

Amendment to Guidelines on AML and CFT/Obligations of Securities Market Intermediaries  
under the Prevention of Money-laundering Act, 2002 and Rules framed there under  
October 13, 2023

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## BACKGROUND

On October 13th, 2023, SEBI issued its Amendment to Guidelines on AML and CFT/Obligations of Securities Market Intermediaries under the Prevention of Money-laundering Act, 2002 and Rules framed there under

## BRIEF

### 1 Additional Measures for Financial Groups

If the **host country cannot enforce anti-money laundering and counter-financing of terrorism measures** that align with the requirements of the home country, financial groups must take supplementary measures to mitigate risks and report this to SEBI.

### 2 Group wide Programmes for dealing with ML/TF

- 1) Financial groups shall be required to implement group wide programs for dealing with **ML/TF**, which shall be applicable, and appropriate to, all branches and majority owned subsidiaries of the financial group as under:
  - Policies and Procedures for sharing information required for the purposes of **CDD and ML/TF risk management**.
  - The provision, at group level compliance, audit, and/or **AML/CFT** functions, of customer, account, and transaction information from branches and subsidiaries when necessary for **AML/CFT purposes**. This shall include information and analysis of transactions or activities which appear unusual (**if such analysis was done**)
  - Ensuring that shared information is kept confidential and used appropriately, **with measures to prevent any accidental disclosures**.

### 3

## Beneficial Ownership

- 1) In the case of a trust, the reporting entity will ensure that **trustees** disclose their status at the **time of commencement of an account-based relationship**.
- 2) While identifying beneficial ownership and control, the beneficial owner will be determined as follows:-
  - a) **Client is a company**: Where the client is a company, the beneficial owner is the **natural person(s)**, who, whether acting alone or together, or through **one or more juridical person**, has a controlling ownership interest or who exercises control through other means.
  - b) **Client is a partnership firm**: The beneficial owners is the natural person who whether acting alone or together has ownership of entitlement to more than **ten percent of capital or profits** of the partnership or who exercises control **through other means**
  - c) **Client is an unincorporated association or body of individuals**: The beneficial owner is the natural person who whether acting alone or together has ownership of or entitlement to more than **fifteen per cent of the property or capital** or profits of such association or body of individuals.
  - d) **Client is a trust**: Identification of beneficial owner will include identification of the author of the trust, the trustee, the beneficiaries with **ten percent or more interest in the trust** and any other natural person exercising **ultimate effective control over the trust**.
  - e) **Applicability for foreign investors**: Registered intermediaries handling foreign investors can follow the guidelines in **SEBI's Master Circular dated December 19, 2022**, and any updates to it, to identify the **beneficial owner of their clients**.

### 4

## Registered Intermediaries

Registered intermediaries must regularly update client and beneficial owner information gathered during the CDD process, especially for high-risk clients, to ensure it remains current and relevant.

SOURCE : SEBI CIRCULAR - SEBI/HO/MIRSD/SEC-FATF/P/CIR/2023/0170

## 5 Enhanced Due Diligence Measures

The intermediary shall specifically apply **EDD measures**, proportionate to the risks, to business relationships and transactions with natural and legal persons (**including financial institutions**) from countries for which this is called for by the **FATF**

## 6 Identity of Existing Clients

Where the registered entity does not have records of the identity of its existing clients, it shall obtain the records forthwith, failing which the registered intermediary shall **close the account of the client after giving due notice to the client**.

## 7 Appointment of Principal Officer

A Principal Officer chosen by registered intermediaries will be the main person in charge of reporting any transactions that **seem suspicious and checking into activities that might be suspicious**.