

**GUIDELINES ON KNOW YOUR CUSTOMER'  
AND  
ANTI-MONEY LAUNDERING MEASURES**

**Know Your Customer' Guidelines:**

The objective of 'Know Your Customer (KYC) Guidelines' is to prevent Swagat Housing Finance Company Limited (SHFCL) from being used, intentionally or unintentionally, by criminal elements for money laundering activities. KYC procedures also enable SHFCLs to know/understand their customers and their financial dealings better which in turn help them manage their risks prudently. Swagat Housing Finance Company Limited (SHFCL) should frame their KYC policies incorporating the following four key elements:

- Customer Acceptance Policy;
- Customer Identification Procedures;
- Monitoring of Transactions; and
- Risk management.

For the purpose of KYC policy, a 'Customer' may be defined as:

- a person or entity that maintains an account and/or has a business relationship with the SHFCL;
  - one on whose behalf the account is maintained (i.e. the beneficial owner);
  - beneficiaries of transactions conducted by professional intermediaries, such as Stock Brokers, Chartered Accountants, Solicitors, etc. as permitted under the law, and
  - any person or entity connected with a financial transaction which can pose significant reputational or other risks to the SHFCL, say, a wire transfer or issue of a high value demand draft as a single transaction.
- **Customer Acceptance Policy**

SHFCLs should develop a clear Customer Acceptance Policy laying down explicit criteria for acceptance of customers. The Customer Acceptance Policy must ensure that explicit guidelines are in place on the following aspects of customer relationship in the SHFCL:-

- No account is opened in anonymous or fictitious/benami name(s)
- Parameters of risk perception are clearly defined in terms of the location of customer and his clients and mode of payments, volume of turnover, social and financial status, etc. to enable categorization of customers into low, medium and high risk (SHFCLs may choose any suitable nomenclature, viz. level I, level II, level III etc.); customers requiring very high level of monitoring, e.g. Politically Exposed Persons (PEPs – as explained in Annex I) may, if considered necessary, be categorised even higher;
- Documentation requirements and other information to be collected in respect of different categories of customers depending on perceived risk and keeping in mind the requirements of Prevention of Money Laundering Act, 2002 (Central Act No. 15 of 2003) (hereinafter referred to as PMLA), rules framed there under and guidelines issued from time to time;
- Not to open an account or close an existing account where the SHFCL is unable to apply appropriate customer due diligence measures, i.e. SHFCL is unable to verify the identity and /or obtain documents required as per the risk categorisation due to non co-operation of the customer or non reliability of the data/information furnished to the SHFCL. It may, however, be necessary to

have suitable

built-in safeguards to avoid harassment of the customer. For example, decision to close an account may be taken at a reasonably high level after giving due notice to the customer explaining the reasons for such a decision;

- Circumstances, in which a customer is permitted to act on behalf of another person/entity, should be clearly spelt out in conformity with the established law and practices, as there could be occasions when an account is operated by a mandate holder or where an account may be opened by an intermediary in a fiduciary capacity; and
- Necessary checks before opening a new account so as to ensure that the identity of the customer does not match with any person with known criminal background or with banned entities such as individual terrorists or terrorist organizations, etc.
- SHFCLs may prepare a profile for each new customer based on risk categorization. The customer profile may contain information relating to the customer's identity, social/financial status, nature of business activity, information about his clients' business and their location, etc. The nature and extent of due diligence will depend on the risk perceived by the SHFCL. However, while preparing customer profile the SHFCLs should take care to seek only such information from the customer which is relevant to the risk category and is not intrusive, and is in conformity with the guidelines issued in this regard. Any other information from the customer should be sought separately with his/her consent and after opening the account. The customer profile will be a confidential document and details contained therein shall not be divulged for cross selling or any other purposes.
- For the purpose of risk categorization, individuals (other than High Net Worth) and entities whose identities and sources of wealth can be easily identified and transactions in whose accounts by and large conform to the known profile, may be categorized as low risk. Illustrative examples of low risk customers could be salaried employees whose salary structures are well defined, people belonging to lower economic strata of the society whose accounts show small balances and low turnover, Government departments & Government owned companies, regulators and statutory bodies, etc. In such cases, the policy may require that only the basic requirements of verifying the identity and location of the customer are to be met.
- Customers that are likely to pose a higher than average risk to the SHFCL may be categorized as medium or high risk depending on customer's background, nature and location of activity, country of origin, sources of funds and his client profile, etc. SHFCLs may apply enhanced due diligence measures based on the risk assessment, thereby requiring intensive 'due diligence' for higher risk customers, especially those for whom the sources of funds are not clear. Examples of customers requiring higher due diligence may include

