F. No. 9-40/2018/Compl./FIU-IND

Government of India

Ministry of Finance

Department of Revenue

Financial Intelligence Unit - India

6th Floor, Hotel Samrat
Kautilya Marg, Chanakyapuri
New Delhi -110021

ORDER-IN ORIGINAL NO. 1 /DIR/FIU-IND/2019

Name & Address of the Reporting Entity:	Allahabad Bank Allahabad Bank, Head Office, 2 Netaji Subhas Road, Kolkata - 700001
Show Cause Notice No. & Date:	**25-4/Compl/FIU-IND/2018** Dated January 08, 2019
Section under which order passed:	Section 13 of the Prevention of Money Laundering Act, 2002
Date of Order:	March 19, 2019
Authority passing the order:	Director, Financial Intelligence Unit – India

This Order has been passed under section 13 of the Prevention of Money Laundering Act, 2002 (hereinafter referred to as "the PMLA" or "the Act"). An appeal against this Order shall lie before the Appellate Tribunal, Prevention of Money Laundering Act at New Delhi within a period of forty five days from the date on which this Order is received by Allahabad Bank. The appeal should be in the form and manner prescribed under sub-section (3) of Section 26 of the Act.

1. Allahabad Bank (the 'Bank') is a Banking company as defined under Section 2(1)(c) of the Prevention of Money Laundering Act, 2002 (hereinafter referred to as 'Act') and as such is a reporting entity in terms of Section 2(1)(wa) of the Act.

2. Section 12(1) of the Prevention of Money Laundering Act, 2002 (hereinafter referred to as 'Act') and the Prevention of Money Laundering (Maintenance of Records) Rules, 2005 (hereinafter also referred to as the 'Rules'), framed under the Act, impose obligations on every reporting entity, including a banking company, *inter alia*, to maintain a record of all transactions in such manner as to enable it to reconstruct individual transactions, to 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, to verify the identity of its clients in such manner and subject to such conditions, as may be prescribed, to identify the beneficial owner, if any, of such of its clients, as may be prescribed and to 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 reports referred to in section 12(1) of the Act, *inter-alia*, include reports on cash transactions, suspicious transactions, cross border wire transfers and counterfeit currency transactions.

3. In terms of section 12(4) of the Act the records of documents evidencing identity of its clients and beneficial owners as well as account files and business correspondence relating to its clients 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. Section 12A of the Act confers powers on the Director, FIU-IND to call for any additional information from any reporting entity as he considers necessary for the purposes of the Act.

4. Rule 3 of the Rules specifies the transactions, the records of which are to be maintained; these include all cash transactions of the value of more than ten lakh rupees or its equivalent in foreign currency, all series of cash transactions integrally connected to each other which have been valued below rupees ten lakhs or its equivalent in foreign currency where such series of transactions have taken place within a month, all transactions involving receipts by non-profit organisations of value more than rupees ten lakh, or its equivalent in foreign currency, all cash transactions where forged or counterfeit currency notes or bank notes have been used as genuine, all cross border wire transfers of the value of more than five lakh rupees or its equivalent in foreign currency where either the origin or destination of funds is in India and all suspicious transactions.

5. Rules 5, 7 and 8 of the Rules prescribe the procedure, manner and time of maintaining and furnishing information about the transactions. Rule 7(2) of the Rules require that the Principal Officer shall furnish the information referred to in Rule 3(1) of the Rules to the Director on the basis of information available with the reporting entity. Rule 7(3) of the Rules requires that all reporting entities shall evolve an internal mechanism

having regard to any guidelines issued by Regulator for detecting the transactions referred to in Rule 3 and for furnishing information about such transactions in such form as may be directed by its Regulator.

6. As per sub-rules (1) and (2) of Rule 8 of the PML Rules, 2005 the Principal Officer of a reporting entity shall furnish the information in respect of transactions referred to, *inter alia*, Rule 3(1) of the Rules every month to the Director by the 15th day of the succeeding month and in respect of transactions referred to in Rule 3(1)(D) not later than 7 working days on being satisfied that the transaction is suspicious. Rule 9 of the Rules prescribes the procedure and manner of verification of records of identity of clients.

7. Section 13 of the Act confers powers on the Director, FIU-IND to enquire into cases of failure with regard to obligation of a reporting entity to comply with the provisions of Section 12 of the Act and the Rules thereunder and, *inter alia*, to levy a fine for each such failure. Section 50(1) of the Act confers same powers as vested in a Civil Court under the Code of Civil Procedure, 1908 including discovery and inspection and compelling production of records.

8. In pursuance of the above, in terms of section 12A of the PMLA, 2002, vide letter dated June 26, 2018, a questionnaire was forwarded to Allahabad Bank advising it to submit its reply within 21 days of the receipt of the said letter. Allahabad Bank submitted its reply to the said questionnaire (undated) that was received in FIU-IND on July 24, 2018.

