



भारतीय रिज़र्व बैंक
RESERVE BANK OF INDIA
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Master Circular No.13 /2011-12

July 1, 2011

To,

All Authorised Persons in Foreign Exchange

Madam / Sir,

**Master Circular on Memorandum of Instructions
governing money changing activities**

This Master Circular consolidates the existing instructions on the subject of “Memorandum of Instructions governing money changing activities” at one place. The list of underlying circulars/ notifications is set out in Appendix.

2. This Master Circular is being issued with a sunset clause. It will stand withdrawn on July 1, 2012 and would be replaced by an updated Master Circular on the subject.

Yours faithfully,

Fx Algo Money

(Meena Hemchandra)
Chief General Manager-in-Charge

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SECTION-I

Guidelines for Licencing and other Approvals for Authorised Money Changers (AMCs)

1. Introduction

Authorised Money Changers (AMCs) are entities, authorised by the Reserve Bank under Section 10 of the Foreign Exchange Management Act, 1999. An AMC is a Full Fledged Money Changer (FFMC). In addition to Authorised Dealer Category -I Banks (AD Category-I Banks) and Authorised Dealers Category - II (ADs Category-II), Full Fledged Money Changers (FFMCs) are authorised by the Reserve Bank to deal in foreign exchange for specified purposes, to widen the access of foreign exchange facilities to residents and tourists while ensuring efficient customer service through competition. FFMCs are authorised to purchase foreign exchange from residents and non-residents visiting India and to sell foreign exchange for certain approved purposes. AD Category -I Banks / ADs Category - II / FFMCs may appoint franchisees to undertake purchase of foreign currency*. No person shall carry on or advertise that he carries on money changing business unless he is in possession of a valid money changer's licence issued by the Reserve Bank. Any person found undertaking money changing business without a valid licence is liable to be penalised under the Act *ibid*.

*** Note :- Franchisees of AD Category -I Banks / ADs Category - II / FFMCs functioning within 10 kms from the borders of Pakistan and Bangladesh may also sell the currency of the bordering country, with the prior approval of the Regional offices concerned of the Reserve Bank. Other franchises of AD Category -I Banks / ADs Category - II / FFMCs cannot sell foreign currency.**

2. Guidelines for issuance of FFMC Licence :-

The guidelines for issue of new FFMC licence and renewal of FFMC licence, branch licensing, approval for appointment of agents / franchisees and Know Your Customer (KYC) / Anti Money Laundering (AML) / Combating the Financing of

Terrorism (CFT) Guidelines for Authorised Persons are given below. These guidelines are indicative and the Reserve Bank may take into account other relevant factors like increase in outreach, location, etc. while considering applications for licences.

(i) Entry Norms

- (i) The applicant has to be a company registered under the Companies Act, 1956.
- (ii) The minimum Net Owned Funds (NOF) required for consideration as FFMC are as follows:

Category	Minimum Net Owned Funds
Single branch FFMC	Rs. 25 lakh
Multiple branch FFMC	Rs. 50 lakh

Note :- The Net Owned Funds of applicants, other than banks, should be calculated as per the following.

(a) Owned Funds :- (Paid-up Equity Capital + Free reserves + Credit balance in Profit & Loss A/c) minus (Accumulated balance of loss, Deferred revenue expenditure and Other intangible assets)

(b) Net Owned Funds :- Owned funds minus the amount of investments in shares of its subsidiaries, companies in the same group, all (other) non-banking financial companies as also the book value of debentures, bonds, outstanding loans and advances made to and deposits with its subsidiaries and companies in the same group in excess of 10 per cent of the Owned funds.

(ii) Documentation

Application in the form, as at **Annex - II**, should be submitted to the respective Regional Office of the Foreign Exchange Department of the Reserve Bank under whose jurisdiction the registered office of the applicant falls, along with the following documents:

- (a)** Copy each of the Certificate of Incorporation and Certificate of Commencement of Business of the company.
- (b)** Memorandum and Articles of Association containing a provision for undertaking money changing business or an appropriate amendment to this effect filed with the Company Law Board.
- (c)** Copy of the latest audited accounts with a certificate from the Statutory Auditors certifying the Net Owned Funds as on the date of application. Copies of the audited Balance Sheet and Profit & Loss Account of the company for the last three years, wherever applicable.
- (d)** Confidential Report from the applicant's banker in a sealed cover.
- (e)** A declaration to the effect that no proceedings have been initiated by / are pending with the Directorate of Enforcement (DoE) / Directorate of Revenue Intelligence (DRI) or any other law enforcing authorities, against the applicant company or its directors and that no criminal cases are initiated / pending against the applicant company or its directors.
- (f)** A declaration to the effect that proper policy framework on KYC / AML / CFT, in accordance with the guidelines issued vide A.P.(DIR Series) Circular No. 17[A.P.(FL/RL Series) Circular No. 04] dated November 27, 2009, as amended from time to time, will be put in place on obtaining the approval of the Reserve Bank and before commencement of operations.
- (g)** Details of sister / associated concerns operating in the financial sector, like NBFCs, etc.
- (h)** A certified copy of the board resolution for undertaking money changing business.

(iii) Basis for Approval

(i) Since several FFMCs are already functioning, fresh licences will be issued on a selective basis to those who comply with all the licencing requirements, who facilitate an increase in outreach, have locational advantage, like being located in border areas, tourist centers, etc.

(ii) 'Fit and proper' criteria for the applicant FFMCs #

If any case by DoE / DRI or any other case by any other law enforcing authorities, is initiated / pending against any company / its directors, the company will not be considered as 'fit and proper' and its application will not be considered for licencing as FFMC.

(# Also applicable to non-bank ADs Category - II)

(iii) 'Fit and proper' criteria for directors of FFMCs *

Please see **SECTION- VIII** for the details in this regard.

(* Also applicable to non-bank ADs Category - II)

(iv) Clearance by the Empowered Committee

The request for issuance of FFMC licence would be considered by the Regional Office concerned of the Reserve Bank on the basis of the clearance by an Empowered Committee, set up for the purpose.

(v) Reserve Bank's decision in the matter of granting approval or otherwise will be final and binding.

(vi) On obtaining approval from the Reserve Bank, a copy of the registration under Shops & Establishment Act or any other documentary evidence such as rent receipt, copy of lease agreement, etc. should be submitted to the Regional Office concerned of the Reserve Bank before commencement of the business.

