

**F.No. 9-18/2019/Compl./FIU-IND**

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. 5/DIR/FIU-IND/2019**

**Name & Address of the Reporting Entity:** Nagarik Samabay Bank Ltd.  
Ashram Road (South Sarania Road),  
Ulubariz, Guwahati  
Assam – 781007

**Show Cause Notice No. & Date:** F.No. 9-18/2019/Compl./FIU-IND  
Dated May 21, 2019

**Section under which order passed:** Section 13 of the Prevention of Money  
Laundering Act, 2002

**Date of Order:** July 11, 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 Andhra Bank. The appeal should be in the form and manner prescribed under sub-section (3) of Section 26 of the Act.

1. **Nagarik Samabay Bank Limited, Guwahati** (hereinafter referred as the ‘Bank’) is a reporting entity as defined under Section 2(1)(wa) of the Act read with clauses (e) and (i) of sub-section (1) of section 2 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 counterfeit currency transactions.
3. 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 and these include all cash transactions where forged or counterfeit currency notes or bank notes have been used as genuine. 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 the Director in consultation with its 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 the Director in consultation with its Regulator.
5. 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*, in Rule 3(1)(C) of the Rules, regarding all cash transactions where forged or counterfeit currency notes or bank notes, every month to the Director by the 15<sup>th</sup> day of the succeeding month. Rule 8(4) of the Rules requires that delay of each day in not reporting a transaction or delay of each day in rectifying a mis-reported transaction beyond the time limit as specified in Rule 8 shall constitute a separate violation.
6. Section 13(1) of the Act confers power on the Director, FIU-IND to make an inquiry

with regard to the obligations of the reporting entity as he thinks fit to be necessary. 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.

7. Vide letter dated April 30, 2019, under section 12A of the Act, the Bank was advised to submit the details of Fake Indian currency note (FICN) in respect of the specified bank notes (SBN) of Rs. 500 and 1000 during the period November 2016 to March 2018 (the relevant period) and as reported to RBI in the format annexed to the said letter.
8. Vide its letter dated May 09, 2019, the Bank submitted the requisite details in the specified format. From perusal of the said letter and annexure thereto, the following was observed:
  - (a) The Bank had received a total of 9 FICNs of such SBN during the relevant period, of which 2 FICNs of SBN were received in one account on December 19, 2016. Thus, there were 8 separate transactions in which 9 FICNs of SBNs were tendered by the customers of the Bank during the relevant period.
  - (b) The information regarding these FICNs were submitted by the Bank to RBI.
9. The Bank has admittedly not filed any Counterfeit Currency Report (CCR) in respect of the said FICNs of SBNs with FIU-IND.
10. Considering the above, 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 and 8 of the Rules, 2005 for the alleged **non-compliance with section 12(1) (a) and (b) of the Act read with Rules 3(1) (C), 5, 7(3) and 8(1) of the Rules** – Alleged failure of the Bank to:
  - file reports of **8 cash transactions**, as enumerated in para 8(a) above, where forged or counterfeit currency notes or bank notes have been used as genuine; and
  - have effective internal mechanism for detecting all cash transactions where forged or counterfeit currency notes or bank notes have been used as genuine as enumerated under rule 3(1)(C) of the Rules and for furnishing information about such transactions.
11. The Bank was advised to submit its reply to the SCN within a period of **15 days** of the receipt of the said SCN. The Bank was also asked to indicate whether it desired to be



personally heard through authorised representative in this case.

12. Vide its letter dated May 30, 2019, the Bank has submitted its reply to the allegations in the SCN dated May 21, 2019. The submissions of the Bank is summarised as under:

- (a) The Bank has complied with all the reports sought from RBI and FIU-IND during demonetization period. The Bank never wanted to hide or conceal any information regarding transaction details done during the demonetization period from which it has reported the deposit of counterfeit SBNs to RBI on timely basis.
- (b) In response to FIU-IND email (F. No.-9-62/2010/FIU-IND dated December 30, 2016) the Bank had already intimated FIU-IND through email that its software vendor doesn't provide the required option of submission of the report and for that it had to acquire one additional software namely FINAML.
- (c) The implementation of the software was completed only on February 15, 2017 and by the time last date for submission of CCR had already been expired. The counterfeit SBNs were received in the month of December 2016. Due to which the submission of CCR for the month of December 2016 could not be completed.
- (d) The Bank has not taken or considered any counterfeit currency notes as genuine. These notes were kept separately with proper documents and record which are reported to RBI according.
- (e) All the remaining reports including CTR are submitted to FIU-IND on regular basis by the Bank and it is assured that this kind of non-submission of report due to non-availability of software will not be repeated again.
- (f) The Bank would be thankful if its submissions are considered and it ensures that the Bank will always abide by the rule and norms issued RBI and FIU-IND.

13. The Bank in its submissions to the SCN did not seek any personal hearing in the matter. However, in compliance with the principles of natural justice, an opportunity of personal hearing was granted to the Bank through its authorised representatives on July 04, 2019 and the same was communicated to the Bank vide letter dated June 11, 2019.