9. The data submitted by the Bank was examined in the light of filing information of the Bank available with FIU-IND. The analysis of the information/data submitted by the Bank to the aforementioned Questionnaire revealed, *inter alia*, as under:

   (i) At the time of account opening, the name and profile of customer is required to be matched with sanction lists and UNSCR list is used for name screening. Further, the last UN sanctions list was updated by the Bank in November, 2015. Whereas, as per the information available in public domain, UN sanction lists are updated on a continuous basis. UN sanctions list has been updated several times after November 2015 (as late as May 29, 2018) and, therefore, the Bank has appeared to have failed to update the UN sanction list at its end.

   (ii) The information submitted by the Bank with regard to the number of reports, namely, Suspicious Transaction Reports (STR), Cash Transaction Reports (CTR), Transaction Reports involving Non-Profit Organisations (NTR), Cross Border Wire Transfer Reports (CBWTR) and Counterfeit Currency Reports

(CCR) filed by it during each of the last five financial years showed that there is a gap between the number of reports, especially, CBWTR, as claimed to have been filed by the Bank and as per the data available with FIU-IND and as such was an incorrect reporting of figures by the Bank.

(iii) The Bank claimed to have **461** FCRA declared accounts. However, the Bank claimed to have filed NTRs and CBWTRs in respect of only 18 such accounts.

(iv) The Bank claimed to have implemented 45 Red Flag Indicators (RFIs). The RFIs pertaining to demonetization, trade based money laundering (TBML), Afghan Drug Control and Terror Financing had not been factored by the Bank into its alert generation module/software.

(v) During the relevant period, the **45** RFIs implemented in the Bank's system had resulted into **5064166** alerts which materialised into **492** STRs during the relevant period. This implied a conversion percentage of around 0.01% which is abysmally low.

(vi) The manner in which alerts were being dealt with by the Bank implied that it lacked mechanism for review of the closed alerts (i.e., alerts closed by the concerned AML Officer). As per the reply of the Bank, the Screening Committee only decides on filing STRs in cases of alerts which have not already been closed by the AML Officer. Also, the composition of the said Screening Committee is not known.

(vii) The Bank admitted that it had not carried out determination of beneficial ownership with regard to the following:

(a) top 50 accounts opened during the previous FY (on the basis of total deposits in previous FY) in the name of trusts/ societies/AOPs/ Section 8 Companies;

(b) top 50 accounts (excluding accounts of PSUs/ govt owned corporations) opened during the previous FY (on the basis of total deposits in previous FY) in the name of Companies.

(viii) The Bank further submitted that determination of beneficial ownership with regard to the accounts referred in the aforesaid points had not been carried out by the Bank as all these accounts were opened prior to implementation of the beneficial owner capturing procedure in the CBS system.

(ix) The Bank had not filed any STR in response to alerts no. 1 and 2 of 2017 which related to the shell companies.

10. The analysis of the information/data submitted by the Bank to the aforementioned Questionnaire was informed to the Bank vide letter dated October 04, 2018.

11. The Bank was also afforded an opportunity on October 23, 2018 to explain its stand with regard to the observations of FIU-IND enumerated in the letter dated October 04, 2018. The minutes of the records of proceedings, enumerating, *inter alia*, the submissions of the authorised representatives of the Bank with regard to the observations of FIU-IND were furnished to the Bank vide letter dated October 29, 2018.

12. The authorised representatives of the Bank had sought 15 days' time to file their written submissions with respect to the issues brought out in the FIU-IND letter dated October 04, 2018 and also to enumerate steps that the Bank would undertake to address the issues within a reasonable period of time.

13. Vide email dated November 07, 2018, the Bank had appended its pointwise submissions to the record of proceedings which is reproduced herein below:

(1) The Bank has initiated the procedure for incorporating the updated UNSCR list (dated 29th May, 2018) in the CBS system and the same would be completed within the given timeline.

(2) The gap in the number of reports, especially CBWTRs, filed by the Bank and the number of reports as per the data available with FIU-IND, was analysed and it was found that several CBWTR reports which we filed during the FY 2014-15, 2015-16 and 2017-18, were not validated and rejected by the FIU-IND afterwards. In view of that the Bank has refiled all the rejected and invalid CBWTR reports on October 30, 2018. The details of that refiling is appended:-

FY	Reports uploaded by the Bank	Report count of FINNET (files validated)	Reports made invalid by FIU-IND	Reports rejected by FIU-IND	Total reports to be refiled	Remarks	Refiling Status
2014-15	7474	0	7076	398	7474	All reports are required	9 CBWTR files containing 7474 reports refiled on 30/10/2018 (Aug '14 - March'15)

						to be refiled	The batch IDs are attached as Annexure-1.
2015-16	18025	17677	348	0	348	June 2015 file -1 (348 Reports) are required to be refiled.	The CBWTR file for June 2015 was refiled on 30/10/2018 vide Batch ID – 1810304101.
2016-17	39798	11561	28237	0	28237	28237 reports are required to be refiled	12 CBWTR Files containing 28237 reports were refiled on 30/10/2018. The batch IDs are attached as Annexure-2

(3) As regards to CBWTR and NTR filings in 461 FCRA declared accounts, re-examination of the whole issue is going on and the findings and rectification measures taken by the Bank, if required, would be communicated to FIU-IND within the given timeline.

