



CIRCULAR

F. No. 939/IFSCA/FATF-C/PMLA/2023-24

23rd May 2023

To

The Designated Directors/

Principal Officers

All Regulated Entities

GIFT-IFSC

Sub: Guidance to the International Financial Services Centres Authority (Anti Money Laundering, Counter-Terrorist Financing and Know Your Customer) Guidelines, 2022.

Sir/Madam,

- A. Reference is drawn to the International Financial Services Centres Authority (Anti Money Laundering, Counter-Terrorist Financing and Know Your Customer) Guidelines, 2022 (hereinafter referred as 'Guidelines') issued vide notification IFSCA/2022-23/GN/GL001 dated October 28, 2022, by the International Financial Services Centres Authority (hereinafter referred as 'Authority'), to all Regulated Entities licensed, recognised, registered, or authorised by the Authority.
- B. Further vide Gazette notification dated 07th March 2023 amendments to the Prevention of Money-laundering (Maintenance of Records) Rules, 2005, were notified. In furtherance to this the International Financial Services Centres Authority (Anti Money Laundering, Counter-Terrorist Financing and Know Your



Customer) Guidelines, 2022 (“**IFSCA Guidelines**”), shall stand modified in accordance with these amendments.

For the purpose of clarity for Regulated Entities the following guidance is being issued:

S. No	Amendment	Applicability
1.	“group” shall have the same meaning assigned to it in clause (e) of sub-section (9) of section 286 of the Income-tax Act, 1961 (43 of 1961);	Applicable and effective from March 07, 2023
2.	(cf) “Non-profit organization” means any entity or organisation, constituted for religious or charitable purposes referred to in clause (15) of section 2 of the Income-tax Act, 1961 (43 of 1961), that is registered as a trust or a society under the Societies Registration Act, 1860 (21 of 1860) or any similar State legislation or a Company registered under the section 8 of the Companies Act, 2013 (18 of 2013);	Applicable and effective from March 07, 2023
3.	(db) “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;	The definition of “Politically Exposed Persons” provided under the IFSCA Guidelines will continue to apply
4.	(3A) Implementation of policies by groups. – Groups are required to implement group-wide policies for the purpose of discharging obligations under the provisions of Chapter IV of the Prevention of Money-laundering Act, 2002 (15 of 2003).	Refer to para 12.1 of the IFSCA Guidelines, which shall continue to apply



5.	“Controlling ownership interest” means ownership of or entitlement to more than ten per cent. of shares or capital or profits of the company	Applicable and effective from March 07, 2023
6.	where the client is a trust, the identification of beneficial owner(s) shall include identification of the author of the trust, the trustee, the beneficiaries with ten per cent. or more interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control or ownership;	Applicable and effective from March 07, 2023
7.	a resolution from the Board of Directors and power of attorney granted to its managers, officers or employees, as the case may be, to transact on its behalf;	Refer to Annexure – I (Part -II), which shall continue to apply
8.	(vi) the names of the relevant persons holding senior management position; and (vii) the registered office and the principal place of its business, if it is different.	Refer to 5.4.2 (c), which shall continue to apply.
9.	Permanent Account Number of the partnership firm;	Refer to Annexure – I (Part -II), which shall continue to apply
10.	such documents as are required for an individual under sub-rule (4) relating to beneficial owner, managers, officers or employees, as the case may be, holding an attorney to transact on its behalf; and	Refer to Annexure – I (Part -II), which shall continue to apply
11.	(v) the names of all the partners and address of the registered office, and the principal place of its business, if it is different	Refer to Annexure – I (Part -II), which



		shall continue to apply
12.	(iii) Permanent Account Number or Form No.60 of the trust;	Refer to Annexure – I (Part -II)
13.	“(v) the names of the beneficiaries, trustees, settlor and authors of the trust and the address of the registered office of the trust; and (vi) list of trustees and documents as are required for individuals under sub-rule (4) for those discharging role as trustee and authorised to transact on behalf of the trust.”;	Applicable and effective from March 07, 2023
14.	“Every Banking Company or Financial Institution or intermediary, as the case may be, shall register the details of a client, in case of client being a non-profit organisation, 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, whichever is later	Applicable and effective from March 07, 2023
15.	(9B) Where the client has submitted any documents for the purpose of sub-rule (1), it shall submit to the reporting entity any update of such documents, for the purpose of updating the records mentioned under sub-rules (4), (5), (6), (7), (8) or (9), as the case may be, within 30 days of such updation.	Applicable and effective from March 07, 2023
16.	Where the client purports to act on behalf of juridical person or individual or trust, the reporting entity shall verify that any person purporting to act on behalf of such client is so authorized and verify the identity of that person.	Applicable and effective from March 07, 2023



