

F. No. 9-11/2019/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. 4/DIR/FIU-IND/2019

Name & Address of the Reporting Entity: Andhra Bank
Head Office,
Dr. Pattabhi Bhawan,
5-9-11, Saifabad,
Hyderabad - 500004

Show Cause Notice No. & Date: 9-11/2019/Compl/FIU-IND
Dated April 01, 2019

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

Date of Order: May 22, 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. Andhra Bank (the ‘Bank’) is a Banking company as defined under Section 2(1)(e) 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.

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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 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.

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 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. Rule 9 of the Rules prescribes the procedure and manner of verification of records of identity of clients.
7. 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.
8. Considering the analysis of quality of reports of suspicious transactions filed by various reporting entities and feedback in this regard by the law enforcement agencies, vide letter bearing F.No. 9-11/2018/AV.I/FIU-IND dated December 12, 2018 FIU-IND had issued a model template for STRs (GoS part) and guidelines for filing STRs to all the reporting entities. Vide the said letter, the reporting entities were also advised to strictly adhere to the above mentioned guidelines latest with effect from December 17, 2018. It was brought to the notice of all the reporting entities that if the said guidelines were not adhered to then the same shall be construed as violation of obligation of the reporting entity under the Act to furnish correct reports and the RE would be consequently liable for penalty under section 13 of the Act.
9. Pursuant to the model template issued by FIU-IND vide letter dated December 12, 2018, a sample of 13 STRs filed by Andhra Bank on January 14 and January 29, 2019 were analysed. The list of batch id of STRs and report serial number is enumerated below:

Sl. No.	Batchid	Report Serial Number
1.	1901147951	1
2.	1901147951	2
3.	1901294531	1

4.	1901294531	2
5.	1901294531	3
6.	1901294531	4
7.	1901294531	5
8.	1901294531	6
9.	1901294531	7
10.	1901294531	8
11.	1901294531	9
12.	1901294531	10
13.	1901294531	12

10. The analysis of the above-stated STRs filed by the Bank, *inter alia*, revealed that:

- (a) In none of these 13 STRs, source of alert has been mentioned correctly by the Bank. All entries in the '*Source of Alert*' field are filled in by the Bank as 'XX'.
- (b) In all of these 13 STRs, the reason for suspicion, i.e., Suspicion due to proceeds of crime, suspicion due to complex transaction, suspicion due to no economic rationale or suspicion due to financing of terrorism, has been filled in as 'N' or No by the Bank.
- (c) In six of these STRs (Batchid 1901147951- report serial no. 1 & 2 and Batchid 1901294531 - report serial no. 1, 2, 9 & 12), declared occupation of the reported account holder / customer has been mentioned as 'Others'.
- (d) Details such as '*customer profile*', '*profile/nature of business*', '*annual income*', '*annual turnover*', '*beneficial owner*' and '*account status*' have been left blank in these 13 STRs.
- (e) Most of these STRs seem to have been filed on parameters related to '*Transaction Monitoring*' only, which can be gauged from the triggers for suspicion as quoted by the Bank, i.e., '*Sudden Spurt in transaction in the account*', '*high value clearing transaction*', '*huge round amount transactions*', '*transaction involving movement which is inconsistent with customer business*', '*high value / unusual transactions in newly opened account*', etc. However, the Grounds of Suspicion of these STRs does not explain details like pattern and volume of transaction in the account in the past, how a particular transaction or a set of transactions are deviation from past pattern or volume and why they were found suspicious, etc.

11. In view of the above, it appears that as a reporting entity, the Bank has not complied with the requirements of model template for STRs (GoS part) and guidelines for filing STRs issued vide letter dated December 12, 2018 as it had filed 13 STRs with incomplete and incorrect details. As the Bank has failed to comply with the requirements of model template for STRs (GoS part) and guidelines for filing STRs issued vide letter dated December 12, 2018 it also has failed to have effective internal mechanism for detection and reporting of suspicious transactions. The aforesaid alleged non-compliances amount to failure comply with the obligations as enumerated

under Section 12 of the Act read with rules 3, 7 and 8 of the Rules.

12. In view of the foregoing, vide SCN dated April 01, 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 and 8 of the Rules, 2005 for the alleged non-compliance with section 12(1) (a) and (b) of the Act read with Rule 2(1) (g), 3(1) (D), 5 and 7(3) of the Rules as the Bank allegedly failed:

- to file reports of suspicious transaction (filed vide 2 batchids and 13 report serial number) with complete and accurate details as required vide FIU-IND letter dated December 12, 2018; and
- to have effective internal mechanism for detecting all suspicious transactions as enumerated under rule 3(1)(D) of the Rules and for furnishing information about such transactions.

13. 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.

