

**F.No. 25-1/2013/FIU-IND/Pt VI**  
Government of India  
Ministry of Finance  
Department of Revenue  
Financial Intelligence Unit-India

6<sup>th</sup> Floor, Hotel samrat  
Kautilya Marg, Chanakyapuri  
New Delhi – 110021

**ORDER-IN ORIGINAL NO. 6/DIR/FIU-IND/2015**

**Name & Address of the Reporting Entity:** Bank of Maharashtra  
Lok Mangal, Head office  
1501, Shivaji Nagar,  
Pune- 411001

**Show Cause Notice No. & Date:** F.No. 25-1/2013/FIU-IND dt. 17<sup>th</sup> Dec, 2013

**Section under which order passed:** Section 13 of PMLA, 2002

**Date of Order:** 3<sup>rd</sup> July, 2015

**Authority passing the order:** Director, Financial Intelligence Unit-India

An appeal against this order may be made with the Appellate Tribunal established under PMLA, 2002, and situated at 4th Floor, Lok Nayak Bhavan, Khan Market, New Delhi within a period of forty five days from the date on which this order is received by the Bank of Maharashtra. The appeal should be in the form and manner prescribed (refer to sub-section (3) section 26 of the prevention of Money Laundering Act, 2002, hereinafter referred to as PML or the Act).

**1.** Bank of Maharashtra (hereinafter also referred to as the 'Bank') is a banking company as defined under Section 2(e) of the Prevention of Money Laundering Act, 2002 (hereinafter also referred to as PMLA or the 'Act').

2. Section 12 of the 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 banking companies to verify the identity of the clients, maintain records of specified transactions and report to Director, Financial Intelligence Unit – India (hereinafter also referred to as 'Director, FIU-IND') information relating to such transactions. These reports include reports on cash transactions, suspicious transactions and counterfeit currency transactions.
3. Rule 3 of the Rules specifies the transactions, the records of which are to be maintained; Rules 5, 7 & 8 of the Rules prescribe the procedure, manner and time of maintaining and furnishing such information; and Rule 9 of the Rules prescribes the procedure and manner of verification of records of identity of clients.
4. Section 13 of the Act confers on the Director, FIU-IND powers to enquire into cases of failure to comply with the provisions of Section 12 of the Act and the Rules thereunder and to levy a fine for each such failure.
5. During March to May 2013 there was widespread reporting in the media about sting operations carried out by the website Cobrapost that allegedly exposed deficiencies in the anti-money laundering preventive measures applied by the banks including the Bank of Maharashtra. The sting operation involved the Cobrapost reporter visiting the branches of the financial institutions with a story: that he wanted to invest/ safe-keep substantial amounts of illicit or unaccounted cash. The website had videotaped the conversations with the officials/ employees of the banks that were played out in the media suggesting widespread violations of statutory obligations under the PMLA. Following the sting operation by Cobrapost, the Bank was asked vide letter dated 10-07-2013, whether any alerts in respect of the sting operation were generated in its branches at Sushant Lok, Gurgaon, Haryana and G.K, South Delhi which were covered in the sting operation, and whether any STR was reported for attempted transactions for the incidents reported by the Cobrapost. The Bank in its reply dated 28-08-2013 confirmed that no STR was filed for attempted transactions in the branches concerned. The Bank also stated that no alerts had been generated by the branches for the reported incidents.
6. As per the definition of STR in Rule 2(g) of the Rules, STR means a transaction referred to in clause (h) including an attempted transaction. As

per Rule 2(h), transaction includes 'opening of an account'. In the instant case the Cobrapost reporter attempted to open accounts and do illicit transactions through the two branches of the bank. As STR for attempted transactions had not been filed for the branches of the Bank visited by Cobrapost, a show cause notice was issued on 17<sup>th</sup> December 2013 for contravention of provisions of Section 12 of the Act, read with the relevant Rules of the PML (Maintenance of Records) Rules 2005.

7. The Bank in its reply dated 13-01-2014 admitted to the discussions between the Cobrapost reporter and the officials of Gurgaon and GK, South Delhi Branches. The Bank stated that *neither any account nor any banking facilities were opened or availed by Cobrapost representative at either of branches, and in the absence of account and / or banking facilities the relationship between bank and Cobrapost representatives cannot be termed as client-banker relationship. The Bank also stated that there was no occasion within the purview of the Act for the Bank to file STRs. The said Act and Rules envisage that relationship of client is sine qua non for bestowing obligation of banking companies. In the absence of which no transaction or attempted transactions has taken place. There was no attempted transaction at the branches and the reporter had had only casual discussion on the various business propositions and the schemes of the Bank. The Bank had suspended the concerned officials from the branch on the day Cobrapost had reported in media and suitable disciplinary action was initiated. The Bank also confirmed that during the period 01-04-2012 to 28-02-2013, it did not receive from the concerned branches any report in respect of the following branch level indicators provided in the IBA guidelines issued to all banks in 2011.*

*CV 1.1- Customer left without opening an account.*

*E 11.1 – Customer did not complete transaction.*

*E 13.1 – Customer acting on behalf of third party.*

*E 14.4 – Customer could explain source of fund.*

8. On the request of the Bank a personal hearing was held on 19-03-2014, which was attended by Mr. N.K.Pujari, General Manager (Inspection & Audit) Mr. V.K.Gupta, AGM (Inspection and Audit), Smt Anita Nambiar GM (AML Cell), Shri Aditya Prakash GM (Law). During the hearing the Bank stated that it *had in place clear policy guidelines for reporting suspicion transactions including attempted transactions. These instructions were not followed by the concerned staff in the impugned cases. The Bank*