- C. The Ministry of Finance has also issued a notification vide S.O. 2135(E) dated May 3, 2023. In the said notification the Central Government notified that “*the financial transactions carried out by a relevant person on behalf of his client, in the course of his or her profession, in relation to the following activities-*
- (i) buying and selling of any immovable property;*
 - (ii) managing of client money, securities or other assets;*
 - (iii) management of bank, savings or securities accounts;*
 - (iv) organisation of contributions for the creation, operation or management of companies;*
 - (v) creation, operation or management of companies, limited liability partnerships or trusts, and buying and selling of business entities,*
- shall be an activity for the purposes of said sub-section.*

Explanation 1.- For the purposes of this notification ‘relevant person’ includes –

- (i) an individual who obtained a certificate of practice under section 6 of the Chartered Accountants Act, 1949 (38 of 1949) and practicing individually or through a firm, in whatever manner it has been constituted;*
- (ii) an individual who obtained a certificate of practice under section 6 of the Company Secretaries Act, 1980 (56 of 1980) and practicing individually or through a firm, in whatever manner it has been constituted;*
- (iii) an individual who has obtained a certificate of practice under section 6 of the Cost and Works Accountants Act, 1959 (23 of 1959) and practicing individually or through a firm, in whatever manner it has been constituted.*

Explanation 2.- For the purposes of this notification ‘firm’ shall have the same meaning assigned to it in sub-clause (i) of clause (23) of section 2 of the Income-tax Act, 1961 (43 of 1961).”



Under the clause 10.5 (Additional measures) of the Guidelines, aforementioned activities have principally been covered and now the same shall be read with the notification dated May 03, 2023.

D. Further, all Regulated Entities may note that the Ministry of Finance has also issued a notification vide S.O. 2135(E) dated May 9, 2023. In the said notification the Central Government has notified the following activities when carried out in the course of business on behalf of or for another person, as the case may be, as an activity for the purposes of sub-clause (vi) of clause (sa) of sub-section (1) of Section 2 of the Act, namely: -

- (i) *“acting as a formation agent of companies and limited liability partnerships;*
- (ii) *acting as (or arranging for another person to act as) a director or secretary of a company, a partner of a firm or a similar position in relation to other companies and limited liability partnerships;*
- (iii) *providing a registered office, business address or accommodation, correspondence or administrative address for a company or a limited liability partnership or a trust;*
- (iv) *acting as (or arranging for another person to act as) a trustee of an express trust or performing the equivalent function for another type of trust; and*
- (v) *acting as (or arranging for another person to act as) a nominee shareholder for another person.*

Explanation. – *For removal of doubts, it is clarified that the following activities shall not be regarded as activity for the purposes of sub-clause (vi) of clause (sa) of sub-section (1) of section 2 of the Act, namely: -*



- a) *any activity that is carried out as part of any agreement of lease, sub-lease, tenancy or any other agreement or arrangement for the use of land or building or any space and the consideration is subjected to deduction of income-tax as defined under section 194-I of Income-tax Act, 1961 (43 of 1961); or*
- b) *any activity that is carried out by an employee on behalf of his employer in the course of or in relation to his employment; or*
- c) *any activity that is carried out by an advocate, a chartered accountant, cost accountant or company secretary in practice, who is engaged in the formation of a company to the extent of filing a declaration as required under clause (b) of sub-section (1) of section 7 of Companies Act, 2013 (18 of 2013); or*
- d) *any activity of a person which falls within the meaning of an intermediary as defined in clause (n) of sub-section (1) of section 2 of the Prevention of Money-laundering Act, 2002 (15 of 2003).”*

E. All other provisions specified in the Guidelines shall remain unchanged.

F. Copy of the circular is available on the IFSCA website at <https://ifsc.gov.in/Legal/Index/wF6kttc1JR8=>

ESSR Ramachander,
Head, FATF Cell,
ramachander.essr@ifsc.gov.in