

Master Direction - Know Your Customer (KYC) Direction, 2016

CHAPTER – I PRELIMINARY

1. Short Title and Commencement.

(a) These shall be called the Reserve Bank of India (Know Your Customer (KYC)) Directions, 2016 and shall come into effect on the day they are placed on the RBI website.

2. Applicability

- (a) Provisions of these Directions shall apply to every entity regulated by RBI, specifically as defined in 3 (b) (xiii) below, except mentioned otherwise.
- (b) These shall also apply to those branches and majority owned subsidiaries of the Res, located abroad, to the extent they are not contradictory to the local laws in the host country, provided that:
- i where local applicable laws and regulations prohibit implementation of these guidelines, the same shall be brought to the notice of the RBI.
 - ii in case there is a variance in KYC/AML standards prescribed by the RBI and the host country regulators, branches/overseas subsidiaries of REs are required to adopt the more stringent regulation of the two. Branches/subsidiaries of foreign incorporated bank may adopt the stringent regulation of the two i.e. standards prescribed by the RBI and their host country regulators.

Provided this rule shall not apply to 'small accounts' referred to in Section 23 of Chapter VI.

3. Definitions

(a) Terms bearing meaning assigned in terms of Prevention of Money-Laundering Act, 2002 and the Prevention of Money-Laundering (Maintenance of Records) Rules, 2005:

- i **“Act” and “Rules”** means the Prevention of Money-Laundering Act, 2002 and the Prevention of Money-Laundering (Maintenance of Records) Rules, 2005, respectively and amendments thereto.
- ii **Beneficial Owner (BO)**
 - a. Where the customer is a company, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has/have a controlling ownership interest (> 25 % of the shares or capital or profits) or who exercise control (right to appoint majority of the directors or to control the management or policy decisions) through other means.
 - b. Where the customer is a partnership firm, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has/have ownership of/entitlement to more than 15 per cent of capital or profits of the partnership.
 - c. Where the customer is an unincorporated association or body of individuals, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has/have ownership of/entitlement to more than 15 per cent of the property or capital or profits of the unincorporated

- association or body of individuals. (Explanation: Term ‘body of individuals’ includes societies. Where no natural person is identified under (a), (b) or (c) above, the beneficial owner is the relevant natural person who holds the position of senior managing official.)
- d. Where the customer is a trust, the identification of beneficial owner(s) shall include identification of the author of the trust, the trustee, the beneficiaries with 15% or more interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control or ownership. (Explanation: Term ‘body of individuals’ includes societies.)
- iii **“Central KYC Records Registry (CKYCR)”** means an entity defined under Rule 2(1)(aa) of the Rules, to receive, store, safeguard and retrieve the KYC records in digital form of a customer.
- iv **“Designated Director”** means a person designated by the RE to ensure overall compliance with the obligations imposed under chapter IV of the PML Act and the Rules and shall include:-
- a. the **Managing Director** or a **whole-time Director**, duly authorized by the Board of Directors, if the RE is a company, (Explanation. - the terms "Managing Director" and "Whole-time Director" shall have the meaning assigned to them in the Companies Act, 2013.)
 - b. the **Managing Partner**, if the RE is a partnership firm,
 - c. the **Proprietor**, if the RE is a proprietorship concern,
 - d. the **Managing Trustee**, if the RE is a trust,
 - e. a **person or individual**, as the case may be, who controls and manages the affairs of the RE, if the RE is an unincorporated association or a body of individuals, and
 - f. a person who holds the position of senior management or equivalent designated as a **'Designated Director'** in respect of Cooperative Banks and Regional Rural Banks.
- v **“Non-profit organisations” (NPO)** means any entity or organisation that is registered as a trust or a society under the Societies Registration Act, 1860 or any similar State legislation or a company registered under Section 25 of the Companies Act, 1956.
- vi **“Officially valid document” (OVD)** means
- ✓ the passport,
 - ✓ the driving licence,
 - ✓ the Permanent Account Number (PAN) Card,
 - ✓ the Voter's Identity Card issued by the Election Commission of India,
 - ✓ job card issued by NREGA duly signed by an officer of the State Government,
 - ✓ letter issued by the Unique Identification Authority of India containing details of name, address and Aadhaar number.

Explanation: Customers, at their option, shall submit one of the six OVDs for proof of identity and proof of address. Provided that where ‘simplified measures’ are applied for verifying the identity of the customers the following documents shall be deemed to be OVD:

1. identity card issued by Central/ State Government Departments, Statutory/ Regulatory Authorities, Public Sector Undertakings, Scheduled Commercial Banks, and Public Financial Institutions;
2. Letter issued by a Gazetted officer, with a duly attested photograph of the person.

Provided further that where 'simplified measures' are applied for verifying, for the limited purpose of, proof of address the following additional documents are deemed to be OVDs :

1. Utility bill;
2. Property or Municipal Tax receipt;
3. Bank account or Post Office savings bank account statement;
4. Pension or family Pension Payment Orders (PPOs) with the address mentioned;
5. Letter of allotment of accommodation from employer or leave and license agreements with such employers allotting official accommodation; and
6. Documents issued by Government departments of foreign jurisdictions or letter issued by Foreign Embassy or Mission in India.

vii. **“Person”** has the same meaning assigned in the Act and includes:

- a. an individual,
- b. a Hindu undivided family,
- c. a company,
- d. a firm,
- e. an association of persons or a body of individuals, whether incorporated or not,
- f. every artificial juridical person, not amongst the above persons (a to e), and
- g. any agency, office or branch owned or controlled by any of the above persons (a to f).

viii. **“Principal Officer”** means an officer nominated by the RE, responsible for furnishing information as per rule 8 of the Rules.

ix. **“Suspicious transaction”** means a “transaction” as defined below, 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 not have economic rationale or bona-fide purpose; or
- d. gives rise to a reasonable ground of suspicion that it may involve financing of the activities relating to terrorism.

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

x. A **‘Small Account’** means a savings account in which:

- a. the aggregate of all credits in a financial year does not exceed rupees one lakh;
- b. the aggregate of all withdrawals and transfers in a month does not exceed rupees ten thousand; and
- c. the balance at any point of time does not exceed rupees fifty thousand.

xi. **“Transaction”** means a purchase, sale, loan, pledge, gift, transfer, delivery or the arrangement thereof and includes:

- a. opening of an account;
- b. deposit, withdrawal, exchange or transfer of funds;
- c. the use of a safety deposit box or any other form of safe deposit;
- d. entering into any fiduciary relationship;
- e. any payment made or received, in whole or in part, for any contractual or other legal obligation; or
- f. establishing or creating a legal person or legal arrangement.

(b) Terms bearing meaning assigned in this Directions, unless the context otherwise requires, shall bear the meanings assigned to them below:

- i **“Common Reporting Standards” (CRS)** means reporting standards set for implementation of multilateral agreement signed to automatically exchange information based on Article 6 of the Convention on Mutual Administrative Assistance in Tax Matters.
- ii **“Customer”** means a person who is engaged in a financial transaction or activity with a Regulated Entity (RE) and includes a person on whose behalf the person who is engaged in the transaction or activity, is acting.
- iii **“Walk-in Customer”** means a person who does not have an account based relationship with the RE, but undertakes transactions with the RE.
- iv **“Customer Due Diligence (CDD)”** means identifying and verifying the customer and the beneficial owner using ‘Officially Valid Documents’ as a ‘proof of identity’ and a ‘proof of address’.
- v **“Customer identification”** means undertaking the process of CDD.
- vi **“FATCA”** means Foreign Account Tax Compliance Act of the United States of America (USA) which, inter alia, requires foreign financial institutions to report about financial accounts held by U.S. taxpayers or foreign entities in which U.S. taxpayers hold a substantial ownership interest.
- vii **“IGA”** means Inter Governmental Agreement between the Governments of India and the USA to improve international tax compliance and to implement FATCA of the USA.
- viii **“KYC Templates”** means templates prepared to facilitate collating and reporting the KYC data to the CKYCR, for individuals and legal entities.
- ix **“Non-face-to-face customers”** means customers who open accounts without visiting the branch/offices of the REs or meeting the officials of REs.
- x **“On-going Due Diligence”** means regular monitoring of transactions in accounts to ensure that they are consistent with the customers’ profile and source of funds.
- xi **“Periodic Updation”** means steps taken to ensure that documents, data or information collected under the CDD process is kept up-to-date and relevant by undertaking reviews of existing records at periodicity prescribed by the Reserve Bank.
- xii **“Politically Exposed Persons” (PEPs)** are individuals who are or have been entrusted with prominent public functions in a foreign country, e.g., Heads of States/Governments, senior politicians, senior government/judicial/military officers, senior executives of state-owned corporations, important political party officials, etc.
- xiii **“Regulated Entities” (REs)** means
 - a. all Scheduled Commercial Banks (SCBs)/ Regional Rural Banks (RRBs)/ Local Area Banks (LABs)/ All Primary (Urban) Co-operative Banks (UCBs) /State and Central Co-operative Banks (StCBs / CCBs) and any other entity which has been licenced under Section 22 of Banking Regulation Act, 1949, which as a group shall be referred as ‘banks’

