

Annexures

Annexure I

Extracts from FATF- IX REPORT

Assessment of world trends in money laundering

Money laundering is not a problem restricted to FATF countries but also among non members. The Report surveys the scope and nature of money laundering activities in different regions of the world.

(i) Asia/Pacific

Sources of information on laundering activities in this vast region of the world are fairly scarce. However, the main factors observed in previous typologies exercises are still present. Thus in South Asia and India money laundering is still linked with drug trafficking and is undoubtedly facilitated by the parallel remittance systems known as "hawala" and "hundi".

In South-East Asia the countries that seem to warrant particular attention are Indonesia and Malaysia. Given the absence of appropriate legislation and the regime of strict bank secrecy in Indonesia, money laundering is only part of the financial crime that prevails there essentially in the shape of large-scale fraud and corruption. Several other countries in the region, notably Malaysia, offer numerous features attractive to launderers: provision of a wide range of financial services, facilities for setting up trust companies and offshore structures. Bank fraud is still a very important source of money for laundering.

In the Pacific region, Vanuatu is featuring increasingly in the laundering circuits. The offshore legislation in place there has created a favourable climate for laundering and the country's financial institutions have been cited in several cases.

Generally speaking, it would clearly be desirable to have more information on the Asia/Pacific Region. FATF members therefore greatly welcomed the fact that the region's new anti-laundering group set up at a symposium on money laundering in Asia and the Pacific at Bangkok in March 1997, would be conducting its own typologies exercise. This initiative is a follow-up to the earlier workshops on

Disposal of Proceeds of Crime, Money Laundering Methods organised by the FATF Asia Secretariat and Interpol in Hong Kong in 1995 and 1996.

(ii) Central America, South America and the Caribbean Basin

All these parts of the world continue to attract money laundering activities. As regards the Caribbean, FATF members welcomed the activities conducted by the Caribbean Financial Action Task Force (CFATF) in respect of typologies. The approach used by the latter is somewhat different from that of FATF, but it should nevertheless give rise to some very useful and interesting work, as regards both analysis of regional trends and assessment of the countermeasures to be adopted. The CFATF typologies exercise is phased over a number of years. Since February 1997 the CFATF experts have studied the forms of money laundering in domestic financial institutions and in the gambling sector. Future meetings will address the following themes: offshore financial establishments and international business corporations, financial institutions and cybermoney Laundering in the Caribbean region continues to be a serious problem and appears to concern the following countries in particular: Antigua, the Dominican Republic and St Vincent and the Grenadines. Suspect operations have also been detected in the French overseas departments particularly in the areas of exchange and gaming. Russian organised crime operating out of Miami and Puerto Rico continues to be active in forming front companies all over the region in order to launder illicit profits. A case in point here is the European Union Bank set up in Antigua and famed as the first offshore bank operating via the Internet. The two Russian founders absconded with the deposits and subsequently the bank failed and was closed down in August 1997. Free trade zones, including those in Aruba and Panama, continue to be a target for money launderers using the black market peso exchange system to purchase and smuggle goods into Colombia (see Case No. 8).

The Aruban and Panamanian governments are to be commended for taking aggressive steps to address this difficult problem.

The Dominican Republic and Jamaica were likewise mentioned in connection with money laundering circuits. In the United States, Dominican launderers use fund transfer companies to send sums not exceeding US\$ 10 000 to the Dominican Republic under false names. Consequently the US Department of the Treasury this

year issued a Geographic Targeting Order which requires the reporting of all transfers of over US\$ 750 from Puerto Rico and the New York Metropolitan area to the Dominican Republic. In Jamaica, a recent case of money laundering concerned an offshore bookmaking operation by telephone for a total amount of several million dollars. Where no specific measures regarding cross-border currency movements exist, cash transportation seems to be a common method of laundering.

The nations of Latin America also continue to be affected by laundering of illegal funds, essentially the proceeds from drug trafficking. In Mexico numerous anti-laundering measures have been enacted in the past year. Banks are now required to report suspicious transactions to a central agency for financial information. In spite of these efforts, money laundering is still a problem to be taken very seriously, especially now that the Mexican drug cartels have parted company with their Colombian counterparts and have acquired some predominance in the region. One of the most favoured techniques continues to be outbound currency smuggling, along with electronic transfers, Mexican bank drafts and the "parallel" peso exchange market. Corruption remains the chief impediment to Mexico's anti-laundering efforts.

Another Central American country experiencing a growth of laundering activities is Costa Rica, notably by way of large-scale currency smuggling and investment by Colombian cartels in the tourist real estate sector. In Guatemala and Honduras laundering potential continues to increase in the absence of appropriate legislation. In Panama the target of launderers remains the Colon Free Zone. It should be pointed out, however, that anti-laundering measures applicable to the banking sector have been extended to the Zone. In Colombia, billions of dollars in drug money are being laundered through the "parallel" peso exchange market, which in fact is run by drug traffickers .

Within the framework of OAS (Organization of American States) the Inter-American Drug Abuse Control Commission (CICAD) has decided to launch its own typologies exercise through its group of experts on money laundering. FATF members welcomed this initiative, which will cover nearly all the countries of South America. Many countries in that region have recently introduced anti-laundering legislation following the Summit of Americas Ministerial Conference of December 1995.

Despite these efforts, drug trafficking and money laundering are still major problems in this part of the world. It is therefore encouraging to see that the next Summit of Americas, to take place in Santiago, Chile in April 1998, will again address the subject of money laundering as a priority.

(iii) Middle East and Africa

In the absence of proper regional anti-money laundering groups, information on laundering in these areas is extremely limited. But numerous factors which assist laundering are present in the Gulf States with the international finance centres in Bahrain and the United Arab Emirates (in particular Abu Dhabi and Dubai), the hawala "banking" system and free trade zones. It should be noted, however, that the Gulf Co-operation Council (GCC) has recently launched an evaluation of the anti-laundering measures adopted by its members (United Arab Emirates, Oman, Saudi Arabia, Qatar, Bahrain and Kuwait) which will provide a picture of the status of legislation in the region.

In the Near East the lack of anti-laundering legislation in Lebanon remains a matter of significant concern to FATF. It is hoped that a bill will soon be passed into law in Israel, where the authorities are facing general problems with organised crime and need to tackle the dangers of laundering in the diamond industry. In Cyprus the authorities have vigorously built up a comprehensive anti-laundering scheme since relevant legislation was passed in April 1996, and a unit has been established to receive suspicious transaction reports from banks. FATF experts visited Nicosia in September 1997 and noted the resolute and praiseworthy efforts being made by the Cypriot authorities to counter money laundering even if the name of Cyprus still appears in cases of laundering transactions at the layering stage.

Crime groups are increasingly turning to sub-Saharan Africa to conduct their activities, including money laundering. A few countries have begun to respond by introducing legislation, but significant obstacles have still to be overcome, notably the lack of resources available to operational services in Africa. One trend observed in West Africa concerns the use by organised crime of bank accounts of commercial businesses. Illicit funds can be moved via undercover banking systems and evade exchange control regulations. All FATF members acknowledge that the chief

problem in West Africa continues to be fraud by Nigerian organised crime. It was accepted that this problem, which has been going on for too long, would merit appropriate international collective action. Nigerian organised crime is also active in South Africa, which is progressively becoming an entry point to the rest of the continent for crime groups.

(iv) Central and Eastern Europe

The East European countries continue to be a significant and indeed growing concern for the European members of FATF. The greatest difficulty concerning funds connected with individuals or companies in Central and Eastern European countries is in clarifying their source, which is very often impossible. The frequent use by some CEEC nationals of expertly forged identity papers, designed to get round strict application of the principle of customer identification by financial institutions, was noted. In addition, transcription from Cyrillic to Roman is often used to change identities, or provide multiple identities. Cases of dual nationality (Russian/Greek or Russian/Israeli, for example) are frequent, and hold similar potential for disguising true identity. Armenian or Georgian nationals claim Greek origins. The most significant problem in transactions with Russia is that the true beneficiary is not known. As in previous years, the experts noted numerous cases involving Russian organised crime and from other members of the Commonwealth of Independent States. Most of the shell companies operating in one member are carrying on quite legitimate business, but their finance comes from fraud and criminal activities in Eastern Europe. A competent unit of this country, which has detected growing sophistication at the layering stage, with substantial use of offshore companies, is going to follow developments in this area very closely from 1998. The refinement of the methods used by organised Russian crime groups was also noted by the police of one member in a case involving letters of credit issued by a Russian bank for a total of US\$ 100 million. Very substantial sums are involved in cases relating to nationals of Central and Eastern European countries or to CEEC-related financial transactions. One case detected in another member concerned US\$ 13 million overall.

