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An Initiative of Association for Voluntary Action (AVA)

ANTI-MONEY LAUNDERING POLICY

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1. Introduction

Association for Voluntary Action, also widely known as the Bachpan Bachao Andolan (“**AVA**” or the “**Organization**”) aims at highest ethical and moral standards in the professional and personal life of all associates. AVA’s Anti-Money Laundering Policy (“**this Policy**”) aims to ensure that the organization operates with, and is in compliance with applicable laws, regulations, ethical business practices and is not being used as a conduit for suspicious or money laundering activities or for funding illegal activities.

2. Applicability

This Policy applies to all employees/staff on rolls of the Organization, volunteers, members of the Board of Trustees of the Organization (“**Associates**”) while discharging their functions as a Trustee and should be read in conjunction with the existing applicable laws and guidelines, as issued by relevant statutory authorities from time to time.

3. Background

‘**Money Laundering**’ is processing of criminal proceeds i.e. money generated from criminal acts *inter alia* drug trafficking, terrorism, organized crime, fraud and many other crimes with the objective of hiding its source and rendering it in legally usable form. It is 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 process of money laundering involves creating a web of financial transactions so as to hide the origin of, and true nature of these funds.

‘**Terrorist financing**’ is the use of legally or illegally obtained funds to facilitate terrorist activities. Money laundering and terrorist financing may involve a wide variety of financial products, services, and transactions including lending and investment products, and the financing of equipment and other property that could be used to facilitate terrorism and other criminal activity.

Money laundering is largely understood to mean any act or attempt (directly or indirectly and even by association and assistance in one step or a series of transactions) to conceal or disguise the origin and ownership of proceeds obtained illegally, such that it appears to have originated from legitimate sources; thus avoiding prosecution, conviction and confiscation of such proceeds. Terrorist organizations, tax evaders, smugglers, persons involved in bribery or any persons that receive money for illegal activities and/or through illegal means.

Generally, the money laundering process involves three (3) stages: placement, layering and integration. As illegal funds move from the placement stage through the integration stage, they become increasingly harder to detect and trace back to the illegal source.

- **Placement:** is the point where illegal funds first enter the financial system.
- **Layering:** after illegal funds have entered the financial system, layers are created by closing and opening accounts, purchasing and selling various financial products, transferring funds among financial institutions and across national borders. The criminal's goal is to create layers of transactions to make it difficult to trace the illegal origin of the funds.
- **Integration:** occurs when the criminal believes that there are sufficient number of layers hiding the origin of the illegal funds to safely invest the funds or apply them towards purchasing valuable property in the legitimate economy.

4. Money Laundering and NPOs

Nonprofit organizations (“NPOs”) play a vital role in the world economy in many national economies and social systems. The Financial Action Task Force (“FATF”) recognizes the vital importance of NPOs in providing charitable services, as well as the difficulty of providing assistance to those in need, often in high risk areas and conflict zones, and applauds the efforts of NPOs to meet such needs. The FATF also recognizes the intent and efforts of NPOs to promote transparency within their operations and to prevent terrorist financing abuse, including through the development of programmes aimed at discouraging radicalization and violent extremism. The ongoing international campaign against Terrorist Financing has identified cases in which terrorists and terrorist organizations exploit some NPOs in the sector to raise and move funds, provide logistical support, encourage terrorist recruitment, or otherwise support terrorist organizations and operations. Therefore, protecting NPOs from terrorist financing abuse is both a critical component of the global fight against terrorism and a necessary step to preserve the integrity of NPOs and the donor community. Measures to protect NPOs from potential terrorist financing abuse should be adopted and be in line with the risk-based approach.

NPO's have always caught the attention of philanthropists as well as thieves. It therefore is becoming necessary that all these NPO's be monitored with respect to their source of funds, its utilization, purposes for which they were formed and the persons who carry out these activities. FATF, the intergovernmental body, has therefore paid special attention to the NPO sector realizing the “grey areas” in NPOs, laid down Recommendation 8, “Combating abuse of Non Profit Organizations” (“**Recommendation**”).

