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**Master Direction - Know Your Customer (KYC) Direction, 2016**

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## **<sup>1</sup>INTRODUCTION**

In order to prevent banks and other financial institutions from being used as a channel for Money Laundering (ML)/ Terrorist Financing (TF) and to ensure the integrity and stability of the financial system, efforts are continuously being made both internationally and nationally, by way of prescribing various rules and regulations. Internationally, the Financial Action Task Force (FATF) which is an inter-governmental body established in 1989 by the Ministers of its member jurisdictions, sets standards and promotes effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats to the integrity of the international financial system. India, being a member of FATF, is committed to upholding measures to protect the integrity of international financial system.

In India, the Prevention of Money-Laundering Act, 2002 and the Prevention of Money-Laundering (Maintenance of Records) Rules, 2005, form the legal framework on Anti-Money Laundering (AML) and Countering Financing of Terrorism (CFT). In terms of the provisions of the PML Act, 2002 and the PML Rules, 2005, as amended from time to time by the Government of India, Regulated Entities (REs) are required to follow certain customer identification procedures while undertaking a transaction either by establishing an account-based relationship or otherwise and monitor their transactions.

2. Accordingly, in exercise of the powers conferred by Sections 35A of the Banking Regulation Act, 1949, the Banking Regulation Act (AACSI), 1949, read with Section 56 of the Act ibid, Sections 45JA, 45K and 45L of the Reserve Bank of India Act, 1934, Section 10 (2) read with Section 18 of Payment and Settlement Systems Act 2007 (Act 51 of 2007), Section 11(1) of the Foreign Exchange Management Act, 1999, Rule 9(14) of Prevention of Money-Laundering (Maintenance of Records) Rules, 2005 and all other laws enabling the Reserve Bank in this regard, the Reserve Bank of India being satisfied that it is necessary and expedient in the public interest to do so, hereby issues the Directions hereinafter specified.

## **CHAPTER I PRELIMINARY**

### **1. Short Title and Commencement.**

- a. These Directions shall be called the Reserve Bank of India (Know Your Customer (KYC)) Directions, 2016.
- b. These directions shall come into effect on the day they are placed on the official website of the Reserve Bank of India.
- c. <sup>2</sup>The Frequently Asked Questions (FAQs) on KYC may be accessed at the following link Reserve Bank of India - Frequently Asked Questions ([rbi.org.in](http://rbi.org.in)).

### **2. Applicability**

- (a) <sup>3</sup>The provisions of these Directions shall apply to every entity regulated by Reserve Bank of India, more specifically as defined in 3 (b) (xiv) below, except where specifically mentioned otherwise.
- (b) These directions shall also apply to those branches and majority owned subsidiaries of the REs which are located abroad, to the extent they are not contradictory to the local laws in the host country, provided that:

- i. <sup>4</sup>where applicable laws and regulations prohibit implementation of these guidelines, the same shall be brought to the notice of the Reserve Bank of India. RBI may advise further necessary action by the RE including application of additional measures to be taken by the RE to manage the ML/TF risks.
- ii. in case there is a variance in KYC/AML standards prescribed by the Reserve Bank of India and the host country regulators, branches/ subsidiaries of REs are required to adopt the more stringent regulation of the two.
- iii. branches/ subsidiaries of foreign incorporated banks may adopt the more stringent regulation of the two i.e., standards prescribed by the Reserve Bank of India and their home country regulators.

Provided that this rule shall not apply to 'small accounts' referred to in paragraph 23 of Chapter VI.

### **3. Definitions**

In these Directions, unless the context otherwise requires, the terms herein shall bear the meanings assigned to them below:

(a) Terms bearing meaning assigned in terms of Prevention of Money-Laundering Act, 2002 and the Prevention of Money-Laundering (Maintenance of Records) Rules, 2005:

i. <sup>5</sup>"Aadhaar number" shall have the meaning assigned to it in clause (a) of section 2 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 (18 of 2016);

ii. "Act" and "Rules" means the Prevention of Money-Laundering Act, 2002 and the Prevention of Money-Laundering (Maintenance of Records) Rules, 2005, respectively and amendments thereto.

iii. <sup>6</sup>"Authentication", in the context of Aadhaar authentication, means the process as defined under sub-section (c) of section 2 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016.

iv. Beneficial Owner (BO)

a. Where the **customer is a company**, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical persons, has/have a controlling ownership interest or who exercise control through other means.

Explanation- For the purpose of this sub-clause-

1. <sup>7</sup>"Controlling ownership interest" means ownership of/entitlement to more than 10 percent of the shares or capital or profits of the company.
2. "Control" shall include the right to appoint majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholders agreements or voting agreements.

b. <sup>8</sup>Where the **customer is a partnership firm**, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has/have ownership of/entitlement to more than 10 percent of capital or profits of the partnership or who exercises control through other means.