But there are other problem countries as well, notably the countries of the former Yugoslavia, as was noted by one member, which considers this to be the most serious problem that it comes across, in particular in relation to drug trafficking. In one

member, a case covering a wide range of currencies (the equivalent of around US\$ 300 000 involved Serbian immigrant workers. In Croatia, the authorities face a significant problem with the establishment of organised groups specialising in particular types of crime. These structures provide links with crime groups in Italy or Germany, and those operating in Russia, Serbia and Bosnia.

In the Black Sea region, only two countries (Greece and Turkey) belong to FATF. Their closeness to fifteen countries of the former Soviet Union raises a particular problem with regard to laundering. Another problem encountered by the banks of a member country has been massive inflows of funds from Albania, linked to the pyramid savings scandal. Investigations following the suspicious transaction reports have shown that considerable amounts in cash, around US\$ 20 million, were deposited at banks in a neighbouring country during the summer of 1997. This is a problem which affects several FATF members. In addition, after the deliberate failures of many banks in Bulgaria, triggered by their owners' corruption, they were bought up by groups of white-collar criminals who could then help themselves to the bank assets.

Some progress has nonetheless been made in adopting and implementing counter-measures over the past year. The Czech Republic, Slovakia, Hungary and Slovenia have developed anti-laundering programmes, and now have financial intelligence units in operation. But the anti-money laundering Bill tabled in the Russian Parliament in late 1996 has still not been passed.

In the summer of 1997 the Central Bank of the Russian Federation issued guidelines to banks on customer identification and the prevention of money laundering. Together with FATF it organized an international seminar on money laundering in St. Petersburg in October 1997. But these efforts will only yield really practical results when the anti-laundering obligations of the financial sector are spelt out in law.

Reference should finally be made to a vital recent initiative by the Council of Europe, which launched its programme to evaluate anti-laundering measures in those of its members which do not belong to FATF. The countries in question are not all in

Central and Eastern Europe, but the programme should give a considerable boost to enhancing or introducing anti-laundering legislation in that part of the world over the coming years.

Annexure II
Recommendations of the Financial Action Task Force on Money Laundering (FATF) - Assessment of Compliance

Sr. No.	FATF 40 Recommendations	Similar or Related Principle in BCP 15 and Methodology Document	Present position	Level of Compliance	Comments
1	Each country should take immediate steps to ratify and to implement fully, the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (the <u>Vienna Convention</u>)		India is a signatory to the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (the Vienna Convention).	Complied with.	The Vienna Convention calls for preventing laundering of proceeds derived from the offences stated therein. To this end a comprehensive bill on Prevention of Money Laundering has been introduced in the Parliament.
2	Financial institution <u>secrecy laws</u> should be conceived so as not to inhibit implementation of these recommendations.		Disclosure in public interest or as per law by financial institutions is not considered a violation of secrecy even now. This position stands	Complied with.	Appropriate changes to secrecy laws for disclosure in the light of the Prevention of Money Laundering Bill, 1999, would further strengthen this position.

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			clearly articulated in the instructions issued by regulatory authorities.		
3	An effective money laundering enforcement program should include <u>increased multilateral co-operation and mutual legal assistance</u> in money laundering investigations and prosecutions and extradition in money laundering cases, where possible.		India has bilateral agreements and also fully abides by the international conventions in this regard and no difficulty is anticipated in acceding to the requests for assistance in money laundering investigations both at the regulatory or Government levels. Besides, further specific provisions of reciprocal arrangement for assistance to a "Contracting State" i.e.	Complied with.	

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			any country or place outside India in respect of which arrangements have been made by the Central Government with the Government of such country through a treaty or otherwise" are included in the proposed enactment.		
4	Each country should take such measures as may be necessary, including legislative ones, to enable it to <u>criminalise money laundering</u> as set forth in the Vienna Convention. Each country should		Money laundering has been declared a criminal offence in the Prevention of Money Laundering Bill, 1999 and has been defined as "acquisition, possession, ownership or transfer of any proceeds of crime or entering knowingly	Complied with.	It would be necessary to bring greater awareness of the crime of money laundering through specific guidelines, and other awareness programmes through training and media publicity. The Central Bank can also actively contribute in this campaign.

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	extend the offence of drug money laundering to one based on serious offences. Each country would determine which serious crimes would be designated as money laundering predicate offences.		into transactions related to the proceeds of crime or concealing or aiding in the concealment of proceeds of crime".		
5	As provided in the Vienna Convention, the offence of money laundering should apply at least to <u>knowing money laundering activity</u> , including the concept that knowledge may be inferred from		In existing circulars, the focus is more on prevention and dealing with fraud and tax evasion rather than on the problems of money laundering. However, in terms of the Criminal Procedure Code, information about any criminal	Deemed to be complied with.	Specific statutory anti-money laundering policy and procedures are sought to be introduced once the enactment comes into effect. The focus on anti-money laundering should also cover 'omissions' and 'commissions' in relation to such crimes. The first step is to inculcate the knowledge of

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	objective factual circumstances.		activity which is known but not passed on to enforcement authorities is construed as abetment of an offence punishable under law.		such crimes. Knowledge includes the concepts of "willful blindness" and "conscious avoidance of knowledge". Thus, employees of a bank/financial institution whose suspicions are aroused, but who then deliberately fail to make further inquiries, wishing to remain ignorant, should be considered to have the requisite "knowledge".
6	Where possible, <u>corporations</u> themselves - not only their employees - should be <u>subject to criminal liability</u> .		Under the Prevention of Money Laundering Bill, 1999, various categories including companies are subject to criminal liability.	Complied with.	

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7	<p>Countries should adopt measures similar to those set forth in the Vienna Convention, as may be necessary, including legislative ones, to enable their competent authorities to <u>confiscate property laundered</u>, proceeds from, instrumentalities used in or intended for use in the commission of any money laundering offence, or property of corresponding value, without prejudicing the rights of bona fide</p>		<p>The Prevention of Money Laundering Bill, 1999, provides for attachment, adjudication and confiscation of property involved in Money-laundering.</p>	<p>Complied with.</p>	

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	third parties.				
8	<p><u>Recommendations 10 to 29 should apply</u> not only to banks, but also <u>to non-bank financial institutions</u>. Even for those non-bank financial institutions which are not subject to a formal prudential supervisory regime in all countries, for example bureaux de change, governments should ensure that these institutions are subject to the same anti-money laundering laws or</p>	<p>The insurance supervisory authority must determine that insurance entities have adequate policies, practices and procedures in place, including strict "know your customer" rules, that promote high ethical and professional standards in the financial sector and prevent the insurance entity from being used, intentionally or unintentionally, by</p>	<p>At present most of the activities listed in the annex and carried out by banks, financial institutions, non banking entities and other corporates are supervised by the respective regulatory authority, viz, RBI, SEBI, IRDA, Forward Market Commission. Entity-wise regulators are listed separately in the Annexure. Formal arrangements for information sharing between SEBI and the RBI (as a supervisor of non-banking entities and other foreign</p>	<p>Deemed to be complied with.</p>	<p>Given the increasing complexities of money laundering activities across the financial system and to ensure market integrity, fresh initiatives to have institutionalized arrangements in this regard would be necessary and desirable. There should also be periodic and ongoing consultations to conceive, monitor, and review AML policies for uniform and rigorous adoption by all market participants.</p>

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	<p>regulations as all other financial institutions and that these laws or regulations are implemented effectively.</p>	<p>criminal elements. The regulatory authority supervising the securities markets should ensure that the supervised institutions have adequate policies and procedures in place to guard against money laundering. The regulatory authority should cooperate with domestic judicial or law enforcement authorities in money laundering investigations.</p>	<p>exchange bureaus) exist even now and a nominee of RBI is placed on the Board of SEBI. IRDA is framing rules for insurance authorities and regulatory exchange of information is taking place. The concept of "know your customer" is well entrenched in the Insurance Sector as "Insurance is sold rather than bought". Interaction of the insurance agent, development officers with the policyholders works well in preventing and</p>		