For the purposes of Recommendation, **NPO** is referred to as a legal person or arrangement or an organization that primarily engages in raising or disbursing funds for purposes such as charitable, religious, cultural, educational, social or fraternal purposes, or for the carrying out of other types

of “good works”. Being a part of FATF now, India has accorded the Recommendation 8 into reality.

Finance Intelligence Unit – India (“**FIU IND**”) has prescribed filing of a separate report for Reporting Entities (Banks, Insurance companies, Stock market intermediaries) for filing details of transactions carried out by NPO’s. Also, basis the Recommendations, India undertook series of amendments in the FCRA laws (including the 2020 amendments) to ensure that the Money laundering risk is curbed and adequately addressed in the NPO sector.¹

Prevention of Money Laundering Act, 2002 (“**Act**”), was also enacted to aptly cover the reporting and monitoring obligations of entities and organizations covered therein. By way of the Gazette Notification dated 12th November 2009, the Act was enhanced to cover the NPO’s in India. NPO’s are required to adhere strictly to know-your-customer norms in case of any donations they receive, according to banking standards, and will have to regularly maintain detailed statements of their funds received and investments made.²

India is amongst the six countries that is being actively monitored by Interpol and International banking watchdogs after the detection of massive money-laundering cases in the last few years due to inadequate internal compliance procedures.

5. Scope & Objective

Indian NPOs may become target for laundering the money because of several reasons, though one of the most significant reason is the Income tax benefits available to the Indian NPOs involved in charitable activities. Income derived from property under Trust, wholly for charitable or religious purposes is exempted to the extent such income is utilized towards the objects of the Trust in India.

The objective of this Policy framework is to:

- i.** Create awareness and provide clarity on KYC standards and Anti-money laundering measures;
- ii.** To have a proper Donor Due Diligence (DDD) process before registering them;
- iii.** To monitor/maintain records of all transactions involving receipts of more than rupees ten lakh, or its equivalent in foreign currency;
- iv.** To maintain records of cash donations received from the same donor or donors connected with each other within a given financial year;

¹ <https://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202012.pdf>

² With the amendments to Prevention of Money Laundering (PML) Rules, notified by the Government of India vide Notification No. 12 of 2013 dated August 27, 2013, in terms of amended Rule 3 the Banks should maintain proper record of all transactions involving receipts by non-profit organizations of value more than rupees ten lakh or its equivalent in foreign currency and to forward a report to FIU-IND of all such transactions in a prescribed format by the 15th of the succeeding month.

- v. To monitor and report suspicious transactions;
- vi. To discourage and identify money laundering or Terrorist Financing activities;
- vii. To take adequate and appropriate measures to implement the Act;
- viii. To ensure that the Organization is not involved in any transactions that are known or suspected to be means of laundering money. If any suspicious activity is noticed, Associates to promptly intimate the Chief Operations Officer (“COO”).

6. Policy Statement

AVA has resolved that it would, as an internal policy, take adequate measures to prevent money laundering and shall put in place a framework for identifying, monitoring and reporting suspected money laundering or terrorist financing transactions to FIU IND as per the guidelines of the Act and Prevention of Money Laundering Rules, 2002 (“Rules”).

7. Red-Flags

Recognizing transactions involving money laundering requires awareness of possible suspicious activity, which may arise at any time. Below is an indicative list of actions that Associates should be careful of. This list is not exhaustive, as every circumstance is not foreseeable. However, regardless of appearing conjointly or individually, Associates need to be wary of the following situations that may be indications of money laundering activity:

