

# AML ISSUES & COMPLIANCES BY ENTITIES IN IFSC, GIFT CITY



**INDIA JURIS**  
International Law Firm

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## IFSC, GIFT City

- India's first **International Financial Services Centre (IFSC)** at Gandhinagar, Gujarat
- **Global business benefits:** tax exemptions, easier capital flows, no capital gains tax, no stamp duty
- **Operational advantages:** foreign currency transactions, ease of doing business, world-class dispute resolution
- **Smart city benefits:** sustainable infrastructure, district cooling, automated waste, global-standard work environment

## IFSCA

- **Unified regulator** International Financial Services Centre Authority (**IFSCA**) covering banking, insurance, capital markets & fintech, established under **IFSCA Act, 2019**
- **Regulates across sectors** – banking, insurance, capital markets, funds, fintech, aircraft/ship leasing, bullion, and more.
- Provides a **single-window framework** for ease of doing business at GIFT City.
- Promotes **global competitiveness** of Indian IFSCs by aligning with international best practices.

# What is Money Laundering



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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** including its **concealment, possession, acquisition or use** and **projecting or claiming** it as **untainted property** shall be guilty of offence of money-laundering.

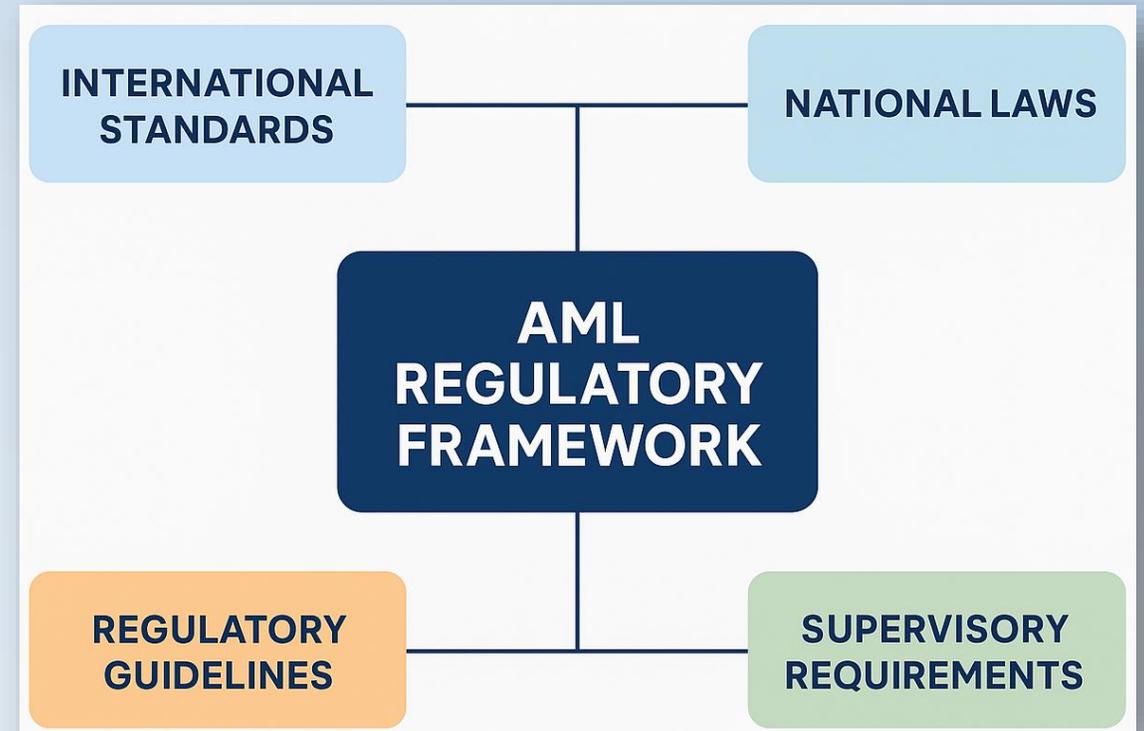
## Anti-Money Laundering / Countering Financing of Terrorism) – Why ?