- b. All India Financial Institutions (AIFIs)
 - c. All Non-Banking Finance Companies (NBFC)s, Miscellaneous Non-Banking Companies (MNBCs) and Residuary Non-Banking Companies (RNBCs).
 - d. All Payment System Providers (PSPs)/ System Participants (SPs) and Prepaid Payment Instrument Issuers (PPI Issuers)
 - e. All authorised persons (APs) including those who are agents of Money Transfer Service Scheme (MTSS), regulated by the Regulator.
- xiv **“Simplified procedure”** means the procedure for undertaking customer due diligence in respect of customers, who are rated as low risk by the RE and who do not possess any of the six officially valid documents, with the alternate documents prescribed under the two provisos of Section 3(a)(vi) of this Directions.
- xv **“Shell bank”** means a bank which is incorporated in a country where it has no physical presence and is unaffiliated to any regulated financial group.
- xvi **“Wire transfer”** means a transaction carried out, directly or through a chain of transfers, on behalf of an originator person (both natural and legal) through a bank by electronic means with a view to making an amount of money available to a beneficiary person at a bank.
- xvii **“Domestic and cross-border wire transfer”**: When the originator bank and the beneficiary bank is the same person or different person located in the same country, such a transaction is a domestic wire transfer, and if the ‘originator bank’ or ‘beneficiary bank’ is located in different countries such a transaction is cross-border wire transfer.

(c) All other expressions unless defined herein shall have the same meaning as have been assigned to them under the Banking Regulation Act or the Reserve Bank of India Act, or the Prevention of Money Laundering Act and Prevention of Money Laundering (Maintenance of Records) Rules, any statutory modification or re-enactment thereto or as used in commercial parlance, as the case may be.

CHAPTER – II

General

4. There shall be a Know Your Customer (KYC) policy duly approved by the Board of Directors of REs or any committee of the Board to which power has been delegated.
5. The KYC policy shall include following four key elements:
 - a. Customer Acceptance Policy;
 - b. Risk Management;
 - c. Customer Identification Procedures (CIP); and
 - d. Monitoring of Transactions
6. Designated Director:
 - a. A “Designated Director” shall be nominated by the Board.
 - b. The name, designation and address of the Designated Director shall be communicated to the FIU-IND.
 - c. In no case, the Principal Officer shall be nominated as the 'Designated Director'.
7. Principal Officer:
 - a. The Principal Officer shall be responsible for ensuring compliance, monitoring transactions, and sharing and reporting information as required under the law/regulations.
 - b. The name, designation and address of the Principal Officer shall be communicated to the FIU-IND.

8. Compliance of KYC policy

REs shall ensure compliance with KYC Policy through:

- a. Specifying as to who constitute 'Senior Management' for the purpose of KYC compliance.
- b. Allocation of responsibility for effective implementation of policies and procedures.
- c. Independent evaluation of the compliance functions of REs' policies and procedures, including legal and regulatory requirements.
- d. Concurrent/internal audit system to verify the compliance with KYC/AML policies and procedures.
- e. Submission of quarterly audit notes and compliance to the Audit Committee.

CHAPTER – III Customer Acceptance Policy

9. REs shall frame a Customer Acceptance Policy.

10. Without prejudice to the generality of the aspect that Customer Acceptance Policy may contain, REs shall ensure that :

- a. No account is opened in anonymous or fictitious/benami name.
- b. No account is opened where the RE is unable to apply appropriate CDD measures, either due to non-cooperation of the customer or non-reliability of the documents/information furnished by the customer.
- c. No transaction or account based relationship is undertaken without following the CDD procedure.
- d. The mandatory information to be sought for KYC purpose while opening an account and during the periodic updation, is specified.
- e. 'Optional'/additional information, is obtained with the explicit consent of the customer after the account is opened.
- f. CDD Procedure is followed for all the joint account holders, while opening a joint account.
- g. Circumstances in which, a customer is permitted to act on behalf of another person/entity, is clearly spelt out.
- h. Suitable system is put in place to ensure that the identity of the customer does not match with any person or entity, whose name appears in the sanctions lists circulated by RBI.

11. Customer Acceptance Policy shall not result in denial of banking/financial facility to members of the general public, especially those, who are financially or socially disadvantaged.

CHAPTER – IV Risk Management

12. For Risk Management, REs shall have a risk based approach which includes the following.

- a. Customers shall be categorised as low, medium and high risk category, based on the assessment and risk perception of the RE.

- b. Risk categorisation shall be undertaken based on parameters such as customer's identity, social/financial status, nature of business activity, and information about the clients' business and their location etc.

Provided that various other information collected from different categories of customers relating to the perceived risk, is non-intrusive and the same is specified in the KYC policy.

Explanation: FATF Public Statement, the reports and guidance notes on KYC/AML issued by the Indian Banks Association (IBA), guidance note circulated to all cooperative banks by the RBI etc., may also be used in risk assessment.

Chapter V

Customer Identification Procedure (CIP)

13. REs shall undertake identification of customers in the following cases:

- a. Commencement of an account-based relationship with the customer.
- b. Carrying out any international money transfer operations for a person who is not an account holder of the bank.
- c. When there is a doubt about the authenticity or adequacy of the customer identification data it has obtained.
- d. Selling third party products as agents, selling their own products, payment of dues of credit cards/sale and reloading of prepaid/travel cards and any other product for more than rupees fifty thousand.
- e. Carrying out transactions for a non-account based customer, that is a walk-in customer, where the amount involved is equal to or exceeds rupees fifty thousand, whether conducted as a single transaction or several transactions that appear to be connected.
- f. When a RE has reason to believe that a customer (account- based or walk-in) is intentionally structuring a transaction into a series of transactions below the threshold of rupees fifty thousand.

14. For the purpose of verifying the identity of customers at the time of commencement of an account-based relationship, REs, shall at their option, rely on customer due diligence done by a third party, subject to the following conditions:

- a. Necessary information of such customers' due diligence carried out by the third party is immediately obtained by REs.
- b. Adequate steps are taken by REs to satisfy themselves that copies of identification data and other relevant documentation relating to the customer due diligence requirements shall be made available from the third party upon request without delay.
- c. The third party is regulated, supervised or monitored for, and has measures in place for, compliance with customer due diligence and record-keeping requirements in line with the requirements and obligations under the PML Act.
- d. The third party shall not be based in a country or jurisdiction assessed as high risk.
- e. The ultimate responsibility for customer due diligence and undertaking enhanced due diligence measures, as applicable, will be with the RE.

15. While undertaking customer identification, REs shall ensure that :

- a. Decision-making functions of determining compliance with KYC norms shall not be outsourced.
- b. Introduction shall not be sought while opening accounts.
- c. The customers shall not be required to furnish an additional OVD, if the OVD submitted by the customer for KYC contains both proof of identity and proof of address.
- d. The customers shall not be required to furnish separate proof of address for permanent and current addresses, if these are different. In case the proof of address furnished by the customer is the address where the customer is currently residing, a declaration shall be taken from the customer about her/his local address on which all correspondence will be made by the RE.
- e. The local address for correspondence, for which their proof of address is not available, shall be verified through 'positive confirmation' such as acknowledgment of receipt of letter, cheque books, ATM cards, telephonic conversation, visits to the place, or the like.
- f. In case it is observed that the address mentioned as per 'proof of address' has undergone a change, REs shall ensure that fresh proof of address is obtained within a period of six months.

Chapter VI Customer Due Diligence (CDD) Procedure

Part I - CDD Procedure in case of Individuals

16. REs shall obtain the following documents from an individual while establishing an account based relationship:

- a. one certified copy of an OVD as mentioned at Section 3(a)(vi) of Chapter I, containing details of identity and address;
- b. one recent photograph; and
- c. such other documents pertaining to the nature of business or financial status specified by the RE in their KYC policy.

Provided that information collected from customers for the purpose of opening of account shall be treated as confidential and details thereof shall not be divulged for the purpose of cross selling, or for any other purpose without the express permission of the customer.

