

KNOW YOUR CUSTOMER - GUIDELINES

The Reserve Bank of India issues these guidelines under Section 35 A of Banking Regulation Act 1949, Banking Regulation Act (AACs) 1949, read with section 56 of the Act *ibid*, and Rule 19 of Prevention of Money Laundering (Maintenance of Records) Rules, 2005.

i) Applicability of Guidelines: These guidelines apply to all entities regulated (i.e. Banks, Financial Institutions, NBFCs and others) by Reserve bank of India and also to those branches and subsidiaries of Regulated Entities, which are located outside India, to the extent these guidelines are not contradicted by the local law of the host country. In case there is variance in KYC/AML of guidelines of the host country and RBI, the branches/subsidiaries of Regulated Entities are required to adopt more stringent of the two. Similarly branches of foreign banks may adopt the stringent of the two, the guidelines issued by RBI and issued by the host country. However, these rules shall not apply to Small Accounts.

ii) Important Terms

'Beneficial Owner' when the customer is

1. A company the beneficial owner is the natural person(s), whether acting alone or together, or through one or more juridical persons has/have a controlling ownership interest or who exercise control through other means.
 - i. Whereas Controlling Ownership means ownership of/entitlement to more than 10% of the share of profit, or capital or shares of the company
 - ii. Control means right to appoint majority of directors or to control management or policy decisions including by virtue of their shareholding or management rights or shareholder agreement or voting agreement.
2. A partnership concern, the beneficial owner is natural person(s), who acting alone or together, has/have ownership of/entitlement to 10% or more of the profits/capital of the partnership firm or who exercises control through other means.
3. An incorporated association or body of individuals, the beneficial owner means natural person(s), who acting alone or together, has/ have ownership of/entitle to 15% or more of the capital or property or profits of the incorporated association or body of individuals.

Where no natural is identifiable in above cases, the beneficial owner shall be natural person who holds the position of senior managing official.
4. A trust, the identification of beneficial owner(s) shall include identification of the author of the trust, the trustee, the beneficiaries with 10% or more interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control or ownership.

'Biometric Identification' defined in section 2(g) of Aadhaar Act means photograph, finger print, iris scan, or other such other biological attributes of an individual as specified by Aadhaar (authentication) Regulations.

'Central Identities Data Repository' defined in Section 2(f) of Aadhaar Act, means a centralized Data base at one or more locations, containing all Aadhaar numbers issued to Aadhaar number holders along with corresponding demographic information and biometric information of such individuals.

'Certified Copy' Obtaining a certified copy by the RE shall mean comparing the copy of the proof of possession of Aadhaar number where offline verification cannot be carried out or officially valid document so produced by the customer with the original and recording the same on the copy by the authorized officer of the RE. In case of NRI/PIO, a the original certified copy, certified by any of the following like Authorized officials of overseas branches of Indian Scheduled Banks, branches of overseas banks with whom Indian banks have relationship, Notary Public abroad, Court Magistrate, Judge, Indian Embassy/Consulate General may be obtained.

'Designated Director' means a person designated by RE to ensure overall compliance of obligation imposed under chapter IV of PML Act and Rules and shall include:

1. The Managing Director or whole-time director, as authorized by Board of Directors, if RE is a company
2. The Managing Partner, if RE is a partnership firm
3. The Proprietor if RE is a proprietorship firm

4. The Managing Trustee if RE is a Trust
5. A person or individual who controls the affair of unincorporated association or body of individuals.
6. A person who holds the position of senior management or equivalent designated as the 'Designated Director'

'Digital KYC' means the capturing live photo of the customer and officially valid document or the proof of possession of Aadhaar, where offline verification cannot be carried out, along with the latitude and longitude of the location where such live photo is being taken by an authorised officer of the RE as per the provisions contained in the Act.

'Digital Signature' shall have the same meaning as assigned to it in clause (p) of subsection (1) of section (2) of the Information Technology Act, 2000 (21 of 2000).

'Equivalent e-document' means an electronic equivalent of a document, issued by the issuing authority of such document with its valid digital signature including documents issued to the digital locker account of the customer as per rule 9 of the Information Technology (Preservation and Retention of Information by Intermediaries Providing Digital Locker Facilities) Rules, 2016

'FATCA' means Foreign Account Tax Compliance Act of the United States of America (USA) which, inter alia, requires foreign financial institutions to report about financial accounts held by U.S. taxpayers or foreign entities in which U.S. taxpayers hold a substantial ownership interest.

'Group' shall have the same meaning assigned to it in clause (e) of sub-section (9) of section 286 of the Income-tax Act, 1961 (43 of 1961).

