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December 02, 2005

To,

All Authorized Money Changers

Madam / Sir,

Anti-Money Laundering Guidelines for Authorized Money Changers

Attention of the Authorized Money Changers (AMCs) is invited to the Memorandum of Instructions containing the procedural instructions for adherence by AMCs while undertaking money changing transactions.

2. In view of the increased concerns regarding money laundering activities and to prevent AMCs from being misused for such activities, it is necessary for all AMCs to formulate suitable policies and procedures in this regard. The Anti-Money Laundering (AML) measures so formulated should include (i) Customer Identification procedure - “Know Your Customer” norms (ii) Recognition, handling and disclosure of suspicious transactions (iii) Appointment of Money Laundering Reporting Officer (MLRO) (iv) Staff Training (v) Maintenance of records (vi) Audit of transactions.

3. To enable AMCs to put in place the policy framework and systems for prevention of money laundering while undertaking money changing transactions, the Reserve Bank has brought out detailed Anti-Money Laundering (AML) guidelines. All AMCs are, therefore, advised to ensure that a proper policy framework on “Know Your Customer” and Anti Money Laundering measures, in accordance with the annexed guidelines, is formulated with the approval of the Board of Directors and put in place before **March 31, 2006**.

4. AMCs may bring the contents of this circular to the notice of their constituents concerned.

5. The AML guidelines would be applicable mutatis mutandis to all franchisees of AMCs and it will be the sole responsibility of the AMC concerned to ensure that their franchisees also adhere to the AML guidelines.

6. Necessary amendments to the Memorandum of Instructions to AMCs are being issued separately.

7. 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). Non-compliance with the guidelines would attract penal provisions of Section 11(3) of the Act ibid.

Yours faithfully,

(Vinay Baijal)
Chief General Manager

Annex

Anti-Money Laundering Guidelines for Authorised Money Changers

1. Money Laundering

The offence of Money Laundering has been defined in Section 3 of the Prevention of Money Laundering Act, 2002 (PMLA) as "whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a 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 offence of money-laundering". In common man's language, Money Laundering can be called a process by which money or other assets obtained as proceeds of crime are exchanged for "clean money" or other assets with no obvious link to their criminal origins.

2. Anti-Money Laundering Guidelines

The purpose of prescribing Anti-Money Laundering Guidelines is to prevent the system of Authorised Money Changers (AMCs) engaged in the purchase and / or sale of foreign currency notes/Travelers cheques from being used for money laundering. Therefore, Anti-Money Laundering (AML) measures should include

a) Identification of Customer according to "Know Your Customer" norms,
b) Recognition, handling and disclosure of suspicious transactions,
c) Appointment of Money Laundering Reporting Officer (MLRO),
d) Staff Training,
e) Maintenance of records,
f) Audit of transactions.

The following paragraphs contain broad guidelines to enable AMCs to formulate and put in place a proper policy framework for AML measures.

3. Know Your Customer (KYC) – Identification of Customers

All transactions should be undertaken only after proper identification of the customer. **Photocopies of proof of identification should invariably be retained by the AMC after verifying the document in original.** Full details of name and address as well as the details of the identity document provided should also be kept on record. If a transaction is being undertaken on behalf of another person, identification evidence of all the persons concerned should be obtained and kept on record.

4. Purchase of Foreign Exchange

a) For encashment of foreign currency notes and/or Travelers Cheques upto USD 500 or its equivalent, production of passport need not be insisted upon and any other suitable document of identification like ration card, driving licence etc. can also be accepted.
b) For verification of the identity of customer for encashment in excess of USD 500 or its equivalent, a photo identity document such as passport, driving licence, PAN Card, voter identity card issued by the Election Commission, etc. should be obtained

c) Requests for payment of sale proceeds in cash may be acceded to the extent of USD 1000 or its equivalent per transaction. All encashment within one month may be treated as single transaction for the purpose. In all other cases AMCs should make payment by way of "Account Payee" cheque / demand draft only.

d) Where the amount of forex tendered for encashment by a non-resident or a person returning from abroad exceeds the limits prescribed for Currency Declaration Form (CDF), the AMC should invariably insist for production of declaration in CDF.