- (vii) The FFMC should commence its operations within a period of **six months** from the date of issuance of licence and inform the Regional Office concerned of the Reserve Bank.
- (viii) New FFMCs should carry out their activities as per the instructions specified in **SECTIONS V and VI** below and other instructions issued by the Reserve Bank from time to time.

[Note:- No fresh authorization will be issued to Urban Cooperative Banks (UCBs) to function as FFMCs.]

SECTION II

Guidelines for Grant of Authorisation for Additional Branches :-

1. No FFMC shall carry on money changing business at any additional place of business other than its permanent place of business except with the prior approval of the Reserve Bank. An FFMC which intends to commence money changing business at any additional place of business shall apply in writing to the respective Regional Office of the Foreign Exchange Department under whose jurisdiction the registered office of the applicant falls and the Reserve Bank may approve the additional place of business subject to such conditions as deem fit.

2. Applications for additional locations (places of business) should be accompanied by the following:-

- (a) Copy of the latest audited accounts with a certificate from the Statutory Auditors regarding the position of Net Owned Funds as on the date of application.
- (b) Confidential Report from the applicant's banker in a sealed cover.
- (c) A declaration to the effect that no proceedings have been initiated by / are pending at the Directorate of Enforcement (DoE) / Directorate of Revenue Intelligence (DRI) or any other law enforcing authorities against the applicant or its directors and that no criminal cases are initiated / pending against the applicant or its directors. No new branch license will be issued to any FFMC, against whom any major DoE / DRI case is pending. In DoE / DRI pending cases of a minor nature, a decision will be taken by the Reserve Bank on a case by case basis. The categorization of pending DoE / DRI cases as major / minor will be at the discretion of the Reserve Bank and the decision of the Reserve Bank will be final and binding. Where any DoE / DRI case is adjudicated and penalty is imposed, a view will be taken, on the basis

of the nature of the offence, provided no fresh case is instituted by DoE / DRI.

- (d) A copy of the KYC / AML/ CFT policy framework existing in the company.
- (e) Brief write-up on the internal control systems, including internal and external audit.

3. With an objective to have proper distribution of branches of FFMCs in metros and non-metros, the applications for additional offices in metropolitan cities will be considered if the total number of offices (including proposed offices) of the applicant are in the ratio 1:1 (i.e. the applicant has one non-metropolitan office for every office in a metro). For this purpose, in addition to Mumbai, New Delhi, Chennai and Kolkata, three more cities viz., Bangalore, Hyderabad and Ahmedabad are considered as metropolitan centers. Preference will be given to applications for branches in remote areas of tourist attraction.

4. A copy of the registration under Shops & Establishment Act or any other documentary evidence such as rent receipt, copy of lease agreement, etc. should be submitted to the Regional Office concerned of the Reserve Bank before commencement of business at an additional branch.

5. The FFMC should commence operations of its additional branch within a period of **six months** from the date of issuance of licence and inform the Regional Office concerned of the Reserve Bank.

SECTION III

Guidelines for appointment of Agents / Franchisees by Authorized Dealer Category – I Banks, Authorized Dealers Category - II and FFMCs :-

1. Under the Scheme, the Reserve Bank permits AD Category – I Banks, ADs Category - II and FFMCs to enter into [franchisee (also referred as agency)] agreements at their option for the purpose of carrying on Restricted Money Changing business i.e. conversion of foreign currency notes, coins or travellers' cheques into Indian Rupees.

2. Franchisee

A franchisee can be any entity which has a place of business and a minimum Net Owned Funds of Rs. 10 lakh. Franchisees can undertake only restricted money changing business.

3. Franchisee Agreement

AD Category-I Banks / ADs Category-II / FFMCs as the franchisers are free to decide on the tenor of the arrangement as also the commission or fee through mutual agreement with the franchisee.

The Agency / Franchisee agreement to be entered into should include the following salient features:

- (a) The franchisees should display the names of their franchisers, exchange rates and that they are authorized only to purchase foreign currency, prominently in their offices. Exchange Rate for conversion of foreign currency into Rupees should be the same or close to the daily exchange rate charged by the AD Category – I Banks / ADs Category - II / FFMC at its branches.

- (b) The foreign currency purchased by the franchisee should be surrendered to the franchiser or any other authorized person, as may be agreed upon, within 7 working days from the date of purchase.
- (c) The maintenance of proper record of transactions by the franchisee.
- (d) The on-site inspection of the franchisee by the franchiser should be conducted at least once a year.

4. **Procedure for application**

An AD Category – I Bank / AD Category - II/ FFMC should apply to the respective Regional Office of the Reserve Bank, in Form RMC-F (**Annex-III**) for appointment of franchisees under this Scheme. The application should be accompanied by a declaration that while selecting the franchisees, adequate due diligence has been carried out and that such entities have undertaken to comply with all the provisions of the franchising agreement and prevailing Reserve Bank regulations regarding money changing. Approval would be granted by the Reserve Bank for the first franchisee arrangement. Thereafter, as and when new franchisee agreements are entered into, these would have to be reported to the Reserve Bank in Form RMC-F (**Annex-III**) on a post-facto basis along with similar declaration as indicated above.

5. **Due Diligence of Franchisees**

The AD Category Banks – I / ADs Category – II / FFMCs should undertake the following minimum checks while conducting the due diligence of the franchisees :

- existing business activities of the franchisee ; its position in the area.
- minimum Net Owned Funds of the franchisee.
- Shops & Establishments / other applicable municipal certification in favour of the franchisee.
- verification of physical existence of location of the franchisee, where restricted money changing activities will be conducted.

- conduct certificate of the franchisee from the local police authorities. (certified copy of Memorandum and Articles of Association and Certificate of Incorporation in respect of incorporated entities).
- declaration regarding past criminal case, if any, cases initiated / pending against the franchisee or its directors / partners by any law enforcing agency, if any.
- PAN Card of the franchisee and its directors / partners.
- photographs of the directors / partners and the key persons of franchisee.

The above checks should be done on a regular basis, at least once in a year. The AD Category – I Banks / ADs Category – II / FFMCs should obtain from the franchisees proper documentary evidence confirming the location of the franchisees in addition to personal visits to the site. The AD Category –I Banks / ADs Category – II / FFMCs should also obtain a Chartered Accountant's certificate confirming the maintenance of the Net Owned Funds of the franchisee, i.e., Rs. 10 lakh on an ongoing basis.