14. Vide its letter dated April 15, 2019, the Bank has submitted its reply to the allegations in the SCN dated April 01, 2019. The submissions of the Bank is summarised as under:

- (a) Presently, the Bank is using 'OMNI Enterprises Solution' - AML software provided by Infracore Technologies for generation of alerts, filing STRs and for generation of necessary reports.
- (b) The '*source of alert*' option is available in the software and due to an error in the coding a wrong value 'XX' is being extracted and is getting copied in the XML file used for filing STRs. The same is rectified now in the software and user is now able to select the 'Source of alert' from the options: (WL)-Watch List, (TM)-Transaction Monitoring, (TY)- Typology, (RM)-Risk Management System, (CV)-Customer Verification, (LQ)- Law Enforcement Agency Query, (MR)-Media Reports, (EI)-Employee Initiated, (PC)-Public Complaint and (BA)-Business Associates.
- (c) In the AML software, default option of 'N' i.e., NO for Suspicion due to proceeds of crime, suspicion due to complex transaction, suspicion due to no economic rationale or suspicion due to financing of terrorism is coded without prompting the user to visit the fields while Reporting the case. The same has been rectified

now in the software to select 'YES' or 'NO' option for the reasons of filing STRs and a prompt window to make the user visit the fields mandatorily is incorporated.

- (d) The Occupation field in Party's Customer Master is made mandatory in the Bank's Core Banking Solution (CBS) from March, 2018. The Bank has incorporated 84 Occupation codes in its CBS. However, the option of 'Others' is also provided in the occupation code list and branches sometimes are opting the 'Others' option instead of selection of the exact occupation details of the customer. The Bank has taken up the matter with its IT Department for modification of the option 'Others' and to provide a blank field to facilitate the branches for entering the exact occupation of the customer in CBS.
- (e) The annual income/annual turnover fields are made mandatory in its CBS from March, 2018. For the accounts opened after March, 2018, annual income /annual turnover is getting captured from CBS data. The process and requirements are getting evolved over a period of time. The Bank started capturing required mandatory fields in CBS with effect from March, 2018. In case of other accounts opened prior to March, 2018, the Bank has updating the details.
- (f) Henceforth, the Bank notes to furnish the information pertaining to the fields like '*profile/nature of business*', '*beneficial owner*', '*account status*', '*annual income/annual turnover*' before filing STR.
- (g) The Bank has noted this observations and would file STRs duly furnishing complete information regarding Ground of Suspicion and how the transactions are deviation from the past pattern or volume in the account without any scope of gaps. The Bank would also specify the reasons as to why a transaction is found suspicious.
- (h) The Bank has requested that in view of the corrective measures undertaken by the Bank, the shortcomings in the STRs as enumerated in the SCN be condoned. The Bank has also undertaken that the Model Template for GOS would be strictly adhered to, Ground of Suspicion would be narrated with the reason for filing STR's viz., pattern and volume of transaction in the account in the past, how a particular transaction or a set of transactions are deviation from past pattern or volume and why they were found suspicious, etc. and that the Bank would endeavor to improve upon on a continuous basis.
- (i) The Bank also sought permission to present the improved version of its reporting system, in person, if required.

15. Considering the request of the Bank and in the interest of principles of natural justice, on May 07, 2019 Andhra Bank was granted an opportunity of personal hearing before me through its duly authorized representative and the same was communicated to the Bank vide letter dated April 23, 2019.
16. Accordingly, on May 07, 2019 Sri Mitta Shankaraiah, (General Manager & Principal Officer) alongwith Sri G. Rama Mohan Rao (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 admitted to have an improper AML mechanism and have admitted to not have implemented all the RFIs issued by FIU-IND. The said ARs also agreed to review all STRs filed since F.Y. 2017-18 and refile defective/incomplete STRs under intimation to FIU-IND within next 3 months.
17. Having enumerated the submission, I will now deal with the submissions of the Bank with regard to the non-compliances as alleged in the SCN. The first allegation against the Bank in the SCN is that it had failed to file reports of suspicious transaction (filed vide 2 batchids and 13 report serial number) with complete and accurate details as required vide FIU-IND letter dated December 12, 2018 as the STRs filed by it. The inaccuracies observed in the STRs are categorized as under:
- (a) source of alert not correctly mentioned - entries in the 'Source of Alert' field are filled in by the Bank as 'XX'.
 - (b) reason for suspicion filled in as 'N' or No.
 - (c) declared occupation of the reported account holder / customer has been mentioned as 'Others'.
 - (d) details such as 'customer profile', 'profile/nature of business', 'annual income', 'annual turnover', 'beneficial owner' and 'account status' left blank.
 - (e) grounds of suspicion not clear.
18. From perusal of reply of the Bank it is observed that the presence of error in the xml file uploaded by the bank has been admitted. The Bank has also stated that the error occurred due to the software issues and has claimed to have rectified the technical anomaly due to which the error was occurring. I find that the reasons ascribed by the Bank to the inaccuracies observed in the 13 STRs enumerated in the SCN is mostly software related issues which the Bank claims to have taken up with its IT department for rectification. The Bank has undertaken to furnish the information pertaining to the fields like 'profile/nature of business', 'beneficial owner', 'account status', 'annual income/annual turnover' before filing STRs. The Bank has undertaken that it would

