

**F.No. 19-2/2022/Compl/FIU-IND**  
**Government of India**  
**Ministry of Finance**  
**Financial Intelligence Unit – India**

March 9, 2022

6th Floor, Tower-2,  
Jeevan Bharti Building,  
Connaught Place,  
New Delhi – 110001

To,  
All Reporting Entities  
(u/s 2(1)(wa), PMLA)

**Subject: Comments Invited – Draft FIU-IND Personal Hearing Policy**

Comments of Reporting Entities, and other concerned stakeholders, are invited on the enclosed “Draft Personal Hearing Policy” by **March 23, 2022.**

The draft policy has been prepared to further streamline adjudicatory functions of Director, FIU-IND under Section 13, PMLA in light of accrued experience and with due regard to applicable law and the principles of natural justice. The policy is intended to apply prospectively to all REs which will be issued a show cause notice by FIU-IND subsequent to its finalisation, or such other date as may be prescribed.

Comments, if any, may be submitted to [thakur.s80@gov.in](mailto:thakur.s80@gov.in) with copy to [consultant13@fiuindia.gov.in](mailto:consultant13@fiuindia.gov.in), or in hard copy at the address above.

This issues with the approval of Director, FIU-IND.

Shailesh Thakur  
Additional Director, FIU-IND

Enclosed:  
Draft Personal Hearing Policy for comments.

## **DRAFT FOR PUBLIC COMMENTS**

### **Personal Hearing Policy – FIU-IND**

*Scope: This Policy applies to ‘reporting entities’ (u/s Section 2(1)(w) of the Prevention of Money Laundering Act, 2002 (as amended) against whom show cause or other proceedings have been initiated under Section 13 of the same legislation.*

*Date of Issue: [To be finalised]*

*Effective Date: All proceedings where show cause notice is issued on or after April \_\_, 2022.*

#### **I. Grant of Personal Hearing**

- 1.** In accordance with law, no ‘reporting entity’ (RE) which has been issued a show cause notice under Section 13 of the PMLA is automatically entitled to a personal hearing before Director, FIU-IND as a matter of right. The decision to grant a personal hearing shall remain the sole discretion of Director, FIU-IND.
- 2.** If an RE wishes to seek personal hearing in any pending compliance / enforcement matter, it must make such request clearly, and in writing, at the time of responding to show cause notice issued by FIU-IND. Failure to make such request will constitute waiver of the right of RE to request a hearing in future.
- 3.** At the time of requesting personal hearing, RE must indicate the reasons for the same with due regard to:
  - a. Special facts or complexities in the matter, or concerning the RE, which necessitate personal hearing;
  - b. The need to ensure that personal hearing is not an opportunity to merely reiterate written submissions already filed or proposed to be filed;
  - c. Cases where personal hearing will ordinarily not be required include:
    - i. Where RE has admitted the facts / issues / non-compliances in its written submission and no material or additional information is required;
    - ii. Where RE has due to non-response or non-reply within prescribed timelines has caused substantial delay to the adjudication of the matter.
- 4.** It shall remain the sole discretion of Director, FIU-IND to accede to a request of an RE for personal hearing or to suo motu call an RE for personal hearing in any circumstance deemed fit including, for example, where:
  - a. The nature of the matter is of such special, complex, grave, or peculiar nature that the RE must be questioned on certain points for further clarity prior to adjudication;
  - b. Further information is required from the RE for purposes of quantification of penalty;
- 5.** It is clarified that mere non-response to any ground or charge in the show cause notice shall not be a ground for personal hearing, particularly where RE has been requested post-issuance of show cause notice to provide specific responses.

II. Conduct of Personal Hearings

- 6.** Personal hearings may, in the discretion of Director, FIU-IND, be conducted either in person or through video conferencing.
- 7.** Personal hearings may, in the discretion of Director, FIU-IND, be audio or video recorded where feasible. An RE may not record personal hearings without prior written authorisation of Director, FIU-IND. Recordings, if any, shall not be shared with 'reporting entities' except where deemed appropriate or necessary by Director, FIU-IND for any reason.
- 8.** Proceedings at personal hearing shall be kept confidential and only representatives of the RE as notified in advance to FIU-IND shall be permitted to be present.
- 9.** REs are required to circulate, in advance of a personal hearing, a letter of authorisation as well as proof of identity of the individual(s) who will represent the RE before Director, FIU-IND.
- 10.** Nothing contained within this policy affects the right of the Director, FIU-IND to delegate, entirely or in part, the conduct of personal hearing to any officer of FIU-IND so authorised by general or specific order in writing.

III. Savings and Miscellaneous Provisions

- 11.** It is further clarified that this policy is merely guidance to promote consistency, accountability, and transparency. It shall not in any manner restrict the sole discretion of Director, FIU-IND to depart from or modify, partially or in entirety, any provision of this Policy where deemed fit. Nothing contained within this policy shall create any right, remedy, or claim other than which already exists under applicable law.
- 12.** This policy is subject to review on-ongoing basis in line with best practices and prevailing circumstances.

This issues with the approval of Director, FIU-IND.

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