Explanation - For the purpose of this sub-clause, "control" shall include the right to control the management or policy decision.

c. Where the **customer is an unincorporated association or body of individuals**, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has/have ownership of/entitlement to more than 15 percent of the property or capital or profits of the unincorporated association or body of individuals.

Explanation: Term 'body of individuals' includes societies. Where no natural person is identified under (a), (b) or (c) above, the beneficial owner is the relevant natural person who holds the position of senior managing official.

d. <sup>9</sup>Where the customer is a **trust**, the identification of beneficial owner(s) shall include identification of the author of the trust, the trustee, the beneficiaries with 10 percent or more interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control or ownership.

v. <sup>10</sup>"Certified Copy" - Obtaining a certified copy by the RE shall mean comparing the copy of the proof of possession of Aadhaar number where offline verification cannot be carried out or officially valid document so produced by the customer with the original and recording the same on the copy by the authorised officer of the RE as per the provisions contained in the Act.

Provided that in case of Non-Resident Indians (NRIs) and Persons of Indian Origin (PIOs), as defined in Foreign Exchange Management (Deposit) Regulations, 2016 {FEMA 5(R)}, alternatively, the original certified copy, certified by any one of the following, may be obtained:

- authorised officials of overseas branches of Scheduled Commercial Banks registered in India,

- branches of overseas banks with whom Indian banks have relationships,
- Notary Public abroad,
- Court Magistrate,
- Judge,
- Indian Embassy/Consulate General in the country where the non-resident customer resides.

vi. "Central KYC Records Registry" (CKYCR) means an entity defined under Rule 2(1) of the Rules, to receive, store, safeguard and retrieve the KYC records in digital form of a customer.

vii. "Designated Director" means a person designated by the RE to ensure overall compliance with the obligations imposed under chapter IV of the PML Act and the Rules and shall include:

- a. the Managing Director or a whole-time Director, duly authorized by the Board of Directors, if the RE is a company,
- b. the Managing Partner, if the RE is a partnership firm,
- c. the Proprietor, if the RE is a proprietorship concern,
- d. the Managing Trustee, if the RE is a trust,
- e. a person or individual, as the case may be, who controls and manages the affairs of the RE, if the RE is an unincorporated association or a body of individuals, and
- f. a person who holds the position of senior management or equivalent designated as a 'Designated Director' in respect of Cooperative Banks and Regional Rural Banks.

Explanation - For the purpose of this clause, the terms "Managing Director" and "Whole-time Director" shall have the meaning assigned to them in the Companies Act, 2013.

viii. <sup>11</sup>"Digital KYC" means the capturing live photo of the customer and officially valid document or the proof of possession of Aadhaar, where offline verification cannot be carried out, along with the latitude and longitude of the location where such live photo is being taken by an authorised officer of the RE as per the provisions contained in the Act.

ix. <sup>12</sup>"Digital Signature" shall have the same meaning as assigned to it in clause (p) of sub-section (1) of section (2) of the Information Technology Act, 2000 (21 of 2000).

x. <sup>13</sup>"Equivalent e-document" means an electronic equivalent of a document, issued by the issuing authority of such document with its valid digital signature including documents issued to the digital locker account of the customer as per rule 9 of the Information Technology (Preservation and Retention of Information by Intermediaries Providing Digital Locker Facilities) Rules, 2016.

xi <sup>14</sup>"Group" – The term "group" shall have the same meaning assigned to it in clause (e) of sub-section (9) of section 286 of the Income-tax Act, 1961 (43 of 1961).

xii. <sup>15</sup>"Know Your Client (KYC) Identifier" means the unique number or code assigned to a customer by the Central KYC Records Registry.

xiii. <sup>16</sup>"Non-profit organisations" (NPO) means any entity or organisation, constituted for religious or charitable purposes referred to in clause (15) of section 2 of the Income-tax Act, 1961 (43 of 1961), that is registered as a trust or a society under the Societies Registration Act, 1860 or any similar State legislation or a company registered under Section 8 of the Companies Act, 2013 (18 of 2013).

xiv. "Officially Valid Document" (OVD) means the passport, the driving licence, <sup>17</sup>proof of possession of Aadhaar number, the Voter's Identity Card issued by the Election Commission of India, job card issued by NREGA duly signed by an officer of the State Government and letter issued by the National Population Register containing details of name and address.

