

## **Prevention of Money Laundering Act 2002**

**(Act 15 of 2003) / 17<sup>th</sup> Jan 2003**

### **Chapter-I Preliminary**

An Act to prevent money-laundering and to provide for confiscation of property derived from, or involved in, money-laundering and for matters connected therewith or incidental thereto.

- ❖ It was enacted on 17<sup>th</sup> Jan 2003
- ❖ Came into the force: - 01<sup>st</sup> July 2005
- ❖ It extends to whole of India

#### **2. Definition: -**

- ❖ “**attachment**” means prohibition of transfer, conversion, disposition or movement of property by an order issued.
- ❖ “**banking company**” means a banking company or a co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949) applies and includes any bank or banking institution referred to in section 51 of that Act;
- ❖ “**financial institution**” means a financial institution as defined in clause (c) of section 45-1 of the Reserve Bank of India Act, 1934 (2 of 1934) and includes a chit fund company, a housing finance institution, an authorised person, a payment system operator, a non-banking financial company and the Department of Posts in the Government of India;
- ❖ “**payment system**” means a system that enables payment to be effected between a payer and a beneficiary, involving clearing, payment or settlement service or all of them.
- ❖ Explanation. — For the purposes of this clause, “payment system” includes the systems enabling credit card operations, debit card operations, smart card operations, money transfer operations or similar operations;
- ❖ “**payment system operator**” means a person who operates a payment system and such person includes his overseas principal.

Explanation.—For the purposes of this clause, “overseas principal” means,—

(A) in the case of a person, being an individual, such individual residing outside India, who owns or controls or manages, directly or indirectly, the activities or functions of payment system in India;



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- (B) in the case of a Hindu undivided family, Karta of such Hindu undivided family residing outside India who owns or controls or manages, directly or indirectly, the activities or functions of payment system in India;
- (C) in the case of a company, a firm, an association of persons, a body of individuals, an artificial juridical person, whether incorporated or not, such company, firm, association of persons, body of individuals, artificial juridical person incorporated or registered outside India or existing as such and which owns or controls or manages, directly or indirectly, the activities or functions of payment system in India
- ❖ “**person**” includes—
- (i) an individual,
  - (ii) a Hindu undivided family,
  - (iii) a company,
  - (iv) a firm,
  - (v) an association of persons or a body of individuals, whether incorporated or not,
  - (vi) every artificial juridical person not falling within any of the preceding sub-clauses,
  - (vii) any agency, office or branch owned or controlled by any of the above persons mentioned in the preceding sub-clauses;
- ❖ “**proceeds of crime**” means any property derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to a scheduled offence or the value of any such property or where such property is taken or held outside the country, then the property equivalent in value held within the country or abroad. it is hereby clarified that "proceeds of crime" include property not only derived or obtained from the scheduled offence but also any property which may directly or indirectly be derived or obtained as a result of any criminal activity relatable to the scheduled offence.
- ❖ “**offence of cross border implications**”, means—

- (i) any conduct by a person at a place outside India which constitutes an offence at that place and which would have constituted an offence specified in Part A, Part B or Part C of the Schedule, had it been committed in India and if such person transfers in any manner the proceeds of such conduct or part thereof to India; or
- (ii) any offence specified in Part A, Part B or Part C of the Schedule which has been committed in India and the proceeds of crime, or part thereof have been transferred to a place outside India



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or any attempt has been made to transfer the proceeds of crime, or part thereof from India to a place outside India.

- ❖ “**property**” means any property or assets of every description, whether corporeal or incorporeal, movable or immovable, tangible or intangible and includes deeds and instruments evidencing title to, or interest in, such property or assets, wherever located.
- ❖ “**reporting entity**” means a banking company, financial institution, intermediary or a person carrying on a designated business or profession.
- ❖ “**scheduled offence**” means—
  - (i) the offences specified under Part A of the Schedule; or
  - (ii) the offences specified under Part B of the Schedule if the total value involved in such offences is one crore rupees or more; or
  - (iii) the offences specified under Part C of the Schedule.
- ❖ “**value**” means the fair market value of any property on the date of its acquisition by any person, or if such date cannot be determined, the date on which such property is possessed by such person.

