

Notification No.13/2009 - Amendment to Rules

Notification No.13/2009 dated 12-11-2009 amends rule 2, 3, 5, 6, 7, 8, 9 and 10 of the Rules notified by Notification No.9/2005.

Ministry Of Finance
(Department of Revenue)
Notification

New Delhi, the 12th Nov, 2009

G.S.R.816(E) - In exercise of the powers conferred by clauses (a), (b) and (c) of sub-section (1) of section 12 and section 15 read with clauses (h), (i), (j) and (k) of sub-section (2) of section 73 of the Prevention of Money-laundering Act, 2002 (15 of 2003), the Central Government, in consultation with the Reserve Bank of India, hereby makes the following rules further to amend 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, namely :-

1. (1) These rules may be called 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) Amendment Rules, 2009.
- (2) They shall come into force on the date of their publication in the Official Gazette.
2. In 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 (hereinafter referred to as the principal rules), -

in rule 2, in sub-rule (1), -

- (a) after clause (c), the following clause shall be inserted, namely :-

'(ca) "non profit organisation" means any entity or organisation 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);;

(b) after clause (f), the following clause shall be inserted, namely :-

'(fa) "Regulator" means a person or an authority or a Government which is vested with the power to license, authorise, register, regulate or supervise the activity of banking companies, financial institutions or intermediaries, as the case may be;';

(c) for clause (g), the following clause shall be substituted, namely :-

'(g) "Suspicious transaction" means a transaction referred to in clause (h), 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;'

3. In the principal rules, in rule 3, in sub-rule (1), after clause (B), the following clause shall be inserted, namely :-

"(BA) all transactions involving receipts by non-profit organisations of value more than rupees ten lakh, or its equivalent in foreign currency;"

4. In the principal rules, in rule 5, for the words "the Reserve Bank of India or the Securities and Exchange Board of India, or the Insurance Regulatory Development Authority, as the case may be," where ever they occur, the words, "its Regulator," shall be substituted.

5. In the principal rules, for rule 6, the following rule shall be substituted, namely :-

"6. Retention of records of transactions-The records referred to in rule 3 shall be maintained for a period of ten years from the date of transactions between the client and the banking company.

financial institution or intermediary, as the case may be."

6. In the principal rules, in rule 7, for the words "the Reserve Bank of India or the Securities and Exchange Board of India, or the Insurance Regulatory Development Authority, as the case may be," where ever they occur, the words, "its Regulator," shall be substituted;

7. In the principal rules, in rule 8, -

(a) in sub-rule (1), for the word, brackets and letters, "clauses(A) and (B)", the word, brackets and letters "clauses (A), (B) and (BA)" shall be substituted;

(b) after sub-rule (3), the following proviso shall be inserted at the end, namely :-

"Provided that a banking company, financial institution or intermediary, as the case may be, and its employees shall keep the fact of furnishing information in respect of transactions referred to in clause (D) of sub-rule (1) of rule 3 strictly confidential."

8. In the principal rules, in rule 9, -

(a) for sub-rules (1) and (2), the following sub-rules shall be substituted, namely :-

"(1) Every banking company, financial institution and intermediary, as the case may be, shall,

(a) at the time of commencement of an account-based relationship, identify its clients, verify their identity and obtain information on the purpose and intended nature of the business relationship, and

(b) in all other cases, verify identity while carrying out :

(i) transaction of an amount equal to or exceeding rupees fifty thousand, whether conducted as a single transaction or several transactions that appear to be connected, or

(ii) any international money transfer operations.

(1A) Every banking company, financial institution and intermediary, as the case maybe, shall identify the beneficial owner and take all reasonable steps to verify his identity.

(1B) Every banking company, financial institution and

intermediary, as the case maybe, shall exercise ongoing due diligence with respect to the business relationship with every client and closely examine the transactions in order to ensure that they are consistent with their knowledge of the customer, his business and risk profile.

- (1C) No banking company, financial institution or intermediary, as the case may be, shall keep any anonymous account or account in fictitious names.
- (2) Where the client is an individual, he shall for the purpose of sub-rule (1), submit to the banking company, financial institution and intermediary, as the case may be, one certified copy of an 'officially valid document' containing details of his identity and address, one recent photograph and such other documents including in respect of the nature of business and financial status of the client as may be required by the banking company or the financial institution or the intermediary, as the case may be.

Provided that photograph need not be submitted by a client falling under clause (b) of sub-rule (1).";

- (b) after sub-rule (6), the following sub-rule shall be inserted, namely :-

"(6A) Where the client is a juridical person, the banking company, financial institution and intermediary, as the case may be, shall verify that any person purporting to act on behalf of such client is so authorised and verify the identity of that person.";

- (c) for sub-rule (7), the following sub-rule shall be substituted, namely :-

"(7) (i) The regulator shall issue guidelines incorporating the requirements of sub-rules (1) to (6A) above and may prescribe enhanced measures to verify the client's identity taking into consideration type of client, business relationship or nature and value of transactions.

(ii) Every banking company, financial institution and intermediary as the case may be, shall formulate and implement a Client Identification Programme to determine the true identity of its clients, incorporating requirements of sub-rules (1) to (6A) and guidelines issued under clause (i) above.

9. In the principal rules, in rule 10, for the words "the Reserve Bank of India or the Securities and Exchange Board of India, or the Insurance Regulatory Development Authority, as the case may be," where ever they occur, the

words, "its regulator," shall be substituted;

Sd/-

(S.G.P.Vergheese)

Under Secretary to the Government of India

[Notification No.13/2009/F.No.6/8/2009-ES]

Note : The principal rules were published in Part II, Section 3, Sub-section (i) of the Gazette of India, Extraordinary vide number G.S.R.No.444(E), dated 1st July, 2005 and subsequently amended vide number G.S.R.No.717(E), dated 13th December, 2005 and G.S.R.No.389(E), dated 24th May, 2007.