I/1575014/2023

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लेखा परीक्षा महानिदेशालय
(अप्रत्यक्ष कर एवं सीमा शुल्क)
DIRECTORATE GENERAL OF AUDIT,
(REGULATOR UNDER PMLA)
Central Board of Indirect Taxes & Customs,
Department of Revenue
Ministry of Finance, Govt. of India
C.R. Building, I.P. Estate,
New Delhi-110109
Email: dg.audit-cbec@nic.in

Date: 29 November 2023

ANTI MONEY-LAUNDERING, COUNTERING THE FINANCING OF TERRORISM, AND COMBATING PROLIFERATION FINANCING GUIDELINES FOR DEALERS IN PRECIOUS METALS AND PRECIOUS STONES, 2023 UNDER PMLA, 2002, UAPA, 1967 and WMDA, 2005

Subject: Updated Guidelines on Anti-Money Laundering (AML) Standards, Countering the Financing of Terrorism (CFT) and Combating Proliferation Financing (PF) Obligations for Dealers in Precious Metals and Precious Stones under the Prevention of Money Laundering Act, 2002 and Rules made thereunder, the Unlawful Activities (Prevention) Act, 1967 and the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005

1. The Prevention of Money Laundering Act, 2002 ("PMLA") (as amended) was brought into force with effect from 1st July 2005. Necessary Notifications/Rules, i.e., Prevention of Money Laundering (Maintenance of Records) Rules, 2005 (PMLR) under the said Act have been published in the Gazette of India on July 01, 2005 and from time to time thereafter by the Department of Revenue, Ministry of Finance, Government of India.

2. As per the provisions of the PMLA, all Designated Non-Financial Businesses and Professions (DNFBPs), which include those dealers in precious metals and precious stones (DPMS) who are the **Reporting Entities (REs)**, shall have to adhere to client account opening procedures and maintain records of such transactions as prescribed by the PMLA and the rules notified thereunder.

3. The DNFBPs shall also be required to report the specified transactions, including the suspicious transactions with a view to provide deterrence to the money-laundering and financing of terrorism.

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4. The Unlawful Activities (Prevention) Act, 1967 (as amended) was brought into force w.e.f. 30th December 1967. Section 51A of the Unlawful Activities (Prevention) Act, 1967 (UAPA) requires **all** dealers in precious metals and precious stones (DPMS), irrespective of whether they are reporting entities under PMLA or not, to prohibit any individual or entity from making any funds, financial assets or economic resources or related services available for the benefit of the individuals or entities listed in the Schedule to the Prevention and Suppression of Terrorism (Implementation of Security Council Resolutions) Order, 2007 or any other person engaged in or suspected to be engaged in terrorism and thus prohibits them from entering into a transaction with a client whose identity matches with any person in the sanction list or with banned entities and those reported to have links with terrorists or terrorist organizations.

5. The Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005 was notified w.e.f. 17th November, 2006. Section 12A of the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005 (WMDA) prohibits **all** dealers in precious metals and precious stones (DPMS), irrespective of whether they are reporting entities under PMLA or not, from financing any activity which is prohibited under the said Act, or under the United Nations (Security Council) Act, 1947 or any other relevant Act for the time being in force, or by an order issued under any such Act, in relation to weapons of mass destruction and their delivery systems. It thus prohibits **all** the dealers in precious metals and precious stones from entering into transactions with designated individuals or entities.

6. In view of the Risk Based Approach (RBA) adopted by the Financial Action Task Force for dealers in precious metals and precious stones and the recommendations made by it, these guidelines in the context of existing anti-money laundering law in the country, have been issued for the reporting entities (REs) in respect of PMLA and for all dealers in precious metals and precious stones under UAPA and the WMDA. The guidelines provide an overview on the background and essential principles that concern Money Laundering (ML), Terrorist Financing (TF) and Proliferation Financing (PF) under PMLA, UAPA and WMDA as well as a detailed account of the procedures and obligations to be followed by all dealers in precious metals and precious stones (DPMS) in combating risk of Money Laundering (ML),

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terrorist financing and proliferation financing.

7. **Part 'A'** of the Guidelines is an overview of the Guidelines. **Part 'B'** of the Guidelines prescribe obligations in respect of those dealers in precious metals and precious stones who are the Reporting Entities under the provisions of PMLA and PMLR. **Part 'C'** of the Guidelines prescribe obligations for all dealers in precious metals and precious stones under Section 51A of the UAPA and Section 12A of the WMDA, irrespective of whether they are the reporting entities under PMLA or not/ any threshold of transactions they may undertake with their customers.

8. These Guidelines are being issued in supersession of earlier Guidelines issued on 25.01.2023, 17.02.2023 and 04.05.2023 on account of amendment in the Prevention of Money Laundering (Maintenance of Records) Rules, 2005, vide Notification G.S.R. 745(E) dated 17.10.2023, issued under F.No. P-12011/22/2023-ES Cell-DOR, by the Department of Revenue, Ministry of Finance.

Encls: The Guidelines

Yours faithfully,

(Dr. Amandeep Singh)
Additional Director General

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Anti-Money Laundering, Countering the Financing of Terrorism, and Combating Proliferation Financing Guidelines for Dealers in Precious Metals and Precious Stones, 2023 under PMLA, 2002, UAPA, 1967, and WMDA, 2005

Date of coming into effect: 29.11.2023

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PART A

OVERVIEW OF THE GUIDELINES

1. Introduction:

1.1 These guidelines shall be called 'Anti-Money Laundering, Countering the Financing of Terrorism and Combating Proliferation Financing Guidelines for Dealers in Precious Metals and Precious Stones, 2023 under PMLA, 2002, UAPA, 1967, and WMDA, 2005' (hereafter called **"The Guidelines")**.The Guidelines aim to provide a general background and summary of the provisions of the applicable anti-money laundering and anti-terrorism financing legislations in India, viz. the Prevention of Money Laundering Act, 2002 (hereinafter referred to as the "PMLA"), the Prevention of Money Laundering (Maintenance of Records) Rules, 2005 (hereinafter referred to as the "PMLR"), the Unlawful Activities (Prevention) Act, 1967 (hereinafter referred to as the "UAPA") and The Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005 (hereinafter referred to as the "WMDA") and their applicability to and implications for the dealers in precious metals and precious stones in applying certain Anti Money Laundering/ Countering the Financing of Terrorism/ Combating Proliferation Financing (AML/CFT/CPF) obligations.

1.2 The Guidelines are being issued by the Directorate General of Audit (DGA), Central Board of Indirect Taxes and Customs (CBIC), which has been appointed Regulator on behalf of Central Board of Indirect Taxes & Customs, Ministry of Finance, Govt. of India for this purpose vide O.M. dated 22.11.2021 of the Commissioner (GST-Inv), CBIC **(Annexure-I)**. The Regulator under PMLA/ PMLR has also been assigned the duties of Regulator under Section 51A of the UAPA, and Section 12A of the WMDA, and the Additional Director General, Directorate General of Audit has also been appointed the Nodal

Officer in consequence of Order dated 2nd February 2021 of CTCR Division, Ministry of Home Affairs, Govt. of India, issued in File No. 14014/01/2019/CFT and Order dated 30th January 2023 of Department of Revenue, Ministry of Finance, Govt. of India, issued in File No. P-12011/14/2022-ES Cell-DOR, respectively. The broader context for the Guidelines is provided by the Recommendations made by Financial Action Task force (FATF) on International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation and the Guidance on the Risk-Based Approach adopted in its February 2012 Plenary to Combating Money Laundering and Terrorist Financing, which includes guidance for public authorities and designated non-financial businesses and professions (DNFBPs) amongst others.