## Chapter-II Offence of Money Laundering

- 3. Offence of money-laundering:** -
- ❖ Whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected with the proceeds of crime including its concealment, possession, acquisition or use and projecting or claiming, it as untainted property shall be guilty of offence of money-laundering.
- ❖ it is hereby clarified that —

- (i) a person shall be guilty of offence of money-laundering if such person is found to have directly or indirectly attempted to indulge or knowingly assisted or knowingly is a party or is actually involved in one or more of the following processes or activities connected with proceeds of crime, namely: —
  - (a) concealment; or
  - (b) possession; or
  - (c) acquisition; or
  - (d) use; or



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- (e) projecting as untainted property; or
- (f) claiming as untainted property, in any manner whatsoever;
- (ii) the process or activity connected with proceeds of crime is a continuing activity and continues till such time a person is directly or indirectly enjoying the proceeds of crime by its concealment or possession or acquisition or use or projecting it as untainted property or claiming it as untainted property in any manner whatsoever

#### **4. Punishment for money-laundering: -**

- ❖ Rigorous imprisonment for a term which shall **not be less than 3 years** but which **may extend to 7 years** and shall also be **liable to fine**.
- ❖ Provided that where the proceeds of crime involved in money-laundering relates to any offence related to poppy, opium, narcotics, drugs. the provisions of this section shall have effect as if for the words “which may extend to seven years”, the words “**which may extend to ten years**” had been substituted.

### **Chapter-III ATTACHMENT, ADJUDICATION AND CONFISCATION**

- #### **5. Attachment of property involved in money-laundering.**
- ❖ (1)Where the Director or any other officer not below the rank of Deputy Director authorised by the Director for the purposes of this section, has reason to believe (the reason for such belief to be recorded in writing), on the basis of material in his possession, that—
    - (a) any person is in possession of any proceeds of crime; and
    - (b) such proceeds of crime are likely to be concealed, transferred or dealt with in any manner which may result in frustrating any proceedings relating to confiscation of such proceeds of crime
  - ❖ He may, by order in writing provisionally attach a property for a period not exceeding 180 days from the date of order if he has reason to believe that properties suspected to be proceeds of crime.
  - ❖ (2) The Director, or any other officer not below the rank of Deputy Director, shall, immediately after attachment forward a copy of the order, along with the material in his possession, to the Adjudicating Authority, in a sealed envelope and such Adjudicating Authority shall keep such order and material for such period as may be prescribed.



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- ❖ The Director or any other officer who provisionally attaches any property shall, within a period of thirty days from such attachment, file a complaint stating the facts of such attachment before the Adjudicating Authority.

#### **6. Adjudicating Authorities, composition, powers, etc.: -**

- ❖ An Adjudicating Authority shall consist of **a Chairperson** and **two other Members**
- ❖ The appointment as Member of an Adjudicating Authority
  - in the field of law
    - (i) he is qualified for appointment as District Judge; or
    - (ii) has been a member of the Indian Legal Service and has held a post in Grade I of that service;
  - in the field of finance, accountancy or administration
    - (i) if he possesses such qualifications as may be prescribed
- ❖ The **bench** of adjudication authority shall ordinarily sit at **New Delhi**
- ❖ The **chairperson** and **every member** shall hold office as such for **a term of 5 years** from the date on which he enters upon office or attaining 65 years whichever is the earliest.
- ❖ The adjudicating authority shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908) but shall be guided by the principles of natural justice and, subject to the other provisions of this Act, the Adjudicating Authority shall have powers to regulate its own procedure.

#### **8. Adjudication: -**

- if the Adjudicating Authority has reason to believe that any person has committed an offence under section 3 or is in possession of proceeds of crime
- ❖ He may serve a **notice of not less than 30 days** on such person calling upon him to indicate source of his income.
  - ❖ The adjudicating authority shall consider the reply, if any to the notice issued.
  - ❖ **Where adjudicating authority decides that any property is involved in money laundering, the attachment of property will continue (Investigation for a period not exceeding 365 days)** during the pendency of the proceeding under any court. For the purposes of computing the period of three hundred and sixty-five days, the period during which the investigation is stayed by any court under any law for the time being in force shall be excluded



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- ❖ Where on conclusion of a trial of an offence under this Act, the Special Court finds that the offence of money-laundering has been committed, it shall order that such property involved in the money laundering or which has been used for commission of the offence of money-laundering shall stand confiscated to the Central Government.

