

became mandatory for all banks and other financial institutions to notify the FIU on a monthly basis of all cash transactions (single or linked) of more than US\$22,222. 'Other financial institutions' include chit-funds [1], cooperative banks, non-banking financial companies, plus intermediaries who have to be registered with Securities and Exchange Board of India, such as stock-brokers, sub-brokers, share transfer agents, bankers and registrars to an issue, merchant bankers, underwriters, portfolio managers and investment advisers.

Suspicious transactions must be recorded separately and forwarded to the FIU in a weekly report. The FIU is therefore the central point for receiving and analysing transaction reports. It will share the findings with the Enforcement Directorate, which, under the terms of the PMLA, reports directly to the Finance Ministry and has branches in seven centres across the country, and with other regulatory agencies, such as India's Customs and Excise Department; Directorate of Revenue Intelligence (DRI); and the Central Board of Direct taxes (CBDT), which includes the country's Income Tax Department.

Once India joins the Egmont group, the FIU will also exchange intelligence with foreign counterparts. Goyal said that a delegation from the Egmont Core Group visited his office in the first week of April as part of its review work on the Indian application for entry. "By and large the delegation was happy with our efforts, especially after seeing our infrastructure and reviewing our roadmap for the future."

The courts

Although there has been progress at FIU level, the judicial process still needs work. S. K. Panda of the Enforcement Directorate, which investigates and prosecutes PMLA cases, explained: "Though the adjudicating authority mandated under the Act has been but in place, the special courts to hear the cases are yet to be set up in some of the states, and until now no person has been charged under the new Law." Goyal added: "We, at the FIU have already started getting reports on cash and suspicious transactions from many reporting entities, and some of them have been analysed and forwarded to relevant organisations."

KYC

On the broader regulatory AML controls, in a statement last November, Dr Y. V. Reddy, RBI

Governor, said that the RBI had revised the guidelines on Know Your Customer (KYC) in line with the Financial Action Task Force (FATF) Recommendations. Take rule 9 (sub-rule 1) of the Prevention of Money Laundering Rules 2005, promulgated under the PMLA: it stipulates that banks, other financial institutions and intermediaries should only carry out transactions after proof of identity has been taken and verified. KYC checks will require evidence of name and address, nature of the client's business and financial status. If a transaction is undertaken on behalf of someone else, they too must be identified and records retained.

When it is not possible to verify the identity of the client at the time of opening an account or executing a transaction, the regulation says that the identity of the client should be verified within a "reasonable time".

"Unfortunately many bank managers just complete these formalities without actually knowing their customers," said Professor J.D. Agarwal, Director of the Indian Institute of Finance in New Delhi, who has come up with many AML recommendations, "They are prompted to get large deposits as their professional achievements depend on the efficiency and profitably of the branch. Private banks even encourage their bankers to develop personal relationships with their clients, visiting the clients' homes, attending weddings and graduations, and at the same time arranging their financial affairs. This results in bankers feeling loyalty to their clients for both professional and personal reasons, leading them to miss or minimise the warning signs. Further, they use their expertise in bank systems to evade what they perceive as unnecessary 'red tape' while servicing them, thereby evading controls designed to detect or prevent money laundering. What is needed is an effective mechanism to fix accountability on the part of these managers. Unless the FIU takes immediate action in this regard, without letting corruption affect its functioning, nothing will change."

Furthermore, there is confusion about what is meant by "reasonable time" regarding post-event customer identity verification. When *MLB* sought clarification from the RBI, it responded that banks must decide for themselves.

Insurers

The scope of the money laundering regulations was