(4) The Bank has re-examined its record and found that RFIs pertaining to Afghan Drug Control and instructions issued on 21st June, 2018, were not received by it. The Bank has, however, received the same from FIU-IND office on date through its representative of Zonal Office New Delhi, and taking necessary steps for implementation. Although in recent past, the Bank has taken necessary steps for implementation of RFIs pertaining to TBML, Demonetization and Terror Financing within its AML application, but the same could not be implemented due to software issues. In view of that, the Bank has already initiated steps for acquiring an updated AML application from the market and it is assured that the RFIs pertaining to TBML, Demonetization and Terror Financing will be incorporated in that application.

(5) In order to address the issue of abysmally low rate of conversion of alerts into STR, the Bank is re-examining the threshold values set against several RFIs implemented in the AML application and taking necessary steps to revise the values in such a way that only meaningful and credible alerts will be generated. It is assured that with such revision, the alert conversion rate into STR will definitely improve.

(6) The Bank has already put in place a mechanism so that the Principal Officer (PO) is able to review the closed alerts on sample basis. However, based on FIU-IND's

observation, formulation of a more meaningful mechanism for review of closed alerts is under process and the same will be implemented soon.

(7) Process of linking of beneficial owner details in the CBS system has been initiated by the Bank and the same will be completed within the given time-line.

14. Vide email dated November 26, 2018, the Bank informed that that the updated UNSCR list has been incorporated in its CBS system on November 16, 2018.

15. In view of the above, it appears that till November 07, 2018 (when the Bank submitted its point-wise reply to the records of proceedings), as a reporting entity, the Bank has failed to comply with the obligations as enumerated under Section 12 of the Act read with rules 3, 7, 8 and 9 of the Rules.

16. In view of the foregoing, vide SCN dated January 08, 2019, the Bank was called upon to show cause as to why suitable directions including direction of imposition of penalty should not be passed against the Bank under Section 13 of the Act read with Section 12 of the Act and Rules 3, 7, 8 and 9 of the Rules, 2005 for:

(a) Non-compliance with section 12(1) (a) and (b) and 12(3) of the Act read with rule 2(1) (g), 3(1) (D), 4, 5 and 7(3) of the Rules – Alleged failure of the Bank:

- to effectively configure and implement all the requisite RFIs in its AML software, viz. RFIs pertaining to trade based money laundering (TBML), demonetization, Afghan Drug Control and combatting financing of terrorism (CFT) resulting in improper generation of alerts;
- to have effective internal mechanism for detecting all suspicious transactions as enumerated under rule 3(1)(D) of the Rules;
- to effectively examine and dispose of the alerts generated by the Bank's system;
- to implement a mechanism for review of the closed alerts.

(b) Non-compliance with Section 12(1)(c) of the Act read with rule 9(1)(a)(i) of the Rules, and Section 12(1)(d) of the Act read with Rules 9(1)(a)(ii) and 9(3) of the Rules - Alleged failure of the Bank to identify and verify ultimate beneficial owner for trust, legal entities and similar other customers; and

(c) Non-compliance with Section 12(1)(c) of the Act read with Rule 9(12) and (14)(ii) and (iii) of the Rules - Alleged failure of the Bank to fully implement a Client Due Diligence Programme approved by the Board of the Bank specifically with regard to screening names of prospective customers in the latest UNSC sanction list.

17. The Bank was advised to submit its reply to the SCN within a period of 21 days of the

receipt of the said SCN, failing which it shall be presumed that they have nothing to say in this matter. The Bank was also asked to indicate whether it desire to be personally heard in this case.

18. Vide its letter dated January 21, 2019, the Bank has submitted its reply to the allegations in the SCN dated January 08, 2019. The submissions of the Bank is summarised as under:

(a) All the RFIs pertaining to TBML, Demonetization, Afghan Drug Control and CFT have been incorporated in the internal AML portal of the Bank so that the branches are able to identify and report any suspicious transactions to HO AML & KYC cell through the portal.

(b) The Bank is upgrading the AML software wherein all the above referred scenarios are being incorporated and the same would be integrated with CBS and would be implemented before March 31, 2019.