#### **9. Vesting of property in Central Government: -**

- ❖ Where an order of confiscation has been made respect of any property of a person, all the rights and title in such property shall vest absolutely in the Central Government free from all encumbrances.
- ❖ Provided that where the Special Court or the Adjudicating Authority, as the case may be after giving an opportunity of being heard to any other person interested in the property attached is of the opinion that any encumbrance on the property or lease-hold interest has been created with a view to defeat the provisions of this Chapter, it may, by order, declare such encumbrance or lease-hold interest to be void and thereupon the aforesaid property shall vest in the Central Government free from such encumbrances or lease-hold interest:

#### **10. Management of properties confiscated under this Chapter: -**

- ❖ The Central Government may, by order published in the Official Gazette, appoint as many of its officers (not below the rank of a Joint Secretary to the Government of India) as it thinks fit to perform the functions of an Administrator. The Administrator shall receive and manage the property in relation to which an order has been made.

#### **11. Power regarding summons, production of documents and evidence, etc.—**

- ❖ The Adjudicating Authority shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit in respect of the following matters, namely: —
  - (a) discovery and inspection;
  - (b) enforcing the attendance of any person, including any officer of a banking company or a financial institution or a company, and examining him on oath;
  - (c) compelling the production of records;
  - (d) receiving evidence on affidavits;
  - (e) issuing commissions for examination of witnesses and documents; and
  - (f) any other matter which may be prescribed.



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- ❖ All the persons so summoned shall be bound to attend in person or through authorised agents, as the Adjudicating Authority may direct, and shall be bound to state the truth upon any subject respecting which they are examined or make statements, and produce such documents as may be required.

## **CHAPTER IV - OBLIGATIONS OF BANKING COMPANIES, FINANCIAL INSTITUTIONS AND INTERMEDIARIES**

### **12. Reporting entity to maintain records. —**

- ❖ Every reporting entity shall—
  - (a) maintain a record of all transactions, including information relating to transactions in such manner as to enable it to reconstruct individual transactions. The records shall be maintained for a period of five years from the date of transaction between a client and the reporting entity.
  - (b) furnish to the Director within such time as may be prescribed, information relating to such transactions, whether attempted or executed, the nature and value of which may be prescribed;
  - (c) maintain record of documents evidencing identity of its clients and beneficial owners as well as account files and business correspondence relating to its clients. The records shall be maintained for a period of five years after the business relationship between a client and the reporting entity has ended or the account has been closed, whichever is later
- ❖ Every information maintained, furnished or verified, save as otherwise provided under any law for the time being in force, shall be kept confidential.

### **13. Power of Director to impose fine: -**

- ❖ If the Director, in the course of any inquiry, finds that a reporting entity or its designated director on the Board or any of its employees has failed to comply with the obligations under this Chapter, then, without prejudice to any other action that may be taken under any other provisions of this Act, he may—
  - (a) issue a warning in writing; or
  - (b) direct such reporting entity or its designated director on the Board or any of its employees, to comply with specific instructions; or
  - (c) direct such reporting entity or its designated director on the Board or any of its employees, to send reports at such interval as may be prescribed on the measures it is taking; or



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(d) by an order, impose a monetary penalty on such reporting entity or its designated director on the Board or any of its employees, which shall not be less than Rs.10,000/- rupees but may extend to Rs.1,00,000 rupees for each failure.

## **CHAPTER V - SUMMONS, SEARCHES AND SEIZURES, ETC.**

### **16. Power of survey.—**

- ❖ An authority, on the basis of material in his possession, has reason to believe (the reasons for such belief to be recorded in writing) that an offence under section 3 has been committed, he may enter any place—
  - (i) within the limits of the area assigned to him; or
  - (ii) in respect of which he is authorised for the purposes of this section by such other authority, who is assigned the area within which such place is situated, at which any act constituting the commission of such offence is carried on

### **17. Search and Seizure: -**

- ❖ Where the Director or any other officer not below the rank of Deputy Director authorised by him for the purposes of this section,] on the basis of information in his possession, has reason to believe (the reason for such belief to be recorded in writing) that any person—
  - (i) has committed any act which constitutes money-laundering, or
  - (ii) is in possession of any proceeds of crime involved in money-laundering, or
  - (iii) is in possession of any records relating to money-laundering,
  - (iv) is in possession of any property related to crime

then, subject to the rules made in this behalf, he may authorise any officer subordinate to him to—

- (a) enter and search any building, place, vessel, vehicle or aircraft where he has reason to suspect that such records or proceeds of crime are kept;
- (b) break open the lock of any door, box, locker, safe, almirah where the keys thereof are not available;
- (c) seize any record or property found as a result of such search;
- (d) place marks of identification on such record or 1[property, if required or] make or cause to be made extracts or copies therefrom;
- (e) make a note or an inventory of such record or property;



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- (f) examine on oath any person, who is found to be in possession or control of any record or property, in respect of all matters relevant for the purposes of any investigation under this Act:
- ❖ The authority (the Director or any other officer not below the rank of Deputy Director authorized by him) seizing any record or property or freezing any record or property shall, within a period of **30 days** from such seizure or freezing, as the case may be, file an application, requesting for retention of such record or property seized or for continuation of the order of freezing served under before the Adjudicating Authority
  - ❖ The authority, who has been authorized shall, immediately after search and seizure [or upon issuance of a freezing order], forward a copy of the reasons so recorded along with material in his possession, to the Adjudicating Authority in a sealed envelope, in the manner, as may be prescribed and such Adjudicating Authority shall keep such reasons and material for such period, as may be prescribed.

