

***Anti-Money Laundering (AML) – Combating  
Financing of Terrorism (CFT)***

***WHAT YOU MUST KNOW – FAQs***

**Help us in preventing money laundering / terrorist financing.....Your assistance really matters us.**

**Ever wondered why the Broker is asking you certain personal information which has hitherto never been called for? Such information can include documents evidencing source of funds/ income tax returns/ bank records etc. By providing this information to the Broker, at the time of account opening and subsequently as and when required, you are actually assisting the efforts in prevention of money laundering / terrorist financing. Here are the details, presented in the form of frequently asked questions (FAQs) to let you know how.**

**➤ What is Money Laundering (ML)?**

**ML is the process by which criminals attempt to hide and disguise the true origin and ownership of the proceeds of their criminal activities, thereby avoiding prosecution, conviction and confiscation of the criminal funds. The term ML is also used when the funds are used for terrorist financing, though the origin of the funds may be legitimate. ML has acquired a global character that not only threatens security, but also compromises the stability, transparency, and efficiency of financial systems. ML techniques are becoming more sophisticated and complex with each passing day.**

The objective of AML & CFT Program is to prevent financial intermediaries from being used as a tool for the purpose of ML & TF and to preserve the integrity of the Financial system. In response to mounting concern over ML, the Financial Action Task Force (FATF) on ML was established by the G-7 Summit in Paris in 1989 to develop a co-ordinated international response. One of the first tasks of the FATF was to develop Recommendations, 40 in all, which set out the measures national governments should take to implement effective anti-money laundering programmes.

➤ **How Much Money is Laundered Per Year?**

The IMF has stated in 1996 that the aggregate size of ML in the world could be somewhere between two and five percent of the world's gross domestic product. Using 1996 statistics, these percentages would indicate that ML ranged between USD 590 billion and USD 1.5 trillion. However, it must be said that overall it is absolutely impossible to produce a reliable estimate of the amount of money laundered and therefore the FATF does not publish any figures in this regard.

## ➤ How is Money Laundered ?

In the initial - or placement - stage of ML, the launderer introduces his illegal profits into the financial system. This might be done by breaking up large amounts of cash into less conspicuous smaller sums that are then deposited directly into a bank account, or by purchasing a series of monetary instruments (cheques, money orders, etc.) that are then collected and deposited into accounts at another location.

After the funds have entered the financial system, the second – or layering – stage takes place. In this phase, the launderer engages in a series of conversions or movements of the funds to distance them from their source. The funds might be channelled through the purchase and sales of investment instruments, or the launderer might simply wire the funds through a series of accounts at various banks across the globe. This use of widely scattered accounts for laundering is especially prevalent in those jurisdictions that do not co-operate in anti-money laundering investigations. In some instances, the launderer might disguise the transfers as payments for goods or services, thus giving them a legitimate appearance.

➤ **Where does Money Laundering occur?**

**ML can occur practically anywhere in the world. Generally, money launderers tend to seek out countries or sectors in which there is a low risk of detection due to weak or ineffective anti-money laundering programmes.**

➤ **How does Money Laundering affect business, economic development & society at large?**

**ML damages the integrity of the financial institution, entire society and undermines democracy and the rule of the law as it rewards corruption and crime.**

**There is a damping effect on foreign direct investment when a country's commercial and financial sectors are perceived to be subject to the control and influence of organised crime. Fighting money laundering and terrorist financing is therefore a part of creating a business friendly environment which is a precondition for lasting economic development.**

**The possible social and political costs of money laundering, if left unchecked or dealt with ineffectively, are serious. Organised crime can infiltrate financial institutions, acquire control of large sectors of the economy through investment, or offer bribes to public officials and indeed governments.**

The economic and political influence of criminal organisations can weaken the social fabric, collective ethical standards, and ultimately the democratic institutions of society.

➤ **How does fighting money laundering help fight crime?**

Targeting the ML aspect of criminal activity and depriving the criminal of his ill-gotten gains means hitting him where he is vulnerable. Without a usable profit, the criminal activity will not continue.

