

परिपत्र

परिपत्र सं. : पीएफआरडीए/2023/10/आरईजी-पीओपी/03

दिनांक: 02 मार्च, 2023

प्रति,

सभी उपस्थिति अस्तित्व (पीओपी), केन्द्रीय अभिलेखपालन अभिकरण (सीआरए) और एनपीएस न्यास

"सामूहिक विनाश के हथियार और उनकी वितरण प्रणाली (गैरकानूनी गतिविधियों का निषेध) अधिनियम, 2005 (अधिनियम) की धारा 12ए के कार्यान्वयन" पर परिपत्र

यह परिपत्र उक्त विषय पर भारत सरकार के अधीन राजस्व विभाग, वित्त मंत्रालय, भारत सरकार द्वारा जारी आदेश फ़ाइल.सं. P-12011/14/2022- ES Cell-DOR दिनांक 30 जनवरी, 2023 के सन्दर्भ में है। उक्त अधिनियम की धारा 12A सामूहिक विनाश के हथियारों और उनकी वितरण प्रणाली से जुड़े वित्तपोषण की रोकथाम से संबंधित है।

2. उक्त आदेश की प्रमुख बातें जो बैंक खातों, स्टॉक या बीमा इत्यादि से जुड़ी हैं वे एनपीएस/एनपीएस लाइट/एपीवाई या पीएफआरडीए द्वारा विनियमित या प्रशासित किसी अन्य योजना पर भी लागू होंगी। उक्त आदेश की प्रमुख बातें **अनुलग्नक A** में दी गयी हैं। तदनुसार, उक्त आदेश के दिशानिर्देशों का सख्ती से अनुपालन करने की सलाह दी जाती है।
3. उक्त अधिनियम की धारा 12A के कार्यान्वयन के संबंध में विनियमन अंशदान प्रबंधन विभाग के प्रमुख (वर्तमान में श्री आशीष कुमार भारती, महाप्रबंधक) पीएफआरडीए के नोडल अधिकारी होंगे।
4. सभी संबंधित पक्षों को अद्यतन नामित सूची प्राप्त करने के लिए नियमित रूप से FIU-IND की वेबसाइट देखने की सलाह दी जाती है।
5. यह परिपत्र तत्काल प्रभाव से लागू होगा।

(सुमीत कौर कपूर)

कार्यकारी निदेशक

संलग्न : अनुलग्नक A



CIRCULAR

Circular no.: PFRDA/2023/10/REG-POP/03

Date: 02nd March, 2023

To

All Point of Presence (POPs), Central Record-keeping Agencies (CRAs) and NPS Trust

Circular on “Implementation of Section 12A of The Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005 (the Act)”

This has reference to Order F.No. P-12011/14/2022-ES Cell-DOR dated 30th January, 2023 issued by the Department of Revenue, Ministry of Finance under Government of India on the captioned subject. Section 12A of the Act deals with prevention of financing related to weapons of mass destruction and their delivery systems.

2. The salient aspects of the aforesaid order pertaining to bank accounts, stocks or insurance etc., would also be applicable to NPS / NPS Lite / APY or any other scheme regulated or administered by PFRDA. The salient features of the said order is enclosed as **Annexure A**. You are advised to comply strictly with the directions as per the above-mentioned order.
3. Head of Regulation Contribution Management Department (*Currently Shri Ashish Kumar Bharati, GM*) shall be the Nodal officer from PFRDA in respect of implementation of Section 12A of the Act.
4. All concerned shall regularly visit the website of FIU-IND for obtaining updated designated list.
5. This circular shall be implemented with immediate effect.

(Sumeet Kaur Kapoor)
Executive Director

Enclosed: **Annexure A**

Annexure A

Subject: - Procedure for implementation of Section 12A of “The Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005”

Section 12A of The Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005 [hereinafter referred to as “the Act”] reads as under :-

"12A. (1) No person shall finance any activity which is prohibited under this Act, or under the United Nations (Security Council) Act, 1947 or any other relevant Act for the time being in force, or by an order issued under any such Act, in relation to weapons of mass destruction and their delivery systems.

(2) For prevention of financing by any person of any activity which is prohibited under this Act, or under the United Nations (Security Council) Act, 1947 or any other relevant Act for the time being in force, or by an order issued under any such Act, in relation to weapons of mass destruction and their delivery systems, the Central Government shall have power to

a) freeze, seize or attach funds or other financial assets or economic resources -

i. owned or controlled, wholly or jointly, directly or indirectly, by such person; or

ii. held by or on behalf of or at the direction of, such person; or

iii. derived or generated from the funds or other assets owned or controlled, directly or indirectly, by such person;

b) prohibit any person from making funds, financial assets or economic resources or related services available for the benefit of persons related to any activity which is prohibited under this Act, or under the United Nations (Security Council) Act, 1947 or any other relevant Act for the time being in force, or by an order issued under any such Act, in relation to weapons of mass destruction and their delivery systems.