#### **18. Search of Person: -**

- ❖ If an authority, authorised in this behalf by the Central Government by general or special order, has reason to believe (the reason for such belief to be recorded in writing) that any person has secreted about his person or in anything under his possession, ownership or control, any record or proceeds of crime which may be useful for or relevant to any proceedings under this Act, he may search that person and seize such record or property which may be useful for or relevant to any proceedings under this Act.
- ❖ Where an authority is about to search any person, he shall, if such person so requires, take such person within twenty-four hours to the nearest Gazetted Officer, superior in rank to him, or a Magistrate:
- ❖ Provided that the period of **twenty-four** hours shall exclude the time necessary for the journey undertaken to take such person to the nearest Gazetted Officer, superior in rank to him, or Magistrate's Court.

#### **19. Power to arrest: —**

- ❖ If the Director, Deputy Director, Assistant Director or any other officer authorized in this behalf by the Central Government by general or special order, has on the basis of material in his possession, reason to believe (the reason for such belief to be recorded in writing) that any person has been guilty of an offence punishable under this Act, he may arrest such person and shall, as soon as may be, inform him of the grounds for such arrest.



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- ❖ The Director, Deputy Director, Assistant Director or any other officer shall, immediately after arrest of such person, forward a copy of the order along with the material in his possession, to the Adjudicating Authority in a sealed envelope, in the manner, as may be prescribed and such Adjudicating Authority shall keep such order and material for such period, as may be prescribed.
- ❖ Every person arrested shall within twenty-four hours, be taken to a Special Court or Judicial Magistrate or a Metropolitan Magistrate, as the case may be, having jurisdiction: Provided that the period of twenty-four hours shall exclude the time necessary for the journey from the place of arrest to the Special Court or Magistrate's Court.

**20. Retention of Property & 21. Retention of Record: -**

- ❖ Property/record may if seized be retained or if frozen may continue to remain frozen for a period not exceeding **180 days** from day of seizer.
- ❖ The officer authorized by the Director shall, immediately after he has passed an order for retention or continuation of freezing of the property/record for purposes of adjudication forward a copy of the order along with the material in his possession to the Adjudicating Authority, in a sealed envelope.
- ❖ On the expiry of the period **180 days** the property shall be returned to the person from whom such property was seized or whose property was ordered to be frozen unless the Adjudicating Authority permits retention or continuation of freezing of such property beyond the said period.
- ❖ After passing the order of confiscation, Special Court shall direct the release of all property other than the property involved in money-laundering to the person from whom such property was seized or the persons entitled to receive it.
- ❖ Where an order releasing the property/record has been made by the special court by or the Adjudicating Authority, the director or any officer authorized by him in this behalf may withhold the release of any such property for a period of 90 days from the date of such order.

**22. Presumption as to records or property in certain cases. —**

- ❖ Where any records or property are or is found in the possession or control of any person in the course of a survey or a search or where any record or property is produced by any person or has been resumed or seized from the custody or control of any person or has been frozen under this Act or under any other law for the time being in force it shall be presumed that—
  - (i) such records or property belong or belongs to such person;
  - (ii) the contents of such records are true; and

(iii) the signature and every other part of such records which purport to be in the handwriting of any particular person or which may reasonably be assumed to have been signed by, or to be in the handwriting of, any particular person, are in that person's handwriting, and in the case of a record, stamped, executed or attested, that it was executed or attested by the person by whom it purports to have been so stamped, executed or attested.

**23. Presumption in inter-connected transactions.**—Where money-laundering involves two or more inter-connected transactions and one or more such transactions is or are proved to be involved in money-laundering, then for the purposes of adjudication or confiscation or for the trial of the money-laundering offence, it shall unless otherwise proved to the satisfaction of the Adjudicating Authority or the Special Court be presumed that the remaining transactions from part of such interconnected transactions.

