

Introduction & Updating on the current changes in India's PMLA regulatory framework including the recent demonetisation

WIRC of ICAI

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Money Laundering

- The goal of a large number of criminal acts is to generate a profit for the individual or group that carries out the act. Money laundering is the processing of these criminal proceeds to disguise their illegal origin. This process is of critical importance, as it enables the criminal to enjoy these profits without jeopardising their source.

SONG CHEN / CHINA DAILY



Origin & Object

- PMLA, 2002 came into force w.e.f 1st July 2005, PMLA was amended in 2009, PMLA amended in 2013 and 2015
- It extends to whole of India including Jammu and Kashmir
- Preamble is to prevent money-laundering and provide for confiscation of property derived from, or involved in money-laundering and to punish those who commit the offence

Money laundering

- The PMLA, 2012 (w.e.f 15.02.2013) enlarges the definition of offence of money laundering
- To include therein the activities like concealment, acquisition, possession and use the proceeds of crime as criminal activities
- Remove the existing limit of Rs 5 lacs fine under the Act

Scheduled Offence

- The offences listed in the schedule to PMLA, 2002 are scheduled offence. There are 2 parts – Part A & Part C
- Part A comprise of offences under: IPC, NDPC, Explosive Substances Act, Unlawful Activities (Prevention) Act, Arms Act, Wild Life (protection) Act, Immoral Traffic (Prevention) Act, Prevention of Corruption Act, Antiquities and Arts treasures Act etc
- Part C deals with trans border crimes

PREVENTION OF MONEY LAUNDERING (AMENDMENT) Act 2012. (w.e.f 15.02.2013)

- Introduced the concept of “ corresponding law” to link the provisions of Indian law with the laws of foreign countries and provide for the transfer of the proceeds of the foreign predicate offence in any manner in India
- Introduced the concept of “reporting entity” to include therein a banking company, financial institution, intermediary or a person carrying on a designated business or profession

PREVENTION OF MONEY LAUNDERING (AMENDMENT) Act 2012. (w.e.f 15.02.2013)

- Introduced the provision for attachment and confiscation of the proceeds of crime even if there is no conviction so long as it is proved that offence of money-laundering has taken place and property in question is involved in money-laundering;
- Confer power upon the Director to call for records of transactions or any additional information that may be required for the purposes of the Prevention of money-laundering and also to make inquiries for non-compliance of reporting obligations cast upon them;
- Make the reporting entity, its designated directors on the Board and employees responsible for omissions or commissions in relation to the reporting obligations under Chapter IV of the Act;

PREVENTION OF MONEY LAUNDERING (AMENDMENT) Act 2012. (w.e.f 15.02.2013)

- Provide that in any proceedings relating to proceeds of crime under the aforesaid Act, unless the contrary is proved, it shall be presumed that such proceeds of crime is involved in money-laundering;
- Provide for appeal against the orders of the Appellate Tribunal directly to the Supreme Court;
- Provide for the process of transfer of the cases of Scheduled offence pending in a court which had taken cognizance of the offence to the Special Court for trial of offence of money-laundering and also provide that the Special Court shall, on receipt of such case proceed to deal with it from the stage at which it is committed;

Anti Money Laundering

- *An Act to prevent money-laundering and to provide for confiscation of property derived from, or involved in, money-laundering and for matters connected therewith or incidental thereto.*
- **Offence of money-Laundering.**-Whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected proceeds of crime including its concealment, possession, acquisition or use and projecting or claiming it as untainted property shall be guilty of offence of money-laundering.

Chartered Accountants

- Chartered Accountants in their capacity as Financial Advisors, Tax Advisors and Auditors may provide certain services to their client's which unknowingly could be an offence under The Prevention of Money Laundering Act, 2002
- Bhujbal's Chartered Accountant arrested in money laundering case
- V. Vijay Sai Reddy - Chartered Accountant & Financial Advisor of Y.S. Jagan Mohan Reddy denied bail by Supreme Court in money laundering case
- Accounting Bodies in western countries like ICAEW, ACCA etc have published guidance note for their members to comply with the Anti-Money Laundering guidelines of their respective countries.

CSR

- Public Trusts are now increasingly used for laundering of funds of companies meant for CSR and most often the funds minus a commission come back to key persons of the companies to be used as cash money and bribes. This is the newest method adopted by Indi's top corporates these days. The regulators in Corporate Affairs do not have the capacity to verify AOC-4 form which is not statutorily subject to any external audit.

CSR

- Moreover, neither ED nor any other authority like FIU is alive to this trend in money laundering regime. The civil society needs to use right to information provisions to get at AOC-4 from company regulators and public data of concerned public trusts engaged in this nefarious activities. However, there is no centralized data on public trusts which make the business of catching the top corporates difficult.