(c) As regards the review of closed alerts by the PO of the Bank, a revised and meaningful procedure of review of closed alerts has been taken up with the software vendor and would be implemented by the end of January 2019.

(d) Identification and verification of ultimate beneficial owner for trust, legal entities and similar other customers are going on and the Bank ensures that the same would be completed by March 31, 2019.

(e) The latest UNSCR list has been integrated with the Bank's CBS on November 16, 2018 onwards and the screening of prospective customers has been implemented.

19. The Bank has also submitted that considering the actions taken by it so far against the alleged failure under various provisions of the PMLA, FIU-IND may consider not issuing directions including imposition of penalty. I note that the Bank did not seek any opportunity of personal hearing in the matter. However, in the interest of principles of natural justice, on March 07, 2019 Allahabad Bank was granted an opportunity of personal hearing before me through its duly authorized representative.

20. Accordingly, a personal hearing was granted to the Bank on March 07, 2019 when Sri S.V.L. Nageswara Rao (Principal Officer) alongwith Sri Sudeb Banerjee (Senior Manager) appeared on behalf of the Bank and made submission on the lines of earlier written submission filed in the matter. The said authorised representatives also sought a week's time to file short submission. Vide letter dated March 08, 2019, the Bank filed its short written submission submitting, *inter alia*, as under:

(a) The Bank has already undertaken remedial steps against all the alleged failure of the Bank for non-compliance with the provisions of the PMLA in true spirit.

(b) The Bank is fully alive to the lapses in implementation of the AML application and has made considerable progress in removing the identified deficiencies.

(c) Issues pertaining to non-incorporation of certain RFIs within the AML application would be resolved in final stage of accomplishment and the live operations are scheduled on April 01, 2019.

21. The Bank has requested that considering the earnest attempt to rectify the non-compliance issues taken by it, a lenient view in the matter be taken.

22. Before dealing with the submissions of the Bank, I find it worthwhile to briefly mention the background and object of the Prevention of Money Laundering Act, 2002, the Prevention of Money Laundering (Maintenance of Records) Rules, 2005, and establishment of FIU-IND that can be traced back to the recommendations of the Financial Action Task Force (FATF) and is summarised hereinbelow:

(a) The FATF was formed by the 1989 G7 Summit in Paris to combat the growing problem of money laundering. The task force was charged with studying money laundering trends, monitoring legislative, financial and law enforcement activities taken at the national and international level, reporting on compliance, and issuing recommendations and standards to combat money laundering.

(b) In its first year, FATF issued a report containing forty recommendations to more effectively fight money laundering. These standards were revised in 2003 to reflect evolving patterns and techniques in money laundering. The mandate of the organisation was expanded to include terrorist financing following the September 11 terror attacks in 2001.

(c) FATF's primary policies issued are the Forty Recommendations on money laundering from 1990. After the 2001 terrorist attacks in the United States of America (September 11 attacks) 9 Special Recommendations (SR), mainly relating to Combating Financing of Terrorism (CFT) were added. Further, these recommendations were revised in 2012 by subsuming "40 + 9" Recommendations into 40 International Standards on Anti Money Laundering and Combating Financing of Terrorism and proliferation. These standards set out the principles for action and allow countries a measure of flexibility in implementing these principles according to their particular circumstances and constitutional frameworks.

(d) Recommendation 29 of the FATF Recommendation warrants that countries should establish a financial intelligence unit (FIU) that serves as a national centre for the receipt and analysis of: (a) suspicious transaction reports; and (b) other information relevant to money laundering, associated predicate offences and financing of terrorism, and for the dissemination of the results of that analysis. The FIU should be able to obtain additional information from reporting entities, and should have access on a timely basis to the financial, administrative and law enforcement information that it requires to undertake its functions properly.

(e) FATF Interpretive Note to Recommendation 29 states that the FIU is part of, and plays a central role in, a country's Anti-Money Laundering / Combating the Financing of Terrorism (AML/CFT) operational network, and provides support to the work of other competent authorities. The major functions of FIU as envisaged by the said interpretive note can be categorised as receipt, analysis and dissemination of relevant information. The FIU serves as the central agency for the receipt of disclosures filed by reporting entities.

(f) The Political Declaration adopted by the Special Session of the United Nations General Assembly held on 8th to 10th June 1998 called upon the Member States to adopt money-laundering legislation and programme.

(g) Towards this objective and international obligation a comprehensive legislation, inter alia, preventing money-laundering and connected activities, confiscation of proceeds of crime, setting up of agencies and mechanisms for co-ordinating measure for combating money laundering, etc. the Prevention of Money-Laundering Bill, 1998 was introduced by the Government of India in the Lok Sabha in August, 1998.