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			<p>detering money-laundering practices in the Indian insurance system.</p> <p>The Securities and Exchange Board of India (SEBI), the regulator for the capital markets, has issued regulations prohibiting fraudulent and unfair trade practices relating to securities markets under the SEBI Act, 1992.</p>		
9	The appropriate national authorities should consider applying Recommendations		Entities other than financial institutions engaged in financial activities listed in the recommendation also	Deemed to be complied with.	By and large, financial activities conducted as a commercial undertaking are carried out by entities governed under financial

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	10 to 21 and 23 to the conduct of financial activities as a commercial undertaking by businesses or professions which are not financial institutions, where such conduct is allowed or not prohibited. Financial activities include, but are not limited to, those listed in the attached annexure.		come under the purview of certain other regulators.		regulations. Concerns on alternative remittances such as through hawala needs to be addressed through more efficient enforcement measures.
10	Financial institutions should <u>not keep anonymous accounts</u> or accounts in	The supervisor determines that banks have documented and enforced policies for identification of	As part of 'know your customer' principle RBI has been advising banks to adhere to prescribed guidelines relating to	Complied with.	Reiteration of the existing instructions comprehensively to create awareness from the Apex Board level to the field staff would be useful. IBA and RBI may do the needful

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	<p>obviously fictitious names: they should be required (by law, by regulations, by agreements between supervisory authorities and financial institutions or by self-regulatory agreements among financial institutions) to identify, on the basis of an official or other reliable identifying document, and record the identity of their clients, either occasional or usual, when establishing business relations or</p>	<p>customers and those acting on their behalf as part of their anti-money laundering program.</p> <p>There are clear rules on what records must be kept on customer identification and individual transactions and the retention period.</p> <p>An insurance entity undertaking verification should establish to its reasonable satisfaction that</p>	<p>identification of depositors. The banks have been advised to safeguard against unscrupulous persons opening "benami" (fictitious) accounts mainly to use them as conduit for fraudulently encashing third party cheques, etc. Opening of accounts only after proper verification of the identity of the customer has also been made applicable in case of requests for account opening over the Internet.</p> <p>When the insurance proposals are submitted by the</p>		<p>so that there is no diffusion.</p>

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	conducting transactions (in particular opening of accounts or passbooks, entering into fiduciary transactions, renting of safe deposit boxes, performing large cash transactions).	every verification subject relevant to the application for insurance business actually exists. All the verification subjects of joint applicants for insurance business should normally be verified. On the other hand, where the guidance implies a large number of verification subjects (e.g., in the case of group life and pensions) it may be sufficient to carry out verification to the letter on a limited	policyholders, the agents in the area, where the proposers are residing, verify all the details mentioned in the proposal forms and certify the correctness of the same. Furthermore, the regulations do not allow payment of commission or any other considerations to be paid to persons other than designated/registered insurance agents.		

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		<p>group only, such as the principal shareholders, the main directors of a company etc.</p> <p>Market intermediaries should be prohibited from keeping anonymous accounts. Market intermediaries should be required to ascertain, insofar as possible, the beneficial owner of an account.</p>			
11	Financial institutions should take reasonable	Market intermediaries should be required	Detailed instructions have been issued by RBI to banks from	Compliant, with scope for	It would be useful to suggest to banks/FIs to assess the money laundering risk posed

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	<p><u>measures to obtain information about the true identity</u> of the persons on whose behalf an account is opened or a transaction conducted if there are any doubts as to whether these clients or customers are acting on their own behalf, for example, in the case of domiciliary companies (i.e. institutions, corporations, foundations, trusts, etc. that do not conduct any commercial or manufacturing</p>	<p>by law or regulation to take reasonable measures to ascertain the identity of clients based on reliable identification documents, such as passports, identity cards or driver's licenses.</p>	<p>time to time on Customer identification, Unusual transactions that arouse suspicion, Reporting mechanism to facilitate further probe, Maintenance of records, etc. However, considering the genuine difficulties in establishing the source of funds in respect of certain deposit accounts designated in foreign currency, accepted by banks in India, there is a need for rationalizing the schemes available for non-resident Indians at present.</p>	<p>improvement.</p>	<p>by the customer's expected use of its products and services while establishing a relationship or opening an account. Policy guidelines may have to be evolved for establishing business relationship with specific categories.</p>

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	business or any other form of commercial operation in the country where their registered office is located).				
12	Financial institutions should maintain, for at least five years, all necessary records on transactions, both domestic or international, to enable them to comply swiftly with information requests from the competent authorities. Such records must be sufficient to permit	There are clear rules on what records must be kept on customer identification and individual transactions and the retention period. Records should be kept by the insurer after termination. In the case of a life company,	Records on transactions are preserved as per provisions of the Banking Companies (Period of Preservation of Records) Rules, 1985, Bankers' Book Evidence Act, 1891. In terms of this, records are to be kept for at least eight years after closure of the account in certain cases. Documents are	Complied with.	

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	<p>reconstruction of individual transactions (including the amounts and types of currency involved if any) so as to provide, if necessary, evidence for prosecution of criminal behaviour. Financial institutions should keep records on customer identification (e.g. copies or records of official identification documents like passports, identity cards, driving licenses or similar</p>	<p>termination includes the maturity or earlier termination of the policy. Jurisdictions should keep records for a minimum of 5/6 years.</p> <p>Market intermediaries should be required to keep records of client accounts, including documentation establishing the client's identity, for a reasonable minimum period of e.g., 5 years.</p>	<p>available to competent authorities.</p> <p>The proposal form is the property of insurance companies and the company maintains the records till the policy matures and even for a period of seven years after the policy matures. The insurance agents cannot keep the proposal forms with them and they have to submit to the insurance company for further processing. Once the proposal is accepted, the company does not part with these forms under any</p>		

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	documents), account files and business correspondence for at least five years after the account is closed.		<p>circumstances to the agents.</p> <p>The SEBI requires every stock broker to keep and maintain books of accounts, records and documents. Every stock broker is also required to intimate to the Board the place where the books of accounts, records and documents are maintained. FIIs have to ensure that the domestic custodian takes steps for reporting to SEBI information, including daily transactions entered into by the</p>		

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			Foreign Institutional Investor and preservation for five years of records relating to his activities as a Foreign Institutional Investor.		
13	Countries should pay special attention to <u>money laundering threats</u> inherent <u>in new</u> or developing <u>technologies</u> that might favour anonymity, and take measures, if needed, to prevent their use in money laundering schemes.	The regulatory authority for capital markets should pay special attention to the potential in new and developing technologies to accommodate money laundering, especially those technologies that favour anonymity. The regulatory	To address money laundering concerns associated with Internet banking, banks are permitted to offer banking facilities on Internet subject to the existing regulatory framework only. Thus a bank having physical presence in India only is allowed to offer banking services over Internet and cross	Complied with.	With expected spread of internet banking, the regulatory requirements over a wide spectrum would have to be addressed and ensuring the right identity of the customer will have to be the focus.

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		authority should, if necessary, take steps to prevent new technologies from being used for money laundering purposes.	border transactions are subject to existing exchange control regulations. The relevant extract from the Report of the Working Group on Internet Banking is enclosed as Annexure III.		
14	Financial institutions should pay special attention to all complex, unusual large transactions , and all unusual patterns of transactions, which have no apparent economic or visible lawful purpose. The	The supervisor determines that banks have formal procedures to recognise potentially suspicious transactions. These might include additional authorisation for large cash (or	Several instructions have been issued in this regard. For eg, banks have been advised not to issue drafts, M.T. etc. for over Rs.50,000/- against deposit of cash. Banks have also been advised to monitor flow of funds and keep a proper vigil	Compliant, with scope for improvement.	The Bill on Money Laundering makes it obligatory for every financial institution and intermediary to maintain a record of all transactions or series of interconnected transactions exceeding a certain value to be specified by the Government/RBI. However, in view of the potential scope for misuse of the banking

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	<p>background and purpose of such transactions should, as far as possible, be examined, the findings established in writing, and be available to help supervisors, auditors and law enforcement agencies.</p>	<p>similar) deposits or withdrawals and special procedures for unusual transactions.</p> <p>The insurance supervisory authority must determine that insurance entities have in place strict "know your customer" rules.</p> <p>The regulatory authority of capital markets should have guidelines to assist market intermediaries in the detection of suspicious</p>	<p>over requests for cash withdrawal of large amounts. Maintenance of record by branches in respect of cash transactions for Rs.10 lakh and above and reporting the same to the controlling offices every fortnight. Banks authorized to import gold are required to ensure that payments towards gold/silver/platinum of value of Rs.50,000 and above is received only by debit to customers account or against cheque or other instruments tendered by purchasers and not in cash.</p>		<p>channels for money laundering, levels of supervisory oversight, both intra organization and outside it, for the identification and reporting of such transaction, and the fixing of level of accountability would need to be further specified.</p>