1.3 The provisions related to applicability of Section 51A of the UAPA and Section 12A of the WMDA as mentioned in the guidelines are applicable to all dealers in precious metals and precious stones, irrespective of their turnover or any threshold of transactions they may undertake with their customers/ clients. However, the provisions related to PMLA and PMLR are applicable to dealers in precious metals and precious stones, who are "Reporting Entities" (REs) as defined in Para 2.2(i).

1.4 The PMLA and the rules made thereunder, viz. the PMLR, on implementing a risk-based approach for the Reporting Entities (REs), lay down the principles to be followed by Reporting Entities (REs) and highlight risk factors specific to the REs, alongwith suggestions to minimize the risk of Money Laundering/ Terrorist Financing (ML/TF).

1.5 These guidelines also set out the steps that a Reporting Entity shall implement to discourage and to identify any money laundering or terrorist financing activities. The procedures and obligations to be followed by the reporting entities to ensure compliance with Anti

Money Laundering/ Countering the Financing of Terrorism (AML/CFT) guidelines are also prescribed.

1.6 The strategies to manage and mitigate the identified money laundering and terrorist financing activities are typically aimed at preventing the activity from occurring through a mixture of deterrence [*e.g.,* appropriate Client Due Diligence ("**CDD**") measures], detection (*e.g.,* monitoring, and suspicious transaction reporting), and record-keeping so as to facilitate investigations by the appropriate authorities, wherever required, which are discussed at length here under.

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PART B

OBLIGATIONS FOR THE REPORTING ENTITIES (REs) UNDER PMLA

2. Background and Legal framework:

2.1 The PMLA came into effect from 1st July 2005. Necessary Notifications/Rules under the said Act were published in the Gazette of India on 1st July, 2005 by the Department of Revenue, Ministry of Finance, Government of India. For implementation of these guidelines, the provisions of the PMLA and the PMLR (as amended) are applicable.

2.2 **Definitions under PMLA:** For the purposes of these Guidelines, some relevant definitions under the PMLA and the PMLR are reproduced below. Section numbers and Rules indicate relevant sections of the **PMLA** and rules of the **PMLR**, respectively.

(a) **Beneficial Owner- Section 2(1)(fa):** means an individual who ultimately owns or controls a client of a reporting entity or the person on whose behalf a transaction is being conducted and includes a person who exercises ultimate effective control over a juridical person. The beneficial owner shall be determined in the manner as prescribed under Rule 9(3) of the PMLR.

(b) **Client- Section 2(1)(ha) of PMLA-** means a person who is engaged in a financial transaction or activity with a reporting entity and includes a person on whose behalf the person who engaged in the transaction or activity, is acting.
For the purpose of these Guidelines, a client includes a customer engaged or attempting to engage into a transaction with the Reporting Entity.

(c) **Client due diligence:** means due diligence carried out on a client using reliable and independent sources of identification.

(d) **Dealer- Section 2(1)(ib):** "dealer has the same meaning as assigned to it in clause (b) of section 2 of the Central Sales Tax Act, 1956 (74 of 1956)";whereunder a "dealer" means "any person who carries on (whether regularly or otherwise) the business of buying, selling, supplying or distributing goods, directly or indirectly, for cash or for deferred payment, or for commission remuneration or other valuable consideration, and includes—

(i) a local authority, a body corporate, a company, any co-operative society or other society, club, firm, Hindu undivided family or other association of persons which carries on such business;

(ii) a factor, broker, commission agent, del credere agent, or any other mercantile agent, by whatever name called, and whether of the same description as hereinbefore mentioned or not, who carries on the business of buying, selling, supplying or distributing, goods belonging to any principal whether disclosed or not; and

(iii) an auctioneer who carries on the business of selling or auctioning goods belonging to any principal, whether disclosed or not and whether the offer of the intending purchaser is accepted by him or by the principal or a nominee of the principal".

Explanation I— Every person who acts as an agent, in any State, of a dealer residing outside that State and buys, sells, supplies, or distributes, goods in the State or acts on behalf of such dealer as—

(i) a mercantile agent as defined in the Sale of Goods Act, 1930 (3 of 1930), or

(ii) an agent for handling of goods or documents of title relating to goods, or

(iii) an agent for the collection or the payment of the sale price of goods or as a guarantor for such collection or payment, and every local branch or office in a State of a firm registered outside that State or a company or other body corporate, the

principal office or headquarters whereof is outside that State, shall be deemed to be a dealer for the purposes of this Act.

Explanation 2— A Government which, whether or not in the course of business, buys, sells, supplies or distributes, goods, directly or otherwise, for cash or for deferred payment or for commission, remuneration or other valuable consideration, shall except in relation to any sale, supply or distribution of surplus, un-serviceable or old stores or materials or waste products or obsolete or discarded machinery or parts or accessories thereof, be deemed to be a dealer for the purposes of this Act.

(e) **Group- Rule 2(1)(cba):** shall have the same meaning assigned to it in clause (e) of sub-section (9) of section 286 of the Income-tax Act. 1961.

(f) **Persons carrying on designated business or professions- Section 2(1)(sa)(iv):** means dealers in precious metals and precious stones, if they engage in any cash transactions with a customer equal to or above Rupees ten lakhs, carried out in a single operation or in several operations that appear to be linked [Inserted vide Notification G.S.R. 799(E) dated 28.12.2020 issued under F.No. P-12011/14/2020-ES Cell-DOR of Department of Revenue, Ministry of Finance].

(g) **Precious metal-Section 2(1)(sb):** means gold, silver, platinum, palladium or rhodium or such other metal as may be notified by the Central Government.

(h) **Precious stone- Section 2(1)(sc):** means diamond, emerald, ruby, sapphire or any such other stone as may be notified by the Central Government.

(i) **Regulator- Rule 2(1)(fa)(iii):** means the Central Board of Indirect Taxes and Customs, constituted under Central Boards of

Revenue Act, 1963, with respect to the dealers in precious metals and precious stones [inserted vide G.S.R. Notification 800(E) dated 28.12.2020 issued under F.No. P-12011/14/2020-ES Cell-DOR].
The Directorate General of Audit (DGA), Central Board of Indirect Taxes and Customs (CBIC), has been appointed Regulator on behalf of Central Board of Indirect Taxes & Customs vide O.M. dated 22.11.2021 of the Commissioner (GST-Inv), CBIC.

