CDD and record-keeping requirements in line with the obligations under the PML Act. Such reliance shall be subject to the conditions that are specified in Rule 9 (2) of the PML Rules and shall be in accordance with the regulations and circulars/ guidelines issued by SEBI from time to time. Further, it is clarified that the registered intermediary shall be ultimately responsible for CDD and undertaking enhanced due diligence measures, as applicable.

16. Review of Policy

To be in compliance with PMLA obligations, the senior management of a registered intermediary shall be fully committed to establishing appropriate policies and procedures for the prevention of ML and TF and ensuring their effectiveness and compliance with all relevant legal and regulatory requirements. The Registered Intermediaries shall: issue a statement of policies and procedures, on a group basis where applicable, for dealing with ML and TF reflecting the current statutory and regulatory requirements; ensure that the content of these Directives are understood by all staff members; regularly review the policies and procedures on the prevention of ML and TF to ensure their effectiveness. Further, in order to ensure the effectiveness of policies and procedures, the person doing such a review shall be different from the one who has framed such policies and procedures; adopt client acceptance policies and procedures which are sensitive to the risk of ML and TF; undertake client due diligence ("CDD") measures to an extent that is sensitive to the risk of ML and TF depending on the type of client, business relationship or transaction; have a system in place for identifying, monitoring and reporting suspected ML or TF transactions to the law enforcement authorities; and develop staff members' awareness and vigilance to guard against ML and TF

Client Signature: _____

RISK ASSESSMENT OF CLIENT IN TERMS OF PMLA 2002

Type of Client **(Please Tick)**	**Low Risk**	**Medium Risk**	**High Risk**	**PEP (Politically Exposed person)**	**CSC (Client of Special Category)**

Risk rating would change only if there is change in risk perception by us.

For **K.M.Jain Stock brokers Pvt Ltd**

Director/ Authorised Signatory

10th Jan. 08

To,
The Additional Director
Financial Intelligence Unit – India,
6th Floor, Hotel Samrat,
Chanakyapuri,
New Delhi –110 021.

Sir,
Sub: Formulation & Implementation of PMLA Provisions Under ANTI MONEY – LAUNDERING ACT, 2002
Enclosed herewith please find the following documents:
Formulated PMLA Provisions and its implementation under ANTI MONEY – LAUNDERING ACT, 2002 for our memberships at:

NSE (SEBI Reg. # INB 230990237)
BSE (SEBI Reg. # INB 010990232)
CDSL DP (SEBI Reg. # IN–DP–CDSL–156–2001)

This is for your information and records.
Thanking you,
Yours truly,
For K.M.Jain Stock Brokers Pvt. Ltd.

Director

NSE SEBI Reg. #INB 230990237
BSE SEBI Reg. #INB 010990232
CDSL SEBI Reg. #IN-DP-CDSL-156-2001

ADDENDUM TO PMLA POLICY- FOR NSE , BSE, MCX-SX ,CDSL
IMPLEMENTATION OF PMLA PROVISIONS- UNDER ANTI MONEY LAUNDERING ACT, 2002
The thrust for the implementation of Anti Money Laundering Policy should be on the following key aspects: Designation of a sufficiently senior person as 'Principal Officer' as required under the Prevention of Money Laundering Act.

Mr. Anand Jain has been appointed **principal offic**er vide intimation letter dtd. 31.01.07

Customer Due Diligence/KYC Standards
Cautious approach should be maintained while selection of clients. Introducer should be an existing client or acquainted to the broker. Client should be present 'in-person' while opening his account or else the official in charge should pay a visit to the client's place for verification. There should be complete adherence to the laid guidelines, circulars, operating instructions, etc. of the regulatory authorities.

KYC forms should be updated on regular intervals. Any changes/shortcomings should be reported to the

clients and then the official in-charge should follow-up with the client to procure new documents.

Monitoring of transactions for detecting suspicious transactions
All transactions should be monitored from the Admin terminal on continuous basis. Special stress should be given on " T, TS & Z " Group scrip. Common aberrations should be noticed among trading patterns of client is w.r.t a) Cross deals in same scrip b) Abnormal volumes in a particular low traded scrip c) Capital gains transfer/adjustment between two clients generally in illiquid counters d) trading activity of up-country clients.

All aberrations should be noted. Possibility of fraudulent or suspicious trades should be traced and inquired for.

Reporting of suspicious transactions
As and when any suspicious transactions or any transaction whether within the permissible regulation limits but constituting an anomaly would be tracked and reported to BSE/SEBI/CDSL or concerned regulatory bodies.

Ongoing training of employees
Employees of the compliance department should be asked to attend BSE/NSE? Compliance training program. Mr. Anand Jain has already attended the program. There should be one trained (capital market test qualified) employee for every five or less Ids per location.

Audit/Testing of AML Program
Regular Audits would also help detect and reduce frauds or dubious transactions.
In addition to appointment of a Principal Officer, drawing up of written procedures to implement PMLA provisions, KYC policy encompassing Customer Acceptance/Client Identification Program and Risk Categorization, the following procedures/systems should also be in place :

1. Monitoring of transactions and generation of alerts for identification of suspicious transactions
2. Analysis of such alerts generated
3. Use of complete KYC information including details of occupation and financial status at the time of analysing alerts and
4. Reporting of appropriate cases to FIU-IND

ANTI MONEY LAUNDERING ACT AND TERRORISM
Anti Money Laundering (AML) Standards/Combating Financing of Terrorism (CFT)/Obligations of Securities Market Intermediaries under Prevention of Money Laundering Act, 2002 and Rules framed there-under-Master Circular on AML/CFT
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. Subsequently, SEBI issued necessary guidelines vide circular no. ISD/CIR/RR/AML/1/06 dated January 18, 2006 to all securities market intermediaries as registered under Section 12 of the SEBI Act, 1992. These guidelines were issued in the context of the recommendations made by the Financial Action Task Force (FATF) on anti-money laundering standards. Compliance with these standards by all intermediaries and the country has become imperative for international financial relations.
As per the provisions of the Prevention of Money Laundering Act, every banking company, financial institution (which includes chit fund company, a co-operative bank, a housing finance institution and a non-banking financial company) and intermediary (which includes a stock-broker, sub-broker, share transfer agent, banker to an issue, trustee to a trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and any other intermediary associated with securities market and registered under section 12 of the Securities and Exchange Board of India Act, 1992) shall have to maintain a record of all the transactions; the nature and value of which has been prescribed in the Rules notified under the PMLA. Such transactions include:
? All cash transactions of the value of more than Rs 10 lakhs or its equivalent in foreign currency.
? All series of cash transactions integrally connected to each other which have been valued below Rs 10 lakhs or its equivalent in foreign currency where such series of transactions take place within one calendar month.

? All suspicious transactions whether or not made in cash.

The Guidelines laid down the minimum requirements and it was emphasised that the intermediaries may, according to their requirements, specify additional disclosures to be made by clients to address concerns of Money Laundering and suspicious transactions undertaken by clients. All intermediaries were also advised to ensure that a proper policy framework as per the Guidelines on anti-money laundering measures is put into place and to designate an officer as 'Principal Officer' who would be responsible for ensuring compliance of the provisions of the PMLA. Names, designation and addresses (including e-mail addresses) of 'Principal Officer' shall also be intimated to the Office of the Director-FIU, 6th Floor, Hotel Samrat, Chanakyapuri, New Delhi -110021, India on an immediate basis.

The detailed procedure incorporating the manner of maintaining information and matters incidental thereto for SEBI registered intermediaries, under the prevention of Money Laundering Act, 2002 and the Rules made there-under and formats for reporting by the intermediaries were also issued subsequently vide circular reference no. ISD/CIR/RR/AML/2/06 dated March 20, 2006.

5. This Master circular consolidates all the requirements/obligations issued with regard to AML/CFT till December 15, 2008. This Circular is being issued to all the intermediaries as specified at para 2 above. The circular shall also apply to their branches and subsidiaries located abroad, especially, in countries which do not or insufficiently apply the FATF Recommendations, to the extent local laws and regulations permit. When local applicable laws and regulations prohibit implementation of these requirements, the same should be brought to the notice of SEBI. In case there is a variance in KYC/AML standards prescribed by SEBI and the regulators of the host country, branches/overseas subsidiaries of intermediaries are required to adopt the more stringent requirements of the two.

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

7. All the registered intermediaries are directed to ensure compliance with the requirements contained in this Master Circular on an immediate basis. Stock exchanges and depositories are also directed to bring the contents of this circular to the attention of their member brokers/ depository participants and verify compliance during inspections.

Customer Due Diligence/KYC Standards

New customer acceptance procedures, inter alia, should include processes

a) To cover customer identification and verification depending on nature /status of the customer and kind of transactions that are expected by the customer.

b) To comply with guidelines issued by various regulators such as SEBI, RBI etc.

c) For clearly establishing identity of the client, verification of addresses, phone numbers and other details.

d) To obtain sufficient information in order to identify persons who beneficially own or control the trading account. Whenever it is apparent that the securities acquired or maintained through an account are beneficially owned by entity other than the client

e) For verifying the genuineness of the PAN provided by the client such as comparing with original PAN, checking details on the Income tax website etc.

f) To check original documents before accepting a copy.

g) Apart from the mandatory information specified by SEBI, members should ask for any additional information as deemed fit on case to case basis to satisfy themselves about the genuineness and financial standing of the client.

h) To check whether the client has any criminal background, whether he has been at any point of time been associated in any civil or criminal proceedings anywhere.

i) To check whether at any point of time he has been banned from trading in the stock market.

j) Reluctance on the part of the client to provide necessary information or cooperate in verification process could generate a red flag for the member for additional monitoring.

k) Clear processes for introduction of clients by members' employees.

l) Risk based KYC procedures should be adopted for all new clients.

m) The information obtained through the above mentioned measures should be adequate enough to satisfy competent authorities (regulatory / enforcement authorities) in future that due diligence was observed by the intermediary in compliance with the Guidelines.

n) Factors of risk perception (in terms of monitoring suspicious transactions) of the client to be clearly defined having regard to clients' location (registered office address, correspondence addresses and other addresses if applicable), nature of business activity, trading turnover etc. and manner of making payment for transactions undertaken. The parameters should enable classification of clients into low, medium and high risk. Clients of special category (as given below) may, if necessary, be classified even higher. Such clients require higher degree of due diligence and regular update of KYC profile.

For existing clients processes should include

a) Review of KYC details of all the existing active clients in context to the PMLA 2002 requirements.

b) Classification of clients into high, medium or low risk categories based on KYC details, trading activity etc for closer monitoring of high risk categories etc.

c) Obtaining of annual financial statements from all clients, particularly those in high risk categories.

d) In case of non individuals additional information about the directors, partners, dominant promoters, major shareholders to be obtained.

Client identification procedure:

- The 'Know your Client' (KYC) policy should clearly spell out the client identification procedure to be carried out at different stages i.e. while establishing the intermediary – client relationship, while carrying

out transactions for the client or when the intermediary has doubts regarding the veracity or the adequacy of previously obtained client identification data.

