

KYC - Rights and responsibilities of customers and banks.

(As per communication received from Indian Banks' Association (IBA) in pursuance with instructions issued by RBI vide letter No. DBR.AML.No.8453/14.03.002/2016-17 dated January 19, 2017.)

A. Customers:

- (i) Required to submit an officially valid document (OVD) for proof of identity and proof of address and a recent photograph, while opening a normal bank account. In addition to this, the e-KYC service of Unique Identification Authority of India (UIDAI) is also accepted as a valid process for KYC verification.
- (ii) Customer also has to provide information to the bank about the nature of business activity undertaken by him, location of customer and his clients, mode of payments, volume of turnover, social and financial status etc. to enable bank to decide risk profile.
- (iii) When a customer does not possess any of the OVDs including those prescribed under 'simplified procedure', banks are allowed to open 'small accounts' for such customers by taking the customer's signature/thumb impression in the presence of a bank official and a self-attested photograph. Customer has to remain physically present in the bank branch for opening "Small account."
- (iv) Customers have to note that Small accounts, however, would be subject to certain limitations the aggregate credits (not more than Rupees one lakh in a year), aggregate withdrawals (not more than Rupees ten thousand in a month) and balance in the accounts (not more than Rupees fifty thousand at any point in time). These small accounts would be valid normally for a period of twelve months. Thereafter, such accounts would be allowed to continue for a further period of twelve more months, if the account holder provides a document showing that she/he has applied for any of the OVDs, within twelve months of opening the small account.

- (v) If any of the OVDs submitted does not have the address details (either current or permanent) of the customer, then another OVD for proof of address has to be submitted.
- (vi) If an existing KYC compliant customer of a bank desires to open another account in the same bank, there should be no need for submission of fresh proof of identity and/or proof of address for the purpose.
- (vii) KYC once done by a branch of the bank is valid while transferring the account to any other branch of the same bank without restrictions and on the basis of declaration of his/her local address for communication.
- (viii) In case a customer categorised as low risk is unable to submit the KYC documents due to genuine reasons, she/he may submit the documents to the bank within a period of six months from the date of opening account
- (ix) If the address of the customer mentioned as per 'proof of address' undergoes a change, fresh proof of address may be submitted to the branch within a period of six months.
- (x) OVD with the current address is not necessary if the customer submits an OVD with permanent address. In such cases, however, the customer has to submit a declaration about his current address which the banks have to verify independently.
- (xi) KYC verification of all the members of Self Help Groups (SHGs) is not required while opening the savings bank account of the SHG and KYC verification of only the officials of the SHGs would suffice. No separate KYC verification is needed at the time of credit linking the SHG.
- (xii) Foreign students have been allowed a time of one month for furnishing the proof of local address.
- (xiii) Existing customers have to submit KYC documents and photograph, if they had not submitted documents at the time of opening account, as rules applicable at that time did not provide for document based KYC.
- (xiv) Existing customers are required to submit KYC documents for periodic updation of KYC. The periodicity of KYC updation is 2/8/10 years for high/medium/low risk customers.

- (xv) Banks need not seek fresh proofs of identity and address at the time of periodic updation, from those customers who are categorised as 'low risk', in case of no change in status with respect to their identities and addresses. A self-certification by the customer to that effect should suffice in such cases. In case of change of address of such 'low risk' customers, they could merely forward a certified copy of the document (proof of address) by mail/post, etc. Banks may not insist on physical presence of such low risk customer at the time of periodic updation.
- (xvi) Banks may impose partial freezing in a phased manner and after giving due notice for non-compliance of KYC.