(j) **Reporting Entity (RE)- Section 2(1)(wa):** means a banking company, financial institution, intermediary or **a person carrying on a designated business or profession.**

(k) **Suspicious Transaction- Rule 2(1)(g):** 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 bona fide purpose; or

(d) gives rise to a reasonable ground of suspicion that it may involve financing of the activities relating to terrorism.

Explanation- Transaction involving financing of the activities relating to terrorism includes transaction involving funds suspected to be linked or related to, or to be used for terrorism, terrorist acts or by a terrorist, terrorist organisation or those who finance or are attempting to finance terrorism.

(l) **Transaction- Rule 2(1)(h):** means a purchase, sale, loan, pledge, gift, transfer, delivery or the arrangement thereof and includes -

(i) opening of an account;

(ii) deposits, 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;
(iii) the use of a safety deposit box or any other form of safe deposit;
(iv) entering into any fiduciary relationship;
(v) any payment made or received in whole or in part of any contractual or other legal obligation;
(vi) any payment made in respect of playing games of chance for cash or kind including such activities associated with casino; and
(vii) establishing or creating a legal person or legal arrangement.

(m) **Virtual Digital Asset (VDA)- Section 2(1)(sa)(vi):** Virtual Digital Asset shall have the same meaning assigned to it in clause (47A) of section 2 of the Income-tax Act, 1961 (43 of 1961). [inserted vide Notification S.O. 1072(E) dated 07.03.2023 issued under F. No. P-12011/12/2022-ES Cell-DOR of Department of Revenue, Ministry of Finance]

3. Purpose of the guidelines:

3.1 The purpose of these guidelines is to explain the risk-based approach, outline the core principles involved in applying the same and indicate best practices in the design and implementation of an effective risk-based approach.

3.2 The purpose of these guidelines is also to establish a mechanism with the dealers in precious metals and dealers in precious stones that will be mutually beneficial to combating money laundering and terrorist financing.

3.3 These guidelines are meant to be followed by dealers in precious metals and precious stones, if they engage in any cash transactions with a customer equal to or above Rupees ten lakhs, carried out in a single operation or in several operations that appear to be linked.

These dealers have been notified by the Central Government vide Notification G.S.R. 799(E) issued under F.No. P-12011/14/2020-ES Cell-DOR dated 28.12.2020 as 'Persons carrying on designated business or profession' under sub-clause (iv) of Clause (sa) of Sub-section (1) of Section 2 of PMLA. They are also referred to in these guidelines as 'Reporting Entities'.

3.4 Section 269ST of Income Tax Act, 1961, states that *No person shall receive an amount of two lakh rupees or more – (a) in aggregate from a person in a day; or (b) in respect of a single transaction; or (c) in respect of transactions relating to one event or occasion from a person, otherwise than by an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account.* Section 271DA of Income Tax Act, 1961, states that any person who receives an amount in violation of the terms and conditions of Section 269ST will be held liable to pay a penalty equivalent to the amount received in cash.

3.5 In view of above provision, it is perceived that dealers in precious metals and/or stones will not normally engage in cash transactions with a customer for amount equal to or above Rupees ten lakhs. A dealer may, however, make a payment in cash for amount equal to or above Rupees ten lakhs (for example, for purchase of old jewellery from customers, or in conscious violation of Section 269ST of Income Tax Act due to an exigency, etc). The dealer needs to register itself with the Director, FIU-IND at the first instance of engaging in cash transaction with a customer equal to or above Rupees ten lakhs, carried out in a single operation or in several operations that appear to be linked. Thereafter, the dealer has to meet all AML/CFT norms detailed in these guidelines.

4. Obligation to establish policies and procedures under PMLA:

4.1 Every reporting entity is required to have an AML/ CFT program in

place in order to discharge its statutory responsibility to detect possible attempts of money laundering and financing of terrorism. Each reporting entity shall consider carefully the specific nature of its business, organisational structure, type of client and transaction, etc. to satisfy itself that the measures taken by it are adequate and appropriate and follow the spirit of the suggested measures as laid down in the PMLA. Each reporting entity shall also satisfy itself that such measures are effectively implemented.

4.2 Diamonds, jewels and precious metals have unique physical and commercial properties, and can be carried in small, easily transportable quantities of high value. The dealers need to apply risk assessment to money laundering and terrorist financing in a similar manner as the risks of theft and fraud are assessed and applied.

4.3 In order to combat the menace of money-laundering, terror financing and other related serious crimes, Rule 7(3) of the PMLR casts an obligation on every reporting entity to evolve an internal mechanism in respect of these guidelines to detect transactions as specified under Rule 3(1) and furnishing information about such transactions to Financial Intelligence Unit (FIU-IND). The obligation of reporting entities to effectively serve to prevent and impede money laundering and terrorist financing and to observe such internal controls not only by them but also by their designated Director, officers and employees is a legal requirement under Rule 7(4) of the PMLR. It is without ambiguity that the success of internal policies and procedures will be dependent largely on how effectively these are outlined and implemented.

4.4 To comply with these obligations, every reporting entity shall establish appropriate policies and procedures for the prevention of ML and TF and ensure their effectiveness and compliance with all relevant legal and regulatory requirements. The reporting entities shall:

(i) issue a statement of policies and procedures for dealing

with ML and TF reflecting the current statutory and regulatory requirements;

(ii) ensure that spirit of these guidelines and internal policies and procedures are understood by all staff members;

(iii) regularly review the policies and procedures on the prevention of ML and TF to ensure their effectiveness. To ensure the effectiveness of policies and procedures, the person doing such a review shall, as far as possible, be different from the one who has framed them;

(iv) adopt client acceptance policies and procedures and undertake Client Due Diligence (CDD) measures to the extent that is sensitive to the risk of ML and TF depending on the type of client, business relationship or transaction;

(v) have a system in place for identifying, monitoring, and reporting suspected ML or TF transactions to the law enforcement authorities; and

(vi) develop mechanism/s through training/ workshops, etc. to make their staff aware and vigilant to guard against ML and TF.

(vii) shall pay special attention to carry out risk assessment to identify and assess any money laundering and terrorist financing threats that may emerge from new or developing technologies that might favour anonymity, including Virtual Digital Assets; and take measures, if needed, to prevent their use in money laundering and terrorism financing risks.

4.4.1 Implementation of policies by groups:

(i) **By reporting entity, which is part of a group:** In line with Rule 3A of the PMLR, every reporting entity, which is part of a group, shall implement group-wide programmes against money laundering and terror financing, including group-wide policies for sharing Information required for the purposes of client due diligence and money laundering and terror finance risk management and such

programmes shall include adequate safeguards on the confidentiality and use of information exchanged, including safeguards to prevent tipping-off.

(ii) **By Groups:** Groups are required to implement group-wide policies for the purpose of discharging obligations under Chapter IV of the PMLA, including undertaking CDD & EDD measures, maintaining records, and furnishing of information.

