

F. No. 9-21/Misc. Corr./FIU-IND/35

Government of India
Ministry of Finance
Department of Revenue
Financial Intelligence Unit - India

6th Floor, Hotel Samrat
Kautilya Marg, Chanakyapuri
New Delhi -110 021

ORDER-IN ORIGINAL NO. 2/DIR/FIU-IND/2019

Name & Address of the Reporting Entity: The Solapur Social Urban Co-operative Bank Limited, Solapur
6151/1, Siddheshwar Shopping Centre
Shop No. 18/19 Siddheshwar Peth
Solapur – 413 001
Maharashtra

Show Cause Notice No. & Date: **F.No. 9-21/Misc. Corr./FIU-IND**
Dated August 22, 2016

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

Date of Order: April 15, 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 The Solapur Social Urban Co-operative Bank Limited, Solapur. The appeal should be in the form and manner prescribed under sub-section (3) of Section 26 of the Act.

1. The Solapur Social Urban Co-Operative Bank Limited, Solapur (hereinafter referred to as the 'Bank') is a Reporting Entity as defined under Section 2 of the Prevention of Money Laundering Act, 2002 (hereinafter referred to as '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 the 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 etc.
3. Rule 3 of the Rules specifies the transactions, the records of which are to be maintained; Rules 5, 7 and 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. Rule 7(3) requires that all reporting entities shall evolve an internal mechanism having regard to any guidelines issued by 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 its Regulator.
4. Further, Section 12A of the Act empowers the Director, FIU-IND to call for from any RE any of the records referred to in sub-section (1) of Section 12 of the Act and any additional information as he considers necessary for the purposes of the Act. Further, every RE is obligated to furnish to the Director, FIU-IND such information within such time and in such manner as he may specify.
5. Section 13 of the Act confers on the Director, FIU-IND powers to enquire into cases of failure to comply with the provision of Section 12 of the Act and the Rules thereunder and to:
 - (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 or its designated director on the Board or any of its employees, to

send reports at such intervals 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.

6. Reserve Bank of India had shared with FIU-IND an extract of their inspection findings in respect of the Bank. The gist of the said Inspection Report, *inter alia*, read as follows:

i) The Bank had not submitted CTR returns to FIU-IND, New Delhi. It was observed that in many current and OD accounts, there were transactions of more than Rs. 10.00 lakh in cash on a daily basis (eg. S.N. Salar A/c no. 3596 – Rs. 10.00 lakh deposited on April 20, 2013, July 17 & 26, 2013, August 10, 12, 16 of 2013, December 5, 7, 9, 28 of 2013, January 3, 20, 21 of 2014, February 3, 11, 13 of 2014 and Abul Barkat Traders – Rs. 10.00 lakh each deposited on April 2, 2013, August 13, 2013, September 11, 2013 and October 4, 2013.

ii) The Bank did not send any STR as there was no system of capturing the information of the borrower based on which the transactions could be analysed to be reported under STR.

7. Based on the above extract shared by RBI, a show cause notice (SCN) dated August 22, 2016 was issued to the Bank directing it to submit its reply with regard to its alleged non-compliances with the provisions of Section 12(1)(b) of the Act read with Rules 3(1)(A), (B) and (D) of the PML Rules, 2005.

8. The Bank sought an opportunity of personal hearing in reply to the SCN vide its letter number 1081 / 16 dated October 1, 2016, which was received by FIU-IND, New Delhi on October 6, 2016 and submitted, *inter alia*, that:

a) The Bank is a small unit bank and most of its staff is not competent with computer environment. The management of the Bank decided to shift to CBS software since November 2015 and has, since then, been regular in submitting CTRs and STRs to FIU-IND.

