



## JSA Prism Anti-Money Laundering



July 2023

### AML & CFT Guidelines for professionals with certificates of practice from SRBs

The Financial Intelligence Unit-India (“**FIU-IND**”) under the Ministry of Finance introduced Anti-Money Laundering (“**AML**”) and Countering the Financing of Terrorism (“**CFT**”) Guidelines (“**Guidelines**”) effective from June 19, 2023. The Guidelines are for professionals with certificates of practice from statutory bodies such as Institute of Chartered Accountants of India, Institute of Company Secretaries of India, and Institute of Cost Accountants of India (“**SRBs**”).

These Guidelines have been issued pursuant to the Central Government notification dated May 3, 2023 (“**Notification**”), wherein practicing chartered accountants, company secretaries, and cost and management accountants (“**Relevant Persons**”) fall within the scope of designated businesses or professions under the Prevention of Money Laundering Act, 2002 (“**PMLA**”) when carrying out specified financial transactions by becoming reporting entities which are required to comply with certain record-keeping and reporting obligations. The Guidelines prescribe the necessary steps to be taken by reporting entities / Relevant Persons to prevent, detect, and report money laundering, terrorist financing, or proliferation financing (“**ML, TF, PF**”) activities.

#### Key Points

- 1. Establishing AML/CFT/CPF policies and controls:** Relevant Persons are required to adopt robust policies (board-approved, in case of firms) and procedures to address risks of ML, TF, PF activities. Periodic reviews are necessary to ensure compliance with extant statutory requirements and guidelines. Client acceptance, KYC policies, and client due diligence (“**CDD**”) measures must be implemented for the notified financial transactions.
- 2. Designated director and principal officer:** Relevant Persons (entities) are required to appoint a designated director and a principal officer. For others, i.e., individuals, they will be the principal officer for the purpose of the Prevention of Money-Laundering (Maintenance of Records) Rules, 2005 (“**PML Rules**”). The principal officers and/or designated directors have specific compliances, such as the requirement to furnish relevant information to the FIU-IND and report suspicious transactions. SRBs are required to maintain a list of the principal officers and/or designated directors, updating the FIU-IND periodically and as changes occur.
- 3. Enhanced due diligence (“**EDD**”):** Complex transactions, unusual patterns, and higher ML, TF, PF risks require EDD measures, such as frequent reviews, information from publicly available sources, and verifying the source(s) of funds. EDD is essential for high-risk jurisdictions or individuals, particularly tax havens and FATF grey/blacklisted countries. Filing a suspicious transaction report (“**STR**”) is necessary where EDD is not possible. Relevant Persons must maintain an accurate and current customer information, conduct robust due diligence, and store KYC data for up to 5 (five) years.

4. **Sanctions screening for notified activities:** Relevant Persons must conduct sanctions screening during customer onboarding, when carrying out notified activities, and when there are additions to designated lists.
5. **Reporting obligations:**
  - a) **Reporting Mechanism:** Relevant Persons are required to report to the FIU-IND through their respective SRBs, which will verify if they hold a certificate or practice. For this purpose, they must establish an internal mechanism.
  - b) **Reporting suspicious transactions:** Relevant Persons are required to promptly report suspicions related to funds suspected to be proceeds of crime or linked to ML, TF or PF to FIU-IND.
6. **Training:** Relevant Persons must train their employees (especially those in compliance roles) with instruction manuals covering KYC, CDD, sanctions, record-keeping, and transaction monitoring.
7. **Other compliances:**
  - a) **Counterparty screening:** Relevant Persons must assess emerging risks from their clients' counterparties, including suspicious transaction history, adverse media, and regulatory or criminal penalties information.
  - b) **Prohibition on tipping-off:** The Guidelines prohibit tipping off, preventing reporting entities, their directors, officers, and employees from disclosing the submission of STRs or related information to FIU-IND.
  - c) **Risk assessment:** Relevant Persons must conduct risk assessments to understand their exposure to ML and TF risks and adopt a risk-based approach to allocate resources.