(h) After considering some of the recommendations of the Standing Committee on Finance, the Prevention of Money-Laundering Bill came to be enacted the Prevention of Money-Laundering Act, 2002 (15 of 2003) and came into effect on July 01, 2005.

(i) FIU-IND was set up by the Government of India as the central national agency responsible for receiving, processing, analyzing and disseminating information to the relevant institutions/law enforcement agencies of the Government. FIU-IND is also responsible for coordinating and strengthening efforts of national and international intelligence, investigation and enforcement agencies in pursuing the global efforts against money laundering and related crimes. FIU-IND is an independent body reporting directly to the Economic Intelligence Council (EIC) headed by the Finance Minister.

(j) Section 12(1)(b) of the Act, obligates every reporting entity (viz., a banking company, financial institution, intermediary or a person carrying on a designated business or profession) to maintain a record of all transactions in such a manner as to enable it to reconstruct individual transactions; to 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; to verify the identity of its clients in such manner and subject to such conditions, as may be prescribed; to identify the beneficial owner, if any, of such of its clients, as may be prescribed and to maintain record of documents evidencing identity of its clients and beneficial owners as well as account files and business correspondence relating to its clients.

(k) Section 73 of the Act empowers the Central Government to enact rules, *inter alia*, with regard to the nature and value of transactions and the time within which the information of transactions under section 12(1)(b) of the Act shall be furnished; the manner and the conditions in which identity of clients shall be verified by the reporting entities under section 12(1)(c) of the Act; the manner of identifying beneficial owner, if any, from the clients by the reporting entities under section 12(1)(d) of the Act; the period of interval in which the reports are sent by the reporting entities or any of its employees under section 13(2)(c) of the Act; the procedure and the manner of maintaining and furnishing information under section 12(1) as required under section 15 of the Act.

(l) Towards this end, the Central Government in consultation with the Reserve bank of India has notified the PML Rules for maintenance of records of the nature and value of transactions, the procedure and manner of maintaining, and time for furnishing of information and verification of records of the identity of the clients by the reporting entities.

23. Having enumerated the background of the Act and the PML Rules, I will now deal with the submissions of the Bank with regard to the non-compliances as alleged in the SCN.

24. The first allegation against the Bank in the SCN is that it had failed to implement all RFIs, viz. RFIs pertaining to TBML, demonetisation, Afghan Drug Control and CFT. In this regard the Bank has submitted that all the RFIs pertaining to TBML, Demonetization, Afghan Drug Control and CFT have been incorporated in the internal AML portal of the Bank so that the branches are able to identify and report any suspicious transactions to HO AML & KYC cell through the portal. From the perusal of material on record, I note that the Authorised Representatives of the Bank had admitted during the proceedings on October 23, 2018 that all RFIs, more specifically RFIs pertaining to TBML, demonetization, Afghan Drug Control and CFT

had not been implemented by the Bank. Further, vide email dated November 07, 2018 the Bank had submitted that:

(a) RFIs pertaining to Afghan Drug Control and instructions issued on 21st June, 2018, were not received by it. The Bank has, however, received the same from FIU-IND office on date through its representative of Zonal Office New Delhi, and taking necessary steps for implementation.

(b) Although in recent past, the Bank has taken necessary steps for implementation of RFIs pertaining to TBML, Demonetization and CFT within its AML application, but the same could not be implemented due to software issues.

(c) The Bank has already initiated steps for acquiring an updated AML application from the market and it is assured that the RFIs pertaining to TBML, Demonetization and Terror Financing will be incorporated in that application.

25. From the perusal of the reply of the Bank it is clear that for the period under review (relevant period), the Bank had failed to implement all RFIs, viz. RFIs pertaining TBML, Demonetization and CFT. As regards the claim of the Bank that RFIs pertaining to Afghan Drug Control (issued on March 16, 2018) and those issued on June 21, 2018 were not received by it is factually incorrect. In fact, the records available before me clearly delineate that these RFIs were sent to the Bank alongwith to some other intended recipients vide emails dated March 16, 2018 and June 21, 2018, respectively. In view of the foregoing I find that the Bank has failed to implement all the RFIs issued by FIU-IND from time to time. The non-implementation of RFIs adversely affects the quality and quantity of alerts generated by the AML system and, in the process the quality and quantity of reports on suspicious transaction filed by a reporting entity.

26. The second allegation against the Bank is that it had failed to effectively examine and dispose of the alerts generated by the Bank's system. I note that as per the record of proceedings held on October 23, 2018, the Authorised Representatives of the Bank had submitted that the shortage of staff allocated in handling alerts would be brought to the notice of their Board and urgent steps would be taken to rectify the situation and the system of alert examination and analysis would be re-looked into. Even in their reply under consideration, the Bank has not denied or controverted this allegation. Thus, for the relevant period, the Bank had failed to effectively examine and dispose of the alerts generated by the Bank's AML system.

