



Association of Mutual Funds in India

**Minimum Standards Recommendations
on
Anti-Money Laundering
Combating Financing of Terrorism
&
Know Your Customer Policy**

June 2018



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1. Purpose of this document:

This document is intended to be recommendatory in nature towards a policy framework on Anti Money Laundering (AML) and Combating Financing of Terrorism (CFT) for Mutual Funds in India and details the processes that are recommended to be followed by Asset Management Companies (AMC's) as a minimum standard in meeting the various obligations of the AMCs on AML / CFT as stipulated under the Prevention of Money Laundering Act, 2002 and the Prevention of Money Laundering Rules, 2005, as amended from time to time, Master Circular dated December 31, 2010 issued by Securities & Exchange Board of India (SEBI) and other circulars issued by SEBI up to date.

2. Regulatory Framework

a. Financial Action Task Force (FATF)

The Financial Action Task Force (FATF) is an inter-governmental body established in 1989 by the Ministers of its Member jurisdictions. The objectives of the FATF are to set standards and promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats to the integrity of the international financial system. The FATF is therefore a “policy-making body” which works to generate the necessary political will to bring about national legislative and regulatory reforms in these areas. To achieve global implementation of the FATF Recommendations, the FATF relies on a strong global network of FATF-Style Regional Bodies, in addition to its own 37 members¹. The FATF currently comprises 35 member jurisdictions and 2 regional organizations, representing most major financial centers around the globe. India is a full member of the FATF since June 2010. First issued in 1990, the FATF Recommendations were since revised in 1996, 2001, 2003 and in 2012.

b. AML / CFT - the Indian context

The Prevention of Money Laundering Act, 2002 (“the Act”) was brought into force from July 1, 2005 and subsequently amended vide Prevention of Money Laundering (Amendment) Act, 2009 effective March 6, 2009 which was further amended vide Prevention of Money Laundering (Amendment) Act, 2012 effective Feb 15, 2013. It is applicable to:

1. Banking companies
2. Financial Institutions
3. Intermediaries registered with SEBI such as stock brokers, sub-brokers, share transfer agent, trustee to a trust deed, registrar to an issue, asset management company, depository participants, merchant bankers, underwriters, portfolio managers, investment advisors, and any other intermediary associated with the securities market and registered under Section 12 of the Securities and Exchange Board of India Act, 1992.
4. Pension Fund Regulatory and Development Authority.

¹ As on April 04, 2018 – Source: www.fatf-gafi.org



Definition of Money Laundering:

The Prevention of Money Laundering Act (PMLA), 2002 was enacted in January 2005. The Act along with the Rules framed there under has come into force with effect from 1st July, 2005. Section 3 of PMLA defines offence of money laundering as *“whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected with the proceeds of crime including its concealment, possession, acquisition or use and projecting or claiming it as untainted property shall be guilty of offence of money-laundering”*.

It prescribes obligations of banking companies, financial institutions and intermediaries (i.e. all reporting entities) for verification and maintenance of records of the identity of all its clients and also of all transactions and for furnishing information of these transactions in prescribed form to the Financial Intelligence Unit-India (FIU-IND).

c. Financial Intelligence Unit – India

Financial Intelligence Unit – India (FIU-IND) was set by the Government of India vide Office Memorandum dated November 18, 2004 as the central national agency responsible for receiving, processing, analyzing and disseminating information relating to suspect financial transactions. FIU-IND is also responsible for coordinating and strengthening efforts of national and international intelligence, investigation and enforcement agencies in pursuing the global efforts against money laundering and related crimes. FIU-IND is an independent body reporting directly to the Economic Intelligence Council (EIC), headed by the Union Finance Minister of India.

The PMLA, 2002 has been amended as the Prevention of Money Laundering (Amendment Act) Act, 2012 vide Gazette Notification dated January 04, 2012 on August 27, 2013, July 7, 2015 and on June 1, 2017. Some of the key amendments are -

- Obligation on reporting entities to appoint a “Designated Director”
- Reliance on a 3rd party for client due diligence (now permitted)
- Powers to audit / penalize any reporting entity by FIU-IND
- C-KYC, CERSAI as a central KYC registry
- Aadhaar number and PAN to be mandatorily obtained for new as well as existing accounts.

Failure to meet obligations by intermediaries empowers the Director - FIU-IND to:

- issue a warning in writing; *or*
- direct such reporting entity or its designated director on the Board or any of its employees, to comply with specific instructions; *or*
- 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*



- 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.

d. SEBI Guidelines on Anti-Money Laundering and Combating Financing of Terrorism

SEBI vide its circular dated January 18, 2006 issued guidelines on Anti Money Laundering Standards which mandated that all concerned *intermediaries* should ensure that a proper policy framework is put in place and they should be updated periodically. AMC's are also an intermediary (therefore a reporting entity also) under Section 12 of the SEBI Act. All intermediaries are required to designate a person as "Principal Officer (PO)" who is responsible for ensuring compliance of the provisions of the Act and liaise with the relevant authorities. The Principal Officer should be an official with sufficiently high position, independence and authority. All intermediaries are required to work within the overall ambit of the Act and Guidelines issued by SEBI in this context. Over the years, SEBI has issued various circulars with guidelines / directives vis-à-vis procedures and obligations on AML / CFT. SEBI has also issued a Master circular on AML / CFT dated December 31, 2010 which was later revised on March 12, 2014. These circulars also lay down the minimum requirements of controls and due diligences to address concerns of money laundering and suspicious transaction undertaken by clients. Directives to all intermediaries registered under SEBI are issued to ensure compliance with the standards set by FATF and FIU-IND on AML and CFT. These directives, *inter alia*, relate to:

- a. Know Your Customer (KYC) norms
- b. Client Due Diligence (CDD)
- c. Establishing Beneficial Ownership
- d. Monitoring of Transactions
- e. Record keeping and Retention
- f. Suspicious Transaction Monitoring & Reporting
- g. Staff Hiring Policies and Training Programs