- b) The Bank has admitted that it missed reporting the transactions in the two accounts as detailed in the relevant extract of the RBI's inspection report and the same was brought to the notice of the Bank by the RBI.
- c) The Bank has claimed to have submitted the revised statements to with FIU-IND, New Delhi on April 5, 2016 and has further, claimed that due to technical incompetency the Bank had not been able to capture information of the borrower or account holder to be analysed and reported under CTRs and STRs.
9. In compliance with the principles of natural justice, the Bank was granted an opportunity of personal hearing before me on November 5, 2018 and the same was communicated to the Bank vide another letter number F.No. 9-21/Misc. Corr./FIU-IND/35 dated October 24, 2018. Vide the said letter dated October 24, 2018, the Bank was also advised to furnish to FIU-IND, New Delhi the details of the mechanism the Bank has put in place for detection and reporting of suspicious transactions along with a copy of the Anti-Money Laundering (AML) Policy adopted by the Bank in terms of Section 12A of the Act.
10. The Bank vide its letter number 530 / 2018 dated November 2, 2018 admitted its mistake of not reporting cash transactions in the 2 accounts detailed in the RBI's inspection report enclosing *inter alia*, account statements in respect of the said two accounts namely, S.N. Salar (a/c no. 3596) and Abul Barkat Traders. The Bank also furnished a copy of its AML Policy in Marathi Language and copies of Tax Audit Reports of Shri. S.N. Salar and Abul Barkat Traders for the F.Y. 2013 - 2014. Additionally, vide the above-mentioned letter dated November 2, 2018, the Bank sought an adjournment of the personal hearing.
11. Accordingly, vide letter number F.No. 9-21/Misc. Corr./FIU-IND/35 dated December 24, 2018, the Bank was granted an adjournment and the personal hearing was re-scheduled on January 9, 2019. Vide the said letter dated December 24, 2018, the Bank was also advised to furnish an English version of its AML Policy along with the details of mechanism the Bank has put in place for detection and reporting of suspicious transaction as the same had not been furnished by the Bank in its earlier replies. The authorized representatives of the Bank, namely, Sri Sarfaraz M. Peerjade,

Director and Shri. A. Latif Shaikh, Assistant Manager appeared before me and made oral submissions on lines of the written submissions furnished earlier vide their letters dated October 1, 2016 and November 2, 2018, and in addition, made the following submissions on behalf of the Bank:

- (a) The authorized representatives of the Bank admitted that the Bank has failed to furnish 9 (nine) CTRs in respect of two accounts namely, S.N. Salar and Abul Barkat Traders.
- (b) The authorized representatives of the Bank also admitted that the Bank has no system of alert generation and no Red Flag Indicators (RFIs) have been implemented in their CBS.
- (c) The authorised representatives further admitted that the English version of the AML Policy of the Bank submitted to FIU-IND, New Delhi vide e-mail dated January 7, 2019 lacked relevant details and robustness.

12. Subsequently, the Bank has submitted letter number 623 / 19 dated January 14, 2019 which was received by FIU-IND, New Delhi on January 21, 2019, granting *ex-post facto* authorisation to its authorised representatives to appear before me on the date of personal hearing scheduled on January 9, 2019. The Bank vide it's another letter number 622 / 19 dated January 14, 2019 which was received by FIU-IND, New Delhi on January 21, 2019 has submitted that the Bank will implement RFI's in its CBS system with due care.

13. I have gone through the facts and circumstances of the case, charges levied in the SCN dated August 22, 2016, written submissions made by the Bank vide its letter number 1081 / 16 dated October 1, 2016 and letter number 530 / 2018 dated November 2, 2018 and additional submissions made by the authorised representatives of the Bank during the personal hearing before me. It has been brought to my notice that the Bank has failed to furnish 9 (nine) CTRs in respect of integrally connected cash transactions observed in two accounts i.e. S.N. Salar and Abul Barkat Traders, mentioned in the RBI's inspection report, a detailed analysis of which is as follows:

- (a) As regards, S.N. Salar (a/c no. 3596): a total of 25 integrally connected cash transactions, where the monthly aggregate exceeded Rs. 10.00 lakh in a month from July 2013 to February 2014 have not been reported by the Bank.

Months for which CTRs alleged to not have been reported as per the SCN	Transactions	Number of transactions that should have been reported in terms of Rule 3(1)(B) of the PML Rules, 2005	Total number of CTRs not reported by the Bank.
April 20, 2013	10,00,000/-	0	0
July, 2013	10,00,000, 3,60,000, 10,00,000	3	1
August, 2013	10,00,000, 4,50,000, 7,90,000, 10,00,000, 1,50,000, 10,00,000	6	1
December, 2013	10,00,000, 1,60,000, 2,05,000, 10,00,000, 10,00,000, 2,65,000, 10,00,000	7	1
January, 2014	6,15,000, 10,00,000, 10,00,000	3	1
February, 2014	1,65,000, 85,000, 10,00,000, 10,00,000, 10,00,000, 6,68,000	6	1
Total		25	5

- (b) As regards, Abul Barkat Traders: a total of 10 integrally connected cash transactions, where the monthly aggregate exceeded Rs. 10.00 lakh in a month from April 2013 to October 2013 have not been reported by the Bank.