- i. Donors/Users that are reluctant to provide complete information, or those that provide incomplete, suspicious information and/or are unwilling to comply with Organization’s identification requirements;
- ii. Donors/Users that appear as agents or representatives for other individuals or organizations, but refuse to provide complete information about such individuals or organizations;
- iii. Any person, including an Associate, that is concerned about or insists on avoiding any reporting requirements required by law or refuses to maintain records mandated by law;
- iv. High volume payments made in cash or cash equivalents only (such as money orders, traveler’s cheques, internet currencies or prepaid cash cards);
- v. Donations of large amounts that appear to be out of place or inconsistent with normal donation patterns, in the absence of any legitimate purpose for such donation. For instance, particular Donor donates a substantially high amount in 2021, as compared to past 5 years while the project and purpose remained same;
- vi. Requests for payments to be made in unrelated countries or to unrelated third parties;
- vii. Multiple partial payments from various parties on behalf of a single user and/or multiple partial payments from various locations;

- viii. Donors/Users making payments in one form, then requesting refunds in other forms (for example, making payments by credit card, but requesting refunds in cash or by wire transfers);
- ix. Donors/Users making contributions, followed by immediate requests to wire out or transfer the funds to a third party or firm, without connected purposes;
- x. Users requesting for donations to be paid in cash or wired to a third party or firm, without connected purposes;
- xi. Donors/Users connected to countries and/or persons identified as non-cooperative by the Reserve Bank of India, Financial Action Task Force³ on Money Laundering established by the G-7 Summit in 1987, Office of Foreign Assets Control, US Department of Treasury and international organizations against money laundering. A list of black listed and grey listed countries (countries and territories having "significant strategic deficiencies in their regimes to counter money laundering, terrorist financing, and financing of proliferation) have been included as **Annexure A- 2**;
- xii. A donor makes a large contribution which does not seem to be commensurate with the donor's known background or income;
- xiii. Unusual or substantial one-off donations;
- xiv. A donation that appears to be funded by someone other than the donor (eg. Donation is made by a cheque drawn on an account in the name of someone who is not a donor);
- xv. Conditions are attached to a donation which would mean that AVA is being used as a vehicle for transferring funds from one individual or organization to another without the trustees being able to verify that the donation is being put to an appropriate use;
- xvi. Corporate donations made using a personal account, as in that case the donation will have to be returned and accepted through corporate account;
- xvii. A beneficiary that is a shell company or that is established as a trust, is unwilling to provide additional information about its beneficial owners or underlying beneficiaries in response to a request for such information.

8. Checks to be observed

Associates must ensure that the Organization is in no way involved in any activity that falls under money laundering activities and that Organization is not used as a conduit for transferring funds to third person. Organization needs to adopt the following **"know-your" principles**:

- **know your donor**
- **know your beneficiaries**

³ [https://www.fatf-gafi.org/publications/high-riskandnon-cooperativejurisdictions/more/aboutthenon-cooperativecountriesandterritoriesnccinitiative.html?hf=10&b=0&s=desc\(fatf_releasedate\)](https://www.fatf-gafi.org/publications/high-riskandnon-cooperativejurisdictions/more/aboutthenon-cooperativecountriesandterritoriesnccinitiative.html?hf=10&b=0&s=desc(fatf_releasedate))

- **know your partner**

These 'know your' principles also complement and are in line with the Recommendations which requires that **“NPOs should make best efforts to confirm the identity, credentials and good standing of their beneficiaries and associates undertake best efforts to document the identity of their significant donors”**.

Instances

Donations: using a charity to launder proceeds of crime, or to make a credit card donation to test whether a stolen card still operates.

Partners: submitting false or inflated invoices or purchase orders for funds to be paid by the NPOs.

Beneficiaries: making fake grant applications or creating false or inflated numbers of beneficiaries, for claims and other forms of identity fraud.

9. Steps to Ensure Compliance

i. **Compliance with Applicable Law:** Users/Donors must at all times, ensure that they access and/or utilize AVA's platform in compliance with all applicable laws. Users contributing or donating should also ensure that funds used to contribute or donate to a campaign should not originate from any unlawful activity. Similarly, it must be ensured that the funds collected for a campaign should only be used for the purpose and objects specifically agreed between the parties. Relevant terms and conditions should be incorporated as part of the Donations form in case of sundry Donors, and the Donor due-diligence form, in case of Institutional Donors.

ii. **Maintenance and Disclosure of Records:** AVA shall maintain records confirming the identity of its Donors/users and the transactions undertaken. AVA will also disclose the information to government authorities, as required under the Act or in case of any inquiry, investigation or other proceedings initiated by them.