3. Roles and responsibilities of the AMCs

The broad responsibilities of AMCs, *inter alia*, include –

- Appointment of a Designated Director and a Principal Officer
- Management Overview on KYC & Suspicious Transactions Reporting (STR) obligations
- Client Acceptance Policy and its periodic updation as required
- Adequate Client Due Diligence / Enhanced Due Diligence throughout the client relationship
- Monitoring of Clients of Special Categories
- Identification of Beneficial Ownership
- Alert monitoring and reporting using AMFI alerts and other AMC adopted criteria, if any
- Suspicious transactions review & its reporting to FIU-IND



- Reporting transactions of Non-Profit Organizations to FIU-IND
- Record keeping / Retention of documents
- Ensure periodic Internal Audit of AML regime
- Staff Hiring Standards & continuous training programs

Important:

- i. The Prevention of Money-laundering (Maintenance of Records) Amendment Rules, 2013 made it obligatory for reporting entities to appoint a Designated Director. This role assumes significance as it obligates such a person designated by the reporting entity to “ensure overall compliance with the obligations” of the PML Act and Rules.
- ii. The Principal Officer of any Asset Management Company (AMC) is the key officer responsible for implementation on an AML regime. He / she would be responsible for implementation of internal controls and procedures for identifying and reporting any suspicious transaction or activity to the concerned authorities, updation of policies and ensuring staff training on an ongoing basis. The Principal Officer is normally the one point contact for all interaction with the FIU-IND with regard to any reporting. He / she shall have access to and be able to report to senior management at the next reporting level or Board of Directors of the AMC.
- iii. It is recommended that an internal AML Committee (or any such committee for eg: Risk Management Committee) may be set up comprising of the Principal Officer (PO) and at least two members of sufficient seniority / experience to ensure unbiased judgment, independency and no internal conflict of interest. The objective of recommending a AML committee is to enable greater scrutiny and validation of potentially reportable STR’s, consider whether all possible factors were considered while arriving at a decision to report cases, that there is no individual prejudice towards a particular investor, so that a certain degree of collective judgment is applied while finalizing STRs. In that, besides the PO, other members would act independently and as facilitators in decision making, offer their considered views and opinions on related matters besides providing their stamp of approval to report STRs. They could also discuss general compliance, new regulations / legislations, co-approve of PEP relationships, help interpret FATF guidance(s) etc. It must be understood that AML/CFT policy making essentially remains the role of a PO, which may be decided / finalized in consultation with the Designated Director and approval by the AMC’s Board. The AML committee in such instances may offer their views on such policies prior to its finalization.
- iv. Besides this, AMC’s may decide on various approaches to manage and collate information at the regional level to support the central AML team. One such approach that could be considered is designating experienced staff as AML Coordinators (AMLCs). Their role could *inter alia* include



conducting training of staff, assist HO in any required manner, sharing of local media reports and any other support activity to assist the central AML team. AMLCs are expected to be familiar with local events and generally function as feeders of predicate offence related news to HO, assist in EDD of clients etc. Needless to add, confidentiality has to be maintained of the highest standards by them. In case AMC's decide to designate staff as AMLCs, they may want to conduct periodic "train the trainer" programs for AMLCs for effectiveness of their AML regime. They may also send in periodic reports as desired by the Principal Officer in respect of activities carried out, especially EDD and staff training.

- v. Principal Officers of AMC's, who are part of a conglomerate, must adhere to a group policy on AML/CTF which must be communicated to all management and relevant staff whether in branches, departments and subsidiaries. Therefore, it is highly recommended that Principal Officers of such AMC's (forming part of a conglomerate), meet periodically with the group's Principal Officers to share best practices and general updates on the subject.

4. Obligations of the AMCs

In terms of the obligations under the provisions of the Act and Guidelines, the implementation plan could cover the following key requirements:

a. Know Your Customer (KYC)

i. Customer Acceptance Policy

Know Your Customer (KYC) refers to, the activities of customer due diligence that financial institutions and other regulated companies must perform to identify their clients and ascertain relevant information pertinent to doing financial business with them. All intermediaries have to follow a process to identify their investors and assess their risk profile.

KYC compliance is mandatory for every client who invests with a Mutual Fund. Before the Fund decides to do business with a client, it should know who the client is. This is ensured by following prescribed KYC procedures for clients including meeting the investor personally or through the authorized distributors for in-person verification as well as verification of original officially valid documents which need to be submitted as proof of address and identity. Every individual will have to fill up a prescribed uniform KYC application form and support it with documents regarding identity i.e. PAN, proof of address, for e.g. Passport and a latest photograph. Further, details such as the investor's occupation, income, tax status, PEP details are required to be obtained by each intermediary. Additional documents to be submitted by non-individual entities which include details of promoters / partners / karta / trustees / whole time directors, as applicable. Certain category of investors have however



been exempted from providing PAN, but need to complete other KYC formalities. The exempt categories are as follows:

- i. In case of transactions undertaken on behalf of Central Govt. and / or State Govt. and by officials appointed by Courts e.g. Official liquidator, Court receiver etc.
- ii. Investors residing in the state of Sikkim.
- iii. UN entities/multilateral agencies exempt from paying taxes/filing tax returns in India
- iv. Micro investments up to ₹50,000 per annum (including permissible cash investments).