History

- Political Declaration and Global Programme of Action, annexed to the resolution S-17/2 was adopted by the General Assembly of the United Nations at its seventeenth special session on the twenty-third day of February, 1990;
- Political Declaration adopted by the Special Session of the United Nations General Assembly held on 8th to 10th June, 1998 calls upon the Member States to adopt national money-laundering legislation and programme

Money Laundering

- **Financial Action Task Force on Money Laundering (FATF)** defines money laundering as “the processing of criminal proceeds to disguise their illegal origin in order to legitimize the ill-gotten gains of crime.”

MANESAR LAND DEAL

15-11 09.09-16

ED files money-laundering case against Hooda

DEEPTIMAN TIWARY

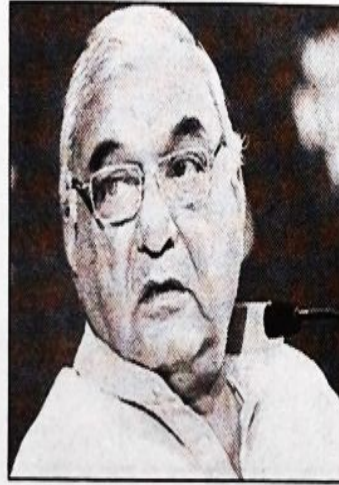
NEW DELHI, SEPTEMBER 8

THE ENFORCEMENT Directorate (ED) has registered a case of money laundering against former Haryana CM Bhupinder Singh Hooda in connection with the Manesar land deal case. This is the second case in which Hooda has been charged by the agency after he was accused of money laundering in the case of land transfer to Associate Journals Ltd, which owns the newspaper *National Herald*.

Last Saturday, the CBI had

carried out raids at 24 premises linked to Hooda, his close aides and former and current bureaucrats of the state government in connection with the alleged Manesar land grab case. The ED took cognizance of a corruption case filed by CBI in the matter and registered a case under various sections of Prevention of Money Laundering Act (PMLA).

ED sources said the agency is ascertaining details of the proceeds of the crime arising out of the CBI case and investigating the flow of funds to various people involved in the alleged scam. According to the CBI, farmers in



BHUPINDER SINGH HOODA

Manesar were cheated of over Rs 1,500 crore in the alleged scam.

"Once the money trail is established, we will proceed with attachment of properties, which

may include those belonging to the former CM," a senior ED official said.

The CBI raids were conducted in Rohtak, Gurgaon, Panchkula, Chandigarh and Delhi, and included Hooda's residence and office. During the searches at Hooda's residence, CBI sources claimed to have found details of "fund transactions worth crores of rupees". These transactions are being scrutinised by the agency.

The case pertains to the alleged purchase of 400 acres of land from farmers in Gurgaon for Rs 100 crore when the actual

worth (according to market rate) was Rs 1,600 crore. The purchase, according to the CBI, was made between August 2004 to August 2007, under the "threat and false apprehension of acquisition of the land by the state government".

The CBI said the Haryana government had issued notifications under various sections of the Land Acquisition Act for acquisition of land, measuring about 912 acres, for setting up an Industrial Model Township. As a result, a large number of land owners allegedly sold their land at throwaway prices.

Money Laundering

- Illegal arms sales, smuggling, and the activities of organised crime, including for example drug trafficking and prostitution rings, can generate huge amounts of proceeds. Embezzlement, insider trading, bribery and computer fraud schemes can also produce large profits and create the incentive to “legitimise” the ill-gotten gains through money laundering.

In a first, ED seizes 1,280 acres of Indian company's land in US

Attachment In Bank Fraud Case Biggest Abroad

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Ahmedabad: In its biggest-ever attachment abroad, the Enforcement Directorate on Thursday seized land worth around Rs 1,000 crore in the United States in connection with a case of money laundering against a real estate developer. This is the first time an Indian agency has attached property in the US.

The ED's Ahmedabad zonal unit attached the 1,280 acres of land in California belonging to Zoom Developers and its promoter Vijay Choudhary. It

INDORE TO US VIA LIECHTENSTEIN

THE CASE Vijay Choudhary & his company, Indore-based Zoom Developers, set up more than 100 dummy companies in India, Switzerland & London

➤ Took ₹2,200 crore in loans from more than 20 banks for projects in European countries

➤ No project took off; money siphoned through dummy firms

➤ Large amounts were moved to a trust in Liechtenstein,

considered a tax haven. Money then used to buy properties in India and abroad in the name of Zoom Developers

➤ Land in California was one such acquisition

NET CLOSES IN 1 director arrested last month; arrest warrant out for Choudhary

➤ CBI has booked company for fraud. Zoom is among top 5 defaulters of PSU banks

has initiated action against the company under sections 5 and 60 of the Prevention of Money Laundering Act in a Rs 2,200 crore fraud.