- The KYC /client identification procedures have been specified and strengthened by SEBI from time to time. For example, SEBI vide its circular no. SMD-1/23341 dated November 18, 2003 laid down the mandatory requirement to obtain details of clients by brokers and formats of clients registration form and broker client agreements were specified vide circular no. SMD/POLICY/CIRCULARS/5-97 dated April 11, 1997. Subsequently in order to bring about uniformity in documentary requirements across different segments and exchanges as also to avoid duplication and multiplicity of documents, uniform documentary requirements for trading across different segments and exchanges have been specified vide SEBI circular no/ SEBI/MIRSD/DPS-1/Cir-31/2004 dated August 26, 2004. Similarly KYC circulars with regard to depositories have been issued vide circulars no. SMDRP/Policy/Cir-36/2000 dated August 04, 2000, circular no. MRD/DOP/Dep/Cir-29/2004 dated August 24, 2004 and circular no. MRD/DoP/Dep/Cir-12/2007 dated September 7, 2007. Similarly prohibition on acceptance of cash from clients has been specified vide SEBI circular no. SEBI/MRD/SE/Cir-33/2003/27/08 dated August 27, 2003.
- In order to further strengthen the KYC norms and identify every participant in the securities market with their respective PAN thereby ensuring sound audit trail of all the transactions, PAN has been made sole identification number for all participants transacting in the securities market, irrespective of the amount of transaction vide SEBI Circular reference MRD/DoP/Cir-05/2007 dated April 27, 2007, subject to certain exemptions granted under circular reference MRD/DoP/MF/Cir-08/208 dated April 03, 2008 and MRD/DoP/Cir-20/2008 dated June 30, 2008.
- All registered intermediaries should put in place necessary procedures to determine whether their existing/potential customer is a politically exposed person (PEP). Such procedures would include seeking additional information from clients, accessing publicly available information etc.
- All registered intermediaries are required to obtain senior management approval for establishing business relationships with Politically Exposed Persons. Where a customer has been accepted and the customer or beneficial owner is subsequently found to be, or subsequently becomes a PEP, registered intermediaries shall obtain senior management approval to continue the business relationship.
- Registered intermediaries shall take reasonable measures to verify source of funds of clients identified as PEP.
- The client should be identified by the intermediary by using reliable sources including documents / information. The intermediary should obtain adequate information to satisfactorily establish the identity of each new client and the purpose of the intended nature of the relationship.
- The information should be adequate enough to satisfy competent authorities (regulatory / enforcement authorities) in future that due diligence was observed by the intermediary in compliance with the Guidelines. Each original documents should be seen prior to acceptance of a copy.

- Failure by prospective client to provide satisfactory evidence of identity should be noted and reported to the higher authority within the intermediary.
- SEBI has prescribed the minimum requirements relating to KYC for certain class of the registered intermediaries from time to time as stated earlier in this para. Taking into account the basic principles enshrined in the KYC norms which have already been prescribed or which may be prescribed by SEBI from time to time, all registered intermediaries should frame their own internal guidelines based on their experience in dealing with their clients and legal requirements as per the established practices. Further, the intermediary should also maintain continuous familiarity and follow-up where it notices inconsistencies in the information provided. The underlying objective should be to follow the requirements enshrined in the PML Act, 2002 SEBI Act, 1992 and Regulations, directives and circulars issued thereunder so that the intermediary is aware of the clients on whose behalf it is dealing.
- Every intermediary shall formulate and implement a client identification programme which shall incorporate the requirements of the Notification No. 9/2005 dated July 01, 2005 (as amended from time to time), which notifies rules for maintenance of records of the nature and value of transactions, the procedure and manner of maintaining and time for furnishing of information and verification of records of the identity of the clients of the banking companies, financial institutions and intermediaries of securities market and such other additional requirements that it considers appropriate to enable it to determine the true identity of its clients. A copy of the client identification programme shall be forwarded to the Director, FIU- IND.
- It may be noted that while risk based approach may be adopted at the time of establishing business relationship with a client, no exemption from obtaining the minimum information/documents from clients as provided in the PMLA Rules is available to brokers in respect of any class of investors with regard to the verification of the records of the identity of clients.

Risk based approach:

Classify both the new and existing clients into high, medium or low risk category depending on parameters such as the customer's background, type of business relationship, transactions etc. Members should apply each of the customers due diligence measures on a risk sensitive basis and adopt an enhanced customer due diligence process for high-risk categories of customers and vice-á-versa.

Clients of special category (CSC)

Such clients include the following

a. Non resident clients

b. High net worth clients,

c. Trust, Charities, NGOs and organizations receiving donations

d. Companies having close family shareholdings or beneficial ownership

e. Politically exposed persons (PEP) of foreign origin

f. Current / Former Head of State, Current or Former Senior High profile politicians and connected persons (immediate family, Close advisors and companies in which such individuals have interest or significant influence)

g. Companies offering foreign exchange offerings

h. Clients in high risk countries (where existence / effectiveness of money laundering controls is suspect, where there is unusual banking secrecy, Countries active in narcotics production, Countries where corruption (as per Transparency International Corruption Perception Index) is highly prevalent, Countries against which government sanctions are applied, Countries reputed to be any of the following – Havens / sponsors of international terrorism, offshore financial centers, tax havens, countries where fraud is highly prevalent.

i. Non face to face clients

j. Clients with dubious reputation as per public information available etc.

The above mentioned list is only illustrative and the members should exercise independent judgment to ascertain whether new clients should be classified as CSC or not

Monitoring & Reporting of Suspicious Transactions:

Ongoing monitoring of accounts is an essential element of an effective Anti Money Laundering framework. Such monitoring should result in identification and detection of apparently abnormal transactions, based on laid down parameters. Members should devise and generate necessary reports/alerts based on their clients profile, nature of business, trading pattern of clients for identifying and detecting such transactions. These reports/alerts should be analyzed to establish suspicion or otherwise for the purpose of reporting such transactions.

A list of circumstances which may be in the nature of suspicious transactions is given below. This list is only illustrative and whether a particular transaction is suspicious or not will depend upon the background, details of the transactions and other facts and circumstances:

i) Clients whose identity verification seems difficult or clients appear not to cooperate

ii) Substantial increase in activity without any apparent cause

iii) Large number of accounts having common parameters such as common partners / directors / promoters / address / email address / telephone numbers / introducers or authorized signatories;

iv) Transactions with no apparent economic or business rationale

v) Sudden activity in dormant accounts;

vi) Source of funds are doubtful or inconsistency in payment pattern;

vii) Unusual and large cash deposits made by an individual or business;

viii) Transfer of investment proceeds to apparently unrelated third parties;

ix) Multiple transactions of value just below the threshold limit specified in PMLA so as to avoid possible

reporting;

x) Unusual transactions by CSCs and businesses undertaken by shell corporations, offshore banks /financial services, businesses reported to be in the nature of export-import of small items.;

xi) Asset management services for clients where the source of the funds is not clear or not in keeping with clients apparent standing /business activity;

xii) Clients in high-risk jurisdictions or clients introduced by banks or affiliates or other clients based in high risk jurisdictions;

xiii) Clients transferring large sums of money to or from overseas locations with instructions for payment in cash;

xiv) Purchases made on own account transferred to a third party through off market transactions through DP Accounts;

xv) Suspicious off market transactions;

xvi) Large deals at prices away from the market.

xvii) Accounts used as 'pass through'. Where no transfer of ownership of securities or trading is occurring in the account and the account is being used only for funds transfers/layering purposes.

xviii) Trading activity in accounts of high risk clients based on their profile, business pattern and industry segment.

Reporting of Suspicious Transactions:

Processes for alert generation, examination and reporting should include

? Audit trail for all alerts generated till they are reported to FIU / closed
? Clear enunciation of responsibilities at each stage of process from generation, examination, recording and reporting
? Escalation through the organization to the principal officer designated for PMLA
? Confidentiality of STRs filed
? Retention of records

Ongoing training to Employees:

Members should sensitize their employees of the requirements under PMLA and the procedures laid down by the member. Members are also required to ensure that all the operating and management staff fully understands their responsibilities under PMLA for strict adherence to customer due diligence requirements from establishment of new accounts to transaction monitoring and reporting suspicious transactions to the FIU. Members to organise suitable training programmes wherever required for new staff, front-line staff, sub-brokers, supervisory staff, controllers and product planning personnel, etc.

Intermediaries must have an ongoing employee training programme so that the members of the staff are adequately trained in AML and CFT procedures. Training requirements should have specific focuses for frontline staff, back office staff, compliance staff, risk management staff and staff dealing with new customers. 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.

Audit/Testing of Anti Money Laundering Program.

The Anti Money Laundering program should be subject to periodic audit specifically with regard to testing its adequacy to meet the compliance requirements. The audit/testing may be conducted by member's own personnel not involved in framing or implementing the AML program or it may be done by a qualified third party. The report of such an audit/testing should be placed before the senior management for making suitable modifications/improvements in the AML program.

Record Keeping

- Registered intermediaries should ensure compliance with the record keeping requirements contained in the SEBI Act, 1992, Rules and Regulations made there-under, PML Act, 2002 as well as other relevant legislation, Rules, Regulations, Exchange Bye-laws and Circulars.
- Registered Intermediaries should maintain such records as are sufficient to permit reconstruction of individual transactions (including the amounts and types of currencies involved, if any) so as to provide, if necessary, evidence for prosecution of criminal behavior.
- Should there be any suspected drug related or other laundered money or terrorist property, the competent investigating authorities would need to trace through the audit trail for reconstructing a financial profile of the suspect account. To enable this reconstruction, registered intermediaries should retain the following information for the accounts of their customers in order to maintain a satisfactory audit trail:

  (a) the beneficial owner of the account;

  (b) the volume of the funds flowing through the account; and

  (c) for selected transactions:

  • the origin of the funds;

  • the form in which the funds were offered or withdrawn, e.g. cash, cheques, etc.;

  • the identity of the person undertaking the transaction;

  • the destination of the funds;

  • the form of instruction and authority.

- Registered Intermediaries should ensure that all customer and transaction records and information are available on a timely basis to the competent investigating authorities. Where appropriate, they should consider retaining certain records, e.g. customer identification, account files, and business correspondence, for periods which may exceed that required under the SEBI Act, Rules and

Regulations framed there-under PMLA 2002, other relevant legislations, Rules and Regulations or Exchange bye-laws or circulars.

