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GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)
NOTIFICATION
New Delhi, dated the 1st July, 2005

GSR.444(E).- In exercise of the powers conferred by sub-section (1) read with clause (h), clause (i), clause (j) and clause (k) of sub-section (2) of section 73 of the Prevention of Money-laundering Act, 2002 (15 of 2003), the Central Government in consultation with the Reserve Bank of India, hereby makes the following rules for maintenance of records of the nature and value of transactions, the procedure and manner of maintaining and time for furnishing of information and verification of records of the identity of the clients of the banking companies, financial institutions and intermediaries, namely:-

1. Short title and commencement. – (1) These rules may be called the Prevention of Money-laundering (Maintenance of Records of the Nature and Value of Transactions, the Procedure and Manner of Maintaining and Time for Furnishing Information and Verification and Maintenance of Records of the Identity of the Clients of the Banking Companies, Financial Institutions and Intermediaries) Rules, 2005.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions. – (1) In these rules, unless the context otherwise requires, -

(a) “Act” means the Prevention of Money-laundering Act, 2002 (15 of 2003);

(b) “client” means a person that engages in a financial transaction or activity with a banking company, or financial institution or intermediary and includes a person on whose behalf the person that engages in the transaction or activity, is acting;

(c) “Director” means the Director appointed under sub-section (1) of section 49 of the Act for the purposes of sections 12 and 13 of the Act;

(d) “officially valid document” means the passport, the driving licence, the Permanent Account Number (PAN) Card, the Voter’s Identity Card issued by the Election Commission of India or any other document as may be required by the banking company, or financial institution or intermediary;

(e) “prescribed value” means the value of transaction prescribed under these rules;

(f) “Principal Officer” means an officer designated by a banking company, financial institution and intermediary, as the case may be;

(g) “suspicious transaction” means a transaction whether or not made in cash which, to a person acting in good faith

(a) gives rise to a reasonable ground of suspicion that it may involve the proceeds of crime; or

(b) appears to be made in circumstances of unusual or unjustified complexity; or

(c) appears to have no economic rationale or bonafide purpose;

(h) “transaction” includes deposit, withdrawal, exchange or transfer of funds in whatever currency, whether in cash or by cheque, payment order or other instruments or by electronic or other non-physical means. (2) All other words and expressions used and not defined in these rules but defined in the Act shall have the meaning respectively assigned to them in the Act.

3. Maintenance of records of transactions (nature and value). –

(1) Every banking company or financial institution or intermediary, as the case may be, shall maintain a record of, –

(A) all cash transactions of the value of more than rupees ten lakhs or its equivalent in foreign currency;

(B) all series of cash transactions integrally connected to each other which have been valued below rupees ten lakhs or its equivalent in foreign currency where such series of transactions have taken place within a month;

(C) all cash transactions where forged or counterfeit currency notes or bank notes have been used as genuine and where any forgery of a valuable security has taken place;

(D) all suspicious transactions whether or not made in cash and by way of :

(i) deposits and credits, withdrawals into or from any accounts in whatsoever name they are referred to in any currency maintained by way of :

(a) cheques including third party cheques, pay orders, demand drafts, cashiers cheques or any other instrument of payment of money including electronic receipts or credits and electronic payments or debits, or

(b) travellers cheques, or

(c) transfer from one account within the same banking company, financial institution and intermediary, as the case may be, including from or to Nostro and Vostro accounts, or

(d) any other mode in whatsoever name it is referred to;

(ii) credits or debits into or from any non-monetary accounts such as d-mat account, security account in any currency maintained by the banking company, financial institution and intermediary, as the case may be;

(iii) money transfer or remittances in favour of own clients or non-clients from India or abroad and to third party beneficiaries in India or abroad including transactions on its own account in any currency by any of the following:-

(a) payment orders, or

(b) cashiers cheques, or

(c) demand drafts, or

(d) telegraphic or wire transfers or electronic remittances or transfers, or

(e) internet transfers, or

(f) Automated Clearing House remittances, or

(g) lock box driven transfers or remittances, or

(h) remittances for credit or loading to electronic cards, or

(i) any other mode of money transfer by whatsoever name it is called;

(iv) loans and advances including credit or loan substitutes, investments and contingent liability by way of:

- (a) subscription to debt instruments such as commercial paper, certificate of deposits, preferential shares, debentures, securitized participation, inter bank participation or any other investments in securities or the like in whatever form and name it is referred to, or
- (b) purchase and negotiation of bills, cheques and other instruments, or
- (c) foreign exchange contracts, currency, interest rate and commodity and any other derivative instrument in whatsoever name it is called, or
- (d) letters of credit, standby letters of credit, guarantees, comfort letters, solvency certificates and any other instrument for settlement and/or credit support;
- (v) collection services in any currency by way of collection of bills, cheques, instruments or any other mode of collection in whatsoever name it is referred to.

4. Records containing Information – The records referred to in rule 3 shall contain the following information:-

- (a) the nature of the transactions;
- (b) the amount of the transaction and the currency in which it was denominated;
- (c) the date on which the transaction was conducted; and
- (d) the parties to the transaction.

5. Procedure and manner of maintaining information. – (1) Every banking company, financial institution and intermediary, as the case may be, shall maintain information in respect of transactions with its client referred to in rule 3 in hard and soft copies in accordance with the procedure and manner as may be specified by the Reserve Bank of India or the Securities and Exchange Board of India, as the case may be, from time to time.