Although ED has earlier attached properties abroad, the sheer scale of the action

in the US is being seen as a message to those who have spirited away illicit funds abroad in the hope of escaping the law.

The case is considered one of the biggest bank loan frauds in the country.

Sources said the company and its promoter had set up more than 100 dummy companies in London, Switzerland and India. Huge amounts were diverted to a trust in Liechtenstein through fake firms. From there the money was moved to dummy companies and properties were bought in the name of Zoom Developers in and outside India. The land in California was purchased in the company's name.

The CBI has already booked a case of fraud against the company. Sharad Kabra, one of the directors of Zoom Developers, was arrested last month. He is in judicial custody. An arrest warrant has been issued against Choudhary, who is absconding.

► ₹2,200 crore fraud, P 17

Scale

- The United Nations Office on Drugs and Crime (UNODC) conducted a study to determine the magnitude of illicit funds generated by drug trafficking and organised crimes and to investigate to what extent these funds are laundered. The report estimates that in 2009, criminal proceeds amounted to 3.6% of global GDP, with 2.7% (or USD 1.6 trillion) being laundered.



Scale

- International Monetary Fund, who stated in 1998 that the aggregate size of money laundering in the world could be somewhere between two and five percent of the world's gross domestic product. Using 1998 statistics, these percentages would indicate that money laundering ranged between USD 590 billion and USD 1.5 trillion. At the time, the lower figure was roughly equivalent to the value of the total output of an economy the size of Spain.

IPO SCAM - INDIA

- Current account opened in the name of multiple companies on the same date in the same branch of a bank.
- Sole person authorized to operate all these accounts who was also a Director in all the companies.
- Identity disguised by using different spelling for the same name in different companies.
- Multiple accounts opened in different banks by the same group of joint account holders.
- Huge funds transferred from companies accounts to the individual's account which was invested in IPO's.