Months for which CTRs alleged to not have been reported as per the SCN	Transactions	Number of transactions that should have been reported in terms of Rule 3(1)(B) of the PML Rules, 2005	Total number of CTRs not reported by the Bank.
April 2013	10,00,000, 3,00,000	2	1
August 2013	2,92,000, 10,00,000, 50,000, 2,40,000	4	1
September 2013	8,40,000, 10,00,000	2	1
October 2013	1,25,000 10,00,000	2	1
Total		10	4

(c) Therefore, the Bank has failed to file a total of **9 (nine) CTRs [(5+4) CTRs]** in respect of 35 integrally connected cash transactions for 2 accounts for the F.Y. 2013-14 as detailed above.

(d) I deem it appropriate to state that in terms of Section 12(1)(a) and 12(1)(b) of the Act read with Rule 3(1)(B) and 8(1) of the PML Rules, 2005, the information in respect of transactions as referred to in Rule 3 has to be furnished within the timeline as mandated by Rule 8 of the PML Rules, 2005.

14. I also note that the Bank has no system of alert generation and that no RFIs have been implemented in the CBS system of the Bank. It is to be noted that a system to detect and monitor suspicious transaction does not include only an alert generation module. The alert generation system must also take into consideration all Red Flag Indicators issued by the RBI and FIU-IND. Further, such system must also have rules laid down for disposal of alerts so generated. In the instant case, written submissions made by the Bank vide its letters dated October 1, 2016, November 2, 2018 and January 14, 2019 do not indicate the mechanism the Bank has

implemented to identify, monitor, detect and report suspicious transactions to FIU-IND, New Delhi. The submissions of the Bank vide its above-mentioned letters also do not indicate the number of alerts or RFIs the Bank has implemented in its internal mechanism to identify, detect and report suspicious transactions. The AML Policy submitted by the Bank *prima facie*, lacks relevant details and robustness about its internal mechanism having regard to the guidelines issued by FIU-IND, New Delhi from time and again in terms of Rule 5(2) and 7(3) of the PML Rules, 2005.

15. After taking into consideration all the facts and circumstances herein above, I, in exercise of the powers conferred upon me under Section 13(2)(d) of the Act, hereby, impose a monetary penalty on the Bank in the manner as detailed below:

Sl. No.	Failure of the Bank	Penalty	Amount
1.	Non-filing of 9 (nine) CTRs in respect of 35 integrally connected cash transactions in 2 accounts for the F.Y. 2013-14 – violation of Section 12(1)(a) and 12(1)(b) of the Act read with Rule 3(1)(B) and Rule 8(1) of the PML Rules, 2005	9 X Rs. 50,000/-	Rs. 4,50,000/-
2.	Failure to have effective internal mechanism in place for detection and reporting of suspicious transactions – violation of Rule 5(2) and 7(3) of the PML Rules, 2005	Rs. 1,00,000/-	Rs. 1,00,000/-
Total			5,50,000/-

16. I deem it worthwhile to clarify that a penalty of **Rs. 5,50,000/- (Rupees Five Lakh Fifty Thousand Only)** has been imposed on the Bank for the reasons enumerated herein below:

- a) In terms of Rule 3(1)(B) read with Rule 8 of the PML Rules, 2005, a reporting entity is

obligated to furnish CTR reports for all series of integrally connected cash transactions individually valued below Rs. 10.00 lakh and where such series of cash transactions have taken place within a month with an aggregate exceeding an amount of 10.00 lakh; the Principal Officer of such a reporting entity *shall* furnish the CTR report in respect of such transactions every month to FIU-IND, New Delhi by the 15th day of the succeeding month. In the instant case, the Bank was obligated to file 9 (nine) CTRs relating to 35 integrally connected cash transactions, which have not been filed by the Bank till date.