SEBI vide their circular dated December 02, 2011 has issued the SEBI {KYC (Know Your Client) Registration Agency (KRA)}, Regulations, 2011. The purpose then was to have uniform KYC norms for the securities market. In the KRA regime, a mechanism for centralization of the KYC records in the securities market has been developed. The KYC details of the investor will be shared amongst the KRAs in an interoperable mode (*Currently there are 5 KRAs, viz. NDML, CVL, KARVY, CAMSKRA & DotEx*). This mechanism currently is in use for all existing investors and also for non-individual investors, alongside the CKYC system. While new investors are currently on-boarded under the provisions of CKYC norms, AMC's must make all efforts to cover existing investors who are KRA KYC compliant, under the CKYC norms.

ii. Ultimate Beneficial Owner(s):

SEBI Master Circular No. CIR/ISD/AML/3/2010 dated December 31, 2010 on anti-money laundering standards and guidelines on identification of Beneficial Ownership issued by SEBI vide its Circular No. CIR/MIRSD/2/2013 dated January 24, 2013, investors (other than Individuals) are required to provide details of Ultimate Beneficial Owner(s) ("UBO(s)") and submit proof of identity (viz. PAN with photograph or any other acceptable proof of identity prescribed in common KYC form) of UBO(s).

iii. Aadhaar based e-KYC:

SEBI circular dated October 8, 2013, enables Aadhaar based e-KYC service offered by UIDAI for KYC verification on authorization by the client to the intermediary on a voluntary basis. e-KYC is done with the help of an investor's Aadhaar number. While completing the e-KYC, the authentication of the investor's identity can be done as follows:

- i. Via One Time Password (Limits investments to ₹50,000 per year per mutual fund and mandates investments via the online electronic mode)
- ii. Via Biometrics (No limit on the investment amount here unless those specifically imposed by the scheme/Fund house).



iv. Central KYC:

As per the amendment to PML (Maintenance of Records) Rules dated July 7, 2015 and SEBI circular number CIR/MIRSD/66/2016 dated July 21, 2016, the Government of India vide their notification dated November 26, 2015 authorized the Central Registry of Securitization Asset Reconstruction and Security Interest of India (CERSAI), set up under sub-section (1) of Section 20 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002), to act as and to perform the functions of the Central KYC Records Registry under the said rules, including receiving, storing, safeguarding and retrieving the KYC records in digital form of a “client”, as defined in clause (ha) of sub-section (1) of Section 2 of the Prevention of Money-Laundering Act, 2002.

It is an initiative of the Government of India where the aim is to have a framework in place which allows investors to do their KYC only once. That means an investor can use the CKYC issued unique number (comprising 14 digits) to transact/deal with all entities governed/regulated by Government of India/Regulator (RBI, SEBI, IRDA AND PFRDA) without the need to complete multiple KYC formalities, which was an inconvenience/hindrance hitherto. Operationalizing of CKYCR has been spelt out in AMFI Best Practices Guidelines Circular number 68/2016-17 dated December 22, 2016, which should be the basis for AMC's to implement.

b. Transaction Acceptance Policy

As a financial market intermediary, AMC's need to maintain a record of all the transactions, the nature and value of which have been prescribed in the Rules under the PMLA. Most investments are made vide cheques / electronic funds transfers. As per AMFI best practice guidelines, no third party cheques are accepted for investments barring a few permissible exceptions (viz. minor investors through guardians, employers on behalf of employees, custodian on behalf of FIs and principal on behalf of an agent/distributor/dealer). It is thus ensured that the funds for subscriptions are largely through a bank account where the first applicant is one of the account holders. Any transaction which does not meet the said criteria should not be accepted / processed.

Redemption / dividend payouts, if any, must be processed for direct credit into the bank account of the first unit holder electronically or paid vide cheque favoring the first unit holder along with the bank account details.

All officials at Investor Service Centers (ISCs) of AMC's which act as Official Points of Acceptance (OPOA) for any Fund including the front offices of Registrar and Transfer Agents (RTAs) must ensure that applications for purchase of units and applications for registration for systematic transactions received at the respective OPOA's are from investors who are KYC certified or where the KYC acknowledgement / duly completed KYC application form along with requisite valid documentation, is submitted with the investment application.



In line with SEBI Circular number CIR/IMD/DF/ 21/2012 dated September 13, 2012, investments can be made by cash, subject to a limit of Rs. 50,000 per annum (limit revised vide SEBI circular dated May 22, 2014), per mutual fund from each investor. Such transactions must also be closely scrutinized as elaborated elsewhere in this note.

c. Client Due Diligence (CDD) and Enhanced Due Diligence (EDD)

The Act and Guidelines prescribe that investors should be subject to ongoing scrutiny throughout the course of a business relationship. It must be ensured that transactions are conducted in a manner consistent with the AMC's knowledge of a customer, their businesses, risk profile and also their declared income / source of funds, wherever possible. In order to ensure this, the Customer Due Diligence / Enhanced Due Diligence processes prescribed are as under:

i. Risk based approach:

A risk-based approach has been recommended under the SEBI guidelines wherein clients in certain special categories may be placed under increased monitoring and subject to an enhanced KYC. The level of Money Laundering risks that the Fund is potentially exposed to by an investor relationship largely depends on a few key factors. These are broadly:

- Transaction pattern of the client (complexity of transactions if any)
- Status of client (resident individual / non-resident / non-Individual)
- Value of investment with the Fund
- Type of product / service availed by the client
- Location of the client's domicile
- Client's business or profession
- Manner of remittance of funds
- Dubious background of clients (based on publicly available information)

ii. Categorization of Investors.

Investors must be continuously reassessed for categorization into various levels of risk viz., high, medium and low (see risk classification matrix below²). Depending on various factors like client occupation, income, investment value, tax status, PEP status, country of residence (in case of non-residents), their nationality, whether operating through power of attorney etc., investors must be assigned appropriate risk levels. This will enable AMC's to focus greater attention on high risk clients. Companies listed on the stock exchanges, are generally treated as low risk and may be white-listed. Similarly, investors with known credentials / acceptable background may be white-listed depending on the comfort / risk perception of each AMC.

² Meant to be only a framework and for illustration purposes. See footnote below the matrix



iii. Policy for establishing business relationship with Politically Exposed Persons:

SEBI circular ISD/AML/CIR-1/2009 dated September 1, 2009 defines Politically Exposed Persons (PEPs) as individuals who are or have been entrusted with prominent public functions in a foreign country, e.g. Heads of States or of Governments, senior politicians, senior government / judicial / military officers, senior executives of state-owned corporations, important political party officials etc. Family members or close relatives of such individuals are also considered as PEPs.

