

COMMITTEE ON SUBORDINATE LEGISLATION

(2020-2021)

12

(SEVENTEENTH LOK SABHA)

TWELFTH REPORT

**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**



सत्यमेव जयते

LOK SABHA SECRETARIAT

NEW DELHI

AUGUST, 2021/ SRAVANA 1943 (SAKA)

COMMITTEE ON SUBORDINATE LEGISLATION

(2020-2021)

(SEVENTEENTH LOK SABHA)

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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 05.08.2021)



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LOK SABHA SECRETARIAT

NEW DELHI

AUGUST, 2021/ SRAVANA 1943 (SAKA)

COSL No.

PRICE: Rs.

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Published under Rule 382 of the Rules of Procedure and Conduct of Business in Lok Sabha (Fourteenth Edition) and printed by the Manager, Government of India Press, Minto Road, New Delhi.

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COMPOSITION OF THE COMMITTEE ON SUBORDINATE LEGISLATION
(2020-2021)

Shri Vallabhaneni Balashowry

Chairperson

Members

2. Shri Jyotirmay Singh Mahato
3. Shri Pinaki Misra
4. Shri Chandeshwar Prasad
5. Shri N.K. Premchandran
6. Shri Suresh Pujari
7. Shri A. Raja
8. Shri Nama Nageshwar Rao
9. Shri Sanjay Seth
10. Shri Mahendra Singh Solanky
11. Shri Su Thirunavukkarasar
12. Shri B. Manickam Tagore
13. Shri Ram Kripal Yadav
14. Vacant
15. Vacant

SECRETARIAT

- | | | | |
|----|---------------------------|---|---------------------|
| 1 | Shri R.C Tiwari | - | Joint Secretary |
| 2. | Shri T.S.Rangarajan | - | Director |
| 2. | Smt. Jagriti Tawatia | - | Additional Director |
| 4. | Shri S.Lal Engzau Ngaihte | - | Under Secretary |

1. Prof. S.P. Singh Baghel ceased to be a Member of the Committee w.e.f. 7.7.2021 due to his induction in the Union Council of Ministers.

2. Shri Ajay Bhatt ceased to be a Member of the Committee w.e.f. 7.7.2021 due to his induction in the Union Council of Ministers.

INTRODUCTION

I, the Chairperson, Committee on Subordinate Legislation having been authorised by the Committee to submit the report on their behalf, present this Twelfth Report.

2. The matters covered by this Report were considered by the Committee on Subordinate Legislation at their sitting held on 29.7.2021.

3. The Committee considered and adopted this Report at their sitting held on 4.8.2021

4. A copy of the Gazette Notification relevant to this Report is included in **Appendix-I** of the Report.

5. For facility of reference and convenience, observations/recommendations of the Committee have been printed in thick type in the body of the Report and have also been reproduced in **Appendix-II** of the Report.

6. Extracts from Minutes of the Seventeenth sitting of the Committee (2020-21) held on 29.7.2021 and Extracts from Minutes of the Eighteenth Sitting of the Committee (2020-21) held on 4.8.2021 relevant to this Report are included in **Appendix-III** of the Report.

New Delhi;
4 August, 2021
13 Sravana, 1943 (Saka)

VALLABHANENI BALASHOWRY
Chairperson,
Committee on Subordinate Legislation

1.3 On scrutiny of the Rules, it was observed that Rule 2 (b) of the extant rules makes use of expressions 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 can be interpreted differently by different persons.

1.4 The matter was referred to the Ministry of Finance (Department of Revenue) for their clarification. The Ministry of Finance (Department of Revenue) vide their OM dated 24th July, 2019 inter -*alia* stated as under:

“The issue has been noted by this Department and necessary action will be taken in consultation with the concerned stakeholders and regulators.”

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.

New Delhi;
4 August, 2021
13 Sravana, 1943 (Saka)

VALLABHANENI BALASHOWRY
Chairperson,
Committee on Subordinate Legislation



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (i)

PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 317]

No. 317]

नई दिल्ली, बुधवार, मई 16, 2018/वैशाख 26, 1940

NEW DELHI, WEDNESDAY, MAY 16, 2018/VAISAKHA 26, 1940

MINISTRY OF FINANCE

(Department of Revenue)

NOTIFICATION

New Delhi, the 16th May, 2018

G.S.R. 456(E).—In exercise of the powers conferred by sub-section (1) read with clause (i), clause (j), clause (jj) and clause (k) of sub-section (2) of section 73 of the Prevention of Money-laundering Act, 2002 (15 of 2003), the Central Government in consultation with the Reserve Bank of India hereby makes the following rules further to amend the Prevention of Money-laundering (Maintenance of Records) Rules, 2005, namely:—

1. (1) These rules may be called the Prevention of Money-laundering (Maintenance of Records) Amendment Rules, 2018.
- (2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Prevention of Money-laundering (Maintenance of Records) Rules, 2005, in sub-rule (14) of rule 9, -
 - (a) in clause (i), for the words, brackets and figures "sub-rules (1) to (13) above", the words, brackets and figures "sub-rules (1) to (13) and sub-rule (15)" shall be substituted;
 - (b) after clause (i), the following clause shall be inserted, namely :—

"(ia) The guidelines issued under clause (i) shall also include appropriate exemptions, limitations and conditions and alternate and viable means of identification, to provide account based services 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.";
 - (c) for clause (ii), the following clause shall be substituted, namely :—

"(ii) Every reporting entity shall formulate and implement a Client Due Diligence Programme, incorporating the requirements of sub-rules (1) to (13) and sub-rule (15) and guidelines issued under clause (i) and (ia)."