4.5 Maintenance of records:

4.5.1 Section 12 of the PMLA casts an obligation upon every reporting entity to maintain records of all transactions, including information relating to suspicious transactions and to furnish the information related to specified transactions to Director FIU-IND. The reporting entities are also required to maintain record of documents evidencing identity of its clients and beneficial owners as well as account files and business correspondence relating to its clients. The procedure for maintenance of records of transactions, information required to be recorded, procedure and manner of maintaining information and procedure and manner of furnishing information is prescribed under Rule 3, 4, 5, 7 and 8 of the PMLR. All reporting entities are required to ensure compliance of the aforesaid provisions. These provisions are detailed in succeeding paragraphs.

Explanation: Records pertaining to the identification of the customers shall include updated records of the identification data, account files, business correspondence, if any submitted by the customer/client, and as required to be maintained under sub rule (4), (6), (7), (8) or (9) of Rule 9 of PMLR, and results of any analysis undertaken.

4.5.2 Maintenance of records of transactions (nature and value): All reporting entities need to put in place a system of maintaining

records of transactions, as prescribed under Rule 3, as below, and to furnish the details to FIU-IND:

(i) All **cash** transactions of the value of more than Rs. 10 lakh or its equivalent in foreign currency.

(ii) All series of **cash** transactions integrally connected to each other which have been individually valued below Rs. 10 lakh or its equivalent in foreign currency where such series of transactions have taken place within a month and the monthly aggregate exceeds an amount of Rs. 10 lakh or its equivalent in foreign currency.

(iii) All **cash** transactions where forged or counterfeit currency notes or bank notes have been used as genuine or where any forgery of a valuable security or a document has taken place facilitating the transactions.

(iv) All Suspicious Transactions independent of monetary threshold, including transactions in VDA and attempted transactions, whether or not made in cash and by way of deposits or credits, as provided under sub rule 1(D) of Rule 3 of the PMLR. Suspicious transaction is as provided for in Para 4.8 below.

(v) All cross-border wire transfers of the value of five lakh rupees or its equivalent in foreign currency where either the origin or destination of fund is in India.

Explanation: These requirements are other than the requirements stipulated for reporting entities for undertaking KYC.

4.5.3 Information required to be maintained:

The records as referred to in Rule 3 of PMLR shall contain all necessary information to permit reconstruction of individual transaction, including the following information:

(a) he nature of the transactions;

(b) the amount of the transaction and the currency in which it

was denominated;

(c) the date on which the transaction was conducted; and

(d) the parties to the transaction.

4.5.4 Every reporting entity, its Directors, officers, and all employees shall ensure that the fact of maintenance of records referred to in Para 4.5.2 and furnishing of information to the Director is kept confidential, except for sharing of any information related to any analysis of transactions and activities which appear unusual, if any such analysis has been done, in the group, of which it is a part.

4.6 Retention of information and records:

As prescribed under Section 12 of the PMLA and in line with Recommendation 11 of FATF, the reporting entity shall maintain the record of all transactions, including the specified transactions for a period of five years from the date of transaction between a client and the reporting entity. The record of documents evidencing identity of its clients and beneficial owners as well as account files and business correspondence relating to its clients shall be maintained by the reporting entity for a period of five years after the business relationship between a client and a reporting entity has ended or the account has been closed, whichever is later. The reporting entities shall ensure that these records are immediately provided to the investigation authorities or the Director FIU-IND or the Regulator, upon request, along with any other information as they may deem necessary as evidence for investigation, prosecution or judicial proceedings under the PMLA and the rules made thereunder. In cases where the records relate to on-going investigations or transactions which have been the subject of suspicious transaction reporting, they shall be retained until it is confirmed that the case has been closed.

4.6.1 Every reporting entity shall register the details of a client, in case of

client being a non-profit organisation (NPO), on the DARPAN Portal of NITI Aayog, if not already registered, and maintain such registration records for a period of five years after the business relationship between a client and a reporting entity has ended or the account has been closed, or investigation, if any, into the NPO, has been concluded, whichever is later.

4.7 **Know Your Client (KYC) and Client Due Diligence (CDD):** As provided under Section 11A of the PMLA read with Rule 9 of the PMLR, it is incumbent upon every Reporting Entity to follow certain client identification procedures in respect of the buyers and sellers of precious metals and precious stones and monitoring transactions of a suspicious nature for the purpose of reporting it to the appropriate authority. These 'Know Your Client' guidelines have been revisited in the context of the Recommendations made by the Financial Action Task Force (FATF) on Anti Money Laundering (AML) standards and on Combating Financing of Terrorism (CFT). The dealers/ reporting entities are advised to ensure that an appropriate policy framework on 'Know Your Client' and Anti Money-Laundering/ Combating Financing of Terrorism measures is formulated and put in place. These CDD measures are required to be followed by the reporting entities in situations as enumerated under Para 5.2.2 below.

4.8 **Suspicious Transaction Reporting:** In line with FATF Recommendation 20, Rule 8(2) read with Rule 3(1)(D) of the PMLR provides for **prompt** reporting of a suspicious transaction, which includes an attempted suspicious transaction, to the Financial Intelligence Unit (FIU-IND), Govt. of India as mentioned at Para 8.1, if a reporting entity suspects or has reasonable grounds to suspect that funds used by a client are the proceeds of a criminal activity, or are related to terrorist financing. A suspicious transaction shall be reported promptly on its occurrence.

It is clarified that for the purpose of suspicious transactions

reporting, apart from 'transactions integrally connected', 'transactions remotely connected or related' shall also be considered.

5. Detailed Guidelines on Anti Money-Laundering and combating the financing of terrorism Procedures:

5.1 Appointment of a Designated Director and a Principal Officer:

In line with the provisions of Rule 7 of the PMLR, every reporting entity shall appoint:

(i) a Principal Officer and,

(ii) a Designated Director

Names, designation, telephone number and addresses (email addresses) of Principal Officer and the Designated Director including any changes therein shall be intimated to the Office of the Director, FIU-IND and Regulator governing the reporting entity.

5.1.1 Principal Officer: The Principal Officer is defined under Rule 2(1)(f) of the PMLR as an officer designated by a reporting entity. The Principal Officer would act as a central reference point in facilitating onward reporting of suspicious transactions and for playing an active role in the identification and assessment of potentially suspicious transactions and shall have access to and be able to report to senior management at the next reporting level or the Board of Directors. The 'Principal Officer' should be of a sufficiently senior position and should be able to discharge the functions with independence and authority.

5.1.2 Designated Director: A reporting entity shall also appoint a person as a 'Designated Director' as provided under Rule2(1)(ba) of the PMLR, which is defined as:

"Designated director means a person designated by the reporting entity to ensure overall compliance with the obligations imposed

under chapter IV of the Act and the Rules and includes –

a) The Managing Director or a Whole-Time Director duly authorised by the Board of Directors if the reporting entity is a company;

b) The managing partner, if the reporting entity is a partnership firm;

c) The proprietor, if the reporting entity is a proprietorship firm;

d) The managing trustee, if the reporting entity is a trust;

e) a person or individual, as the case may be, who controls and manages the affairs of the reporting entity if the reporting entity is an unincorporated association or a body of individuals; and

f) such other person or class of persons as may be notified by the Government if the reporting entity does not fall in any of the categories above."

