



# THE INSTITUTE OF Company Secretaries of India

## भारतीय कम्पनी सचिव संस्थान

IN PURSUIT OF PROFESSIONAL EXCELLENCE

Statutory body under an Act of Parliament

(Under the jurisdiction of Ministry of Corporate Affairs)

October 26, 2023

### ADVISORY FOR IMPLEMENTATION OF SECTION 12A OF THE WEAPONS OF MASS DESTRUCTION AND THEIR DELIVERY SYSTEMS (PROHIBITION OF UNLAWFUL ACTIVITIES) ACT, 2005

Dear Professional Colleague,

The Ministry of Finance, Department of Revenue, vide its Orders dated 1<sup>st</sup> September, 2023 has laid down the **Procedure for Implementation of Section 12A of the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005. Section 12A** reads as follows:

#### **Section 12A. Prohibition on financing**

- (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 view of the above, members are advised to take note of the following:

1. If a member of the ICSI has arranged for or have been approached for incorporation/ formation/ registration of any company, limited liability firm, partnership firm, society, trust, association where any designated individual/ entity is a director/ shareholder/ member of a company/ society/ association or partner in a firm or settler/ trustee or beneficiary of a trust or a beneficial owner of a juridical person, then the member of the institute should not incorporate/ form/ register such juridical person and should convey the complete details of such designated individual/ entity to Section 12A Nodal Officer in the Ministry of Corporate Affairs.
2. If any designated individual/entity approaches a member of the ICSI, for entering/ investing in the financial sector and/or immovable property, or they are holding or managing any assets/ resources of designated individual/ entities, then the member shall convey the complete details of such designated individual/ entity to Section 12A Nodal Officer in the Ministry of Corporate Affairs
3. A member of the ICSI, employed as a Company Secretary or holding any managerial position where any of designated individual/ entity is a Director and/or Shareholder or having beneficial ownership of any such juridical person, shall convey the complete details of such designated individual/ entity to Section 12A Nodal Officer in the Ministry of Corporate Affairs.

All communications to Nodal officer should, inter alia, include the details of funds and assets held and the details of transaction.

No person shall finance any activity related to the 'designated list' referred to in Para 2.1 of this order, except in cases where exemption has been granted as per Para 6 of this Order.

[Order available at: [https://fiuindia.gov.in/pdfs/AML\\_legislation/DoR\\_Section\\_12A\\_WMD.pdf](https://fiuindia.gov.in/pdfs/AML_legislation/DoR_Section_12A_WMD.pdf) ]

#### **Appointment and communication details of the Nodal Officers:**

Ministry of Corporate Affairs has nominated Shri Inder Deep Singh Dhariwal, Joint Secretary, Ministry of Corporate Affairs [Tele: 011-23383345] as Nodal Officer for implementation of Section 12A of the Weapons of Mass Destruction and Their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005.

#### **Communication of the list of designated individuals/entities**

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

Regards,

TEAM ICSI