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		<p>transactions, including guidance as to what might constitute a suspicious transaction and which transactions may merit further inquiry.</p> <p>The market intermediary should establish guidelines to detect suspicious transactions for the purpose of reviewing complex, unusual large transactions or unusual patterns of transactions. The market</p>	<p>Banks are required to pay special attention to all complex, unusual large transactions and all unusual pattern of transactions, which have no apparent underlying economic or business purpose.</p> <p>Whenever a proposal is received the insurance companies undertake not only medical underwriting but also the financial underwriting and ensure that the transaction is not unusual. Any kind of</p>		

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		<p>intermediaries should be required to report a transaction that it suspects stems from criminal activity to the competent authority. Insurance entities should be alert to the implications of the financial flows and transaction patterns of existing policyholders, particularly where there is a significant, unexpected and unexplained change in the behavior of</p>	<p>abnormality is reported to higher authorities and they check the consistency of the same in accordance to the policy holders income position etc. No intermediary is entertained other than the registered insurance agents/advisors. Even the payment of commission to the agents is well documented and transparent.</p>		

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		policyholders account (e.g., early surrenders).			
15	If financial institutions suspect that funds stem from a criminal activity, they should be required to <u>report</u> promptly their <u>suspicious to the competent authorities.</u>		While existing laws do not prescribe suspicious activity reporting by banks, records of banks are open to inspection for the authorities who have access to records under search and seizure powers vested in them.	Deemed to be complied with.	The existing system for monitoring suspicious activities at the respective financial institutional level needs to be supplemented by an institutionalized arrangement for reporting, disseminating and following up of suspicious activities. In the interim, the existing arrangements of information sharing are adequate and would have to be effectively used.
16	<u>Financial institutions,</u> their directors, officers and employees	Laws, regulations and/or banks' policies ensure that a member of staff	Though banks in India are obliged to maintain secrecy arising out of contractual	Complied with.	

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	<p>should be <u>protected by legal provisions</u> from criminal or civil liability for breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, if they report their suspicions in good faith to the competent authorities, even if they did not know precisely what the underlying criminal activity was, and regardless of</p>	<p>who reports suspicious transactions in good faith to the dedicated senior officer, internal security function, or directly to the relevant authority cannot be held liable.</p> <p>Market intermediaries should be required to comply with standards for internal organization and operational conduct that aim to protect the interests of clients, ensure</p>	<p>relationship with their constituents, the obligation is subject to exceptions such as disclosure under compulsion of law, if there is a duty to the public to disclose, if the interest of the bank requires it, and where disclosure is with the express or implied consent of the customer.</p> <p>There are extensive guidelines and internal service rules which provides necessary protection to legitimate reporting. Various statutes relating to Government revenue collection, Criminal</p>		

Sr. No.	FATF 40 Recommendations	Similar or Related Principle in BCP 15 and Methodology Document	Present position	Level of Compliance	Comments
	whether illegal activity actually occurred.	proper management of risk, and under which management of the intermediary accepts primary responsibility for these matters.	<p>Procedure Code and related laws also enable such reporting to the competent authority in confidence by a member of public.</p> <p>The Prevention of Money Laundering Bill, 1999 stipulates that financial institutions, banking companies, etc will not be liable to civil proceedings against them for furnishing information as required under the Act.</p>		
17	<u>Financial institutions</u> , their directors, officers		The responsibility for monitoring and reporting of suspicious	Deemed to be complied with.	Issue of specific guidelines to banks/FIs would clarify that the onus lies on banks to

Sr. No.	FATF 40 Recommendations	Similar or Related Principle in BCP 15 and Methodology Document	Present position	Level of Compliance	Comments
	<p>and employees, should not, or, where appropriate, should not be allowed to, warn their customers when information relating to them is being reported to the competent authorities.</p>		<p>or unusual cash transactions is currently enjoined upon banks. A number of instructions have been issued by RBI from time to time specifying follow up of such transactions and revision by higher authorities. Maintenance of confidentiality is implicit in this exercise and banks are obliged to keep the exercise outside the knowledge of the customer concerned.</p>		<p>maintain confidentiality when reporting information regarding their customers to the competent authorities.</p>
18	Financial institutions reporting their suspicions	In addition to reporting to the appropriate	The Prevention of Money Laundering Bill lists out the	Compliant, with scope for	Certain initiatives taken for setting up Serious Frauds Office for collating SA

Sr. No.	FATF 40 Recommendations	Similar or Related Principle in BCP 15 and Methodology Document	Present position	Level of Compliance	Comments
	<p>should <u>comply with instructions from the competent authorities.</u></p>	<p>criminal authorities, banks report to the supervisor suspicious activities and incidents of fraud material to the safety, soundness or reputation of the bank.</p> <p>Directors, officers and employees of market intermediaries should be protected from criminal or civil liability for breach of any restriction on disclosure of information</p>	<p>competent authorities for the purposes of the Act and the obligation to comply with further directions thereafter.</p>	<p>improvement.</p>	<p>Reports are yet to materialise. A centralised authority may be set up in India (as in U.K. or USA) to deal with suspicious activities and for coordinating, investigation, and follow up with other investigating agencies. A joint effort of RBI & GOI is under contemplation.</p>

Sr. No.	FATF 40 Recommendations	Similar or Related Principle in BCP 15 and Methodology Document	Present position	Level of Compliance	Comments
		<p>imposed by contract, legislation or regulation if they report their suspicions in good faith to the regulator, even if they did not know precisely what the underlying criminal activity was, and regardless of whether illegal activity actually occurred.</p>			
19	<p>Financial institutions should <u>develop programs against money laundering</u>. These programs should</p>	<p>The supervisor determines that banks appoint a senior officer with explicit responsibility for</p>	<p>Though instructions exist on the general purport of the recommendation, the emphasis is more on frauds and other</p>	<p>Compliant, with scope for improvement.</p>	<p>Comprehensive guidelines are being issued to banks on the additional safeguards to be adhered to by them to prevent money laundering activities. The instructions</p>

Sr. No.	FATF 40 Recommendations	Similar or Related Principle in BCP 15 and Methodology Document	Present position	Level of Compliance	Comments
	<p>include, as a minimum :</p> <p>(i) the development of internal policies, procedures and controls, including the designation of compliance officers at management level, and adequate screening procedures to ensure high standards when hiring employees;</p> <p>(ii) an ongoing employee training programme ;</p> <p>(ii) an audit function to test the system.</p>	<p>ensuring that the bank's policies and procedures are, at a minimum, in accordance with local statutory and regulatory anti-money laundering requirements.</p> <p>The supervisor determines that banks have clear procedures, communicated to all personnel, for staff to report suspicious transactions to the dedicated senior officer responsible for anti-money laundering</p>	<p>related risks. Reporting of frauds, case by case, for more than Rs.100,000 is in place. Such frauds are reported to banks' top management as well as to RBI under the reporting system prescribed by RBI. This vigilance function in banks co-ordinates with RBI as well as the Central Vigilance Commission (for Government owned banks). RBI has advised banks to report frauds immediately to the concerned investigative agency particularly in respect</p>		<p>will incorporate the recommendations made by a Group of banks through a Working Group set up by the Indian Banks' Association (IBA), in which RBI was also associated. The recommendations cover, inter alia, adoption of anti-money laundering policy, procedures, and controls by banks, including appointing of compliance officers at management level and an ongoing employee training programme.</p>

Sr. No.	FATF 40 Recommendations	Similar or Related Principle in BCP 15 and Methodology Document	Present position	Level of Compliance	Comments
		<p>compliance.</p> <p>The supervisor determines that banks have established lines of communication both to management and to an internal security (guardian) function for reporting problems.</p> <p>The supervisor periodically checks that banks' money laundering controls and their systems for preventing, identifying and reporting fraud are sufficient. The</p>	<p>of large value frauds. However, an orientation of the guidelines to anti-money laundering measures is required, including institution of ongoing employee training programme and audit function to test the system.</p> <p>As per the IRDA regulations, insurance agents have to undergo a minimum specified period of training and in this training they are taught interalia about the vigilance policy and the need for verification of all details given by the</p>		