6. Selection of Centers

Franchisers are free to select centers for operationalising the Scheme.

7. Training

Franchisers are expected to impart training to the franchisees as regards operations and maintenance of records.

8. Reporting, Audit and Inspection

The franchisers, i.e. the AD Category–I Banks / ADs Category–II / FFMCs, are expected to put in place adequate arrangements for reporting of transactions by the franchisees to the franchisers on a regular basis (at least monthly). Regular spot

audits of all locations of franchisees, at least once in six months, should be conducted by AD Category–I Banks / ADs Category–II / FFMCs. Such audits should involve a dedicated team and **'mystery customer' (individuals acting as potential customers to experience and measure the extent up to which people and process perform as they should)** concept should be used to test the compliance level of the franchisees. A system of annual inspection of the books of the franchisees should also be put in place. The purpose of such inspection is to ensure that the money changing business is being carried out by the franchisees in conformity with the terms of the agreement and prevailing Reserve Bank guidelines and that necessary records are being maintained by the franchisees.

9. Anti Money Laundering (AML) / Know Your Customer (KYC) / Combating the Financing of Terrorism (CFT) Guidelines

Franchisees are required to strictly adhere to the AML / KYC/ CFT guidelines, as applicable to AD Category–I Banks / ADs Category – II / FFMCs.

Note:- No licence for appointment of franchisees will be issued to any FFMC / non-bank AD Category - II, against whom any major DoE / DRI / CBI / Police case is pending. In case where any FFMC / non-bank AD Category - II has received one-time approval for appointing franchisees and subsequent to the date of approval, any DoE / DRI / CBI / Police case is filed, the FFMC / non-bank AD Category - II should not appoint any further franchisees and bring the matter to the notice of the Reserve Bank immediately. A decision will be taken by the Reserve Bank regarding allowing the FFMC / non-bank AD Category - II to appoint franchisees.

SECTION IV

Guidelines for Renewal of licences of existing FFMCs :

1. The applicant should be a company registered under the Companies Act, 1956 having registered office within the area of jurisdiction of the respective Regional Office of the Foreign Exchange Department.
2. The Net Owned Funds required are as follows:

Category	Minimum Net Owned Funds
Single branch FFMC	Rs. 25 lakh
Multiple branch FFMC	Rs. 50 lakh

3. Applications for renewal should be submitted along with the documents, mentioned below.
 - (a) Copy of the latest audited accounts with a certificate from the Statutory Auditors regarding the position of Net Owned Funds as on date.
 - (b) Confidential Report from the applicant's banker in a sealed cover.
 - (c) A declaration to the effect that no proceedings have been initiated by/ are pending with the Directorate of Enforcement / Directorate of Revenue Intelligence or any other law enforcing authorities against the applicant company or its directors and that no criminal cases are initiated/ pending against the applicant company or its directors.
 - (d) A copy of the KYC / AML / CFT policy framework existing in the company.

Note :- An application for the renewal of a money-changer's licence shall be made not later than one month, or such other period as the Reserve Bank may prescribe, before the expiry of the licence. Where a person submits an application for the renewal of his money changer's licence, the licence shall continue in force until the date on which the licence is renewed or the application is rejected, as the case may be. No application for renewal of a money-changer's licence shall be made after the expiry of the licence.

SECTION V

Operational Instructions

1. Bringing in and taking out of Foreign Exchange

(i) Foreign exchange in any form can be brought into India freely without limit provided it is declared on the Currency Declaration Form (CDF) on arrival to the Custom Authorities. When foreign exchange brought in the form of currency notes or travellers' cheques does not exceed US\$ 10,000/- or its equivalent and / or the value of foreign currency notes does not exceed US\$ 5,000/- or its equivalent, declaration thereof on CDF is not insisted upon.

(ii) Taking out foreign exchange in any form, other than foreign exchange obtained from an authorized dealer or a money changer is prohibited unless it is covered by a general or special permission of the Reserve Bank. Non-residents, however, have general permission to take out an amount not exceeding the amount originally brought in by them, subject to compliance with the provisions of sub-para (i) above.

2. Purchases of Foreign Currency from Public

(i) Authorised Money Changers (AMCs) / franchisees may freely purchase foreign currency notes, coins and travellers cheques from residents as well as non-residents. Where the foreign currency was brought in by declaring on form CDF, the tenderer should be asked to produce the same. The AMC should invariably insist on production of declaration in CDF.

(ii) AMCs may sell Indian Rupees to foreign tourists / visitors against International Credit Cards and take prompt steps to obtain reimbursement through normal banking channels.

3. Encashment Certificate

(i) AMC's may issue certificate of encashment when asked for in cases of purchases of foreign currency notes, coins and travellers cheques from residents as well as non-residents. These certificates bearing authorized signatures should be issued on the letter head of the money changer and proper record should be maintained.

(ii) In cases where encashment certificate is not issued, attention of the customers should be drawn to the fact that unspent local currency held by non-residents will be allowed to be converted into foreign currency only against production of a valid encashment certificate.

4. Purchases from other AMC's and Authorized Dealers (ADs)

AMCs may purchase from other AMC's and ADs any foreign currency notes, coins and encashed travellers' cheques tendered in the normal course of business. Rupee equivalent of the amount of foreign exchange purchased should be paid only by way of crossed account payee cheque/Demand Draft/Bankers' cheque / Pay order.

5. Sale of foreign exchange

(I) Private Visits

AMCs may sell foreign exchange up to the prescribed ceiling (currently US \$ 10,000) specified in Schedule III to the Foreign Exchange Management (Current Account Transaction) Rules, 2000 during a financial year to persons resident in India for undertaking one or more private visits to any country abroad (except Nepal and Bhutan). Exchange for such private visits will be available on a self-declaration basis to the traveller regarding the amount of foreign exchange availed during a financial year. Foreign nationals permanently resident in India are also eligible to avail of this quota for private visits provided the applicant is not availing of facilities for remittance of his salary, savings, etc., abroad in terms of extant regulations.

(II) Business visits

AMCs may sell foreign exchange to persons resident in India for undertaking business travel or for attending a conference or specialized training or for maintenance expenses of a patient going abroad for medical treatment or check up abroad or for accompanying as attendant to a patient going abroad for medical treatment / check-up up to the limits (currently US \$ 25,000 per visit) specified in Schedule III to FEMA (Current Account Transactions) Rules, 2000.

