



# Anti-Money Laundering

*Commodity Exchanges and their members i.e. intermediaries are under the ambit of the Prevention of Money Laundering Act, 2002 (PMLA). Geofin Comtrade Ltd. (GCL), with memberships at the multi commodity exchanges in India, is bound by the guidance and directives relating to the implementation of the provisions of the PML Act – to prevent money laundering in the commodity derivatives markets in India and to combat financing terrorism within the country and outside so that objects of the PML Act are achieved.*

*This document is an attempt by GCL to engage with its clients, to highlight to them that GCL is expected to have adequate controls and procedures in place so that it knows the clients with whom it is dealing. Adequate due diligence on new and existing clients is a key part of these controls. As a regulated entity, GCL has to follow the directives issued by Exchanges, in this regard, in letter and spirit.*

## 1. What is the PML Act about?

The Prevention of Money Laundering (PML) Act, 2002 was enacted in January 2003. The Act along with rules framed there-under have come into force with effect from 1st July 2005.

- Commodity Exchanges and their members have been brought under the ambit of PMLA through an amendment in the said Act in 2012 (No.2 of 2013) w.e.f. 15th February 2013.
- It prescribes obligation of banking companies, financial institutions and intermediaries for verification and maintenance of records of the identity of all its clients and also of all transactions and for furnishing information of such transactions in prescribed form to the Financial Intelligence Unit-India (FIU-IND).
- It has three main objectives: (i) to prevent & control money laundering (ii) to confiscate & seize the property obtained from laundered money and (iii) to deal with any other issue connected with money laundering in India.

## 2. What is the Institutional/ Statutory framework?

- (a) The powers of investigation and prosecution for offences under the Act have been conferred on the Director, Enforcement Directorate (ED). The ED is under administrative control of Department of Revenue (DOR), Ministry of Finance. The ED can undertake survey, search, seizure, arrest, prosecution action against an offender.
- (b) The central agency responsible for receiving, processing, analyzing and disseminating information relating to “suspect financial transactions” is the FIU-IND. It was set up in 2004 and is an independent body reporting directly to the Economic Intelligence Council (EIC) headed by the Finance Minister of India.

## 3. What is Money Laundering?

Money Laundering generally is defined as any act or attempted act to conceal or disguise the identity of illegally obtained proceeds so that they appear to have originated from legitimate sources.

The PMLA states that *“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.”*

## **4. What are the obligations of GCL as part of the requirements of the PML Act?**

- GCL, like other intermediaries, is under obligation to establish policies and procedures that effectively serve to prevent and impede money laundering (ML) and terrorist financing (TF). It is mandated upon the senior management of GCL to ensure their effectiveness and compliance with all relevant legal and regulatory requirements.
- Besides several stipulations, it is mandatory for GCL to (i) adopt client acceptance policies and procedures which are sensitive to the risk of ML and TF (ii) undertake client due diligence (CDD) measures to an extent that is sensitive to the risk of ML and TF depending on the type of client, business relationship or transaction.

## **5. What are broadly the procedures that GCL follows with regard to its clients / customers?**

As part of its overall “Client Due Diligence Process”, under the parameters of (a) policy of acceptance of clients, (b) procedure for identifying the clients, (c) transaction monitoring & reporting, especially Suspicious Transaction Reporting (STR), GCL may seek / insist upon certain documents & proofs from its clients, which would be over & above the mandatory documents prescribed under the Know Your Client (KYC) & KYC Registration Agency (KRA) guidelines / regulations. These, to also enable GCL comply with its obligations under the PMLA, in letter and spirit.

The below is not an exhaustive list. It is only an indicative list for the reference of the clients of GCL, helping them to understand and appreciate the same in the background of the requirements imposed and obligatory upon GCL. The directives of the Commodity Exchanges state about risk-based approach to acceptance of clients as well as it defines special category of clients. GCL is bound to ensure compliance with the same.

- (i) Profile in terms of nature of employment / business, Address of work-place / business and landline contact
- (ii) References (of persons known)
- (iii) Last 6 months or 12 months Bank Statement
- (iv) Income Tax Returns, Net worth Certificate
- (v) Spouse / Parent / Household income (eg. in case of homemaker, student, retired person)
- (vi) Depository Transaction Statement

*Contd.*

- (vii) Bank statement or Bank Letter or any such proof evidencing Demand Draft / Pay–order being drawn from client's Bank account
- (viii) Annual Reports, Balance Sheet and P&L, Annual Returns, Shareholding pattern certificate (in case of non-individual / corporate entities)

## 6. Why does GCL urge its client to update the Know Your Client (KYC) on an Annual basis?

- Under the Rights and Obligations of Members, Authorised Persons and Clients, it is obligatory upon the client to not only immediately notify GCL in writing, any change in the information in the account opening form of the client, but also to provide / update the financial information to GCL on a periodic basis.
- Unless warranted otherwise, in order to comply with PMLA requirements, GCL seeks confirmation of all KYC particulars from its client alongside the financial details, on an annual basis.

The Authorised staff of GCL and its Authorised Persons will be seeking to meet the client, in-person and verify the Originals of copies of all documents / proofs collected from the client that form part of the client's account opening form as well as any information updated, thereafter.

*Note: Reference is drawn from MCX/COMP/033/2015 – Master circular on Prevention of Money Laundering and combating financing of terrorism. Clients can seek a copy of the same from GCL or download the same from Exchange website.*



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