27. The third allegation against the Bank is that it failed to implement a mechanism for review of the closed alerts. As per the record of proceedings held on October 23, 2018, the Authorised Representatives of the Bank had submitted that a mechanism for

review of the closed alerts had been implemented in the Bank and that review of closed alerts was being done on sample basis as the number of closed alerts was very high. The Authorised Representatives of the Bank had also admitted that the present system of review of closed alerts leaves much to be desired and have undertaken to put in place a mechanism so that meaningful review of closed alerts is done. Even in their reply under consideration, the Bank has not denied or controverted this allegation. In fact, the Bank has reiterated that a revised and meaningful procedure of review of closed alerts has been taken up with the software vendor and would be implemented by the end of January 2019. During the personal hearing on March 07, 2019, the Authorised Representatives of the Bank submitted that the system of alert generation in the Bank has been recalibrated so that more meaningful alerts are generated. As the number of alerts are lesser in number as compared to earlier, a revised procedure of review of closed alerts has become possible.

28. It may be noted that clause 2.3.3 of the Guidelines on detecting suspicious transactions under Rule 7(3) of the Prevention of Money Laundering (Maintenance of Records) Rules, 2005 for Banks issued by FIU-IND on October 24, 2017, *inter alia*, require that:

(a) While the activities of analysing alert and preparing the documents for managing the alert can be delegated within the AML compliance team, the ultimate analysis and decision making rests with the PO. The records verified by and papers related to this decision need to be recorded and retained for audits.

(b) Where the PO is of the opinion that a transaction is not reportable, decision on closure and reporting should be taken by the PO and it must be ensured that reason for not reporting the suspicious transactions are clearly recorded.

29. In the instant case, as per the submission of the Bank to clause 26 of the Review Questionnaire, read with Annexure-2 to the said Questionnaire, the Bank follows the concept of "Maker-Checker". While managers, assistant managers and officers (11 in number) process AML alerts as "Maker", Senior Managers & Managers (7 in number) are involved in processing of AML alerts as checker. Further, the case is escalated to "Checker" for closure. Further, where alerts are sought to be closed by a "Maker", a valid reason is to be given and the same is also escalated to a "Checker". Thus, as per the Bank's submission, the decision of "Checker" is final with regard to filing of STRs or closure of alerts, as the case may be. As per the submission of the Authorised Representatives of the Bank during the proceedings on October 23, 2018, the review of closed alerts was undertaken by its **PO only on sample basis**. It is thus clear that for the relevant period, the Bank had failed to implement a mechanism to effectively examine and dispose of the alerts generated by the Bank's AML system, and for review of the closed alerts as envisaged under the Guidelines issued rule 7(3) of the PML Rules.

30. The next allegation against the Bank is that it had failed to have effective internal mechanism for detecting all suspicious transactions as enumerated under rule 3(1)(D) of the Rules. It is an admitted fact that during the review period the Bank had failed to implement some of the RFIs issued by FIU-IND. From the foregoing para it is also observed that the Bank failed to have a mechanism effectively examine and dispose of the alerts generated by the Bank's AML system, and for review of the closed alerts.

31. It is trite to state that an effective internal mechanism for detection of a suspicious transaction, *inter alia*, requires that RFIs issued by FIU-IND and the Regulator from time to time are factored into the AML system of the Bank and that Guidelines issued by FIU-IND or the Regulator, as the case may be, are complied with by the Bank. In the instant case, as discussed in the foregoing paras, the Bank has been found to be non-compliant on both the counts.

32. As regards the implementation of all the RFIs and having internal mechanism for effective examination and disposal of the alerts generated by the Bank's AML system, and for review of the closed alerts, vide its various submissions, has also stated that all the RFIs pertaining to TBML, Demonetization, Afghan Drug Control and CFT have been incorporated in the internal AML portal of the Bank so that the branches are able to identify and report any suspicious transactions to HO AML & KYC cell through the portal and that the Bank is upgrading the AML software wherein all the above referred scenarios are being incorporated and the same would be integrated with CBS and would be implemented before March 31, 2019. The Bank has also submitted that a revised and meaningful procedure of review of closed alerts was taken up with the software vendor and would be implemented by the Bank by the end of January 2019. Further, during the personal hearing, the Authorised Representatives of the Bank stated that that the system of alert generation has been recalibrated so that more meaningful alerts are generated. As the number of alerts are lesser in number as compared to earlier, a revised and meaningful procedure of review of closed alerts has become possible.

33. Considering the foregoing, I find that that the Bank had failed to have effective internal mechanism for detecting all suspicious transactions as mandated under rule 3(1)(D) of the Rules during the relevant period.

