

Info Capsule

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INFO CAPSULE

ASSISTANCE TO LAW ENFORCEMENT AGENCIES BY BANKS¹

As per information received from the Reserve Bank of India (RBI), according to the publicly available information on the Bank of International Settlement's website, the Basel Committee on Banking Supervision issued a Statement on 'prevention of criminal use of the banking system for the purpose of money-laundering' in December 1988, which included a principle on 'Cooperation with law enforcement authorities'. In terms of this Statement, the banks should cooperate fully with National Law Enforcement Authorities to the extent permitted by specific Local Regulations relating to customer confidentiality. Further, where banks become aware of facts which lead to the presumption that money held on deposit derives from criminal activity or that transactions entered into are themselves criminal in purpose, appropriate measures, consistent with law, should be taken.

As per information provided by the Punjab National Bank, whenever any case of suspicious transactions/fraudulent activity comes to the bank's notice, the same is being reported to respective Law Enforcement Agencies and the bank fully cooperates and remains engaged with them in the investigation. The bank has further informed that in respect of Nirav Modi and Mehul Choksi case, the incident did not come to notice of the Inspection Audit team of the bank though it was going on from 2011, and after detection in the third week of January 2018, immediate investigation was initiated by the bank and fraud reported to RBI shortly thereafter. The bank has also apprised that simultaneously, FIRs were lodged with the Central Bureau of Investigation (CBI) and, subsequently, complaints were lodged with the Enforcement Directorate on 13.2.2018 and the Ministry of Corporate Affairs on 19.2.2018 with full details.

A number of steps have been taken to sensitise the banks on the issue of Money Laundering, including, *inter alia*, the following:

1. RBI has issued Know Your Customer (KYC) Direction, 2016 in which guidelines have been laid down in terms of the provisions of Prevention of Money-Laundering Act, 2002 and the Prevention of Money-Laundering (Maintenance of Records) Rules, 2005, as per which Regulated Entities, including banks are required to follow certain customer identification procedures while undertaking a transaction either by establishing an account-based relationship or otherwise and to monitor their transactions.
2. RBI has issued Master Directions on Frauds — Classification and Reporting which require banks to report frauds beyond a threshold amount to the police, monitoring and follow-up of cases by a special committee, quarterly placement of information before Audit Committees of bank Boards, and annual review of frauds by bank Boards. These cover, *inter alia*, preventive measures, fraud

¹ Available at: <http://pib.nic.in/PressReleaseDetail.aspx?PRID=1564083>

detection systems, systemic lacunae, remedial action, monitoring of progress of investigation and recovery, and staff accountability.

3. Government has issued “Framework for timely detection, reporting, investigation etc. relating to large value bank frauds” to Public Sector Banks (PSBs), which provides, *inter-alia*, that
 - i. PSBs at the time of lodging a complaint with the CBI would also lodge a complaint with the Enforcement Directorate in those accounts where money laundering and Foreign Exchange Management Act violations also appear to be there. Similarly where the fraud also appears to involve violations in the export and/ or import of goods and services, a report will also be lodged with Directorate of Revenue Intelligence; and
 - ii. examination be initiated for willful default immediately upon reporting fraud to RBI.
4. RBI has issued a circular to all banks in February 2018 to implement security and operational controls such as straight-through process between the Core Banking Solution / accounting system and the SWIFT messaging system, enable time-based restrictions in SWIFT, review logs at regular intervals, undertake reconciliation, etc. in a time-bound manner.
5. RBI has instructed banks to report deficient third- party services (such as legal search reports, property valuers’ reports etc.) and ineffective action against collusion of these providers with fraudsters to the Indian Banks’ Association, which maintains a caution list of such service providers.

This was stated by Shri Shiv Pratap Shukla, Minister of State for Finance in a written reply to a Question in Rajya Sabha.