- More specifically, all the intermediaries shall put in place a system of maintaining proper record of transactions prescribed under Rule 3, notified under the Prevention of Money Laundering Act (PMLA), 2002 as mentioned below:

(i) All cash transactions of the value of more than rupees ten lakh or its equivalent in foreign currency;

(ii) 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;

(iii) 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 has taken place;

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

Information to be maintained

Intermediaries are required to maintain and preserve the following information in respect of transactions referred to in Rule 3 of PMLA Rules:

I. the nature of the transactions;

II. the amount of the transaction and the currency in which it denominated;

III. the date on which the transaction was conducted; and

IV. the parties to the transaction.

Retention of Records

- Intermediaries should take appropriate steps to evolve an internal mechanism for proper maintenance and preservation of such records and information in a manner that allows easy and quick retrieval of data as and when requested by the competent authorities. Further, the records mentioned in Rule 3 of PMLA Rules have to be maintained and preserved for a period of ten years from the date of cessation of the transactions between the client and intermediary.
- As stated in para 5.5, intermediaries are required to formulate and implement the client identification program containing the requirements as laid down in Rule 9 and such other additional requirements that it considers appropriate. The records of the identity of clients have to be maintained and preserved for a period of ten years from the date of cessation of the transactions between the client and intermediary.
- Thus the following document retention terms should be observed:

    (a) All necessary records on transactions, both domestic and international, should be maintained at least for the minimum period prescribed under the relevant Act (PMLA, 2002 as well SEBI Act, 1992) and other legislations, Regulations or exchange bye-laws or circulars.

    (b) Records on customer identification (e.g. copies or records of official identification documents like passports, identity cards, driving licenses or similar documents), account files and business correspondence should also be kept for the same period.

- In situations where the records relate to on-going investigations or transactions which have been the subject of a suspicious transaction reporting, they should be retained until it is confirmed that the case has been closed.

Monitoring of transactions

- Regular monitoring of transactions is vital for ensuring effectiveness of the Anti Money Laundering procedures. This is possible only if the intermediary has an understanding of the normal activity of the client so that they can identify the deviant transactions / activities.
- Intermediary should pay special attention to all complex, unusually large transactions / patterns which appear to have no economic purpose. The intermediary may specify internal threshold limits for each class of client accounts and pay special attention to the transaction which exceeds these limits.
- The intermediary should ensure a record of transaction is preserved and maintained in terms of section 12 of the PMLA 2002 and that transaction of suspicious nature or any other transaction notified under section 12 of the act is reported to the appropriate law authority. Suspicious transactions should also be regularly reported to the higher authorities / head of the department.

- Further the compliance cell of the intermediary should randomly examine a selection of transaction undertaken by clients to comment on their nature i.e. whether they are in the suspicious transactions or not.

Suspicious Transaction Monitoring & Reporting

- Intermediaries should ensure to take appropriate steps to enable suspicious transactions to be recognised and have appropriate procedures for reporting suspicious transactions. While determining suspicious transactions, intermediaries should be guided by definition of suspicious transaction contained in PML Rules as amended from time to time.
- A list of circumstances which may be in the nature of suspicious transactions is given below. This list is only illustrative and whether a particular transaction is suspicious or not will depend upon the background, details of the transactions and other facts and circumstances:

    a) Clients whose identity verification seems difficult or clients appears not to cooperate

    b) Asset management services for clients where the source of the funds is not clear or not in keeping with clients apparent standing /business activity;

    c) Clients in high-risk jurisdictions or clients introduced by banks or affiliates or other clients based in high risk jurisdictions;

    d) Substantial increases in business without apparent cause;

    e) Unusually large cash deposits made by an individual or business;

    f) Clients transferring large sums of money to or from overseas locations with instructions for payment in cash;

    g) Transfer of investment proceeds to apparently unrelated third parties;

    h) Unusual transactions by CSCs and businesses undertaken by shell corporations, offshore banks /financial services, businesses reported to be in the nature of export-import of small items.

- Any suspicion transaction should be immediately notified to the Money Laundering Control Officer or any other designated officer within the intermediary.

  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 should be ensured that there is continuity in dealing with the client as normal until told otherwise and the client should not

be told of the report/suspicion. In exceptional circumstances, consent may not be given to continue to operate the account, and transactions may be suspended, in one or more jurisdictions concerned in the transaction, or other action taken.

- 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 intermediaries should report all such attempted transactions in STRs, even if not completed by customers, irrespective of the amount of the transaction.

Reporting to Financial Intelligence Unit-India

- In terms of the PMLA rules, intermediaries 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,

  New Delhi-110021.

  Website: http://fiuindia.gov.in

- Intermediaries should carefully go through all the reporting requirements and formats enclosed with this circular. These requirements and formats are divided into two parts- Manual Formats and Electronic Formats. Details of these formats are given in the documents (Cash Transaction Report-version 1.0 and Suspicious Transactions Report version 1.0) which are also enclosed with this circular. These documents contain detailed guidelines on the compilation and manner/procedure of submission of the manual/electronic reports to FIU-IND. The related hardware and technical requirement for preparing reports in manual/electronic format, the related data files and data structures thereof are also detailed in these documents. Intermediaries, which are not in a position to immediately file electronic reports, may file manual reports to FIU-IND as per the formats prescribed. While detailed instructions for filing all types of reports are given in the instructions part of the related formats, intermediaries should adhere to the following:

(a) The cash transaction report (CTR) (wherever applicable) for each month should be submitted to FIU-IND by 15th of the succeeding month.

(b) The Suspicious Transaction Report (STR) should be submitted within 7 days of arriving at a conclusion that any 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.

(c) The Principal Officer will be responsible for timely submission of CTR and STR to FIU-IND;

(d) Utmost confidentiality should be maintained in filing of CTR and STR to FIU-IND. The reports may be transmitted by speed/registered post/fax at the notified address.

(e) No nil reporting needs to be made to FIU-IND in case there are no cash/suspicious transactions to be reported

- Intermediaries should not put any restrictions on operations in the accounts where an STR has been made. Intermediaries and their directors, officers and employees (permanent and temporary) should be prohibited from disclosing ("tipping off") the fact that a STR or related information is being reported or provided to the FIU-IND. Thus, it should be ensured that there is no tipping off to the client at any level.

Designation of an officer for reporting of suspicious transactions

To ensure that the registered intermediaries properly discharge their legal obligations to report suspicious transactions to the authorities, 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. Names, designation and addresses (including e-mail addresses) of 'Principal Officer' including any changes therein shall also be intimated to the Office of the Director-FIU. As a matter of principle, it is advisable that the 'Principal Officer' is of a sufficiently higher position and is able to discharge his functions with independence and authority.

***Notices to be referred**:*

- *Other points that need to kept in mind by the compliance department are tabulated below in a comprehensive manner (source BSE notice of 31 Aug 07 # 28)*
- *The above applications must be adhered keeping in mind the following clarification/definitions as clarified by Ministry of Finance. [Notification No 13/2009/F.No. 6/8/2009- ES]*

G.S.R 816(E) - In exercise of the powers conferred by clauses (a), (b) and (c) of sub-section (1) of section 12 and section 15 read with clauses (h), (i), (j) and (k) of sub-section (2) of section 73 of the Prevention of Money-laundering Act, 2002 (15 of 2003), the Central Government, in consultation with the Reserve Bank of India, hereby makes the following rules further to amend 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) Rules, 2005, namely:-

1. (1) These rules may be called 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.
(2) They shall come into force on the date of their publication in the Official Gazette.

2. In 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) Rules, 2005 (hereinafter referred to as the principal rules),-
in rule 2, in sub-rule(1), -

(a) after clause (c), the following clause shall be inserted, namely:-
'(ca) "non profit organisation" means any entity or organisation that is registered as a trust or a society under the Societies Registration Act, 1860 (21 of 1860) or any similar State legislation or a company registered under section 25 of the Companies Act, 1956 (1 of 1956);';

(b) after clause (f), the following clause shall be inserted, namely:-
'(fa) "Regulator" means a person or an authority or a Government which is vested with the power to license, authorise, register, regulate or supervise the activity of banking companies, financial institutions or intermediaries, as the case may be;';

(c) for clause (g), the following clause shall be substituted, namely:-
'(g) "Suspicious transaction" means a transaction referred to in clause (h), 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 bonafide purpose; or
(d) gives rise to a reasonable ground of suspicion that it may involve financing of the activities relating to terrorism;'.

3. In the principal rules, in rule 3, in sub-rule (1), after clause (B), the following clause shall be inserted, namely:-
" (BA) all transactions involving receipts by non-profit organisations of value more than rupees ten lakh, or its equivalent in foreign currency;".

4. In the principal rules, in rule 5, for the words "the Reserve Bank of India or the Securities and Exchange Board of India, or the Insurance Regulatory Development Authority, as the case may be,", where ever they occur, the words, "its Regulator,", shall be substituted.

5. In the principal rules, for rule 6, the following rule shall be substituted, namely:-
"6. Retention of records of transactions– The records referred to in rule 3 shall be maintained for a period of ten years from the date of transactions between the client and the banking company, financial institution or intermediary, as the case may be.".

6. In the principal rules, in rule 7, for the words "the Reserve Bank of India or the Securities and Exchange Board of India, or the Insurance Regulatory Development Authority, as the case may be," where ever they occur, the words, "its Regulator,", shall be substituted;

7. In the principal rules, in rule 8,-

(a) in sub-rule (1), for the word, brackets and letters, "clauses (A) and (B)", the word, brackets and letters "clauses (A), (B) and (BA)" shall be substituted;

(b) after sub-rule (3), the following proviso shall be inserted at the end, namely:-
"Provided that a banking company, financial institution or intermediary, as the case may be, and its employees shall keep the fact of furnishing information in respect of transactions referred to in clause (D) of sub-rule (1) of rule 3 strictly confidential.".

8. In the principal rules, in rule 9,-

(a) for sub-rules (1) and (2), the following sub-rules shall be substituted, namely:-
"(1) Every banking company, financial institution and intermediary, as the case may be, shall,
(a) at the time of commencement of an account-based relationship, identify its clients, verify their identity and obtain information on the purpose and intended nature of the business relationship, and
(b) in all other cases, verify identity while carrying out:
(i) transaction of an amount equal to or exceeding rupees fifty thousand, whether conducted as a single transaction or several transactions that appear to be connected, or
(ii) any international money transfer operations.

(1 A) Every banking company, financial institution and intermediary, as the case may be, shall identify the beneficial owner and take all reasonable steps to verify his identity.

(1 B) Every banking company, financial institution and intermediary, as the case may be, shall 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 customer, his business and risk profile.

(1 C) No banking company, financial institution or intermediary, as the case may be, shall keep any anonymous account or account in fictitious names.

(2) Where the client is an individual, he shall for the purpose of sub-rule (1), submit to the banking company, financial institution and intermediary, as the case may be, one certified copy of an 'officially valid document' containing details of his identity and address, one recent photograph and such other documents including in respect of the nature of business and financial status of the client as may be required by the banking company or the financial institution or the intermediary, as the case may be.

Provided that photograph need not be submitted by a client falling under clause (b) of sub-rule (1).";

(b) after sub-rule (6), the following sub-rule shall be inserted, namely:-
"(6 A) Where the client is a juridical person, the banking company, financial institution and intermediary, as the case may be, shall verify that any person purporting to act on behalf of such client is so authorised and verify the identity of that person.";

(c) for sub-rule (7), the following sub-rule shall be substituted, namely:-
" (7) (i)The regulator shall issue guidelines incorporating the requirements of sub- rules (1) to (6A) above and may prescribe enhanced measures to verify the client's identity taking into consideration type of client, business relationship or nature and value of transactions.