Explanation: Customers, at their option, shall submit one of the six OVDs for proof of identity and proof of address.

17. The e-KYC service of Unique Identification Authority of India (UIDAI) shall be accepted as a valid process for KYC verification under the PML Rules, as

- a. the information containing demographic details and photographs made available from UIDAI as a result of e-KYC process is treated as an 'Officially Valid Document', and
- b. transfer of KYC data, electronically to the RE from UIDAI, is accepted as valid process for KYC verification.

Provided REs/ Business Correspondents (BCs)/ Business Facilitators (BFs) shall obtain authorisation from the individual user authorising UIDAI by way of explicit consent to release his/her identity/address through biometric authentication to the REs.

18. REs shall print/download directly, the prospective customer's e-Aadhaar letter from the UIDAI portal or e-KYC procedure as mentioned above shall be adopted, if such a customer knows only his/her Aadhaar number or if the customer carries only a copy of the e-Aadhaar downloaded from a place/source elsewhere.

19. A copy of the marriage certificate issued by the State Government or Gazette notification indicating change in name together with a certified copy of the 'officially valid document' in the existing name of the person shall be obtained for proof of address and identity, while establishing an account based relationship or while undertaking periodic updation exercise in cases of persons who change their names on account of marriage or otherwise.

20. In case the person who proposes to open an account does not have an OVD as 'proof of address', such person shall provide OVD of the relative as provided at sub-section 77 of Section 2 of the Companies Act, 2013, read with Rule 4 of Companies (Specification of definitions details) Rules, 2014, with whom the person is staying, as the 'proof of address'.

Explanation: A declaration from the relative that the said person is a relative and is staying with him/her shall be obtained.

21. In cases where a customer categorised as 'low risk', expresses inability to complete the documentation requirements on account of any reason that the REs consider to be genuine, and where it is essential not to interrupt the normal conduct of business, REs shall, at their option, complete the verification of identity of the customer within a period of six months from the date of establishment of the relationship.

22. In respect of customers who are categorised as 'low risk' and are not able to produce any of the OVDs mentioned at Section 3(a)(vi) of Chapter I and where 'simplified procedure' is applied, REs shall, accept any one document from each of the two additional sets of documents listed under the two provisos of sub-Rule 2(1)(d).

Explanation: During the periodic review, if the 'low risk' category customer for whom simplified procedure is applied, is re-categorised as 'moderate or 'high' risk category, then REs shall obtain one of the six OVDs listed at Section 3(a)(vi) of these Directions for proof of identity and proof of address immediately. In the event such a customer fails to submit such an OVD, REs shall initiate action as envisaged in Section 39 of these Directions.

23. In case an individual customer who does not possess either any of the OVDs or the documents applicable in respect of simplified procedure (as detailed at Section 22 above) and desires to open a bank account, banks shall open a 'Small Account', subject to the following:

- a. The bank shall obtain a self-attested photograph from the customer.
- b. The designated officer of the bank certifies under his signature that the person opening the account has affixed his signature or thumb impression in his presence.
- c. Such accounts are opened only at Core Banking Solution (CBS) linked branches or in a branch where it is possible to manually monitor and ensure that foreign remittances are not credited to the account.
- d. Banks shall ensure that the stipulated monthly and annual limits on aggregate of transactions and balance requirements in such accounts are not breached, before a transaction is allowed to take place.

- e. The account shall be monitored and when there is suspicion of money laundering or financing of terrorism activities or other high risk scenarios, the identity of the customer shall be established through the production of “officially valid documents”.
- f. Foreign remittance shall not be allowed to be credited into the account unless the identity of the customer is fully established through the production of “officially valid documents”.
- g. The account remains operational initially for a period of twelve months which can be extended for a further period of twelve months, provided the account holder applies and furnishes evidence of having applied for any of the OVDs during the first twelve months of the opening of the said account.
- h. The entire relaxation provisions shall be reviewed after twenty four months.

24. Simplified procedure for opening accounts by Non-Banking Finance Companies (NBFCs): In case a person who desires to open an account is not able to produce documents mentioned in 3(a)(vi) of Chapter I, NBFCs may at their discretion open accounts subject to the following conditions:

- a. Introduction from another account holder who has been subjected to full KYC procedure shall be obtained.
- b. The introducer’s account with the NBFC shall be at least six month old and shows satisfactory transactions.
- c. Photograph of the customer who proposes to open the account and also his address shall be certified by the introducer, or any other evidence as to the identity and address of the customer to the satisfaction of the NBFC shall be obtained.
- d. balances in all their accounts taken together shall not exceed rupees fifty thousand at any point of time
- e. the total credit in all the accounts taken together shall not exceed rupees one lakh in a year.
- f. The customer shall be made aware that no further transactions will be permitted until the full KYC procedure is completed in case Directions (iv) and (v) are breached by him.
- g. The customer shall be notified when the balance reaches rupees forty thousand or the total credit in a year reaches rupees eighty thousand that appropriate documents for conducting the KYC must be submitted otherwise the operations in the account shall be stopped when the total balance in all the accounts taken together exceeds the limits prescribed in direction (d) and (e) above.

25. If an existing KYC compliant customer of a RE desires to open another account with the same RE, there shall be no need for a fresh CDD exercise.

26. KYC verification once done by one branch/office of the RE shall be valid for transfer of the account to any other branch/office of the same RE, provided full KYC verification has already been done for the concerned account and the same is not due for periodic updation and a self-declaration from the account holder about his/her current address is obtained in such cases.

Part II - CDD Measures for Sole Proprietary firms

27. For opening an account in the name of a sole proprietary firm, a certified copy of an OVD as mentioned at Section 3(a) (vi) of Chapter I, containing details of identity and address of the individual (proprietor) shall be obtained.

28. In addition to the above, any two of the following documents as a proof of business/ activity in the name of the proprietary firm shall also be obtained:

- a. Registration certificate
- b. Certificate/licence issued by the municipal authorities under Shop and Establishment Act.
- c. Sales and income tax returns.
- d. CST/VAT certificate.
- e. Certificate/registration document issued by Sales Tax/Service Tax/Professional Tax authorities.
- f. Licence/certificate of practice issued in the name of the proprietary concern by any professional body incorporated under a statute.
- g. Complete Income Tax Return (not just the acknowledgement) in the name of the sole proprietor where the firm's income is reflected, duly authenticated/acknowledged by the Income Tax authorities.
- h. Utility bills such as electricity, water, and landline telephone bills.

29. In cases where the REs are satisfied that it is not possible to furnish two such documents, REs may, at their discretion, accept only one of those documents as proof of business/activity.

Provided REs undertake contact point verification and collect such other information and clarification as would be required to establish the existence of such firm, and shall confirm and satisfy itself that the business activity has been verified from the address of the proprietary concern.

Part III- CDD Measures for Legal Entities

30. For opening an account of a company, one certified copy of each of the following documents shall be obtained:

- a. Certificate of incorporation.
- b. Memorandum and Articles of Association.
- c. A resolution from the Board of Directors and power of attorney granted to its managers, officers or employees to transact on its behalf.
- d. Officially valid documents in respect of managers, officers or employees holding an attorney to transact on its behalf.

31. For opening an account of a partnership firm, one certified copy of each of the following documents shall be obtained:

- a. Registration certificate.
- b. Partnership deed.
- c. Officially valid documents in respect of the person holding an attorney to transact on its behalf.

32. For opening an account of a trust, one certified copy of each of the following documents shall be obtained:

- a. Registration certificate.
- b. Trust deed.
- c. Officially valid documents in respect of the person holding a power of attorney to transact on its behalf.

33. For opening an account of an unincorporated association or a body of individuals, one certified copy of each of the following documents shall be obtained:

- a. resolution of the managing body of such association or body of individuals;
- b. power of attorney granted to transact on its behalf;
- c. Officially valid documents in respect of the person holding an attorney to transact on its behalf and
- d. such information as may be required by the RE to collectively establish the legal existence of such an association or body of individuals.

Explanation: Unregistered trusts/partnership firms shall be included under the term 'unincorporated association'.

Part IV - Identification of Beneficial Owner

34. For opening an account of a Legal Person who is not a natural person, the beneficial owner(s) shall be identified and all reasonable steps in terms of Rule 9(3) of the Rules to verify his/her identity shall be undertaken keeping in view the following:

- a. Where the customer or the owner of the controlling interest is a company listed on a stock exchange, or is a subsidiary of such a company, it is not necessary to identify and verify the identity of any shareholder or beneficial owner of such companies.
- b. In cases of trust/nominee or fiduciary accounts whether the customer is acting on behalf of another person as trustee/nominee or any other intermediary is determined. In such cases, satisfactory evidence of the identity of the intermediaries and of the persons on whose behalf they are acting, as also details of the nature of the trust or other arrangements in place shall be obtained.