5.1.3 The Designated Director and the Principal Officer shall be responsible for the following to combat money laundering/ countering the financing of terrorism:

(i) The Principal Officer shall be responsible for:

(a) Furnishing of the information under Rule 8 (1) of the PMLR, as prescribed under sub rule (1) of Rule 3 of the said rules, except the suspicious transactions, on monthly basis, **by 15th day of the succeeding month,** in prescribed **Format** to the Director, Financial Intelligence Unit-India (FIU-Ind.), Govt. of India. However, the Principal Officer, on being satisfied that the transaction is suspicious, shall promptly furnish the information of its occurrence, in writing by fax or by electronic mail to the Director as per Rule 8(2) of the PMLR, as mentioned at Para 4.8. Such information shall include any **attempted** transactions, whether or not made in cash;

(b) Delay in not reporting a transaction or delay in not

rectifying a mis-reported transaction shall constitute a violation of these guidelines, as prescribed under Rule 8(4) of the PMLR.

(ii) The Designated Director shall be responsible for:

(a) Evolving an internal mechanism with regard to any guidelines issued by the Regulator or the Director, FIU-IND and for furnishing information as prescribed under sub rule (1) of Rule 3 of the PMLR;

(b) Communication of group policies relating to prevention of ML and TF to all management and relevant staff that handle account information, money and client records, etc. within their organisation;

(c) Client acceptance policy and client due diligence measures, including requirements for proper identification, such as:

(i)Maintenance of records;

(ii)Compliance with relevant statutory and regulatory requirements;

(iii)Cooperation with the relevant law enforcement authorities, including the timely disclosure of information; and

(iv)Role of internal audit or compliance function to ensure compliance with the policies, procedures and controls relating to the prevention of ML and TF, including detection of suspected money laundering transactions.

5.2 Client Due Diligence (CDD) Measures and Know Your Client (KYC) norms:

5.2.1 In consonance with the basic principles of the KYC norms as prescribed in the PMLA or the rules made there under, all reporting entities shall frame their own internal directives based on their experience in dealing with their clients and legal requirements as per the established practices.

5.2.2 In accordance with Rule 9 of the PMLR, each reporting entity shall adopt written procedures to implement the anti-money laundering provisions as envisaged under the PMLA, related to the **'Client Due Diligence Process'**. The requirement is stated hereunder:

1. Every reporting entity shall, at the time of commencement of an account-based relationship or while carrying out occasional 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 any international money transfer operations, -

(a) identify its clients, verify their identity using reliable and independent sources of identification, obtain information on the purpose and intended nature of the business relationship, where applicable;

(b) take reasonable steps to understand the nature of the customer's business, and its ownership and control;

(c) determine whether a client is acting on behalf of a beneficial owner, and identify the beneficial owner and take all steps to verify the identity of the beneficial owner, using reliable and independent sources of identification:

2. Every reporting entity shall be responsible for obtaining KYC records of its clients and file the same with the Central KYC Records Registry. The third-party KYC records may also be used for this purpose, subject to the provision that the reporting entity immediately obtains from the third party or from the Central KYC Records Registry, the record or the information of such client due diligence carried out by the third party. Where there are suspicions of ML/TF or where there are doubts about the adequacy or veracity of previously obtained client identification data, the reporting entity shall review the CDD measures including verifying again the identity and obtaining information on

the purpose and intended nature of the business relationship.

3. Every reporting entity 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 client, his business and risk profile and where necessary, the source of funds. They shall also apply CDD measures to existing clients on the basis of materiality and risk, and conduct due diligence on such existing relationships at appropriate times taking into account whether and when client due diligence measures have previously been undertaken and the adequacy of data obtained, such that the information or data collected under client due diligence is kept up-to-date and relevant, particularly where there is high risk.

5.2.3 Considering the potential threat of transactions in precious metal and precious stones by a money launderer / terrorism financier, the reporting entities should make reasonable efforts to determine the true identity of all clients engaging in sale and purchase of precious metal and precious stones. Where a client purports to act on behalf of juridical person or individual or trust, verification of identity is required to be carried out on beneficial owners and persons purporting to act and are authorised to act on behalf of a client. Effective procedures should be put in place to obtain requisite details for proper identification of new clients. Special care has to be exercised to ensure that the transactions are not under anonymous or fictitious names.

5.2.4 In view of high vulnerability arising from development of new practices, new delivery mechanisms and use of new technologies, the reporting entities shall ensure that appropriate KYC procedures are applied before undertaking a transaction with a customer through the use of new and developing technologies, including virtual digital assets.

5.3 Enhanced Due Diligence:

5.3.1 In tune with the FATF Recommendation 19, Section 12AA of the PMLA prescribes for the reporting entities to perform enhanced due diligence for higher-risk clients, business relationships and transactions or class of transactions where there is a high-risk or where there is ML or TF or where the transaction or attempted transaction is suspicious. Recommendation 12, which prescribes measures to be taken for Politically Exposed Persons (PEPs), provides for additional measures for specific clients and activities, which are considered to be a higher risk scenario requiring enhanced CDD. Politically Exposed Persons (PEPs) are individuals who have been entrusted with prominent public functions by a foreign country, including the heads of States or Governments, senior politicians, senior government or judicial or military officers, senior executives of state-owned corporations and important political party officials.

5.3.2 Reporting entities should examine, as far as reasonably possible, the background and purpose of all complex, unusually large transactions, and all unusual patterns of transactions, which have no apparent economic or lawful purpose. Where the risks of money laundering or terrorist financing are higher, reporting entities should be required to conduct enhanced due diligence measures, consistent with the risks identified. In particular, they should increase the degree and nature of monitoring of the business relationship, in order to determine whether those transactions or activities appear unusual or suspicious.

5.3.3 Conducting enhanced due diligence should not be limited to merely documenting income proofs. They should be more rigorous and robust measures than normal KYC. These measures should be commensurate with the risk. While it is not intended to be

exhaustive, the following are some of the reasonable measures in carrying out enhanced due diligence:

(i) More frequent review of the clients' profile/transactions,

(ii) Application of additional measures like gathering information from publicly available sources or otherwise,

(iii) Review of the clients' information at senior level of the reporting entity,

(iv) Reasonable measures to know the client's source of funds commensurate with the assessed risk of client and product profile which may include:

(a) conducting independent enquiries on the details collected on /provided by the client where required,

(b) consulting a credible database, public or other, etc.

5.4 Policy for client acceptance and risk assessment (Risk Based Approach):

5.4.1 Within the provisions of Rule 9 of the PMLR, the KYC policy shall clearly spell out the client identification procedure to be carried out at different stages, i.e., while establishing the relationship with client, while carrying out transactions with a client or when the reporting entity has doubts regarding the veracity or the adequacy of previously obtained client identification data. The Client Due Diligence Programme shall have regard to the money laundering and terrorist financing risks and the size of the business and shall include policies, controls and procedures, approved by the senior management, to enable the reporting entity to manage and mitigate the risk that have been identified either by the reporting entity or through national risk assessment.