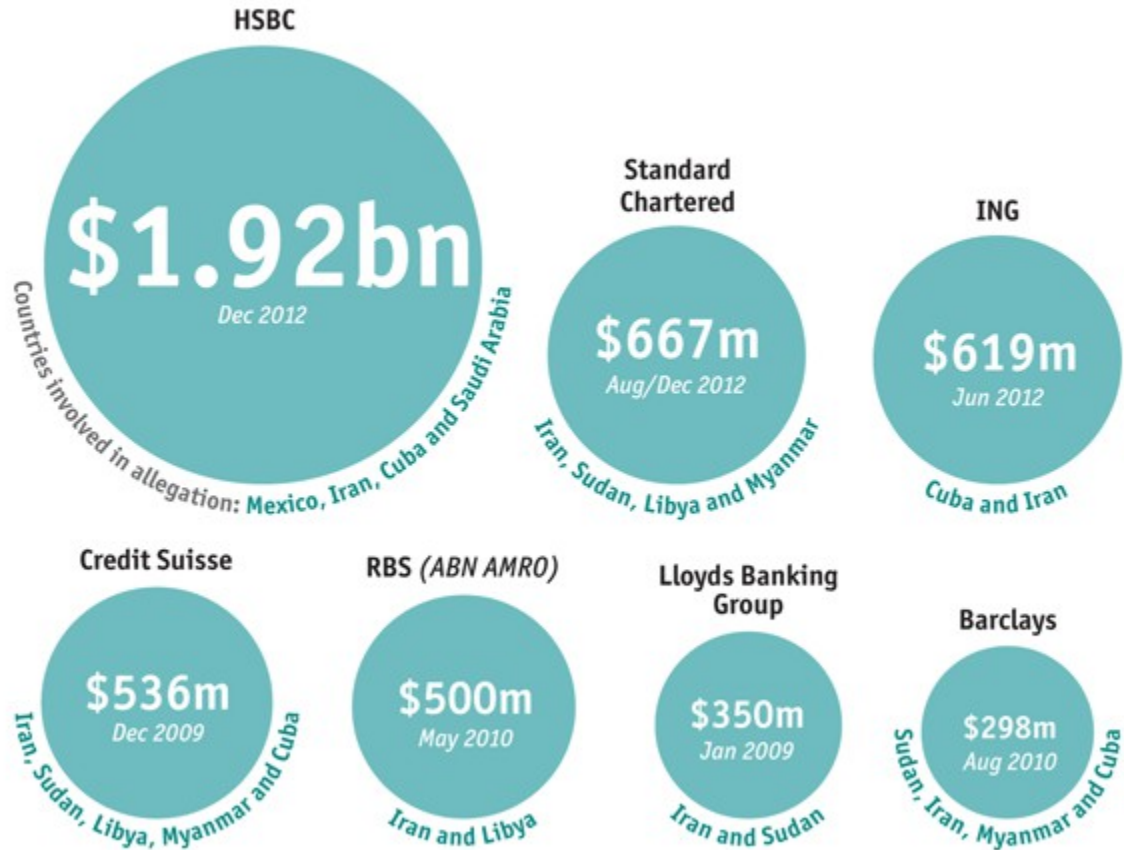
IPO SCAM - INDIA

- Loans/ overdrafts got sanctioned in multiple names to bypass limit imposed by RBI.
- Loans sanctioned to brokers violating guidelines.
- Multiple DP accounts opened to facilitate investment in IPO.
- Large number of cheques for the same value issued from a single account on the same day.
- Multiple large value credits received by way of transfer from other banks.

Scale

- As per the statistics released by the United Nations Office for Drugs and Crime (UNODC) value of various crimes which are covered by AML provisions can be estimated as under :
- Drug trafficking -USD \$ 320 billion a year,
- Counterfeiting -USD \$ 320 billion a year
- Human trafficking -USD \$ 32 billion a year
- Trafficking in timber -USD \$3.5 billion a year (South-East Asia alone).

Biggest money-laundering settlements with US authorities



Sources: Company reports; national sources

Money Laundering

- When a criminal activity generates substantial profits, the individual or group involved must find a way to control the funds without attracting attention to the underlying activity or the persons involved. Criminals do this by disguising the sources, changing the form, or moving the funds to a place where they are less likely to attract attention.



Vijay Mallya

- A special anti-money laundering court confirmed an order for attachment of assets worth Rs 1,411 crore issued by the ED against UBHL and others in connection with its money laundering probe against liquor baron Vijay Mallya and others.
- The total attachment made by the agency in this case has now shot up to Rs 8,041 crore and this is one of the largest attachment of assets made by ED in a PMLA case till now

Money Laundering

- In response to mounting concern over money laundering, the Financial Action Task Force on money laundering (FATF) was established by the G-7 Summit in Paris in 1989 to develop a coordinated international response. One of the first tasks of the FATF was to develop Recommendations, 40 in all, which set out the measures national governments should take to implement effective anti-money laundering programmes.



Chhagan Bhujbal

- Former deputy chief minister was arrested in March by Enforcement Directorate (ED) in an alleged money laundering case in which the agency claimed that he had caused a loss of Rs 870 crore to the exchequer.
- He challenged sections 19 and 45 of PMLA. Section 19 empowers ED to arrest an accused based on evidence gathered by the agency against an individual, while section 45 deals with bail of the accused.

PMLA

- There were 174 prosecution cases filed until May 2015 involving money laundering or confiscations in the judicial courts. During the same period, legal action was taken against properties worth Rs528 crore (\$769 million).
- According to the latest information given by Minister of State for Finance Santosh Kumar Gangwar in a written reply to a question in the Lok Sabha, 283 prosecution complaints have been filed and properties worth Rs18,866 crore have been attached as of October 31, 2016.

PMLA

- Proceeds of Crime – Sec 2 (1)(u)
 - Any property-movable or immovable
 - Linkage to scheduled offence (sec 2(1)(y))
 - Value or value thereof
 - In India or abroad
 - In case of companies

Attachment

- Sec 5 – provisional attachment
- Sec 8 – Filing a case before adjudicating authority
- Sec 16 – Survey under PMLA
- Search under PMLA

Trial under PMLA

- Sec 41 & Sec 67 expressly bars the civil court to have jurisdiction over PMLA cases
- PMLA has special designated courts
- Once may then appeal the above orders to High Court & then Supreme Court
- Once the Provisional Attachment order is passed at the Adjudicating authority, confirming the attachment, the ED then files a prosecution complaint in the PMLA Special Court

Trial under PMLA

- The PMLA Special court calls for all accused and the witness for detailed hearing
- Examination of Money laundering, and where are the proceeds of crime, and the attachment
- How is the property connected to money laundering, all documents are produced
- The prayer by ED is for attachment of the property & arrest of the person involved

Trial under PMLA

- Charges are then framed
- The Police may also be investigating the case simultaneously, a prayer is made to transfer the file to PMLA special court. So that the trial is conducted in the same court.
- Code of Criminal Procedure shall not apply to the extent it is not inconsistent with PMLA.
- Indian Evidence Act shall apply.