file STRs duly furnishing complete information regarding ground of suspicion and how the transactions are deviation from the past pattern or volume in the account without any scope for gaps henceforth. However, the fact remains that the Bank failed to report the given STRs correctly. The GoS of the said STRs did not explain in detail why the transactions were found to be suspicious by comparing it with previous behavior in the reported account(s), profile of customer and so on. Neither were the columns in the reporting format of STR correctly tagged, as discussed before, nor were the details of the account holder(s) furnished.

19. 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 there were certain anomalies/ inaccuracies in the 13 STRs that were filed and as such the bank had failed to file complete and accurate STRs under review.
20. It is trite to state that an effective internal mechanism for furnishing of a suspicious transaction, *inter alia*, requires that the requisite fields in the reporting field are completely and accurately filled. On numerous occasions, the Hon'ble Courts have held that filing of incomplete and inaccurate information shall be considered as non-compliance of the statute. Further, the STR filings, as discussed in the instant case, are not in compliance with the requirements of guidelines issued vide F. No. 9-11/2018/AV.I/FIU-IND dated December 12, 2018 FIU-IND. Vide the said guidelines, it was also brought to the notice of the reporting entities that if the said guidelines were not adhered to then the same shall be construed as violation of obligation of the reporting entity under the Act to furnish correct reports and the RE would be consequently liable for penalty under section 13 of the Act. In the instant case, the Bank has failed to adhere to the guidelines issued by FIU-IND with regard to filing of STRs and hence has also failed to comply with the requirements of section 12(1)(b) of the Act read with rule 7(3) of the PML Rules.
21. 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.”*

22. 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 Rule 2(1) (g), 3(1) (D), 5 and 7(3) of the Rules – Alleged failure of the Bank:

- to file reports of suspicious transaction (filed vide 2 batchids and 13 report serial number) with complete and accurate details as required vide FIU-IND letter dated December 12, 2018; and
- to have effective internal mechanism for detecting all suspicious transactions as enumerated under rule 3(1)(D) of the Rules and for furnishing information about such transactions.

23. 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 (Rs.)	Amount (Rs.)
1.	Non-compliance with section 12(1) (a) and (b) of the Act read with Rule 2(1) (g), 3(1) (D), 5 and 7(3) of the Rules – Alleged failure of the Bank to file reports of suspicious transaction (filed vide 2 batchids and 13 report serial number) with complete and accurate details as required vide FIU-IND letter dated December 12, 2018	1,00,000/- * 13	13,00,000/-
2.	Non-compliance with section 12(1) (a) and (b) of the Act read with Rule 2(1) (g), 3(1) (D), 5 and 7(3) of the Rules – Alleged failure of the Bank to have effective internal mechanism for detecting all suspicious transactions as enumerated under rule 3(1)(D) of the Rules and for furnishing information about such transactions.	1,00,000/-	1,00,000/-
		Total	14,00,000/-

24. I deem it worthwhile to clarify here that the maximum penalty of **rupees 13,00,000/- (Rupees thirteen lakh)** for failure to report 13 STRs with complete and accurate details has been imposed since reporting STRs is the principal 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, to and, as appropriate, disseminating the valuable information to other intelligence/law enforcement agencies and regulatory authorities for necessary action, if any, on their part. Similarly, a penalty of **rupees 1,00,000/- (rupees one lakh)** has been imposed on the Bank for not having effective internal system in place for disposal of alerts and for detecting and reporting suspicious transactions as having having an effective internal system in place is the essence of an effective AML policy and requisite to maintain confidence in REs and the overall financial system of the country.

25. 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. 14,00,000/- (Rs. Fourteen lakh only)** on Andhra 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 to Account Officer, Department of Revenue" failing which provisions of section 69 of the Act shall apply.

26. I note that vide its letter dated April 15, 2019 the Bank has, *inter alia*, underlined several corrective measures taken by it to rectify the software related issues that had led to non-compliance with the guidelines issued by FIU-IND vide letter bearing F.No. 9-11/2018/AV.I/FIU-IND dated December 12, 2018. During the personal hearing also, the Bank had undertaken to review all the STRs filed by it since F.Y. 2017-18 and refile defective/incomplete STRs under intimation to FIU-IND within next three months.
27. 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 submit a report of review of all the STRs filed by it since F.Y. 2017-18 and refile defective/incomplete STRs within **60 days** (sixty 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:

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