5.4.2 It is generally recognized that certain clients may be of a higher or lower risk category depending on the circumstances such as the client's background, type of business relationship or transaction, etc. In order to identify the types of clients that are likely to pose a

higher-than-average risk of ML or TF, the reporting entities shall develop client acceptance policies and procedures. It would help in applying client due diligence on a risk sensitive basis. The risk assessment shall be documented and shall be made available to the Director, FIU/ Regulator as and when required. The following safeguards are to be followed while accepting the clients:

a) No reporting entity shall allow the opening of or keep any anonymous account or account in fictitious names or accounts on behalf of other persons whose identity has not been disclosed or cannot be verified.
b) The clients should be categorised in two categories, viz. low risk and high risk.
c) Factors of risk perception for monitoring suspicious transactions of the clients are clearly defined having regard to clients' location, nature of business activity, trading turnover etc., and manner of making payment for transactions undertaken.
d) Individuals (other than High Net Worth) and entities whose identities and sources of wealth can be easily identified and transactions in whose accounts by and large conform to the known profile may be categorised as low risk. The salaried employees whose salary structures are well defined, people belonging to lower economic strata of the society, government departments and government owned companies, regulators and statutory bodies may fall under the low-risk category. In such cases, the basic requirements of verifying the identity and location of the client need to be ensured and a simplified client due diligence process should be followed. However, in case a client's profile is found to be inconsistent with his transactions, an enhanced due diligence may be resorted to.
e) A risk assessment of clients who are non-residents, high net worth individuals, trusts, charities, NGOs and organisations receiving donations, companies having close family shareholding or beneficial ownership, firms with sleeping partners etc will determine their

Money Laundering/ Terrorist Financing risk.

f) Individuals who have been entrusted with prominent public functions by 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, are higher risk clients and reporting entities should conduct enhanced due diligence of such individuals and their close relatives. All reporting entities shall put in place appropriate risk management systems to obtain relevant information about such clients, such as referring to publicly available information. Approval at senior management level must be required for establishing business relationships with such clients. Reporting entities shall also take reasonable measures to verify the sources of funds as well as the wealth of such clients.

g) The clients with dubious reputation as per available public information are considered as high risk, requiring EDD.

h) In cases where the appropriate CDD measures to identify the profile of a client cannot be applied or it is not possible to ascertain the identity of the client, or the information provided by the client is suspected to be false or non–genuine, the reporting entity shall not enter into a transaction with such client. In such cases, a suspicious activity report shall be filed.

i) In cases, where the identity of a client is ascertained as having a criminal background, a suspicious transaction report shall be filed.

5.5 Reliance on Third Party KYC:

The reporting entity is solely responsible for undertaking Client Due Diligence and Enhanced Due Diligence measures. However, subject to the provisions of Rule 9(2) of the PML (Maintenance of Records) Rules, 2005, a reporting entity may rely on a third party for obtaining the KYC information. It shall be ensured by the reporting entity that the third party is not based in a country or jurisdiction assessed as high risk.

5.6 Suspicious Transaction Monitoring and Reporting

5.6.1 Reporting entities shall ensure that appropriate steps are taken to enable suspicious transactions to be recognized and have appropriate procedures for reporting suspicious transactions.

5.6.2 A list of circumstances which may be in the nature of suspicious transactions is given below. This list is only illustrative and whether a particular transaction is suspicious or not will depend upon the background, details of the transactions and other facts and circumstances:

(i) Clients whose identity verification seems difficult or clients that appear not to cooperate;
(ii) Asset management services for clients where the source of the funds is not clear or not in keeping with clients' apparent standing/business activity;
(iii) Clients based in high-risk jurisdictions;
(iv) Substantial increases in business without apparent cause;
(v) Clients transferring large sums of money to or from overseas locations with instructions for payment in cash;

5.6.3 Any suspicious transaction shall be immediately notified to the Principal Officer or the Designated Officer within the reporting entity. The notification may be done in the form of a detailed report with specific reference to the clients, transactions and the nature /reason of suspicion. However, it shall be ensured that there is continuity in dealing with the client as normal until told otherwise and the client shall not be told of the report/ suspicion.

5.6.4 It is likely that in some cases transactions are abandoned or aborted by clients on being asked to give some details or to provide documents. It is clarified that reporting entities shall report all such

attempted transactions in STRs, even if not completed by clients, irrespective of the amount of the transaction.

5.6.5 If a reporting entity form a suspicion of money laundering or terrorist financing, and reasonably believe that performing the Client Due Diligence (CDD) process will tip-off the customer, it should not pursue the CDD process. In all such cases, the STR must be generated and filed with the FIU-IND.

5.7 Monitoring of Cross-border Wire Transfers:

5.7.1 **Cross-Border Wire transfer:** [as defined at Para 3 (b)(xv) & (xi) of RBI Master Direction RBI/DBR/2015-16/18 issued under DBR.AML.BC. No. 81/14.01.001/2015-16 dated 25 Feb 2016] 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, including using credit or debit card, with a view to making an amount of money available to a beneficiary person at a bank and where either the 'originator bank' or 'beneficiary bank' is located in different countries.

5.7.2 The reporting entity shall ensure that all cross-border wire transfers including transactions using credit or debit card shall be accompanied by accurate and meaningful originator information such as name, address and account number or a unique reference number, as prevalent in the country concerned in the absence of account.

5.7.3 The reporting entity shall maintain records of all qualifying wire transfers at least for a period of five years after the business relationship between a client and a reporting entity has ended or the account has been closed or investigation, if any, has been concluded, whichever is later and ensure that all originator information accompanying a wire transfer is retained with the

transfer.

5.7.4 All the information on the originator of wire transfers shall be immediately made available by the reporting entity to the appropriate law enforcement authority/ FIU-IND/ Regulator upon request.

5.7.5 The reporting entities shall adopt effective risk-based procedures to identify wire transfers lacking complete originator information and take appropriate steps.

5.7.6 While processing wire transfers, the reporting entities shall not conduct transactions with designated persons and entities subject to the UN sanction measures.

6. Liability for failure to fulfil obligations:

As prescribed under Section 13 of the PMLA, any reporting entity may be required to get its records audited by a Chartered Accountant appointed by the Central Government. A monetary penalty may also be imposed on the reporting entity, its director or the employees for failure to fulfil the obligations cast upon them by the PMLA or rules made there under. A delay in not reporting a transaction as prescribed under these rules shall also constitute violation of the PMLA and the rules made thereunder.

