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Modern Shares And Stockbrokers Limited

Guidelines

On

Anti-Money Laundering Standards (Retail)

[Prevention of Money Laundering Act, 2002 (PMLA)]

Private and Confidential

INTRODUCTION:

1. The **Prevention of Money Laundering Act, 2002 (PMLA)** has been brought into force with effect from 1st July 2005. Necessary Notifications / Rules under the said Act have been published in the Gazette of India on 1st July 2005 by the Department of Revenue, Ministry of Finance, Government of India.

2. As per PMLA, every banking company, financial institution (which includes chit fund company, a co-operative bank, a housing finance institution and a non-banking financial company) and ***intermediary*** (which includes a ***stock-broker***, ***sub-broker***, share transfer agent, banker to an issue, trustee to a trust deed, registrar to an issue, merchant banker, underwriter, ***portfolio manager***, investment adviser and any other intermediary associated with securities market and registered under section 12 of the Securities and Exchange Board of India Act, 1992) shall have to maintain a record of all the transactions; the nature and value of which has been prescribed in the Rules notified under the PMLA. For the purpose of PMLA, transactions include:

   - All cash transactions of the value of more than Rs.10Lakhs or its equivalent in foreign currency.
   - All series of cash transactions integrally connected to each other which have been valued below Rs.10Lakhs or its equivalent in foreign currency, such series of transactions within one calendar month.
   - All suspicious transactions whether or not made in cash and including, inter-alia, credits or debits into/from any non monetary account such as Demat account, security account maintained by the registered intermediary.

   For the purpose of suspicious transactions reporting, apart from 'transactions integrally connected', 'transactions remotely connected or related' need to be considered.

   "Suspicious transactions" means a transaction whether or not made in cash which to a person acting in good faith –

   (a) gives rise to a reasonable ground of suspicion that it may involve the proceeds of crime; <u>or</u>

   (b) appears to be made in circumstances of unusual or unjustified complexity; <u>or</u>

   (c) appears to have no economic rationale or bonafide purpose.

3. The Anti – Money Laundering Guidelines provides a general background on the subjects of money laundering and terrorist financing in India and provides guidance on the practical implications of the PMLA. The PMLA Guidelines sets out the steps that a registered intermediary and any of its representatives, need to implement to discourage and identify any money laundering or terrorist financing activities.

OBJECTIVE:

The main objectives of the PMLA are:

1. To have a proper Customer Due Diligence (CDD) process before registering customers.
2. To monitor/maintain records of all cash transactions of the value of more than Rs.10Lacs.
3. To maintain records of all series of integrally connected cash transactions within one calendar month.
4. To monitor and report suspicious transactions.
5. To discourage and identify money laundering or terrorist financing activities.
6. To take adequate and appropriate measures to follow the spirit of the PMLA.

GUIDELINES:

MODERN SHARES AND STOCKBROKERS LIMITED being a SEBI registered intermediary shall bind itself to comply with the spirit of the Anti Money Laundering provisions. To adhere to PMLA, the following **'Customer Due Diligence Process'** shall be implemented:

1. Policy for acceptance of customers;
2. Procedure for identifying the customers;
3. Transaction monitoring and reporting especially Suspicious Transactions Reporting (STR).

❖ **Customer/Customer Due Diligence (CDD):**

For the purpose of CDD, **MODERN SHARES AND STOCKBROKERS LIMITED** is dealing mainly with Institutional as well as Non-institutional clients. According to SEBI regulation/rules Institutional clients include:

- Banks;
- Mutual Funds;
- Foreign Institutional Investors (FII);
- Financial Institutions;
- Insurance Companies.

All other categories of customers, viz. Individuals, HUFs, Trusts, Partnership Firms, Other Companies other than mentioned above etc. are considered as Non-institutional Customers.

According to SEBI, all trades done by non-institutional customers shall be settled by Clearing Members. Clearing members make sure that the trades are settled for all retail customers.

In view of above, following steps have to be taken to comply with 'Customer Due Diligence' process before registering as customer:

- Obtain basic details for the purpose of complying with KYC norms prescribed by SEBI (KYC, basically contains basic details of the customer such as Name, Address, Occupation, Income level, DP details, Bank Account Details, Details of other Broker where the customer is already registered etc).
- List of Directors and authorized person to trade on behalf of customer and copy of Board resolution to that effect in case the customer is Non Individual;
- Obtain Proof of Identity, Proof of Address after verifying with originals;
- Custodian details (if any) with whom customer trade to be settled;
- Obtain PAN No. (Income Tax Permanent Account Number);
- Obtain Risk Disclosure Document duly executed by prospective customer as prescribed by SEBI;
- Physical verification of the customer address.