- (a) Non-resident customers,
- (b) High net worth individuals,
- (c) Trusts, charities, NGOs and organizations receiving donations,
- (d) Companies having close family shareholding or beneficial ownership,
- (e) Firms with 'sleeping partners',
- (f) Politically exposed persons (PEPs) of foreign origin,
- (g) Non-face to face customers, and
- (h) Those with dubious reputation as per public information available, etc.

## ii) Customer Identification Procedure

Rule 9 of the Prevention of Money-Laundering (Maintenance of Records of the Nature and Value of Transactions, The Procedure and Manner of Maintaining and Time for Furnishing information and Verification and Maintenance of Records of the Identity of the Clients of the Banking Companies, Financial Institutions and Intermediaries) Rules, 2005 (hereinafter referred to as PML Rules), requires every SHFCL:

- at the time of commencement of an account-based relationship, identify its clients, verify their identity and obtain information on the purpose and intended nature of the business relationship, and
- in all other cases, verify identity while carrying out :
  - transaction of an amount equal to or exceeding rupees fifty thousand, whether conducted as a single transaction or several transactions that appear to be connected, or
  - any international money transfer operations.

In terms of proviso to rule 9 of the PML Rules, the relaxation, in verifying the identity of the client within a reasonable time after opening the account/ execution of the transaction, stands withdrawn.

Rule 9 also provides that every SHFCL shall identify the beneficial owner and take all reasonable steps to verify his identity. The said Rule also require SHFCLs to exercise ongoing due diligence with respect to the business relationship with every client and closely examine the transactions in order to ensure that they are consistent with their knowledge of the customer, his business and risk profile.

Therefore, the Customer Identification Policy approved by the Board of an SHFCL should clearly spell out the Identification Procedure to be carried out at different stages, i.e. while establishing a relationship; carrying out a financial transaction or when the SHFCL has a doubt about the authenticity/veracity or the adequacy of the previously obtained customer identification data.

Customer identification means identifying the customer and verifying his/ her identity by using reliable, independent source documents, data or information.

SHFCLs need to obtain sufficient information necessary to establish, to their satisfaction, the identity of each new customer, whether regular or occasional and the purpose of the intended nature of relationship. Rule 9 of the PML Rules provides for the documents/information to be obtained for identifying various types of customers i.e. Individuals, companies, partnership firms, trusts, unincorporated association or a body of individuals and juridical persons. SHFCLs are advised to take note of the provisions of the above rule and ensure compliance. Customer identification requirements keeping in view the provisions of the said rule are also given in **Annex-I** for guidance of SHFCLs. An indicative list of the nature and type of documents/information that may be relied upon for customer identification is given in the **Annex-II**. SHFCLs should frame their own internal guidelines based on their experience of dealing with such persons/entities, normal prudence and the legal requirements.

10. Each SHFCL should formulate and implement a Client Identification Programme to determine the true identity of its clients keeping the above in view.

## (iii) Monitoring of Transactions

Ongoing monitoring is an essential element of effective KYC procedures. SHFCLs can effectively control and reduce their risk only if they have an understanding of the normal

and reasonable activity of the customer so that they have the means of identifying transactions that fall outside the regular pattern of activity. However, the extent of monitoring will depend on the risk sensitivity of the account. SHFCLs should pay special attention to all complex, unusually large transactions and all unusual patterns which have no apparent economic or visible lawful purpose. The SHFCL may prescribe threshold limits for a particular category of accounts and pay particular attention to the transactions which exceed these limits. Transactions that involve large amounts of cash inconsistent with the normal and expected activity of the customer should particularly attract the attention of the SHFCL. Very high account turnover inconsistent with the size of the balance maintained may indicate that funds are being 'washed' through the account. High-risk accounts have to be subjected to intensify monitoring. Every SHFCL should set key indicators for such accounts, taking note of the background of the customer, such as the country of origin, sources of funds, the type of transactions involved and other risk factors. SHFCLs should put in place a system of periodical review of risk categorization of accounts and the need for applying enhanced due diligence measures.