SEBI Master Circular dated December 19, 2008 on Anti Money Laundering (AML) and Combating Financing of Terrorism (CFT) - Obligations of Intermediaries under Prevention of Money Laundering Act, 2002 necessitates mutual funds to obtain senior management approval for establishing business relationship with PEPs and their close relatives / accounts of family members. Where a customer has been accepted and is subsequently found to be, or subsequently becomes a PEP, Mutual Funds must obtain senior management approval to continue the business relationship. The business relationships with PEPs who hold investments with the Fund must be closely reviewed by the AML Committee, along with their transactions / patterns of transactions.

iv. Clients of Special Category/ High Risk:

There are certain categories of investors, including high risk clients and PEPs, who are considered as Clients of Special Category (CSC) in terms of the SEBI Master Circular. These investors may be subjected to enhanced due diligence as determined by the AMC, basis the risk profile of the investor. Irrespective of the investment amount, some investors should be further treated as CSCs and subjected to enhanced due diligence, if required. The list of investors who fall in this category are *inter-alia* as mentioned below:

- a. Non-Resident clients.
- b. High Net-worth clients.
- c. Trust, Charities, Non-Governmental Organizations (NGOs) and organizations receiving donations.
- d. Companies having close family shareholdings or beneficial ownership
- e. Politically Exposed Persons (PEP).
- f. Current / Former Heads of State, current or former senior high profile politicians and connected persons.
- g. Clients in high risk countries (as designated by FATF for ex. Iran or North Korea).
- h. Non face to face clients

The PMLA Amendment Rules, 2009 states that the transactions of clients who are suspected to be engaged in “predicate offences” can be reported as suspicious irrespective of the value of transactions. The list of such predicate offences is available in the annual



report of the FIU-IND and is available on their website (refer to references at end of this report). Reasonable efforts may be taken in-house at AMC's to ascertain names of persons / entities involved in predicate offences based on other sources like Google alerts, databases of banned / tainted individuals & entities, alerts from branches, newspaper reports / Internet and other publicly available information at a defined periodicity, inquiries from LEAs / other regulatory bodies, UNSCR / MHA lists, leads from other group companies, adhoc reports etc. in addition to AMFI (Association of Mutual Funds in India) specified alerts.

List of individuals and entities which are subject to various sanction measures such as freezing of assets / accounts, denial of financial services etc., as approved by Security Council Committee is available on the United Nations website / Ministry of Home Affairs, Government of India (GoI). These names -may be monitored closely. The transactions of these clients are scrutinized regularly for the purpose of STR reporting and they could also be subject to enhanced due diligence. AMC's must note that very stringent standards apply (especially time lines for reporting to authorities), where their clients, if any, are found on the list of UNSCR / MHA. These are reporting standards prescribed by the regulator.

v. Disqualified Companies and Directors by Registrar of Companies (RoC)

The Government of India, vide its Press Information Bureau notification dated September 5, 2017, has exercised its powers under Section 248(5) of the Companies Act ("the Act") against companies deemed to be errant. In a decisive action, the names of over 2 lakh companies have been struck-off from the RoC. Also, the existing directors and Authorized Signatories of such struck-off companies are now de facto ex-directors or ex-Authorized Signatories. Since these struck-off companies have ceased to exist, the government has advised banks to restrict the operability of the bank accounts of these companies. These individuals will therefore not be able to operate bank accounts of such companies till they are legally restored under Section 252 of the Act or by an order of the National Company Law Tribunal. The list of these companies is available on the website of the Ministry of Corporate Affairs (MCA). Additionally, the MCA has also released a list of over 3 lakh disqualified directors of companies under section 164(2)(A) for non-compliance in matters such as not filing their financial statements/annual returns for three financial years, thereby violating provisions of the Act. AMFI has issued guidance on this matter and has advised AMC's to take the assistance of RTAs in collating information of such companies and its directors. Based on a search in the AMC's investor database, if found, AMC's may use their discretion including but not restricted to enhanced due diligence where required while dealing with these companies / directors or be guided by any higher internal guidance in such matters. Necessary further action, including filing a STR relating to both, the companies as well as the directors may be ensured.



Further, it is advisable to look for any changes – i.e. additions / deletions to the lists of these companies and directors on the websites of the RoC, on an on-going basis and consider suitable action as per this guidance.

d. Identification of Beneficial Ownership

AMC's must adhere to the SEBI Circular dated Jan 24, 2013 on beneficial ownership. The circular defines the various measures of establishing beneficial ownership, including thresholds of ownership, other means like voting rights, agreements and arrangements or in any other manner. These definitions apply to companies, partnerships, association / body of individuals and separately for trusts. Its applicability for listed companies and foreign investors are also stated. AMC's must follow these prescribed norms for their EDD requirements.

e. Suspicious Transactions: Identification, Monitoring, Reviewing and Reporting of transactions:

1. Suspicious Transactions

The PML Rules define suspicious transactions as:

“Suspicious transaction means a transaction, including an attempted 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 proceeds of an offence specified in the Schedule to the Act, regardless of the value involved; or
- b. appears to be made in circumstances of unusual or unjustified complexity; or
- c. appears to have no economic rationale or bonafide purpose; or
- d. gives rise to a reasonable ground of suspicion that it may involve financing of the activities relating to terrorism”.

How to identify potentially suspicious transactions?