(3) The Central Government may exercise its powers under this section through any authority who has been assigned the power under sub-section (1) of section 7."

In order to ensure expeditious and effective implementation of the provisions of Section 12A of the Act, the procedure is outlined below.

1. Appointment and communication details of Section 12A Nodal Officers:

1.1 In exercise of the powers conferred under Section 7(1) of the Act, the Central Government assigns Director, FIU-India, Department of Revenue, Ministry of Finance, as the authority to exercise powers under Section 12A of the Act. The Director, FIU-India shall be hereby referred to as the Central Nodal Officer (CNO) for the purpose of this order. {**Telephone Number: 011- 23314458, 011- 23314435, 011-23314459 (FAX), email address: dir@fiuindia.gov.in**}.

1.2 Regulator under this order shall have the same meaning as defined in Rule 2(fa) of Prevention of Money-Laundering (Maintenance of Records) Rules, 2005. Reporting Entity (RE) shall have the same meaning as defined in Section 2 (1) (wa) of Prevention of Money-Laundering Act, 2002. DNFPBs is as defined in section 2(1) (sa) of Prevention of Money-Laundering Act, 2002.

1.3 The Regulators and Foreigners Division of MHA shall notify a Nodal Officer for implementation of provisions of Section 12A of the Act. The Regulator may notify the Nodal Officer appointed for implementation of provisions of Section 51A of UAPA, also, as the Nodal Officer for implementation of Section 12A of the Act. All the States and UTs shall notify a State Nodal officer for implementation of Section 12A of the Act. A State/UT may notify the State Nodal Officer appointed for implementation of provisions of Section 51A of UAPA, also, as the Nodal Officer for implementation of Section 12A of the Act.

1.4 The CNO shall maintain an updated list of all Nodal Officers, and share the updated list with all Nodal Officers periodically. The CNO shall forward the updated list of all Nodal Officers to all REs.

2. Communication of the lists of designated individuals/entities:

2.1 The Ministry of External Affairs will electronically communicate, without delay, the changes made in the list of designated individuals and entities (hereinafter referred to as 'designated list') as specified under section 12A (1) to the CNO and Nodal officers.

2.1.1 Further, the CNO shall maintain the Designated list on the portal of FIU- India. The list would be updated by the CNO, as and when it is updated, as per para 2.1 above, without delay. It shall make available for all Nodal officers, the State Nodal Officers, and to the Registrars performing the work of registration of immovable properties, either directly or through State Nodal Officers, without delay.

2.1.2 The Ministry of External Affairs may also share other information relating to prohibition / prevention of financing of prohibited activity under Section 12A (after its initial assessment of the relevant factors in the case) with the CNO and other organizations concerned, for initiating verification and suitable action.

2.1.3 The Regulators shall make available the updated designated list, without delay, to their REs. The REs will maintain the designated list and update it, without delay, whenever changes are made as per para 2.1 above.

2.2 The Nodal Officer for Section 12A in Foreigners Division of MHA shall forward the updated designated list to the immigration authorities and security agencies, without delay.

3. Regarding funds, financial assets or economic resources or related services held in the form of bank accounts, stocks or insurance policies, etc.

3.1 All Financial Institutions shall —

i. Verify if the particulars of the entities/individual, party to the financial transactions, match with the particulars of designated list and in case of match, REs shall not carry out such transaction and shall immediately inform the transaction details with full particulars of the funds, financial assets or economic resources involved to the CNO by email, FAX and by post, without delay.

ii. Run a check, on the given parameters, at the time of establishing a relation with a customer and on a periodic basis to verify whether individuals and entities in the designated list are holding any funds, financial assets or economic resources or related services, in the form of bank accounts, stocks, Insurance policies etc. In case, the particulars of any of their customers match with the particulars of designated list, REs shall immediately inform full particulars of the funds, financial assets or economic resources or related services held in the form of bank accounts, stocks or insurance policies etc., held on their books /o the CNO by email, FAX and by post, without delay.

iii. The REs shall also send a copy of the communication, mentioned in 3.1 (i) and (ii) above, to State Nodal Officer, where the account/transaction is held, and to their Regulator, as the case may be, without delay.

iv. In case there are reasons to believe beyond doubt that funds or asset held by a customer would fall under the purview of clause (a) or (b) of sub-section (2) of Section 12A, REs shall prevent such individual/entity from conducting financial transactions, under intimation to the CNO by email, FAX and by post, without delay.

v. The REs shall file a Suspicious Transaction Report (STR) with FIU- IND covering all transactions in the accounts, covered under Paragraph 3.1 (i) and (ii) above, carried through or attempted.