(ii) Every banking company, financial institution and intermediary as the case may be, shall formulate and implement a Client Identification Programme to determine the true identity of its clients, incorporating requirements of sub-rules (1) to (6A) and guidelines issued under clause (i) above.

9. In the principal rules, in rule 10, for the words "the Reserve Bank of India or the Securities and Exchange Board of India, or the Insurance Regulatory Development Authority, as the case may be,", where ever they occur, the words, "its regulator,", shall be substituted;

- ***To all Intermediaries registered with SEBI under section 12 of the SEBI Act, 1992.(Through the stock exchanges for stock brokers, sub brokers and depositories for depository participants)***

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

Dear Sir / Madam,

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

a. The illustrative list of 'Clients of Special Category' (CSC) as contained in the existing clause 5.4 (Page 16-17 of the
Master Circular) shall be read as under:
i. Non resident clients,
ii. High net-worth clients,
iii. Trust, Charities, NGOs and organizations receiving donations,
iv. Companies having close family shareholdings or beneficial ownership,
v. Politically exposed persons (PEP). Politically exposed persons are individuals, who are or have been entrusted with prominent public functions in a foreign country, e.g., Heads of States or of Governments,senior politicians, senior government/judicial/militaryofficers, senior executives of state-owned corporations, important political party officials, etc.The additional norms applicable to PEP as contained in the subsequent clause 5.5 (Page 19 of the MasterCircular) shall also be applied to the accounts of the family members or close relatives of PEPs,
vi. Companies offering foreign exchange offerings,
vii. Clients in high risk countries (where existence /effectiveness of money laundering controls is suspect or which do not or insufficiently apply FATF standards, where there is unusual banking secrecy, Countries active in narcotics production, Countries wherecorruption (as per Transparency International Corruption Perception Index) is highly prevalent,Countries against which government sanctions are applied, Countries reputed to be any of the following –
Havens / sponsors of international terrorism, offshore financial centers, tax havens, countries where fraud is highly prevalent,
viii. Non face-to-face clients,
ix. Clients with dubious reputation as per publicinformation available etc.

b. The following line is added in the existing clause 9.2 (Page 25 of the Master Circular): "The background including all documents/office records /memorandums/clarifications sought pertaining to such transactions and purpose thereof shall also be examined carefully and findings shall be recorded in writing. Further such findings, records and related documents should be made available to auditors and also to SEBI /Stock Exchanges/FIU-IND/Other relevant Authorities, during audit, inspection or as and when required.These records are required to be preserved for ten years as is required under PMLA 2002."

c. The existing clause 10.2 (h) (Page 27 of the Master Circular) shall be read as: "Unusual transactions by CSCs and businesses undertaken by, offshore banks/financial services, businesses reported to be in the nature of export-import of small items."

d. The following line is added in the existing clause 10.3 (Page 27 of the Master Circular): "The Principal

Officer/Money Laundering Control Officer and other appropriate compliance, risk management and related staff members shall have timely access to customer identification data and other CDD information, transaction records and other relevant information."

e. The following new clause numbered 10.5 is added after existing clause 10.4 (Page 27 of the Master Circular):"Clause 5.4(h) of the Master Circular categorizes clients of high risk countries, including countries where existence and effectiveness of money laundering controls is suspect or which do not or insufficiently apply FATF standards, as 'Clients of Special Category'. Intermediaries are directed that such clients should also be subject to appropriate counter measures. These measures may include a further enhanced scrutiny of transactions, enhanced relevant reporting

Mechanisms or systematic reporting of financial transactions, and applying enhanced due diligence while expanding business relationships with the identified country or persons in that country etc."

f. The following new clause numbered 11.4 is added after the existing clause 11.3 (Page 29 of the Master Circular): "It is clarified that the registered intermediaries, irrespective of the amount of transaction and/or the threshold limit envisaged for predicate offences specified in part B of Schedule of PMLA, 2002, should file STR if they have reasonable grounds to believe that the transactions involve proceeds of crime."

g. The following line is added in the existing clause 12.1 (Page 30 of the Master Circular): "The Principal Officer shall have access to and be able to report to senior management above his/her next reporting level or the Board of Directors."*

2. An updated list of individuals and entities which are subject to various sanction measures such as freezing of assets/accounts, denial of financial services etc., as approved by Security Council Committee established pursuant to various United Nations' Security Council Resolutions (UNSCRs) can be accessed in the United Nations website at http://www.un.org/sc/committees/1267/consolist.shtml. Registered intermediaries are directed that before opening any new account, it will be ensured that the name/s of the proposed customer does not appear in the list. Further, registered intermediaries shall continuously scan all existing accounts to ensure that no account is held by or linked to any of the entities or individuals included in the list. Full details of accounts bearing resemblance with any of the individuals/entities in the list should immediately be intimated to SEBI and FIU-IND. 3. All the registered intermediaries are directed to ensure compliance with the requirements contained in this circular on an immediate basis. Stock exchanges and depositories are also directed to bring the contents of this circular to the attention of their member brokers/ depository participants, verify compliance during inspections and take appropriate action under their respective Rules/Byelaws/ Regulations in case of any contravention/ non compliance of this circular or of SEBI Master Circular on AML/CFT.

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

ANTI MONEY LAUNDERING / COMBATING FINANCING OF TERRORISM STANDARDS – MASTER CIRCULAR

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

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.
As per the provisions of the PMLA, intermediary (includes a stockbroker, sub-broker, share transfer agent, banker to an issue, trustee to a trust deed, registrar to an issue, asset management company, depositary participant, merchant banker, underwriter, portfolio manager, investment adviser and any other intermediary associated with the securities market and registered under Section 12 of the Securities and Exchange Board of India Act, 1992 (SEBI Act) shall have to adhere to client account opening procedures and maintain records of such transactions as prescribed by the PMLA and Rules notified there under

SEBI has issued necessary directives vide circulars, from time to time, covering issues related to Know Your Client (KYC) norms, Anti- Money Laundering (AML), Client Due Diligence (CDD) and Combating Financing of Terrorism (CFT). The directives lay down the minimum requirements and it is emphasized that the intermediaries may, according to their requirements, specify additional disclosures to be made by clients to address concerns of money laundering and suspicious transactions undertaken by clients. Reference to applicable statutes and reporting guidelines for intermediaries is available at the website of the Financial Intelligence Unit – India (FIU-IND). Directives to all intermediaries under Section 12 of the SEBI Act are also issued in the context of compliance with the standards set by the Financial Action Task Force (FATF) on AML and CFT.

3. List of key circulars/directives issued with regard to KYC, CDD, AML and CFT Following is a list of key circulars on KYC/CDD/AML/CFT issued by SEBI from 1993:

	Circular Number	Date of circular	Subject	Broad area covered
1	CIR/MRD/DP/37/2010	December 14, 2010	Acceptance of third party address as correspondence address	Capturing of address other than that of the BO as the correspondence address.

2	CIR/MRD/DMS/13/2010	August 31, 2010	Guidelines on the Execution of Power of Attorney by the Client in favour of Stock Broker/ DP	Clarifications on the Execution of the POA by the client
3	CIR/MRD/DMS/13/2010	April 23, 2010	Guidelines on the Execution of Power of Attorney by the Client in favour of Stock Broker/ DP	Guidelines on the Execution of Power of Attorney by the Client
4	CIR/MRD/DP/11/2010	April 06, 2010	Master Circulars for Depositories	Opening of BO Accounts
5	CIR/ISD/AML/2/2010	June 14, 2010	Additional Requirements for AML/CFT	Additional Requirements on retention of documents, monitoring, tipping off, updation of records and other clarifications.
6	CIR/ISD/AML/1/2010	February 12, 2010	Master Circular – AML/CFT	Framework for AML/ CFT including procedures for CDD, client identification, record keeping & retention, monitoring and reporting of STRs

7	SEBI/MIRSD/Cir No.02/2010	January 18, 2010	Mandatory Requirement of in-person verification of clients.	In-person verification done for opening beneficial owner's account by a DP will hold good for opening trading account for a stock broker and vice versa, if the DP and the stock broker is the same entity or if one of them is the holding or subsidiary.

8	SEBI / IMD / MC No.1 /189241/ 2010	January 01, 2010	Master Circular for Mutual Funds	Compliance f h h with AML/CFT CDD directives of SEBI stipulated in Master Circular dated December 19, 2008
9	ISD/AML/CIR-2/2009	October 23, 2009	Directives on CFT under Unlawful Activities (Prevention) Act, 1967	Procedure to be followed for the freezing of assets of individual or entities engaged in terrorism
10	ISD/AML/CIR-1/2009	September 01, 2009	Additional AML/ CFT obligations of Intermediaries under PMLA, 2002 and rules framed	Additional AML/CFT requirements and clarifications thereon
11	ISD/AML/CIR-1/2008	December 19, 2008	Master Circular on AML/CFT directives	Framework for AML/CFT including procedures for CDD, client identification, record keeping & retention, monitoring and reporting of
12	MIRSD/DPS-III/130466/2008	July 2008 2,	In-Person verification of clients by stock-brokers	Responsibility of stock- brokers to ensure in-person verification by its own staff.
13	MRD/DoP/Cir-20/2008	June 30, 2008	Mandatory Requirement of PAN	Exception for certain classes of persons from PAN being the sole identification number for all participants trading in the securities market.
14	F.No.47/2006/ISD/SR/122539	April 4, 2008	In-person verification of BO's when opening demat accounts	In-person verification to be carried out by staff of depository participant.

15	MRD/DoP/Cir-20/2008	April 3, 2008	Exemption from Mandatory requirement of PAN.	Exemption for investors residing in the State of Sikkim from PAN being the sole identification number for trading in the securities market.
16	F.No.47-2006/ISD/SR/11815 3/2008	February 22, 2008	In-Person verification of clients by depositories	clarification on various topics relating to 'in- person' verification of BOs at the time of opening demat accounts
17	MRD/DoP/Dep/Cir-12/2007	September 7, 2007	KYC Norms for Depositories	Proof of Identity (POI) and Proof of Address (POA) for opening a Beneficiary Owner (BO) Account for
18	MRD/DoP/Cir-05/2007	April 27, 2007	PAN to be the sole identification number for all transactions in the securities market	Mandatory requirement of PAN for participants transacting in the securities market.
18	ISD/CIR/RR/AML/2/06	March 20, 2006	PMLA-Obligations of intermediaries in terms of Rules notified there under	Procedure for maintaining and preserving records, reporting requirements and formats of reporting cash transactions and suspicious transactions
20	ISD/CIR/RR/AML/1/06	January 18, 2006	Directives on AML Standards	Framework for AML and CFT including policies and procedures, Client Due Diligence requirements, record keeping, retention, monitoring and reporting

21	SEBI/MIRSD/DPS-1/Cir-31/2004	August 26, 2004	Uniform Documentary Requirements for trading	Uniform KYC documentary requirements for trading on different segments and exchanges
22	MRD/DoP/Dep/Cir-29/2004	August 24, 2004	Proof of Identity (POI) and Proof of Address (POA) for opening a Beneficiary Owner	Broadening the list of documents that may be accepted as Proof of Identity (POI) and/or Proof of Address (POA) for the
23	SEBI/MRD/SE/Cir-33/2003/27/08	August 27, 2003	Mode of payment and delivery	Prohibition on acceptance/giving of cash by brokers and on third party transfer of securities
24	SMDRP/Policy/Cir-36/2000	August 4, 2000	KYC Norms for Depositories	Documentary requirements for opening a beneficiary account.
25	SMD/POLICY/CIRCULARS/5-97	April 11, 1997	Client Registration Form	Formats of client Registration Form and broker clients agreements
26	SMD-1/23341	Nov. 18, 1993	Regulation of transaction between clients and members	Mandatory requirement to obtain details of clients by brokers.

