

**F.No. 25-1/2013/FIU-IND/Pt VIII**

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. 8/DIR/FIU-IND/2015**

**Name & Address of the Reporting Entity:** **Dhanlaxmi Bank Limited**  
Dhanlaxmi Building,  
Naickanal Thrissur,  
Kerela-680001.

**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:** 6<sup>th</sup> August, 2015  
**Authority passing the order:** Director, Financial Intelligence Unit-India

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

1. Dhanlaxmi Bank (hereinafter also referred to as 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 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 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 and other financial institutions including the Dhanlaxmi 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 reporter had videotaped the conversations with the officials/ employees of the financial institutions 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 branch at Connaught Place, which was covered in the sting operation, and whether any STR was reported for attempted transactions for the incident reported by the Cobrapost. The Bank in its reply dated 03.08.2013 confirmed that no STR was filed for attempted transaction in the branch concerned. The Bank also informed that the concerned branch had neither generated any alerts for this incident nor reported anything 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.*

The bank also stated that departmental action had been initiated against the three senior officers involved in Cobrapost sting operation.

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 sting operator attempted to 'open an account' and do illicit transactions through the Connaught Place branch of the Bank. As STR for attempted transactions had not been filed for the branch 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. In its reply dated 21.01.2014 the Bank stated that they had filed the suspicious transaction report on 7.01.2014; that the omission in non reporting of attempted transaction in respect of Cobrapost sting operation was accidental and not intentional and that it may be condoned. The Bank also stated that the software used for AML was made compatible for the generation of reports for such transactions only during the test quarter of this financial year (2013-14).

8. On the request of the Bank a personal hearing was held on 21-03-2014, which was attended by Mr. PG Jaya Kumar, MD&CEO and Mr.P. Manikandan, GM. The Bank admitted that on the day of Cobrapost incident no instructions were in place for the Bank staff to report attempted transactions; however, instructions had subsequently been issued and steps were being taken to improve compliance with the Act. It was also stated that the employees named in Cobrapost had been proceeded against for not reporting the incident to the headquarters.

9. In their additional submissions vide letter dated 09.06.2014, the Bank mentioned that the 27 non transactional alert scenarios of IBA had been communicated to the branches on August 17, 2011 and several measures had been taken to improve AML KYC regime.

### **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 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. In the instant case the Cobrapost Reporter visited the Connaught Place branch of the Bank and discussed laundering of unaccounted cash belonging to a minister. He stated that he had Rs. 60 lakhs for depositing and Rs. 5-7 Crores were expected in March. He exchanged contact numbers. The banker enquired about the minister, and told that PAN Card with any name will work. They discussed investment in gold. The bank's official also assured to provide 3 lockers for storing the cash and help in transferring money to England for use of the minister's wife.

12. A perusal of the transcript of the sting operation shows that the reporter posing as a customer made explicit conversation about laundering through the Bank large amounts of cash of unexplained origin. The contents of the transcript have not been denied by the Bank.

13. The queries by the reporter made no secret of the fact that the reporter 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 9 above. However, in the concerned branch 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. This is not surprising as the Bank admitted during the personal hearing that on the day of Cobrapost incident, no instructions were in place for the Bank staff to report attempted transactions. The Bank will not be able to fulfill its reporting obligations under the PMLA unless the employees of the Bank are aware of their duties or legal obligations under the PMLA.

14. 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 Dhanlakshmi Bank, as admitted, the Bank had not only failed to lay down a policy for reporting attempted transactions, but also in evolving a mechanism for reporting such transactions. In light of 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 Rules. Accordingly, in exercise of the powers conferred on me under Section 13 (2) of the PMLA, 2002, I hereby impose on Dhanlakshmi Bank a fine of Rs. One Lakh 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

DHANLAXMI BANK

Through: Managing Director & CEO