**24. Burden of proof. —**

- ❖ In any proceeding relating to proceeds of crime under this Act, —
  - (a) in the case of a person charged with the offence of money-laundering, the Authority or Court shall, unless the contrary is proved, presume that such proceeds of crime are involved in money-laundering; and
  - (b) in the case of any other person the Authority or Court, may presume that such proceeds of crime are involved in money-laundering.

## CHAPTER VI - APPELLATE TRIBUNAL

**25. Appellate Tribunal: -**

- ❖ Appellate Tribunal is setup under The Smugglers and Foreign Exchange Manipulators (forfeiture of property act 1976)

**26. Appeal to Appellate Tribunal:-**

- ❖ The Director or any person aggrieved by an order made by the Adjudicating Authority under this Act, may prefer an appeal to the Appellate Tribunal.
- ❖ Any [reporting entity] aggrieved by any order of the Director may prefer an appeal to the Appellate Tribunal.
- ❖ Every appeal preferred shall be filled within a period of 45 days from the date on which a copy of the order made by the Adjudicating Authority.



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- ❖ Endeavour shall be made by it to dispose of the appeal finally within 6 months from the date of filling of the appeal.

#### **27 to 35 Omitted**

#### **35. Procedure and power of Appellate Tribunal:-**

- ❖ The appellate tribunal shall have the powers of a Civil Court. The Appellate Tribunal shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit, in respect of the following matters, namely: —
  - (a) summoning and enforcing the attendance of any person and examining him on oath;
  - (b) requiring the discovery and production of documents;
  - (c) receiving evidence on affidavits;
  - (d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872 (1 of 1872), requisitioning any public record or document or copy of such record or document from any office;
  - (e) issuing commissions for the examination of witnesses or documents;
  - (f) reviewing its decisions;
  - (g) dismissing a representation for default or deciding it ex parte;
  - (h) setting aside any order of dismissal of any representation for default or any order passed by it ex parte; and
  - (i) any other matter, which may be, prescribed by the Central Government.

#### **41. Civil court not to have jurisdiction. —**

- ❖ No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Director, an Adjudicating Authority or the Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

#### **42. Appeal to High Court: -**

- ❖ Any person aggrieved by any decision or order of the Appellate Tribunal may file an appeal to the High Court within **60 days** from the date of communication of the decision.



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## CHAPTER VII SPECIAL COURTS

### **43. Special Courts.**

- ❖ The Central Government, in consultation with the Chief Justice of the High Court, shall, for trial of offence punishable under section 4, by notification, designate one or more Courts of Session as Special Court or Special Courts.

### **44. Offences triable by Special Courts. —**

- ❖ An offence punishable under section 4 and any scheduled offence connected to the offence under that section shall be triable by the Special Court constituted for the area in which the offence has been committed.
- ❖ a Special Court while trying the scheduled offence or the offence of money-laundering shall hold trial in accordance with the provisions of the Code of Criminal Procedure, 1973 ( 2 of 1974)/ Bharatiya Nagarik Suraksha Sanhita, 2023 as it applies to a trial before a Court of Session.
- ❖ Nothing contained in this section shall be deemed to affect the special powers of the High Court regarding bail under Code of Criminal Procedure, 1973 (2 of 1974)/ Bharatiya Nagarik Suraksha Sanhita, 2023.

### **45. Offences to be cognizable and non-bailable: -**

- ❖ No person accused of an offence [under this Act] shall be released on bail or on his own bond unless—
  - (1) the Public Prosecutor has been given an opportunity to oppose the application for such release; and
  - (2) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail:
- ❖ A person who is under the ***age of 16 years*** or is a ***woman*** or is ***sick or infirm*** is accused either on his own or along with other co-accused or money laundering a sum of less than **1 Crore rupees** may be released on bail, of the special court so directs.
- ❖ Provided further that the Special Court shall not take cognizance of any offence punishable under section 4 except upon a complaint in writing made by—
  - (1) the Director; or
  - (2) any officer of the Central Government or a State Government authorized in writing in this behalf by the Central Government by a general or special order made in this behalf by that Government.

#### **46. Application of Code of Criminal, 1973 to proceedings before special courts: -**

- ❖ The provisions of the Code of Criminal Procedure, 1973 (2 of 1974) (including the provisions as to bails or bonds), shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the persons conducting the prosecution before the Special Court, shall be deemed to be a Public Prosecutor -
- ❖ A person shall not be qualified to be appointed as a public prosecutor or a special public prosecutor under this section under this section unless he has been in practice as an advocate for not less than **7 years** under the union or state, requiring special knowledge of law.