This Master circular consolidates all the requirements/instructions issued by SEBI with regard to AML/CFT till January 31 2010 and supersedes the earlier circulars, dated September 01, 2009, December 19, 2008, March 20, 2006 and January 18, 2006 referenced at S.Nos. (10, 11, 19 and 20) respectively of the abovementioned table. This Master Circular is divided into two parts; the first part is an overview on the background and essential principles that concern combating money laundering (ML) and terrorist financing (TF). The second part provides a detailed account of the procedures and obligations to be followed

by all registered intermediaries to ensure compliance with AML/CFT directives This Circular is being issued to all the intermediaries as specified at Para 2 above. The circular shall also apply to their branches and subsidiaries located abroad, especially, in countries which do not or insufficiently apply the FATF Recommendations, to the extent local laws and regulations permit. When local applicable laws and regulations prohibit implementation of these requirements, the same shall be brought to the notice of SEBI. In case there is a variance in CDD/AML standards prescribed by SEBI and the regulators of the host country, branches/overseas subsidiaries of intermediaries are required to adopt the more stringent requirements of the two.

This Master circular is being issued in exercise of powers conferred under Section 11 (1) of the Securities and Exchange Board of India Act, 1992 (SEBI Act), and Rule 7 and Rule 9 of Prevention of Money-laundering (Maintenance of Records of the Nature and Value of Transactions, the Procedure and Manner of Maintaining and Time for Furnishing Information and Verification and Maintenance of Records of the Identity of the Clients of the Banking Companies, Financial Institutions and Intermediaries) Rules, 2005 (PML Rules) to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.

5 Client Due Diligence

5.1 Elements of Client Due Diligence 5.2 Policy for acceptance of clients 5.3 Risk Based Approach 5.4 Clients of special category (CSC) 5.5 Client identification procedure

6 Record Keeping
7 Information to be maintained
8 Retention of Records
09 Monitoring of transactions
10 Suspicious Transaction Monitoring & Reporting
11 List of Designated Individuals/Entities
12 Procedure for freezing of funds, financial assets or economic resources or related services
13 Reports to Financial Intelligence Unit- India
14 Designation of an officer for reporting of suspicious transaction
15 Employees' Hiring/Training and Investor Education
16 Annexure- List of various Reports and their formats.

1.2 These Directives are intended for use primarily by intermediaries registered under Section 12 of the Securities and Exchange Board of India Act, 1992 (SEBI Act). While it is recognized that a "one- sizefits-all" approach may not be appropriate for the securities industry in India, each registered intermediary shall consider the specific nature of its business, organizational structure, type of clients and transactions, etc. when implementing the suggested measures and procedures to ensure that they are effectively applied. The overriding principle is that they shall be able to satisfy themselves that the measures taken by them are adequate, appropriate and abide by the spirit of such measures and the requirements as enshrined in the PMLA.

2. Back Ground

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. The PMLA has been further amended vide notification dated March 6, 2009 and inter alia provides that violating the prohibitions on manipulative and deceptive devices, insider trading and substantial acquisition of securities or control as prescribed in Section 12 A read with Section 24 of the Securities and Exchange Board of India Act, 1992 (SEBI Act) will now be treated as a scheduled offence under schedule B of the PMLA.

As per the provisions of the PMLA, every banking company, financial institution (which includes chit fund company, a co-operative bank, a housing finance institution and a non-banking financial company) and intermediary (which includes a stock-broker, sub-broker, share transfer agent, banker to an issue, trustee to a trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and any other intermediary associated with securities market and registered under Section 12 of the SEBI Act , shall have to maintain a record of all the transactions; the nature and value of which has been prescribed in the Rules under the PMLA.
Such transactions include:

ˆ All cash transactions of the value of more than Rs 10 lakh or its equivalent in foreign currency. ˆ All series of cash transactions integrally connected to each other

which have been valued below Rs 10 lakh or its equivalent in foreign currency where such series of transactions take place within one calendar month. ˆ All suspicious transactions whether or not made in cash and

including, inter-alia, credits or debits into from any non monetary account such as demat account, security account maintained by the registered intermediary. It may, however, be clarified that for the purpose of suspicious transactions reporting, apart from 'transactions integrally connected', 'transactions remotely connected or related' shall also be considered.

In case there is a variance in CDD/AML standards prescribed by SEBI and the regulators of the host country, branches/overseas subsidiaries of intermediaries are required to adopt the more stringent requirements of the two.

3. Policies and Procedures to Combat Money Laundering and Terrorist financing

3.1 Essential Principles

3.1.1 These Directives have taken into account the requirements of the PMLA as applicable to the intermediaries registered under Section 12 of the SEBI Act. The detailed Directives in Part II have outlined relevant measures and procedures to guide the registered intermediaries in preventing ML and TF. Some of these suggested measures and procedures may not be applicable in every circumstance. Each intermediary shall consider carefully the specific nature of its business, organizational 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 in Part II and the requirements as laid down in the PMLA.

3.2 Obligation to establish policies and procedures

3.2.1 Global measures taken to combat drug trafficking, terrorism and other organized and serious crimes have all emphasized the need for financial institutions, including securities market intermediaries, to establish internal procedures that effectively serve to prevent and impede money laundering and terrorist financing. The PMLA is in line with these measures and mandates that all intermediaries ensure the fulfillment of the aforementioned obligations.

3.2.2 To be in compliance with these obligations, the senior management of a registered intermediary shall be fully committed to establishing appropriate policies and procedures for the prevention of ML and TF and ensuring their effectiveness and compliance with all relevant legal and regulatory requirements. The Registered Intermediaries shall: issue a statement of policies and procedures, on a group basis where applicable, for dealing with ML and TF reflecting the current statutory and regulatory requirements; ensure that the content of these Directives are understood by all staff members; regularly review the policies and procedures on the prevention of ML and TF to ensure their effectiveness. Further, in order to ensure the effectiveness of policies and procedures, the person doing such a review shall be different from the one who has framed such policies and procedures; adopt client acceptance policies and procedures which are sensitive to the risk of ML and TF; undertake client due diligence ("CDD") measures to an extent that is sensitive to the risk of ML and TF depending on the type of client, business relationship or transaction; have a system in place

for identifying, monitoring and reporting suspected ML or TF transactions to the law enforcement authorities; and develop staff members' awareness and vigilance to guard against ML and TF

3.2.3 Policies and procedures to combat ML shall cover: Communication of group policies relating to prevention of ML and TF to all management and relevant staff that handle account information, securities transactions, money and client records etc. whether in branches, departments or subsidiaries; Client acceptance policy and client due diligence measures, including requirements for proper identification; Maintenance of records; .Compliance with relevant statutory and regulatory requirements; Co-operation with the relevant law enforcement authorities, including the timely disclosure of information; and 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 the testing of the system for detecting suspected money laundering transactions, evaluating and checking the adequacy of exception reports generated on large and/or irregular transactions, the quality of reporting of suspicious transactions and the level of awareness of front line staff, of their responsibilities in this regard. The internal audit function shall be independent, adequately resourced and commensurate with the size of the business and operations, organization structure, number of clients and other such factors.

PART - II DETAILED DIRECTIVES

4. Written Anti Money Laundering Procedures

4.1 Each registered intermediary shall adopt written procedures to implement the anti money laundering provisions as envisaged under the PMLA. Such procedures shall include inter alia, the following three specific parameters which are related to the overall 'Client Due Diligence Process':

Policy for acceptance of clients

Procedure for identifying the clients

Transaction monitoring and reporting especially Suspicious

Transactions Reporting (STR).

5. Client Due Diligence

5.1 The CDD measures comprise the following:

Obtaining sufficient information in order to identify persons who beneficially own or control the securities account. Whenever it is apparent that the securities acquired or maintained through an account are beneficially owned by a party other than the client, that party shall be identified using client identification and verification procedures. The beneficial owner is the natural person or persons who ultimately own, control or influence a client and/or persons onwhose behalf a transaction is being conducted. It also incorporates those persons who exercise ultimate effective control over a legal person or arrangement.

Verify the client's identity using reliable, independent source documents, data or information; Identify beneficial ownership and control, i.e. determine which individual(s) ultimately own(s) or control(s) the client and/or the person on whose behalf a transaction is being conducted;

Verify the identity of the beneficial owner of the client and/or the person on whose behalf a transaction is being conducted, corroborating the information provided in relation to (c); Understand the ownership and control structure of the client; Conduct ongoing due diligence and scrutiny, i.e. Perform ongoing scrutiny of the transactions and account throughout the course of the business relationship to ensure that the transactions being conducted are consistent with the registered intermediary's knowledge of the client, its business and risk

profile, taking into account, where necessary, the client's source of funds; and Registered intermediaries shall periodically update all documents, data or information of all clients and beneficial owners collected under the CDD process.

5.2 Policy for acceptance of clients:

5.2.1 All registered intermediaries shall develop client acceptance policies and procedures that aim to identify the types of clients that are likely to pose a higher than average risk of ML or TF. By establishing such policies and procedures, they will be in a better position to apply client due diligence on a risk sensitive basis depending on the type of client business relationship or transaction. In a nutshell, the following safeguards are to be followed while accepting the clients: No account is opened in a fictitious / benami name or on an anonymous basis. Factors of risk perception (in terms of monitoring suspicious transactions) of the client are clearly defined having regard to clients' location (registered office address, correspondence addresses and other addresses if applicable), nature of business activity, trading turnover etc. and manner of making payment for transactions undertaken. The parameters shall enable classification of clients into low, medium and high risk. Clients of special category (as given below) may, if necessary, be classified even higher. Such clients require higher degree of due diligence and regular update of Know Your Client (KYC) profile. Documentation requirements and other information to be collected in respect of different classes of clients depending on the perceived risk and having regard to the requirements of Rule 9 of the PML Rules, Directives and Circulars issued by SEBI from time to time.

