

RBI / 2009-10/10

DNBS (PD) CC No. 152/03.10.42/ 2009-10

July 1, 2009

To

All Non-Banking Financial Companies (NBFCs),
Miscellaneous Non-Banking Companies (MNBCs),
and Residuary Non-Banking Companies (RNBCs)

Dear Sir,

**Master Circular - 'Prevention of Money Laundering Act, 2002 -
Obligations of NBFCs in terms of Rules notified thereunder'**

As you are aware, in order to have all current instructions on the subject at one place, the Reserve Bank of India issues Master Circulars on various topics. In accordance with the approach, a master circular updated up to 30th June 2009 is being issued. It may be noted that the Master Circular consolidates and updates all the instructions contained in the notifications listed in the Appendix, in so far they relate to the subject. The Master Circular has also been placed on the RBI web-site (<http://www.rbi.org.in>). A copy of the revised Master Circular is enclosed.

Yours sincerely,

(P. Krishnamurthy)
Chief General Manager-in-Charge

'Prevention of Money Laundering Act, 2002 - Obligations of NBFCs in terms of Rules notified thereunder'

NBFCs were advised to appoint a Principal Officer and put in place a system of internal reporting of suspicious transactions and cash transactions of Rs.10 lakh and above. In this connection, Government of India, Ministry of Finance, Department of Revenue, issued a notification dated July 1, 2005 in the Gazette of India, notifying the Rules under the Prevention of Money Laundering Act (PMLA), 2002. In terms of the Rules, the provisions of PMLA, 2002 have come into effect from July 1, 2005. Section 12 of the PMLA, 2002 casts certain obligations on the NBFCs in regard to preservation and reporting of customer account information. NBFCs are, therefore, advised to go through the provisions of PMLA, 2002 and the Rules notified there under and take all steps considered necessary to ensure compliance with the requirements of section 12 of the Act *ibid*.

2. Maintenance of records of transactions

NBFCs should introduce a system of maintaining proper record of transactions prescribed under Rule 3, as mentioned below:

9. all cash transactions of the value of more than rupees ten lakh or its equivalent in foreign currency;
9. all series of cash transactions integrally connected to each other which have been valued below rupees ten lakh or its equivalent in foreign currency where such series of transactions have taken place within a month and the aggregate value of such transactions exceeds rupees ten lakh;
- (iii) all cash transactions where forged or counterfeit currency notes or bank notes have been used as genuine and where any forgery of a valuable security has taken place;
- (iv) all suspicious transactions whether or not made in cash and in manner as mentioned in the Rules framed by Government of India under the Prevention of Money Laundering Act , 2002.

3. Information to be preserved

NBFCs are required to maintain the following information in respect of transactions referred to in Rule 3:

- (i) the nature of the transactions;
- (ii) the amount of the transaction and the currency in which it was denominated;
- (iii) the date on which the transaction was conducted; and
- (iv) the parties to the transaction.

4. Maintenance and Preservation of records

NBFCs should take appropriate steps to evolve a system for proper maintenance and preservation of account information in a manner that allows data to be retrieved easily and quickly whenever required or when requested by the competent authorities. Further, NBFCs should maintain for at least ten years from the date of cessation of transaction between the NBFCs and the client, all necessary records of transactions, both domestic or international, which will permit reconstruction of individual transactions (including the amounts and types of currency involved if any) so as to provide, if necessary, evidence for prosecution of persons involved in criminal activity.

NBFCs should ensure that records pertaining to the identification of the customer and his address (e.g. copies of documents like passports, identity cards, driving licenses, PAN, utility bills etc.) obtained while opening the account and during the course of business relationship, are properly preserved for at least ten years after the business relationship is ended. The identification records and transaction data should be made available to the competent authorities upon request.