#### **(iv) Risk Management**

The Board of Directors of the SHFCL should ensure that an effective KYC programme is put in place by establishing appropriate procedures and ensuring their effective implementation. It should cover proper management oversight, systems and controls, segregation of duties, training and other related matters. Responsibility should be explicitly allocated within the SHFCL for ensuring that the housing finance companies' policies and procedures are implemented effectively. SHFCLs may, in consultation with their Boards, devise procedures for creating Risk Profiles of their existing and new customers and apply various Anti Money Laundering measures keeping in view the risks involved in a transaction, account or business relationship.

SHFCLs' internal audit and compliance functions have an important role in evaluating and ensuring adherence to the KYC policies and procedures. As a general rule, the compliance function should provide an independent evaluation of the SHFCL's own policies and procedures, including legal and regulatory requirements. SHFCLs should ensure that their audit machinery is staffed adequately with individuals who are well-versed in such policies and procedures. Concurrent/ Internal Auditors should specifically check and verify the application of KYC procedures at the branches and comment on the lapses observed in this regard. The compliance in this regard may be put up before the Audit Committee of the Board at quarterly intervals. SHFCL should ensure that there is proper system of fixing accountability for serious lapses and intentional circumvention of prescribed procedures and guidelines.

SHFCLs must have an ongoing employee training programme so that the members of the staff are adequately trained in KYC procedures. Training requirements should have different focus for frontline staff, compliance staff and staff dealing with new customers. It is crucial that all those concerned fully understand the rationale behind the KYC policies and implement them consistently.

#### **v) Customer Education**

Implementation of KYC procedures requires SHFCLs to demand certain information from customers which may be of personal nature or which have hitherto never been called for. This can sometimes lead to a lot of questioning by the customer as to the motive and purpose of collecting such information. There is, therefore, a need for SHFCLs to prepare specific literature/ pamphlets, etc. so as to educate the customer about the objectives of the KYC programme. The front desk staff needs to be specially trained to handle such situations while dealing with customers.

### **Introduction of New Technologies**

SHFCLs should pay special attention to any money laundering threats that may arise from new or developing technologies including on-line transactions that might favour anonymity, and take measures, if needed, to prevent their use in money laundering schemes.

#### **Applicability to branches and subsidiaries outside India**

The above guidelines shall also apply to the branches and majority owned subsidiaries located abroad, especially, in countries which do not or insufficiently apply the FATF Recommendations, to the extent local laws permit. When local applicable laws and regulations prohibit implementation of these guidelines, the same should be brought to the notice of National Housing Bank and RBI.

#### **Appointment of Principal Officer:**

SHFCLs may appoint a senior management officer, preferably of the level of General Manager or immediately below the level of CMD/ED of the SHFCL (depending on the internal organisational structure of the housing finance company) be designated as 'Principal Officer'. The name of the Principal Officer so designated, his designation and address including changes from time to time, may please be advised to the Director, FIU-IND and also to NHB. Principal Officer shall be located at the head/corporate office of the SHFCL and shall be responsible for monitoring and reporting of all transactions and sharing of information as required under the law. He will maintain close liaison with enforcement agencies, SHFCLs and any other institution which are involved in the fight against money laundering and combating financing of terrorism.

#### **Maintenance of records of transactions:**

SHFCLs should introduce a system of maintaining proper record of transactions as required under section 12 of the PMLA read with Rule 3 of the PML Rules, as mentioned below:

- all cash transactions of the value of more than rupees ten lakh or its equivalent in foreign currency;
- all series of cash transactions integrally connected to each other which have been valued below rupees ten lakh or its equivalent in foreign currency where such series of transactions have taken place within a month and the aggregate value of such transactions exceeds rupees ten lakh;
- all transactions involving receipts by non-profit organizations of rupees ten lakhs or its equivalent in foreign currency;
- all cash transactions where forged or counterfeit currency notes or bank notes have been used as genuine and where any forgery of a valuable security or a document has taken place facilitating the transactions; and
- all suspicious transactions whether or not made in cash and by way of as mentioned in the Rule 3(1) (D).