B. Banks

Apart from the rights and responsibilities listed above, banks have the following responsibilities also as per KYC/AML/CFT requirements:

- (i) To ensure that no account is opened in anonymous or fictitious/benami name.
- (ii) Identify the beneficial owners of customer accounts, wherever required.
- (iii) Rating the customers as per the risk perception into low, medium and high risk.
- (iv) Regular monitoring of accounts to check whether there is any unusual/abnormal/suspicious transactions.
- (v) File Cash Transaction Reports (CTR) and Suspicious Transaction Reports (STRs) with FIU-IND.
- (vi) To nominate a Designated Director and appoint Principal Officer as required in terms of PML Act and Rules.
- (vii) Freezing and if required, closing of KYC non-compliant accounts.
- (viii) Take into account the list of individuals and entities notified under UNSC Resolutions so that no new accounts are opened in their names and existing accounts in such names are reported to the Government.

I. CHECK LISTS - for KYC processes to be followed by different customers and for different activities, based on customer profiling.

A. Individuals

- (i) Seek OVDs notified by the Government are (1) the passport, (2) the driving license, (3) the Permanent Account Number (PAN) Card, (4) the Voter's Identity Card issued by Election Commission of India, (5) job card issued by NREGA duly signed by an officer of the State Government, (6) the letter issued by the Unique Identification Authority of India containing details of name, address and Aadhaar number.

Alternatively, biometric e-KYC process through Aadhaar may be used. One Time PIN (OTP) based e-KYC may also be used for this purpose, though, the account opened using OTP based e-KYC process shall be subjected to certain conditions.

- (ii) Seek a photograph
- (iii) If a customer is rated as 'low risk' by the bank and if he/she does not have an OVD for proof of identity, then under simplified procedure, for proof of identity, the bank can accept one of the following two documents as OVD: (1) identity card with applicant's Photograph issued by Central/State Government Departments, Statutory/Regulatory Authorities, Public Sector Undertakings, Scheduled Commercial Banks, and Public Financial Institutions; (2) letter issued by a gazetted officer, with a duly attested photograph of the person;
- (iv) If customer does not have any of the above mentioned documents, and is happy with the account with restrictions on transactions/balance etc., open a small account.

B. Proprietary concerns

- i. Seek OVDs as a proof of identity and proof of address in respect of the sole proprietor
- ii. Apart from these documents, seek any two documents as mentioned below as a proof of business activity, in the name of the firm
- iii. Proof of the name, address and activity of the concern, like registration certificate (in the case of a registered concern), certificate/licence issued by the Municipal authorities under Shop & Establishment Act, sales and income tax returns, CST/VAT certificate, certificate/registration document issued by Sales Tax/Service Tax/Professional Tax authorities, Licence

issued by the Registering authority like Certificate of Practice issued by Institute of Chartered Accountants of India, Institute of Cost Accountants of India, Institute of Company Secretaries of India, Indian Medical Council, Food and Drug Control Authorities, registration/licensing document issued in the name of the proprietary concern by the Central Government or State Government Authority/Department. Banks may also accept IEC (Importer Exporter Code) issued to the proprietary concern by the office of DGFT, the complete Income Tax Return (not just the acknowledgement) in the name of the sole proprietor where the firm's income is reflected, duly authenticated/acknowledged by the Income Tax authorities and utility bills such as electricity, water, and landline telephone bills in the name of the proprietary concern as required documents for opening of bank accounts of proprietary concerns.

- iv. If bank is satisfied that it is not possible to furnish two such documents, they would have the discretion to accept only one of those documents as activity proof. In such cases, the banks, however, would have to undertake contact point verification, collect such information as would be required to establish the existence of such firm, confirm, clarify and satisfy themselves that the business activity has been verified from the address of the proprietary concern.

C. Partnership firms

Obtain the following documents:

- i. In case of registered partnership firms
 - a. Registration certificate for registered partnership firms;
 - b. Partnership deed; and
 - c. An officially valid document in respect of the person holding an attorney to transact on its behalf.
- ii. In case of non-registered partnership firms
 - a. Partnership deed;
 - b. An officially valid document in respect of the person holding an attorney to transact on its behalf; and

- c. Such information as may be required by the bank to collectively establish the legal existence of such firm.