Ensure that an account is not opened where the intermediary is unable to apply appropriate CDD measures / KYC policies. This shall applicable in cases where it is not possible to ascertain the identity of the client, or the information provided to the intermediary is suspected to be non genuine, or there is perceived non co-operation of the client in providing full and complete information. The market intermediary shall not continue to do business with such a person and file a suspicious activity report. It shall also evaluate whether there is suspicious trading in determining whether to freeze or close the account. The market intermediary shall be cautious to ensure that it does not return securities of money that may be from suspicious trades. However, the market intermediary shall consult the relevant authorities in determining what action it shall take when it suspects suspicious trading.

The circumstances under which the client is permitted to act on behalf of another person / entity shall be clearly laid down. It shall be specified in what manner the account shall be operated, transaction limits for the operation, additional authority required for transactions exceeding a specified quantity/value and other appropriate details. Further the rights and responsibilities of both the persons i.e. the agent- client registered with the intermediary, as well as the person on whose behalf the agent is acting shall be clearly laid down. Adequate verification of a person's authority to act on behalf of the client shall also be carried out.

Necessary checks and balance to be put into place before opening an account so as to ensure that the identity of the client does not match with any person having known criminal background or is not banned in any other manner, whether in terms of criminal or civil proceedings by any enforcement agency worldwide.
(g) The CDD process shall necessarily be revisited when there are suspicions of money laundering or financing of terrorism (ML/FT).

5.3 Risk-based Approach

5.3.1 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. As such, the registered intermediaries shall apply each of the client due diligence measures on a risk sensitive basis. The

basic principle enshrined in this approach is that the registered intermediaries shall adopt an enhanced client due diligence process for higher risk categories of clients. Conversely, a simplified client due diligence process may be adopted for lower risk categories of clients. In line with the risk-based approach, the type and amount of identification information and documents that registered intermediaries shall obtain necessarily depend on the risk category of a particular client.

Further, low risk provisions shall not apply when there are suspicions of ML/FT or when other factors give rise to a belief that the customer does not in fact pose a low risk.

5.4 Clients of special category (CSC):

Such clients include the following-

i. Non resident clients ii. High net-worth clients,

iii. Trust, Charities, Non-Governmental Organizations (NGOs) and organizations receiving donations

Companies having close family shareholdings or beneficial ownership Politically Exposed Persons (PEP) are individuals who are or have been entrusted with prominent public functions in a foreign country, e.g., Heads of States or of Governments, senior politicians, senior government/judicial/military officers, senior executives of state-owned corporations, important political party officials, etc. The additional norms applicable to PEP as contained in the subsequent para 5.5 of this circular shall also be applied to the accounts of the family members or close relatives of PEPs. Companies offering foreign exchange offerings Clients in high risk countries where existence / effectiveness of money laundering controls is suspect, where there is unusual banking secrecy, countries active in narcotics production, countries where corruption (as per Transparency International Corruption Perception Index) is highly prevalent, countries against which government sanctions are applied, countries reputed to be any of the following – Havens/ sponsors of international terrorism, offshore financial centers, tax havens, countries where fraud is highly prevalent. While dealing with clients in high risk countries where the existence/effectiveness of money laundering control is suspect, intermediaries apart from being guided by the Financial Action Task Force (FATF) statements that identify countries that do not or insufficiently apply the FATF Recommendations, published by the FATF on its website (www.fatf- gafi.org), shall also independently access and consider other publicly available information. viii. Non face to face clients

ix. Clients with dubious reputation as per public information available etc. The above mentioned list is only illustrative and the intermediary shall exercise independent judgment to ascertain whether any other set of clients shall be classified as CSC or not.

5.5 Client identification procedure:

5.5 The KYC policy shall clearly spell out the client identification procedure to be carried out at different stages i.e. while establishing the intermediary – client relationship, while carrying out transactions for the client or when the intermediary has doubts regarding the veracity or the adequacy of previously obtained client identification data.

Intermediaries shall be in compliance with the following requirements while putting in place a Client Identification Procedure (CIP):

All registered intermediaries shall proactively put in place appropriate risk management systems to determine whether their client or potential client or the beneficial owner of such client is a politically exposed person. Such procedures shall include seeking relevant information from the client, referring to publicly available information or accessing the commercial electronic databases of PEPS. Further, the enhanced CDD measures as outlined in clause 5.5 shall also be applicable where the beneficial owner of a client is a PEP. All registered

intermediaries are required to obtain senior management approval for establishing business Relationships with PEPs. Where a client has been accepted and the client or beneficial owner is subsequently found to be, or subsequently becomes a PEP, registered intermediaries shall obtain senior management approval to continue the business relationship.
Registered intermediaries shall also take reasonable measures to verify the sources of funds as well as the wealth of clients and beneficial owners identified as PEP".
The client shall be identified by the intermediary by using reliable sources including documents / information. The intermediary shall obtain adequate information to satisfactorily establish the identity of each new client and the purpose of the intended nature of the relationship.
The information must be adequate enough to satisfy competent authorities (regulatory / enforcement authorities) in future that due diligence was observed by the intermediary in compliance with the directives. Each original document shall be seen prior to acceptance of a copy. Failure by prospective client to provide satisfactory evidence of identity shall be noted and reported to the higher authority within the intermediary

5.5.1 SEBI has prescribed the minimum requirements relating to KYC for certain classes of registered intermediaries from time to time as detailed in the table. Taking into account the basic principles enshrined in the KYC norms which have already been prescribed or which may be prescribed by SEBI from time to time, all registered intermediaries shall frame their own internal directives based on their experience in dealing with their clients and legal requirements as per the established practices. Further, the intermediary shall conduct ongoing due diligence where it notices inconsistencies in the information provided. The underlying objective shall be to follow the requirements enshrined in the PMLA, SEBI Act and Regulations, directives and circulars issued thereunder so that the intermediary is aware of the clients on whose behalf it is dealing.

5.5.2 Every intermediary shall formulate and implement a CIP which shall incorporate the requirements of the PML Rules Notification No. 9/2005 dated July 01, 2005 (as amended from time to time), which notifies rules for maintenance of records of the nature and value of transactions, the procedure and manner of maintaining and time for furnishing of information and verification of records of the identity of the clients of the banking companies, financial institutions and
intermediaries of securities market and such other additional requirements that it considers appropriate to enable it to determine the true identity of its clients. PML Rules have recently been amended vide notification No. 13/2009 dated November 12, 2009 and need to be adhered to by registered intermediaries.

5.3 It may be noted that irrespective of the amount of investment made by clients, no minimum threshold or exemption is available to registered intermediaries (brokers, depository participants, AMCs etc.) from obtaining the minimum information/documents from clients as stipulated in
the PML Rules/SEBI Circulars (as amended from time to time) regarding the verification of the records of the identity of clients. Further no exemption from carrying out CDD exists in respect of any category of clients. In other words, there shall be no minimum investment threshold/ category-wise exemption available for carrying out CDD measures by registered intermediaries. This shall be strictly implemented by all intermediaries and non-compliance shall attract appropriate sanctions.

6. Record Keeping

Registered intermediaries shall ensure compliance with the record keeping requirements contained in the SEBI Act, 1992, Rules and Regulations made there-under, PMLA as well as other relevant legislation, Rules, Regulations, Exchange Bye-laws and Circulars.

Registered Intermediaries shall maintain such records as are sufficient to permit reconstruction of individual transactions (including the amounts and types of currencies involved, if any) so as to provide, if necessary, evidence for prosecution of criminal behavior.

Shall there be any suspected drug related or other laundered money or terrorist property, the competent investigating authorities would need to trace through the audit trail for reconstructing a financial profile of the suspect account. To enable this reconstruction, registered intermediaries shall retain the following information for the accounts of their clients in order to maintain a satisfactory audit trail:
the beneficial owner of the account;

the volume of the funds flowing through the account; and

for selected transactions:

the origin of the funds;
the form in which the funds were offered or withdrawn, e.g. cheques, demand drafts etc.
the identity of the person undertaking the transaction;
the destination of the funds;
the form of instruction and authority.

Registered Intermediaries shall ensure that all client and transaction records and information are available on a timely basis to the competent investigating authorities. Where required by the investigating authority, they shall retain certain records, e.g. client identification, account files, and business correspondence, for periods which may exceed those required under the SEBI Act, Rules and Regulations framed there-under PMLA, other relevant legislations, Rules and
Regulations or Exchange bye-laws or circulars.

More specifically, all the intermediaries shall put in place a system of maintaining proper record of transactions prescribed under Rule 3 of PML Rules as mentioned below:
all cash transactions of the value of more than rupees ten lakh or its equivalent in foreign currency;
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;
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 has taken place;
all suspicious transactions whether or not made in cash
and by way of as mentioned in the Rules.

7. Information to be maintained

Intermediaries are required to maintain and preserve the following information in respect of transactions referred to in Rule 3 of PML Rules:
the nature of the transactions;
the amount of the transaction and the currency in which it is denominated;
the date on which the transaction was conducted; and
the parties to the transaction.

8. Retention of Records

Intermediaries shall take appropriate steps to evolve an internal mechanism for proper maintenance and preservation of such records and information in a manner that allows easy and quick retrieval of data as and

when requested by the competent authorities. Further, the records mentioned in Rule 3 of PML Rules have to be maintained and preserved for a period of ten years from the date of transactions between the client and intermediary.

As stated in sub-section 5.5, intermediaries are required to formulate and implement the CIP containing the requirements as laid down in Rule 9 of the PML Rules and such other additional requirements that it considers appropriate. The records of the identity of clients have to be maintained and preserved for a period of ten years from the date of cessation of transactions between the client and intermediary, i.e. the date of termination of an account or business relationship between the client and intermediary

Thus the following document retention terms shall be observed:

All necessary records on transactions, both domestic and international, shall be maintained at least for the minimum period prescribed under the relevant Act and Rules (PMLA and rules framed thereunder as well SEBI Act) and other legislations, Regulations or exchange bye-laws or circulars.

Records on client identification (e.g. copies or records of official identification documents like passports, identity cards, driving licenses or similar documents), account files and business correspondence shall also be kept for the same period.

8.4 In situations where the records relate to on-going investigations or transactions which have been the subject of a suspicious transaction reporting, they shall be retained until it is confirmed that the case has been closed.

9. Monitoring of transactions

Regular monitoring of transactions is vital for ensuring effectiveness of the AML procedures. This is possible only if the intermediary has an understanding of the normal activity of the client so that it can identify deviations in transactions / activities.
The intermediary shall pay special attention to all complex, unusually large transactions / patterns which appear to have no economic purpose. The intermediary may specify internal threshold limits for each class of client accounts and pay special attention to transactions which exceeds these limits. The background including all documents/office records /memorandums/clarifications sought pertaining to such transactions and purpose thereof shall also be examined carefully and findings shall be recorded in writing. Further such findings, records and related documents shall be made available to auditors and also to SEBI/stock exchanges/FIUIND/other relevant Authorities, during audit, inspection or as and when required. These records are required to be preserved for ten years as is required under the PMLA.