SHFCLs should ensure that their branches continue to maintain proper record of all cash transactions (deposits and withdrawals) of Rs.10 lakh and above. The internal monitoring system should have an inbuilt procedure for reporting of such transactions and those of suspicious nature whether made in cash or otherwise, to controlling/head office on a fortnightly basis.

#### **Records to contain the specified information**

Records referred to above in Rule 3 of the PMLA Rules to contain the following

information:-

- the nature of the transactions;
- the amount of the transaction and the currency in which it was denominated;
- the date on which the transaction was conducted; and
- the parties to the transaction.

### **Maintenance and Preservation of records**

Section 12 of PMLA requires every housing finance company to maintain records as under:

- (a) records of all transactions referred to in clause (a) of Sub-section (1) of section 12 read with Rule 3 of the PML Rules is required to be maintained for a period of ten years from the date of transactions between the clients and the housing finance company.
- (b) records of the identity of all clients of the housing finance company is required to be maintained for a period of ten years from the date of cessation of transactions between the clients and the housing finance company.

SHFCLs should take appropriate steps to evolve a system for proper maintenance and preservation of information in a manner ( in hard and soft copies) that allows data to be retrieved easily and quickly whenever required or when requested by the competent authorities.

### **Reporting to Financial Intelligence Unit-India**

Section 12 of PMLA requires every housing finance company to report information of transaction referred to in clause (a) of sub-section (1) of section 12 read with Rule 3 of the PML Rules relating to cash and suspicious transactions etc. to the Director, Financial Intelligence Unit-India (FIU-IND).

The proviso to the said section also provides that where the principal officer of a SHFCL has reason to believe that a single transaction or series of transactions integrally connected to each other have been valued below the prescribed value to so to defeat the provisions of this section, such officer shall furnish information in respect of such transactions to the Director within the prescribed time.

The information to be furnished at the following address by the Principal Officer of the SHFCL:

**Director, FIU-IND,  
Financial Intelligence Unit-India,  
6<sup>th</sup> Floor, Hotel Samrat,  
Chanakyapuri,  
New Delhi-110021.**

A copy of information furnished shall be retained by the Principal Officer for the purposes of official record.

- (a) The information in respect of the transactions referred to in clause(A), (B) and (BA) of sub-rule (1) of rule 3 of the PML Rules ( i.e. clauses (i) , (ii) and (iii) referred to in Paragraph 19 supra) is to be submitted to the Director every month by the 15<sup>th</sup> day of the succeeding month.
- (b) The information in respect of the transactions referred to in clause(C) of sub-rule (1) of rule 3 of the PML Rules i.e. clause (iv) in Paragraph 19 supra) is to be furnished promptly to the Director in writing, or by fax or by electronic mail not later than seven

working days from the date of occurrence of such transaction.

(c) The information in respect of the transactions referred to in clause(D) of sub-rule (1) of rule 3 of the PML Rules ( i.e. clause(v) in Paragraph 19 supra) is to be furnished promptly to the Director in writing, or by fax or by electronic mail not later than seven working days on being satisfied that transaction is suspicious.

Provided the housing finance company and its employees maintain strict confidentiality of the fact of furnishing/ reporting details of suspicious transactions.

It has been advised by the FIU-IND, New Delhi that SHFCLs need not submit 'NIL' reports in case there are no Cash/Suspicious Transactions, during a particular period. SHFCLs are advised to take note and act accordingly.

The formats for reporting the requisite information in respect of cash transactions and suspicious transactions are enclosed (Annexures 3 to 10). An illustrative (but not exhaustive) list of suspicious transactions in housing/ builder/project loans is furnished in Annexure 11 for information of the SHFCLs.

The required information is to be furnished by the SHFCLs **directly** to the FIU-IND, through the Principal Officer designated by the housing finance company under the Prevention of Money Laundering Act, 2002.

### **General**

SHFCLs should ensure that the provisions of PML, Rules framed thereunder and the Foreign Contribution and Regulation Act, 1976, wherever applicable, are adhered to strictly.

Where the SHFCL is unable to apply appropriate KYC measures due to non-furnishing of information and /or non-cooperation by the customer, the SHFCL may consider closing the account or terminating the business relationship after issuing due notice to the customer explaining the reasons for taking such a decision. Such decisions need to be taken at a reasonably senior level.