### **CHAPTER IX - RECIPROCAL ARRANGEMENT FOR ASSISTANCE IN CERTAIN MATTERS AND PROCEDURE FOR ATTACHMENT AND CONFISCATION OF PROPERTY**

**55. Definitions.**—In this Chapter, unless the context otherwise requires,—

- (a) “**contracting State**” means 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;
- (b) “**identifying**” includes establishment of a proof that the property was derived from, or used in the commission of an offence under section 3
- (c) “**tracing**” means determining the nature, source, disposition, movement, title or ownership of property.

**56. Agreements with foreign countries.** — (1) The Central Government may enter into an agreement with the Government of any country outside India for—

- (a) enforcing the provisions of this Act;
- (b) exchange of information for the prevention of any offence under this Act or under the corresponding law in force in that country or investigation of cases relating to any offence under this Act, and may, by notification in the Official Gazette, make such provisions as may be necessary for implementing the agreement.

**[58A. Special Court to release the property.]**—Where on closure of the criminal case or conclusion of a trial in a criminal court outside India under the corresponding law of any other country, such court finds that the offence of money-laundering has not taken place or the property in India is not involved in money-laundering, the Special Court may, on an application moved by

the concerned person or the Director, after notice to the other party, order release of such property to the person entitled to receive it

## CHAPTER X MISCELLANEOUS

### **62. Punishment of Vexations Search: -**

- ❖ Any authority or officer exercising powers under this act or any rule made under, who without reasons recorded in writing-
- Search or cause to be searched any building or place
- Detains or search or arrest any person.

Shall for every such offence be liable on conviction for imprisonment for a term which may extend to 2 years or fine which may extend Rs.50,000/- or both.

### **63. Punishment for false information or failure to give information, etc:-**

1. Any person wilfully and maliciously giving false information and so causing an arrest or a search to be made under this Act shall on conviction be liable for imprisonment for a term which may extend to two years or with fine which may extend to fifty thousand rupees or both.

2. If a person

- Refuse to answer any question
- Refuse to sign any statement
- Refuse to attend after issuing summon

He shall pay, by way of penalty a sum which shall not be less than Rs.500/- but may be extend Rs.10000/-

### **64. Cognizance of offence: -**

1. No court shall take cognizance of any offence under section 62 and 63 except with previous sanction of the central government.
2. The central government shall by an order either give sanction or refuse to give sanction within 90 days of the receipt of the request in this behalf.

### **67. Bar of suits in civil courts.—**

- ❖ No suit shall be brought in any civil court to set aside or modify any proceeding taken or order made under this Act and no prosecution, suit or other proceeding shall lie against the Government or any officer of the Government for anything done or intended to be done in good faith under this Act.

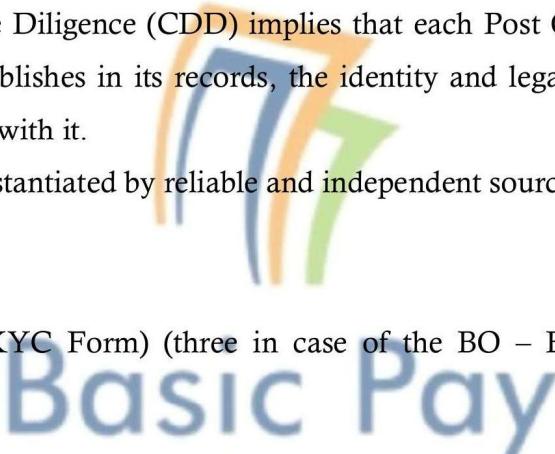
**Guidelines on Know Your Customer (KYC) Norms / Anti-Money Laundering (AML) Standards / Combating Financing of Terrorism (CFT) Norms under Prevention of Money Laundering Act, PMLA, 2002 as amended time to time for PLI & POSB (Section-12AA of PMLA,2002)**

**KYC Policy: -**

- ❖ Under PMLA provisions, Post Office Savings Bank declares its KYC Policy on the following four elements:
  - (a) Customer Acceptance Policy
  - (b) Risk Management
  - (c) Customer Identification Procedure
  - (d) Monitoring of Transactions, Record Keeping and Reporting.