Provided that,

a. where the customer submits his proof of possession of Aadhaar number as an OVD, he may submit it in such form as are issued by the Unique Identification Authority of India.

b. <sup>18</sup>where the OVD furnished by the customer does not have updated address, the following documents or the equivalent e-documents thereof shall be deemed to be OVDs for the limited purpose of proof of address:-

- i. utility bill which is not more than two months old of any service provider (electricity, telephone, post-paid mobile phone, piped gas, water bill);
- ii. property or Municipal tax receipt;
- iii. pension or family pension payment orders (PPOs) issued to retired employees by Government Departments or Public Sector Undertakings, if they contain the address;
- iv. letter of allotment of accommodation from employer issued by State Government or Central Government Departments, statutory or regulatory bodies, public sector undertakings, scheduled commercial banks, financial institutions and listed companies and leave and licence agreements with such employers allotting official accommodation;

c. the customer shall submit OVD with current address within a period of three months of submitting the documents specified at 'b' above

d. where the OVD presented by a foreign national does not contain the details of address, in such case the documents issued by the Government departments of foreign jurisdictions and letter issued by the Foreign Embassy or Mission in India shall be accepted as proof of address.

Explanation: For the purpose of this clause, a document shall be deemed to be an OVD even if there is a change in the name subsequent to its issuance provided it is supported by a marriage certificate issued by the State Government or Gazette notification, indicating such a change of name.

xv. <sup>19</sup>"Offline verification" shall have the same meaning as assigned to it in clause (pa) of section 2 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 (18 of 2016).

xvi. "Person" has the same meaning assigned in the Act and includes:

- a. an individual,
- b. a Hindu undivided family,
- c. a company,
- d. a firm,
- e. an association of persons or a body of individuals, whether incorporated or not,
- f. every artificial juridical person, not falling within any one of the above persons (a to e), and
- g. any agency, office or branch owned or controlled by any of the above persons (a to f).

xvii. <sup>20</sup>Deleted.

xviii. <sup>21</sup>"Principal Officer" means an officer at the management level nominated by the RE, responsible for furnishing information as per rule 8 of the Rules.

xix. "Suspicious transaction" means a "transaction" as defined below, including an attempted 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 proceeds of an offence specified in the Schedule to the Act, regardless of the value involved; or
- b. appears to be made in circumstances of unusual or unjustified complexity; or
- c. appears to not have economic rationale or bona-fide purpose; or
- d. gives rise to a reasonable ground of suspicion that it may involve financing of the activities relating to terrorism.

Explanation: Transaction involving financing of the activities relating to terrorism includes transaction involving funds suspected to be linked or related to, or to be used for terrorism, terrorist acts or by a terrorist, terrorist organization or those who finance or are attempting to finance terrorism.

xx. <sup>22</sup>A 'Small Account' means a savings account which is opened in terms of sub-rule (5) of rule 9 of the PML Rules, 2005. Details of the operation of a small account and controls to be exercised for such account are specified in paragraph 23.

xi. "Transaction" means a purchase, sale, loan, pledge, gift, transfer, delivery or the arrangement thereof and includes:

- a. opening of an account;

- b. 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;
- c. the use of a safety deposit box or any other form of safe deposit;
- d. entering into any fiduciary relationship;
- e. any payment made or received, in whole or in part, for any contractual or other legal obligation; or
- f. establishing or creating a legal person or legal arrangement.

(b) Terms bearing meaning assigned in this Directions, unless the context otherwise requires, shall bear the meanings assigned to them below:

i. "Common Reporting Standards" (CRS) means reporting standards set for implementation of multilateral agreement signed to automatically exchange information based on Article 6 of the Convention on Mutual Administrative Assistance in Tax Matters.

ii. <sup>23</sup>"Correspondent Banking": Correspondent banking is the provision of banking services by one bank (the "correspondent bank") to another bank (the "respondent bank"). Respondent banks may be provided with a wide range of services, including cash management (e.g., interest-bearing accounts in a variety of currencies), international wire transfers, cheque clearing, payable-through accounts and foreign exchange services.

iii. "Customer" means a person who is engaged in a financial transaction or activity with a Regulated Entity (RE) and includes a person on whose behalf the person who is engaged in the transaction or activity, is acting.

iv. "Walk-in Customer" means a person who does not have an account-based relationship with the RE, but undertakes transactions with the RE.

v. <sup>24</sup>"Customer Due Diligence (CDD)" means identifying and verifying the customer and the beneficial owner using reliable and independent sources of identification.