34. The next allegation against the Bank is that it had failed to identify and verify ultimate beneficial owner for trust, legal entities and similar other customers. In this regard, the Bank has submitted that Identification and verification of ultimate beneficial owner for trust, legal entities and similar other customers are going on and the same would be completed by March 31, 2019. Considering the foregoing, during the relevant period, the Bank had failed to identify and verify ultimate beneficial owner for trust, legal

entities and similar other customers.

35. The last allegation against the Bank is that it had failed to fully implement a Client Due Diligence (CDD) Programme approved by its Board specifically with regard to screening names of prospective customers in the latest UNSC sanction list. In this regard, the Bank has submitted that the latest UNSCR list has been integrated with its CBS from November 16, 2018 onwards and the screening of prospective customers has been implemented. I, therefore, find that during the relevant period, the Bank had failed to fully implement a CDD Programme approved by its Board specifically with regard to screening names of prospective customers in the latest UNSC sanction list.

36. Having examined the reply of the notice, I now proceed to deal with the mandate of the PMLA and the PML Rules. Chapter IV of the Act, 2002 obligates every reporting entity, including a bank, to maintain certain records/documents in the manner specified and furnish those records to the Director, FIU-IND. Vide the PML Rules, 2005, the manner of maintaining and furnishing records have been specified. Section 13 of the Act confers on the Director, FIU-IND powers to make inquiry into cases of failure by a reporting entity to comply with the provisions of Section 12 of the Act and the Rules thereunder. In view of the foregoing discussions, I find that the failure of the Bank to comply with the statutory obligations as laid down in the PMLA, 2002 read with the Rules warrants imposition of fine, in terms of section 13(2)(d) of the PMLA, 2002, as was applicable on the date of the aforesaid violation. For the purposes of easy reference, the said provision is reproduced hereunder:

> *"13(2) 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*
> *(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 ten thousand rupees but may extend to one lakh rupees for each failure."*

37. At this stage, I find it prudent to summarize once again the violations by the Bank. I find that the Bank has failed to comply with several obligations under the Act and the Rules, as indicated in the Show Cause Notice dated January 08, 2019 and as further elucidated below:

(a) Non-compliance with section 12(1) (a) and (b) and 12(3) of the Act read with rule 2(1) (g), 3(1) (D), 4, 5 and 7(3) of the Rules – Failure of the Bank:

- to effectively configure and implement all the requisite RFIs in its AML software, viz. RFIs pertaining to trade based money laundering (TBML), demonetization, Afghan Drug Control and combatting financing of terrorism (CFT) resulting in improper generation of alerts;
- to effectively examine and dispose of the alerts generated by the Bank's system;
- to implement a mechanism for review of the closed alerts.
- to have effective internal mechanism for detecting all suspicious transactions as enumerated under rule 3(1)(D) of the Rules;

(b) Non-compliance with Section 12(1)(c) of the Act read with rule 9(1)(a)(i) of the Rules, and Section 12(1)(d) of the Act read with Rules 9(1)(a)(ii) and 9(3) of the Rules - Failure of the Bank to identify and verify ultimate beneficial owner for trust, legal entities and similar other customers; and

(c) Non-compliance with Section 12(1)(c) of the Act read with Rule 9(12) and (14)(ii) and (iii) of the Rules - Failure of the Bank to fully implement a Client Due Diligence Programme approved by the Board of the Bank specifically with regard to screening names of prospective customers in the latest UNSC sanction list.

38. Before proceeding as to what quantum of fine be imposed on the Bank, it would be worthwhile to state that Allahabad Bank is one of the oldest public sector banks and as such it must act as a torchbearer of the AML compliance in the country. Given the fact that the Bank is at the forefront of banking operations in India, the Bank does not have any dearth of resources or capacity for statutory compliances in respect of AML. I also note that the Bank has claimed to have taken several remedial measures to improve its AML systems. As claimed by the Bank some of the measures taken by it since its review by FIU-IND have already been implemented while others are to be implemented by March 2019. Further, the Bank is upgrading the AML software wherein all the above referred scenarios are being incorporated and the same would be integrated with CBS and is scheduled to be operational from April 01, 2019.