Part V - On-going Due Diligence

35. REs shall undertake on-going due diligence of customers to ensure that their transactions are consistent with their knowledge about the customers, customers' business and risk profile; and the source of funds.

36. Without prejudice to the generality of factors that call for close monitoring following types of transactions shall necessarily be monitored:

- a. Large and complex transactions including RTGS transactions, and those with unusual patterns, inconsistent with the normal and expected activity of the customer, which have no apparent economic rationale or legitimate purpose.
- b. Transactions which exceed the thresholds prescribed for specific categories of accounts.

- c. High account turnover inconsistent with the size of the balance maintained.
- d. Deposit of third party cheques, drafts, etc. in the existing and newly opened accounts followed by cash withdrawals for large amounts.

37. The extent of monitoring shall be aligned with the risk category of the customer.

Explanation: High risk accounts have to be subjected to more intensified monitoring.

- a. A system of periodic review of risk categorisation of accounts, with such periodicity being at least once in six months, and the need for applying enhanced due diligence measures shall be put in place.
- b. The transactions in accounts of marketing firms, especially accounts of Multi-level Marketing (MLM) Companies shall be closely monitored.

Explanation: Cases where a large number of cheque books are sought by the company and/or multiple small deposits (generally in cash) across the country in one bank account and/or where a large number of cheques are issued bearing similar amounts/dates, shall be immediately reported to RBI and other appropriate authorities such as FIU-IND.

38. Periodic Updation

Periodic updation shall be carried out at least once in every two years for high risk customers, once in every eight years for medium risk customers and once in every ten years for low risk customers subject to the following conditions:

- a. Fresh proofs of identity and address shall not be sought at the time of periodic updation, from customers who are categorised as 'low risk', when there is no change in status with respect to their identities and addresses and a self-certification to that effect is obtained.
- b. A certified copy of the proof of address forwarded by 'low risk' customers through mail/post, etc., in case of change of address shall be acceptable.
- c. Physical presence of low risk customer at the time of periodic updation shall not be insisted upon.
- d. The time limits prescribed above would apply from the date of opening of the account/ last verification of KYC.
- e. Fresh photographs shall be obtained from customer for whom account was opened when they were minor, on their becoming a major.

39. Partial freezing and closure of accounts

(a) Where REs are unable to comply with the CDD requirements mentioned at Part I to V above, they shall not open accounts, commence business relations or perform transactions. In case of existing business relationship which is not KYC compliant, banks shall ordinarily take step to terminate the existing business relationship after giving due notice.

(b) As an exception to the Rule, banks shall have an option to choose not to terminate business relationship straight away and instead opt for a phased closure of operations in this account as explained below:

- i. The option of 'partial freezing' shall be exercised after giving due notice of three months to the customers to comply with KYC requirements.
- ii. A reminder giving a further period of three months shall also be given.
- iii. Thereafter, 'partial freezing' shall be imposed by allowing all credits and disallowing all debits with the freedom to close the accounts in case of the account being KYC non-compliant after six months of issuing first notice.
- iv. All debits and credits from/ to the accounts shall be disallowed, in case of the account being KYC non-compliant after six months of imposing 'partial freezing',
- v. The account holders shall have the option, to revive their accounts by submitting the KYC documents.

(c) When an account is closed whether without 'partial freezing' or after 'partial freezing', the reason for that shall be communicated to account holder.

Part VI - Enhanced and Simplified Due Diligence Procedure

A. Enhanced Due Diligence

40. Accounts of non-face-to-face customers: REs shall include additional procedures i.e., certification of all the documents presented, calling for additional documents and the first payment to be effected through the customer's KYC-complied account with another RE, for enhanced due diligence of non-face to face customers.

41. Accounts of Politically Exposed Persons (PEPs)

A. REs shall have the option of establishing a relationship with PEPs provided that:

- a. sufficient information including information about the sources of funds accounts of family members and close relatives is gathered on the PEP;
- b. the identity of the person shall have been verified before accepting the PEP as a customer;
- c. the decision to open an account for a PEP is taken at a senior level in accordance with the REs' Customer Acceptance Policy;
- d. all such accounts are subjected to enhanced monitoring on an on-going basis;
- e. in the event of an existing customer or the beneficial owner of an existing account subsequently becoming a PEP, senior management's approval is obtained to continue the business relationship;
- f. the CDD measures as applicable to PEPs including enhanced monitoring on an on-going basis are applicable.

B. These instructions shall also be applicable to accounts where a PEP is the beneficial owner

42. Client accounts opened by professional intermediaries:

REs shall ensure while opening client accounts through professional intermediaries, that:

- a. Clients shall be identified when client account is opened by a professional intermediary on behalf of a single client.

- b. REs shall have option to hold 'pooled' accounts managed by professional intermediaries on behalf of entities like mutual funds, pension funds or other types of funds.
- c. REs shall not open accounts of such professional intermediaries who are bound by any client confidentiality that prohibits disclosure of the client details to the RE.
- d. All the beneficial owners shall be identified where funds held by the intermediaries are not co-mingled at the level of RE, and there are 'sub-accounts', each of them attributable to a beneficial owner, or where such funds are co-mingled at the level of RE, the RE shall look for the beneficial owners.
- e. REs shall, at their discretion, rely on the 'customer due diligence' (CDD) done by an intermediary, provided that the intermediary is a regulated and supervised entity and has adequate systems in place to comply with the KYC requirements of the customers.
- f. The ultimate responsibility for knowing the customer lies with the RE.

B. Simplified Due Diligence

43. Simplified norms for Self Help Groups (SHGs)

- a. KYC verification of all the members of SHG shall not be required while opening the savings bank account of the SHG
- b. KYC verification of all the office bearers shall suffice.
- c. No separate KYC verification of the members or office bearers shall be necessary at the time of credit linking of SHGs.

44. Procedure to be followed by banks while opening accounts of foreign students

(a) Banks shall, at their option, open a Non Resident Ordinary (NRO) bank account of a foreign student on the basis of his/her passport (with visa & immigration endorsement) bearing the proof of identity and address in the home country together with a photograph and a letter offering admission from the educational institution in India.

- i. Provided that a declaration about the local address shall be obtained within a period of 30 days of opening the account and the said local address is verified.
- ii. Provided further that pending the verification of address, the account shall be operated with a condition of allowing foreign remittances not exceeding USD 1,000 or equivalent into the account and a cap of rupees fifty thousand on aggregate in the same, during the 30-day period.

(b) The account shall be treated as a normal NRO account, and shall be operated in terms of RBI's instructions on Non-Resident Ordinary Rupee (NRO) Account, and the provisions of FEMA. 1999.

(c) Students with Pakistani nationality shall require prior approval of the Reserve Bank for opening the account.

45. Simplified KYC norms for Foreign Portfolio Investors (FPIs)

Accounts of FPIs which are eligible/ registered as per SEBI guidelines, for the purpose of investment under Portfolio Investment Scheme (PIS), shall be opened by accepting KYC documents as detailed in [Annex II](#), subject to Income Tax (FATCA/CRS) Rules.

Provided that banks shall obtain undertaking from FPIs or the Global Custodian acting on behalf of the FPI that as and when required, the exempted documents as detailed in [Annex II](#) will be submitted.

Chapter VII Record Management

46. The following steps shall be taken regarding maintenance, preservation and reporting of customer account information, with reference to provisions of PML Act and Rules. REs shall,

(a) maintain all necessary records of transactions between the RE and the customer, both domestic and international, for at least five years from the date of transaction;

(b) preserve the records pertaining to the identification of the customers and their addresses obtained while opening the account and during the course of business relationship, for at least five years after the business relationship is ended;

(c) make available the identification records and transaction data to the competent authorities upon request;

(d) introduce a system of maintaining proper record of transactions prescribed under Rule 3 of Prevention of Money Laundering (Maintenance of Records) Rules, 2005 (PML Rules, 2005);

(e) maintain all necessary information in respect of transactions prescribed under PML Rule 3 so as to permit reconstruction of individual transaction, including the following:

- i. the nature of the transactions;
- ii. the amount of the transaction and the currency in which it was denominated;
- iii. the date on which the transaction was conducted; and
- iv. the parties to the transaction.

(f) evolve a system for proper maintenance and preservation of account information in a manner that allows data to be retrieved easily and quickly whenever required or when requested by the competent authorities;

(g) maintain records of the identity and address of their customer, and records in respect of transactions referred to in Rule 3 in hard or soft format.