**Customer Due Diligence (CDD)**

- ❖ Conducting Customer Due Diligence (CDD) implies that each Post Office obtains satisfactory evidence and properly establishes in its records, the identity and legal existence of any person doing any kind of business with it.
- ❖ Such evidence must be substantiated by reliable and independent source documents
- ❖ KYC Norms –
  - (a) For all risk – categories
    - (1) Two Photograph (AOF+KYC Form) (three in case of the BO – Extra photo on specimen signature book)
    - (2) Aadhaar
    - (3) PAN
    - (4) Address Proof – Aadhaar or PAN
    - (5) If Aadhaar or PAN don't have present address the following document can be obtained –
      - Official Valid Document
      - Document used for Limited purpose.
  - (b) For High-risk categories
    - All items mentioned in Para (a)
    - Proof of source of Fund



### **Categorization of Customers i.e. Risk categorization: -**

#### **(1) Low Risk: -**

- The balance/maturity value of all accounts does not exceed **Rs.50,000/-**

#### **(2) Medium Risk: -**

- The balance/maturity value of all accounts exceed **Rs.50,000/- up to Rs.10 lakh.**

#### **(3) High Risk: -**

- The balance/maturity value of all accounts exceed **Rs.10 lakh.**
- **Proof of source of fund is mandatory for High Risk category account.**

### **Review Of Customer Due Diligence/Re-KYC**

Risk Category	Number of Years after which the CCD documents and information should be reviewed
Low	Every 7 Years
Medium	Every 5 Years
High	Every 2 Years

### **Customer Acceptance Policy (CAP)**

- ❖ No account is opened in anonymous or fictitious name/benami.
- ❖ Not to open an account or close an existing account where the Post Office Savings Bank is unable to apply appropriate Customer Due Diligence measures i.e unable to verify the identity and/or obtain documents required as prescribed due to non-cooperation of the customer or nonreliability of data/information furnished by the customer.
- ❖ However, the customer should not be harassed and any decision to close the account should be taken by head of the Postal Division by giving suitable notice to the customer.
- ❖ It must be ensured before acceptance of a policy that the insurance premium is not disproportionate to income/source of funds/assets. Maximum sum assured under PLI is ₹ 50 lakhs for all policies, existing and proposed, subject to 10 times annual income till the age of entry of 40 years and 7 times the annual income for age of entry exceeding 40 years. Refer to the instructions issued vide PLI Directorate letter no. 25- F.No.29-24/2020-LI (Vol-II) Page 3 of 7 03/2003-LI/Vol-II dated 12.01.2015.

- ❖ Similarly in case of RPLI, maximum sum assured of all policies put together, existing and proposed is ₹ 10 lakhs, subject to 10 times annual income till the age of entry of 40 years and 7 times the annual income for age of entry exceeding 40 years.

### **Some important full forms**

- ✓ KYC – (Know your customer)
- ✓ AML – Anti Money Laundering
- ✓ CFT – Combating Financing of Terrorism
- ✓ MTSS - Money Transfer Service Scheme
- ✓ FIU-IND - Financial Intelligence Unit-India
- ✓ PEP - Politically exposed persons
- Political Exposed Persons – Heads of State/Government, Senior politicians, senior government or judicial or military officers, senior executive of state-owned corporation and important political party official.
- The account related to Political Exposed Persons residing outside India shall fall under High Risk Category.



### **Monitoring of Transaction: -**

#### **1. Maintenance of Records of Transactions**

- ❖ All post offices shall maintain the record of all transactions including the record of:-
- (a) All cash transactions of the value of more than Rs.10 Lakh.
- (b) All series of cash transactions which are less than Rs.10 lakh but are integrally connected and are carried out within one month period and totally exceed Rs.10 Lakh.
- (c) Any transaction where cash is accepted and forged or counterfeit currency notes are used or where forgery of valuable Security or documents has taken place.
- (d) Any attempted transaction involving forged or counterfeit currency notes, forged security or document.
- (e) All suspicious transactions, involving deposit withdrawal, transfer of account, solvency certificate/ Indemnity certificate etc. irrespective of the amount of transaction.

#### **2. Definition of suspicious transaction: -**

- ❖ Suspicious Transaction means 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 have no economic rationale or bonafide purpose; or The balance/maturity value of all accounts exceed **Rs.10 lakh.**
- (d) gives rise to a reasonable ground of suspicion that involves financing of the activities relating to terrorism;

#### **Reporting of Transactions.**

- ❖ Following types of transactions are to be reported:-

#### **Types of transactions**

- (a) All cash transactions of value more than Rs.10 Lakh.
- (b) All series of cash transactions which are less than Rs.10 lakh but are integrally connected and are carried out within one month period and totally exceed Rs.10 Lakh.
- (c) any account where cash is accepted and forged or counterfeit currency notes are used or where forgery of valuable Security or documents has taken place.
- (d) Any attempted transaction involving forged or counterfeit currency notes, forged security or document.
- (e) All suspicious transactions, involving deposit, withdrawal, transfer of account, solvency certificate/ Indemnity certificate etc. irrespective of the amount of transaction.