➤ **What should individual governments be doing about it?**

A great deal can be done to fight money laundering, and, indeed, many governments have already established comprehensive anti-money laundering regimes. These regimes aim to increase awareness of the phenomenon – both within the government and the private business sector – and then to provide the necessary legal or regulatory tools to the authorities charged with combating the problem.

Some of these tools include making the act of ML a crime; giving investigative agencies the authority to trace, seize and ultimately confiscate criminally derived assets; and building the necessary framework for permitting the agencies involved to exchange information among themselves and with counterparts in other countries.

- **What are Local regulations on AML/CFT?**
  - a. **Prevention of Money Laundering Act,2002 (PMLA) came in to force with effect from July 01,2005 read with the prevention of Money Laundering (Amendment) Act, 2009.**
  - b. **SEBI Guidelines on PMLA vide circular issued in January 2006 followed by latest Master circular issued in February 2010.**
  - c. **Exchanges have also issued Guidelines on PMLA to be followed by all registered intermediary.**
  
- **How is Money Laundering defined under PMLA 2002?**

**Section 3 of the Prevention of Money Laundering Act (PMLA) 2002 defines the “Offence of Money Laundering” as:**

**“Whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is party or is actually involved in any process or activity connected with the proceeds of crime and projecting it as untainted property shall be guilty of the offence of money laundering.”**

**“Proceeds of crime”** has been defined in Section 2 of the PMLA as the property derived or obtained directly or indirectly by any person, as a result of criminal activity relating to a scheduled offence or the value of such property.

**“Scheduled Offences”**, as per section 2 of PMLA, are specified in two parts of the schedule to PMLA. The value involved in offences specified in Part B should be Rs.30 lakhs or more.

➤ **Why KYC/AML Policy for Market Intermediary?**

**SEBI has instructed all Market Intermediary to adopt a KYC/AML Policy**

- a. To prevent criminal elements from using the Capital Market for money laundering activities**
- b. To enable the Broker to know/understand the customers and their financial dealings better, which in turn would help the Broker to manage risks prudently.**
- c. To put in place appropriate controls for detection and reporting of suspicious activities in accordance with applicable laws/laid down procedures.**



- d. To comply with applicable laws and regulatory guidelines.
- e. To take necessary steps to ensure that the concerned staff is adequately trained in KYC/AML procedures.

➤ **What are the obligations of Market Intermediary under PMLA 2002?**

Section 12 of PML Act 2002, places certain obligations on every banking company, financial institution and market intermediary, which include:

- a. Maintaining a record of prescribed transactions.
- b. Furnishing information of prescribed transactions to the specified authority (Financial Intelligence Unit-India (FIU-IND)).
- c. Verifying and maintaining records of the identity of its clients.
- d. Preserving records in respect of a, b and c above, for a period of 10 years from the date of cessation of transactions with the clients.

➤ **What is Financial Intelligence Unit-India (FIU-IND)?**

FIU-IND is a central, national agency, set up by Government of India on 18th November, 2004, responsible for receiving (and as permitted, requesting), analyzing and disseminating to the competent authorities, disclosures of financial information

- i. Concerning suspected proceeds of crime and potential financing of terrorism, or**
  - ii. Required by national legislation or regulation, in order to combat money laundering and terrorist financing.**
- What are the transactions to be reported by Market Intermediary to FIU-IND?**
  - a. All cash transactions of the value of more than Rs.10 lakhs or its equivalent in foreign currency.**
  - b. All series of cash transactions integrally connected to each other, which have been valued below Rs.10 lakhs or its equivalent in foreign currency (excluding individual transactions below Rs.50,000/- in the reporting) where such series of transactions have taken place within a month and the aggregate value of such transactions exceeds Rs.10 lakhs.**
  - c. Counterfeit currency transactions.**
  - d. Suspicious transactions.**

➤ **What are suspicious transactions?**

**Rule 2(1)(g) of PMLA-2002 defines suspicious transactions as:**

**A 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 the proceeds of crime; 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 activities relating to terrorism.**

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