Explanation – The CDD, at the time of commencement of an account-based relationship or while carrying out occasional transaction of an amount equal to or exceeding rupees fifty thousand, whether conducted as a single transaction or several transactions that appear to be connected, or any international money transfer operations, shall include:

- a. Identification of the customer, verification of their identity using reliable and independent sources of identification, obtaining information on the purpose and intended nature of the business relationship, where applicable
- b. Taking reasonable steps to understand the nature of the customer's business, and its ownership and control;
- c. Determining whether a customer is acting on behalf of a beneficial owner, and identifying the beneficial owner and taking all steps to verify the identity of the beneficial owner, using reliable and independent sources of identification.

vi. "Customer identification" means undertaking the process of CDD.

vii. "FATCA" means Foreign Account Tax Compliance Act of the United States of America (USA) which, inter alia, requires foreign financial institutions to report about financial accounts held by U.S. taxpayers or foreign entities in which U.S. taxpayers hold a substantial ownership interest.

viii. "IGA" means Inter Governmental Agreement between the Governments of India and the USA to improve international tax compliance and to implement FATCA of the USA.

ix. "KYC Templates" means templates prepared to facilitate collating and reporting the KYC data to the CKYCR, for individuals and legal entities.

x. "Non-face-to-face customers" means customers who open accounts without visiting the branch/offices of the REs or meeting the officials of REs.

xi. <sup>25</sup>"On-going Due Diligence" means regular monitoring of transactions in accounts to ensure that those are consistent with RE's knowledge about the customers, customers' business and risk profile, the source of funds / wealth.

xii. <sup>26</sup>"Payable-through accounts": The term payable-through accounts refers to correspondent accounts that are used directly by third parties to transact business on their own behalf.

xiii. "Periodic Updation" means steps taken to ensure that documents, data or information collected under the CDD process is kept up-to-date and relevant by undertaking reviews of existing records at periodicity prescribed by the Reserve Bank.

xiv. <sup>27</sup>"Regulated Entities" (REs) means

- a. all Scheduled Commercial Banks (SCBs)/ Regional Rural Banks (RRBs)/ Local Area Banks (LABs)/ All Primary (Urban) Co-operative Banks (UCBs) /State and Central Co-operative Banks (StCBs / CCBs) and any other entity which has been licenced under Section 22 of Banking Regulation Act, 1949, which as a group shall be referred as 'banks'
- b. All India Financial Institutions (AIFIs)
- c. All Non-Banking Finance Companies (NBFCs), Miscellaneous Non-Banking Companies (MNBCs) and Residuary Non-Banking Companies (RNBCs)
- d. Asset Reconstruction Companies (ARCs)
- e. All Payment System Providers (PSPs)/ System Participants (SPs) and Prepaid Payment Instrument Issuers (PPI Issuers)
- f. All authorised persons (APs) including those who are agents of Money Transfer Service Scheme (MTSS), regulated by the Regulator.

xv. <sup>28</sup>"Shell Bank" means a bank that has no physical presence in the country in which it is incorporated and licensed, and which is unaffiliated with a regulated financial group that is subject to effective consolidated supervision. Physical presence means meaningful mind and management located within a country. The existence simply of a local agent or low-level staff does not constitute physical presence.

xvi. <sup>29</sup>"Video based Customer Identification Process (V-CIP)": an alternate method of customer identification with facial recognition and customer due diligence by an authorised official of the RE by undertaking seamless, secure, live, informed-consent based audio-visual interaction with the customer to obtain identification information required for CDD purpose, and to ascertain the veracity of the information furnished by the customer through independent verification and maintaining audit trail of the process. Such processes complying with prescribed standards and procedures shall be treated on par with face-to-face CIP for the purpose of this Master Direction.

xvii. <sup>30</sup>"Wire transfer" related definitions:

- a. Batch transfer: Batch transfer is a transfer comprised of a number of individual wire transfers that are being sent to the same financial institutions but may/may not be ultimately intended for different persons.
- b. Beneficiary: Beneficiary refers to a natural or legal person or legal arrangement who / which is identified by the originator as the receiver of the requested wire transfer.
- c. Beneficiary RE: It refers to a financial institution, regulated by the RBI, which receives the wire transfer from the ordering financial institution directly or through an intermediary RE and makes the funds available to the beneficiary.
- d. Cover Payment: Cover Payment refers to a wire transfer that combines a payment message sent directly by the ordering financial institution to the beneficiary financial institution with the routing of the funding instruction (the cover) from the ordering financial institution to the beneficiary financial institution through one or more intermediary financial institutions.
- e. Cross-border wire transfer: Cross-border wire transfer refers to any wire transfer where the ordering financial institution and beneficiary financial institution are located in different countries. This term also refers to any chain of wire transfer in which at least one of the financial institutions involved is located in a different country.
- f. Domestic wire transfer: Domestic wire transfer refers to any wire transfer where the ordering financial institution and beneficiary financial institution are located in India. This term, therefore, refers to any chain of wire transfer that takes place entirely within the borders of India, even though the system used to transfer the payment message may be located in another country.
- g. Financial Institution: In the context of wire-transfer instructions, the term 'Financial Institution' shall have the same meaning as has been ascribed to it in the FATF Recommendations, as revised from time to time.
- h. Intermediary RE: Intermediary RE refers to a financial institution or any other entity, regulated by the RBI which handles an intermediary element of the wire transfer, in a serial or cover payment chain and that receives and transmits a wire transfer on behalf of the ordering financial institution and the beneficiary financial institution, or another intermediary financial institution.
- i. Ordering RE: Ordering RE refers to the financial institution, regulated by the RBI, which initiates the wire transfer and transfers the funds upon receiving the request for a wire transfer on behalf of the originator.
- j. Originator: Originator refers to the account holder who allows the wire transfer from that account, or where there is no account, the natural or legal person that places the order with the ordering financial institution to perform the wire transfer.
- k. Serial Payment: Serial Payment refers to a direct sequential chain of payment where the wire transfer and accompanying payment message travel together from the ordering financial institution to the beneficiary financial institution directly or through one or more intermediary financial institutions (e.g., correspondent banks).

