

**GOVERNMENT OF INDIA
FINANCE
LOK SABHA**

STARRED QUESTION NO:388

ANSWERED ON:19.12.2014

MONEY LAUNDERING THROUGH PARTICIPATORY NOTES

Tharoor Dr. Shashi

Will the Minister of FINANCE be pleased to state:

(a) whether Foreign Institution Investors (FII) investing in Participatory Note have to report to Securities and Exchange Board of India (SEBI) every three months;

(b) if so, the details thereof;

(c) whether the Government is aware that the Participatory Notes often change many hands during the said period making it difficult to trace owners, if so, the details thereof and measures introduced by the Government to tackle this loopholes;

(d) whether the anonymous nature of the beneficiary in Participatory Notes makes it viable for money laundering and terror financing; and

(e) if so, the details thereof for the last three years along with the corrective action taken/being taken by the Government?

Answer

MINISTER OF FINANCE (SHRI ARUN JAITLEY)

(a) to (e): A statement is placed on the Table of the House.

Statement referred to in the reply to Lok Sabha Starred Question No. 388 (a to e) DR. SHASHI THAROOR, Member of Parliament for December 19, 2014 regarding "Money laundering through Participatory Notes"

(a) & (b): In terms of Regulation 22 of the SEBI (Foreign Portfolio Investors) Regulations 2014, Foreign Institutional Investors (FIIs)/Foreign Portfolio Investors (FPIs) issuing Participatory Notes (PNs) are required to report to SEBI on a monthly basis the following information:

The name and jurisdiction of the end beneficial owner of PNs

Location of end beneficial owner of PN.

Type of the end beneficial owner of PN (e.g. hedge fund, corporate, pension fund, trust etc.).

Details of underlying trade(s) in the Indian market.

The underlying trades that occur in the Indian securities market on the basis of the PNs.

(c) to (e): As per SEBI (FPI) Regulations, 2014, FPIs can issue PNs to only those entities that are regulated by an appropriate foreign regulatory authority subject to compliance with 'Know Your Client' (KYC) norms. An FPI shall ensure that no further issue or transfer is made of any participatory notes issued by or on behalf of it to any person other than a person regulated by an appropriate foreign regulatory authority.

The FIIs/FPIs are also required to provide an undertaking that they have not issued/ subscribed/ purchased PNs directly to/ from Non Resident Indians/ Indian Residents and KYC compliance norms have been followed for the beneficial owner of the PN. SEBI can also call for any information from FIIs/FPIs concerning PN issued by it, as and when and in such form as SEBI may require.

Further, SEBI vide its circular dated November 24, 2014, has prescribed that the FPIs can issue PNs only to those subscribers which meet the following additional criteria among others, namely:

PN subscriber is a resident of a country whose securities market regulator is a signatory to International Organization of Securities Commission's Multilateral Memorandum of Understanding or a signatory to bilateral Memorandum of Understanding with SEBI;

PN subscriber being a bank, is a resident of a country whose central bank is a member of Bank for International Settlements;

PN subscriber is not resident in a country identified in the public statement of Financial Action Task Force as a jurisdiction having a

strategic Anti-Money Laundering or Combating the Financing of Terrorism deficiencies to which counter measures apply or has not made sufficient progress in addressing the deficiencies or has not committed to an action plan developed with the Financial Action Task Force to address the deficiencies;

PN subscribers do not have opaque structure(s), as defined under Explanation 1 of Regulation 32(1)(f) of SEBI (FPI) Regulations, 2014.