

Ref.No.NB.DoS.HO.POL.278/J.1/2008-09

23 April 2009

Circular No.75/DoS.17/2009

CONFIDENTIAL

**The Managing Directors
All the State Cooperative Banks in the Country.**

**The Chief Executive Officers/General Managers
All the District Central Cooperative Banks in the country.**

Dear Sir

'Know Your Customer' (KYC) Guidelines and Anti-Money Laundering (AML) Standards - Obligations of banks in terms of Rules notified thereunder

We invite a reference to our Circular No.39/DoS.5/2008 sent under the cover of our letter No.NB.DoS.HO.POL.4730/J.1/2007-08 dated 17 March 2008 on the captioned subject wherein we had advised to you put in place proper mechanism to ensure strict adherence to the Customer Identification, Customer Identification Process, 'Know Your Customer' (KYC) Policy duly approved by the bank's Board of Directors, nomination of Principal Officer, besides ensuring prompt and regular submission of Cash Transaction Reports (CTRs) and Suspicious Transaction Reports (STRs) to the Financial Intelligence Unit, India (FIU-IND), New Delhi.

2. It has been brought to our notice by the RBI and FIU-IND that many banks had not made any efforts towards effective compliance of KYC and PMLA guidelines issued by the RBI/NABARD. It is regretted that most of the banks are yet to nominate the Principal Officers for attending to KYC/AML related items of work in their banks. Further, the general awareness of staff both at HO and branches about KYC/AML standards was found to be wanting/inadequate. It was also observed that most of the SCBs and DCCBs were not prompt in sending the CTRs/STRs. Further, wherever the STRs were filed by the banks, they pertained to the cases which were already being investigated or scrutinised by FIU-IND. The Director, FIU-IND had expressed his serious concern over the inordinate delay in establishing proper capabilities to regularly detect and report STRs to FIU-IND by the Cooperative Banks.

3. We also invite a reference to para 4 of our Circular dated 17 March 2008 referred to above wherein you were advised to furnish the information on items (i) to (vi) to us under advice to our concerned Regional Office. It is regretted that even after lapse of considerable time, most of the banks have not furnished this information. You are, therefore, requested to kindly bestow your personal attention and arrange to furnish the latest information to us without further loss of time to enable us to file a consolidated compliance report to FIU-IND.

4. It has also been observed that private banking services offered by the Cooperative Banks to High Net Worth individuals (HNIs) are on the rise. Private banking services offered by the banks to HNIs are akin to Portfolio Management Services (PMS). In such cases, banks are required to adhere to the guidelines issued vide RPCD Circulars dated 4 September 1992 and 26 July 1994 (copies enclosed for ready reference) as under.

(i) The general powers vested in banks to operate PMS and similar schemes have been withdrawn. No bank, should therefore, restart or introduce any new PMS or similar schemes in future without obtaining specific prior approval of the RBI.

(ii) PMS should be entirely at the customer's risk, without guaranteeing, either directly or indirectly, a predetermined return.

(iii) Funds should not be accepted for Portfolio Management for a period less than one year.

(iv) Portfolio funds should not be deployed for lending in call/notice money; inter-bank term deposits and bills discounting markets and lending to/placement with corporate bodies.

(v) Banks should maintain client-wise account/record of funds accepted for management and investments made thereagainst and the portfolio clients should be entitled to get a statement of account.

(vi) Bank's own investments and investments belonging to PMS clients should be kept distinct from each other, and any transactions between the bank's investment account and client's portfolio account should be strictly at market rates.

(vii) There should be a clear functional separation of trading and back office functions relating to bank's own investment accounts and PMS clients' accounts.

(viii) PMS clients' accounts should be subjected by banks to a separate audit by external auditors.

5. Further, vide RPCD's Circulars dated 18 February 2005 and 28 February 2008 on KYC/AML, Combating Financing of Terrorism (CFT), RBI had prescribed that HNIs should be categorized as high risk customers and banks should apply enhanced 'due diligence' measures based on the risk assessment in such cases. Cooperative Banks are also required to introduce a system of periodical updation of Customer Identification data (including photographs) after the account is opened. The periodicity of such updation should not be less than once in two years in case of high and medium risk customers. Besides, high risk accounts should be subjected to intensified monitoring. We shall be glad to be advised of the action initiated by you for putting in place appropriate systems and procedures to take care of HNIs under advice to our concerned Regional Office.

6. We would like to point out that contravention or non-compliance of the KYC norms and AML standards would attract penalties under the relevant provisions of the Banking Regulation Act, 1949 (AACs). You are once again advised to bestow your personal attention in the matter and place a Memorandum to the Board of Directors indicating the action taken for compliance with the aforesaid norms. As indicated in our Circular dated 17 March 2008, the internal audit/inspection machinery should be suitably fine-tuned to take care of the requirements of KYC/AML standards at the branch level. Non-compliance or contravention, if any, observed at the branch level and reported in the Inspection Reports should be viewed seriously and necessary action should be initiated against the recalcitrant staff.

7. Please acknowledge receipt and keep us posted with the action taken on all the above aspects immediately.

Yours faithfully

(G.C. Panigrahi)
Chief General Manager
Encls: As above