The customer/customer due diligence (CDD) measures comprise the following:

1. **Customer Information & Identity**:
To conduct Independent verification of the customer but not limited to his identity, registered office address, correspondence address, contact details, occupation, Promoters/Directors, source of income, experience in securities market, PAN, SEBI registration Number, (if any), MAPIN Number (if any) etc.

Generally Retail customers are recognized at local level. We shall check the local references for customers' identity and other credit details including those mentioned above or we can refer any other reliable, independent source documents, data or information. The information shall be approved by the Account Opening Team and shall open the Customer Account after verifying information collected, registration form along with other supporting documents.

2. **Beneficial ownership and control**:
On completion of the registration process, the customer account shall be verified by designated agencies to check the actual beneficial ownership and control of the particular account. In case of non individual accounts the details with respect to Shareholders, promoters have to be verified independently. Also shall verify the sources of funds for funding the transaction. Periodical submission of the customers' financial details will enable us to determine the genuineness of transaction.

For this purpose, **'beneficial owner'** is the natural person or persons who ultimately owns, controls or influence a customer and/or persons on whose behalf a transaction is being conducted. It also incorporates those persons who exercise ultimate effective control over a legal person or arrangement.

3. **Ongoing due diligence and scrutiny:**
We shall conduct ongoing due diligence and scrutiny of the transactions and account throughout the course of the business relationship to ensure that the transactions being conducted are consistent with the Company's knowledge of the customer, its business and risk profile, taking into account, where necessary, the customer's source of funds.

➢ **Policy for acceptance of customers:**

Before registering a customer, we need to identify and verify the following details of the prospective customer:

1. Ascertain the category of customers before registration as Customer.(i.e. Individual or Non Individual, FII, Mutual Fund, PMS or other);

2. Obtain all necessary documents for registration. (Photograph, Photo Identity, Proof of Address, copy of PAN, etc). Documents shall be verified with original and same to be counter signed by Authorised representative of the organization;

3. Obtain copy of Bank Statement for ascertaining the mode of payment of transaction;

4. Registration of customers to be made on physical presence of the prospective customer;

5. Obtain antecedent details of the prospective customer;
6. Ensure that new registration is to be made in customers name only;
7. Ensure that account shall not open in fictitious or benami name;
8. Verify customers' occupation, sources of income;
9. Determine the parameter to categories of customer as per risk;
10. Obtain financial statement for at least for last 3 years duly certified by Chartered Accountants, in case of non-individual customers;
11. Ensure that all details of KYC form are complete in all respect. Incomplete KYC will not be accepted by organization;
12. Customer shall not be registered in case any kind of doubt about the customer (i.e. unable to submit required form/proof, any suspicious behavior noticed at the time of registration, etc.);
13. Account shall not be opened where Customer Due Diligence/ KYC policies can not be applied;
14. The customer accounts shall be scrutinised regularly for determining nature of transaction being taken place. In case any suspicious transaction is arisen, the account shall be freezed or securities/money shall not be delivered to customer. The suspicious transactions shall be reported to the FIU as well as the respective exchanges or depository where transactions have been taken place.

Risk perception of the customer:

a) Risk perception of the customer need to defined having regard to:
   1. Customers' location (registered office address, correspondence addresses and other addresses if applicable);
   2. Nature of business activity, trading turnover etc., and
   3. Manner of making payment for transactions undertaken.

b) The parameters of customers into ***low, medium and high risk*** shall be classified. Customers of special category (as given below) may be classified as higher risk and higher degree of due diligence and regular update of KYC profile shall be performed.

c) Documentation like KYC, Broker-customer agreement and Risk Disclosure Document and other information from different category of customer prescribed by SEBI and any other regulatory authority to be collected depending on perceived risk and having regard to the requirement to the Prevention of Money Laundering Act 2002, guidelines issued by RBI and SEBI from time to time.

d) Ensure that a customer account is not opened where the organization is unable to apply appropriate due diligence measures/KYC policies with respect to the customer. This may be applicable in cases where it is not possible to ascertain the identity of the customer, information provided to the organization is suspected to be non-genuine, perceived non-cooperation of the customer in providing full and complete information. Business with such a client shall be discontinued and a suspicious activity report shall be filed.

e) Adequate formalities shall be complied with when customer is permitted to act on behalf of another person/ entity. It shall be clearly specified in manner the account shall be operated, transaction limits for the operation, additional authority required for transactions exceeding a specified quantity / value and other appropriate details. The rights and responsibilities of both the persons (i.e. the agent-customer registered with the Company as well as the person on whose behalf the agent is acting) shall be clearly laid down. Adequate verification of a person's authority to act on behalf the customer shall also be carried out.

f) Necessary checks shall be put in place before opening an account so as to ensure that the identity of the customer does not match with any person having known criminal background or is not banned in any other manner, whether in terms of criminal or civil proceedings by any enforcement agency worldwide.

g) Each customer shall not be allowed to have more than one account with us.

h) Situations where a registered customer has beneficial interest in accounts other than his shall be strictly monitored.