(2) Every banking company, financial institution and intermediary, shall evolve an internal mechanism for maintaining such information in such form and at such intervals as may be specified by the Reserve Bank of India, or the Securities and Exchange Board of India, as the case may be, from time to time.

(3) It shall be the duty of every banking company, financial institution and intermediary, as the case may be, to observe the procedure and the manner of maintaining information as specified by the Reserve Bank of India or the Securities and Exchange Board of India, as the case may be, under sub-rule (1).

6. Retention of records – The records referred to in rule 3 shall be maintained for a period of ten years from the date of cessation of the transactions between the client and the banking company, financial institution or intermediary, as the case may be.

7. Procedure and manner of furnishing information. – (1) Every banking company, financial institution and intermediary, as the case may be, shall communicate the name, designation and address of the Principal Officer to the Director.

(2) The Principal Officer shall furnish the information referred to in rule 3 to the Director on the basis of information available with the banking company, financial institution and intermediary, as the case may be. A copy of such information shall be retained by the Principal Officer for the purposes of official record.

(3) Every banking company, financial institution and intermediary may evolve an internal mechanism for furnishing information referred to in rule 3 in such form and at such intervals as may be directed by the Reserve Bank of India or the Securities and Exchange Board of India, as the case may be.

(4) It shall be the duty of every banking company, financial institution and intermediary to observe the procedure and the manner of furnishing information referred to in rule 3 as specified by the Reserve Bank of India and the Securities and Exchange Board of India under sub-rule (3), as the case may be.

8. Furnishing of information to the Director. – The Principal Officer of a banking company, the financial institution and intermediary, as the case may be, shall furnish the information in respect of transactions referred to in rule 3 every month to the Director by the 15th day of the succeeding month other than transactions referred to in clauses (C) and (D) of sub-rule (1) of rule 3:

Provided that information in respect of transactions referred to in clauses (C) and (D) of sub-rule (1) of rule 3 shall be promptly furnished in writing or by way of fax or electronic mail to the Director not later than three working days from the date of occurrence of such transactions.

9. Verification of the records of the identity of clients. – (1) Every banking company, financial institution and intermediary, as the case may be, shall, at the time of opening an account or executing any transaction with it, verify and maintain the record of identity

and current address or addresses including permanent address or addresses of the client, the nature of business of the client and his financial status; **Provided** that where it is not possible to verify the identity of the client at the time of opening an account or executing any transaction, the banking company, financial institution and intermediary, as the case may be, shall verify the identity of the client within a reasonable time after the account has been opened or the transaction has been executed.

(2) Where the client is an individual, he shall for the purpose of sub-rule

(1) submit to the banking company or the financial institution or the intermediary, as the case may be, one certified copy of an officially valid document containing details of his permanent address or addresses, current address or addresses, and one copy of his recent photograph and such other documents including in respect of the nature of business and financial status of the client as may be required by the banking company or the financial institution or the intermediary, as the case may be.

(3) Where the client is a company, it shall for the purposes of sub-rule

(1) submit to the banking company or financial institution or intermediary, as the case may be, three certified copies of the following documents :

(i) Certificate of incorporation;

(ii) Memorandum and Articles of Association;

(iii) a resolution from the Board of Directors and power of attorney granted to its managers, officers or employees to transact on its behalf; and

(iv) an officially valid document in respect of managers, officers or employees holding an attorney to transact on its behalf.

(4) Where the client is a partnership firm, it shall for the purposes of sub-rule (1) submit to the banking company, or the financial institution, or the intermediary three certified copies of the following documents:

(i) registration certificate;

(ii) partnership deed; and

(iii) an officially valid document in respect of the person holding an attorney to transact on its behalf.

(5) Where the client is a trust, it shall, for the purposes of sub-rule (1) submit to the banking company, or the financial institution, or the intermediary three certified copies of the following documents:

(i) registration certificate;

(ii) trust deed; and

(iii) an officially valid document in respect of the person holding an attorney to transact on its behalf.

(6) Where the client is an unincorporated association or a body of individuals, it shall submit to the banking company, or the financial institution or the intermediary three copies of the following documents:

(i) resolution of the managing body of such association or body of individuals;

(ii) power of attorney granted to him to transact on its behalf;

(iii) an officially valid document in respect of the person holding an attorney to transact on its behalf; and

(iv) such information as may be required by the banking company or the financial institution or the intermediary to collectively establish the legal existence of such an association or body of individuals.

(7) Every banking company, financial institution and intermediary, as the case may be, shall formulate and implement a client identification programme which shall incorporate the requirements of the foregoing sub-rules of this rule, and such other additional requirements that it considers appropriate to enable it to determine the true identity of its clients. A copy of the client identification programme shall be forwarded to the Director.

10. Maintenance of the records of the identity of clients. – (1) Every banking company or financial institution or intermediary, as the case may be, shall maintain the records of the identity of its clients.

(2) The records of the identity of clients shall be maintained in hard and soft copies in a manner as may be specified by the Reserve Bank of India from time to time.

(3) The records of the identity of clients shall be maintained for a period of ten years from the date of cessation of the transactions between the client and the banking company or financial institution or intermediary, as the case may be.

11. Interpretation. - If any question arises relating to the interpretation of these rules, the matter shall be referred to the Central Government and the decision of the Central Government shall be final.

F.No. 6/2/2004-E.S.

(RAKESH SINGH)

JOINT SECRETARY