- I. Straight-through Processing: Straight-through processing refers to payment transactions that are conducted electronically without the need for manual intervention.
- m. Unique transaction reference number: Unique transaction reference number refers to a combination of letters, numbers or symbols, determined by the payment service provider, in accordance with the protocols of the payment and settlement system or messaging system used for the wire transfer.
- n. Wire transfer: Wire transfer refers to any transaction carried out on behalf of an originator through a financial institution by electronic means with a view to making an amount of funds available to a beneficiary at a beneficiary financial institution, irrespective of whether the originator and the beneficiary are the same person.

(c) All other expressions unless defined herein shall have the same meaning as have been assigned to them under the Banking Regulation Act, 1949, the Reserve Bank of India Act, 1935, the Prevention of Money Laundering Act, 2002, the Prevention of Money Laundering (Maintenance of Records) Rules, 2005, the <sup>31</sup>Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 and regulations made thereunder, any statutory modification or re-enactment thereto or as used in commercial parlance, as the case may be.

## **CHAPTER II**

### **General**

4. (a) There shall be a Know Your Customer (KYC) policy duly approved by the Board of Directors of REs or any committee of the Board to which power has been delegated.

<sup>32</sup>(b) In terms of PML Rules, groups are required to implement group-wide policies for the purpose of discharging obligations under the provisions of Chapter IV of the PML Act, 2002. (15 of 2003). Accordingly, every RE which is part of a group, shall implement group-wide programmes against money laundering and terror financing, including group-wide policies for sharing information required for the purposes of client due diligence and money laundering and terror finance risk management and such programmes shall include adequate safeguards on the confidentiality and use of information exchanged, including safeguards to prevent tipping-off.

<sup>33</sup>(c) REs' policy framework should seek to ensure compliance with PML Act/Rules, including regulatory instructions in this regard and should provide a bulwark against threats arising from money laundering, terrorist financing, proliferation financing and other related risks. While ensuring compliance of the legal/regulatory requirements as above, REs may also consider adoption of best international practices taking into account the FATF standards and FATF guidance notes, for managing risks better.

5. The KYC policy shall include following four key elements:

- a. Customer Acceptance Policy;
- b. Risk Management;
- c. Customer Identification Procedures (CIP); and
- d. Monitoring of Transactions

#### **34A. Money Laundering and Terrorist Financing Risk Assessment by REs:**

(a) REs shall carry out 'Money Laundering (ML) and Terrorist Financing (TF) Risk Assessment' exercise periodically to identify, assess and take effective measures to mitigate its money laundering and terrorist financing risk for clients, countries or geographic areas, products, services, transactions or delivery channels, etc.

The assessment process should consider all the relevant risk factors before determining the level of overall risk and the appropriate level and type of mitigation to be applied. While preparing the internal risk assessment, REs shall take cognizance of the overall sector-specific vulnerabilities, if any, that the regulator/supervisor may share with REs from time to time.

(b) The risk assessment by the RE shall be properly documented and be proportionate to the nature, size, geographical presence, complexity of activities/structure, etc. of the RE. Further, the periodicity of risk assessment exercise shall be determined by the Board or any committee of the Board of the RE to which power in this regard has been delegated, in alignment with the outcome of the risk assessment exercise. However, it should be reviewed at least annually.

(c) The outcome of the exercise shall be put up to the Board or any committee of the Board to which power in this regard has been delegated, and should be available to competent authorities and self-regulating bodies.

<sup>35</sup>**5B.** REs shall apply a Risk Based Approach (RBA) for mitigation and management of the risks (identified on their own or through national risk assessment) and should have Board approved policies, controls and procedures in this regard. REs shall implement a CDD programme, having regard to the ML/TF risks identified and the size of business. Further, REs shall monitor the implementation of the controls and enhance them if necessary.