Unusually large and complex transactions / patterns or transactions that are abnormal within the known relationship with a client and which seemingly have no economic rationale must be monitored and appropriate CDD and / or enhanced KYC as may be required for such clients, maybe conducted. The AMC should categorize “potentially suspicious transactions” on the basis of any of the following:

a. The Association of Mutual Funds in India (AMFI) criteria:

AMFI, in consultation with FIU-IND, has laid down a set of criteria which are standard for the Indian Mutual Fund industry, based which transactions are monitored and analyzed for further reporting by the AMCs.

b. Additional Criteria:

It is recommended that AMCs may review the transactions based on additional criteria other than those prescribed by AMFI, such as transactions in cash, multiple transactions



through various locations, investors of a specific location, predicate offences, multiple attempts at investments with KYC failures, possible abuse of the provisions of PAN exemption in order to avoid submitting PAN at the time of investment(s) etc.

c. Other sources for identification of potential suspicious transactions:

1. The regional newspapers / internet / other publically available information are regularly scanned on a “best effort basis” to find names of persons / entities involved in predicate offences.
2. Google alerts can be created for predicate offences for a timely update of any such activity / crime. Such investors, if found in the database and their identity is well established, maybe evaluated by the Principal Officer (PO) / AML committee and reported.
3. Based on the risk categorization of an investor especially high risk clients, transactions of such investors based in countries / territories notified by FATF as non-co-operative / following inadequate AML / CFT measures.
4. Transactions and patterns of transactions by PEPs
5. Names of unit holders are scanned against a list of banned entities issued by Security Council established pursuant to various United Nations' Security Council Resolutions (UNSCRs), list in the Schedule to the Order dated August 27, 2009 issued under Unlawful Activities (Prevention) Act, 1967 (UAPA) and Ministry of Home Affairs, Gol.
6. SEBI issues various orders from time to time against individuals and / or entities for reasons of misconduct / other charges, besides barring them from the securities markets. SEBI usually communicates these to fund houses. In addition, the SEBI website also has a list of debarred persons/entities under the tab Enforcement. These names may be treated like alerts and handled appropriately.
7. Check for names of unit holders against commercially available databases, where subscribed for, if any.

AMC's must ensure that all measures taken to identify suspicious transactions, whether reported or not should be documented for any future reference / audit.

d. Feedback from AMC branches:

Branch staff must be encouraged to notify reporting of any suspicious activity “directly” to the Principal Officer (to avoid tipping off). The definition of suspicious transactions as per the PMLA Amendment Rules, 2009 includes “attempted transactions” as well. To identify such transactions, AMC's must be particularly alert to the following:



- Prospective / existing non KYC compliant investors who do not invest after being informed of the KYC norms.
- Prospective / existing non KYC compliant investors, who do not co-operate, insist that the KYC norms be relaxed / circumvented for accommodating their transactions.
- Branches may be trained to report any incriminating material and relevant information found in their local newspapers about persons / entities, who could be their investors

AMC's may, if they find reasons for suspicion, use discretion in analyzing such clients before they choose to report.

2. Transaction Monitoring / Review

On an ongoing basis, the AMC's may carry out scrutiny of clients especially clients in special categories / high risk categories, throughout the course of its business relationship in terms of AMFI criteria to ensure that the transactions being conducted are consistent with the Fund's knowledge of the client, its business and risk profile and also the source of funds. Anything unusual about clients / transaction pattern based on a set of internal parameters and various combinations of information should be closely monitored. If required, additional information for enhanced KYC purposes should be sought within a reasonable timeframe. All investigations for ascertaining suspicious transactions are dependent on the reasons for the STR alert and other factors mentioned elsewhere in this document. Multiplicity and complexity along with the value of the transactions may generally form the basis of reporting, other than adverse publicly available information. Alerts should not be sent to FIU-IND without appropriate scrutiny and affirmation that the transaction is suspicious in nature, backed by reasons.

3. Suspicious Transactions Reporting (STR)

In the event of any suspicious transactions that have been identified and there is non-availability of enhanced KYC information (including on account of non-cooperation by the client) to establish the bonafide of these transactions, the Fund should file a suspicious transactions report (STR) with the Director – Financial Intelligence Unit (FIU-IND) within prescribed timelines and format. The AML committee/team must in its judgment decide on the merit of the reporting of such cases found to be suspicious. The investors whose transactions are reported as “suspicious” may also be monitored by maintaining a suitable ‘watch-list’. If there is substantial increase in the amounts of the subsequent transactions of such investors, the case may be re-examined in detail and reported again as an STR



providing the background of the pattern of transactions, along with reasons for suspicion. All discussions and decisions during the AML Committee/team meetings should be appropriately documented (manual or electronically) and marked to all committee members.

All potentially “suspicious” transactions must be reviewed. This must cover the STR alerts on a regular basis “suspicious” cases must be reported to FIU within 7 days of establishing that the transactions was “suspicious”. The AMC should thus demonstrate reasonable due diligence standards for its AML program and record all reported cases with reasons for suspicion / KYC status / action taken etc. Cases that are not reported should also have adequate narrations about reasons for non-reporting and whether they are under a watch-list. However, transactions of the unit holders, if any, whose names match those specified in the United Nations’ Security Council 1267 list and the list provided by the Ministry of Home Affairs, Govt **must be** reported immediately (within 24 hours as prescribed). Refer SEBI circular ISD/AML/CIR-2/2009 dated October 23, 2009 where the form and manner of complying with this requirement is expressly stated.

4. Transactions of Non-Profit Organizations

As per Clause 3(BA) of PMLA Rules 2005 - Every reporting entity shall maintain the record of all transactions including, the record of all transactions involving receipts by non-profit organizations of value more than rupees ten lakh, or its equivalent in foreign currency. The NTR has to be furnished to FIU Director by the 15th day of the succeeding month. As per ‘The Prevention of Money-laundering (Maintenance of Records) Rules, 2005 Clause 2-(1)-(ca) “non-profit organization” means any entity or organization that is registered as a trust or a society under the Societies Registration Act, 1860 (21 of 1860) or any similar State legislation or a company registered under section 25 of the Companies Act, 1956 (1 of 1956)].