The intermediary shall ensure a record of the transactions is preserved and maintained in terms of Section 12 of the PMLA and that transactions of a suspicious nature or any other transactions notified under Section 12 of the Act are reported to the Director,FIU-IND. Suspicious transactions shall also be regularly reported to the higher authorities within the intermediary.

Further, the compliance cell of the intermediary shall randomly examine a selection of transactions undertaken by clients to comment on their nature i.e. whether they are in the nature of suspicious transactions or not.

10. Suspicious Transaction Monitoring & Reporting

Intermediaries shall ensure that appropriate steps are taken to enable suspicious transactions to be recognized and have appropriate procedures for reporting suspicious transactions. While determining suspicious transactions, intermediaries shall be guided by the definition of a suspicious transaction contained in PML Rules as amended from time to time.

A list of circumstances which may be in the nature of suspicious transactions is given below. This list is only illustrative and whether a particular transaction is suspicious or not will depend upon the background, details of the transactions and other facts and circumstances:

Clients whose identity verification seems difficult or clients that appear not to cooperate Asset management services for clients where the source of the funds is not clear or not in keeping with clients apparent standing /business activity;
Clients based in high risk jurisdictions;
Substantial increases in business without apparent cause;
Clients transferring large sums of money to or from overseas locations with instructions for payment in cash;
Attempted transfer of investment proceeds to apparently unrelated third parties; Unusual transactions by CSCs and businesses undertaken by offshore banks/financial services, businesses reported to be in the nature of export- import of small items.

Any suspicious transaction shall be immediately notified to the Money Laundering Control Officer or any other designated officer within the intermediary. 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. In exceptional circumstances, consent may not be given to continue to operate the account, and transactions may be suspended, in one or more jurisdictions concerned in the transaction, or other action taken. The Principal Officer/Money Laundering Control Officer and other appropriate compliance, risk management and related staff members shall have timely access to client identification data and CDD information, transaction records and other relevant information. 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 intermediaries shall report all such attempted transactions in STRs, even if not completed by clients, irrespective of the amount of the transaction.

Clause 5.4(vii) of this Master Circular categorizes clients of high risk countries, including countries where existence and effectiveness of money laundering controls is suspect or which do not or insufficiently apply FATF standards, as 'CSC'. Intermediaries are directed that such clients shall also be subject to appropriate counter measures. These measures may include a further enhanced scrutiny of transactions, enhanced relevant reporting mechanisms or systematic reporting of financial transactions, and applying enhanced due diligence while expanding business relationships with the identified country or persons in that country etc.

11. List of Designated Individuals/Entities

An updated list of individuals and entities which are subject to various sanction measures such as freezing of assets/accounts, denial of financial services etc., as approved by the Security Council Committee established pursuant to various United Nations' Security Council Resolutions (UNSCRs) can be accessed at its website at http://www.un.org/sc/committees/1267/consolist.shtml. Registered intermediaries are directed to ensure that accounts are not opened in the name of anyone whose name appears in said list. Registered intermediaries shall continuously scan all existing accounts to ensure that no account is held by or linked to any of the entities or individuals included in the list. Full details of accounts bearing resemblance with any of the

individuals/entities in the list shall immediately be intimated to SEBI and FIU-IND.

12. Procedure for freezing of funds, financial assets or economic resources or related services

Section 51A, of the Unlawful Activities (Prevention) Act, 1967 (UAPA), relating to the purpose of prevention of, and for coping with terrorist activities was brought into effect through UAPA Amendment Act, 2008. In this regard, the Central Government has issued an Order dated August 27, 2009 detailing the procedure for the implementation of Section 51A of the UAPA. Under the aforementioned Section, the Central Government is empowered to freeze, seize or attach funds and other financial assets or economic resources held by, on behalf of, or at the direction of the individuals or entities listed in the Schedule to the Order, or any other person engaged in or suspected to be engaged in terrorism. The Government is also further empowered to prohibit any individual or entity from making any funds, financial assets or economic resources or related services available for the benefit of the individuals or entities listed in the Schedule to the Order or any other person engaged in or suspected to be engaged in terrorism. The obligations to be followed by intermediaries to ensure the effective and expeditious implementation of said Order has been issued vide SEBI Circular ref. no: ISD/AML/CIR-2/2009 dated October 23, 2009, which needs to be complied with scrupulously.

13. Reporting to Financial Intelligence Unit-India

13.1 In terms of the PML Rules, intermediaries are required to reportinformation 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, New Delhi-110021.
Website: http://fiuindia.gov.in

13.2 Intermediaries shall carefully go through all the reporting requirements and formats enclosed with this circular. These requirements and formats are divided into two parts- Manual Formats and Electronic Formats. Details of these formats are given in the documents (Cash Transaction Report- version 1.0 and Suspicious Transactions Report version 1.0) which are also enclosed with this circular. These documents contain detailed directives on the compilation and manner/procedure of submission of the manual/electronic reports to FIU-IND. The related hardware and technical requirement for preparing reports in manual/electronic format, the related data files and data structures thereof are also detailed in these documents. Intermediaries, which are not in a position to immediately file electronic reports, may file manual reports with FIU-IND as per the formats prescribed. While detailed instructions for filing all types of reports are given in the instructions part of the related formats, intermediaries shall adhere to the following:

The Cash Transaction Report (CTR) (wherever applicable) for each month shall be submitted to FIU-IND by 15th of the succeeding month. The Suspicious Transaction Report (STR) shall be submitted within 7 days of arriving at a conclusion that any transaction, whether cash or non-cash, or a series of transactions integrally connected are of suspicious nature. The Principal Officer shall record his reasons for treating any transaction or a series of transactions as suspicious. It shall be ensured that there is no undue delay in arriving at such a conclusion.
The Principal Officer will be responsible for timely submission of CTR and STR to FIU-IND; Utmost confidentiality shall be maintained in filing of CTR and STR to FIU-IND. The reports may be transmitted by speed/registered post/fax at the notified address. No nil reporting needs to be made to FIU-IND in case there are no cash/suspicious transactions to be reported.

13.3 Intermediaries shall not put any restrictions on operations in the accounts where an STR has been made. Intermediaries and their directors, officers and employees (permanent and temporary) shall be prohibited from disclosing ("tipping off") the fact 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 registered intermediaries, irrespective of the amount of transaction and/or the threshold limit envisaged for predicate offences specified in part B of Schedule of PMLA, 2002, shall file STR if they have reasonable grounds to believe that the transactions involve proceeds of crime.

14. Designation of an officer for reporting of suspicious transactions

14.1 To ensure that the registered intermediaries properly discharge their legal obligations to report suspicious transactions to the authorities, 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. Names, designation and addresses (including email addresses) of 'Principal Officer' including any changes therein shall also be intimated to the Office of the Director-FIU. As a matter of principle, it is advisable that the 'Principal Officer' is of a sufficiently senior position and is able to discharge the functions with independence and authority.

15. Employees' Hiring/Employee's Training/ Investor Education

15.1 Hiring of Employees

The registered intermediaries 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.

15.2 Employees' Training

Intermediaries must have an ongoing employee training programme so that the members of the staff are 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 directives, obligations and requirements, implement them consistently and are sensitive to the risks of their systems being misused by unscrupulous elements.

15.3 Investors Education

Implementation of AML/CFT measures requires intermediaries to demand certain information from investors which may be of personal nature or has hitherto never been called for. Such information can include documents evidencing source of
funds/income tax returns/bank records etc. This can sometimes lead to raising of questions by the client with regard to the motive and purpose of collecting such information. There is, therefore, a need for intermediaries to sensitize their clients about these requirements as
the ones emanating from AML and CFT framework. Intermediaries shall prepare specific literature/ pamphlets

etc. so as to educate the client of the objectives of the AML/CFT programme.

CIRCULAR
CIR/MIRSD/1/2014 March 12, 2014

To,

All Intermediaries registered with SEBI
(Through the stock exchanges for stock brokers and sub brokers,
Depositories for depository participants and
AMFI for Asset Management Companies)
Dear Sir/Madam,

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

Please refer to SEBI Master Circular CIR/ISD/AML/3/2010 dated December 31, 2010 on the captioned subject.

In view of the amendments to the Prevention of Money-laundering Act, 2002 (PML Act) and amendments to the Prevention of Money-laundering (Maintenance of Records) Rules, 2005 (PML Rules), it has been decided to make the following consequential modifications and additions to the above referred SEBI Master Circular dated December 31, 2010:

In clause 5 of Part II, after sub-clause 5.3.1, following sub-clause shall be inserted:

5.3.2 Risk Assessment

Registered intermediaries shall carry out risk assessment to identify, assess and take effective measures to mitigate its money laundering and terrorist financing risk with respect to its clients, countries or geographical areas, nature and volume of transactions, payment methods used by clients, etc. The risk assessment shall also take into account any country specific information that is circulated by the Government of India and SEBI from time to time, as well as, the updated list of individuals and entities who are subjected to sanction measures as required under the various United Nations' Security Council Resolutions (these can be accessed at http://www.un.org/sc/committees/1267/aq_sanctions_list.shtml and http://www.un.org/sc/committees/1988/list.shtml).

The risk assessment carried out shall consider all the relevant risk factors before determining the level of overall risk and the appropriate level and type of mitigation to be applied. The assessment shall be documented, updated regularly and made available to competent authorities and selfregulating bodies, as and when required.

In clause 5 of Part II, after sub-clause 5.5, following sub-clause shall be inserted:

5.6 Reliance on third party for carrying out Client Due Diligence (CDD)

Registered intermediaries may rely on a third party for the purpose of (a) identification and verification of the identity of a client and (b) determination of whether the client is acting on behalf of a beneficial owner,

identification of the beneficial owner and verification of the identity of the beneficial owner. Such third party shall be regulated, supervised or monitored for, and have measures in place for compliance with CDD and record-keeping requirements in line with the obligations under the PML Act.

Such reliance shall be subject to the conditions that are specified in Rule 9 (2) of the PML Rules and shall be in accordance with the regulations and circulars/ guidelines issued by SEBI from time to time. Further, it is clarified that the registered intermediary shall be ultimately responsible for CDD and undertaking enhanced due diligence measures, as applicable.

Record keeping requirements:

In sub-clause 8.1 of Part II regarding maintenance of records pertaining to transactions of clients: The words *"for a period of ten years"* shall be substituted with *"for a period of five years"*.

In sub-clause 8.2 of Part II regarding maintenance of records pertaining to identity of clients: The words *"The records of the identity of clients have to be maintained and preserved for a period of ten years from the date of cessation of transactions between the client and intermediary, i.e. the date of termination of an account or business relationship between the client and intermediary."* shall be substituted with the following:

"Records evidencing the identity of its clients and beneficial owners as well as account files and business correspondence shall be maintained and preserved for a period of five years after the business relationship between a client and intermediary has ended or the account has been closed, whichever is later."