#### **6. Designated Director:**

(a) A "Designated Director" means a person designated by the RE to ensure overall compliance with the obligations imposed under Chapter IV of the PML Act and the Rules and shall be nominated by the Board.

(b) The name, designation and address of the Designated Director shall be communicated to the FIU-IND.

(c) <sup>36</sup>Further, the name, designation, address and contact details of the Designated Director shall also be communicated to the RBI.

(d) In no case, the Principal Officer shall be nominated as the 'Designated Director'.

## **7. Principal Officer:**

(a) The Principal Officer shall be responsible for ensuring compliance, monitoring transactions, and sharing and reporting information as required under the law/regulations.

(b) The name, designation and address of the Principal Officer shall be communicated to the FIU-IND.

(c) <sup>37</sup>Further, the name, designation, address and contact details of the Principal Officer shall also be communicated to the RBI.

## **8. Compliance of KYC policy**

(a) REs shall ensure compliance with KYC Policy through:

- i. Specifying as to who constitute 'Senior Management' for the purpose of KYC compliance.
- ii. Allocation of responsibility for effective implementation of policies and procedures.
- iii. Independent evaluation of the compliance functions of REs' policies and procedures, including legal and regulatory requirements.
- iv. Concurrent/internal audit system to verify the compliance with KYC/AML policies and procedures.
- v. Submission of quarterly audit notes and compliance to the Audit Committee.

(b) REs shall ensure that decision-making functions of determining compliance with KYC norms are not outsourced.

## **CHAPTER III Customer Acceptance Policy**

9. REs shall frame a Customer Acceptance Policy.

10. Without prejudice to the generality of the aspect that Customer Acceptance Policy may contain, REs shall ensure that:

- a. No account is opened in anonymous or fictitious/benami name.
- b. <sup>38</sup>No account is opened where the RE is unable to apply appropriate CDD measures, either due to non-cooperation of the customer or non-reliability of the documents/information furnished by the customer. The RE shall consider filing an STR, if necessary, when it is unable to comply with the relevant CDD measures in relation to the customer.
- c. No transaction or account-based relationship is undertaken without following the CDD procedure.
- d. The mandatory information to be sought for KYC purpose while opening an account and during the periodic updation, is specified.
- e. <sup>39</sup>Additional information, where such information requirement has not been specified in the internal KYC Policy of the RE, is obtained with the explicit consent of the customer.
- f. <sup>40</sup>REs shall apply the CDD procedure at the UCIC level. Thus, if an existing KYC compliant customer of a RE desires to open another account or avail any other product or service from the same RE, there shall be no need for a fresh CDD exercise as far as identification of the customer is concerned.
- g. CDD Procedure is followed for all the joint account holders, while opening a joint account.
- h. Circumstances in which, a customer is permitted to act on behalf of another person/entity, is clearly spelt out.
- i. <sup>41</sup>Suitable system is put in place to ensure that the identity of the customer does not match with any person or entity, whose name appears in the sanctions lists indicated in Chapter IX of this MD.
- j. <sup>42</sup>Where Permanent Account Number (PAN) is obtained, the same shall be verified from the verification facility of the issuing authority.

- k. <sup>43</sup>Where an equivalent e-document is obtained from the customer, RE shall verify the digital signature as per the provisions of the Information Technology Act, 2000 (21 of 2000).
- I. <sup>44</sup>Where Goods and Services Tax (GST) details are available, the GST number shall be verified from the search/verification facility of the issuing authority.

11. Customer Acceptance Policy shall not result in denial of banking/financial facility to members of the general public, especially those, who are financially or socially disadvantaged, <sup>45</sup>including the Persons with Disabilities (PwDs). No application for onboarding or periodic updation of KYC shall be rejected without application of mind. Reason(s) of rejection shall be duly recorded by the officer concerned.

<sup>46</sup>11A. Where RE forms a suspicion of money laundering or terrorist financing, and it reasonably believes that performing the CDD process will tip-off the customer, it shall not pursue the CDD process, and instead file an STR with FIU-IND.

#### **CHAPTER IV Risk Management**

12. For Risk Management, REs shall have a risk-based approach which includes the following.

- a. Customers shall be categorised as low, medium and high-risk category, based on the assessment and risk perception of the RE.
- b. <sup>47</sup>Broad principles may be laid down by the REs for risk-categorisation of customers.
- c. <sup>48</sup>Risk categorisation shall be undertaken based on parameters such as customer's identity, social/financial status, nature of business activity, and information about the customer's business and their location, geographical risk covering customers as well as transactions, type of products/services offered, delivery channel used for delivery of products/services, types of transaction undertaken – cash, cheque/monetary instruments, wire transfers, forex transactions, etc. While considering customer's identity, the ability to confirm identity documents through online or other services offered by issuing authorities may also be factored in.
- d. <sup>49</sup>The risk categorisation of a customer and the specific reasons for such categorisation shall be kept confidential and shall not be revealed to the customer to avoid tipping off the customer.