Conditions

- i. The Reserve Bank will not generally, prescribe the documents which should be verified by the AMCs while releasing foreign exchange. In this connection, attention of AMCs is drawn to sub-section (5) of Section 10 of FEMA, 1999.
- ii. In case of issue of travellers' cheques, the traveler should sign the cheques in the presence of an authorized official and the purchaser's acknowledgement for receipt of the travellers' cheques should be held on record.
- iii. AMCs may release foreign exchange for travel purposes on the basis of a declaration given by the traveler regarding the amount of foreign exchange availed of during the financial year.
- iv. AMCs may accept payment in cash upto Rs. 50,000/- (Rupees fifty thousand only) against sale of foreign exchange for travel abroad (for private visit or for any other purpose). Wherever the sale of foreign exchange exceeds the amount equivalent to Rs. 50,000/-, the payment must be received only by a crossed cheque drawn on the applicant's bank account or crossed cheque drawn on the bank account of the firm / company sponsoring the visit of the applicant or Banker's cheque / Pay Order / Demand Draft. For this purpose, where the Rupee equivalent of foreign exchange drawn exceeds Rs. 50,000/- either for any single drawal or more than one drawal reckoned together for a single journey visit, it should be paid by crossed cheque/ Banker's cheque / Pay Order / Demand Draft. In addition to the payment by Rupees/ through crossed cheque/ Banker's

cheque/ Pay order/ Demand draft, AMCs may also accept the payments made by the traveller through debit cards/ credit cards/ prepaid cards for travel abroad (for private visit or for any other purpose) provided- (i) KYC/ AML / CFT guidelines are complied with, (ii) sale of foreign currency/ issue of foreign currency travellers' cheques is within the limits (credit/ prepaid cards) prescribed by the bank, (iii) the purchaser of foreign currency/ foreign currency travellers' cheque and the credit/ debit/ prepaid card holder is one and the same person.

- v. The sale of foreign currency notes and coins within the overall entitlement of foreign exchange should be restricted to the limits prescribed by the Reserve Bank from time to time for the country of visit of the traveller.

6. Sales against Reconversion of Indian Currency

AMCs may convert into foreign currency, unspent Indian currency held by non-residents at the time of their departure from India, provided a valid Encashment Certificate is produced.

Note (1) : AMCs may convert at their discretion, unspent Indian currency up to Rs.10,000 in the possession of non-residents if, for bonafide reasons, the person is unable to produce an Encashment Certificate after ensuring that the departure is scheduled to take place within the following seven days.

Note (2) : ADs Category - I and ADs Category - II may provide facility for reconversion of Indian Rupees to the extent of Rs. 50,000/- to foreign tourists (**not NRIs**) against ATM Receipts based on the following documents.

- Valid Passport and VISA
- Ticket confirmed for departure within 7 days.
- Original ATM slip (to be verified with the original debit/ credit card).

7. Cash Memo

AMCs may issue a cash memo, if asked for, on official letterhead to travellers to whom foreign currency is sold by them. The cash memo may be required for production to emigration authorities while leaving the country.

8. Rates of Exchange

AMCs may put through transactions relating to foreign currency notes and travellers' cheques at rates of exchange determined by market conditions and in alignment with the ongoing market rates.

9. Display of Exchange Rate Chart

AMCs should display at a prominent place in or near the public counter, a chart indicating the rates for purchase/sale of foreign currency notes and travellers' cheques for all the major currencies and the card rates for any day, should be updated, latest by 10:30 a.m.

10. Foreign Currency Balances

- (i) AMCs should keep balances in foreign currencies at reasonable levels and avoid build up of idle balances with a view to speculating on currency movements.
- (ii) Franchisees should surrender foreign currency notes, coins and travellers' cheques purchased to an AD or to an FFMC within seven working days.
- (iii) The transactions between authorized dealers and FFMCs should be settled by way of account payee crossed cheques / demand drafts. Under no circumstances should settlement be made in cash.

11. Replenishment of Foreign currency Balances

- (i) AMCs may obtain their normal business requirements of foreign currency notes from other AMCs / authorized dealers in foreign exchange in India, against payment in rupees made by way of account payee crossed cheque / Demand Draft.

(ii) Where AMCs are unable to replenish their stock in this manner, they may make an application to the Forex Markets Division, Foreign Exchange Department, Central Office, Reserve Bank of India, Mumbai through an AD Category-I for permission to import foreign currency into India. The import should take place through the designated AD Category-I through whom the application is made.

12. Export / Disposal of surplus Foreign Currency Notes / Travellers' Cheques

AMCs may export surplus foreign currency notes / encashed travellers' cheques to an overseas bank through designated Authorized Dealer Category - I in foreign exchange for realization of their value through the latter. FFCMs may also export surplus foreign currency to private money changers abroad subject to the condition that either the realizable value is credited in advance to the AD Category – I bank's nostro account or a guarantee is issued by an international bank of repute covering the full value of the foreign currency notes / coins to be exported.

13. Write-off of fake foreign currency notes

In the event of foreign currency notes purchased being found fake/forged subsequently, AMCs may write- off up to US \$ 2000 per financial year after approval of their Top Management after exhausting all available options for recovery of the amount. Any write-off in excess of the above amount, would require the approval of the Regional Office concerned of the Foreign Exchange Department of the Reserve Bank.

14. Registers and Books of Accounts of Money-changing Business

- (i) AMCs shall maintain the following Registers in respect of their money-changing transactions :
 - (a) Daily Summary and Balance Book (Foreign currency notes / coins) in form **FLM 1 (Annex-IV)**.