Power to arrest under PMLA

- Sec 19
- Possession of material
- Reason to believe
- Guilty of scheduled offence
- PMLA special court shall give the orders
- 3 to 7 years of Jail
- Grounds of arrest to be communicated
- Adjudicating authority to be intimated

Bail

- Sec 45
- Very Stringent
- No one can get bail behind the back of ED
- PMLA special court to be satisfied that the person is not guilty of the offence of money laundering
- Assurance that if given bail, then same offence of money laundering shall not be committed





Considering money laundering and terrorist financing as part of your institution's business risk – a risk based approach.

23 MAY 2015

NATION ✓

Tr 23

IPL betting Raids in Mumbai, Ahmedabad, Jaipur and Delhi

ED cracks down on bookies

TRIBUNE NEWS SERVICE

MUMBAI/NEW DELHI, MAY 22

With betting on Indian Premier League (IPL) matches peaking with the tournament heading for a close, the Enforcement Directorate (ED) today conducted raids across the country on known bookies and their associates.

According to sources here, ED teams launched co-ordinated raids at several premises in Mumbai, Thane, Ahmedabad, Jaipur and New Delhi.

In Mumbai the raids were conducted in suburban Andheri, near the international airport and Kalbadevi in South Mumbai. Among those raided include several diamond exporters, angadias or couriers and many money-changers suspected to be part of hawala rackets, sources said.

Many operating out of vessels on sea

- Mumbai police sources say prominent bookies had long gone into hiding and were operating from off-shore locations
- While many bookies are said to be working from Dubai, sources say some could be operating out of vessels on sea
- The ED had recovered incriminating information from computers, mobile phones and pen drives after prominent bookies were picked up in different parts of the country recently

Today's raids come after some prominent bookies were picked up in different parts of the country earlier this month. ED officials here said the raids conducted by sleuths from its Ahmedabad office followed incriminating information recovered from computers, mobile phones and pen drives recovered from bookies arrested in the earlier raid.

Mumbai police sources say, prominent bookies from the city had long gone into hiding and were operating from

off-shore locations. While several bookies are said to be working from Dubai, sources say some could also be operating out of vessels on the high seas.

A team of over 30 officials are part of search teams, the sources said. The searches, earlier this month, were largely in the national capital and its adjoining areas and two Delhi-based alleged bookies were arrested. Over ₹26 lakh was seized then apart from a cache of comput-

er peripherals, mobiles and hard drives, the sources said.

In March this year, the Ahmedabad office of the agency had claimed to have busted the alleged betting racket and arrested some bookies from a farmhouse on the outskirts of Vadodara city in Gujarat. Later, the probe agency arrested 13 others in connection with this illegal activity from Gujarat.

The same office registered a money laundering case against two prime suspects and a few others in connection with the alleged racket suspected to be between ₹1,000 and ₹4,000 crore. The accused had been earlier charged under Sections 418 (cheating), 419 (punishment for cheating), 420 (cheating) and other sections of the IPC by the agency.

Hawala

- Money laundering is popularly known as Hawala transactions. It gained popularity during early 90's when many of the politicians were caught in its net. Hawala is an alternative or parallel remittance system.
- The Hawala Mechanism facilitated the conversion of money from black into white. "Hawala" is an Arabic word meaning the transfer of money or information between two persons using a third person.
- The system dates to the Arabic traders as a means of avoiding robbery. It predates western banking by several centuries.

Process of Money Laundering

- Placement
 - Dirty money being inserted in financial system
 - Layering
 - Separates the proceeds from their criminal origin by moving them through a series of financial transactions
 - Integration
 - Creating a legitimate explanation for their sources of funds, allowing them to be retained, invested or used, to acquire goods or assets
- The Process given above may not be in the same order



Placement

- The first stage is the physical disposal of cash.
- The launderer introduces his illegal profits into the financial system.
- This placement is accomplished by depositing the cash in domestic banks or in other types of formal or informal financial institutions.
- This is done by breaking up large amounts of cash into less conspicuous smaller sums that are then deposited directly into a bank account, or by purchasing a series of monetary instruments (cheques, money orders, etc.).

Placement

- The cash is usually siphoned off across borders for deposit in foreign financial institutions, or used to buy high-value goods, such as artwork, aeroplanes, and precious metals and stones, that can then be resold for payment by cheque or bank transfer.

Layering

- The Second stage in money laundering is layering.
- The launderer engages in a series of conversions or movements of the funds to distance them from their source.
- The funds might be channelled through the purchase and sale of investment instruments such as bonds, stocks, and traveller's cheques or the launderer might simply wire the funds through a series of accounts at various banks across the globe, particularly to those jurisdictions that do not cooperate in anti-money laundering investigations.
- In some instances, the launderer might disguise the transfer as payments for goods or services, thus giving them a legitimate appearance.

