

COMMITTEE ON SUBORDINATE LEGISLATION
(2023-2024)

(SEVENTEENTH LOK SABHA)

THIRTY-SEVENTH REPORT

**ACTION TAKEN BY THE GOVERNMENT ON THE OBSERVATIONS/
RECOMMENDATIONS CONTAINED IN THE TWELFTH REPORT OF THE
COMMITTEE ON SUBORDINATE LEGISLATION (SEVENTEENTH LOK SABHA) ON
"THE PREVENTION OF MONEY-LAUNDERING (MAINTENANCE OF RECORDS)
AMENDMENT RULES, 2018 [G.S.R. NO.456(E) OF 2018]- FRAMED UNDER THE
PREVENTION OF MONEY LAUNDERING ACT, 2002"**

(PRESENTED TO LOK SABHA ON 20.12.2023)



**LOK SABHA SECRETARIAT
NEW DELHI**

December, 2023/ Agrahayana, 1945 (Saka)

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MEMBERS OF THE COMMITTEE ON SUBORDINATE LEGISLATION
(2023-2024)

Shri Balashowry Vallabhaneni Chairperson

MEMBERS

2. Shri. Manickam Tagore B.
3. Shri Pinaki Mishra
4. Dr. Pritam Gopinath Rao Munde
5. Shri Chandeshwar Prasad
6. Shri N.K.Premachandran
7. Shri Suresh Kumar Pujari
8. Shri A.Raja
9. Shri Nama Nageshwara Rao
10. Shri Sanjay Seth
11. Dr. Amar Singh
12. Shri Brijendra Singh
13. Shri Su Thirunavukkarasar
14. Shri Ram Kripal Yadav
15. Shri Arvind Ganpat Sawant

SECRETARIAT

1. Shri Srinivasulu Gunda - Joint Secretary
2. Smt. Jagriti Tawatia - Director
3. Shri Satish Kumar - Committee Officer

INTRODUCTION

I, the Chairperson, Committee on Subordinate Legislation having been authorised by the Committee to submit the Report on their behalf, present this Thirty-Seventh Action Taken Report.

2. This Report relates to the action taken on the Observations/Recommendations of the Committee contained in the Twelfth Report (2020-2021) (Seventeenth Lok Sabha) which was presented to Lok Sabha on 05.08.2021.

3. The Committee considered and adopted this Report at their sitting held on 19.12.2023.

4. The Extracts of the Minutes of the Fourth sitting of the Committee relevant to this Report are brought out in Appendix I of the Report.

5. An analysis of the action taken by Government on the Observations/Recommendations contained in the Twelfth Report of the Committee (Seventeenth Lok Sabha) is given in Appendix II of the Report.

**New Delhi;
19 December, 2023
28 Agrahayana, 1945 (Saka)**

**BALASHOWRY VALLABHANENI
Chairperson,
Committee on Subordinate Legislation**

REPORT
CHAPTER-I

This Report of the Committee on Subordinate Legislation (2023-24) deals with the Action Taken by the Government on the Observations/Recommendations contained in the Twelfth Report (17th Lok Sabha) of the Committee which was presented to Lok Sabha on 05.08.2021. The Twelfth Report dealt with the infirmities in the Prevention of Money Laundering (Maintenance of Records) Amendment Rule, 2018 [G.S.R. 456 (E) of 2018].

2. The shortcomings observed in the above Rules and the Observations/Recommendations made by the Committee in respect of these shortcomings are contained in Para No. 1.5 of the Twelfth Report (17th Lok Sabha). The Report, after presentation was forwarded to the Ministry of Finance (Department of Revenue) for implementation of the recommendation contained therein. The Ministry of Finance (Department of Revenue) *vide* their OM No. F.No. H-11013/4/2019-ES Cell-DoR dated ...November, 2022 furnished their action taken replies on the Observations/Recommendations contained in the Report.