Sr. No.	FATF 40 Recommendations	Similar or Related Principle in BCP 15 and Methodology Document	Present position	Level of Compliance	Comments
		<p>supervisor has adequate enforcement powers (regulatory and/or criminal prosecution) to take action against a bank that does not comply with its anti-money laundering obligations.</p> <p>The supervisor determines that banks have a policy statement on ethics and professional behaviour that is clearly communicated to all staff.</p>	<p>proposers. Since the insurance agents act as an intermediary between the Company and the policyholders, they have to certify the correctness of information given by the policy holders/proposals and these insurance agents are under supervision of other middle/senior management of the insurance company.</p>		

Sr. No.	FATF 40 Recommendations	Similar or Related Principle in BCP 15 and Methodology Document	Present position	Level of Compliance	Comments
		<p>The supervisor determines that bank staff is adequately trained on money laundering detection and prevention.</p> <p>The Compliance Officer in the insurance sector should be well versed in the different types of transactions which the institution handles and which may give rise to opportunities for money laundering.</p>			

Sr. No.	FATF 40 Recommendations	Similar or Related Principle in BCP 15 and Methodology Document	Present position	Level of Compliance	Comments
		<p>Market intermediaries should be required to have in place policies and procedures designed to minimize the potential use of the intermediary as a vehicle for money laundering and which comply with anti-money laundering provisions in laws and regulations. Market intermediaries should be required to have on-going employee training related to anti-</p>			

Sr. No.	FATF 40 Recommendations	Similar or Related Principle in BCP 15 and Methodology Document	Present position	Level of Compliance	Comments
		<p>money laundering provisions and should be required to audit or review its compliance with anti-money laundering requirements.</p>			
20	<p>Financial institutions should ensure that the <u>principles</u> mentioned above are also <u>applied to branches and majority owned subsidiaries located abroad</u>, especially in countries which do not or insufficiently apply these</p>	<p>An insurance entity should take special care when the policyholder/beneficiary resides in another jurisdiction or when the subject matter of insurance is located outside the jurisdiction of the insurance entity.</p>	<p>Branches located abroad have been advised to comply with host country regulations. They are required to provide Report on Frauds as part of Returns prescribed by RBI under Offsite Monitoring System.</p>	Complied with.	

Sr. No.	FATF 40 Recommendations	Similar or Related Principle in BCP 15 and Methodology Document	Present position	Level of Compliance	Comments
	<p>Recommendations, to the extent that local applicable laws and regulations permit. When local applicable laws and regulations prohibit this implementation, competent authorities in the country of the mother institution should be informed by the financial institutions that they cannot apply these Recommendations.</p>				
21	<p>Financial institutions should give special attention to business relations and</p>	<p>The laws and/or regulations embody international sound practices, such as</p>	<p>Institutionalized arrangements to keep record of transactions through the financial system of entities in</p>	<p>Further review required to establish level of</p>	<p>A list of non-cooperative countries and territories which do not sufficiently apply these recommendations has</p>

Sr. No.	FATF 40 Recommendations	Similar or Related Principle in BCP 15 and Methodology Document	Present position	Level of Compliance	Comments
	<p>transactions with persons, including companies and financial institutions, from countries which do not or insufficiently apply these Recommendations. Whenever these transactions have no apparent economic or visible lawful purpose, their background and purpose should, as far as possible, be examined, the findings established in writing, and be available to help supervisors, auditors and law</p>	<p>compliance with the relevant forty Financial Action Task Force Recommendations issued in 1990 (revised 1996). In the case of foreign clients, market intermediaries may rely on a reputable source for identification of the client - this source may be an appropriately regulated foreign financial institution. The market intermediary should determine</p>	<p>non-cooperative countries falls in the domain of Government's law enforcement machinery and needs to be coordinated with Ministry of External Affairs.</p>	<p>compliance.</p>	<p>recently been provided by the FATF on Money Laundering. These are Cook Islands, Dominica, Egypt, Grenada, Gautemala, Hungary, Indonesia, Israel, Lebanon, Marshall Islands, Myanmar, Nauru, Nigeria, Niue, Phillippines, Russia, St.Kitts and Nevis, St.Vincent and the Grenadines and Ukraine. The same will be circulated to the banks.</p>

Sr. No.	FATF 40 Recommendations	Similar or Related Principle in BCP 15 and Methodology Document	Present position	Level of Compliance	Comments
	enforcement agencies.	<p>the identity of the beneficial owner.</p> <p>Market intermediaries should be required to give special attention to transactions involving persons, companies or financial institutions from countries that do not or insufficiently apply international anti-money laundering standards.</p> <p>Whenever these transactions have no apparent economic or</p>			

Sr. No.	FATF 40 Recommendations	Similar or Related Principle in BCP 15 and Methodology Document	Present position	Level of Compliance	Comments
		<p>visible lawful purpose, their background and purpose should, as far as possible, be examined, the findings established in writing, and be available to help supervisors, auditors and law enforcement agencies.</p>			
22	<p>Countries should consider implementing feasible measures to detect or monitor the physical cross-border transportation of</p>		<p>Restrictions have been imposed on export out of India and import into India of Indian currency as well as foreign currency. Given the prevailing restrictions on capital</p>	<p>Complied with.</p>	

Sr. No.	FATF 40 Recommendations	Similar or Related Principle in BCP 15 and Methodology Document	Present position	Level of Compliance	Comments
	cash and bearer negotiable instruments, subject to strict safeguards to ensure proper use of information and without impeding in any way the freedom of capital movements.		account convertibility, scope for money laundering through movement of capital is limited. Customs authorities monitor the cross-border movement of funds.		
23	Countries should consider the feasibility and utility of a system where banks and other financial institutions and intermediaries would report all domestic and international currency transactions above a		All transactions in foreign exchange are reported to the Reserve Bank through a prescribed Return which in turn forms the basis of data collection by the Bank.	Compliant, with scope for improvement.	An institutionalized system for reporting and tracking of suspicious transactions needs to be put in place.

Sr. No.	FATF 40 Recommendations	Similar or Related Principle in BCP 15 and Methodology Document	Present position	Level of Compliance	Comments
	fixed amount, to a national central agency with a computerised data base.				
24	Countries should further encourage in general the development of modern and secure techniques of money management, including increased use of checks, payment cards, direct deposit of salary checks, and book entry recording of securities, as a means to encourage		To encourage non-cash transactions, licensing policy for offsite and onsite Automated Teller Machines (ATMs) has been liberalised. In addition to credit cards, banks have extended the facility of smart/debit cards to their customers. Transactions in Government securities by institutions are done through the delivery vs	Deemed to be complied with.	The measures needed to reduce cash transactions are being constantly reviewed. But this would develop over time in developing countries like India. The proposals for faster settlement through improved payment systems are also expected to facilitate greater preference for cheques and utilization of other instruments.

Sr. No.	FATF 40 Recommendations	Similar or Related Principle in BCP 15 and Methodology Document	Present position	Level of Compliance	Comments
	the replacement of cash transfers.		payment system and settled through book entries.		
25	Countries should take <u>notice of the potential for abuse of shell corporations</u> by money launderers and should consider whether additional measures are required to prevent unlawful use of such entities.	An insurance entity should primarily carry out verification in respect of the parties entering into the insurance contract. On more occasions there may be underlying principals and if this is the case, the true nature of the relationship between the principals and the policyholders should be established and	Shell banks (ie banks without a physical presence) are not allowed to be set up under the extant regulations.	Complied with.	

Sr. No.	FATF 40 Recommendations	Similar or Related Principle in BCP 15 and Methodology Document	Present position	Level of Compliance	Comments
		<p>appropriate enquiries performed on the former, especially if the policyholders are accustomed to act on their instruction.</p> <p>Market intermediaries should be required by law or regulation to take reasonable measures to ascertain the identity of clients based on reliable identification documents, such as passports, identity cards or driver's</p>			

Sr. No.	FATF 40 Recommendations	Similar or Related Principle in BCP 15 and Methodology Document	Present position	Level of Compliance	Comments
		licenses.			
26	The competent authorities supervising banks or other financial institutions or intermediaries, or other competent authorities, should ensure that the supervised institutions have adequate programs to guard against money laundering. These authorities should co-operate and lend expertise spontaneously or on request with other domestic judicial or law enforcement	The supervisor determines that banks have in place adequate policies, practices and procedures that promote high ethical and professional standards and prevent the bank from being used, intentionally or unintentionally, by criminal elements. This includes the prevention and detection of criminal activity or fraud, and reporting of such	As observed in the Financial Sector Assessment Programme of India by the Fund, existing RBI guidelines against money laundering and fraud are generally adequate although the FATF norms have not been adopted. There is scope to adapt the present rules and procedures which relate to the prevention and dealing with fraud, more specifically to the problem of money laundering.	Deemed to be complied with.	As stated earlier, RBI will be guiding banks by reiterating its earlier instructions to bring about a reorientation in the efforts to guard against money laundering. Various agencies which are regulating economic entities need to be formally brought together, as observed in the Recommendation, for sharing of experiences, dissemination of information and to make further progress in a coordinated way.