Chapter VIII Reporting Requirements to Financial Intelligence Unit - India

47. REs shall furnish to the Director, Financial Intelligence Unit-India (FIU-IND), information referred to in Rule 3 of the PML (Maintenance of Records) Rules, 2005 in terms of Rule 7 thereof.

Explanation: In terms of Third Amendment Rules notified September 22, 2015 regarding amendment to sub rule 3 and 4 of rule 7, Director, FIU-IND shall have powers to issue guidelines to the REs for detecting transactions referred to in various clauses of sub-rule (1) of rule 3, to direct them about the form of furnishing information and to specify the procedure and the manner of furnishing information.

48. The reporting formats and comprehensive reporting format guide, prescribed/ released by FIU-IND and Report Generation Utility and Report Validation Utility developed to assist reporting entities in the preparation of prescribed reports shall be taken note of. The editable electronic utilities to file electronic Cash Transaction Reports (CTR) / Suspicious Transaction Reports (STR) which FIU-IND has placed on its website shall be made use of by REs which are yet to install/adopt suitable technological tools for extracting CTR/STR from their live transaction data. The Principal Officers of those REs, whose all branches are not fully computerized, shall have suitable arrangement to cull out the transaction details from branches which are not yet computerized and to feed the data into an electronic file with the help of the editable electronic utilities of CTR/STR as have been made available by FIU-IND on its website <http://fiuindia.gov.in>.

49. While furnishing information to the Director, FIU-IND, delay of each day in not reporting a transaction or delay of each day in rectifying a mis-represented transaction beyond the time limit as specified in the Rule shall be constituted as a separate violation. REs shall not put any restriction on operations in the accounts where an STR has been filed. REs shall keep the fact of furnishing of STR strictly confidential. It shall be ensured that there is no tipping off to the customer at any level.

50. Robust software, throwing alerts when the transactions are inconsistent with risk categorization and updated profile of the customers shall be put in to use as a part of effective identification and reporting of suspicious transactions.

Chapter IX

Requirements/obligations under International Agreements Communications from International Agencies –

51. REs shall ensure that in terms of Section 51A of the Unlawful Activities (Prevention) (UAPA) Act, 1967, they do not have any account in the name of individuals/entities appearing in the lists of individuals and entities, suspected of having terrorist links, which are approved by and periodically circulated by the United Nations Security Council (UNSC). The details of the two lists are as under:

(a) The “ISIL (Da’esh) & Al-Qaida Sanctions List”, which includes names of individuals and entities associated with the Al-Qaida. The updated ISIL & Al-Qaida Sanctions List is available at

<https://www.un.org/sc/suborg/sites/www.un.org.sc.suborg/files/1267.pdf>

(b) The “1988 Sanctions List”, consisting of individuals (Section A of the consolidated list) and entities (Section B) associated with the Taliban which is available at

<http://www.un.org/sc/committees/1988/list.shtml>.

52. Details of accounts resembling any of the individuals/entities in the lists shall be reported to FIU-IND apart from advising Ministry of Home Affairs as required under UAPA notification dated August 27, 2009.

53. In addition to the above, other UNSCRs circulated by the Reserve Bank in respect of any other jurisdictions/ entities from time to time shall also be taken note of.

54. Freezing of Assets under Section 51A of Unlawful Activities (Prevention) Act, 1967

The procedure laid down in the UAPA Order dated August 27, 2009 ([Annex I](#) of this Master Direction shall be strictly followed and meticulous compliance with the Order issued by the Government shall be ensured.

55. Jurisdictions that do not or insufficiently apply the FATF Recommendations

- a. FATF Statements circulated by RBI from time to time, and publicly available information, for identifying countries, which do not or insufficiently apply the FATF Recommendations, shall be considered. Risks arising from the deficiencies in AML/CFT regime of the jurisdictions included in the FATF Statement shall be taken into account.
- b. Special attention shall be given to business relationships and transactions with persons (including legal persons and other financial institutions) from or in countries that do not or insufficiently apply the FATF Recommendations and jurisdictions included in FATF Statements.

Explanation: The process referred to in Section 55 a & b do not preclude REs from having legitimate trade and business transactions with the countries and jurisdictions mentioned in the FATF statement.

- c. The background and purpose of transactions with persons (including legal persons and other financial institutions) from jurisdictions included in FATF Statements and countries that do not or insufficiently apply the FATF Recommendations shall be examined, and written findings together with all documents shall be retained and shall be made available to Reserve Bank/other relevant authorities, on request.

Chapter X Other Instructions

56. Secrecy Obligations and Sharing of Information:

(a) Banks shall maintain secrecy regarding the customer information which arises out of the contractual relationship between the banker and customer.

(b) While considering the requests for data/information from Government and other agencies, banks shall satisfy themselves that the information being sought is not of such a nature as will violate the provisions of the laws relating to secrecy in the banking transactions.

(c) The exceptions to the said rule shall be as under:

- i. Where there is a duty to the public to disclose,
- ii. the interest of bank requires disclosure and

iii. Where the disclosure is made with the express or implied consent of the customer.

(d) NBFCs shall maintain confidentiality of information as provided in Section 45NB of RBI Act 1934.

57. CDD Procedure and sharing KYC information with Central KYC Records Registry (CKYCR)

58. Reporting requirement under Foreign Account Tax Compliance Act (FATCA) and Common Reporting Standards (CRS)

Under FATCA and CRS, REs shall determine whether they are a Reporting Financial Institution as defined in Income Tax Rule 114F and if so, shall take following steps for complying with the reporting requirements:

(a) Register on the related e-filing portal of Income Tax Department as Reporting Financial Institutions at the link <https://incometaxindiaefiling.gov.in/> post login --> My Account --> Register as Reporting Financial Institution,

(b) Submit online reports by using the digital signature of the 'Designated Director' by either uploading the Form 61B or 'NIL' report, for which, the schema prepared by Central Board of Direct Taxes (CBDT) shall be referred to.

Explanation: REs shall refer to the spot reference rates published by Foreign Exchange Dealers' Association of India (FEDAI) on their website at <http://www.fedai.org.in/RevaluationRates.aspx> for carrying out the due diligence procedure for the purposes of identifying reportable accounts in terms of Rule 114H.

(c) Develop Information Technology (IT) framework for carrying out due diligence procedure and for recording and maintaining the same, as provided in Rule 114H.

(d) Develop a system of audit for the IT framework and compliance with Rules 114F, 114G and 114H of Income Tax Rules.

(e) Constitute a "High Level Monitoring Committee" under the Designated Director or any other equivalent functionary to ensure compliance.

59. Period for presenting payment instruments

Payment of cheques/drafts/pay orders/banker's cheques, if they are presented beyond the period of three months from the date of such instruments, shall not be made.

60. Operation of Bank Accounts & Money Mules

The instructions on opening of accounts and monitoring of transactions shall be strictly adhered to, in order to minimise the operations of "Money Mules" which are used to launder the proceeds of fraud schemes (e.g., phishing and identity theft) by criminals who gain illegal access to deposit accounts by recruiting third parties which act as "money mules." If it is established that an account opened and operated is that of a Money Mule, it shall be deemed that the bank has not complied with these directions.

61. Collection of Account Payee Cheques

Account payee cheques for any person other than the payee constituent shall not be collected. Banks shall, at their option, collect account payee cheques drawn for an amount not exceeding rupees fifty thousand to the account of their customers who are co-operative credit societies, provided the payees of such cheques are the constituents of such co-operative credit societies.

62. (a) A Unique Customer Identification Code (UCIC) shall be allotted while entering into new relationships with individual customers as also the existing customers by banks and NBFCs.

(b) The banks/NBFCs shall, at their option, not issue UCIC to all walk-in/occasional customers such as buyers of pre-paid instruments/purchasers of third party products provided it is ensured that there is adequate mechanism to identify such walk-in customers who have frequent transactions with them and ensure that they are allotted UCIC.

63. Introduction of New Technologies – Credit Cards/Debit Cards/ Smart Cards/Gift Cards/Mobile Wallet/ Net Banking/ Mobile Banking/RTGS/ NEFT/ECS/IMPS etc.

Adequate attention shall be paid by REs to any money-laundering and financing of terrorism threats that may arise from new or developing technologies and it shall be ensured that appropriate KYC procedures issued from time to time are duly applied before introducing new products/services/technologies. Agents used for marketing of credit cards shall also be subjected to due diligence and KYC measures.