7. Illustrative list of officially valid documents (OVDs) required for KYC:

As required under rule 9 of PMLR, the following is an illustrative list of documents, any of which may be obtained from the clients for ascertaining their identity under KYC requirement:

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Features	Officially Valid Documents
Accounts of individuals - Legal name and any other names used - Address proof	(i) PAN card; and Any of the following documents, including the documents to identify nature of business and the financial status of the client and his address: (i) Voter's Identity Card (ii) Driving licence (iii) Identity card issued by the employer (iv) Letter from a recognized public authority or public servant verifying the identity and residence of the client (v) Aadhaar (vi) Document to ascertain identity of beneficial owner, if any; (vii) Telephone bill; (viii) Bank account statement; (ix) Letter from any recognized public authority; (x) Electricity bill; (xi) Ration card; (xii) Letter from employer; (xiii) any one document which provides client information to the satisfaction of the reporting entity
Accounts of companies - Name of the company - Principal place of business - Mailing address of the company - Telephone/Fax Number	**All the following documents (wherever applicable):** (i) Certificate of incorporation and Memorandum & Articles of Association; (ii) Resolution of the Board of Directors to open an account and identification of those who have authority to operate the account; (iii) Power of Attorney granted to its managers, officers or employees to transact business on its behalf; (iv) Document to ascertain identity of beneficial owner, if any; (v) The names of the relevant persons holding senior management position; (vi) Document towards proof of registered

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	office and the principal place of business, if it is different; (vii) Copy of PAN allotment letter; (viii) Copy of the telephone bill.
Accounts of partnership firms - Legal name - Address - Names of all partners and their addresses - Telephone numbers of the firm and partners	**All the following documents (wherever applicable):** (i) Registration certificate, if registered; (ii) Partnership deed; (iii) PAN of the partnership firm; (iv) Names of all the partners; (v) Document towards proof of registered office and the principal place of business, if it is different; (vi) Power of Attorney granted to a partner or an employee of the firm to transact business on its behalf and their addresses; (vii) Document to ascertain identity of beneficial owner, if any; (viii) Telephone bill in the name of firm/ partners
Accounts of trusts - Names of trustees, settlers, beneficiaries and signatories - Names and addresses of the founder, the managers /directors and the beneficiaries - Telephone/fax numbers	**All the following documents (wherever applicable):** (i) Certificate of registration, if registered; (ii) Trust Deed; (iii) List of trustees and their PAN, Aadhaar etc.; (iv) Power of Attorney granted to transact business on its behalf; (v) Any officially valid document to identify the trustees, settlors, protector, if any, authors of the trust, beneficiaries (beneficial owner) and founders/managers/ directors those holding Power of Attorney, and their addresses; (vi) Resolution of the managing body of the foundation/association; (vii) PAN or Form No. 60 of the Trust; (viii) Telephone bill

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Accounts of unincorporated associations or a body of individuals	**All the following documents (wherever applicable):** (i) Resolution of the managing body of unincorporated association/ body of individuals; (ii) PAN or Form No. 60 of the unincorporated association/ body of individuals; (iii) Power of Attorney granted to transact business on its behalf; (iv) Documents to ascertain identity of beneficial owner, managers. Officers or employees holding Power of Attorney, if any;

Note: The verification of identification documents of the client shall be done in accordance with the provisions of Rule 9(15) of the PMLR.

8. Cash and Suspicious transactions reporting to Financial Intelligence Unit-India (FIU-IND):

8.1 In terms of the PML Rules, reporting entities are required to report information relating to cash and suspicious transactions to the Director, Financial Intelligence Unit-India (FIU-IND) at the following address:

Director,
Financial Intelligence Unit-India (FIU-IND),
6th Floor, Hotel Samrat, Chanakyapuri,
New Delhi-110021.
Website: http://fiuindia.gov.in

8.2 Format for reporting Transactions:

The reporting transactions, including suspicious transactions made or attempted, as required under Rule 7(2) of PMLR, is as per the

procedure and format laid down by FIU-IND.

8.3 Prohibition on tipping off and maintaining confidentiality of information:

8.3.1 Reporting entities and their directors, officers and employees (permanent and temporary) shall be prohibited from disclosing ("tipping off") that a STR or related information is being reported or provided to the FIU-IND. This prohibition on tipping off extends not only to the filing of the STR and/ or related information but even before, during and after the submission of an STR. Thus, it shall be ensured that there is no tipping off to the client at any level. It is clarified that the reporting entities, irrespective of the amount of transaction and/or the threshold limit envisaged for reporting under PMLA, 2002, shall file STR if they have reasonable grounds to believe that the transactions involve proceeds of crime.

8.3.2 Reporting entities shall ensure that Every information collected from the customer, maintained, verified and furnished to the FIU, including the Cash Transaction Reports and Suspicious Transaction Reports shall be kept confidential and details thereof shall be kept strictly confidential and details thereof shall not be divulged to anyone.

8.3.3 Reporting entities, its directors and employees shall not be liable to any civil or criminal proceedings against them for furnishing information relating to cash transactions and suspicious transactions to the Director, FIU-IND.

9. Recruitment and training of employees:

9.1 Recruitment of Employees:

The reporting entities shall have adequate screening procedures in place to ensure high standards when hiring employees. They shall identify the key positions within their own organization structures

having regard to the risk of money laundering and terrorist financing and the size of their business and ensure the employees taking up such key positions are suitable and competent to perform their duties.

9.2 Employees' Training:

Reporting entities must have an ongoing employee training programme so that their staff is adequately trained in AML and CFT procedures. Training requirements shall have specific focuses for frontline staff, back-office staff, compliance staff, risk management staff and staff dealing with new clients. It is crucial that all those concerned fully understand the rationale behind these guidelines, obligations and requirements, implement them consistently and are sensitive to the risks of their systems being misused by unscrupulous elements.

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PART C

OBLIGATIONS FOR ALL DEALERS IN PRECIOUS METALS AND PRECIOUS STONES UNDER UAPA AND WMDA:

10. Implementation of Section 51A of the Unlawful Activities (Prevention) Act, 1967 (UAPA):

10.1 The CTCR Division, Ministry of Home Affairs, Govt. of India has issued Order dated 2nd February 2021 in File No. 14014/01/2019/CFT, as amended vide Corrigendum dated 15.03.2023, issued under File No. 14014/01/2019/CFT-83, prescribing procedure for implementation of Section 51A of the Unlawful Activities (Prevention) Act, 1967 (UAPA).

10.2 Section 51A of the UAPA reads as under:

"**51A.** For the prevention of, and for coping with terrorist activities, the Central Government shall have power to -

a) freeze, seize or attach funds and other financial assets or economic resources held by, on behalf of or at the direction of the individuals or entities listed in the Schedule to the Order, or any other person engaged in or suspected to be engaged in terrorism;

b) prohibit any individual or entity from making any funds, financial assets or economic resources or related services available for the benefit of the individuals or entities listed in the Schedule to the Order or any other person engaged in or suspected to be engaged in terrorism;

c) prevent the entry into or the transit through India of individuals listed in the Schedule to the Order or any other person engaged in or suspected to be engaged in terrorism".

10.2.1 **"Order"**, as defined under Section 2(1)(eb) of the UAPA, means the Prevention and Suppression of Terrorism (Implementation of Security Council Resolutions) Order, 2007, as may be amended from time to time.

10.3 In exercise of the powers conferred under Para 3.2 of the aforesaid Order dated 2nd February 2021, the Central Board of Indirect Taxes & Customs (CBIC), Ministry of Finance, Govt. of India has appointed Pr. Director General/ Director General/ Pr. Additional Director General/ Additional Director General, Directorate General of Audit as 'UAPA Nodal Officer' on behalf of CBIC, vide O.M. dated 22nd November 2021, issued under F.No. GST/INV/CBIC as Regulator under PMLA/20-21 of the Commissioner (GST-Inv.), CBIC. Accordingly, Dr. Amandeep Singh, Additional Director General, Directorate General of Audit, CBIC has been appointed the UAPA Nodal Officer vide letter F.No. 381/41/2020/Pt-II/4212 dated 17.01.2022.