'IGA' means Inter Governmental Agreement between the Governments of India and the USA to improve international tax compliance and to implement FATCA of the USA.

'Non-face-to-face customers' mean customers who open accounts without visiting the branch/offices of the REs or meeting the officials of REs.

'Official Valid Documents' means Passport, Driving Licence, Proof of possession of Aadhaar number, Voter's card issued by Election Commission of India, Job Card issued by NREGA duly signed by Officer of State Government, letter issued by National Population Register containing detail of name and address.

OVD does not have updated address: the following documents shall be deemed to be OVDs for the limited purpose of proof of address:

- o utility bill which is not more than two months old of any service provider (electricity, telephone, post-paid mobile phone, piped gas, water bill); Property or Municipal tax receipt;
- o pension or family pension payment orders (PPOs) issued to retired employees by Government Departments or Public Sector Undertakings, if they contain the address;
- o letter of allotment of accommodation from employer issued by State Government or Central Government Departments, statutory or regulatory bodies, public sector undertakings, scheduled commercial banks, financial institutions and listed companies and leave and licence agreements with such employers allotting official accommodation;

The customer shall submit OVD with current address within a period of three months of submitting the documents specified at above.

Where the OVD presented by a foreign national does not contain the details of address, in such case the documents issued by the Government departments of foreign jurisdictions and letter issued by the Foreign Embassy or Mission in India shall be accepted as proof of address.

'On-going Due Diligence' means regular monitoring of transactions in accounts to ensure that they are consistent with the customers' profile and source of funds.

'Periodic Updation' means steps taken to ensure that documents, data or information collected under the CDD process is kept up-to-date and relevant by undertaking reviews of existing records at periodicity prescribed by the Reserve Bank.

'Principal Officer' The Principal Officer shall be responsible for furnishing information.

'Regulated Entities' (REs) means

- a. all Scheduled Commercial Banks (SCBs)/ Regional Rural Banks (RRBs)/ Local Area Banks (LABs)/ All Primary (Urban) Co-operative Banks (UCBs) /State and Central Co-operative Banks
- b. All India Financial Institutions (AIFIs)

- c. All Non-Banking Finance Companies (NBFC)s, Miscellaneous Non-Banking Companies (MNBCs) and Residuary Non-Banking Companies (RNBCs).
- d. All Payment System Providers (PSPs)/ System Participants (SPs) and Prepaid Payment Instrument Issuers (PPI Issuers)
- e. All authorised persons (APs) including those who are agents of Money Transfer Service Scheme (MTSS), regulated by the Regulator.

‘Shell bank’ means a bank which is incorporated in a country where it has no physical presence and is unaffiliated to any regulated financial group.

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 not have economic rationale or bona-fide purpose; or
- d. Gives rise to a reasonable ground of suspicion that it may involve financing of the activities relating to terrorism

‘Transaction’ means a purchase, sale, loan, pledge, gift, transfer, delivery or the arrangement thereof and includes:

- a. Opening of an account;
- b. Deposit, withdrawal, exchange or transfer of funds in whatever currency, whether in cash or by cheque, payment order or other instruments or by electronic or other non-physical means;
- c. The use of a safety deposit box or any other form of safe deposit;
- d. Entering into any fiduciary relationship;
- e. Any payment made or received, in whole or in part
- f. Establishing or creating a legal person or legal arrangement

‘Video based Customer Identification Process (V-CIP)’ a method of customer identification with facial recognition and customer due diligence by an authorized official of RE by undertaking seamless, secure, real-time, consent based audio-visual interaction with the customer to obtain identification information required for CDD purpose and to ascertain the veracity of the information furnished by the customer through independent verification and maintaining audit trail of such process. Such process complying with prescribed standard and procedures shall be treated at par with face to face CIP for the purpose contained in these Master Directions.

‘Wire transfer’ means a transaction carried out, directly or through a chain of transfers, on behalf of an originator person (both natural and legal) through a bank by electronic means with a view to making an amount of money available to a beneficiary person at a bank.

‘Cross wire transfer’: refers to any wire transfer where the ordering financial institution and beneficiary financial institution are located in different countries.

‘Domestic wire transfer’: Domestic wire transfer refers to any wire transfer where the ordering financial institution and beneficiary financial institution are located in India. This term, therefore, refers to any chain of wire transfer that takes place entirely within the borders of India, even though the system used to transfer the payment message may be located in another country

‘Originator’: Originator refers to the account holder who allows the wire transfer from that account, or where there is no account, the natural or legal person that places the order with the ordering financial institution to perform the wire transfer.

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