5. Reporting to Financial Intelligence Unit-India

It is advised that in terms of the PMLA rules, NBFCs are required to report information relating to cash and suspicious transactions to the Director, Financial Intelligence Unit-India (FIU-IND) at the following address:

**Director, FIU-IND,
Financial Intelligence Unit-India,
6th Floor, Hotel Samrat,
Chanakyapuri,
New Delhi-110021**

l) NBFCs should carefully go through all the reporting formats. There are altogether five reporting formats prescribed for a banking company viz. i) Manual reporting of cash transactions ii) Manual reporting of suspicious transactions iii) Consolidated reporting of cash transactions by Principal Officer of the bank iv) Electronic data structure for cash transaction reporting and v) Electronic data structure for suspicious transaction reporting which are enclosed to this circular. The reporting formats contain detailed guidelines on the compilation and manner/procedure of submission of the reports to FIU-IND. **NBFCs are advised to adopt the format prescribed for banks with suitable modifications. It would be necessary for NBFCs to initiate urgent steps to ensure electronic filing of cash transaction report (CTR) as early as possible.** The related hardware and technical requirement for preparing reports in an electronic format, the related data files and data structures thereof are furnished in the instructions part of the concerned formats. However, NBFCs which are not in a position to immediately file electronic reports may file manual reports to FIU-IND. While detailed instructions for filing all types of reports are given in the instructions part of the related formats, NBFCs should scrupulously adhere to the following:

(a) The cash transaction report (CTR) for each month should be submitted to FIU-IND by 15th of the succeeding month. While filing CTR, individual transactions below rupees fifty thousand may not be included;

(b) The Suspicious Transaction Report (STR) should be furnished within 7 days of arriving at a conclusion that any transaction, whether cash or non-cash, or a series of transactions integrally connected are of suspicious nature. The Principal Officer should record his reasons for treating any transaction or a series of transactions as suspicious. It should be ensured that there is no undue delay in arriving at such a conclusion once a suspicious transaction report is received from a branch or any other office. Such report should be made available to the competent authorities on request;

(c) The Principal Officer will be responsible for timely submission of CTR and STR to FIU-IND;

(d) Utmost confidentiality should be maintained in filing of CTR and STR with FIU-IND. The reports may be transmitted by speed/registered post, fax, email at the notified address;

(e) It should be ensured that the reports for all the branches are filed in one mode i.e. electronic or manual;

(f) A summary of cash transaction report for the NBFC as a whole may be compiled by the Principal Officer of the NBFC in physical form as per the format specified. The summary should be signed by the Principal Officer and submitted both for manual and electronic reporting.

6. NBFCs may not put any restrictions on operations in the accounts where an STR has been made. However, it should be ensured that there is no **tipping off** to the customer at any level.

7. These instructions are issued under Sections 45K and 45L of the Reserve Bank of India Act, 1934 and Rule 7 of Prevention of Money-laundering (Maintenance of Records of the Nature and Value of Transactions, the Procedure and Manner of Maintaining and Time for Furnishing Information and Verification and Maintenance of Records of the Identity of the Clients of the Banking Companies, Financial Institutions and Intermediaries) Rules, 2005. Any contravention thereof or non-compliance shall attract penalties.

8. A copy of the Prevention of Money-laundering (Maintenance of Records of the Nature and Value of Transactions, the Procedure and Manner of Maintaining and Time for Furnishing Information and Verification and Maintenance of Records of the Identity of the Clients of the Banking Companies, Financial Institutions and Intermediaries) Rules, 2005 is enclosed for ready reference.

(Details are in [DNBS \(PD\).CC.No.68 / 03.10.042 / 2005-06](#) dated April 5, 2006)

9. In terms of instructions contained in the guidelines on 'Know Your Customer Norms' and 'Anti-Money Laundering Measures' of our circular dated February 21, 2005, NBFCs are required to prepare a profile for each customer based on risk categorization. Further, vide paragraph 4 of our circular [DNBS\(PD\). CC 68 /03.10.042/2005-06](#) dated April 5, 2006, the need for periodical review of risk categorization has been emphasized. It is, therefore,

reiterated that NBFCs, as a part of transaction monitoring mechanism, are required to put in place an appropriate software application to throw alerts when the transactions are inconsistent with risk categorization and updated profile of customers. It is needless to add that a robust software throwing alerts is essential for effective identification and reporting of suspicious transactions.