- (b) Daily Summary and Balance Book (Travellers' cheques) in form **FLM 2 (Annex-V)**.
 - (c) Register of purchases of foreign currencies from the public in form **FLM 3 (Annex-VI)**.
 - (d) Register of purchases of foreign currency notes / coins from authorized dealers and authorized money changers in form **FLM 4 (Annex-VII)**.
 - (e) Register of sales of foreign currency notes / coins and foreign currency travellers' cheques to the public in form **FLM 5 (Annex-VIII)**.
 - (f) Register of sales of foreign currency notes / coins to authorized dealers / Full Fledged Money Changers / overseas banks in form **FLM 6 (Annex-IX)**.
 - (g) Register of travellers' cheques surrendered to authorized dealers / authorized money changers / exported in form **FLM 7 (Annex-X)**.
- (ii) All registers and books should be kept up-to-date, cross-checked and balances verified daily.
 - (iii) Transactions not pertaining to money changing business of the AMC should not be mixed up with money changing transactions. In other words, the registers and books of account should show clearly the trail of transactions pertaining to money changing business.
 - (iv) Separate registers should be maintained for each establishment, if the AMC maintains more than one place of business.

Note :- Inter-branch transfer of foreign currencies should be accounted as stock transfer and not as sales.

15. Submission of Statements to the Reserve Bank

- (i) AMCs should submit to the office of the Reserve Bank which has issued the license, a monthly consolidated statement for all its offices in respect of sale and purchase of foreign currency notes in form **FLM 8 (Annex-XI)** so as to reach not later than the 10th of the succeeding month.

- (ii) AMCs should submit to the Regional Office concerned of the Foreign Exchange Department, Reserve Bank, a monthly statement indicating details of receipt / purchase of US \$ 10,000 (or its equivalent) and above per transactions in the enclosed format as at **Annex-XII**, within 10 days of the close of the month. FFCs / ADs Category - II should include transactions of their franchisees in their statement.
- (iii) AMCs should submit a quarterly statement regarding Foreign Currency Account/s maintained in India in their names with AD Category-I Banks to the Regional Office concerned of the Foreign Exchange Department, Reserve Bank as per the format in **Annex-XIII**.
- (iv) An Annual Statement should be submitted by all the AMCs to the respective Regional Offices of the Foreign Exchange Department, Reserve Bank which have issued the licenses within one month of the financial year-end, giving the details of the amount written off during the financial year, as per the format as at **Annex-XIV**.

16. Inspection of Transactions of AMCs

Section 12(1) of Foreign Exchange Management Act 1999, empowers any officer of Reserve Bank specially authorized in this behalf to inspect the books and accounts and other documents of AMCs. The AMCs should provide all assistance and co-operation to Inspecting Officers in carrying out their inspection. Failure to produce any books of account or other document or to furnish any statement or information or to answer any question relating to the money changing transactions to the Inspecting Officers, shall be deemed to be a contravention of the provisions of the Act *ibid*.

17. Concurrent Audit

- (i) AMCs should put in place a system of Concurrent Audit of the transactions undertaken by them.

(ii) All single branch AMCs having a turnover of more than US \$ 100,000 or equivalent per month and all multiple branch AMCs should institute a system of monthly audit. Single branch AMCs having turnover of less than US \$ 100,000 or its equivalent may institute a system of quarterly audit.

(iii) Appointment / selection of concurrent auditors is left to the discretion of the AMCs. The concurrent auditors should check all the transactions of the AMCs and ensure that all the instructions issued by the Reserve Bank from time to time have been complied with. The Statutory Auditors are required to certify that the Concurrent Audit and the internal control systems are working satisfactorily.

18. Temporary Money Changing Facilities

AMCs are authorized to transact money changing business only at the location or locations specifically indicated in the licence. If it is intended to provide money changing facilities on a temporary basis on certain special occasions, a separate application should be made for the purpose to the Regional Office concerned of the Foreign Exchange Department of the Reserve Bank. Full details such as period for which the exchange counter will be operated, volume of business expected, manner of accounting of the transactions, letter from organizers making available venue for the money changing facilities, etc. should be submitted.

19. Opening of Foreign Currency Accounts by AMCs

AMCs, with the approval of the respective Regional Offices of the Foreign Exchange Department, may be allowed to open Foreign Currency Accounts in India, subject to the following conditions:-

(i) Only one account may be permitted at a particular centre.

(ii) Only the value of foreign currency notes/ encashed TCs exported through the specific bank and realized can be credited to the account.

(iii) Balances in the accounts shall be utilized only for settlement of liabilities on account of-

- (a) TCs sold by the AMCs and
 - (b) Foreign currency notes acquired by the AMCs from AD Category-I banks.
- (iv) No idle balance shall be maintained in the said account.

20. Submission of Balance Sheet and maintenance of NOF

All AMCs are required to submit their annual audited balance sheet to the respective Regional office of the Reserve Bank for the purpose of verification of their Net Owned Funds along-with a certificate from the statutory auditors regarding the NOF as on the date of the balance sheet. As AMCs are expected to maintain the minimum NOF on an ongoing basis, if there is any erosion in their NOF below the minimum level, they are required to bring it to the notice of the Reserve Bank immediately along with a detailed time bound plan for restoring the Net Owned Funds to the minimum required level.

21. Participation by Full Fledged Money Changers (FFMCs) and Authorised Dealers Category-II (ADs Category-II) in the Currency Futures and Exchange traded Currency Options markets

FFMCs and ADs Category-II [which are not Regional Rural Banks (RRBs), Local Area Banks (LABs), Urban Co-operative Banks (UCBs) and Non-Banking Financial Companies (NBFCs)], having a minimum net worth of Rs. 5 crore, may participate in the designated currency futures and currency options on exchanges recognized by the Securities and Exchange Board of India (SEBI) as clients only for the purpose of hedging their underlying foreign exchange exposures. FFMCs and ADs Category-II which are RRBs, LABs, UCBs and NBFCs, may be guided by the instructions issued by the respective regulatory Departments of the Reserve Bank in this regard.

SECTION VI

KYC/ AML/ CFT Guidelines

Detailed Know Your Customer (KYC) /Anti-Money Laundering (AML) /Combating the Financing of Terrorism (CFT) guidelines in respect of money changing activities are detailed in **Annex-I**.

SECTION VII

Revocation of Licence

The Reserve Bank reserves the right to revoke the licence granted to an AMC at any time if the Reserve Bank is satisfied that (a) it is in public interest to do so or (b) the AMC has failed to comply with any condition subject to which the authorisation is granted or has contravened any of the provisions of the Foreign Exchange Management Act, 1999 or any rule, regulation, notification, direction or order made there-under. The Reserve Bank also reserves the right to revoke the authorisation of any of the offices for infringement of any statutory or regulatory provision. The Reserve Bank may at any time vary or revoke any of the existing conditions of a money changer's licence or impose new conditions.