5. Risk Management

Apart from the said AMFI criteria, internal adhoc checks should be conducted on a regular basis to proactively identify any probable suspicious transactions. Following are some of the additional checks that could be done on a regular basis:

- a. FATF issues guidance on a periodic basis, on how to deal with high-risk and non-cooperative jurisdictions. This statement is forwarded to all AMC’s by SEBI and AMFI. Members are required to exercise caution while dealing with jurisdictions with strategic AML/ CFT deficiencies and in certain cases apply counter-measures.
- b. Transactions by PEPs or their close relatives/associates.
- c. Multiple attempts at investments with KYC failures.



- d. Online transactions based on multiple factors like frequency, redemptions to different bank mandates, transactions having no economic rationale (short period non-liquid fund transactions) etc
- e. Abuse of the provisions of PAN exemption in order to avoid submitting PAN at the time of investment(s) or is investing using multiple fronts.
- f. Names of unit holders should be scanned against a list of banned entities issued by Security Council established pursuant to various United Nations' Security Council Resolutions (UNSCRs), list in the Schedule to the Order dated August 27, 2009 issued under Unlawful Activities (Prevention) Act, 1967 (UAPA) and Ministry of Home Affairs, Gol and any such list as the AMC may wish to.

f. Cash Transactions:

The following is recommended to monitor cash transactions:

- a. Cash transactions should be monitored where investors are attempting to invest more than the prescribed amounts (i.e. ₹50,000 per annum, per fund per investor, per year)
- b. Investors may try to deposit amounts more than what is prescribed feigning ignorance and later ask for a refund. Such refunds would typically be paid through normal banking channels / cheque, which could potentially legitimize the funds for the investor
- c. Investors who use cash to invest and then carry out very short period redemptions, say within a month especially in equity / equity oriented schemes
- d. Identify same investors with different PEKRNs i.e. PAN Exempt KYC Registration Number where:
 - Multiple investments are made in different name but with same address
 - Investor address and transaction location is different.
- e. Additionally, the Principal Officer should be informed in case of any cash deposit where fake currency is used and as reported by the collecting bank.

g. Record Keeping of Transactions:

Under the Act and Guidelines, all intermediaries have an obligation of maintaining and preserving client and transactions related records. All necessary records on transactions, client documentation and business correspondence etc, should be maintained at least for the minimum period prescribed under the relevant Act and Rules (PMLA and rules framed there under as well SEBI Act) and other applicable legislations, Regulations or exchange bye-laws or circulars.. Records must be made available at all times for inspection by auditors and regulators.

h. Staff Hiring Policies and Training Programs:

AMC's must ensure that staff hired for the purposes of dealing with clients should be well screened and are suitable and competent for the job. Appropriate due diligence in the form of reference checks and other character checks should be conducted before a person is confirmed for the job. These steps taken to ascertain the background of the employee(s) must be documented.



Training is a subject of intense importance in relation to PMLA and its various requirements. All employees should be covered for training, through the following:

1. At the time of induction of new employees
2. Via periodic newsletters, where possible to branches using bulletins,
3. Reference material/s, case studies, incidents available to all staff through their Intranet / internal mechanism for information dissemination / electronic library etc.
4. Conference calls with relevant staff to update on important developments.

The AML staff of AMC's must be well trained on a continuous basis and sensitized to identify suspicious transacting activities of unit holders. This is important as branch staff could potentially be a key source of alerts for the AMC at a local level.

5. Implementation of policy for the PMS / AIF etc, if any

AMC's that have a Portfolio Management Service (PMS) / Alternative Investment Fund (AIF) division etc., under its fold must ensure that appropriate AML measures as stated in this document are applied those divisions also. The Principal Officer may ensure the same.

6. Role of Internal Auditors

The Act and Guidelines prescribe that the internal auditors should periodically check the efficacy of the alerts management and STR reporting process. The auditors, *inter alia*, may check as part of their scope of audit, the following:

- Third party cheques / instruments are not accepted for subscriptions.
- Subscriptions are accepted only from KYC compliant investors
- Transactions of PAN exempt category of investors are within the prescribed rules/thresholds.
- Transactions in cash / its prescribed threshold limits.
- Adequacy of a reporting mechanism to FIU-IND

The internal auditor's scope must cover a review of implementation of the Act and various SEBI circulars on a periodic basis and may report their findings to the Audit Committee of the Board / Board of Directors.



7. Role of Trustee and the Board of Directors of Asset Management Company

The Trustee / Board of Directors should ensure that the AML / CFT policy adopted is practiced and that the AMC is compliant. The scope of any audit program at an AMC largely revolves around such policy / extant regulations. The Trustee / Board of Directors must review the audit reports and engage with management to ensure implementation of its AML program on an ongoing basis, besides addressing comments from audit reports, regulators and authorities, if any. If the AML policy warrants any change, keeping in mind operational / regulatory / legislative changes, the same must be incorporated.

8. References

1. Website of FIU-IND : <http://www.fiuindia.gov.in/>
2. FIU-IND Annual Report: <http://www.fiuindia.gov.in/pdfs/downloads/annualreport2015-16.pdf>
3. Predicate Offences as listed under the Prevention of Money Laundering Act - <http://www.fiuindia.gov.in/pdfs/downloads/annualreport2013-14.pdf> (Page 55)
4. SEBI Master Circular on AML – December 2010:
http://www.sebi.gov.in/legal/master-circulars/dec-2010/aml-cft-master-circular_14421.html
5. Amendment to PML (Maintenance of Records), Rules dated June 1, 2017 regarding Aadhaar
<http://www.egazette.nic.in/WriteReadData/2017/176407.pdf>
6. SEBI circular No. CIR/IMD/FPIC/CIR/P/2018/64 dated April 10, 2018