These guidelines are issued under the National Housing Bank Act and any contravention of or non-compliance with the same may attract penal consequences under the said Act.

### **Annex-I**

#### **CUSTOMER IDENTIFICATION REQUIREMENTS INDICATIVE GUIDELINES**

##### **1. Trust/Nominee or Fiduciary Accounts**

There exists the possibility that trust/nominee or fiduciary accounts can be used to circumvent the customer identification procedures. SHFCLs should determine whether the customer is acting on behalf of another person as trustee/nominee or any other intermediary. If so, SHFCLs may insist on receipt of satisfactory evidence of the identity of the intermediaries and of the persons on whose behalf they are acting, as also obtain details of the nature of the trust or other arrangements in place. While opening an account for a trust, SHFCLs should take reasonable precautions to verify the identity of the trustees and the settlors of trust (including any person settling assets into the trust), grantors, protectors, beneficiaries and signatories. Beneficiaries should be identified when they are defined. In the case of a 'foundation', steps should be taken to verify the

founder managers/directors and the beneficiaries, if defined. If the SHFCL decides to accept such accounts in terms of the Customer Acceptance Policy, the SHFCL should take reasonable measures to identify the beneficial owner(s) and verify his/her/their identity in a manner so that it is satisfied that it knows who the beneficial owner(s) is/are.

## **2. Accounts of companies and firms**

SHFCLs need to be vigilant against business entities being used by individuals as a 'front' for maintaining accounts with SHFCLs. SHFCL should verify the legal status of the legal person/ entity through proper and relevant documents. SHFCL should verify that any person purporting to act on behalf of the legal/ juridical person/entity is so authorized and identify and verify the identity of that person. SHFCLs should examine the control structure of the entity, determine the source of funds and identify the natural persons who have a controlling interest and who comprise the management. These requirements may be moderated according to the risk perception, e.g. in the case of a public company it will not be necessary to identify all the shareholders.

## **3. Client accounts opened by professional intermediaries**

When the SHFCL has knowledge or reason to believe that the client account opened by a professional intermediary is on behalf of a single client, that client must be identified. SHFCLs may hold 'pooled' accounts managed by professional intermediaries on behalf of entities like mutual funds, pension funds or other types of funds. Where the SHFCLs rely on the 'customer due diligence' (CDD) done by an intermediary, they should satisfy themselves that the intermediary is regulated and supervised and has adequate systems in place to comply with the KYC requirements. It should be understood that the ultimate responsibility for knowing the customer lies with the SHFCL.

## **4. Accounts of Politically Exposed Persons (PEPs) resident outside India**

Politically exposed persons are individuals who are or have been entrusted with prominent public functions in a foreign country, e.g. Heads of States or of Governments, senior politicians, senior government/judicial/military officers, senior executives of state-owned corporations, important political party officials, etc. SHFCLs should gather sufficient information on any person/customer of this category intending to establish a relationship and check all the information available on the person in the public domain. SHFCLs should verify the identity of the person and seek information about the sources of funds before accepting the PEP as a customer. The decision to open an account for PEP should be taken at a senior level which should be clearly spelt out in Customer Acceptance Policy. SHFCLs should also subject such accounts to enhanced monitoring on an ongoing basis. The above norms may also be applied to the accounts of the family members or close relatives of PEPs.

## **5. Accounts of non-face-to-face customers**

In the case of non-face-to-face customers, apart from applying the usual customer identification procedures, there must be specific and adequate procedures to mitigate the higher risk involved. Certification of all the documents presented may be insisted upon and, if necessary, additional documents may be called for. In the case of cross-border customers, there is the additional difficulty of matching the customer with the documentation and the SHFCL may have to rely on third party certification/introduction. In such cases, it must be ensured that the third party is a regulated and supervised entity and has adequate KYC systems in place.