SECTION VIII

[See SECTION I, Paragraph 2 (iii) (iii)]

'Fit and proper' criteria for directors of FFMCs / non-bank ADs Category - II

- (a) The Boards of FFMCs / non-bank ADs Category - II should undertake a process of due diligence to determine the suitability of the person for appointment / continuing to hold appointment as a director on the Board, based upon qualification, expertise, track record, integrity and other 'fit and proper' criteria. For assessing integrity and suitability, factors like criminal record, if any, financial position, civil action initiated to pursue personal debts, refusal of admission to or expulsion from professional bodies, sanctions imposed by regulators or similar bodies, previous questionable business practices, etc. should be considered. The Board of Directors should assess 'fit and proper' status by calling for information by way of self-declaration, verification reports from market, etc. FFMCs / non-bank ADs Category - II should obtain necessary information and declaration from the proposed / existing directors for the purpose in Proforma given at the end.
- (b) The process of due diligence should be undertaken by the FFMCs / non-bank ADs Category - II at the time of appointment / renewal of appointment.
- (c) The Boards of the FFMCs / non-bank ADs Category - II should constitute Nomination Committees to scrutinize the declarations.
- (d) Based on the information provided in the signed declaration, Nomination Committees should decide on the acceptance or otherwise and may make references, where considered necessary to the appropriate authority / persons, to ensure their compliance with the requirements indicated.
- (e) FFMCs / non-bank ADs Category - II should obtain annually as on 31st March a simple declaration that the information already provided has not undergone

change and where there is any change, requisite details are furnished by the directors forthwith.

(f) Further, the candidate should normally not exceed 70 years of age, should not be a Member of Parliament / Member of Legislative Assembly / Member of Legislative Council.

(g) Any change in directors during the year should be reported to the Regional Office concerned of the Foreign Exchange Department, Reserve Bank of India in the Proforma given below.

(h) Comments of respective Departments of the Reserve Bank will be obtained on the operations of an applicant who / whose parent organisation is already licenced / authorised by the Reserve Bank.

Proforma

Information about New Directors / Change of Directors of the FFMC / non-bank AD Category – II

1. Name :
2. Designation :
3. Nationality :
4. Age :
5. Business Address :
6. Residential Address :
7. Educational / professional qualifications :
8. Line of business or vocation :
9. Name/s of other companies in which the person has held the post of Chairman / Managing Director / Director / Chief Executive Officer :

10. (i) Whether associated as promoter, Managing Director, Chairman or Director with any other FFMC / AD Category - II? :
- (ii) If yes, the name/s of the company/ies :
11. (i) Whether prosecuted/convicted for any economic offence either in the individual capacity or as a partner / director of any firm / company :
- (ii) If yes, particulars thereof :
12. Experience in money changing business (number of years) :
13. Equity shareholding in the company
- No. of shares :
- Face value :
- Percentage to total equity share capital of the company: :

Signature : Name :

Date : Designation :

Place : (Chief Executive Officer)

Company :

PART A

KYC / AML / CFT Guidelines for money changing activities

Know Your Customer (KYC) norms / Anti-Money Laundering (AML) standards / Combating the Financing of Terrorism (CFT) / Obligation of APs under Prevention of Money Laundering Act, (PMLA), 2002, as amended by Prevention of Money Laundering (Amendment) Act, 2009 – Money Changing activities

1. Introduction

The offence of Money Laundering has been defined in Section 3 of the Prevention of Money Laundering Act, 2002 (PMLA) as "whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected with the proceeds of crime and projecting it as untainted property shall be guilty of offence of money laundering". Money Laundering can be called a process by which money or other assets obtained as proceeds of crime are exchanged for "clean money" or other assets with no obvious link to their criminal origins.

There are three stages of money laundering during which there may be numerous transactions made by launderers that could alert an institution to criminal activity –

- **Placement** - the physical disposal of cash proceeds derived from illegal activity.
- **Layering** - separating illicit proceeds from their source by creating complex layers of financial transactions designed to disguise the audit trail and provide anonymity.
- **Integration** - the provision of apparent legitimacy to criminally derived wealth. If the layering process has succeeded, integration schemes place the

laundered proceeds back into the economy in such a way that they re-enter the financial system appearing to be normal business funds.

2. The objective

The objective of prescribing KYC/AML/CFT guidelines is to prevent the system of purchase and / or sale of foreign currency notes / Travellers' cheques by Authorised Persons (referred as APs hereinafter) from being used, intentionally or unintentionally, by criminal elements for money laundering or terrorist financing activities. KYC procedures also enable APs to know/understand their customers and their financial dealings better which in turn help them manage their risks prudently.

3. Definition of Customer

For the purpose of KYC policy, a 'Customer' is defined as :

- a person who undertakes occasional/regular transactions;
- an entity that has a business relationship with the AP;
- one on whose behalf the transaction is made (i.e. the beneficial owner)

[In view of Government of India Notification dated February 12, 2010 - Rule 9, sub-rule (1 A) of PML Rules - 'Beneficial Owner' means the natural person who ultimately owns or controls a client and or the person on whose behalf a transaction is being conducted, and includes a person who exercise ultimate effective control over a juridical person].

4. Guidelines

4.1 General

APs should keep in mind that the information collected from the customer while undertaking transactions is to be treated as confidential and details thereof are not to be divulged for cross selling or any other like purposes. APs should, therefore, ensure that information sought from the customer is relevant to the perceived risk, is

not intrusive, and is in conformity with the guidelines issued in this regard. Any other information from the customer, wherever necessary, should be sought separately with his/her consent.

4.2 KYC Policy

APs should frame their KYC policies incorporating the following four key elements:

- a)** Customer Acceptance Policy;
- b)** Customer Identification Procedures;
- c)** Monitoring of Transactions; and
- d)** Risk Management.

4.3 Customer Acceptance Policy (CAP)

a) Every AP should develop a clear Customer Acceptance Policy laying down explicit criteria for acceptance of customers. The Customer Acceptance Policy must ensure that explicit guidelines are in place on the following aspects of customer relationship in the AP:

- (i)** No transaction is conducted in anonymous or fictitious/benami name(s).

[In view of In terms of Government of India Notification dated June 16, 2010 Rule 9, sub-rule (1C) - APs should not allow any transaction in any anonymous or fictitious name (s) or on behalf of other persons whose identity has not been disclosed or cannot be verified].

