

F.No. 25-1/2013/FIU-IND/Pt XV
Government of India
Ministry of Finance
Department of Revenue
Financial Intelligence Unit-India

6th Floor, Hotel Samrat
Kautilya Marg, Chanakyapuri
New Delhi -110021

ORDER-IN ORIGINAL NO.12/DIR/FIU-IND/2015

Name & Address of the Reporting Entity: **Dena Bank**
Dena CorporateCenter,
C-10, G Block ,Bandra Kurla Comlex,
Bandra (E), Mumbai- 400051.

Show Cause Notice No. & Date: F.No. 25-1/2013/FIU-IND dt 21st January, 2013

Section under which order passed: Section 13 of PMLA, 2002

Date of Order: 4th September, 2015

Authority passing the order: Director, Financial Intelligence Unit-India

An appeal against this order may be made with the Appellate Tribunal under Prevention of Money Laundering Act, 2002, 4th Floor, Lok Nayak Bhavan, Khan Market, New Delhi within a period of forty five days from the date on which this order is received by the Dena Bank. The appeal should be in the form and manner prescribed (refer to sub-section (3) of Section 26 of the Prevention of Money Laundering Act, 2002, hereinafter referred to as PMLA or the Act).

1. Dena Bank (the 'Bank') is a banking company as defined under Section 2(e) of the Act.
2. Section 12 of the Act and the Prevention of Money Laundering (Maintenance of Records) Rules, 2005 (hereinafter referred to as the 'Rules'), framed under the Act impose obligations on banking companies to inter alia verify the identity of the clients, maintain records of specified transactions and report to

Director, Financial Intelligence Unit – India (hereinafter referred to as 'Director, FIU-IND') information relating to such transactions. These reports include reports on cash transactions, suspicious transactions and counterfeit currency transactions.

3. Rule 3 of the Rules specifies the transactions, the records of which are to be maintained; these include suspicious transactions whether or not made in cash. Rules 5, 7 & 8 of the Rules prescribe the procedure, manner and time of maintaining and furnishing information about the transactions. Rule 9 of the Rules prescribes the procedure and manner of verification of records of identity of clients. The definition of suspicious transactions (Rule 2) includes an attempted transaction. The attempted transaction has not been defined separately. Rule 7(3) requires that all reporting entities shall evolve an internal mechanism having regard to any guidelines issued by Regulator for detecting the transactions referred to in Rule 3 and for furnishing information about such transactions in such form as may be directed by its Regulator.

4. Section 13 of the Act confers on the Director, FIU-IND powers to enquire into cases of failure to comply with the provisions of Section 12 of the Act and the Rules made thereunder and to levy a fine for each such failure.

5. During March to May 2013, there was widespread reporting in the media about sting operations carried out by the website Cobrapost that allegedly exposed deficiencies in the anti-money laundering preventive measures applied by the banks including the Dena Bank. The sting operation involved the Cobrapost reporter visiting the branches of the financial institutions with a story: that he wanted to invest/save-keep substantial amounts of illicit or unaccounted cash. The website had videotaped the conversations with the officials/employees of the banks that were played out in the media suggesting widespread violations of statutory obligations under the PMLA. On 6th May, 2013, Cobrapost released recording of the conversation with the Branch Manager of Delhi, Chhattarpur Branch of Dena Bank. Following the sting operation, the Bank was asked vide letter dated 10-07-2013, whether any alerts in respect of the sting operation were generated in its Chhattarpur Branch which was covered in the sting operation, and whether any STR was reported for attempted transaction for the incident reported by the Cobrapost. The Bank in its reply dated 02-08-2013 confirmed that no STR had been filed for attempted transactions in the Chhattarpur Branch. The Bank also stated that no alerts had been generated by the Chhattarpur Branch for the reported incident in respect of the following Branch level indicators:

CV 1.1- Customer left without opening an account.

E 11.1 – Customer did not complete transaction.

E 13.1 – Customer acting on behalf of third party.

E 14.4 – Customer could not explain the source of fund.