*stated that no alerts had been raised by concerned branches to the Principal Officer. Hence no reports were filed.*

9. In their additional submissions vide letter dated 24-03-2014, The bank submitted its KYC Policy for the year 2013-14, Vide letter dated 7.6.2014 the Bank stated that *the transcripts were edited and were out of context. The transcript made it clear that the Bank officials did not violate the existing guidelines and provisions of law. The Bank did not offer detailed comments on the transcript of conversation between the branch manager and the reporter stating that it was not full conversation from beginning to end and contained only extracts of the reported conversation.*

### **Discussion and Findings**

10. While Section 12 of the Act lays down the general obligations of the banks to file suspicious transaction reports, the PML Rules, which further elaborate these obligations, require the banks to maintain the record of all transactions whether or not made in cash (Rule 3 of the PML Rules). The definition of suspicious transactions in Rule 2 includes an attempted transaction. The attempted transaction has not been defined separately. Rule 7(3) 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.

11. A perusal of the transcript of the Cobrapost sting operation shows that the Cobrapost reporter posing as a customer visited Sushant Lok, Gurgaon and G.K. Delhi branches of the Bank and told the officials that he wanted several accounts to be opened; he talked about Rs.1.5 crores to be deposited, indicating that the money belonged to a politician; he revealed the name of politician's wife; he enquired about investment in specific investment plans and told that bank should keep it a secret; he also discussed about the ways to transfer money abroad.

12. The Bank's KYC and AML Policy was approved by its board on 29-10-2013. Para 2.21 B (b) of the policy mentioned that *"it is likely that in some cases transactions are abandoned/aborted by customers on being asked to give some details or to provide documents. The bank shall report all such attempted transactions in STRs, even if not completed by customers,*

*irrespective of the amount of the transaction*". The Bank has argued that the case of an attempted suspicious transaction would arise when a prospective customer, on suspicions being raised by the Bank officials about the genuineness of the documents submitted for opening the account, does not return to the bank to complete the process. This argument is not acceptable as the Cobrapost reporter, in his conversation, had left nothing to imagination that he was talking about funds of suspicious nature.

**13.** It is evident from the contents of the transcripts, which have not been denied by the Bank, that the Cobrapost reporter made explicit conversation about investing through the Bank large amounts of cash of unexplained origin. The discussion involved the following themes -

- (a) Immediate investment of Rs.1.5 crore; Rs. 5-7 crore more to come;
- (b) Remittance of money abroad;
- (c) Maintain secrecy about investment;
- (d) Locker for safe keeping of cash, to be transferred to offshore accounts;
- (e) There should be no TDS;
- (f) Black money invested in realty project;
- (g) How to adjust and launder Rs. 7- 8 crore;
- (h) Not to worry as IT Commissioner was his friend.

**14.** These conversations were explicit and made no secret of the fact that the reporter posing as customer was talking about black money. The conversation had several features which should have led to generation of behavioral alerts as per IBA guidelines mentioned in paragraph 7 and as per the AML Policy of the Bank. However, in the concerned branches no alert was generated or escalated to the Principal Officer, as admitted by the Bank. The content, tone and tenor of the conversations/ discussions with the Cobrapost reporter do not indicate any sense of alarm, which a prudent banker, entrusted with the legal responsibility of reporting and preventing money laundering, would be expected to display in such circumstances. The Bank will not be able to fulfill its reporting obligations under the PMLA unless there is a free flow of information from its branches to the Principal Officer, who is responsible to fulfill the reporting obligations. Evidently, the concerned employees of the Bank were either oblivious of their duties or cared little for compliance with their legal obligations under the PMLA. Further, there was no visible application of mind at the Branch level to determine whether the conversations/discussions would fall in the category of attempted transactions. This indicates that the Bank's argument that the

incidents would not fall in the category of attempted transaction is only a post facto rationalization; the Bank's Head Office was not even aware of the matter until it was out in the media. Rather than looking deeper into the causes with a view to establish accountability and take remedial measures, the Bank has tried to justify the actions / responses of the employee without appreciating the context and seriousness of the matter. As indicated before, the Bank admitted during the personal hearing that even though there was a clear-cut policy for filing STR in the case of attempted transactions, it was not followed by the concerned employees.

**15.** PMLA aims at prevention of laundering of the proceeds of crime. That even attempted transactions are required to be reported points to the high level of expectation the law has from the banks. In the instant case all the ingredients which would make a transaction 'an attempted transaction' were present. It is not enough for the Bank to lay down a policy; it is equally important to implement it. In the case of Bank of Maharashtra, the policy was not followed in the concerned branches covered by the Cobrapost. In light of the above, I conclude that there was a failure in the Bank's internal mechanism for detecting and reporting attempted suspicious transactions, in terms of Section 12 of PMLA read with Rules 2, 3, 7 and 8 of the PML Rules. Accordingly, in exercise of the powers conferred on me under Section 13 (2) of the PMLA, 2002, I hereby impose on Bank of Maharashtra a fine of Rs. Two Lakhs for failure in compliance with its obligations laid down in Section 12 of the PMLA read with Rules 2, 3, 7 and 8 of the PML Rules framed thereunder.

(Praveen Kumar Tiwari)  
Director  
Financial Intelligence Unit-India

Bank of Maharashtra  
Through: Chairman & Managing Director