Layering

- A number of rotations to slush funds are given through banks and this complex layer of financial transactions are carried out to divorce the illicit proceeds from their source and mislead the investigating agencies.
- The high-value goods and monetary instruments are resold and the proceeds are invested in real estate and legitimate businesses, particularly in the leisure and tourism industries.
- Shell companies i.e. paper companies/bogus companies) serve as front and are registered in offshore havens.
- They are a common tool in the layering phase.

Integration

- This is the stage where the funds are returned to the legitimate economy for later extraction. Examples include investing in a company, purchasing real estate, luxury goods, etc.



Where can it occur

- As money laundering is a consequence of almost all profit generating crime, it can occur practically anywhere in the world. Generally, money launderers tend to seek out countries or sectors in which there is a low risk of detection due to weak or ineffective anti-money laundering programmes. Because the objective of money laundering is to get the illegal funds back to the individual who generated them, launderers usually prefer to move funds through stable financial systems.



Where can it occur

- Money laundering activity may also be concentrated geographically according to the stage the laundered funds have reached. At the placement stage, for example, the funds are usually processed relatively close to the underlying activity; often, but not in every case, in the country where the funds originate.

JUST WHAT IS MONEY LAUNDERING?



DID YOU KNOW?

Money laundering happens on
A DAILY BASIS all around
the world.

Where can it occur

- With the layering phase, the launderer might choose an offshore financial centre, a large regional business centre, or a world banking centre – any location that provides an adequate financial or business infrastructure. At this stage, the laundered funds may also only transit bank accounts at various locations where this can be done without leaving traces of their source or ultimate destination.

Where can it occur

- Finally, at the integration phase, launderers might choose to invest laundered funds in still other locations if they were generated in unstable economies or locations offering limited investment opportunities.



How a Bitcoin transaction works

Bob, an online merchant, decides to begin accepting bitcoins as payment. Alice, a buyer, has bitcoins and wants to purchase merchandise from Bob.

WALLETS AND ADDRESSES

Bob and Alice both have Bitcoin "wallets" on their computers.

Wallets are files that provide access to multiple Bitcoin addresses.

An address is a string of letters and numbers, such as 1HULMwZEPkJECh43BeKJLybLCWrfDpN.

CREATING A NEW ADDRESS

Bob creates a new Bitcoin address for Alice to send her payment to.

Each address has its own balance of bitcoins.

SUBMITTING A PAYMENT

It's tempting to think of addresses as bank accounts, but they work a bit differently. Bitcoin users can create as many addresses as they wish and in fact are encouraged to create a new one for every new transaction to increase privacy. So long as no one knows which addresses are Alice's, her anonymity is protected.

Public Key Cryptography 101

When Bob creates a new address, what he's really doing is generating a "cryptographic key pair," composed of a private key and a public key. If you sign a message with a private key (which only you know), it can be verified by using the matching public key (which is known to anyone). Bob's new Bitcoin address represents a unique public key, and the corresponding private key is stored in his wallet. The public key allows anyone to verify that a message signed with the private key is valid.

Alice tells her Bitcoin client that she'd like to transfer the purchase amount to Bob's address.

Alice's wallet holds the private key for each of her addresses. The Bitcoin client signs her transaction request with the private key of the address she's transferring bitcoins from.

Anyone on the network can now use the public key to verify that the transaction request is actually coming from the legitimate account owner.

VERIFYING THE TRANSACTION

Gary, Garth, and Glenn are Bitcoin miners.

Their computers bundle the transactions of the past 10 minutes into a new "transaction block."

The miners' computers are set up to calculate cryptographic hash functions.

Hash value*

* Each new hash value contains information about all previous Bitcoin transactions.

New hash value

New hash value

New hash value

The mining computers calculate new hash values based on a combination of the previous hash value, the new transaction block, and a nonce.

Cryptographic Hashes

Cryptographic hash functions transform a collection of data into an alphanumeric string with a fixed length, called a hash value. Even tiny changes in the original data drastically change the resulting hash value. And it's essentially impossible to predict which initial data set will create a specific hash value.

The root of all evil

6d0a 1899 086a... (56 more characters)

The root of all evil

486c 6be4 6dde...

The root of all evil

b8df 7ee9 8392...

The root of all evil ???

0000 0000 0000 ...

Creating hashes is computationally trivial, but the Bitcoin system requires that the new hash value have a particular form—specifically, it must start with a certain number of zeros.

Nonces

To create different hash values from the same data, Bitcoin uses "nonces." A nonce is just a random number that's added to data prior to hashing. Changing the nonce results in a wildly different hash value.

The miners have no way to predict which nonce will produce a hash value with the required number of leading zeros. So they're forced to generate many hashes with different nonces until they happen upon one that works.