Sr. No.	FATF 40 Recommendations	Similar or Related Principle in BCP 15 and Methodology Document	Present position	Level of Compliance	Comments
	<p>authorities in money laundering investigations and prosecutions.</p>	<p>suspected activities to the appropriate authorities.</p> <p>The supervisor is able, directly or indirectly, to share with domestic and foreign financial sector supervisory authorities information related to suspected or actual criminal activities.</p> <p>The supervisor is able, directly or indirectly, to share with relevant judicial authorities information related to suspected or</p>			

Sr. No.	FATF 40 Recommendations	Similar or Related Principle in BCP 15 and Methodology Document	Present position	Level of Compliance	Comments
		<p>actual criminal activities.</p> <p>If not performed by another agency, the supervisor has in-house resources with specialist expertise on financial fraud and anti-money laundering obligations.</p> <p>Vigilance systems should enable key staff to react effectively to suspicious occasions and circumstances by reporting them to the relevant</p>			

Sr. No.	FATF 40 Recommendations	Similar or Related Principle in BCP 15 and Methodology Document	Present position	Level of Compliance	Comments
		<p>personnel in-house and to receive training from time to time from the institution to equip them to play their part in meeting their responsibilities.</p>			
27	<p>Competent authorities should be designated to ensure an effective implementation of all these Recommendations, through administrative supervision and regulation, in other professions dealing with cash as defined</p>		<p>Designation of Competent authorities in the PMLB will facilitate effective implementation of this recommendation.</p>	<p>Deemed to be complied with.</p>	<p>As above.</p>

Sr. No.	FATF 40 Recommendations	Similar or Related Principle in BCP 15 and Methodology Document	Present position	Level of Compliance	Comments
	by each country.				
28	The competent authorities should establish guidelines which will assist financial institutions in detecting suspicious patterns of behaviour by their customers. It is understood that such guidelines must develop over time, and will never be exhaustive. It is further understood that such guidelines will primarily serve as an educational tool for financial institutions' personnel.	Thorough underwriting will enable an insurance company to understand the business written. Underwriting will include checking the presence of insurable interest when accepting applications and processing claims. In many jurisdictions the practice of buying and selling second hand endowment policies is relevant and in these cases the insurance entity	RBI has been circulating to banks details of frauds of ingenious nature which come to its notice so that individual banks could introduce the necessary safeguards to prevent and detect such frauds. To assist banks in detecting suspicious patterns of behaviour by their customers, an indicative list of transactions requiring due diligence has been prepared by the Bank and by the IBA Working Group.	Deemed to be complied with.	The Group is informed that the recommendations of the IBA are being accepted and comprehensive instructions to banks/FIs would soon be in place.

Sr. No.	FATF 40 Recommendations	Similar or Related Principle in BCP 15 and Methodology Document	Present position	Level of Compliance	Comments
		<p>and the insurance supervisor should be extra vigilant. All insurance entities should have an effective anti-money laundering programme in place which enable them to determine (or receive confirmation of) the true identity of prospective policyholders.</p>			
29	The competent authorities regulating or supervising financial institutions should take the necessary		Sufficient safeguards exist in the Banking Regulation Act for due diligence to ensure that a person not 'fit and	Complied with.	

Sr. No.	FATF 40 Recommendations	Similar or Related Principle in BCP 15 and Methodology Document	Present position	Level of Compliance	Comments
	<p>legal or regulatory measures to guard against control or acquisition of a significant participation in financial institutions by criminals or their confederates.</p>		<p>proper' can neither set up nor acquire a controlling stake in a bank. Moreover transfer of shares in a bank in excess of the ceiling of 5% requires the consent of the RBI and the transfer is invalid in the absence of the central bank's acknowledgement. A significant provision in B.R. Act relates to restriction of voting rights to 10% regardless of the actual extent of shareholding.</p>		
30	<p>National administrations should consider recording, at least in</p>		<p>Inflow into the country and outflow out of the country of foreign exchange are compiled</p>	<p>Complied with.</p>	

Sr. No.	FATF 40 Recommendations	Similar or Related Principle in BCP 15 and Methodology Document	Present position	Level of Compliance	Comments
	<p>the aggregate, international flows of cash in whatever currency, so that estimates can be made of cash flows and reflows from various sources abroad, when this is combined with central bank information. Such information should be made available to the International Monetary Fund and the Bank for International Settlements to facilitate international studies.</p>		<p>by the Bank and made available to the IMF, etc.</p> <p>Incidentally, arrangement exists under the Special Data Dissemination Standards (SDDS) of the IMF for international exchange of information, especially on macro-economic issues.</p>		
31	International		Considerable	Further	Promotional work to bring

Sr. No.	FATF 40 Recommendations	Similar or Related Principle in BCP 15 and Methodology Document	Present position	Level of Compliance	Comments
	<p>competent authorities, perhaps Interpol and the World Customs Organisation, should be given responsibility for gathering and disseminating information to competent authorities about the latest developments in money laundering and money laundering techniques. Central banks and bank regulators could do the same on their network. National authorities in various spheres, in</p>		<p>promotional and educational work needs to be done by RBI to inculcate the discipline needed to prevent use of banking channels for money laundering purposes.</p>	<p>review required to establish level of compliance.</p>	<p>greater awareness of anti money laundering measures coupled with institutional safeguards to prevent abuse of financial sector would have to be taken in a concerted fashion by the Government and other regulators.</p>

Sr. No.	FATF 40 Recommendations	Similar or Related Principle in BCP 15 and Methodology Document	Present position	Level of Compliance	Comments
	consultation with trade associations, could then disseminate this to financial institutions in individual countries.				
32	Each country should make efforts to improve a spontaneous or "upon request" international information exchange relating to suspicious transactions, persons and corporations involved in those transactions between competent authorities. Strict	The regulator should have the authority to share both public and non-public information with domestic and foreign counterparties. Regulators should establish information sharing mechanism that set out when	Mechanism exists for provision of information under certain forums such as through the Interpol network. The system of cooperation and sharing of information with foreign supervisory agencies is well set.	Deemed to be complied with.	The set-up as suggested in Recommendation No.18 & 23 for collecting SAR could be entrusted the task of functioning as the Exchange house for information on Money Laundering.

Sr. No.	FATF 40 Recommendations	Similar or Related Principle in BCP 15 and Methodology Document	Present position	Level of Compliance	Comments
	safeguards should be established to ensure that this exchange of information is consistent with national and international provisions on privacy and data protection.	and how they will share both public and non-public information with their domestic and foreign counterparts.			
33	Countries should try to ensure, on a bilateral or multilateral basis, that different knowledge standards in national definitions - i.e. different standards concerning the intentional element		India has a good pool of accounting and legal professionals and no difficulty is anticipated in complying with this Recommendation. The country is also moving towards adoption of international standards in accounting and other prudential norms.	Further review required to establish level of compliance.	Bilateral/multilateral agreements for cooperation are in the Government domain and the Technical Group has no further information of their adoption in agreements.

Sr. No.	FATF 40 Recommendations	Similar or Related Principle in BCP 15 and Methodology Document	Present position	Level of Compliance	Comments
	of the infraction - do not affect the ability or willingness of countries to provide each other with mutual legal assistance.		This facilitates a common knowledge base and easier understanding of the operations of the Indian financial system.		
34	International co-operation should be supported by a network of bilateral and multilateral agreements and arrangements based on generally shared legal concepts with the aim of providing practical measures to affect the widest possible range of mutual assistance.		Due importance is attached by the Government of India to enhancing bilateral and multilateral cooperation through agreements and other arrangements for exchange of information. The legal system in India has developed over centuries and legislative changes have been made in	Further review required to establish level of compliance.	As above.