Provided that various other information collected from different categories of customers relating to the perceived risk, is non-intrusive and the same is specified in the KYC policy.

<sup>50</sup>Explanation: FATF Public Statement, the reports and guidance notes on KYC/AML issued by the Indian Banks Association (IBA), and other agencies, etc., may also be used in risk assessment.

#### **Chapter V Customer Identification Procedure (CIP)**

13. REs shall undertake identification of customers in the following cases:

- a. Commencement of an account-based relationship with the customer.
- b. <sup>51</sup>Carrying out any international money transfer operations for a person who is not an account holder of the RE.
- c. When there is a doubt about the authenticity or adequacy of the customer identification data it has obtained.
- d. Selling third party products as agents, selling their own products, payment of dues of credit cards/sale and reloading of prepaid/travel cards and any other product for more than rupees fifty thousand.
- e. Carrying out transactions for a non-account-based customer, that is a walk-in customer, where the amount involved is equal to or exceeds rupees fifty thousand, whether conducted as a single transaction or several transactions that appear to be connected.
- f. When a RE has reason to believe that a customer (account- based or walk-in) is intentionally structuring a transaction into a series of transactions below the threshold of rupees fifty thousand.
- g. REs shall ensure that introduction is not to be sought while opening accounts.

14. For the purpose of verifying the identity of customers at the time of commencement of an account-based relationship <sup>52</sup>or while carrying out occasional transaction of an amount equal to or exceeding rupees fifty thousand, whether conducted as a single transaction or several transactions that appear to be connected, or any international money transfer operations, REs, shall at their option, rely on customer due diligence done by a third party, subject to the following conditions:

- a. <sup>53</sup>Records or the information of the customer due diligence carried out by the third party is obtained immediately from the third party or from the Central KYC Records Registry.
- b. Adequate steps are taken by REs to satisfy themselves that copies of identification data and other relevant documentation relating to the customer due diligence requirements shall be made available from the third party upon request without delay.
- c. The third party is regulated, supervised or monitored for, and has measures in place for, compliance with customer due diligence and record-keeping requirements in line with the requirements and obligations under the PML Act.
- d. The third party shall not be based in a country or jurisdiction assessed as high risk.
- e. The ultimate responsibility for customer due diligence and undertaking enhanced due diligence measures, as applicable, will be with the RE.

## Chapter VI Customer Due Diligence (CDD) Procedure

### Part I - Customer Due Diligence (CDD) Procedure in case of Individuals

15. <sup>54</sup>Deleted

16. <sup>55</sup>For undertaking CDD, REs shall obtain the following from an individual while establishing an account-based relationship or while dealing with the individual who is a beneficial owner, authorised signatory or the power of attorney holder related to any legal entity:

(a) the Aadhaar number where,

- i. he is desirous of receiving any benefit or subsidy under any scheme notified under section 7 of the Aadhaar (Targeted Delivery of Financial and Other subsidies, Benefits and Services) Act, 2016 (18 of 2016); or
- ii. he decides to submit his Aadhaar number voluntarily to a bank or any RE notified under first proviso to sub-section (1) of section 11A of the PML Act; or

(aa) the proof of possession of Aadhaar number where offline verification can be carried out; or

(ab) the proof of possession of Aadhaar number where offline verification cannot be carried out or any OVD or the equivalent e-document thereof containing the details of his identity and address; or

<sup>56</sup>(ac) the KYC Identifier with an explicit consent to download records from CKYCR; and

(b) the Permanent Account Number or the equivalent e-document thereof or Form No. 60 as defined in Income-tax Rules, 1962; and

(c) such other documents including in respect of the nature of business and financial status of the customer, or the equivalent e-documents thereof as may be required by the RE:

Provided that where the customer has submitted,

i) Aadhaar number under clause (a) above to a bank or to a RE notified under first proviso to sub-section (1) of section 11A of the PML Act, such bank or RE shall carry out authentication of the customer's Aadhaar number using e-KYC authentication facility provided by the Unique Identification Authority of India. Further, in such a case, if customer wants to provide a current address, different from the address as per the identity information available in the Central Identities Data Repository, he may give a self-declaration to that effect to the RE.

ii) proof of possession of Aadhaar under clause (aa) above where offline verification can be carried out, the RE shall carry out offline verification.

iii) an equivalent e-document of any OVD, the RE shall verify the digital signature as per the provisions of the Information Technology Act, 2000 (21 of 2000) and any rules issued thereunder and take a live photo as specified under Annex I.

iv) any OVD or proof of possession of Aadhaar number under clause (ab) above where offline verification cannot be carried out, the RE shall carry out verification through digital KYC as specified under Annex I.