6. As per the definition of STR in Rule 2(g) of the Rules, STR means a transaction referred to in clause (h) including an attempted transaction. As per Rule 2(h), transaction includes 'opening of an account'. In the instant case the Cobrapost reporter attempted to open accounts and do illicit transactions through the Chhattarpur branch of the bank. As STR for attempted transactions had not been filed for the Chhattarpur branch of the Bank visited by Cobrapost, a show cause notice was issued on 21st January, 2014 for contravention of provisions of Section 12 of the Act, read with the Rules.
7. Vide its reply dated February 26, 2014, to the show-cause notice the Bank denied the allegations, and submitted that although no STR was filed for attempted suspicious transactions, the Bank had informed about this incident to FIU-IND through their E-mail dated 27-05-2013.
8. On the request of the Bank, a personal hearing was granted to the Bank on 03/04/2014 which was attended by S/Sh. B.G.K. Mohan (DGM) and J.K. Chhabria (Chief Manager). During the personal hearing, the Bank admitted that instructions were in place to report attempted suspicious transactions but were not followed by the branch concerned. The Bank was asked to place on record a copy of its instructions. The Bank also requested for filing a revised submission, which was granted.
9. In their additional submission dated 11 April 2014, the Bank stated that:
 - a. The Bank had issued in November 2011 directions to the Branches/Field Functionaries about circumstances in which they should be alert, vigilant and immediately inform the controlling authorities.
 - b. The Manager of the Chhattarapur, New Delhi branch had failed to report the incident of attempted transactions subsequently reported by Cobrapost.
 - c. Subsequent to the Cobrapost revelations, the Bank took immediate action and suspended the concerned branch manager and deputed a senior official to review the adherence of AML/KYC guidelines in the Branch. A show cause notice was also issued to

the concerned Branch Manager who, after inquiry was posted to a non-sensitive area.

- d. In order to bring more awareness for reporting attempted suspicious transactions, the Bank had re-iterated their instructions to the branches/field functionaries vide their circular No. 931/10/2013/14/18.3.2014.

10. In another submission dated 13th June, 2014, the Bank reiterated their stand.

DISCUSSION AND FINDINGS

11. Section 12 of the Act lays down the general obligations of the banks to file suspicious transaction reports. PML Rules further elaborate these obligations. The definition of suspicious transactions in Rule 2 includes an attempted transaction. "Attempted transaction" has not been defined separately. Rule 7(3) requires that all reporting entities shall evolve an internal mechanism having regard to any guidelines issued by the Regulator for detecting the transactions referred to in Rule 3 and for furnishing information about such transactions in such form as may be directed by its Regulator.
12. A perusal of the transcript of the cobrapost sting operation shows that the Cobrapost reporter posing as a customer visited Chhattarpur Delhi Branch of the Bank and told the manager that he wanted to invest Rs. 1 crore in cash belonging to a minister's wife. The banker suggested to invest the cash in multiple accounts to evade reporting, in mutual funds and LIC (which would give him 60 percent of the amount in the form of loan to make it white). The banker and the Cobrapost reporter exchanged numbers for future meeting with the minister.
13. The conversation between the Cobrapost reporter and the Bank Manager had several features which should have led to generation of behavioural alerts as per IBA guidelines as well as the policies and instructions issued by the Bank. However, despite ample indications that the funds being discussed were of suspicious nature, no alerts were generated by the branch officials. On the contrary, the content, tone and tenor of the conversations/ discussions with the Cobrapost reporter do not indicate any sense of alarm, which a prudent banker, entrusted with the legal responsibility of reporting suspicious transactions and combating money laundering or financing of terrorism, would be expected to display in such circumstances. The matter was not even reported to the Principal Officer of the Bank. The Bank will not be able to fulfil its reporting obligations under the PMLA unless there is a free flow of information from its branches to the Principal Officer (MLRO), who is

responsible to fulfil the reporting obligations. Evidently, the Bank Manager was either oblivious of his duties or cared little for compliance with his legal obligations under the PMLA. PMLA aims at prevention of laundering of the proceeds of crime. That even attempted transactions are required to be reported points to the high level of expectation the law has from the banks. It is not enough for the Bank to lay down a policy; it is equally important to implement it.

- 14. In light of the above, I conclude that in the Chhattarpur branch reported by Cobrapost, there was a failure in the Dena Bank's internal mechanism for detecting and reporting attempted suspicious transactions, in terms of Section 12 of PMLA read with Rules 2, 3, 5 and 7 of the PML Rules. Accordingly, in exercise of the powers conferred on me under Section 13 (2) of the PMLA, 2002, I hereby impose on Dena Bank a fine of Rs. 1,00,000 (Rupees One Lakh) for one instance of failure in its Chhattarpur, Delhi Branch to comply with its obligations as laid down in Section 12 of the PMLA read with Rules 2, 3, 5 and 7 of the PML Rules framed thereunder.

(Praveen Kumar Tiwari)
Director
Financial Intelligence Unit-India

To,
Dena Bank
Dena Corporate Center,
C-10, G block ,Bandra Kurla Comlex,
Bandra (E), Mumbai- 400051.

Through: Chairman & Managing Director