- **Global credibility:** Ensures GIFT IFSC operates at par with international financial centres like Singapore, Dubai, and London.
- **Compliance with FATF standards:** Aligns India with global norms to prevent money laundering and terror financing.
- **Investor confidence:** Builds trust among global investors, financial institutions, and regulators.
- **Risk mitigation:** Protects the financial system from illicit fund flows, fraud, and reputational damage.
- **Sustainable growth:** Creates a transparent, secure, and resilient financial ecosystem in GIFT City.

# Regulatory Framework



- IFSCA AML / CFT / KYC Guidelines, 2022
- Prevention of Money Laundering Act, 2002 (PMLA)
- PML (Maintenance of Records) Rules, 2005
- Unlawful Activities (Prevention) Act, 1967 (UAPA)
- FIU-IND (Financial Intelligence Unit – India)
- FATF - Financial Action Task Force
- FATCA - Foreign Account Tax Compliance Act (USA)
- UNSC sanctions (freeze assets, prohibit dealings)



*Requires REs to conduct AML business risk assessments, adopt risk-mitigation policies, ensure KYC, customer risk profiling, and appropriate due diligence.*

# Prevention of Money Laundering Act, 2002



- **Enacted in 2002 (effective from 2005)** to combat money laundering and confiscate proceeds of crime in India.
- Defines money laundering as **disguising proceeds of crime as legitimate money**.
- **Regulated by Enforcement Directorate (ED)**: investigates, attaches, and confiscates assets.
- Obligates banks, financial institutions, intermediaries to maintain records and report suspicious transactions to FIU-IND.
- Provides for attachment, adjudication, and confiscation of property derived from money laundering.
- Linked to global FATF standards, strengthening India's AML/CFT framework.

# PMLA 2002 – Key Provisions



## Offence of Money Laundering (S.3)

Proceeds of crime including its concealment, possession, acquisition or use and projecting or claiming] it as untainted property

## Punishment (S.4)

Rigorous imprisonment up to 7 years, which may extend in certain cases + Fine

## Reporting Entities (S.2 (wa))

Means a banking company, financial institution, intermediary or a person carrying on a designated business or profession

## Maintenance of Records (S.11A & 12)

Reporting Entity shall verify the identity of its clients & the beneficial owner and maintain a record of all transactions – 5 years

## Attachment of Property (S.5 & 8)

Provisional attachment of Property by Adjudicating Authority. Confiscation of property derived from proceeds of crime

## Investigation (S.17 & 18)

Enforcement Directorate (ED) investigates offences. Have authority to summon, search and seize

## Appellate Mechanism (S.21)

Appeal against the Order of Adjudicating Authority may be made before Appellate Tribunal.

## Financial Intelligence Unit – INDIA (FIU)

FIU-IND receives STRs and CTRs. Analyses data and shares with ED and other Authorities

PMLA  
2002

# PML (Maintenance of Records) Rules



- Issued under PMLA, 2002 to mandate record-keeping for banks, financial institutions, and intermediaries.
- Requires maintenance of all transactions above specified thresholds for **a minimum period (usually 5–10 years)**.
- Helps trace proceeds of crime and support investigation by authorities.
- Mandates preservation of KYC, account files, and transaction data for audit purposes.
- Ensures transparency and accountability in financial operations.

# Unlawful Activities (Prevention) Act, 1967 (UAPA)



- UAPA in India imposes significant obligations related to terrorism financing within the AML framework
- Sec-17 criminalizes raising funds for terrorist acts, whether from legitimate or illegitimate sources, and includes offenses by individuals, organizations, companies, societies, or trusts involved in terrorism financing.
- Sec-51A empowers the Govt to freeze, seize, or attach funds, financial assets, or economic resources linked to individuals or entities engaged in terrorism or suspected of such activity, without prior notice.
- The UAPA works in coordination with the PMLA 2002
- Enforcement agencies register FIRs and prosecute violations under these laws, with provisions allowing for stringent punishments including imprisonment and fines.