14. Vide its letter dated June 18, 2019 the Bank has, *inter alia*, submitted that:

- (a) The Bank could not send the report since the software being used by the Bank did not support the required option. For reporting the same, the Bank needed to

acquire new software named FINAML which was implemented by it later on and by that time the last date for submission had already expired.

- (b) The Bank never considered or taken any counterfeit note as genuine since these are reported to RBI. Moreover all other reports including CTR were reported timely.
- (c) The Bank could not submit the report to FIU-IND due to unavailability of software support.
- (d) The Bank be permitted to refrain from personal hearing.

15. I have perused the reply of the Bank on record. I note that the Bank has been alleged to have failed to file CCRs in respect of 8 separate transactions in which 9 FICNs of SBNs were tendered by the customers of the Bank. As the Bank failed to file CCRs in respect of the said transaction, the Bank is alleged to have not put in place effective internal mechanism for detecting all cash transactions where forged or counterfeit currency notes or bank notes have been used as genuine and for furnishing information about such transactions. I also note from the submissions of the Bank that it had duly informed RBI regarding receipt of these counterfeit currency notes. As regards the communications from FIU-IND dated December 30, 2016 being relied upon by the Bank, I note that the same pertained to guidance note and implementation of additional red flag indicators by the REs for detection and reporting of STRs in view of demonetization. The said guidance note did not specify anything with regard to FICNs of SBNs. Thus, the guidance note issued by FIU-IND could not have had any impact on the Bank with regard to transactions reportable as CCRs. Even if the Bank's contention regarding delay in implementation of the additional RFIs (pertaining to demonetization) in its AML software were to be accepted, the Bank by its own admission has not filed CCRs with FIU-IND in respect of the 8 separate transactions in which 9 FICNs of SBNs were tendered by the customers of the Bank till date. Considering the foregoing, I find that the Bank has failed to furnish information to FIU-IND in respect of the 8 separate transactions in which 9 FICNs of SBNs were tendered by the customers of the Bank. Further, as the Bank till date did not file reports as stipulated under rule 3(1)(C) of the PML Rules in respect of the 8 separate transactions in which 9 FICNs of SBNs were tendered by the customers of the Bank, I find that the Bank has failed to have effective internal mechanism for detecting all cash transactions where forged or counterfeit currency notes or bank notes have been used as genuine as enumerated under rule 3(1)(C) of the Rules and for furnishing information about such transactions.

16. 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.”*

17. 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 the following obligations under the Act and the Rules, as indicated in the Show Cause Notice dated April 01, 2019 and as further elucidated below:

**Non-compliance with section 12(1) (a) and (b) of the Act read with Rules 3(1) (C), 5, 7(3) and 8(1) of the Rules – Alleged failure of the Bank to:**

- file reports of 8 **counterfeit currency transactions**, as enumerated in para 8(a) above, where forged or counterfeit currency notes or bank notes have been used as genuine; and
- have effective internal mechanism for detecting all cash transactions where forged or counterfeit currency notes or bank notes have been used as genuine as enumerated under rule 3(1)(C) of the Rules and for furnishing information about such transactions.

18. Considering that the non-compliances, as enumerated above, are 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 (Rs.)	Amount (Rs.)
1.	<p><b>Non-compliance with section 12(1) (a) and (b) of the Act read with Rules 3(1) (C), 5, 7(3) and 8(1) of the Rules –</b></p> <p>Failure of the Bank to file reports of 8 counterfeit currency transactions, as enumerated in para 8(a) above, where forged or counterfeit currency notes or bank notes have been used as genuine.</p>	25,000/- * 8	2,00,000/-
2.	<p><b>Non-compliance with section 12(1) (a) and (b) of the Act read with Rules 3(1) (C), 5, 7(3) and 8(1) of the Rules –</b></p> <p>Failure of the Bank to have effective internal mechanism for detecting all cash transactions where forged or counterfeit currency notes or bank notes have been used as genuine as enumerated under rule 3(1)(C) of the Rules and for furnishing information about such transactions.</p>	1,00,000/-	1,00,000/-
		<b>Total</b>	<b>3,00,000/-</b>

19. 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 Nagarik Samabay 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 drawn in favour of “Pay & Account Officer, Department of Revenue” failing which provisions of section 69 of the Act shall apply.

20. I note that vide its letter dated May 09, 2019 the Bank has, *inter alia*, admitted that reports in respect of the impugned **8 counterfeit currency transactions**, as enumerated in para 8(a) above, where forged or counterfeit currency notes or bank notes have been used as genuine have not been filed with FIU-IND. Considering the foregoing, by virtue of power conferred upon me under section 13(2)(b) of the Act, I hereby direct the Bank to submit report in respect of **8 counterfeit currency transactions**, as enumerated in para 8(a) above, where forged or counterfeit currency notes or bank notes have been used as genuine, within **30 days** (thirty days) of receipt of this Order. 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:

Sri Rajarshi Sarkar  
Principal Officer and Senior Executive Officer  
Nagarik Samabay Bank Ltd.  
Ashram Road (South Sarania Road), Ulubariz, Guwahati  
Assam – 781007