Each block includes a "coinbase" transaction that pays out 50 bitcoins to the winning miner—in this case, Gary. A new address is created in Gary's wallet with a balance of newly minted bitcoins.

TRANSACTION VERIFIED

As time goes on, Alice's transfer to Bob gets buried beneath other, more recent transactions. For anyone to modify the details, he would have to redo the work that Gary did—because any changes require a completely different winning nonce—and then redo the work of all the subsequent miners. Such a feat is nearly impossible.

Bitcoins in India

- Bitcoin, which was launched in 2009, is often described as the first cryptocurrency, even though prior systems existed. Cryptocurrency means money that is made hidden and private—and therefore secure—by means of encryption, or coding. Blockchain is the technology behind cryptocurrencies.
- The increased trading has helped push the digital currency's value to recent highs. In Feb 2017 it was traded at USD 1,100
- India's leading bitcoin company Unocoin said the average number of daily visitors to its website has spiked to 14,000, compared to roughly 4,000 prior to demonetization.
- Bitcoin and other cryptocurrencies have tremendous benefits for most marginalised people, merchants, tax departments and regulatory authorities. It has better price discovery, is anti-inflationary and the transactions are irreversible

Process

- However, there has been some confusion among those looking to convert their paper money into the cryptocurrency, which is created and stored online. In India, consumers can't simply exchange cash for bitcoins. Instead, they're required to share their bank account details and undergo a know-your-customer process to start trading in the online currency.
- Despite bitcoin exchanges not accepting cash, there were still many takers for the digitized currency. Local bitcoin firm Zebpay traded Rs100 crores (\$14.8 million) worth of bitcoin in all of 2015, but saw Rs75 crores (approx. \$11.2 million) in bitcoin trading in November alone. Chief executive officer Sandeep Goenka claimed that his bitcoin exchange was on track to add 50,000 users per month following the government's decision.

Bitcoins – Present Scenario

- Trouble is, the virtual currency seems to have been adopted by lots of questionable characters, some of them outright criminals, including murderers, traffickers in human beings and drugs, extortionists and terrorists.
- Bitcoin and other virtual currency systems that use block-chain technology to transmit value could revolutionize financial services by offering an inexpensive and secure method for completing transactions globally.

BITCOIN

- Bitcoin startups Zebpay, Unocoin, Coinsecure and SearchTrade have come together to form Digital Asset and Blockchain Foundation of India (DABFI) for the “orderly and transparent growth of the virtual currency market.
- DAFBI will develop norms for trading of bitcoins and other blockchain-based digital assets. DABFI will also standardise Know Your Customer norms and anti-money laundering and suspicious transaction reports for member companies

Integration

- This is the final stage in the process.
- The launderer makes it appear to have been legally earned and accomplishes integration of the “cleaned” money into the economy.
- By this stage, it is exceedingly difficult to distinguish legal and illegal wealth.
- It involves making the wealth derived from crime appear legitimate.

Methods of Money Laundering

- **Structuring ("Smurfing"):** Smurfing is possibly the most commonly used money laundering method. It involves many individuals who deposit cash into bank accounts or buy bank drafts in amounts in small amounts to avoid the reporting threshold.
- **Bank Complicity:** Bank complicity occurs when a bank employee is involved in facilitating part of the money laundering process



Methods

- **Money Services and Currency Exchanges:**
Money services and currency exchanges provide a service that enables individuals to exchange foreign currency that can then be transported out of the country
- **Asset Purchases with Bulk Cash**
- **Electronic Funds Transfer**
- **Postal Money Orders**

Methods

- **Credit Cards**
- **Casinos**
- **Refining:** This money laundering method involves the exchange of small denomination bills for larger ones and can be carried out by an individual who converts the bills at a number of different banks in order not to raise suspicion. This serves to decrease the bulk of large quantities of cash

Methods

- **Legitimate Business / Co-mingling of Funds**
- **Value Tampering:** Money launderers may look for property owners who agree to sell their property, on paper, at a price below its actual value and then accept the difference of the purchase price "under the table". In this way, the launderer can, for example, purchase a 2 million rupee property for 1 million rupee, while secretly passing the balance to the seller. After holding the property for a period of time, the launderer then sells it for its true value of 2 million rupees

Methods

- **Loan Back:** Using this method, a criminal provides an associate with a sum of illegitimate money and the associate creates the paperwork for a loan or mortgage back to the criminal for the same amount, including all of the necessary documentation. This creates an illusion that the criminal's funds are legitimate. The scheme's legitimacy is further reinforced through regularly scheduled loan payments made by the criminal, and providing another means to transfer money.