[Notification No. 4/2018/F.No. P.12011/11/2016-ES Cell-DoR]

BIPLAB KUMAR NASKAR, Under Secy.

Note : The principal rules were published in Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (i) vide number G.S.R. 444 (E), dated the 1st July, 2005 and subsequently amended by number G.S.R. 717 (E), dated the 13th December, 2005, number G.S.R. 389 (E), dated the 24th May, 2007, number G.S.R. 816 (E), dated the 12th November, 2009, number G.S.R. 76 (E), dated the 12th February, 2010, number G.S.R. 508 (E), dated the 16th June, 2010, number G.S.R. 980 (E), dated the 16th December, 2010, number G.S.R. 481 (E), dated the 24th June, 2011 and number G.S.R. 576 (E), dated the 27th August, 2013, number G.S.R. 288 (E), dated the 15th April, 2015, number G.S.R. 544 (E), dated the 7th July, 2015, number G.S.R. 693 (E), dated the 11th September, 2015, number G.S.R. 730 (E), dated the 22nd September, 2015, number G.S.R. 882 (E), dated the 18th November, 2015, number G.S.R. 347 (E), dated the 12th April, 2017, number G.S.R. 538 (E), dated the 1st June, 2017, number G.S.R. 1038 (E), dated the 21st August, 2017, number G.S.R. 1057 (E), dated the 23rd August, 2017, G.S.R. 1300 (E), dated the 16th October, 2017, G.S.R. 1318 (E), dated the 23rd October, 2017 and G.S.R. 1506 (E), dated the 12th December, 2018.

APPENDIX II
(Vide Para 5 of the Introduction of the Report)

**SUMMARY OF RECOMMENDATIONS MADE IN THE TWELFTH REPORT OF THE
COMMITTEE ON SUBORDINATE LEGISLATION
(SEVENTEENTH LOK SABHA)**

Sl.No.	Reference to Para No. in the Report	Summary of the Recommendations
1	5	<p>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</p>

		<p>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.</p>
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APPENDIX III
(Vide Para 6 of the Introduction of the Report)

**EXTRACT OF MINUTES OF THE SEVENTEENTH SITTING OF THE COMMITTEE
ON SUBORDINATE LEGISLATION (2020-2021)**

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The Seventeenth sitting of the Committee (2020-2021) was held on Thursday, the 29th July, 2021 from 1500 hours to 1700 hours in Committee Room '3', Parliament House Annexe, Extension Building, Block-A, New Delhi.

PRESENT

Shri Vallabhaneni Balashowry

Chairperson

Members

2. Shri Pinaki Misra
3. Shri Chandeshwar Prasad
4. Shri N.K. Premchandran
5. Shri Suresh Pujari
6. Shri A. Raja
7. Shri Sanjay Seth
8. Shri Su Thirunavukkarasar

SECRETARIAT

- | | | | |
|----|----------------------|---|---------------------|
| 1. | Shri R.C. Tiwari | - | Joint Secretary |
| 2. | Shri T.S. Rangarajan | - | Director |
| 3. | Smt Jagriti Tewatia | - | Additional Director |

WITNESSES

XX XX XX XX

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

(i) **Memorandum No.11:** The Prevention of Money Laundering (Maintenance of Records) Amendment Rules, 2018 framed under 'The Prevention of Money Laundering Act,2002'.

(ii) XX XX XX XX

3. After deliberations, the Committee decided to incorporate the points raised in the Memoranda Nos. 11 to 12 in their Reports to be formulated in this regard.

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XX Omitted portion of the Minutes are not relevant to this Report

APPENDIX III
(Vide Para 6 of the Introduction of the Report)
MINUTES OF THE EIGHTEENTH SITTING OF THE COMMITTEE ON SUBORDINATE
LEGISLATION (2020-2021)

The Eighteenth sitting of the Committee (2020-2021) was held on Wednesday, the 4th August, 2021 from 1030 hours to 1100 hours in Chairperson's Chamber, Room No.209, Extension Building, Parliament House Annexe, New Delhi.

PRESENT

Shri Vallabhaneni Balashowry Chairperson

MEMBERS

2. Shri Suresh Pujari
2. Shri A.Rja
3. Shri Sanjay Seth
4. Shri Ram Kripal Yadav

SECRETARIAT

1. Smt R.C.Tiwari - Joint Secretary
2. Smt Jagriti Tewatia - Additional Director

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

(i) Draft Twelfth Report on the Prevention of Money Laundering (Maintenance of Records) Amendment Rules, 2018 framed under 'The Prevention of Money Laundering Act, 2002.

(ii) XX XX XX XX XX

(iii) XX XX XX XX XX

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

XX Omitted portion of the Minutes are not relevant to this Report