- (ii)** Parameters of risk perception are clearly defined in terms of the nature of business activity, location of customer and his clients, mode of payments, volume of turnover, social and financial status etc. to enable categorisation of customers into low, medium and high risk (APs may choose any suitable nomenclature viz. level I, level II and level III). Customers requiring very high level of monitoring, e.g. Politically

Exposed Persons (PEPs) may, if considered necessary, be categorised even higher.

- (iii)** Documentation requirements and other information to be collected in respect of different categories of customers depending on perceived risk and keeping in mind the requirements of Prevention of Money Laundering Act, (PMLA), 2002, as amended by Prevention of Money Laundering (Amendment) Act, 2009, Prevention of Money-Laundering (Maintenance of Records of the Nature and Value of Transactions, the Procedure and Manner of Maintaining and Time for Furnishing Information and Verification and Maintenance of Records of the Identity of the Clients of the Banking Companies, Financial Institutions and Intermediaries) Rules, 2005 as well as instructions/guidelines issued by the Reserve Bank, from time to time.
 - (iv)** Not to undertake any transaction where the AP is unable to apply appropriate customer due diligence measures i.e. AP is unable to verify the identity and /or obtain documents required as per the risk categorisation due to non cooperation of the customer or non reliability of the data/information furnished to the AP. It is, however, necessary to have suitable built in safeguards to avoid harassment of the customer. In the circumstances when an AP believes that it would no longer be satisfied that it knows the true identity of the customer (individual/business entity), the AP should file an STR with FIU-IND.
 - (v)** Circumstances, in which a customer is permitted to act on behalf of another person/entity, should be clearly spelt out, the beneficial owner should be identified and all reasonable steps should be taken to verify his identity.
- b)** APs should prepare a profile for each customer, where a business relationship is established, based on risk categorisation. The customer profile may

contain information relating to customer's identity, his sources of funds, social/financial status, nature of business activity, information about his clients' business and their location etc. The nature and extent of due diligence will depend on the risk perceived by the AP. However, while preparing customer profile, APs should take care to seek only such information from the customer, which is relevant to the risk category. The customer profile is a confidential document and details contained therein should not be divulged for cross selling or any other purposes.

c) For the purpose of risk categorisation, individuals (other than High Net Worth) and entities whose identities and sources of wealth can be easily identified and transactions by whom by and large conform to the known profile, may be categorised as low risk. Customers that are likely to pose a higher than average risk should be categorised as medium or high risk depending on customer's background, nature and location of activity, country of origin, sources of funds and his client profile etc. APs should apply enhanced due diligence measures based on the risk assessment, thereby requiring intensive 'due diligence' for higher risk customers, especially those for whom the sources of funds are not clear. Examples of customers requiring enhanced due diligence include (a) nonresident customers;(b) customers from countries that do not or insufficiently apply the FATF standards (c) high net worth individuals; (d) trusts, charities, NGOs and organizations receiving donations; (e) companies having close family shareholding or beneficial ownership; (f) firms with 'sleeping partners '; (g) politically exposed persons (PEPs); (h) non-face to face customers ; and (i) those with dubious reputation as per public information available etc. However, only Non Profit Organisations (NPOs)/ Non Government Organisations (NGOs) promoted by United Nations or its agencies may be classified as low risk customer.

d) It is important to bear in mind that the adoption of customer acceptance policy and its implementation should not become too restrictive and must not result in denial of money changing services to general public.

4.4 Customer Identification Procedure (CIP)

a) The policy approved by the Board of APs should clearly spell out the Customer Identification Procedure to be carried out at different stages i.e. while establishing a business relationship; carrying out a financial transaction or when the AP has a doubt about the authenticity/veracity or the adequacy of the previously obtained customer identification data. Customer identification means identifying the customer and verifying his/her identity by using reliable, independent source documents, data or information. APs need to obtain sufficient information necessary to establish, to their satisfaction, the identity of each new customer, whether occasional or business relationship, and the purpose of the intended nature of relationship. Being satisfied means that the AP must be able to satisfy the competent authorities that due diligence was observed based on the risk profile of the customer in compliance with the extant guidelines in place. Such risk based approach is considered necessary to avoid disproportionate cost to APs and a burdensome regime for the customers.

Besides risk perception, the nature of information/documents required would also depend on the type of customer (individual, corporate etc.). For customers that are natural persons, the APs should obtain sufficient identification document/s to verify the identity of the customer and his address/location. For customers that are legal persons or entities, the AP should (i) verify the legal status of the legal person/entity through proper and relevant documents; (ii) verify that any person purporting to act on behalf of the legal person/entity is so authorised and identify and verify the identity of that person; and (iii) understand the ownership and control structure of the customer and determine who are the natural persons who ultimately control the legal person. Customer identification requirements in respect of a few typical cases, especially, legal persons requiring an extra element of caution are given in paragraph 4.5 below for guidance of APs. APs may, however, frame their own internal guidelines based on their experience of dealing with such persons/entities, their normal prudence and the legal requirements as per established practices. If the AP decides to undertake such transactions in terms of

the Customer Acceptance Policy, the AP should take reasonable measures to identify the beneficial owner(s) and verify his/ her/t heir identity in a manner so that it is satisfied that it knows who the beneficial owner(s) is/are [In view of Government of India Notification dated June 16, 2010 - Rule 9 sub-rule (1A) of PML Rules].

b) Some close relatives, e.g. wife, son, daughter and parents etc. who live with their husband, father/mother and son/ daughter, as the case may be, may find it difficult to undertake transactions with APs as the utility bills required for address verification are not in their name. It is clarified, that in such cases, APs can obtain an identity document and a utility bill of the relative with whom the prospective customer is living along with a declaration from the relative that the said person (prospective customer) wanting to undertake a transaction is a relative and is staying with him/her. APs can use any supplementary evidence such as a letter received through post for further verification of the address. While issuing operational instructions to the branches on the subject, APs should keep in mind the spirit of instructions issued by the Reserve Bank and avoid undue hardships to individuals who are, otherwise, classified as low risk customers.

c) APs should introduce a system of periodic updation of customer identification data (including photograph/s) if there is a continuing business relationship.