- b) The integrally connected cash transactions in respect of the two accounts stated herein above pertain to the F.Y. 2013-14. The RBI in the relevant extract of its inspection report in the year 2015 had advised the Bank as regards its non-compliance with the provisions of the Prevention of Money Laundering Act, 2002 and the Rules made thereunder. The relevant extract of the RBI's inspection Report, had *inter alia*, alleged that the Bank had failed to furnish CTR returns to FIU-IND, New Delhi for cash transactions on several instances in respect of the two accounts discussed hereinabove. Thereafter, vide FIU-IND's show cause notice dated August 22, 2016, the Bank was again informed about its non-compliances under the various provisions of the Act. An opportunity of personal hearing was granted to the Bank on November 5, 2018 and again on its request, on January 9, 2019; wherein, the authorised representatives of Bank had admitted the Bank's failure to report 9 (nine) CTRs in respect of 35 integrally connected cash transactions for the two accounts. Thus, the Bank on several occasions, was granted an opportunity to rectify its failure and to comply with the provisions of the Act by filing the CTR reports in respect of 35 integrally connected cash transactions. Considering the fact that the Bank has not filed 9 (nine) CTRs till date in spite of several opportunities granted to the Bank, this implies that the Bank has been oblivious to its obligations under the Prevention of Money Laundering Act, 2002.
- c) Considering that the non-compliances of the Bank, as enumerated above, have continued till the date of personal hearing i.e. on January 9, 2019 and thereafter, I deem it appropriate to levy a maximum penalty of **Rs. 50,000/- (Rupees Fifty Thousand Only) per CTR** for the failure of the Bank to file a total of 9 (nine) CTRs in respect of 35 integrally connected cash transactions for the 2 accounts so that the penalty is effective, persuasive and commensurate to the violations committed by the Bank.

d) In terms of Rule 5(2) and 7(3) of the PML Rules, 2005, a reporting entity is mandated to evolve an effective internal mechanism in place having regard to the guidelines issued for detecting and reporting suspicious transactions to FIU-IND, New Delhi according to the timeline prescribed under Rule 8(2) of the PML Rules, 2005. In the instant case, the Bank has failed to implement the Red Flag Indicators (RFIs) or alerts issued by FIU-IND, New Delhi. The authorised representatives of the Bank had admitted that the AML Policy of the Bank lacked details and robustness while, the CBS system of the Bank did not incorporate any RFIs or alerts issued by FIU-IND, New Delhi. Thus, from the discussions hereinabove, it is implied that the AML Policy of the Bank is ineffective thereby, failing to evolve a robust internal mechanism for detecting and reporting suspicious transactions to FIU-IND, New Delhi. Considering the facts as discussed herein above, I deem it appropriate to levy a maximum penalty of **Rs. 1,00,000/- (Rupees One Lakh Only)** on the Bank for its failure to put in place an effective internal mechanism for detection and reporting of suspicious transactions.

17. In view of the above, I, in exercise of the powers conferred upon me under Section 13(2) of the Prevention of Money Laundering Act, 2002 impose a total fine of **Rs. 5,50,000/- (Rupees Five Lakh Fifty Thousand Only)** on The Solapur Social Urban Co-Operative Bank Limited, Solapur which will be commensurate with the violations committed by the Bank. The Bank shall pay the said amount of fine within **60 days** of receipt of this Order by way of Demand Draft in favour of "Pay & Account Officer, Department of Revenue" failing which the provisions of Section 69 of the Act shall apply.

18. Further, by virtue of powers conferred upon me under Section 13(2)(b) of the Prevention of Money Laundering Act, 2002, I, find it expedient to direct The Solapur Social Urban Co-Operative Bank Limited, Solapur to report 9 (nine) CTRs in respect of 2 (two) accounts namely, S.N. Salar and Abul Barkat Traders for 35 (thirty-five) integrally connected cash transactions as observed in the said 2 accounts for the F.Y. 2013-14 within **15 days** of the receipt of this Order. The Solapur Social Urban Co-Operative Bank Limited, Solapur is further, directed to put in place a robust mechanism for the effective detection and reporting of suspicious transactions within **60 days** from the date of receipt of this Order and report compliance thereof to FIU-IND, New Delhi. Any

such mechanism must take into account all Red Flag Indicators (RFIs) issued by RBI/FIU-IND from time to time for generation of alerts, rules for disposal of alerts so generated and subsequent detection and reporting of suspicious transactions.

19. I also find it expedient to advise the Bank to exercise caution in future regarding compliance with the obligations under the Prevention of Money Laundering Act, 2002 and the Prevention of Money Laundering (Maintenance of Records) Rules, 2005. The show cause notice dated August 22, 2016 is accordingly, disposed of.

(Pankaj Kumar Mishra)

Director

Financial intelligence Unit – India

Through:

The Principal Compliance Officer

The Solapur Social Urban Co-Operative Bank Limited, Solapur

6151/1, Siddheshwar Shopping Centre

Shop No.18/19 Siddheshwar Peth

Solapur – 413 001

Maharashtra