<sup>57</sup>v) KYC Identifier under clause (ac) above, the RE shall retrieve the KYC records online from the CKYCR in accordance with paragraph 56.

Provided that for a period not beyond such date as may be notified by the Government for a class of REs, instead of carrying out digital KYC, the RE pertaining to such class may obtain a certified copy of the proof of possession of Aadhaar number or the OVD and a recent photograph where an equivalent e-document is not submitted.

Provided further that in case e-KYC authentication cannot be performed for an individual desirous of receiving any benefit or subsidy under any scheme notified under section 7 of the Aadhaar (Targeted Delivery of Financial and Other subsidies, Benefits and Services) Act, 2016 owing to injury, illness or infirmity on account of old age or otherwise, and similar causes, REs shall, apart from obtaining the Aadhaar number, perform identification preferably by carrying out offline verification or alternatively by obtaining the certified copy of any other OVD or the equivalent e-document thereof from the customer. CDD done in this manner shall invariably be carried out by an official of the RE and such exception handling shall also be a part of the concurrent audit as mandated in paragraph 8. REs shall ensure to duly record the cases of exception handling in a centralised exception database. The database shall contain the details of grounds of granting exception, customer details, name of the designated official authorising the exception and additional details, if any. The database shall be subjected to periodic internal audit/inspection by the RE and shall be available for supervisory review.

Explanation 1: RE shall, where its customer submits a proof of possession of Aadhaar Number containing Aadhaar Number, ensure that such customer redacts or blacks out his Aadhaar number through appropriate means where the authentication of Aadhaar number is not required as per proviso (i) above.

Explanation 2: Biometric based e-KYC authentication,<sup>58</sup> including Aadhaar Face Authentication can be done by bank official/business correspondents/business facilitators.

Explanation 3: The use of Aadhaar, proof of possession of Aadhaar etc., shall be in accordance with the Aadhaar (Targeted Delivery of Financial and Other Subsidies Benefits and Services) Act, 2016 and the regulations made thereunder.

17. Accounts opened using Aadhaar OTP based e-KYC, in non-face-to-face mode, are subject to the following conditions:

- i. There must be a specific consent from the customer for authentication through OTP.
- ii. <sup>59</sup>As a risk-mitigating measure for such accounts, REs shall ensure that transaction alerts, OTP, etc., are sent only to the mobile number of the customer registered with Aadhaar. REs shall have a board approved policy delineating a robust process of due diligence for dealing with requests for change of mobile number in such accounts.
- iii. The aggregate balance of all the deposit accounts of the customer shall not exceed rupees one lakh. In case, the balance exceeds the threshold, the account shall cease to be operational, till CDD as mentioned at (vi) below is complete.
- iv. The aggregate of all credits in a financial year, in all the deposit accounts taken together, shall not exceed rupees two lakh.
- v. As regards borrowing accounts, only term loans shall be sanctioned. The aggregate amount of term loans sanctioned shall not exceed rupees sixty thousand in a year.
- vi. <sup>60</sup>Accounts, both deposit and borrowing, opened using OTP based e-KYC shall not be allowed for more than one year unless identification as per paragraph 16 or as per paragraph 18 (V-CIP) is carried out. If Aadhaar details are used under paragraph 18, the process shall be followed in its entirety including fresh Aadhaar OTP authentication.
- vii. If the CDD procedure as mentioned above is not completed within a year, in respect of deposit accounts, the same shall be closed immediately. In respect of borrowing accounts no further debits shall be allowed.
- viii. <sup>61</sup>A declaration shall be obtained from the customer to the effect that no other account has been opened nor will be opened using OTP based KYC in non-face-to-face mode with any other RE. Further, while uploading KYC information to CKYCR, REs shall clearly indicate that such accounts are opened using OTP based e-KYC and other REs shall not open accounts based on the KYC information of accounts opened with OTP based e-KYC procedure in non-face-to-face mode.
- ix. REs shall have strict monitoring procedures including systems to generate alerts in case of any non-compliance/violation, to ensure compliance with the above mentioned conditions.

18. <sup>62</sup>REs may undertake V-CIP to carry out:

- i) CDD in case of new customer on-boarding for individual customers, proprietor in case of proprietorship firm, authorised signatories and Beneficial Owners (BOs) in case of Legal Entity (LE) customers.

<sup>63</sup>Provided that in case of CDD of a proprietorship firm, REs shall also obtain the equivalent e-document of the activity proofs with respect to the proprietorship firm, as mentioned in paragraph 28 and paragraph 29, apart from undertaking CDD of the proprietor.

- ii) Conversion of existing accounts opened in non-face to face mode using Aadhaar OTP based e-KYC authentication as per paragraph 17.