10.4 Whereas the UAPA Nodal officer shall forward the list of individuals and entities subject to the UN sanctions measures, which is updated from time to time in accordance with the changes made in the list by UNSC 1267 Committee pertaining to Al Qaida and Da'esh and the UNSC 1988 Committee pertaining to Taliban, to all **'Dealers in Precious Metals and Precious Stones' (DPMS).**

10.5 All DPMS, irrespective of their annual turnover and any threshold prescribed for reporting transactions under the PMLA, 2002 or any other law prevailing in the country for the time being, shall ensure that they do not enter into a transaction with a client whose identity matches with any person in the sanction list or with banned entities and those reported to have links with terrorists or terrorist organizations or the match of any of the customers with the particulars of designated individuals or entities is beyond

doubt. A list of individuals and entities subject to UN sanction measures under UNSC Resolutions (hereinafter referred to as 'designated individuals/entities') is compiled by the Ministry of Home Affairs (MHA). All DPMS shall also periodically check the MHA website for an updated list of banned entities. They shall maintain updated designated lists in electronic form and run a check on the given parameters on a daily basis to verify whether individuals or entities, i.e., designated individuals or entities listed in the Schedule to the Order, have any dealings or entered into any transactions with them. In case, the particulars of any of their customers match with the particulars of designated individuals/entities, the DPMS shall immediately inform full particulars thereof, including related to their identity and transactions to the UAPA Nodal Officer at email aman@gov.in and also over telephone No. 9971822177 or 011-23378709.

10.6 The DPMS shall file a Suspicious Transaction Report (STR) of a transaction, if any undertaken with the designated individual or entity, including an attempted transaction, with FIU-IND and the UAPA Nodal Officer.

10.7 An updated list of individuals and entities which are subject to various sanction measures as approved by the Security Council Committee established pursuant to UNSC 1267 can be accessed from the United Nations website at http://www.un.org/sc/committees/1267/consolist.shtml.

10.8 By virtue of Section 51A of the UAPA, the Central Government is empowered to freeze, seize or attach funds of and/or prevent entry into or transit through lndia any individual or entities that are suspected to be engaged in terrorism.

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11. Implementation of Section 12A of The Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005.

11.1 The Department of Revenue, Ministry of Finance, Govt. of India has issued Order dated 30th January 2023 in File No. P-12011/14/2022-ES Cell-DOR, prescribing procedure for implementation of Section 12A of "The Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005 (WMDA).

11.2 Section 12A of WMDA reads as under:

12A. (1) No person shall finance any activity which is prohibited under this Act, or under the United Nations (Security Council) Act, 1947 or any other relevant Act for the time being in force, or by an order issued under any such Act, in relation to weapons of mass destruction and their delivery systems.

(2) For prevention of financing by any person of any activity which is prohibited under this Act, or under the United Nations (Security Council) Act, 1947 or any other relevant Act for the time being in force, or by an order issued under any such Act, in relation to weapons of mass destruction and their delivery systems, the Central Government shall have power to-

a) freeze, seize or attach funds or other financial assets or economic resources-

(i) owned or controlled, wholly or jointly, directly or indirectly, by such person; or

(ii) held by or on behalf of, or at the direction of, such person; or

(iii) derived or generated from the funds or other assets owned or controlled, directly or indirectly, by such person;

b) prohibit any person from making funds, financial assets or economic resources or related services available for the benefit of persons related to any activity which is prohibited under this Act, or under the United Nations (Security Council) Act, 1947 or any other relevant Act for the time being in force, or by an order issued under any such Act, in relation to weapons of mass destruction and their delivery systems.

(3) The Central Government may exercise its powers under this section through any authority who has been assigned the power under sub-section (1) of section 7.

11.3 In exercise of the powers conferred under Para 1.3 of the aforesaid Order dated 30th January 2023, the Pr. Director General of Audit as the Regulator on behalf of the Central Board of Indirect Taxes & Customs (CBIC), Ministry of Finance, Govt. of India has appointed Dr. Amandeep Singh, Additional Director General, Directorate General of Audit, CBIC the Nodal Officer for implementation of provisions of 12A of the Act vide letter F.No. DGA/Tech/Misc/26/2022-TECH-O/o DG-DGA-HQ-DELHI/1098925/2023 dated 29.03.2023.

11.4 Whereas the Nodal officer shall forward the list of designated individuals and entities as specified under Section 12A(1) of the Act as received from the Ministry of External Affairs, Govt. of India/ the Director, FIU-IND, acting as the Central Nodal Officer (CNO) to all **'Dealers in Precious Metals and Precious Stones' (DPMS).**

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11.5 All Dealers in Precious Metals and Precious Stones, irrespective of their annual turnover and any threshold prescribed for reporting transactions under the PMLA, 2002 or any other law prevailing in the country for the time being, shall-

(i) maintain updated designated lists in electronic form and run a check on the given parameters on a daily basis to verify whether designated individuals or entities have any dealings or entered into any transactions with them. In case, the particulars of any of their customers match with the particulars of designated individuals/entities, the DPMS shall immediately inform full particulars thereof, including related to their identity and transactions to the UAPA Nodal Officer at email aman@gov.in and also over telephone No. 9971822177 or 011-23378709;

(ii) Verify if the particulars of the entities/ party to the transactions, match with the particulars of the designated list, and, in case of match, shall not carry out such transaction and immediately inform the details with full particulars of the assets or economic resources involved to the Nodal Officer, without delay;

(iii) shall file a Suspicious Transaction Report (STR) of a transaction, if any undertaken with the designated individual or entity, including an attempted transaction, with FIU-IND and the UAPA Nodal Officer;

(iv) shall freeze, if they hold any assets or funds of the designated individual/entity and immediately inform the Nodal Officer;

11.6 All Natural and legal persons holding any funds or other assets of designated persons and entities, shall, without delay and without prior notice, freeze any transaction in relation to such funds or assets and shall immediately inform the Nodal officer along with

details of the funds/assets held. This obligation extends to all funds or other assets that are owned or controlled by the designated person or entity, and not just those that can be tied to a particular act, plot or threat of proliferation; those funds or other assets that are wholly or jointly owned or controlled, directly or indirectly, by designated persons or entities; and the funds or other assets derived or generated from funds or other assets owned or controlled directly or indirectly by designated persons or entities, as well as funds or other assets of persons and entities acting on behalf of, or at the direction of designated persons or entities.

These guidelines have been issued under the provisions of the Prevention of Money-Laundering Act, 2002 and the rule made thereunder, more specifically, the Prevention of Money-Laundering (Maintenance of Records) Rules, 2005, the Unlawful Activities (Prevention) Act, 1967 and the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005. For any clarifications on these guidelines or removal of doubts, the provisions of the said act and rules may be referred.