5. **In all cases of sale of foreign exchange, irrespective of the amount involved**, for identification purpose the passport of the customer should be insisted upon. The sale of forex should be made only on personal application and identification. Payment in excess of Rs. 50,000/- towards sale of foreign exchange should be received only by account payee cheque / demand draft. All purchases by a person within one month may be treated as single transaction for the purpose. Encashment Certificate, wherever required, should also be insisted upon.

6. Establishment of business relationship

Relationship with a business entity like a company / firm should be established only after obtaining and verifying suitable documents in support of name, address and business activity such as certificate of incorporation under the Companies Act, 1956, MOA and AOA, registration certificate of a firm (if registered), partnership deed, etc. A list of employees who would be authorised to transact on behalf of the company/ firm and documents of their identification together with their signatures, should also be called for.

Copies of all documents called for verification should be kept on record.

7. Suspicious Transactions

The AMC must ensure that its staff is vigilant against money laundering transactions at all times. An important part of the AML measures is determining whether a transaction is suspicious or not. A transaction may be of suspicious nature irrespective of the amount involved.

Some possible suspicious activity indicators are given below:

- Customer is reluctant to provide details/documents on frivolous grounds.
- The transaction is undertaken by one or more intermediaries to protect the identity of the beneficiary or hide their involvement.
- Large cash transactions.
- Size and frequency of transactions is high considering the normal business of the customer.
- Change in the pattern of business transacted.

The above list is only indicative and not exhaustive.

8. Appointment of a Money Laundering Reporting Officer (MLRO)

(a) An MLRO may be appointed by every AMC for monitoring transactions and ensuring compliance with the AML Guidelines issued by the Reserve Bank from time to time. The MLRO will also be responsible for reporting of suspicious transaction/s to the Financial Intelligence Unit (FIU). Any suspicious transaction/s, if undertaken, should have prior approval of MLRO.

(b) The MLRO shall have reasonable access to all the necessary information/ documents, which would help him in effective discharge of his responsibilities.

(c) The responsibility of the MLRO may include :

- Putting in place necessary controls for detection of suspicious transactions.
- Receiving disclosures related to suspicious transactions from the staff or otherwise.
- Deciding whether a transaction should be reported to the appropriate authorities
- Training of staff and preparing detailed guidelines / handbook for detection of suspicious transactions.
- Preparing annual reports on the adequacy or otherwise of systems and procedures in place to prevent money laundering and submit it to the Top Management within 3 months of the end of the financial year.

9. Reporting of Suspicious Activity

- To the extent possible, all suspicious transactions should be reported to the MLRO before they are undertaken.
- Full details of all suspicious transactions, whether put through or not, should be reported, in writing, to the MLRO.
- Any transaction which seems suspicious may be undertaken only with prior approval of MLRO.
- If the MLRO is reasonably satisfied that the suspicious transaction has / may have resulted in money laundering, he should make a report to the appropriate authority viz. the FIU.

10. Staff Training

All the managers and staff of the AMC must be trained to be aware of the policies and procedures relating to prevention of money laundering, provisions of the PMLA and the need to monitor all transactions to ensure that no suspicious activity is being undertaken under the guise of money changing. The steps to be taken when the staff come across any suspicious transactions (such as asking questions about the source of funds, checking the identification documents carefully, reporting immediately to the MLRO, etc.) should be carefully formulated by the AMC and suitable procedure laid down. The AMCs should have an ongoing training programme for consistent implementation of the AML measures

11. Audit/Compliance

The concurrent auditor should check all transactions to verify that they have been done in compliance with the anti-money laundering guidelines and have been reported as required. Compliance on the lapses, if any, recorded by the concurrent auditor should be put up to the Board. A certificate from the Statutory Auditor on the compliance with AML guidelines should be obtained at the time of preparation of the Annual Report and kept on record.

12. Maintenance of records

The following documents should be preserved for a minimum period of five years.

- Records including identification obtained in respect of all transactions.
- Statements / Registers prescribed by the Reserve Bank from time to time.
- All Inspection / Audit / Concurrent Audit Reports.
- Annual reports of the MLRO submitted to the Top Management in terms of paragraph 8 above.
- Details of all suspicious transactions reported in writing or otherwise to the MLRO.
- Details of all transactions involving purchase of foreign exchange against payment in cash exceeding **Indian Rupees 10,00,000** from inter-related persons during one month.

- All correspondence/ reports with the appropriate authority in connection with suspicious transactions.
- References from Law Enforcement Authorities, including FIU, should be preserved until the cases are adjudicated and closed.