- iii. Identify beneficial owner
 - a. the natural person(s), who, has ownership of/entitlement to more than fifteen percent of capital or profits of the partnership;
 - b. or the relevant natural person who holds the position of senior managing official.

D. Companies

- i. Obtain the following documents:
 - a. Certificate of incorporation;
 - b. Memorandum and Articles of Association;
 - c. A resolution from the Board of Directors and power of attorney granted to its managers, officers or employees to transact on its behalf; and
 - d. An officially valid document in respect of managers, officers or employees holding an attorney to transact on its behalf

- ii. Identify beneficial owner
 - a. the beneficial owner is the natural person(s), who, has a controlling ownership interest means ownership of or entitlement to more than twenty-five percent of shares or capital or profits of the company; or who exercises control through other means.
 - b. or the relevant natural person who holds the position of senior managing official
 - c. In case of listed companies, identification of beneficial owner is not necessary.

E. Trusts

- i. Obtain the following documents:
 - a. Registration certificate;
 - b. Trust deed; and

- c. An officially valid document in respect of the person holding a power of attorney to transact on its behalf
- ii. Identify beneficial owner
 - a. identification of the author of the trust, the trustee, the beneficiaries with fifteen per cent or more interest in the trust and
 - b. any other natural person exercising ultimate effective control over the trust through a chain of control or ownership;

F. Unincorporated bodies

- i. Obtain the following documents:
 - a. Resolution of the managing body of such association or body of individuals;
 - b. Power of attorney granted to him to transact on its behalf;
 - c. An officially valid document in respect of the person holding an attorney to transact on its behalf; and
 - d. Such information as may be required by the bank to collectively establish the legal existence of such an association or body of individuals
- ii. Identify beneficial owner
 - a. the natural person(s), who, has ownership of or entitlement to more than fifteen percent of the property or capital or profits of such association or body of individuals; or
 - b. the relevant natural person who holds the position of senior managing official;

G. Walk-in-Customers

- a. Verify customer's identity and address if the amount of transaction is equal to or exceeds rupees fifty thousand, or if transaction is a single transaction or several transactions that appear to be connected, or if a bank has reason to believe that a customer is intentionally structuring a transaction into a series of transactions below the threshold of Rs.50,000/-.
- b. Consider filing a suspicious transaction report (STR) to FIU-IND.

H. Remittances

- a. Banks should ensure that any remittance of funds by way of demand draft, mail/telegraphic transfer or any other mode and issue of travellers'cheques for value of Rupees fifty thousand and above is effected by debit to the customer's account.
- b. Foreign remittance exceeding USD 1000 is not allowed into the accounts of foreign students, within the period of first thirty days, when local address is not verified.
- c. Foreign remittances are not allowed to be credited in the small accounts.

I. Correspondent Banking

- a. Bank should have a Board approved policy for entering into correspondent banking relationship.
- b. Banks should understand fully the nature of the business of the correspondent/ respondent bank.
- c. Obtain information on the other bank's management, major business activities, level of AML/CFT compliance, purpose of opening the account, identity of any third party entities that will use the correspondent banking services, and regulatory/supervisory framework in the correspondent's/respondent's country may be of special relevance.
- d. Clear documentation of the responsibilities of each bank while establishing correspondent banking relationship.
- e. Not to enter into a correspondent relationship with a "shell bank" Banks should satisfy themselves that the foreign respondent institution does not permit its accounts to be used by shell banks.
- f. To ensure that information accompanying cross-border wire transfers must contain the name and address of the originator and where an account exists, the number of that account, or a unique reference number, as prevalent in the country concerned, must be included.

J. Introduction of new technologies/products

Banks should ensure full compliance with all KYC/AML/CFT guidelines issued from time to time, in respect of internet banking service and debit/credit/gift card holders including add-on/ supplementary cardholders also.