# FIU-IND (Financial Intelligence Unit – India)



- National agency under Ministry of Finance responsible for receiving, processing, and analyzing financial intelligence.
- **Collects Suspicious Transaction Reports (STRs) and Cash Transaction Reports (CTRs)** from regulated entities.
- Shares actionable intelligence with law enforcement and regulatory authorities.
- Plays a key role in AML / CFT compliance for India, including GIFT City.
- All Regulated Entities shall ensure that the registration on FIU-IND portal is completed prior to commencement of business

# FATF - Financial Action Task Force



- Established in **1989 by the G7 countries** (France, Germany, Italy, Japan, UK, USA, Canada) and the European Commission.
- Created during the G7 Summit in Paris to **combat money laundering**.
- Later expanded its mandate (2001 onwards) to include **counter-terrorist financing (CFT)** and proliferation financing.
- Today, **FATF has 39 member jurisdictions + 2 regional organisations** (e.g., European Commission, GCC).
- Works as a global standard-setter for AML/CFT through recommendations adopted by **over 200 countries worldwide**.

# FATCA - Foreign Account Tax Compliance Act



- Introduced by the **USA in 2010** to prevent tax evasion by US citizens holding accounts abroad.
- Requires foreign financial institutions (FFIs), including those in India, to report information on accounts held by US persons to the IRS.
- Applies to banks, insurers, funds, and intermediaries operating in IFSCs like GIFT City.
- Ensures transparency in cross-border financial transactions and compliance with US tax laws.
- **Penalties for non-compliance:** withholding taxes on certain US-sourced income and potential reputational risk.
- **Attracts US investors:** Ensures GIFT IFSC can onboard US persons and funds legally.
- **Mandatory reporting compliance:** Reporting is done electronically to CBDT (61B) which further provides it to IRS.

# UNSC Sanctions



- UN Security Council (UNSC) sanctions play a critical role in AML
- Frameworks by mandating the identification, freezing, and reporting of assets linked to individuals or entities listed on UN sanctions lists, including those involved in terrorism, proliferation financing, and other threats to global security
- All regulated entities, including banks, fund managers, and financial intermediaries in GIFT City must comply with these sanctions as part of their AML / CFT and KYC obligations, as IFSCA, mandates compliance with international sanctions, including those issued by the UNSC.

# IFSCA AML / CFT / KYC Guidelines, 2022



- **Issued by IFSCA in 2022** to strengthen Anti-Money Laundering (AML) and Countering Financing of Terrorism (CFT) framework in GIFT IFSC.
- **Mandatory KYC/Customer Due Diligence (CDD):** all entities must verify client identity, monitor transactions, and maintain records.
- **Suspicious Transaction Reporting:** requires reporting to FIU-IND of any suspicious or unusual financial activity.
- **Aligned with FATF & PMLA:** ensures GIFT IFSC meets global AML/CFT standards.
- **Risk-based approach:** entities must assess client and transaction risk and implement enhanced measures for higher-risk profiles.

# IFSCA AML / CFT / KYC Guidelines, 2022



## **APPLICABILITY**

- Applies to every Regulated Entity (RE) licensed, recognised, or registered by IFSCA.
- Includes financial groups, branches, and subsidiaries (Chapter XII).
- Covers a wide range of financial services operating in IFSCs.

## **OBLIGATIONS OF REGULATED ENTITIES (RES)**

- Every RE shall formulate an AML-CFT policy as per guidelines, approved its Governing Body
- Every RE shall have a KYC Policy, as the part of its AML-CFT policy.
- Every member of RE's Senior Management shall be responsible for the RE's AML compliance
- Every member of a RE's Senior Management shall exercise due skill, care, and diligence.

## RISK BASED APPROACH (RBA) (CHAPTER -II)

- RE should adopt Risk-Based Approach (RBA) to **identify and assess the Money Laundering (ML) and Terrorist Financing (TF) risk** to which the RE is exposed, depending upon its nature of business and exposure to or involvement with certain types of clients, **countries or geographic areas**, products, **services**, transactions, or **delivery channels**, etc. and document the same.
- **FATF Public Statement**, the reports and guidance notes and **United Nations' Security Council Resolutions**. etc., may also be used in risk assessment.
- RE shall review its risk assessment **at least once every 2 years** or when a **material trigger event occurs**, whichever is earlier.

