



CIRCULAR

CIR/ISD/AML/2/2010

June 14, 2010

**To all Intermediaries registered with SEBI under Section 12 of the SEBI Act.
(Through the stock exchanges for stock brokers, sub brokers, depositories for depository participants, AMFI for Asset Management Companies.)**

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

Dear Sir/Madam,

1. SEBI, vide Master Circular No. ISD/AML/CIR-1/2010 dated February 12, 2010, issued consolidated requirements/obligations to be fulfilled by all registered intermediaries with regard to AML/CFT. In addition to the obligations contained in the Master Circular, following are the additional requirements to be fulfilled or the clarifications with regard to existing requirements:
 - a. Clause 3.2.3 (f) of the Master Circular lays down obligations to establish policies and procedures with regard to role of internal audit. It is clarified that the internal audit function should be independent, adequately resourced and commensurate with the size of business and operations, organization structure, number of clients and other such factors.
 - b. The following clause numbered 5.1(f) is added after the existing clause 5.1(e) of the Master Circular: *“Registered intermediaries shall periodically update all documents, data or information of all clients and beneficial owners collected under the CDD process”*.
 - c. The following new clause numbered 5.2.1(g) is added after the existing clause 5.2.1 (f) of the Master Circular: *“The CDD process should necessarily be revisited when there are suspicions of money laundering or financing of terrorism (ML/FT)”*.
 - d. The following line is added in the existing clause 5.3.1 of the Master Circular: *“Further low risk provisions should not apply when there are suspicions of ML/FT or when other factors give rise to a belief that the customer does not in fact pose a low risk.”*
 - e. While dealing with clients in high risk countries where existence/effectiveness of money laundering control is suspect, it is clarified that apart from being guided by the Financial Action Task Force (FATF) statements that identify countries that do not or insufficiently apply the FATF Recommendations, published by the FATF on its website (www.fatf-gafi.org), registered intermediaries should independently access and consider other publicly available information.



- f. Clause 5.5(a) of the Master Circular shall read as follows: *“All registered intermediaries shall proactively put in place appropriate risk management systems to determine whether their client or potential client or the beneficial owner of such client is a politically exposed person. Such procedures should include seeking relevant information from the client, referring to publicly available information or accessing the commercial electronic databases of PEPS. Further, the enhanced CDD measures as outlined in clause 5.5 should also be applicable where the beneficial owner of a client is a PEP”*.
 - g. The existing clause 5.5(c) of the Master Circular shall read as follows: *“Registered intermediaries shall also take reasonable measures to verify the sources of funds as well as the wealth of clients and beneficial owners identified as PEP”*.
 - h. Clause 8.2 of the Master Circular prescribes that intermediaries shall maintain the records of the identity of clients prescribed in Rule 9 of the PML Rules for a period of 10 years from the date of cessation of transactions between the client and intermediary. It is clarified that the “date of cessation of transactions” shall be read to mean the “date of termination of an account or business relationship”.
 - i. It is clarified that the “tipping off” provision in clause 13.3 of the Master Circular extends not only to the filing of the STR and/or related information but even before, during and after the submission of an STR.
2. All the registered intermediaries are directed to ensure compliance with the requirements contained in this circular on an immediate basis. Stock exchanges, Depositories and AMFI are also directed to bring the contents of this circular to the attention of their members/ depository participants and verify compliance during inspections.
 3. This circular is being issued in exercise of powers conferred under Section 11 (1) of the Securities and Exchange Board of India Act, 1992 (SEBI Act), and Rule 7 and Rule 9 of Prevention of Money-laundering (Maintenance of Records of the Nature and Value of Transactions, the Procedure and Manner of Maintaining and Time for Furnishing Information and Verification and Maintenance of Records of the Identity of the Clients of the Banking Companies, Financial Institutions and Intermediaries) Rules, 2005 (PML Rules) to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.

Yours faithfully,

S. Ramann