

FAQ ON ANTI MONEY LAUNDERING (AML) STANDARDS

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SPASL is committed to comply with the various applicable acts, rules, regulations and guidelines pertaining to Know Your Client (KYC) norms, Anti Money Laundering (AML), Client Due Diligence (CDD) and Combating Financing of Terrorism (CFT). These Frequently Asked Questions (FAQ) have been designed as an endeavor to provide with investors and clients some insight about KYC, AML and CFT standards.

PART – A – ANTI MONEY LAUNDERING AND COMBATING FINANCING OF TERRORISM	
Q.1.	<p>What is Money Laundering & Terrorist Financing?</p> <p>Money laundering is the process by which the illegal origin of wealth is disguised to avoid suspicion of law enforcement authorities and to wipe the trail of incriminating evidence. Terrorists and terrorist organizations though may not be keen to disguise the origin of their money but would be interested in concealing the destination and the purpose for which the money is collected. Therefore terrorists and terrorist organization could also employ techniques to hide and disguise money. Governments around the world recognize the corrosive dangers that unchecked money laundering poses to their economic and political systems and has prescribed acts, rules and regulation for prevention of money laundering.</p>
Q.2.	<p>How does Money Laundering take place?</p> <p>Usually, the process of Money Laundering goes through the following three stages :</p> <p>(a) Placement:- The Money Launderer, who is holding the money generated from criminal activities, introduces the illegal funds into the financial system. This might be done by breaking up large amount of cash into less conspicuous smaller sums which are deposited directly into a Bank Account or by purchasing a series of instruments such as Cheques, Bank Drafts etc., which are then collected and deposited into one or more accounts at another location.</p> <p>(b) Layering:- The second stage of Money Laundering is layering. In this stage, the Money Launderer typically engages in a series of continuous conversions or movements of funds, within the financial or banking system by way of numerous accounts, so as to hide their true origin and to distance them from their criminal source. The Money Launderer may use various channels for movement of funds, like a series of Bank Accounts, sometimes spread across the globe, especially in those jurisdictions which do not co-operate in anti Money Laundering investigations.</p> <p>(c) Integration:- Having successfully processed his criminal profits through the first two stages of Money Laundering, the Launderer then moves to this third stage in which the funds reach the legitimate economy, after getting inseparably mixed with the legitimate money earned through legal sources of income. The Money Launderer might then choose to invest the funds into real estate, business ventures & luxury assets, etc. so that he can enjoy the laundered money, without any fear</p>

	<p>of law enforcement agencies.</p> <p>The above three steps may not always follow each other. At times, illegal money may be mixed with legitimate money, even prior to placement in the financial system. In certain cash rich businesses, like Casinos (Gambling) and Real Estate, the proceeds of crime may be invested without entering the mainstream financial system at all.</p>
Q.3.	What has been the international response to tackle Money Laundering?
	<p>To tackle the money laundering, the Financial Action Task Force on money laundering (FATF) was established by the G-7 Summit in Paris in 1989 to develop a co-ordinated international response. One of the first tasks of the FATF was to develop Recommendations which set out the measures national governments should take to implement effective anti-money laundering programmes. The Forty Recommendations and Nine Special Recommendations of FATF provide a complete set of counter-measures against Money Laundering covering the criminal justice system and law enforcement, the financial system and its regulation, and international co-operation. These recommendations have been recognised, endorsed, or adopted by many international bodies as the international standards for combating money laundering.</p>
Q.4.	What steps have been taken by the Government of India to tackle the menace of Money Laundering?
	<p>Government of India is committed to tackle the menace of Money Laundering and has always been part of the global efforts in this direction. India is signatory to the following UN Conventions, which deal with Anti Money Laundering / Countering the Financing of Terrorism :</p> <ol style="list-style-type: none"> 1. International Convention for the Suppression of the Financing of Terrorism (1999) 2. UN Convention against Transnational Organized Crime (2000) 3. UN Convention against Corruption (2003)
Q.5.	What is PMLA & what is its Object?
	<p>PMLA refers to the Prevention of the Money Laundering Act, 2002. PMLA has been enacted in pursuance to the political declaration adopted by the special session of the United Nations General Assembly (UNGASS) held on 8 to 10 June 1998 calling upon member states to adopt Anti Money Laundering Legislation & Programme.</p> <p>As stated in the Preamble to the PMLA, it is an Act to prevent Money Laundering and to provide for confiscation of property derived from, or involved in Money Laundering.</p>
Q.6.	Which agency administers the Prevention of Money Laundering Act?
	The Directorate of Enforcement of the Department of Revenue, Ministry of Finance is responsible for administering the Prevention of Money Laundering Act.
Q.7.	What is the offence of Money Laundering?
	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 and projecting it as untainted property shall be guilty of offence of money-laundering .(Section 3 of PMLA)
Q.8.	What is a 'Scheduled Offence' under PMLA?

	<p>The offences listed in the Schedule to the Prevention of Money Laundering Act, 2002 are scheduled offences in terms of Section 2(1)(y) of the Act. With the amendment of the Act in 2009, a large number of offences have been included in the Schedule of the Act. The scheduled offences are divided into three parts - Part A, Part B, & Part C.</p> <p>In Part A, certain serious offences such as those connected with waging war against the Nation, circulation of Fake Indian Currency Notes, offences relating to Narcotic Drugs, etc. have been included, wherein no monetary limit for initiating action under PMLA has been prescribed.</p> <p>In relation to offences under Part 'B' of the schedule, the value involved should be Rs 30 Lakhs or More.</p> <p>Part 'C' of the Schedule deals with trans-border crimes, and is a vital step in tackling Money Laundering across international boundaries.</p>
Q.9.	Who can investigate a case of Money Laundering ?
	As per the PMLA, the officers of the Directorate of Enforcement have been given powers to investigate cases of Money Laundering . The officers have also been authorised to initiate proceedings for attachment of property and to launch prosecution in the designated Special Court.
Q.10.	What are the possible actions which can be taken against persons/properties involved in Money Laundering?
	<p>Following actions can be taken against the persons involved in Money Laundering:-</p> <p>(a) Attachment of property derived or obtained as a result of a scheduled offence. The attached properties may be confiscated and disposed off. (Sections 5 & 8 of the Act).</p> <p>(b) Persons found guilty of an offence of Money Laundering are punishable with imprisonment for a term which shall not be less than three years but may extend up to seven years and shall also be liable to a fine up to Rupees 5 Lakhs (Section 4 of the Act). When the scheduled offence is committed under the Narcotic and Psychotropic Substances Act, 1985, the punishment shall be imprisonment for a term which shall not be less than three years but may extend upto ten years and liable to a fine of upto Rs.5 lakhs.</p>
Q.11.	What are the obligations of Banking Companies, Financial Institutions and Intermediaries of securities market in terms of the provisions of PMLA,2002?
	Every banking company, financial institution and intermediary has to maintain a record of all transactions, the nature and value of which may be prescribed, whether such transactions comprise a single transaction or a series of transactions integrally connected to each other and furnish such information to the Director within such time as prescribed. They are also to verify and maintain the records of the identity of all its clients, in prescribed manner. These records are to be maintained for a period of ten years.