d) An indicative list of the nature and type of documents/information that may be relied upon for customer identification is given in **PART B of Annex-I** of this circular. It is clarified that correct permanent address, as referred to in **PART B of Annex-I**, means the address at which a person usually resides and can be taken as the address as mentioned in a utility bill or any other document accepted by the AP for verification of the address of the customer. When there are suspicions of money laundering or financing of the activities relating to terrorism or where there are doubts about the adequacy or veracity of previously obtained customer identification data, APs should review the due diligence measures including verifying again the identity of the client and obtaining information on the purpose and intended nature of

the business relationship, as the case may be. [In view of Government of India Notification dated June 16, 2010- Rule 9 sub-rule (1D) of PML Rules].

e) Purchase of foreign exchange from customers

(i) For purchase of foreign currency notes and/ or Travellers' Cheques from customers for any amount less than Rs.50,000/- or its equivalent, photocopies of the identification document need not be obtained. However, full details of the identification document should be maintained. If the Authorised Person has reason to believe that a customer is intentionally structuring a transaction into a series of transactions below the threshold of Rs.50000/-, the A.P. should verify identity and address of the customer and also consider filing a suspicious transaction report to FIU-IND.

(ii) For purchase of foreign currency notes and/ or Travellers' Cheques from customers for any amount equal to or in excess of Rs.50,000/- or its equivalent, the identification documents, as mentioned at **PART B of Annex-I** of this circular, should be verified and copies retained.

(iii) (a) Requests for payment in cash in Indian Rupees to resident customers towards purchase of foreign currency notes and/ or Travellers' Cheques from them may be acceded to the extent of only US \$ 1000 or its equivalent per transaction.

(b) Requests for payment in cash by foreign visitors / Non-Resident Indians may be acceded to the extent of only US \$ 3000 or its equivalent.

(c) All purchases within one month, i.e. within 30 days from the date of last transaction, may be treated as single transaction for the above purpose and also for reporting purposes.

(d) In all other cases, APs should make payment by way of 'Account Payee' cheque / demand draft only.

(iv) Where the amount of forex tendered for encashment by a non-resident or a person returning from abroad exceeds the limits prescribed for Currency Declaration Form (CDF), the AP should invariably insist for production of declaration in CDF.

(v) In case of any suspicion of money laundering or terrorist financing, irrespective of the amount involved, enhanced Customer Due Diligence (CDD) should be applied. Whenever there is a suspicion of money laundering or terrorist financing or when other factors give rise to a belief that the customer does not in fact pose a low risk, APs should carry out a full scale CDD before undertaking any transaction for the customer.

f) Sale of foreign exchange to customers

(i) **In all cases of sale of foreign exchange, irrespective of the amount involved**, for identification purpose the passport of the customer should be insisted upon and sale of foreign exchange should be made only on personal application and after verification of the identification document. A copy of the identification document should be retained by the AP.

(ii) Payment in excess of Rs. 50,000/- towards sale of foreign exchange should be received only by crossed cheque drawn on the bank account of the applicant's firm/ company sponsoring the visit of the applicant / Banker's cheque / Pay Order / Demand Draft. Such payment can also be received through debit cards/ credit cards/ prepaid cards provided (a) KYC/ AML / CFT guidelines are complied with, (b) sale of foreign currency/ issue of Foreign Currency Travellers' cheques is within the limits (credit/ prepaid cards) prescribed by the bank, (c) the purchaser of foreign currency/ Foreign Currency Travellers' cheque and the credit/ debit/ prepaid card holder is one and the same person.

(iii) All purchases made by a person within one month i.e. within 30 days from the date of last transaction, may be treated as single transaction for the above purpose and also for reporting purposes.

(iv) Encashment Certificate, wherever required, should also be insisted upon.

g) Establishment of business relationship

Relationship with a business entity like a company / firm/ trusts and foundations should be established only after conducting due diligence by obtaining and verifying suitable documents, as mentioned at **PART B of Annex-I** of this circular. Copies of all documents called for verification should be kept on record. APs should obtain information on the purpose and intended nature of the business relationship. APs should 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 customer, its business and risk profile. APs should ensure that documents, data or information collected under the Customer Due Diligence process is kept up-to-date and relevant by undertaking reviews of existing records, particularly for higher risk categories of customers or business relationships. When a business relationship is already in existence and it is not possible to perform customer due diligence on the customer in respect of business relationship, APs should terminate the business relationship and make a Suspicious Transaction Report to FIU-IND. In the circumstances when an AP believes that it would no longer be satisfied that it knows the true identity of the customer (individual/ business entity), the AP should also file an STR with FIU-IND.

4.5 Customer Identification Requirements – Indicative Guidelines

i) Transactions by Trust/Nominee or Fiduciary Customers

There exists the possibility that trust/nominee or fiduciary relationship can be used to circumvent the customer identification procedures. APs should determine whether the customer is acting on behalf of another person as trustee/nominee or any other intermediary. If so, APs should insist on receipt of satisfactory document of identity of the intermediaries and of the persons on whose behalf they are acting, as also obtain details of the nature of the trust or other arrangements in place. While

undertaking a transaction for a trust, APs should take reasonable precautions to verify the identity of the trustees and the settlers of trust (including any person settling assets into the trust), grantors, protectors, beneficiaries and signatories. In all cases beneficiaries should be identified with reference to necessary documents. In the case of a 'foundation', steps should be taken to verify the founder managers/directors and the beneficiaries.

ii) Transactions by companies and firms

APs need to be vigilant against business entities being used by individuals as a 'front' for undertaking transactions with APs. APs should examine the control structure of the entity, determine the source of funds and identify the natural persons who have a controlling interest and who comprise the management. These requirements may be moderated according to the risk perception e.g. in the case of a company that is listed on a recognized stock exchange, it will not be necessary to identify all the shareholders.

iii) Transactions by Politically Exposed Persons (PEPs)

Politically exposed persons are individuals who are or have been entrusted with prominent public functions in 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, etc. APs should gather sufficient information on any person/customer of this category intending to undertake a transaction or establish a business relationship and check all the information available on the person in the public domain. APs should verify the identity of the person and seek information about the source of wealth and source of funds before accepting the PEP as a customer. The decision to undertake a transaction with a PEP should be taken at a senior level which should be clearly spelt out in the Customer Acceptance Policy. APs should also subject such transactions to enhanced monitoring on an ongoing basis. The above norms may also be applied to transactions with the family members or close relatives of PEPs.