## Summary

The Notification significantly expanded the ambit of the PMLA through inclusion of various professionals carrying out specified financial transactions. Given the extent of compliances required of individuals / firms that qualify as reporting entities, the Guidelines clarify the manner in which obligations under the PMLA and PMLA Rules are to be complied with. The Guidelines impose compliance requirements on SRBs as part of the reporting mechanism, such as establishing a Technical Committee and appointing a Nodal Officer. The Guidelines provide pointed instructions to Relevant Persons on implementing necessary institutional measures to adequately combat money-laundering and terrorism financing risks.

## Anti-Corruption, White Collar Crimes & Investigations Practice

JSA has a well-established and extensive White-Collar Crimes and Investigations practice which assists domestic and multinational corporates with internal investigations and fact-finding exercises along with advice on white collar crimes such as corruption, bribery, misgovernance, fraud, misconduct, money laundering, cybercrime, embezzlement and all other economic offences. We also advice on ancillary matters such as employment issues and data privacy concerns. JSA's white-collar practice provides comprehensive assistance and advice, from internal governance concerns to litigation, supported by trainings on white-collar crime laws and internal frameworks including internal policies and controls for senior executives, employees, and appropriate third parties.

Our experienced white-collar teams undertake complex risk assessments and anti-corruption compliance diligences as part of M&A and PE transactions, vetting target entities for compliance with white-collar crime laws and best practices. We have extensive experience in investigating internal issues arising out of misconduct, fraud, corruption, money laundering and other such matters with implications under various Indian laws. We have an in-depth understanding of the legal framework as well as the real-life nuances of operating a business in a high-risk jurisdiction, which we leverage to our clients' benefit while assisting on diverse matters. We specialise in investigations which include compliance investigations arising out of FCPA and UKBA matters in India, whistle blower complaints, HR / employee misconduct and breach of company policies.

Our white-collar crimes litigation team routinely represent clients from across industries and sectors in different fora including all courts, tribunals and judicial bodies in India, along with arbitrations and other forms of dispute resolution.

### This Prism has been prepared by:



**Rupinder Malik**

Partner



**Sriram SL**

Senior Associate



17 Practices and  
24 Ranked Lawyers



16 Practices and  
11 Ranked Lawyers



7 Practices and  
2 Ranked Lawyers



11 Practices and  
39 Ranked Partners  
**IFLR1000 APAC  
Rankings 2022**

-----  
Banking & Finance Team  
of the Year

-----  
Fintech Team of the Year

-----  
Restructuring & Insolvency  
Team of the Year



Among Top 7 Best Overall  
Law Firms in India and  
9 Ranked Practices

-----  
11 winning Deals in  
IBLJ Deals of the Year

-----  
10 A List Lawyers in  
IBLJ Top 100 Lawyer List



Banking & Financial Services  
Law Firm of the Year 2022

-----  
Dispute Resolution Law  
Firm of the Year 2022

-----  
Equity Market Deal of the  
Year (Premium) 2022

-----  
Energy Law Firm of the  
Year 2021



**Ranked #1**  
**The Vahura Best Law Firms to**  
**Work Report, 2022**

-----  
Top 10 Best Law Firms for  
Women in 2022

For more details, please contact [km@jsalaw.com](mailto:km@jsalaw.com)

[www.jsalaw.com](http://www.jsalaw.com)



Ahmedabad | Bengaluru | Chennai | Gurugram | Hyderabad | Mumbai | New Delhi



This prism is not an advertisement or any form of solicitation and should not be construed as such. This prism has been prepared for general information purposes only. Nothing in this prism constitutes professional advice or a legal opinion. You should obtain appropriate professional advice before making any business, legal or other decisions. JSA and the authors of this prism disclaim all and any liability to any person who takes any decision based on this publication.