Acceptance of customers through Risk-Based Approach

Customers may be of a higher or lower risk category depending on circumstances such as the customer's background, type of business relationship or transaction etc. Based on the customer categorization, we shall adopt a customer due diligence process for higher risk categories of customers. Conversely, a simplified customer due diligence process may be adopted for lower risk categories of customers.

Customers of Special Category (CSC):

CSC customers include the following: -

1) Non-resident customers (NRI);

2) High Networth customers (HNI);

3) Trust, Charities, NGOs and organizations receiving donations;

4) Companies having close family shareholdings or beneficial ownership;

5) Politically exposed persons (PEP) of foreign origin;

6) Current / Former Head of State, Current or Former Senior High profile politicians and connected persons (immediate family, close advisors and companies in which such individuals have interest or significant influence);

7) Companies offering foreign exchange offerings;

8) Customers in high risk countries (where existence / effectiveness of money laundering controls is suspect, where there is unusual banking secrecy, Countries active in narcotics production, Countries where corruption (as per Transparency International Corruption Perception Index) is highly prevalent, Countries against which government sanctions are applied, Countries reputed to be any of the following – Havens / sponsors of international terrorism, offshore financial centers, tax havens, countries where fraud is highly prevalent;

9) Non face to face customers like our internet trading customers;

10) Customers with dubious reputation as per public information available etc.;

The above mentioned list can be modified depending on the categories of customers and we shall exercise independent judgment to ascertain whether new customers shall be classified as CSC or not.

Customer identification procedure:

To follow the Customer Identification procedure we need to follow following factors:

- The 'Know Your Customer' (KYC) policy shall be strictly observed with respect to the customer identification procedure needed to be carried out at different stages i.e. while establishing the Broker– customer relationship, while carrying out transactions for the customer or when have any doubts regarding the veracity or the adequacy of previously obtained customer identification data.

- The customer shall be identified by using reliable sources including documents / information. Obtain adequate information to satisfactorily establish the identity of each new customer and the purpose of the intended nature of the relationship.

- The information shall be adequate enough to satisfy competent authorities (regulatory / enforcement authorities) in future that due diligence was observed in compliance with the Guidelines. Each original document shall be seen prior to acceptance of a copy and it is verified and signed by Compliance Officer.

- Failure by prospective customer to provide satisfactory evidence of identity shall be noted and reported to the higher authority within the organization.

- SEBI has prescribed the minimum requirements relating to KYC for certain class of the registered intermediaries from time to time. Taking into account the basic principles enshrined in the KYC norms, internal guidelines shall be followed in dealing with customers and legal requirements as per the established practices. Also shall maintain continuous familiarity and follow-up where it notices inconsistencies in the information provided by the customer. The principles enshrined in the PML Act, 2002 as well as the SEBI Act, 1992 shall be followed, so that organization is aware of the customers on whose behalf it is dealing.

Record keeping:

For the purpose of the record keeping provision, we shall ensure compliance with the record keeping requirements contained in the SEBI Act, 1992, Rules and Regulations made there-under, PML Act, 2002 as well as other relevant legislation, Rules, Regulations, Exchange Bye-laws and Circulars.

Shall there be any suspected drug related or other laundered money or terrorist property, the competent investigating authorities would need to trace through the audit trail for reconstructing a financial profile of the suspect account. To enable this reconstruction, Company shall retain the following information for the accounts of their customers in order to maintain a satisfactory audit trail:

a. the beneficial owner of the account;

b. the volume of the funds flowing through the account; and

c. for selected transactions:

   - the origin of the funds;
   - the form in which the funds were offered or withdrawn, e.g. cash, cheques, etc.;
   - the identity of the person undertaking the transaction;
   - the destination of the funds;
   - the form of instruction and authority.

The organization shall ensure that all customer and transaction records and information are made available on a timely basis to the competent investigating authorities.

Retention of Records:

The following document retention terms shall be observed:

a. All necessary records on transactions, both domestic and international, shall be maintained at least for the minimum period of ten years (10) from the date of cessation of the transaction.

b. Records on customer identification (e.g. copies or records of official identification documents like PAN card, passports, identity cards, driving licenses or Voter Identity Card or similar documents), account files and business correspondence shall also be kept for the ten years (10) from the date of cessation of the transaction.

c. Records of all trading details of the customer shall be stored for Ten years

d. Records shall be maintained in hard & soft copies.