64. Correspondent Banks

Banks shall have a policy approved by their Boards, or by a committee headed by the Chairman/CEO/MD to lay down parameters for approving correspondent banking relationships subject to the following conditions:

- a. Sufficient information in relation to the nature of business of the bank including information on management, major business activities, level of AML/CFT compliance, purpose of opening the account, identity of any third party entities that will use the correspondent banking services, and regulatory/supervisory framework in the bank's home country shall be gathered.
- b. Post facto approval of the Board at its next meeting shall be obtained for the proposals approved by the Committee.
- c. The responsibilities of each bank with whom correspondent banking relationship is established shall be clearly documented.
- d. In the case of payable-through-accounts, the correspondent bank shall be satisfied that the respondent bank has verified the identity of the customers having direct access to the accounts and is undertaking on-going 'due diligence' on them.
- e. The correspondent bank shall ensure that the respondent bank is able to provide the relevant customer identification data immediately on request.
- f. Correspondent relationship shall not be entered into with a shell bank.
- g. It shall be ensured that the correspondent banks do not permit their accounts to be used by shell banks.

- h. Banks shall be cautious with correspondent banks located in jurisdictions which have strategic deficiencies or have not made sufficient progress in implementation of FATF Recommendations.
- i. Banks shall ensure that respondent banks have KYC/AML policies and procedures in place and apply enhanced 'due diligence' procedures for transactions carried out through the correspondent accounts.

65. Wire transfer

REs shall ensure the following while effecting wire transfer:

- a. All cross-border wire transfers including transactions using credit or debit card shall be accompanied by accurate and meaningful originator information such as name, address and account number or a unique reference number, as prevalent in the country concerned in the absence of account.

Exception: Interbank transfers and settlements where both the originator and beneficiary are banks or financial institutions shall be exempt from the above requirements.

- b. Domestic wire transfers of rupees fifty thousand and above shall be accompanied by originator information such as name, address and account number.
- c. Customer Identification shall be made if a customer is intentionally structuring wire transfer below rupees fifty thousand to avoid reporting or monitoring. In case of non-cooperation from the customer, efforts shall be made to establish his identity and STR shall be made to FIU-IND.
- d. Complete originator information relating to qualifying wire transfers shall be preserved at least for a period of five years by the ordering bank.
- e. A bank processing as an intermediary element of a chain of wire transfers shall ensure that all originator information accompanying a wire transfer is retained with the transfer.
- f. The receiving intermediary bank shall transfer full originator information accompanying a cross-border wire transfer and preserve the same for at least five years if the same cannot be sent with a related domestic wire transfer, due to technical limitations.
- g. All the information on the originator of wire transfers shall be immediately made available to appropriate law enforcement and/or prosecutorial authorities on receiving such requests.
- h. Effective risk-based procedures to identify wire transfers lacking complete originator information shall be in place at a beneficiary bank.
- i. Beneficiary bank shall report transaction lacking complete originator information to FIU-IND as a suspicious transaction.
- j. The beneficiary bank shall seek detailed information of the fund remitter with the ordering bank and if the ordering bank fails to furnish information on the remitter, the beneficiary shall consider restricting or terminating its business relationship with the ordering bank.

66. Issue and Payment of Demand Drafts, etc.,

Any remittance of funds by way of demand draft, mail/telegraphic transfer/NEFT/IMPS or any other mode and issue of travellers' cheques for value of rupees fifty thousand and above

shall be effected by debit to the customer's account or against cheques and not against cash payment.

67. Quoting of PAN

Permanent account number (PAN) of customers shall be obtained and verified while undertaking transactions as per the provisions of [Income Tax Rule 114B](#) applicable to banks, as amended from time to time. Form 60 shall be obtained from persons who do not have PAN.

68. Selling Third party products

REs acting as agents while selling third party products as per regulations in force from time to time shall comply with the following aspects for the purpose of these directions:

(a) the identity and address of the walk-in customer shall be verified for transactions above rupees fifty thousand as required under Section 13(e) of this Directions.

(b) transaction details of sale of third party products and related records shall be maintained as prescribed in Chapter VII Section 46.

(c) AML software capable of capturing, generating and analysing alerts for the purpose of filing CTR/STR in respect of transactions relating to third party products with customers including walk-in customers shall be available.

(d) transactions involving rupees fifty thousand and above shall be undertaken only by:

- debit to customers' account or against cheques; and
- obtaining and verifying the PAN given by the account based as well as walk-in customers.

(e) Instruction at 'd' above shall also apply to sale of REs' own products, payment of dues of credit cards/sale and reloading of prepaid/travel cards and any other product for rupees fifty thousand and above.

69. At-par cheque facility availed by co-operative banks

(a) The 'at par' cheque facility offered by commercial banks to co-operative banks shall be monitored and such arrangements be reviewed to assess the risks including credit risk and reputational risk arising therefrom.

(b) The right to verify the records maintained by the customer cooperative banks/ societies for compliance with the extant instructions on KYC and AML under such arrangements shall be retained by banks.

(c) Cooperative Banks shall:

i. ensure that the 'at par' cheque facility is utilised only:

- a. for their own use,

- b. for their account-holders who are KYC complaint, provided that all transactions of rupees fifty thousand or more are strictly by debit to the customers' accounts,
- c. for walk-in customers against cash for less than rupees fifty thousand per individual.

ii. maintain the following:

- a. records pertaining to issuance of 'at par' cheques covering, inter alia, applicant's name and account number, beneficiary's details and date of issuance of the 'at par' cheque,
- b. sufficient balances/drawing arrangements with the commercial bank extending such facility for purpose of honouring such instruments.

iii. ensure that 'At par' cheques issued are crossed 'account payee' irrespective of the amount involved.

70. Issuance of Prepaid Payment Instruments (PPIs):

PPI issuers shall ensure that the instructions issued by Department of Payment and Settlement System of RBI through their Master Direction are strictly adhered to.

71. Hiring of Employees and Employee training

- a. Adequate screening mechanism as an integral part of their personnel recruitment/hiring process shall be put in place.
- b. On-going employee training programme shall be put in place so that the members of staff are adequately trained in AML/CFT policy. The focus of the training shall be different for frontline staff, compliance staff and staff dealing with new customers. The front desk staff shall be specially trained to handle issues arising from lack of customer education. Proper staffing of the audit function with persons adequately trained and well-versed in AML/CFT policies of the RE, regulation and related issues shall be ensured.

72. Adherence to Know Your Customer (KYC) guidelines by NBFCs/RNBCs and persons authorised by NBFCs/RNBCs including brokers/agents etc.

- a. Persons authorised by NBFCs/ RNBCs for collecting the deposits and their brokers/agents or the like, shall be fully compliant with the KYC guidelines applicable to NBFCs/RNBCs.
- b. All information shall be made available to the RBI to verify the compliance with the KYC guidelines and accept full consequences of any violation by the persons authorised by NBFCs/RNBCs including brokers/agents etc. who are operating on their behalf.
- c. The books of accounts of persons authorised by NBFCs/RNBCs including brokers/agents or the like, so far as they relate to brokerage functions of the company, shall be made available for audit and inspection whenever required.

Chapter XI

Repeal Provisions

73. With the issue of these directions, the instructions / guidelines contained in the circulars mentioned in the [Appendix](#), issued by the Reserve Bank stand repealed.

74. All approvals / acknowledgements given under the above circulars shall be deemed as given under these directions.

75. All the repealed circulars are deemed to have been in force prior to the coming into effect of these directions.

Annex I

Government Order on Procedure for Implementation of Section 51A of The Unlawful Activities (Prevention) Act, 1967

File No.17015/10/2002-IS-VI
Government of India
Ministry of Home Affairs
Internal Security - I Division

New Delhi, Dated 27th August, 2009

To,

1. Governor, Reserve Bank of India, Mumbai
2. Chairman, Securities & Exchange Board of India, Mumbai
3. Chairman, Insurance Regulatory and Development Authority, Hyderabad
4. Foreign Secretary, Ministry of External Affairs, New Delhi
5. Finance Secretary, Ministry of Finance, New Delhi
6. Revenue Secretary, Department of Revenue, Ministry of Finance, New Delhi
7. Director, Intelligence Bureau, New Delhi
8. Additional Secretary, Department of Financial Services, Ministry of Finance, New Delhi
9. Chief Secretaries of all States / Union Territories

Order

Procedure for Implementation of Section 51A of
The Unlawful Activities (Prevention) Act, 1967

The Unlawful Activities (Prevention) Act, 1967 (UAPA) was amended and notified on 31.12.2008, which, inter-alia, inserted Section 51A to the Act. Section 51A reads as under :

"51A. For the prevention of, and for coping with terrorist activities, the Central Government shall have power to -

- (a) 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;
- (b) 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;

- (c) prevent the entry into or the transit through India of individuals Listed in the Schedule to the Order or any other person engaged in or suspected to be engaged in terrorism",

The Unlawful Activities (Prevention) Act define "Order" as under :

"Order" means the Prevention and Suppression of Terrorism (Implementation of Security Council Resolutions) Order, 2007, as may be amended from time to time.