## **Annex-II**



<p><b>Trusts &amp; Foundations</b></p> <ul style="list-style-type: none"> <li>- Names of trustees, settlers, beneficiaries and signatories</li> <li>- Names and addresses of the founder, the managers/directors and the beneficiaries</li> <li>- Telephone/fax numbers</li> </ul>	<ul style="list-style-type: none"> <li>(i) Certificate of registration, if registered</li> <li>(ii) trust deed</li> <li>(iii) Power of Attorney granted to transact business on its behalf</li> <li>(iii) Any officially valid document to identify the trustees, settlers, beneficiaries and those holding Power of Attorney, founders/managers/ directors and their addresses</li> <li>(iv) Resolution of the managing body of the foundation/association.</li> <li>(v) Telephone Bill.</li> </ul>
<p><b>Unincorporated association or a body of individuals</b></p>	<ul style="list-style-type: none"> <li>(i) resolution of the managing body of such association or body of individuals</li> <li>(ii) power of attorney granted to him to transact on its behalf</li> <li>(iii) an officially valid document in respect of the person holding an attorney to transact on its behalf</li> <li>(iv) and such other information as may be required by SHFCL to collectively establish the legal existence of such as association or body of individuals.</li> </ul>

**\*‘Officially valid document’** is defined to mean the passport, the driving license, the permanent account number card, the Voter’s Identity Card issued by the Election Commission of India or any other document as may be required by the SHFCL .

**MANUAL REPORTING FORMATS**

- MCTR (Manual Cash Transaction Report) for SHFCLs- Annex-3
- MCTR(IDS)-Annexure-A (Manual Cash Transaction Report- Individual detail sheet for SHFCLs)- Annex-4
- MCTR(LP/Entity-Details)-Annexure-B (Manual Cash Transaction Report- Legal Person/Entity detail sheet for SHFCLs)- Annex-5
- MCTR(S) Summary of Manual Cash Transaction Reports for SHFCLs- Annex-6
- MSTR (Manual Suspicious Transactions Report) for SHFCLs- Annex-7
- MSTR(IDS)-Annex-A (Manual Suspicious Transactions Report- Individual detail sheet)-Annex-8
- MSTR(LP/Entity-Details)-Annexure-B (Manual Suspicious Transaction Report- Legal persons/Entity)-Annex-9
- MSTR(ADS)-Annexure-C (Manual Suspicious Transaction Report-Account Details Sheet)-Annex-10
- Illustrative (but not exhaustive) list of suspicious transactions in

housing/builder/project loans

### **Annex-III**

#### **I. ILLUSTRATIVE LIST OF SUSPICIOUS TRANSACTIONS PERTAINING TO HOUSING LOANS:**

- Customer is reluctant to provide information, data, documents;
- Submission of false documents, data, purpose of loan, details of accounts;
- Refuses to furnish details of source of funds by which initial contribution is made, sources of funds is doubtful etc;
- Reluctant to meet in person, represents through a third party/Power of Attorney holder without sufficient reasons;
- Approaches a branch/office of a SHFCL, which is away from the customer's residential or business address provided in the loan application, when there is SHFCL branch/office nearer to the given address;
- Unable to explain or satisfy the numerous transfers in the statement of account/multiple accounts;
- Initial contribution made through unrelated third party accounts without proper justification;
- Availing a top-up loan and/or equity loan, without proper justification of the end use of the loan amount;
- Suggesting dubious means for the sanction of loan;
- Where transactions do not make economic sense;
- There are reasonable doubts over the real beneficiary of the loan and the flat to be purchased;
- Encashment of loan amount by opening a fictitious bank account;
- Applying for a loan knowing fully well that the property/dwelling unit to be financed has been funded earlier and that the same is outstanding;
- Sale consideration stated in the agreement for sale is abnormally higher/lower than what is prevailing in the area of purchase;
- Multiple funding of the same property/dwelling unit;
- Request for payment made in favour of a third party who has no relation to the transaction;
- Usage of loan amount by the customer in connivance with the vendor/builder/developer/broker/agent etc. and using the same for a purpose other than what has been stipulated.
- Multiple funding / financing involving NGO / Charitable Organisation / Small / Medium Establishments (SMEs) / Self Help Groups (SHGs) / Micro Finance Groups (MFGs)
- Frequent requests for change of address.
- Overpayment of instalments with a request to refund the overpaid amount.

#### **II. ILLUSTRATIVE LIST OF SUSPICIOUS TRANSACTIONS PERTAINING TO BUILDER/PROJECT LOANS:**

- Builder approaching the SHFCL for a small loan compared to the total cost of the project.
- Builder is unable to explain the sources of funding for the project.
- Approvals/sanctions from various authorities are proved to be fake.