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F.No. 25-1/2013/FIU-IND/Pt XXIII
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.19/DIR/FIU-IND/2015

Name & Address of the Reporting Entity: **IDBI Bank**
24th floor, IDBI Bank Ltd,
IDBI Tower, World Trade Centre Complex,
Cuffe Parade, Colaba,
Mumbai- 400005.

Show Cause Notice No. & Date: F.No. 25-1/2013/FIU-IND dt 21st February, 2014

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

Date of Order: 19th October, 2015

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

An appeal against this order may be made with the Appellate Tribunal under Prevention of Money Laundering Act, 2002, 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 IDBI Bank. The appeal should be in the form and manner prescribed [refer to sub-section (3) of Section 26 of the Prevention of Money Laundering Act, 2002, hereinafter referred to as PMLA or the Act].

1. IDBI Bank (the 'Bank') is a banking company as defined under Section 2(e) of the Act.

2. Section 12 of the Act and the Prevention of Money Laundering (Maintenance of Records) Rules, 2005 (hereinafter referred to as the 'Rules'), framed under the Act, impose obligations on banking companies to inter alia verify the identity of the clients, maintain records of specified transactions and report to Director, Financial Intelligence Unit – India (hereinafter 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; these include suspicious transactions whether or not made in cash. Rules 5, 7 & 8 of the Rules prescribe the procedure, manner and time of maintaining and furnishing information about the transactions. Rule 9 of the Rules prescribes the procedure and manner of verification of records of identity of clients. The definition of suspicious transactions (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.
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 made 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 IDBI Bank. 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, the Bank was asked vide letter dated 10-07-2013, whether any alerts in respect of the sting operation were generated in its Karolbagh

and Malviya Nagar branches, which were covered in the sting operation, and whether any STR was reported for attempted transaction for the incident reported by the Cobrapost. The Bank in its reply dated 01-08-2013 stated that the bank had a policy on KYC and AML which was approved by its Board on 31st July 2011; that in respect of 27 alert indicators which were meant for branches the Bank already conveyed the requirements to all the branches and also made available necessary facility by way of a link in the AML software to enable the branches for updating such information. The Bank stated that no AML alerts were generated during the period 01-04-2012 to 28-02-2013 in the branches in which the sting operation took place in respect of the following branch level indicators:

- 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 not explain the source of fund.*

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'. As the Cobrapost reporter had attempted to open accounts and do illicit transactions through the Karolbagh and Malviya Nagar branches of the Bank, and as STR for attempted transactions had not been filed for the Karolbagh and Malviya Nagar branches of the Bank visited by Cobrapost, a show cause notice was issued on 21st February, 2014 for contravention of provisions of Section 12 of the Act, read with the Rules.
7. Vide its reply dated March 19, 2014 to the show cause notice the Bank denied having violated any provisions of the PMLA and inter-alia stated that the people who visited the branches of the Bank were merely enquiring about various possibilities of routing the transactions/funds through the Bank without any actual cash or any documents; that no such transactions were done or attempted yet the Bank ordered internal investigation and pending outcome of said investigations suspended the concerned officials alleged to have been involved in the incident; that the said officials were reprimanded; that the bank had been promptly complying with the reporting requirements

as per the rules; that the Bank had effectively implemented the guidelines received from various regulators in total spirit and had been training all the staff on regular basis; that the bank issued master circulars on all day to day operational activities including the KYC and AML based on the guidelines issued by RBI as of April 1st every year. These circulars were prepared after fully considering Regulatory, Legal and Operational Requirements.

8. On the request of the Bank, a personal hearing was granted on 06/05/2014 which was attended by S/Sh. R. Ramesh (GM and PO), S.T.P. Ranganadh (DGM) and Vidyasagar Gaikwad (AGM). During the personal hearing, the Bank stated that it had in place, on the date of cobrapost incident, a policy that provided for reporting attempted suspicious transactions; though the incidents were such as to trigger some of the 27 indicators in the policy, no alerts were raised by the branches to the Principal Officer; that action had been initiated against the branch officials who had been reprimanded. The Bank also requested for filing additional submissions.
9. In their additional submissions dated 24th May 2014, the Bank stated that it had put in place a policy during June 2011 directing the branches to report such incidents as recommended by IBA working group (27 indicative alert indicators); that the action taken by the Bank against the concerned officers was part of its policy of zero tolerance towards KYC and AML directives, which contemplate taking of pro-active measures to counsel and discipline the staff who may show indiscretion to any of the KYC and AML compliances even during general discussions so as to send a strong message across the rank that any business has to be done strictly in compliance with KYC and AML directives both in letter and spirit.

DISCUSSION AND FINDINGS

10. Section 12 of the Act lays down the general obligations of the banks to file suspicious transaction reports. PML Rules further elaborate these obligations. The definition of suspicious transactions in Rule 2 includes an attempted transaction. "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 the 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 discussed with the branch managers options to invest several crores in cash without TDS and expressed desire to convert the money into white. He also discussed that the money belonged to a politician. The reporter asked for big locker to keep the money. The reporter also discussed transferring some funds out of the country.
12. The conversation between the Cobrapost reporter and the Bank Managers had several features which should have led to generation of behavioural alerts as per IBA guidelines as well as the policies and instructions issued by the Bank including its circular No. IDBI Bank 2011-12/95/CC/others (CPU-AML)/28 dated 15 June 2011 on Anti Money Laundering- Indicative Alert Indicators for Branches/Departments.
13. However, despite ample indications that the funds being discussed were of suspicious nature, no alerts were generated by the branch officials. On the contrary, 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 suspicious transactions and combating money laundering or financing of terrorism, would be expected to display in such circumstances. The matter was not even reported to the Principal Officer of the Bank, as admitted by the Bank. The Bank will not be able to fulfil its reporting obligations under the PMLA unless there is a free flow of information from its branches to the Principal Officer (MLRO), who is responsible to fulfil the reporting obligations. Evidently, the Bank managers were either oblivious of their duties or cared little for compliance with their legal obligations under the PMLA. 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. The Bank has stated that it had the policy in place, which includes zero tolerance for non-compliance with KYC & AML directives, which is commendable. However, it is not enough for the Bank to lay down a policy; it is equally important to implement it.

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14. In light of the above, I conclude that in the Karolbagh and Malviya Nagar branches reported by Cobrapost, there was a failure in the IDBI Bank's internal mechanism for detecting and reporting attempted suspicious transactions, in terms of Section 12 of PMLA read with Rules 2, 3, 5 and 7 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 IDBI Bank a fine of Rs. 2,00,000 (Rupees two Lakh) for two instances of failure in its Karolbagh and Malviya Nagar, Delhi branches to comply with its obligations as laid down in Section 12 of the PMLA read with Rules 2, 3, 5 and 7 of the PML Rules framed thereunder.

(Praveen Kumar Tiwari)

Director

Financial Intelligence Unit-India

To,

IDBI Bank

24th floor, IDBI Bank Ltd,

IDBI Tower, World Trade Centre Complex,

Cuffe Parade, Colaba,

Mumbai- 400005.

Through: Chairman & Managing Director