Risk Rating Matrix			
Whitelisted investors do not go through the risk rating process			
Risk assignment based on various parameters			
Risk Parameter	Type	Associated Rating (0 being lowest and 10 being highest)	Weight age (%) [Total should be 100]
Tax Status	Bank / Financial Institution	0	10
	Provident Fund / EPF	0	
	Superannuation Fund	0	
	Gratuity Fund	0	
	Pension Fund	0	
	NPS Trust	0	
	Foreign Inst. Invest	0	
	Individual	1	
	On Behalf Of Minor	1	
	HUF	1	
	Sole Proprietorship	1	
	Partnership Firm	3	
	Body Corporate	4	
	Society	4	
	AOP/BOI	5	
	Limited Liability Partnership	5	
	Trust	7	
	NRI Through NRO A/c	8	
	NRI	8	
	NRI - Others	8	
Non-Resident Minor	8		
Non-Resident HUF	8		
Others	10		
Occupation	Service	1	5
	Retired	1	
	Agriculture	4	
	Professional	5	
	Housewife	7	
	Student	7	
	Business	7	
	Others	10	
	Not Specified	10	
	Unknown	10	
PEP Status	No	1	15
	Yes	10	
KYC Validated	No	8	10
	Yes	1	
Investment amount (single investment)	Upto 1 lac	1	10
	>= 1 lac < 1.5 lac	2	
	>= 1.5 lac < 2 lac	5	
	>= 2 lac < 5 lac	2	
	>= 5 lac < 10 lac	3	
	>=10 lac <1cr	4	
	>=1cr	7	
Country of Residence	North Korea	5	10
	Iran	5	
	Others	1	
Investments via Demand Draft	<= 3	0	5
	4 to 7	4	
	> 7	7	



Risk Rating Matrix			
Whitelisted investors do not go through the risk rating process			
Risk assignment based on various parameters			
Risk Parameter	Type	Associated Rating (0 being lowest and 10 being highest)	Weight age (%) [Total should be 100]
Bank accounts held [Inv. + Redemption]	Upto 3	0	5
	3 to 5	4	
	> 5	8	
World Check / UNSC / MHA listed	No	0	20
	Yes	10	
Folios held [as 1 st holder]	<= 5	1	5
	5 to 20	4	
	> 20	7	
Folios held [as JHs]	<= 5	1	5
	5 to 20	5	
	> 20	10	

Note: This is only meant to be a framework and for illustration purposes. AMCs may adopt the same / adapt from this matrix as deemed fit, change parameters to suit their risk assessment norms

Computation of Risk rating (0 being lowest and 10 being highest):	
Step 1	Compute the rating in each risk parameter as the product of the associated rating and weight age
Step 2	Add the rating for each risk parameter to arrive at the total risk rating
Step 3	Classify risk rating of up to 1.5 as "Low", 1.5 to 2.5 as "Medium" and more than 2.5 as "High"

Examples:	
Example 1	An individual businesswoman with no political affiliations (as per KYC declarations), not featuring in any negative lists, residing in Kanpur who has made 4 investments each of Rs. 30 lac via demand draft and holding 4 bank accounts, 11 folios as 1st holder and 2 as 3rd holder
Rating : (1*0.10) + (7*0.10) + (1*0.15) + (1*0.10) + (4*0.10) + (1*0.10) + (4*0.05) + (4*0.05) + (0*0.20) + (4*0.05) + (1*0.05) which results in a total rating of 2.20	
Example 2	An NRI into service with no political affiliations (as per KYC declarations), not featuring in any negative lists, residing in Iran and holding 1 folio and has made an investment of Rs. 2 cr via cheque payment. He holds 6 bank accounts, 1 folio as 1st holder and 12 as 2nd holder
Rating : (8*0.10) + (1*0.10) + (1*0.15) + (1*0.10) + (7*0.10) + (5*0.10) + (0*0.05) + (8*0.05) + (0*0.20) + (1*0.05) + (5*0.05) which results in a total rating of 3.05	



Simulations for Computation of Risk Rating

Investor 1					
Whitelist				No	
S.No.	Risk Parameters	Type	Rating	Weightage	
1	Tax Status	Individual	1	0.10	
2	Occupation	Housewife	7	0.05	
3	PEP Status	Yes	10	0.15	
4	KYC Validated	No	8	0.10	
5	Investment Amount (single investment)	=>1cr	7	0.10	
6	Country of Residence	Others	1	0.10	
7	Investments via Demand Drafts	<= 3	0	0.05	
8	Bank Accounts Held (Inv + Red)	3 to 5	4	0.05	
9	World Check / UNSC / MHA listed	Yes	10	0.20	
10	Folios held [as 1st holder]	5 to 20	4	0.05	
11	Folios held [as JHs]	<= 5	1	0.05	

Risk Rating	6.00
Risk Classification	High

Investor 2					
Whitelist				No	
S.No.	Risk Parameters	Type	Rating	Weightage	
1	Tax Status	Individual	1	0.10	
2	Occupation	Business	7	0.05	
3	PEP Status	No	1	0.15	
4	KYC Validated	Yes	1	0.10	
5	Investment Amount (single investment)	=>1cr	7	0.10	
6	Country of Residence	Others	1	0.10	
7	Investments via Demand Drafts	<= 3	0	0.05	
8	Bank Accounts Held (Inv + Red)	> 5	8	0.05	
9	World Check / UNSC / MHA listed	No	0	0.20	
10	Folios held [as 1st holder]	> 20	7	0.05	
11	Folios held [as JHs]	5 to 20	5	0.05	

Risk Rating	2.50
Risk Classification	Medium

Investor 3					
Whitelist				No	
S.No.	Risk Parameters	Type	Rating	Weightage	
1	Tax Status	Trust	7	0.10	
2	Occupation	Others	10	0.05	
3	PEP Status	No	1	0.15	
4	KYC Validated	Yes	1	0.10	
5	Investment Amount (single investment)	=>10 lac <1cr	4	0.10	
6	Country of Residence	Others	1	0.10	
7	Investments via Demand Drafts	4 to 7	4	0.05	
8	Bank Accounts Held (Inv + Red)	3 to 5	4	0.05	
9	World Check / UNSC / MHA listed	No	0	0.20	
10	Folios held [as 1st holder]	5 to 20	4	0.05	
11	Folios held [as JHs]	<= 5	1	0.05	