Sr. No.	FATF 40 Recommendations	Similar or Related Principle in BCP 15 and Methodology Document	Present position	Level of Compliance	Comments
			tune with international legislative requirements.		
35	Countries should be encouraged to ratify and implement relevant international conventions on money laundering such as the 1990 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime.		India as a member of the G-20 and Asia-Pacific Group on Anti Money Laundering has been actively involved in international efforts to counter money laundering.	Deemed to be complied with.	
36	Co-operative investigations among countries'		India has requisite arrangements with international major law	Further review required to	Law enforcement and other cooperative efforts in investigation, tracking, and

Sr. No.	FATF 40 Recommendations	Similar or Related Principle in BCP 15 and Methodology Document	Present position	Level of Compliance	Comments
	<p>appropriate competent authorities should be encouraged. One valid and effective investigative technique in this respect is controlled delivery related to assets known or suspected to be the proceeds of crime. Countries are encouraged to support this technique, where possible</p>		<p>enforcement authorities.</p>	<p>establish level of compliance.</p>	<p>freezing the proceeds of crime is essentially a Government responsibility.</p>
37	<p>There should be procedures for mutual assistance in criminal matters</p>		<p>Contemplated in the Prevention of Money Laundering Bill, 1999.</p>	<p>Deemed to be complied with.</p>	

Sr. No.	FATF 40 Recommendations	Similar or Related Principle in BCP 15 and Methodology Document	Present position	Level of Compliance	Comments
	regarding the use of compulsory measures including the production of records by financial institutions and other persons, the search of persons and premises, seizure and obtaining of evidence for use in money laundering investigations and prosecutions and in related actions in foreign jurisdictions.				
38	There should be authority to take expeditious action in response to requests by foreign countries		Contemplated in the Prevention of Money Laundering Bill, 1999.	Deemed to be complied with.	

Sr. No.	FATF 40 Recommendations	Similar or Related Principle in BCP 15 and Methodology Document	Present position	Level of Compliance	Comments
	<p>to identify, freeze, seize and confiscate proceeds or other property of corresponding value to such proceeds, based on money laundering or the crimes underlying the laundering activity. There should also be arrangements for coordinating seizure and confiscation proceedings which may include the sharing of confiscated assets.</p>				
39	To avoid conflicts of jurisdiction, consideration should		Contemplated in the Prevention of Money Laundering Bill, 1999.	Deemed to be complied with.	

Sr. No.	FATF 40 Recommendations	Similar or Related Principle in BCP 15 and Methodology Document	Present position	Level of Compliance	Comments
	<p>be given to devising and applying mechanisms for determining the best venue for prosecution of defendants in the interests of justice in cases that are subject to prosecution in more than one country. Similarly, there should be arrangements for coordinating seizure and confiscation proceedings which may include the sharing of confiscated assets.</p>				
40	Countries should		Contemplated in the	Deemed to be	

Sr. No.	FATF 40 Recommendations	Similar or Related Principle in BCP 15 and Methodology Document	Present position	Level of Compliance	Comments
	<p>have procedures in place to extradite, where possible, individuals charged with a money laundering offence or related offences. With respect to its national legal system, each country should recognise money laundering as an extraditable offence. Subject to their legal frameworks, countries may consider simplifying extradition by allowing direct transmission of extradition requests between appropriate</p>		Prevention of Money Laundering Bill, 1999.	complied with.	

Sr. No.	FATF 40 Recommendations	Similar or Related Principle in BCP 15 and Methodology Document	Present position	Level of Compliance	Comments
	<p>ministries, extraditing persons based only on warrants of arrests or judgements, extraditing their nationals, and/or introducing a simplified extradition of consenting persons who waive formal extradition proceedings.</p>				

Annex to Recommendation 9

	<u>Financial Activity</u>	<u>Institution undertaking the activity</u>	<u>Regulating Authority</u>	<u>Statutory basis</u>
1	Acceptance of deposits and other repayable funds from the public.	Banks, Non-bank Financial Institutions	RBI	B.R.Act, RBI Act
2	Lending	Banks, Non-bank Financial Institutions	RBI	B.R.Act, RBI Act
3	Financial leasing	Banks, Non-bank Financial Institutions	RBI	B.R.Act, RBI Act, other guidelines
4	Money transmission services	Banks, Post Offices	RBI, GOI	B.R.Act, FEMA
5	Issuing and managing means of payment (e.g. credit and debit cards, cheques, traveller's cheques and bankers' drafts).	Banks	RBI	B.R.Act, FEMA
6	Financial guarantees and commitments.	Banks, Financial Institutions	RBI	B.R. Act, FEMA
7	Trading for account of customers (spot, forward, swaps, futures, options) in : (a) Money market instruments (cheques, bills, CDs etc.)	Banks, Exchange brokers, Corporates, Financial Institutions	RBI, SEBI, Forward Market Commission	B.R.Act, SEBI Act, FEMA

	<u>Financial Activity</u>	<u>Institution undertaking the activity</u>	<u>Regulating Authority</u>	<u>Statutory basis</u>
	(b) foreign exchange (c) exchange, interest rate and index instruments (d) Transferable securities (e) Commodity futures trading			
8	Participation in securities issues and the provision of financial services related to such issues.	Primary Dealers, Broking Houses, merchant bankers.	RBI, SEBI	SEBI Act, RBI Act
9	Individual and collective portfolio management.	Banks, Non bank financial service companies	RBI	B.R. Act, RBI Act
10	Safekeeping and administration of cash or liquid securities on behalf of clients.	Banks, (private companies)	RBI	B.R. Act, Contract Act
11	Life insurance and other investment related insurance.	Insurance companies, banks	IRDA, RBI	B.R. Act, Insurance Act.
12	Money changing.	Banks, Travel agencies	RBI	FEMA

Special Recommendations of the Financial Action Task Force on Money Laundering (FATF)
on Terrorist Financing - Assessment of Compliance

Sr. No.	FATF 8 Recommendations	Present Position	Level of Compliance	Comments
1	<p>Ratification and implementation of UN instruments</p> <p>Each country should take immediate steps to ratify and to implement fully the 1999 United Nations International Convention for the Suppression of the Financing of Terrorism.</p> <p>Countries should also immediately implement the United Nations resolutions relating to the prevention and suppression of the financing of terrorist acts, particularly United Nations Security Council</p>	<p>The United Nations (Security Council) Act, 1947 enables the Central Government to give effect to any decision of the Council by making provisions for effective application of those measures including punishment of persons offending against the order.</p> <p>Following the promulgation of the Prevention of Terrorism Ordinance, 2001 for the prevention of terrorist activities, in October 2001, it was decided in consultation with the Government of India, that banks should keep a watchful eye on</p>	<p>Deemed to be complied with</p>	<p>The enactment of the Prevention of Terrorism Act, 2002 will enable compliance with this recommendation on an ongoing basis.</p>

Sr. No.	FATF 8 Recommendations	Present Position	Level of Compliance	Comments
	Resolution 1373.	the transactions of the terrorist organizations identified and listed in the Schedule to the Ordinance. If something is found violative of the extant Acts or normal banking operations, the matter is to be reported by the concerned bank to the appropriate authorities under the Ordinance, under advice to RBI.		
2	<p>Criminalising the financing of terrorism and associated money laundering</p> <p>Each country should criminalise the financing of terrorism, terrorist acts and terrorist organisations. Countries should ensure that such offences are designated as money laundering predicate offences.</p>	<p>Money laundering has been declared a criminal offence in the Prevention of Money Laundering Bill, 1999 and has been defined as "acquisition, possession, ownership or transfer of any proceeds of crime".</p>	<p>Deemed to be complied with.</p>	<p>It is necessary to recognise the nexus between money laundering and terrorist financing and designating offences associated with the financing of terrorism as money laundering predicate offences by suitably amending The Prevention of Money</p>

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				<p>Laundering Bill to include "terrorism" in the Schedule of offences.</p> <p>It would be necessary to bring greater awareness of the crime of money laundering through specific guidelines, other awareness programme through training and media publicity.</p>
3	<p>Freezing and confiscating terrorist assets</p> <p>Each country should implement measures to freeze without delay funds or other assets of terrorists, those who finance terrorism and terrorist organisations in accordance with the United Nations resolutions relating to the prevention and</p>	<p>Action to freeze bank accounts of listed entities is taken at the instance of Government of India. RBI is empowered under Section 11 of FEMA to give directions to authorised persons in regard to making of payment or doing or desist from doing any act relating to foreign exchange or foreign security.</p>	<p>Compliant, with scope for improvement</p>	<p>A mechanism has to be devised by which RBI, on receipt of lists of terrorist organizations from international bodies, will advise banks to exercise caution while dealing with the listed entities.</p> <p>Section 35 A of B.R. Act will have to be suitably amended to specifically provide for "freezing" of domestic accounts</p>