## BUSINESS RISK ASSESSMENT (CHAPTER -III)

- RE shall **identify and assess the business AML** risks taking into consideration business complexities and take suitable steps to identify its exposure to **ML/TF** risk based on the factors such as **countries or geographic areas**, products, **services**, transactions, or **delivery channels**, new products as may be applicable.
- **AML/CFT systems and controls:** RE shall put in place adequate policies, procedures, systems and controls to mitigate such ML/TF risks.
- AML/CFT policies, procedures and controls shall be approved by Senior Management

## CUSTOMER RISK ASSESSMENT (CHAPTER -IV)

- Risks identified while assessing the business risks shall be used for the customer risk assessment.
- The customer risk assessment shall be made by taking into various specified parameters.
- Assign the risk rating of the customer as **HIGH, MEDIUM or LOW**, proportionate to the ML/TF risks.

## CUSTOMER DUE DILIGENCE (CHAPTER -V)

- RE shall under CDD in respect of all customers before or after entering into business relation with the customer
- High Risk Customer - Enhanced CDD
- Low Risk Customer - Simplified CDD
- Normal - CCD for every other entity
- In case of failure of RE to conduct or complete CDD, RE shall not proceed with any transaction or business relation with such customer.
- Periodic Updation of CDD
  - Annually** - for **high-risk** customers;
  - Once in 3 years** - for **medium risk** customer; and,
  - Once in 5 years** - for **low-risk** customers.

## INTERNAL POLICIES, **COMPLIANCE**, AUDIT AND TRAINING (CHAPTER -VIII)

- An RE shall develop appropriate compliance management, including appointing a Principal Officer at the management level and develop compliance framework.
- RE to ensure that the Principal Officer has adequate seniority and authority within RE.
- Responsibilities of Principle Officer:
  - Monitoring of business relation for compliances with these guidelines.
  - Taking overall charge of AML/CFT matters within organization.
  - Inform employees of Regulatory changes.
  - Speedy and appropriate reaction in ML/TF matter.
  - Overseeing the reporting of Suspicious Transaction.
  - Advising and training employees on AML/CFT controls & systems.

## INTERNAL POLICIES, COMPLIANCE, **AUDIT** AND TRAINING (CHAPTER -VIII)

- An RE shall maintain an audit function that is adequately resourced and independent is able to assess the effectiveness of RE's internal policies, procedures and controls.
- An RE's AML/CFT framework shall be periodically audited, not just on individual business functions but also on a Regulated Entity-wide basis an auditor shall
  - Determine the adequacy of RE's AML/CFT policies, assessment framework and application of risk-based approach
  - Review content and frequency of AML-CFT training program
  - Assess whether instances of non-compliance are reported to Senior Management on a timely basis

## REPORTING OF SUSPICIOUS TRANSACTIONS (CHAPTER X)

- RE shall establish and maintain policies, procedures, systems and controls in order to monitor and detect suspicious transactions with respect to potential ML/TF.



- RE shall furnish to the Director, FIU-IND, the required information (STR) referred to in rule-3 of the Rules and in accordance with the terms of rule-7 thereof.

## COMPLIANCE OBLIGATIONS UNDER INTERNATIONAL AGREEMENTS & DOMESTIC LAWS (CHAPTER-XI)

- The REs shall ensure that in terms of **Section 51A of the UAPA** and amendments thereto, they do not have any account in the name of individuals / entities appearing in the lists of individuals and entities, suspected of having terrorist links, which are approved by and periodically circulated by the **UNSC**.
- Comply with the **FATF** statements
- Under FATCA and CRS (Common Reporting Standards), a RE shall adhere to the provisions of Income Tax Rules 114F, 114G and 114H and determine whether it is a Reporting Financial Institution as defined in Income Tax Rule 114F

## EXEMPTIONS

- **Global-in-House Centre**
- **International Branch Campus** or an **Offshore Educational Centre** of a Foreign University or a Foreign Educational Institution registered under IFSCA
- **Financial Crime Compliance Services Provider** registered under IFSCA (Bookkeeping, Accounting, Taxation and Financial Crime Compliance Services) Regulations, 2024
- **Financial Institution** providing services only to the entities in its 'Financial Group' which are located in a country

# PRACTICAL CHALLENGES & ISSUES



The financial crime landscape is constantly evolving, with criminals devising new techniques to launder money and finance terrorism.