Risk Rating	2.60
Risk Classification	High



Investor 4				
Whitelist			Yes	
S.No.	Risk Parameters	Type	Rating	Weightage
1	Tax Status	Bank / Financial Institution	0	0.10
2	Occupation	Others	0	0.05
3	PEP Status	No	0	0.15
4	KYC Validated	Yes	0	0.10
5	Investment Amount (single investment)	>= 1.5 lac < 2 lac	0	0.10
6	Country of Residence	Others	0	0.10
7	Investments via Demand Drafts	<= 3	0	0.05
8	Bank Accounts Held (Inv + Red)	Upto 3	0	0.05
9	World Check / UNSC / MHA listed	No	0	0.20
10	Folios held [as 1st holder]	<= 5	0	0.05
11	Folios held [as JHs]	<= 5	0	0.05

Risk Rating	0.00
Risk Classification	Low

Investor 5				
Whitelist			No	
S.No.	Risk Parameters	Type	Rating	Weightage
1	Tax Status	Sole Proprietorship	1	0.10
2	Occupation	Business	7	0.05
3	PEP Status	Yes	10	0.15
4	KYC Validated	No	8	0.10
5	Investment Amount (single investment)	=>10 lac <1cr	4	0.10
6	Country of Residence	Others	1	0.10
7	Investments via Demand Drafts	> 7	7	0.05
8	Bank Accounts Held (Inv + Red)	3 to 5	4	0.05
9	World Check / UNSC / MHA listed	Yes	10	0.20
10	Folios held [as 1st holder]	5 to 20	4	0.05
11	Folios held [as JHs]	<= 5	1	0.05

Risk Rating	6.05
Risk Classification	High

Investor 6				
Whitelist			No	
S.No.	Risk Parameters	Type	Rating	Weightage
1	Tax Status	NRI	8	0.10
2	Occupation	Service	1	0.05
3	PEP Status	No	1	0.15
4	KYC Validated	No	8	0.10
5	Investment Amount (single investment)	>= 5 lac < 10 lac	3	0.10
6	Country of Residence	Iran	5	0.10
7	Investments via Demand Drafts	<= 3	0	0.05
8	Bank Accounts Held (Inv + Red)	Upto 3	0	0.05
9	World Check / UNSC / MHA listed	No	0	0.20
10	Folios held [as 1st holder]	<= 5	1	0.05
11	Folios held [as JHs]	<= 5	1	0.05

Risk Rating	2.70
Risk Classification	High



Investor 7				
Whitelist			No	
S.No.	Risk Parameters	Type	Rating	Weightage
1	Tax Status	Partnership Firm	3	0.10
2	Occupation	Business	7	0.05
3	PEP Status	No	1	0.15
4	KYC Validated	Yes	1	0.10
5	Investment Amount (single investment)	Upto 1 lac	1	0.10
6	Country of Residence	Others	1	0.10
7	Investments via Demand Drafts	4 to 7	4	0.05
8	Bank Accounts Held (Inv + Red)	> 5	8	0.05
9	World Check / UNSC / MHA listed	No	0	0.20
10	Folios held [as 1st holder]	5 to 20	4	0.05
11	Folios held [as JHs]	<= 5	1	0.05

Risk Rating	1.95
Risk Classification	Medium

Investor 8				
Whitelist			No	
S.No.	Risk Parameters	Type	Rating	Weightage
1	Tax Status	On Behalf of Minor	1	0.10
2	Occupation	Retired	1	0.05
3	PEP Status	No	1	0.15
4	KYC Validated	Yes	1	0.10
5	Investment Amount (single investment)	>= 1 lac < 1.5 lac	2	0.10
6	Country of Residence	Others	1	0.10
7	Investments via Demand Drafts	<= 3	0	0.05
8	Bank Accounts Held (Inv + Red)	Upto 3	0	0.05
9	World Check / UNSC / MHA listed	No	0	0.20
10	Folios held [as 1st holder]	<= 5	1	0.05
11	Folios held [as JHs]	<= 5	1	0.05

Risk Rating	0.80
Risk Classification	Low

Investor 9				
Whitelist			Yes	
S.No.	Risk Parameters	Type	Rating	Weightage
1	Tax Status	Foreign Inst. Invest	0	0.10
2	Occupation	Others	0	0.05
3	PEP Status	No	0	0.15
4	KYC Validated	Yes	0	0.10
5	Investment Amount (single investment)	>= 1 lac < 1.5 lac	0	0.10
6	Country of Residence	Others	0	0.10
7	Investments via Demand Drafts	<= 3	0	0.05
8	Bank Accounts Held (Inv + Red)	Upto 3	0	0.05
9	World Check / UNSC / MHA listed	No	0	0.20
10	Folios held [as 1st holder]	<= 5	0	0.05
11	Folios held [as JHs]	<= 5	0	0.05

Risk Rating	0.00
Risk Classification	Low



Investor 10				
Whitelist			No	
S.No.	Risk Parameters	Type	Rating	Weightage
1	Tax Status	AOP/BOI	5	0.10
2	Occupation	Others	10	0.05
3	PEP Status	No	1	0.15
4	KYC Validated	Yes	1	0.10
5	Investment Amount (single investment)	>= 2 lac < 5 lac	2	0.10
6	Country of Residence	Others	1	0.10
7	Investments via Demand Drafts	4 to 7	4	0.05
8	Bank Accounts Held (Inv + Red)	3 to 5	4	0.05
9	World Check / UNSC / MHA listed	No	0	0.20
10	Folios held [as 1st holder]	5 to 20	4	0.05
11	Folios held [as JHs]	<= 5	1	0.05

Risk Rating	2.20
Risk Classification	Medium

Note: You may also use the attached excel sheet for simulation purposes.