39. However, considering that the non-compliances, as enumerated above, were continuing till pointed out during the review by FIU-IND despite statutory obligations and keeping in mind that the penalty for the said failures and non-compliances has to be effective, proportionate and dissuasive, I, in exercise of the powers conferred upon me under section 13(2)(d) of the Prevention of Money Laundering Act, 2002, hereby impose monetary penalty on the Bank in the manner as detailed below in the table:

Sl. No.	Failure	Penalty	Amount (Rs.)
1.	Non-compliance with section 12(1) (a) and (b) and 12(3) of the Act read with rule 2(1) (g), 3(1) (D), 4, 5 and 7(3) of the Rules – Failure of the Bank to have effective internal mechanism for detecting all suspicious transactions as enumerated under rule 3(1)(D) of the Rules.	Lumpsum	1,00,000/-
2.	Non-compliance with Section 12(1)(c) of the Act read with rule 9(1)(a)(i) of the Rules, and Section 12(1)(d) of the Act read with Rules 9(1)(a)(ii) and 9(3) of the Rules - Failure of the Bank to identify and verify ultimate beneficial owner for trust, legal entities and similar other customers.	Lumpsum	1,00,000/-
3.	Non-compliance with Section 12(1)(c) of the Act read with Rule 9(12) and (14)(ii) and (iii) of the Rules - Failure of the Bank to fully implement a Client Due Diligence Programme approved by the Board of the Bank specifically with regard to screening names of prospective customers in the latest UNSC sanction list.	Lumpsum	1,00,000/-
		Total	**3,00,000/-**

40. I deem it worthwhile to clarify here that the maximum penalty of **rupees 1,00,000/-** has been imposed on the Bank for not having effective internal system in place for disposal of alerts, review of the closed alerts and for failure to implement all the RFIs in the AML System as these constitute the minimal touchstone of an effective internal mechanism for detection of suspicious transactions and having an effective internal system in place is the essence of an effective AML policy. It is worthwhile to iterate that STRs is the principle and most effective mechanism to prevent, detect and fight the scourge of money laundering. The purpose of STR is to get useful financial information concerning money laundering from the REs, to analyse such information,

and, as appropriate, to disseminating the valuable information to other intelligence/law enforcement agencies and regulatory authorities for necessary action, if any, on their part. Similarly, a lump sum penalty of **rupees 1,00,000/-** has been imposed for failure of the Bank to identify and verify ultimate beneficial owner for trust, legal entities and similar other customers. As regards the failure of the Bank to fully implement a Client Due Diligence Programme approved by the Board of the Bank specifically with regard to screening names of prospective customers in the latest UNSC sanction list a lump sum penalty of **rupees 1,00,000/-** has been imposed. I, once again, endeavour to bring to the attention of the Bank that putting in place and complying with an effective AML system is requisite to maintain confidence in reporting entities and the overall financial system of the country. If an effective AML system is not put in place or followed by a reporting entity, there is every possibility that chances of detection of some of the frauds, crime, money laundering or even financing of terrorism will go abegging. Therefore, as an ideal corporate citizen and reporting entity, the Bank is expected to always adhere to the norms prescribed by the Act and the Rules and Guidelines issued thereunder.

41. After taking into consideration all the facts and circumstances of the case, I, in exercise of the powers conferred upon me under section 13(2)(d) of the Prevention of Money Laundering Act, 2002 impose a total fine of Rs. **3,00,000/-** (Rs. Three Lakh only) on Allahabad Bank which will be commensurate with the violations committed by the Bank. The Bank shall pay the said amount of fine within 21 days of receipt of this Order by way of Demand Draft in favour of in favour of "*Pay & Account Officer, Department of Revenue*" failing which provisions of section 69 of the Act shall apply.

42. I note that vide its letter dated January 21, 2019 the Bank had, *inter alia*, undertaken that:

(a) the upgradation of the AML software wherein RFIs pertaining to TBML, Demonetization, Afghan Drug Control and CFT would be incorporated, and the same would be integrated with CBS before March 31, 2019;

(b) a revised and meaningful procedure of review of closed alerts would be implemented by the Bank by the end of January 2019; and

(c) identification and verification of ultimate beneficial owner for trust, legal entities and similar other customers would be completed by March 31, 2019.

43. Further, vide its written submission dated March 08, 2019, the Bank had stated that:

(a) The Bank has already undertaken remedial steps against all the alleged failure of the Bank for non-compliance with the provisions of the PMLA in true spirit.

(b) The Bank is fully alive to the lapses in implementation of the AML application and has made considerable progress in removing the identified deficiencies.

(c) Issues pertaining to non-incorporation of certain RFIs within the AML application would be resolved in final stage of accomplishment and the live operations are scheduled on April 01, 2019.

44. Considering the undertaking given by the Bank and by virtue of power conferred upon me under section 13(2)(b) of the Act, I hereby direct the Bank to implement the aforesaid measures within the timeline specified by the Bank vide its letter dated January 21, 2019 and submit the status report of implementation to FIU-IND within **30 days** (thirty days) of this Order or implementation, whichever is earlier. I also find it expedient to advise the Bank to be observant in future regarding compliance with the provisions of the Prevention of Money Laundering Act, 2002 and the Rules made thereunder.

(Pankaj Kumar Mishra)
Director
Financial Intelligence Unit - India

Through:

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