Dynamic and Evolving regulatory Landscape

Operational and Resource Challenge

AML/CFT framework requires significant investment in technology and personnel training.

The guidelines require entities to collect, store, and analyze vast amounts of customer and transaction data.

Data Management & Tech Integration

CDD & KYC

Identifying and verifying the BOs of legal persons and complex corporate structures can be particularly challenging.

While IFSCA has issued V-CIP guidelines, challenges remain in ensuring technology is robust against spoofing, deep fakes, and fraud

Challenges with Remote on-boarding

Dynamic Sanction list

Sanctions lists are constantly changing, with new individuals, entities, and jurisdictions being added or removed

# HOW TO GO ABOUT



## Formulate AML Policy

Develop a strong AML Policy around AML laws and IFSCA, AML Guidelines

## Business Risk Assessment

Assess Business Risk (ML/FT) based on various factors as per the IFSCA guidelines and arrive at mitigation measures

## AML Compliance team

Develop a compliance team for day to day compliance and reporting tasks

## AML Training

Trained team is key to effective implementation of AML Policies

## AI & Regtech Tools

- ComplyAdvantage
- Resistant AI
- Hawk AI
- Feedz AI
- Slient Eight
- NICE Actimize
- Napier AI

## Review

Keep reviewing AML Policy as per the Guidelines or on occurrence of an event which requires review,

## **LOXAM App Cyber Enabled Investment Fraud**

The **LOXAM app cyber fraud** duped thousands of investors by posing as a legitimate investment platform, raising nearly **₹903 crore** in India and then moving the funds through corporate accounts, money changers, and hawala channels before routing them abroad. The scam exposed how fake apps, rapid rupee-to-forex conversions, and offshore shell networks can be exploited for large-scale laundering.

## **Nirav Modi and Punjab National Bank Scam**

One of India's largest financial frauds involving ₹13,000 crore (about \$2.1 billion) where shell companies and fake trade transactions were used to launder money through unauthorized Letters of Undertakings

## **World Trade Centre Scam**

The WTC Group, led by Ashish Bhalla, was investigated by the ED for misappropriating more than Rs 3,000 crore in real estate projects across Delhi-NCR and other states. The funds were diverted through shell companies and overseas entities. The case highlights risks in real estate AML, including fund diversion, layering, and cross-border money laundering.

# AML ISSUES & COMPLIANCES BY ENTITIES IN GIFT CITY

Thank You

[giftcity@indiajuris.co.in](mailto:giftcity@indiajuris.co.in)

Advising clients across the Globe on  
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## NEW DELHI

F-116, Lajpat Nagar-1, New Delhi -110024  
Ph: +91-11-29814816, 29814817, 49873283  
Email: [newdelhi@indiajuris.com](mailto:newdelhi@indiajuris.com)

## GIFT CITY

Unit No. FF38, Pragya Accelerator, Block-15,  
Zone-1, Road No.-11, Processing Area GIFT  
SEZ, GIFT City, Gandhinagar - 382355  
(Gujarat, India)  
Email: [giftcity@indiajuris.com](mailto:giftcity@indiajuris.com)

## BENGALURU

Bizzhub Aspire Center, #36, 1st Floor  
80ft Road, Ejipura, Koramangala, Bengaluru-  
560034, Karnataka  
Ph: 8929197211  
Email: [bengaluru@indiajuris.com](mailto:bengaluru@indiajuris.com)

## GURUGRAM

434-435, 4th Floor, Vipul Trade Centre  
Sec-48, Sohna Road, Gurgaon, Haryana, India  
Ph: +91-124-4385072  
Email: [gurgaon@indiajuris.com](mailto:gurgaon@indiajuris.com)

## MUMBAI

Technopolis Knowledge Park, 5th floor, Mahakali  
Caves Road, Chakala, Andheri - (East), Mumbai-  
400093, Maharashtra, India  
Email: [mumbai@indiajuris.com](mailto:mumbai@indiajuris.com)



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