



CIRCULAR

CIR/MIRSD/1/2014

March 12, 2014

To,

All Intermediaries registered with SEBI
(Through the stock exchanges for stock brokers and sub brokers,
Depositories for depository participants and
AMFI for Asset Management Companies)
Dear Sir/Madam,

Sub: Anti-Money Laundering/Countering the Financing of Terrorism (AML/CFT) Obligations of Securities Market Intermediaries under the Prevention of Money-laundering Act, 2002 and Rules framed there under

1. Please refer to SEBI Master Circular CIR/ISD/AML/3/2010 dated December 31, 2010 on the captioned subject.
2. In view of the amendments to the Prevention of Money-laundering Act, 2002 (PML Act) and amendments to the Prevention of Money-laundering (Maintenance of Records) Rules, 2005 (PML Rules), it has been decided to make the following consequential modifications and additions to the above referred SEBI Master Circular dated December 31, 2010:

2.1. In clause 5 of Part II, after sub-clause 5.3.1, following sub-clause shall be inserted:

5.3.2 Risk Assessment

- i. Registered intermediaries shall carry out risk assessment to identify, assess and take effective measures to mitigate its money laundering and terrorist financing risk with respect to its clients, countries or geographical areas, nature and volume of transactions, payment methods used by clients, etc. The risk assessment shall also take into account any country specific information that is circulated by the Government of India and SEBI from time to time, as well as, the updated list of individuals and entities who are subjected to sanction measures as required under the various United Nations' Security Council Resolutions (these can be accessed at



http://www.un.org/sc/committees/1267/aq_sanctions_list.shtml and
<http://www.un.org/sc/committees/1988/list.shtml>).

- ii. The risk assessment carried out shall consider all the relevant risk factors before determining the level of overall risk and the appropriate level and type of mitigation to be applied. The assessment shall be documented, updated regularly and made available to competent authorities and self-regulating bodies, as and when required.

2.2. In clause 5 of Part II, after sub-clause 5.5, following sub-clause shall be inserted:

5.6 Reliance on third party for carrying out Client Due Diligence (CDD)

- i. Registered intermediaries may rely on a third party for the purpose of (a) identification and verification of the identity of a client and (b) determination of whether the client is acting on behalf of a beneficial owner, identification of the beneficial owner and verification of the identity of the beneficial owner. Such third party shall be regulated, supervised or monitored for, and have measures in place for compliance with CDD and record-keeping requirements in line with the obligations under the PML Act.
- ii. Such reliance shall be subject to the conditions that are specified in Rule 9 (2) of the PML Rules and shall be in accordance with the regulations and circulars/ guidelines issued by SEBI from time to time. Further, it is clarified that the registered intermediary shall be ultimately responsible for CDD and undertaking enhanced due diligence measures, as applicable.

2.3. Record keeping requirements:

- a. **In sub-clause 8.1 of Part II regarding maintenance of records pertaining to transactions of clients:** The words "*for a period of ten years*" shall be substituted with "*for a period of five years*".
- b. **In sub-clause 8.2 of Part II regarding maintenance of records pertaining to identity of clients:** The words "*The records of the identity of clients have to be maintained and preserved for a period of ten years from the date of cessation of transactions between the client and intermediary, i.e. the date of*



termination of an account or business relationship between the client and intermediary." shall be substituted with the following:

"Records evidencing the identity of its clients and beneficial owners as well as account files and business correspondence shall be maintained and preserved for a period of five years after the business relationship between a client and intermediary has ended or the account has been closed, whichever is later."

c. Sub-clause 8.3 (b) of Part II shall be substituted with the following:

"Registered intermediaries shall maintain and preserve the record of documents evidencing the identity of its clients and beneficial owners (e.g., copies or records of official identification documents like passports, identity cards, driving licenses or similar documents) as well as account files and business correspondence for a period of five years after the business relationship between a client and intermediary has ended or the account has been closed, whichever is later."

d. In sub-clause 9.2 of Part II regarding monitoring of transactions: The words *"preserved for ten years"* shall be substituted with *"maintained and preserved for a period of five years from the date of transaction between the client and intermediary"*.

e. In clause 8 of Part II, after sub-clause 8.4, following sub-clause shall be inserted -

8.5 Records of information reported to the Director, Financial Intelligence Unit - India (FIU-IND): Registered intermediaries shall maintain and preserve the record of information related to transactions, whether attempted or executed, which are reported to the Director, FIU-IND, as required under Rules 7 & 8 of the PML Rules, for a period of five years from the date of the transaction between the client and the intermediary.



2.4. In clause 14 of Part II, after sub-clause 14.1, following sub-clause shall be inserted:

14.2 Appointment of a Designated Director

- i. In addition to the existing requirement of designation of a Principal Officer, the registered intermediaries shall also designate a person as a 'Designated Director'. In terms of Rule 2 (ba) of the PML Rules, the definition of a Designated Director reads as under:

“Designated Director means a person designated by the reporting entity to ensure overall compliance with the obligations imposed under chapter IV of the Act and the Rules and includes —

(i) the Managing Director or a Whole-time Director duly authorized by the Board of Directors if the reporting entity is a company,

(ii) the managing partner if the reporting entity is a partnership firm,

(iii) the proprietor if the reporting entity is a proprietorship concern,

(iv) the managing trustee if the reporting entity is a trust,

(v) a person or individual, as the case may be, who controls and manages the affairs of the reporting entity if the reporting entity is an unincorporated association or a body of individuals, and

(vi) such other person or class of persons as may be notified by the Government if the reporting entity does not fall in any of the categories above.”

- ii. In terms of Section 13 (2) of the PML Act (as amended by the Prevention of Money-laundering (Amendment) Act, 2012), the Director, FIU-IND can take appropriate action, including levying monetary penalty, on the Designated Director for failure of the intermediary to comply with any of its AML/CFT obligations.



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- iii. Registered intermediaries shall communicate the details of the Designated Director, such as, name, designation and address to the Office of the Director, FIU-IND.
3. Registered intermediaries are directed to review their AML/CFT policies and procedures and make changes to the same accordingly. The other provisions specified in the SEBI Master Circular dated December 31, 2010 remain the same.
4. The Stock Exchanges and Depositories are directed to:
- bring the provisions of this Circular to the notice of the Stock Brokers and Depository Participants, as the case may be, and also disseminate the same on their websites;
 - make amendments to the relevant bye-laws, rules and regulations for the implementation of the above decision in co-ordination with one another, as considered necessary;
 - monitor the compliance of this Circular through half-yearly internal audits and inspections; and
 - communicate to SEBI, the status of the implementation of the provisions of this Circular.
5. In case of Mutual Funds, compliance of this Circular shall be monitored by the Boards of the Asset Management Companies and the Trustees and in case of other intermediaries, by their Board of Directors.
6. This Circular is being issued in exercise of powers conferred under Section 11 (1) of the Securities and Exchange Board of India Act, 1992 and the Prevention of Money-laundering (Maintenance of Records) Rules, 2005 to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.
7. This Circular is available on the SEBI website (www.sebi.gov.in) under the section **SEBI Home > Legal Framework > Circulars**.

Yours faithfully,

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General Manager
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