10. In paragraph 7 of our circular dated April 5, 2006, referred to above, NBFCs were advised to initiate urgent steps to ensure electronic filing of cash transaction report (CTR) and Suspicious Transaction Reports (STR) to FIU-IND. It has been reported by FIU-IND that many NBFCs are yet to file electronic reports. It is, therefore, advised that in case of NBFCs, where all the branches are not yet fully computerized, the Principal Officer of the NBFC should cull out the transaction details from branches which are not computerized and suitably arrange to feed the data into an electronic file with the help of the editable electronic utilities of CTR/STR as have been made available by FIU-IND on their website <http://fiuindia.gov.in>.

11. In paragraph 7(I)(a) of our circular dated April 5, 2006, referred to above, NBFCs were advised to make Cash Transaction Reports (CTR) to FIU-India for every month latest by 15th of the succeeding month. It is further clarified that cash transaction reporting by branches/offices of NBFCs to their Principal Officer should invariably be submitted on monthly basis (**not on fortnightly basis**) and the Principal Officer, in turn, should ensure to submit CTR for every month to FIU-IND within the prescribed time schedule.

12. In regard to CTR, it is reiterated that the cut-off limit of Rupees ten lakh is applicable to integrally connected cash transactions also. Further, after consultation with FIU-IND, it is clarified that :

a) For determining integrally connected cash transactions, NBFCs should take into account all individual cash transactions **in an account during a calendar month**, where either debit or credit summation, computed separately, exceeds Rupees ten lakh during the month. However, while filing CTR, details

of individual cash transactions below rupees fifty thousand may not be indicated. Illustration of integrally connected cash transactions is furnished in Annex-I;

b) CTR should contain only the transactions **carried out by the NBFC on behalf of their clients/customers** excluding transactions between the internal accounts of the NBFC;

c) All cash transactions, where forged or counterfeit Indian currency notes have been used as genuine should be reported by the Principal Officer to FIU-IND immediately in the format (Counterfeit Currency Report – CCR) as per Annex-II, Annex-III. Electronic data structure has been furnished in Annex-IV to enable NBFCs to generate electronic CCRs. These cash transactions should also include transactions where forgery of valuable security or documents has taken place and may be reported to FIU-IND in plain text form.

13. As stated in paragraph 4 of the Guidelines on KYC Norms/AML Measures annexed to our circular [DNBS\(PD\). CC 48 /10.42/2004-05](#) dated February 21, 2005, NBFCs are required to pay special attention to all complex, unusual large transactions and all unusual patterns of transactions, which have no apparent economic or visible lawful purpose. It is further clarified that the background including all documents/office records/memorandums pertaining to such transactions and purpose thereof should, as far as possible, be examined and the findings at branch as well as Principal Officer level should be properly recorded. These records are required to be preserved for ten years as is required under PMLA, 2002. Such records and related documents should be made available to help auditors in their work relating to scrutiny of transactions and also to Reserve Bank/other relevant authorities.

14. In paragraph 7 of our April 5, 2006 circular, NBFCs have been advised that the customer should not be tipped off on the STRs made by them to FIU-IND. It is likely that in some cases transactions are abandoned/ aborted by

customers on being asked to give some details or to provide documents. It is clarified that NBFCs should report all such **attempted transactions in STRs**, even if not completed by customers, irrespective of the amount of the transaction.

15. While making STRs, NBFCs should be guided by the definition of 'suspicious transaction' as contained in Rule 2(g) of Rules *ibid*. It is further clarified that NBFCs should make STRs if they have reasonable ground to believe that the transaction involve proceeds of crime generally **irrespective of the amount of transaction** and/or the threshold limit envisaged for predicate offences in part B of Schedule of PMLA, 2002 .