#### **Reporting Schedule: -**

S.No.	Type of Transaction Report	Action
1	<b>Cash Transaction Report (CTR) of POSB</b> All cash transaction more than Rs.10 lakh All series of cash transaction which are less than Rs.10 lakh but are integrally connected and carried out within one-month period and totally exceed Rs.10 lakh	CEPT CBS-Reports Team will be responsible for generation/preparation of list/report of transactions (deposit/ issue/ withdrawal/ discharge) mentioning nature of transaction, amount, name and address of depositor/holder, date of transaction, place of transaction, PAN No. (if given) of depositor/holder and other details in the format as required for filing of report in Finnet 2.0 of Financial Intelligence Unit - India (FIU-

		IND), centrally for pan India. Reports Team will be responsible for sending this list/report to DDG (PCO/PMLA) in Directorate on monthly basis by <b>6th working day</b> of the subsequent month.
2.	<b>CTR of PLI/RPLI</b>	PLI-CEPT Team shall be responsible for generation/preparation of CTR report in the prescribed format in FINnet 2.0 of Financial Intelligence Unit-India (FIU-IND). The PLI-CEPT Team shall send monthly report to DDG (Public Compliance Officer & PMLA) Postal Directorate by <b>6th working day</b> of the subsequent month.
3.	Suspected Transaction Report (STR)	Post Office → same day → Division Office → same day → Circle Office → DDG (CPO), PMLA

Note: - It is likely that in some cases transactions are abandoned/aborted by customers on being asked to give some details or to provide documents. All such attempted transaction should also be reported like STR irrespective of the amount of all transaction and even if the transaction is not completed by the customer.

#### Following transactions are to be reported to PCO/PMLA Section of Dak Bhawan through Proper Channel in context of PLI/RPLI

- (1) Cancellation of policy during free look period, where 3 or more free look cancellation requests are received from a single policyholder in a calendar month, under which the amount refunded put together exceeds Rs.1 lakh.
- (2) Receipt of request for change of addresses 3 or more times from the same policyholder in a Financial Year, excluding correction in addresses without change.
- (3) Requests for policies beyond his/her capacity.
- (4) Premium payments for more than 5 Lacs a month in one or more transactions.
- (5) Payments of premiums in cash with subsequent request for refund the amount over paid.
- (6) Any transaction involving documents found to be forged or using counterfeit currency.

### **Record Keeping: -**

- (1) All long books and List of Transactions either available in hard copy or in soft copy should be preserved for 5 years.
- (2) All ledger cards or account details either available in hard or soft copy, Account Opening Forms with CDD/KYC documents and SS Books should be preserved for 5 years after closure of the account.
- (3) All account closure vouchers are to be preserved for 5 years from the date of closure of accounts.
- (4) All purchase application forms along with KYC/CDD documents should be preserved for 5 years after discharge of certificates.

### **Record Keeping for Circle and CPC (PLI)**

- ❖ The data/documents related to insurance services (PLI/RPLI) shall be preserved for a minimum period of 5 years from the exit of the policy or final disposal of claim, as per the instructions issued vide PLI Directorate letter no. 24-01/2021-LI dated 30.04.2021 and 11.05.2021. The ‘Record Retention Policy’ for PLI/RPLI Policy Documents’ is as under:

S.No.	Type of Policy	Schedule
1	Policies where less than 3 years of premia paid, and policy is lapsed	5 years after date of Maturity
2	Policies where at least 3 years of premia paid, and policy is surrendered	5 years after payment of surrender value
3	Policies where at least 3 years of premia paid, and policy is Forced surrendered	5 years after date of ‘Forced Surrender’
4	Policies where at least 3 years of premia paid, and insurance contract is discharged due to Maturity or Death	5 years after payment of Maturity/Death Claim amount
5	Policies cancelled at the option of insurant during ‘Free Look’ period	5 years after cancellation of the policy
6.	Policies which are subject of any case filed in any court of law	3 years after final clearance from arbitration, litigation, enquiry or audit as the case may be or till the prescribed retention period, whichever is later

➤ **How to take KYC in existing account/certificate?**

- In case of SB/PPF/MIS/SCSS/NSS/TD/RD
- Notice issue at the time of next transaction. If depositor fails to submit the KYC up to 3<sup>rd</sup> next transaction. 4<sup>th</sup> transaction will not be allowed.

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