Sr. No.	FATF 8 Recommendations	Present Position	Level of Compliance	Comments
	<p>suppression of the financing of terrorist acts.</p> <p>Each country should also adopt and implement measures, including legislative ones, which would enable the competent authorities to seize and confiscate property that is the proceeds of, or used in, or intended or allocated for use in, the financing of terrorism, terrorist acts or terrorist organisations.</p>			<p>of listed terrorists in the public interest.</p> <p>A nodal agency is required to be set up under the aegis of Government to ensure effective co-ordination between various regulatory and enforcement authorities so that expeditious action can be taken for freezing and confiscating terrorist assets.</p>
4	<p>Reporting suspicious transactions related to terrorism</p> <p>If financial institutions, or other businesses or entities subject to anti-</p>	<p>While existing laws do not prescribe suspicious activity reporting by banks, records of</p>	<p>Compliant, with scope for improvement</p>	<p>It will be necessary to advise banks to improve the existing level of MIS and to put in place</p>

Sr. No.	FATF 8 Recommendations	Present Position	Level of Compliance	Comments
	<p>money laundering obligations, suspect or have reasonable grounds to suspect that funds are linked or related to, or are to be used for terrorism, terrorist acts or by terrorist organisations, they should be required to report promptly their suspicions to the competent authorities.</p>	<p>banks are open to inspection for the authorities who have access to records under search and seizure powers vested in them.</p>		<p>systems and procedures, to capture and report suspicious activities. RBI will be issuing comprehensive instructions to banks regarding adoption of anti money laundering policy and procedures including monitoring and reporting of suspicious transactions.</p> <p>A centralised authority may be set up in India (as in U.K.or USA) to deal with suspicious activities and for co-ordinating investigation and follow up with other investigating agencies. Certain initiatives taken for setting up Serious Frauds Office for collating SA Reports are yet to materialise. A joint effort of RBI and Government of India is under contemplation.</p> <p>An agency may be designated by the Government to be the</p>

Sr. No.	FATF 8 Recommendations	Present Position	Level of Compliance	Comments
				custodian of such data /providing such data to investigating agencies. This agency may undertake monitoring of suspicious activities.
5	<p>International Co-operation</p> <p>Each country should afford another country, on the basis of a treaty, arrangement or other mechanism for mutual legal assistance or information exchange, the greatest possible measure of assistance in connection with criminal, civil enforcement, and administrative</p>	<p>The Prevention of Money Laundering Bill, 1999, provides for reciprocal arrangement for assistance to a "Contracting State" i.e. any country or place outside India in respect of which arrangements have been made by the Central Government with the Government of such country through a treaty or otherwise".</p>	<p>Deemed to be complied with</p>	<p>The enactment of the Bill will ensure compliance with this recommendation.</p>

Sr. No.	FATF 8 Recommendations	Present Position	Level of Compliance	Comments
	<p>investigations, inquiries and proceedings relating to the financing of terrorism, terrorist acts and terrorist organisations.</p> <p>Countries should also take all possible measures to ensure that they do not provide safe havens for individuals charged with the financing of terrorism, terrorist acts or terrorist organisations, and should have procedures in place to extradite, where possible, such individuals.</p>			
6	<p>Alternative Remittance</p> <p>Each country should</p>	<p>Services for the transmission of</p>	<p>Deemed to be</p>	<p>It is to be ensured that</p>

Sr. No.	FATF 8 Recommendations	Present Position	Level of Compliance	Comments
	<p>take measures to ensure that persons or legal entities, including agents, that provide a service for the transmission of money or value, including transmission through an informal money or value transfer system or network, should be licensed or registered and subject to all the FATF Recommendations that apply to banks and non-bank financial institutions. Each country should ensure that persons or legal entities that carry out this service illegally are subject to administrative, civil or criminal sanctions.</p>	<p>money or value are provided by banks, financial institutions, non-banking entities and corporates who are supervised by the respective regulatory authorities viz. RBI, SEBI, IRDA, Forward Market Commission.</p>	<p>complied with</p>	<p>respective regulators impose the requirement of compliance with the recommendations of FATF insofar as they are related to the entities supervised by them. This would need an inter regulatory arrangement of either consultations or formal MOU among the different regulators specifying the compliance requirements of the entities supervised by them.</p>

Sr. No.	FATF 8 Recommendations	Present Position	Level of Compliance	Comments
7	<p>Wire transfers</p> <p>Countries should take measures to require financial institutions, including money remitters, to include accurate and meaningful originator information (name, address and account number) on funds transfers and related messages that are sent and the information should remain with the transfer or related message through the payment chain.</p> <p>Countries should take measures to ensure that financial institutions, including money remitters, conduct enhanced scrutiny of and monitor for suspicious</p>	<p>Money remittance can currently be done in India through Authorised Dealers (banks) and through Postal Department. The remittance through post offices is restricted and cannot be misused. The regulatory requirements and oversight over banks together with further action proposed in the light of FATF recommendations should facilitate compliance with this requirement.</p>	<p>Compliant, with scope for improvement</p>	<p>Suitable guidelines will have to be issued to banks by RBI to ensure full compliance with this recommendation.</p>

Sr. No.	FATF 8 Recommendations	Present Position	Level of Compliance	Comments
	activity funds transfers which do not contain complete originator information (name, address and account number).			
8	<p>Non-profit organizations</p> <p>Countries should review the adequacy of laws and regulations that relate to entities that can be abused for the financing of terrorism. Non-profit organisations are particularly vulnerable, and countries should ensure that they cannot be misused :</p> <p>☞ by terrorist organizations posing as legitimate entities;</p>	<p>The banks are prohibited under the Foreign Contribution (Regulation) Act to open deposit accounts of non-profit organizations and for receipt of donations from foreign countries unless the organization has a valid registration issued by Government of India. This restriction would keep in check attempts of terrorist organizations to obtain resources by registering as legitimate Non-government organisations.</p>	Complied with	

Sr. No.	FATF 8 Recommendations	Present Position	Level of Compliance	Comments
	<ul style="list-style-type: none"> <li data-bbox="309 316 638 603">✍ to exploit legitimate entities as conduits for terrorist financing, including for the purpose of escaping asset freezing measures; and <li data-bbox="309 651 638 895">✍ to conceal or obscure the clandestine diversion of funds intended for legitimate purposes to terrorist organizations. 			

Annexure III

Report of the Working Group on Internet Banking- Extract

7.2.1 Online opening of account :

The banks providing Internet banking service, at present are only willing to accept the request for opening of accounts. The accounts are opened only after proper physical introduction and verification. This is primarily for the purpose of proper identification of the customer and also to avoid benami accounts as also money laundering activities that might be undertaken by the customer. Supervisors world over, expect the Internet banks also to follow the practice of ' know your customer '.

7.8.1 Internet Banking and Money Laundering :

One of the major concerns associated with Internet Banking has been that the Internet banking transactions may become untraceable and are incredibly mobile and may easily be anonymous and may not leave a traditional audit trail by allowing instantaneous transfer of funds. It is pertinent to note that money-laundering transactions are cash transactions leaving no paper trail. Such an apprehension will be more in the case of use of electronic money or e-cash. In the case of Internet Banking the transactions are initiated and concluded between designated accounts. Further Section 11 of the proposed Prevention of Money Laundering Bill, 1999 imposes an obligation on every Banking Company, Financial institution and intermediary to maintain a record of all the transactions or series of transactions taking place within a month, the nature and value of which may be prescribed by the Central Government. These records are to be maintained for a period of five years from the date of cessation of the transaction between the client and the banking company or the financial institution or the intermediary This would apply to banks offering physical or Internet banking services. This will adequately guard against any misuse of the Internet banking services for the purpose of money laundering. Further the requirement of the banking companies to preserve specified ledgers, registers and other records for a period of 5 to 8 years, as per the Banking Companies (Period of Preservation of Records) Rules, 1985 promulgated by the Central Government also adequately takes care of this concern.