In order to expeditiously and effectively implement the provisions of Section 51A, the following procedures shall be followed :-

Appointment and Communication of Details of UAPA Nodal Officers

2. As regards appointment and communication of details of UAPA nodal officers -

- (i) The UAPA nodal officer for IS-I division would be the Joint Secretary (IS.I), Ministry of Home Affairs. His contact details are 011-23092736 (Tel), 011-23092569 (Fax) and jsis@nic.in (e-mail id).
- (ii) The Ministry of External affairs, Department of Economic affairs, Foreigners Division of MHA, FIU-IND; and RBI, SEBI, IRDA (hereinafter referred to as Regulators) shall appoint a UAPA nodal officer and communicate the name and contact details to the IS-I Division in MHA.
- (iii) The States and UTs should appoint a UAPA nodal officer preferably of the rank of the Principal Secretary / Secretary, Home Department and communicate the name and contact details to the IS-I Division in MHA.
- (iv) The IS-I Division in MHA would maintain the consolidated list of all UAPA nodal officers and forward the list to all other UAPA nodal officers.
- (v) The RBI, SEBI, IRDA should forward the consolidated list of UAPA nodal officers to the Banks, stock exchanges / depositories, intermediaries regulated by SEBI and insurance companies respectively
- (vi) The consolidated list of the UAPA nodal officers should be circulated to the nodal officer of IS-I Division of MHA in July every year and on every change. Joint Secretary (IS-I), being the nodal officer of IS-I Division of MHA, shall cause the amended list of UAPA nodal officers to be circulated to the nodal officers of Ministry of External Affairs, Department of Economic affairs, Foreigners Division of MHA, RBI, SEBI, IRDA and FIU-IND.

Communication of the List of Designated Individuals / Entities

3. As regards communication of the list of designated individuals / entities -

- (i) The Ministry of External Affairs shall update the list of individuals and entities subject to UN sanction measures on a regular basis. On any revision, the Ministry of External Affairs would electronically forward this list to the Nodal officers in Regulators, FIU-IND, IS-I Division and Foreigners' Division in MHA.
- (ii) The Regulators would forward the list mentioned in (i) above (referred to as designated lists) to the banks, stock exchanges / depositories, intermediaries regulated by SEBI and insurance companies respectively.
- (iii) The IS-I Division of MHA would forward the designated lists to the UAPA nodal officer of all States and UTs.

- (iv) The Foreigners Division of MHA would forward the designated lists to the immigration authorities and security agencies.

Regarding Funds, Financial Assets or Economic Resources or related Services held in the Form of Bank Accounts, Stocks or Insurance Policies etc.

4. As regards funds, financial assets or economic resources or related services held in the form of bank accounts, stocks or Insurance policies etc., the Regulators would forward the designated lists to the banks, stock exchanges / depositories, intermediaries regulated by SEBI and insurance companies respectively. The RBI, SEBI and IRDA would issue necessary guidelines to banks, stock exchanges / depositories, intermediaries regulated by SEBI and insurance companies requiring them to -

- (i) Maintain updated designated lists in electronic form and run a check on the given parameters on a regular basis to verify whether individuals or entities listed in the schedule to the Order, herein after, referred to as designated individuals / entities are holding any funds, financial assets or economic resources or related services held in the form of bank accounts, stocks or Insurance policies etc., with them.
- (ii) In case, the particulars of any of their customers match with the particulars of designated individuals / entities, the banks, stock exchanges / depositories, intermediaries regulated by SEBI and insurance companies shall immediately, not later than 24 hours from the time of finding out such customer, inform full particulars of the funds, financial assets or economic resources or related services held in the form of bank accounts, stocks or Insurance policies etc., held by such customer on their books to the Joint Secretary (IS.I), Ministry of Home Affairs, at Fax No.011-23092569 and also convey over telephone on 011-23092736. The particulars apart from being sent by post should necessarily be conveyed on e-mail id :jsis@nic.in
- (iii) The banks, stock exchanges / depositories, intermediaries regulated by SEBI and insurance companies shall also send a copy of the communication mentioned in (ii) above to the UAPA nodal officer of the state / UT where the account is held and Regulators and FIU-IND, as the case may be.
- (iv) In case, the match of any of the customers with the particulars of designated individuals / entities is beyond doubt, the banks, stock exchanges / depositories, intermediaries regulated by SEBI and insurance companies would prevent designated persons from conducting financial transactions, under intimation to the Joint Secretary (IS.I), Ministry of Home Affairs, at Fax No.011-23092569 and also convey over telephone on 011- 23092736. The particulars apart from being sent by post should necessarily be conveyed on e-mail id :jsis@nic.in
- (v) The Banks, stock exchanges / depositories, intermediaries regulated by SEBI and insurance companies, shall file a Suspicious Transaction Report (STR) with FIU-IND covering all transactions in the accounts covered by paragraph (ii) above, carried through or attempted as per the prescribed format.

5. On receipt of the particulars referred to in paragraph 3 (ii) above, IS-I Division of MHA would cause a verification to be conducted by the State Police and / or the Central Agencies so as to ensure that the individuals / entities identified by the Banks, stock exchanges / depositories, intermediaries regulated by SEBI and Insurance Companies are the ones listed

as designated individuals / entities and the funds, financial assets or economic resources or related services, reported by banks, stock exchanges / depositories, intermediaries regulated by SEBI and insurance companies are held by the designated individuals / entities. This verification would be completed within a period not exceeding 5 working days from the date of receipt of such particulars.

6. In case, the results of the verification indicate that the properties are owned by or are held for the benefit of the designated individuals / entities, an order to freeze these assets under section 51A of the UAPA would be issued within 24 hours of such verification and conveyed electronically to the concerned bank branch, depository, branch of insurance company branch under intimation to respective Regulators and FIU-IND. The UAPA nodal officer of IS-I Division of MHA shall also forward a copy thereof to all the Principal Secretary / Secretary, Home Department of the States or UTs, so that any individual or entity may be prohibited from making any funds, financial assets or economic resources or related services available for the benefit of the designated individuals / entities or any other person engaged in or suspected to be engaged in terrorism. The UAPA nodal officer of IS-I Division of MHA shall also forward a copy of the order under section 51A, to all Directors General of Police / Commissioners of Police of all states / UTs for initiating action under the provisions of Unlawful Activities (Prevention) Act.

The order shall take place without prior notice to the designated individuals / entities.

Regarding Financial Assets or Economic Resources of the Nature of Immovable Properties

7. IS-I Division of MHA would electronically forward the designated lists to the UAPA nodal officer of all States and UTs with the request to have the names of the designated individuals / entities, on the given parameters, verified from the records of the office of the Registrar performing the work of registration of immovable properties in their respective jurisdiction.

8. In case, the designated individuals / entities are holding financial assets or economic resources of the nature of immovable property and if any match with the designated individuals / entities is found, the UAPA nodal officer of the state / UT would cause communication of the complete particulars of such individual / entity along with complete details of the financial assets or economic resources of the nature of immovable property to Joint Secretary (IS.I), Ministry of Home Affairs, immediately within 24 hours at Fax No.011-23092569 and also convey over telephone on 011-23092736. The particulars apart from being sent by post would necessarily be conveyed on e-mail id : jsis@nic.in.

9. The UAPA nodal officer of the state / UT may cause such inquiry to be conducted by the State Police so as to ensure that the particulars sent by the Registrar performing the work of registering immovable properties are indeed of these designated individuals / entities. This verification would be completed within a maximum of 5 working days and should be conveyed within 24 hours of the verification, if it matches with the particulars of the designated individual / entity to Joint Secretary (IS-I), Ministry of Home Affairs at the Fax, telephone numbers and also on the e-mail id given below.

10. A copy of this reference should be sent to Joint Secretary (IS.I), Ministry of Home Affairs, at Fax No.011-23092569 and also convey over telephone on 011- 23092736. The particulars apart from being sent by post would necessarily be conveyed on e-mail id : jsis@nic.in. MHA may have the verification also conducted by the Central Agencies. This verification would be completed within a maximum of 5 working days.