16. In the context of creating KYC/AML awareness among the staff and for generating alerts for suspicious transactions, NBFCs may consider the indicative list of suspicious activities contained in Annex-V.

17. These guidelines are issued under Sections 45K and 45L of the Reserve Bank of India Act, 1934. Any contravention of the said guidelines may attract penalties under the relevant provisions of the Act.

(Details are in [DNBS \(PD\).CC No.126 / 03.10.42 / 2008-09](#) dated August 5, 2008)

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Annex-I

Illustration of Integrally connected cash transaction

The following transactions have taken place in a NBFC during the month of April, 2008:

| Date | Mode | Dr. (in Rs.) | Cr. (in Rs.) | Balance (in Rs.) BF - 8,00,000.00 |
|----------------------|------|--------------|--------------|--------------------------------------|
| 02/04/2008 | Cash | 5,00,000.00 | 3,00,000.00 | 6,00,000.00 |
| 07/04/2008 | Cash | 40,000.00 | 2,00,000.00 | 7,60,000.00 |
| 08/04/2008 | Cash | 4,70,000 | 1,00,000.00 | 3,90,000.00 |
| Monthly summation | | 10,10,000.00 | 6,00,000.00 | |

i) As per above clarification, the debit transactions in the above example are integrally connected cash transactions because total cash debits during the calendar month exceeds Rs.10 lakhs. However, the NBFC should report only the debit transaction taken place on 02/04 & 08/04/2008. The debit transaction dated 07/04/2008 should not be separately reported by the NBFC, which is less than Rs.50,000/-.

ii) All the credit transactions in the above example would not be treated as integrally connected, as the sum total of the credit transactions during the month does not exceed Rs.10 lakh and hence credit transaction dated 02, 07 & 08/04/2008 should not be reported by NBFC.

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An Indicative List of Suspicious Activities Transactions Involving Large Amounts of Cash

Company transactions, that are denominated by unusually large amounts of cash, rather than normally associated with the normal commercial operations of the company, e.g. cheques,

Transactions that do not make Economic Sense

Transactions in which assets are withdrawn immediately after being deposited unless the business activities of the customer's furnishes a plausible reason for immediate withdrawal.

Activities not consistent with the Customer's Business

Accounts with large volume of credits whereas the nature of business does not justify such credits.

Attempts to avoid Reporting/Record-keeping Requirements

(i) A customer who is reluctant to provide information needed for a mandatory report, to have the report filed or to proceed with a transaction after being informed that the report must be filed.

(ii) Any individual or group that coerces/induces or attempts to coerce/induce a NBFC employee not to file any reports or any other forms.

(iii) An account where there are several cash transactions below a specified threshold level to avoid filing of reports that may be necessary in case of transactions above the threshold level, as the customer intentionally splits the transaction into smaller amounts for the purpose of avoiding the threshold limit.

Unusual Activities

Funds coming from the countries/centers which are known for money laundering.

Customer who provides Insufficient or Suspicious Information

(i) A customer/company who is reluctant to provide complete information regarding the purpose of the business, prior business relationships, officers or directors, or its locations.

(ii) A customer/company who is reluctant to reveal details about its activities or to provide financial statements.

(iii) A customer who has no record of past or present employment but makes frequent large transactions.

Certain NBFC Employees arousing Suspicion

(i) An employee whose lavish lifestyle cannot be supported by his or her salary.

(ii) Negligence of employees/willful blindness is reported repeatedly.

Some examples of suspicious activities/transactions to be monitored by the operating staff-

- Large Cash Transactions
- Multiple accounts under the same name
- Placing funds in term Deposits and using them as security for more loans
- Sudden surge in activity level
- Same funds being moved repeatedly among several accounts

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AppendixList of Circulars

| Sr. No. | Circular No. | Date |
|---------|--|----------------|
| (i) | DNBS(PD). CC 68 /03.10.042/2005-06 | April 5, 2006 |
| (ii) | DNBS(PD). CC 126/03.10.042/ 2008- 09 | August 5, 2008 |