3.2 On receipt of the particulars, as referred to in Paragraph 3.1 above, the CNO would cause a verification to be conducted by the State Police and/or the Central Agencies so as to ensure that the individuals/entities identified by the REs are the ones in designated list and the funds, financial assets or economic resources or related services, reported by REs are in respect of the designated individuals/entities. This verification would be completed expeditiously from the date of receipt of such particulars.

3.3 In case, the results of the verification indicate that the assets are owned by, or are held for the benefit of, the designated individuals/entities, an order to freeze these assets under Section 12A would be issued by the CNO without delay and be conveyed electronically to the concerned RE under intimation to respective Regulators. The CNO shall also forward a copy thereof to all the Principal Secretaries/Secretaries, Home Department of the States/UTs and All Nodal officers in the country, so that any individual or entity may be prohibited from making any funds, financial assets or economic resources or related services available for the benefit of the designated individuals / entities. The CNO shall also forward a copy of the order to all Directors General of Police/ Commissioners of Police of all States/UTs for initiating suitable action.

3.4 The order shall be issued without prior notice to the designated individual/entity.

4. Regarding exemption, to be granted to the above orders

4.1 The above provisions shall not apply to funds and other financial assets or economic resources that have been determined by the CNO to be: -

(a) necessary for basic expenses, including payments for foodstuff, rent or mortgage, medicines and medical treatment, taxes, insurance premiums and public utility charges, or exclusively for payment of reasonable professional fees and reimbursement of incurred expenses associated with the provision of legal services or fees or service charges for routine holding or maintenance of frozen funds or other financial assets or economic resources, consequent to notification by the MEA authorizing access to such funds, assets or resources.

(b) necessary for extraordinary expenses, provided that such determination has been notified by the MEA;

4.2 The accounts of the designated individuals/ entities may be allowed to be credited with:

(a) interest or other earnings due on those accounts, or

(b) payments due under contracts, agreements or obligations that arose prior to the date on which those accounts became subject to the provisions of section 12A of the Act.

Provided that any such interest, other earnings and payments continue to be subject to those provisions under para 3.3;

5. Regarding procedure for unfreezing of funds, financial assets or economic resources or related services of individuals/entities inadvertently affected by the freezing mechanism upon verification that the individual or entity is not a designated person or no longer meet the criteria for designation:

5.1 Any individual/entity, if it has evidence to prove that the freezing of funds, financial assets or economic resources or related services, owned/held has been inadvertently frozen, an application may be moved giving the requisite evidence, in writing, to the relevant RE/Registrar of Immovable Properties/ ROC/Regulators and the State.

5.2 The RE/Registrar of Immovable Properties/ROC/Regulator and the State Nodal Officer shall inform, and forward a copy of the application, together with full details of the asset frozen, as given by applicant to the CNO by email, FAX and by Post, within two working days. Also, listed persons and entities may petition a request for delisting at the Focal Point Mechanism established under UNSC Resolution.

5.3 The CNO shall cause such verification, as may be required on the basis of the evidence furnished by the individual/entity, and, if satisfied, it shall pass an order, without delay, unfreezing the funds, financial assets or economic resources or related services, owned/held by such applicant, under intimation to all RE/Registrar of immovable Properties/ROC/Regulators and the State Nodal Officer. However, if it is not possible, for any reason, to pass an Order unfreezing the assets within 5 working days, the CNO shall inform the applicant expeditiously.

5.4 The CNO shall, based on de-listing of individual and entity under UN Security Council Resolutions, shall pass an order, if not required to be designated in any other order, without delay, unfreezing the funds, financial assets or economic resources or related services, owned/held by such applicant, under intimation to all RE/Registrar of Immovable Properties/ROC/Regulators and the State Nodal Officer.

6. Procedure for communication of compliance of action taken under Section 12A: The CNO and the Nodal Officer in the Foreigners Division, MHA shall furnish the details of funds, financial assets or economic resources or related services of designated individuals/entities, frozen by an order, and details of the individuals whose entry into India or transit through India was prevented, respectively, to the Ministry of External Affairs, for onward communication to the United Nations.

7. Communication of the Order issued under Section 12A: The Order issued under Section 12A of the Act by the CNO relating to funds, financial assets or economic resources or related services, shall be communicated to all nodal officers in the country.

8. All concerned are requested to ensure strict compliance of this order.
