



RESERVE BANK OF INDIA
Foreign Exchange Department
Central Office
Mumbai - 400 001

RBI/2012-13/419

A. P. (DIR Series) Circular No. 84

February 22, 2013

To,

All Authorised Persons

Madam/ Dear Sir,

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

Please refer to Para 4.4 (a) of {[A.P.\(DIR Series\) Circular No. 17 \[A.P.\(FL/RL Series\) Circular No.04\]](#) } dated November 27, 2009 on the captioned subject as amended from time to time.

2. Rule 9(1A) of Prevention of Money Laundering Rules 2005 requires that every Authorised Person under money changing activity shall identify the beneficial owner and take all reasonable steps to verify his identity while undertaking money changing activities. The term "beneficial owner" has been defined as the natural person who ultimately owns or controls a client and/or the person on whose behalf the transaction is being conducted, and includes a person who exercises ultimate effective control over a juridical person. Government of India has since examined the issue and has specified the procedure for determination of Beneficial Ownership. The procedure as advised by the Government of India is as under:

A. Where the client is a person other than an individual or trust, the Authorised Person shall identify the beneficial owners of the client and take reasonable measures to verify the identity of such persons, through the following information:

- (i) The identity of the natural person, who, whether acting alone or together, or through one or more juridical person, exercises control through ownership or who ultimately has a controlling ownership interest.

Explanation: Controlling ownership interest means ownership of/entitlement to more than 25 percent of shares or capital or profits of the juridical person, where the juridical person is a company; ownership of/entitlement to more than 15% of the capital or profits of the juridical

person where the juridical person is a partnership; or, ownership of/entitlement to more than 15% of the property or capital or profits of the juridical person where the juridical person is an unincorporated association or body of individuals.

- (ii) In cases where there exists doubt under (i) as to whether the person with the controlling ownership interest is the beneficial owner or where no natural person exerts control through ownership interests, the identity of the natural person exercising control over the juridical person through other means.

Explanation: Control through other means can be exercised through voting rights, agreement, arrangements, etc.

- (iii) Where no natural person is identified under (i) or (ii) above, the identity of the relevant natural person who holds the position of senior managing official.

B. Where the client is a trust, the Authorised Person shall identify the beneficial owners of the client and take reasonable measures to verify the identity of such persons, through the identity of the settler of the trust, the trustee, the protector, 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.

C. Where the client or the owner of the controlling interest is a company listed on a stock exchange, or is a majority-owned subsidiary of such a company, it is not necessary to identify and verify the identity of any shareholder or beneficial owner of such companies.

3. Authorised Persons may review their KYC policy in the light of the above instructions and ensure strict adherence to the same.

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

5. Authorised Persons may bring the contents of this circular to the notice of their constituents concerned.

6. The directions contained in this Circular have been issued under Section 10(4) and Section 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and also under the, Prevention of Money Laundering Act, (PMLA), 2002, as amended by Prevention of Money Laundering (Amendment) Act, 2009 and Prevention of Money-Laundering (Maintenance of Records of the Nature and Value of Transactions, the Procedure and Manner of Maintaining and Time for Furnishing Information and Verification and Maintenance of Records of the Identity of the Clients of the Banking

Companies, Financial Institutions and Intermediaries) Rules, 2005 as amended from time to time and are without prejudice to permission /approvals, if any, required under any other law.

Yours faithfully,

(Rudra Narayan Kar)
Chief General Manager-in Charge