11. In case, the results of the verification indicate that the particulars match with those of designated individuals / entities, an order under section 51A of the UAPA would be issued within 24 hours, by the nodal officer of IS-I Division of MHA and conveyed to the concerned Registrar performing the work of registering immovable properties and to FIU-IND under intimation to the concerned UAPA nodal officer of the state / UT.

The order shall take place without prior notice, to the designated individuals/entities.

12. Further, the UAPA nodal officer of the state / UT shall cause to monitor the transactions / accounts of the designated individual / entity so as 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 UAPA nodal officer of the state / UT shall upon coming to his notice, transactions and attempts by third party immediately bring to the notice of the DGP / Commissioner of Police of the State / UT for also initiating action under the provisions of Unlawful Activities (Prevention) Act.

Implementation of Requests Received from Foreign Countries under U.N. Security Council Resolution 1373 of 2001

13. U.N. Security Council Resolution 1373 obligates countries to freeze without delay the funds or other assets of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts; of entities owned or controlled directly or indirectly by such persons; and of persons and entities acting on behalf of, or at the direction of such persons and entities, including funds or other assets derived or generated from property owned or controlled, directly or indirectly, by such persons and associated persons and entities. Each individual country has the authority to designate the persons and entities that should have their funds or other assets frozen. Additionally, to ensure that effective cooperation is developed among countries, countries should examine and give effect to, if appropriate, the actions initiated under the freezing mechanisms of other countries.

14. To give effect to the requests of foreign countries under U.N. Security Council Resolution 1373, the Ministry of External Affairs shall examine the requests made by the foreign countries and forward it electronically, with their comments, to the UAPA nodal officer for IS-I Division for freezing of funds or other assets.

15. The UAPA nodal officer of IS-I Division of MHA, shall cause the request to be examined, within 5 working days, so as to satisfy itself that on the basis of applicable legal principles, the requested designation is supported by reasonable grounds, or a reasonable basis, to suspect or believe that the proposed designee is a terrorist, one who finances terrorism or a terrorist organization, and upon his satisfaction, request would be electronically forwarded to the nodal officers in Regulators, FIU-IND and to the nodal officers of the States / UTs. The proposed designee, as mentioned above would be treated as designated individuals / entities.

16. Upon receipt of the requests by these nodal officers from the UAPA nodal officer of IS-I Division, the procedure as enumerated at paragraphs 4 to 12 above shall be followed.

The freezing orders shall take place without prior notice to the designated persons involved Procedure for Unfreezing of Funds, Financial Assets or Economic Resources or related Services of Individuals / Entities Inadvertently affected by the Freezing Mechanism upon Verification that the Person or Entity is not a Designated Person

17. Any individual or entity, if it has evidence to prove that the freezing of funds, financial assets or economic resources or related services, owned / held by them has been inadvertently frozen, they shall move an application giving the requisite evidence, in writing, to the concerned bank, stock exchanges / depositories, intermediaries regulated by SEBI, insurance companies, Registrar of Immovable Properties and the State / UT nodal officers.

18. The banks, stock exchanges / depositories, intermediaries regulated by SEBI, insurance companies, Registrar of Immovable Properties and the State / UT nodal officers shall inform and forward a copy of the application together with full details of the asset frozen given by any individual or entity informing of the funds, financial assets or economic resources or related services have been frozen inadvertently, to the nodal officer of IS-I Division of MHA as per the contact details given in paragraph 4 (ii) above, within two working days.

19. The Joint Secretary (IS-I), MHA, being the nodal officer for IS-I Division of MHA shall cause such verification as may be required on the basis of the evidence furnished by the individual / entity and if he is satisfied, he shall pass an order, within 15 working days, unfreezing the funds, financial assets or economic resources or related services, owned / held by such applicant, under intimation to the concerned bank, stock exchanges / depositories, intermediaries regulated by SEBI, insurance company and the nodal officers of States / UTs. However, if it is not possible for any reason to pass an Order unfreezing the assets within 15 working days, the nodal officer of IS-I Division shall inform the applicant.

Communication of Orders under Section 51A of Unlawful Activities (Prevention) Act

20. All Orders under section 51A of Unlawful Activities (Prevention) Act, relating to funds, financial assets or economic resources or related services, would be communicated to all the banks, depositories / stock exchanges, intermediaries regulated by SEBI, insurance companies through respective Regulators, and to all the Registrars performing the work of registering immovable properties, through the state / UT nodal officer by IS-I Division of MHA.

Regarding Prevention of Entry into or Transit through India

21. As regards prevention of entry into or transit through India of the designated individuals, the Foreigners Division of MHA, shall forward the designated lists to the immigration authorities and security agencies with a request to prevent the entry into or the transit through India. The order shall take place without prior notice to the designated individuals / entities.

22. The immigration authorities shall ensure strict compliance of the Orders and also communicate the details of entry or transit through India of the designated individuals as prevented by them to the Foreigners' Division of MHA.

Procedure for Communication of Compliance of Action taken under Section 51A

23. The nodal officers of IS-I Division and Foreigners Division of MHA shall furnish the details of funds, financial assets or economic resources or related services of designated individuals / entities frozen by an order, and details of the individuals whose entry into India or transit through India was prevented, respectively, to the Ministry of External Affairs for onward communication to the United Nations.

24. All concerned are requested to ensure strict compliance of this order.

(D. Diptivilasa)

Joint Secretary to Government of India

Annex II KYC documents for eligible FPIs under PIS

Document Type		FPI Type		
		Category I	Category II	Category III
Entity Level	Constitutive Documents (Memorandum and Articles of Association, Certificate of Incorporation etc.)	Mandatory	Mandatory	Mandatory
	Proof of Address	Mandatory (Power of Attorney {PoA} mentioning the	Mandatory (Power of Attorney mentioning the	Mandatory other than Power of Attorney

		address is acceptable as address proof)	address is acceptable as address proof)	
	PAN Card	Mandatory	Mandatory	Mandatory
	Financial Data	Exempted *	Exempted *	Mandatory
	SEBI Registration Certificate	Mandatory	Mandatory	Mandatory
	Board Resolution@@	Exempted *	Mandatory	Mandatory
Senior Management (Whole Time Directors/ Partners/ Trustees/ etc.)	List	Mandatory	Mandatory	Mandatory
	Proof of Identity	Exempted *	Exempted *	Entity declares* on letter head full name, nationality, date of birth or submits photo identity proof
	Proof of Address	Exempted *	Exempted *	Declaration on Letter Head *
	Photographs	Exempted	Exempted	Exempted *
Authorized Signatories	List and Signatures	Mandatory – list of Global Custodian signatories can be given in case of PoA to Global Custodian	Mandatory - list of Global Custodian signatories can be given in case of PoA to Global Custodian	Mandatory
	Proof of Identity	Exempted *	Exempted *	Mandatory
	Proof of Address	Exempted *	Exempted *	Declaration on Letter Head *
	Photographs	Exempted	Exempted	Exempted *
Ultimate Beneficial Owner (UBO)	List	Exempted *	Mandatory (can declare “no UBO over 25%”)	Mandatory
	Proof of Identity	Exempted *	Exempted *	Mandatory
	Proof of Address	Exempted *	Exempted *	Declaration on Letter Head *
	Photographs	Exempted	Exempted	Exempted *

* Not required while opening the bank account. However, FPIs concerned may submit an undertaking that upon demand by Regulators/Law Enforcement Agencies the relative document/s would be submitted to the bank.

Category	Eligible Foreign Investors
I.	Government and Government related foreign investors such as Foreign Central Banks, Governmental Agencies, Sovereign Wealth Funds, International/ Multilateral Organizations/ Agencies.

II.	<p>a. Appropriately regulated broad based funds such as Mutual Funds, Investment Trusts, Insurance /Reinsurance Companies, Other Broad Based Funds etc.</p> <p>b. Appropriately regulated entities such as Banks, Asset Management Companies, Investment Managers/ Advisors, Portfolio Managers etc.</p> <p>c. Broad based funds whose investment manager is appropriately regulated.</p> <p>d. University Funds and Pension Funds.</p> <p>e. University related Endowments already registered with SEBI as FII/Sub Account.</p>
III.	<p>All other eligible foreign investors investing in India under PIS route not eligible under Category I and II such as Endowments, Charitable Societies/Trust, Foundations, Corporate Bodies, Trusts, Individuals, Family Offices, etc.</p>

Appendix

For the List of Circulars or part thereof repealed with the issuance of Master Direction, please refer to the RBI Site

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Ref: RBI/DBR/2015-16/18 Master Direction DBR.AML.BC.No.81/14.01.001/2015-16
February 25, 2016