Additionally, as per the amended Rules and RBI Guidelines⁴ issued from time to time, Banks are responsible to maintain a record of all transactions involving receipts by NPO's of value more than Rupees ten lakh, or its equivalent in foreign currency.⁵ This report is called as Not for Profit Transaction Report (NTR). Detailed information on submission of the NTR is provided under Annexure A – 1 of this Policy document.

⁴ <https://rbidocs.rbi.org.in/rdocs/notification/PDFs/92MY30062014FS.pdf>

⁵ Rule 3 (1) Every reporting entity shall maintain the record of all transactions including, the record of:

[(BA) all transactions involving receipts by non-profit organisations of value more than rupees ten lakh, or its equivalent in foreign currency]

- iii. **Reporting Suspicious Activity:** Any suspicious activity or red flag that AVA comes across must be reported to the COO, who shall take necessary actions in this regard and report to the relevant statutory authorities.

10. Amendment and Modification

AVA reserves the right to modify and amend this AML Policy at any time. Associates are recommended to review AVA's AML Policy from time to time, for the most up-to-date version.

11. Violations of this Policy

An Associate who violates this Policy or knowingly engages in activities specifically prohibited under this Policy, regardless of whether financial loss to the Organization results or not, may be subject to appropriate disciplinary action up to, and including termination. This shall be in addition to other rights and remedies available under the applicable laws.

12. Governing Law

Any dispute or claim relating in any way to this Policy is subject to the exclusive jurisdiction of the courts in New Delhi. Laws prevailing in India, without regard to principles of conflict of laws, will govern this Policy and any dispute related to/arising from this Policy, between AVA and the concerned Donor/user.

Annexure A – 1**Not For Profit Transaction Report (NTR)**

The Bank is required to submit details of:

- (a) All cash transactions involving receipts of value more than Rs.10 lakhs or its equivalent in foreign currency by clients who are non-profit organizations.
- (b) NTRs must contain details of legal persons as per definition under Rule 2(1) (ca) of the Money Laundering (Maintenance of Records) Rules, 2005. Non-profit organization (NPO) means any entity or organization that is registered as a Trust or a society under the Societies Registration Act, 1860 or any similar State legislation or a company registered under section 8 of the Companies Act, 2013.
- (c) Transactions of an account should be given in report along with details of the legal entity, individuals, account and transaction on lines similar to those for CTRs.
- (d) The report is to be filed in the format prescribed by FIU-IND.
- (e) NTR for every month should be submitted to FIU-IND, by the 15th of the succeeding month.⁶

If the reporting entity has account-based relationship, they should use account based reporting format (ARF) for submitting CTR, STR and NTR. Transaction based reporting format (TRF) can be used for transactions without account based relationship with the customer. E.g. money transfer service, money exchange.

⁶ <https://www.rbi.org.in/scripts/NotificationUser.aspx?Id=9625&Mode=0>

ANNEXURE A – 2**Countries and/or persons identified as non- cooperative by the Reserve Bank of India**

As of 02 March 2021, the following countries are on black listed:

1. North Korea
2. Iran

As of 21 October 2021, the following nations are gray listed:

1. Albania
 2. Barbados
 3. Burkina Faso
 4. Cambodia
 5. Cayman Islands
 6. Jamaica
 7. Jordan
 8. Haiti
 9. Malta
 10. Mali
 11. Morocco
 12. Myanmar (Burma)
 13. Nicaragua
 14. Pakistan
 15. Panama
 16. Philippines
 17. Senegal
 18. South Sudan
 19. Syria
 20. Turkey
 21. Uganda
 22. Yemen
 23. Zimbabwe
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