Sub-clause 8.3 (b) of Part II shall be substituted with the following:

"Registered intermediaries shall maintain and preserve the record of documents evidencing the identity of its clients and beneficial owners (e.g., copies or records of official identification documents like passports, identity cards, driving licenses or similar documents) as well as account files and business correspondence for a period of five years after the business relationship between a client and intermediary has ended or the account has been closed, whichever is later."

In sub-clause 9.2 of Part II regarding monitoring of transactions: The words *"preserved for ten years"* shall be substituted with *"maintained and preserved for a period of five years from the date of transaction between the client and intermediary"*.

In clause 8 of Part II, after sub-clause 8.4, following sub-clause shall be inserted -

8.5 Records of information reported to the Director, Financial Intelligence Unit - India (FIU-IND): Registered intermediaries shall maintain and preserve the record of information related to transactions, whether attempted or executed, which are reported to the Director, FIU-IND, as required under Rules 7 & 8 of the PML Rules, for a period of five years from the date of the transaction between the client and the intermediary.

In clause 14 of Part II, after sub-clause 14.1, following sub-clause shall be inserted:

14.2 Appointment of a Designated Director

i. In addition to the existing requirement of designation of a Principal Officer, the registered intermediaries shall also designate a person as a 'Designated Director'. In terms of Rule 2 (ba) of the PML Rules, the definition of a Designated Director reads as under:

"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 —

the Managing Director or a Whole-time Director duly authorized by the Board of Directors if the reporting entity is a company,

the managing partner if the reporting entity is a partnership firm,

the proprietor if the reporting entity is a proprietorship concern,

the managing trustee if the reporting entity is a trust,

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

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."

ii. In terms of Section 13 (2) of the PML Act (as amended by the Prevention of Money-laundering (Amendment) Act, 2012), the Director, FIU-IND can take appropriate action, including levying monetary penalty, on the Designated Director for failure of the intermediary to comply with any of its AML/CFT obligations.

iii. Registered intermediaries shall communicate the details of the Designated Director, such as, name, designation and address to the Office of the Director, FIU-IND.

Registered intermediaries are directed to review their AML/CFT policies and procedures and make changes to the same accordingly. The other provisions specified in the SEBI Master Circular dated December 31, 2010 remain the same.

The Stock Exchanges and Depositories are directed to:

bring the provisions of this Circular to the notice of the Stock Brokers and Depository Participants, as the case may be, and also disseminate the same on their websites;
make amendments to the relevant bye-laws, rules and regulations for the implementation of the above decision in co-ordination with one another, as considered necessary;
monitor the compliance of this Circular through half-yearly internal audits and inspections; and
communicate to SEBI, the status of the implementation of the provisions of this Circular.

In case of Mutual Funds, compliance of this Circular shall be monitored by the Boards of the Asset Management Companies and the Trustees and in case of other intermediaries, by their Board of Directors.

This Circular is being issued in exercise of powers conferred under Section 11 (1) of the Securities and Exchange Board of India Act, 1992 and the Prevention of Moneylaundering (Maintenance of Records) Rules, 2005 to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.

This Circular is available on the SEBI website (www.sebi.gov.in) under the section SEBI Home > Legal Framework > Circulars.
Yours faithfully,

Krishnanand Raghavan
General Manager Email:

Securities and Exchange Board of India
CIRCULAR CIR/MIRSD/1/2014 March 12, 2014

To,
All Intermediaries registered with SEBI
(Through the stock exchanges for stock brokers and sub brokers,Depositories for depository participants and AMFI for Asset Management Companies)

Dear Sir/Madam,
Sub: Anti-Money Laundering/Countering the Financing of Terrorism (AML/CFT) Obligations of Securities Market Intermediaries under the Prevention of Moneylaundering Act, 2002 and Rules framed there under

1. Please refer to SEBI Master Circular CIR/ISD/AML/3/2010 dated December 31,2010 on the captioned subject.
2. In view of the amendments to the Prevention of Money-laundering Act, 2002 (PML Act) and amendments to the Prevention of Money-laundering (Maintenance of Records) Rules, 2005 (PML Rules), it has been decided to make the following consequential modifications and additions to the above referred SEBI Master Circular dated December 31, 2010:

2.1. In clause 5 of Part II, after sub-clause 5.3.1, following sub-clause shall be inserted:

5.3.2 Risk Assessment

i. Registered intermediaries shall carry out risk assessment to identify,assess and take effective measures to mitigate its money laundering and terrorist financing risk with respect to its clients, countries or geographical areas, nature and volume of transactions, payment methods used by clients, etc. The risk assessment shall also take into account any country specific information that is circulated by the Government of India and SEBI from time to time, as well as, the updated list of individuals and entities who are subjected to sanction measures as required under the various United Nations' Security Council Resolutions

http://www.un.org/sc/committees/1267/aq_sanctions_list.shtml and
http://www.un.org/sc/committees/1988/list.shtml).
ii. The risk assessment carried out shall consider all the relevant risk factors before determining the level of overall risk and the appropriate level and type of mitigation to be applied. The assessment shall be documented, updated regularly and made available to competent authorities and selfregulating bodies, as and when required.

2.2. In clause 5 of Part II, after sub-clause 5.5, following sub-clause shall be inserted:

5.6 Reliance on third party for carrying out Client Due Diligence (CDD)
i. Registered intermediaries may rely on a third party for the purpose of (a) identification and verification of the identity of a client and (b) determination of whether the client is acting on behalf of a beneficial owner,

identification of the beneficial owner and verification of the identity of the beneficial owner. Such third party shall be regulated, supervised or monitored for, and have measures in place for compliance with CDD and record-keeping requirements in line with the obligations under the PML Act.

ii. Such reliance shall be subject to the conditions that are specified in Rule 9 (2) of the PML Rules and shall be in accordance with the regulations and circulars/ guidelines issued by SEBI from time to time. Further, it is clarified that the registered intermediary shall be ultimately responsible for CDD and undertaking enhanced due diligence measures, as applicable.

2.3. Record keeping requirements:

a. **In sub-clause 8.1 of Part II regarding maintenance of records pertaining to transactions of clients:**

The words *"for a period of ten years"* shall be substituted with *"for a period of five years"*.

b. **In sub-clause 8.2 of Part II regarding maintenance of records pertaining to identity of clients:**

The words *"The records of the identity of clients have to be maintained and preserved for a period of ten years from the date of cessation of transactions between the client and intermediary, i.e. the date of termination of an account or business relationship between the client and intermediary."* shall be substituted with the following:

"Records evidencing the identity of its clients and beneficial owners as well as account files and business correspondence shall be maintained and preserved for a period of five years after the business relationship between a client and intermediary has ended or the account has been closed, whichever is later."

c. **Sub-clause 8.3 (b) of Part II shall be substituted with the following:**

"Registered intermediaries shall maintain and preserve the record of documents evidencing the identity of its clients and beneficial owners (e.g., copies or records of official identification documents like passports, identity cards, driving licenses or similar documents) as well as account files and business correspondence for a period of five years after the business relationship between a client and intermediary has ended or the account has been closed, whichever is later."

d. **In sub-clause 9.2 of Part II regarding monitoring of transactions:** The words *"preserved for ten years"* shall be substituted with *"maintained and preserved for a period of five years from the date of transaction between the client and intermediary"*.

e. **In clause 8 of Part II, after sub-clause 8.4, following sub-clause shall be inserted -**

8.5 Records of information reported to the Director, Financial Intelligence Unit - India (FIU-IND):

Registered intermediaries shall maintain and preserve the record of information related to transactions, whether attempted or executed, which are reported to the Director, FIU-IND, as required under Rules 7 & 8 of the PML Rules, for a period of five years from the date of the transaction between the client and the intermediary.

2.4. In clause 14 of Part II, after sub-clause 14.1, following sub-clause shall be inserted:

14.2 Appointment of a Designated Director

i. In addition to the existing requirement of designation of a Principal Officer, the registered intermediaries shall also designate a person as a 'Designated Director'. In terms of Rule 2 (ba) of the PML Rules, the definition of a Designated Director reads as under:

"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 —

(i) the Managing Director or a Whole-time Director duly authorized by the Board of Directors if the reporting entity is a company,

(ii) the managing partner if the reporting entity is a partnership firm,

(iii) the proprietor if the reporting entity is a proprietorship concern,

(iv) the managing trustee if the reporting entity is a trust,

(v) 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

(vi) 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."

ii. In terms of Section 13 (2) of the PML Act (as amended by the Prevention of Money-laundering (Amendment) Act, 2012), the Director, FIU-IND can take appropriate action, including levying monetary penalty, on the Designated Director for failure of the intermediary to comply with any of its AML/CFT obligations.

iii. Registered intermediaries shall communicate the details of the Designated Director, such as, name, designation and address to the Office of the Director, FIU-IND.

3. Registered intermediaries are directed to review their AML/CFT policies and procedures and make changes to the same accordingly. The other provisions specified in the SEBI Master Circular dated December 31, 2010 remain the same.
4. The Stock Exchanges and Depositories are directed to:
a. bring the provisions of this Circular to the notice of the Stock Brokers and Depository Participants, as the case may be, and also disseminate the same on
their websites;
b. make amendments to the relevant bye-laws, rules and regulations for the implementation of the above decision in co-ordination with one another, as considered necessary;
c. monitor the compliance of this Circular through half-yearly internal audits and
inspections; and
d. communicate to SEBI, the status of the implementation of the provisions of this
Circular.
5. In case of Mutual Funds, compliance of this Circular shall be monitored by the
Boards of the Asset Management Companies and the Trustees and in case of other intermediaries, by their Board of Directors.
6. This Circular is being issued in exercise of powers conferred under Section 11 (1) of the Securities and Exchange Board of India Act, 1992 and the Prevention of Moneylaundering (Maintenance of Records) Rules, 2005 to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.
7. This Circular is available on the SEBI website (www.sebi.gov.in) under the section

Yours faithfully,
Krishnanand Raghavan
General Manager
Email: krishnanandr@sebi.gov.in

3. Appointment of a Designated Director

i. In addition to the existing requirement of designation of a Principal Officer, the registered intermediaries shall also designate a person as a 'Designated Director'. In terms of Rule 2 (ba) of the PML Rules, the definition of a Designated Director reads as under:
"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 —
(i) the Managing Director or a Whole-time Director duly authorized by the Board of Directors if the reporting entity is a company,
(ii) the managing partner if the reporting entity is a partnership firm,
(iii) the proprietor if the reporting entity is a proprietorship concern,
(iv) the managing trustee if the reporting entity is a trust,
(v) 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
(vi) 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."

ii. In terms of Section 13 (2) of the PML Act (as amended by the Prevention of Money-laundering (Amendment) Act, 2012), the Director, FIU-IND can take appropriate action, including levying monetary penalty, on the Designated Director for failure of the intermediary to comply with any of its AML/CFT obligations.

iii. Registered intermediaries shall communicate the details of the Designated Director, such as, name, designation and address to the Office of the Director, FIU-IND.