

Anti-Money Laundering (AML) – What you must know

What is Money Laundering?

Money Laundering 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 ‘Money Laundering’ is also used when the funds are used for terrorist financing, though the origin of the funds may be legitimate.

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 Banks?

RBI has instructed all Banks to adopt a KYC/AML Policy

- To prevent criminal elements from using the Banking system for money laundering activities
- To enable the Bank to know/understand the customers and their financial dealings better, which in turn would help the Bank to manage risks prudently.
- To put in place appropriate controls for detection and reporting of suspicious activities in accordance with applicable laws/laid down procedures.
- To comply with applicable laws and regulatory guidelines.
- To take necessary steps to ensure that the concerned staff is adequately trained in KYC/AML procedures.
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What are the obligations of Banks under PMLA 2002?

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

- i) Maintaining a record of prescribed transactions.
- ii) Furnishing information of prescribed transactions to the specified authority (Financial Intelligence Unit-India (FIU-IND)).
- iii) Verifying and maintaining records of the identity of its clients.
- iv) Preserving records in respect of i,ii,iii 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)?

Financial Intelligence Unit-India (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 Banks to Financial Intelligence Unit-India (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**.