3. Reply to the observations/recommendations contained in the Report has been categorized as follows:-

(i)	Observation/Recommendation which have been accepted by the Government Para No. Nil	Total: 00
(ii)	Observation/Recommendation which the Committee do not desire to pursue in view of the Government's reply Para No. 1.5	Total: 01
(iii)	Observation/Recommendation in respect of which replies of the Government have not been accepted by the Committee Para No. Nil	Total: 00
(iv)	Observation/ Recommendation in respect of which final reply of the Government is still awaited Para No. Nil	Total: 00

4. The Committee in their original Report had noted that in Rule 2 (b) of the Prevention of Money Laundering (Maintenance of Records) Amendment Rule, 2018, the use of terminologies such as 'appropriate exemptions, limitations and conditions and alternate and viable means of identification', and such like cause' etc. appeared to be vague and are liable to be interpreted differently by different persons. The Committee further noted that this rule was amended by Rule 2 (6) of the Prevention of Money Laundering (Maintenance of Records) Amendment Rules, 2018. However, the Committee felt that the parameters envisaged by the amended rule wherein relaxation are being provided have not been clearly and precisely spelt out which is likely to open windows for different kind of interpretation. The Committee noted that the terminologies such as type of injuries, kind of illness and age limit etc. which would qualify for exemptions from biometric authentication should clearly and precisely be spelt out in the Rules itself so as to make them self-contained and beyond misinterpretation in order to avoid any litigation. The Committee, had, therefore, recommended the Ministry to make suitable amendments in the rule precisely defining the terms used therein.

5. The Ministry of Finance (Department of Revenue) in their Action Taken Reply submitted that the wording as pointed above such as 'appropriate exemptions, limitations and conditions and alternate and viable means of authentications etc. give Regulators some flexibility in handling unique situations wherein it may not be possible for the customer to undergo biometric authentication, which has been mandated for on-boarding (identification of) Direct Benefit Transfer (DBT) beneficiaries as also for on-boarding the customers who are not able to produce PAN or Form No. 60 as mandated under the Rules. This enabling provision (such like causes) may protect the customer from denial of financial services where he or she is not able to undergo authentication or is not able to submit the PAN/Form No. 60. Further, the wording 'appropriate exemptions, limitations and conditions and alternate and viable means of identification' give certain flexibility to the regulators in stipulating measures commensurate with the risks associated with their REs. The risks may vary across REs and regulators may be best placed to address the risks while providing relaxations under the Rules. Thus, the Ministry has proposed that it is appropriate to retain the flexibility in the Rules.

6. The Committee, thus while being of the firm view that the terms used in the Orders should invariably be clearly spelt out and usage of words which can give multiple interpretations should be avoided to rule out the scope of ambiguity, misinterpretation which may lead to litigation in the Court of Law, also takes into consideration the submission made by the Ministry that, usage of such words in the Rules helps to retain flexibility in the Rules so as to allow handling of any unanticipated events which sans the aforementioned provisions, may result in denial of financial services to the customers. The Committee may, therefore, not like to pursue the matter further.

7. The Observation/Recommendation made by the Committee and the Action Taken Replies received from the Ministry concerned have been suitably reproduced in the succeeding Chapters of the Report.

CHAPTER-II

**OBSERVATIONS/RECOMMENDATIONS WHICH HAVE BEEN ACCEPTED BY THE
GOVERNMENT**

-NIL-

CHAPTER-III

OBSERVATIONS/RECOMMENDATIONS WHICH THE COMMITTEE DO NOT DESIRE TO PURSUE IN VIEW OF THE GOVERNMENT'S REPLY

Recommendation (Para No. 1.5)

Rule 2 (b) of the Prevention of Money-laundering (Maintenance of Records) Amendment Rules, 2018 brings about amendment in sub-rule (14) of Rule 9 of the Prevention of Money-laundering (Maintenance of Records) Amendment Rules, 2005. The Committee note that the instant Rules make use of terminologies such as 'appropriate exemptions, limitations and conditions and alternate and viable means of identification', 'and such like causes' etc. which appears to be vague and are liable to be interpreted differently by different persons. The Committee further note that the amended Rule envisages for parameters to be followed in the guidelines issued there under to provide relaxation to clients who are unable to undergo biometric authentication owing to injury, illness or infirmity on account of old age or otherwise, and such like causes. The Committee feel that such important conditions wherein relaxation are being provided, if not clearly and precisely spelt out, the same may open the windows for different kind of interpretation. Thus, to avoid such multiple misinterpretation and to rule out the scope of ambiguity, these terminologies may be elaborated such as - the type of injuries, kind of illness and age limit etc. which would qualify for exemption from biometric authentication. This should clearly and precisely be spelt out in the Rules itself so as to make them self-contained and beyond misinterpretation in order to avoid any litigation. The Committee, however, note with satisfaction that in the instant case, the Ministry had taken note of the issue and has given an assurance that action will be taken in consultation with the concerned stakeholders and regulators. The Committee however are concerned to note that despite assurance given in July, 2019, the required clarificatory amendments in the Rules have not been notified by the Ministry so far. The Committee, therefore, recommend the Ministry to immediately make suitable amendments in the rules precisely defining the terms used therein and apprise the Committee of the conclusive action taken in this regard within 3 months of the Report presented to the House.

Reply of the Government

The issue has been examined in this Department in consultation with Reserve Bank of India and Unique Identification Authority of India and the following has been decided:-

- (i) Sub-rule 15 of rule 9 of the Prevention of Money-laundering (Maintenance of Records) Rules, 2005 casts an obligation on the regulators to issue guidelines incorporating the requirements of other sub-rules of Rule 9.
- (ii) The wording 'appropriate exemptions, limitations and conditions and alternate and viable means of identification' and 'owing to injury, illness or infirmity on account of old age or otherwise, and such like causes', give Regulators some

flexibility in handling unique situations where it may not be possible for the customer to undergo biometric authentication, which has been mandated for on-boarding (identification of) Direct Benefit Transfer (DBT) beneficiaries as also for on-boarding the customers who are not able to produce PAN or Form No. 60 as mandated under the Rules. This enabling provision (such like causes) may protect the customer from denial of financial services where he or she is not able to undergo authentication or is not able to submit the PAN/Form No. 60. Further, the wording 'appropriate exemptions, limitations and conditions and alternate and viable means of identification' give certain flexibility to the regulators in stipulating measures commensurate with the risks associated with their REs. The risks may vary across REs and regulators may be best placed to address the risks while providing relaxations.

- (iii) In view of the above, it is appropriate to retain the flexibility in the Rules so as to allow handling of any unanticipated events which, sans the aforementioned provisions, may result in denial of financial services to the customers.

(O.M. No. F.No. H-11013/4/2019-ES Cell DOR dated 04.03.2020)

CHAPTER-IV

**OBSERVATIONS/RECOMMENDATIONS WHICH REPLIES OF THE GOVERNMENT
HAVE NOT BEEN ACCEPTED BY THE COMMITTEE**

-NIL-

CHAPTER-V

**OBSERVATIONS/RECOMMENDATIONS IN RESPECT OF WHICH FINAL
REPLY OF THE GOVERNMENT IS STILL AWAITED**

-NIL-

**New Delhi;
December , 2023
Agrahayana, 1945 (Saka)**

**BALASHOWRY VALLABHANENI
Chairperson,
Committee on Subordinate Legislation**

MINUTES OF THE FOURTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (2023-2024)

The Fourth Sitting of the Committee (2023-24) was held on Tuesday, the 19th December, 2023 from 1030 hours in Committee Room 'C', Parliament House Annexe, New Delhi.

PRESENT

Shri Balashowry Vallabhaneni Chairperson

MEMBERS

2. Dr. Pritam Gopinath Rao Munde
3. Shri Chandeshwar Prasad
4. Shri Suresh Kumar Pujari
5. Shri Nama Nageswara Rao
6. Shri Ram Kripal Yadav
7. Shri Arvind Ganpat Sawant

SECRETARIAT

1. Sh. Srinivasulu Gunda - Joint Secretary
2. Smt. Jagriti Tewatia - Director
3. Sh. Maya Ram - Deputy Secretary

2. At the outset, the Chairperson welcomed the Members to the sitting of the Committee. The Committee then considered the following draft Reports :-

(i) *** *** ***

(ii) *** *** ***

(iii) Thirty-seventh Report on Action Taken by the Government on the Observations/ Recommendations contained in the Twelfth Report of the Committee on Subordinate Legislation (17th Lok Sabha).

3. After deliberations, the Committee adopted the above draft Reports without any modification. The Committee also authorized the Chairperson to present the same to the House.

The Committee then adjourned.

***** Omitted portion of the Minutes are not relevant to this Report.**

APPENDIX -II

**ANALYSIS OF THE ACTION TAKEN BY THE GOVERNMENT ON THE
OBSERVATIONS/ RECOMMENDATIONS CONTAINED IN THE 12TH REPORT
(17TH LOK SABHA) OF THE COMMITTEE ON SUBORDINATE LEGISLATION**

I.	Total No. of Observations/Recommendations	01
II.	Recommendations that have been accepted by the Government Para Nos. NIL	00
	Percentage of total:	00
III.	Recommendations which the Committee do desire to Pursue in view of Government's reply Para No. 1.5	01
	Percentage of total:	100 %
IV.	Recommendations in respect of which replies of Government have not been accepted by the Committee Para No. Nil	00
	Percentage of total:	00
V.	Recommendations in respect of final reply of Government is still awaited Para No. NIL	00
	Percentage of total:	00