ED records best-ever performance

28-4-15

PRAMOD KUMAR
NEW DELHI, APRIL 28

The enforcement directorate (ED) has recorded its best-ever performance in crucial investigations done by the agency so far, having seized assets worth ₹3,650 crore under money laundering laws in the year 2014-15. The anti-money laundering (under Prevention of Money Laundering Act) and foreign exchange violations (under Foreign Exchange Management Act) has also made the maximum number of prosecutions against offenders of these laws during the last financial year.

Sources in the agency said, "In 2014-15, the agency arrested 19 persons under the provisions of PMLA as against seven in the preceding year. The agency succeed in recording its best-ever performance in investigations so far. The ED registered a total of 178 cases under PMLA till March 31 this year." As far as investigation under Fema is concerned, the ED issued 654 showcause notices to different persons in the last financial year, they added.

"Fifty-seven attachments were effected in 2013-14, this has been doubled to 138 in 2014-15. Besides, the agency also issued 166 provisional attachment orders in 2014-15," sources said.



Demonetization - PMLA

- The ED in Mumbai in February, 2017 arrested the owner of Rajeshwar Exports, Kritika Dahal, for money laundering using her company in Hong Kong.
- ED team had come across illegal deposits of money (after November 8, 2016) worth Rs 700 crore with various bank accounts, which later, got diverted to Hong Kong.

Demonetization - PMLA

- During the course of investigation under PMLA, it was revealed that the bank accounts were used for illegal transactions of huge amounts.
- More than 100 accounts of different shell companies were sourced for depositing huge cash of more than Rs 92 crore in old demonetised currency. The agency noticed that layering of these funds has been done through more than 500 accounts.

Demonetization - PMLA

- Ultimately, the funds from all companies and firms were credited through RTGS to Rajeshwar Exports, which was utilised for outward remittance to Hong Kong in guise of payment of import of overvalued consignments of total 355 Bills of Entries.
- During investigation, it was revealed that an amount of Rs 1478 crore is yet to be received by Rajeshwar Exports against export made from the company.

Demonetization – PMLA

- ED in Feb, 2017 has attached assets worth Rs 64.70 crore of Divine Infracon, in a Delhi hotel property, managed by Radisson Blu, for money laundering.
- GOI is believed to have initiated action against at least 34 Chartered Accountants for allegedly converting scrapped notes into new through shell companies during the demonetisation period.
- The Serious Fraud Investigation Office (SFIO) has registered cases against 49 shell companies, as much as Rs 3900 crore has been laundered by 559 persons with the help of 54 professionals. Also, Rs 1,238 crore cash has been deposited in shell or dormant companies, post demonetisation.

Prosecution Cases

- A senior income tax (I-T) official said the department has filed as many as 570 prosecution cases in the last one year (till January 2017) against alleged offenders caught laundering money and evading taxes, compared to 196 cases filed in different courts across the country in the previous financial year (2015-16).
- Under I-T laws, a court conviction for tax offences can lead to imprisonment of up to seven years in addition to fine and interest and penalty on the tax evaded.
- The department has been taking up cases of money laundering seriously and has asked officials to file prosecution complaints against entities who refuse to own up their money despite enough evidences based on banking data obtained on deposits made after demonetisation.



NSEL

The ED on 15 March, 2017 attached assets worth Rs 414.62 crore of a Chandigarh-based firm in connection with its money laundering probe in the Rs 5,600-crore NSEL scam.

With this latest freeze on properties under the Prevention of Money Laundering Act, the total attachment in the National Spot Exchange Limited (NSEL) case by the ED stands at Rs 2,554 crore.

The Forms of Money Laundering

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graph LR; A[The Forms of Money Laundering] --- B[Acquiring using or possessing criminal property]; A --- C[Handling the proceeds of crime, such as theft, fraud and tax evasion]; A --- D[Investing the proceeds of crimes into other financial products]; A --- E[Being knowingly involved in any way with criminal or terrorist property]; A --- F[Transferring criminal property]; A --- G[Entering into arrangements to facilitate laundering criminal or terrorist property]; A --- H[Investing the proceeds of crimes into the acquisition of property / assets];
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Acquiring using or possessing criminal property

Handling the proceeds of crime, such as theft, fraud and tax evasion

Investing the proceeds of crimes into other financial products

Being knowingly involved in any way with criminal or terrorist property

Transferring criminal property

Entering into arrangements to facilitate laundering criminal or terrorist property

Investing the proceeds of crimes into the acquisition of property / assets

Risk – Political Persons

- The focus on Political Persons has increased with recent events in the Middle East and North Africa; financial institutions find themselves in a key role regarding international financial crime initiatives.
- Firstly, momentum has been gathering in relation to global bribery and corruption programs, and Libya, Egypt, Syria, other uprisings have increased Money Laundering.

Trade based Money Laundering

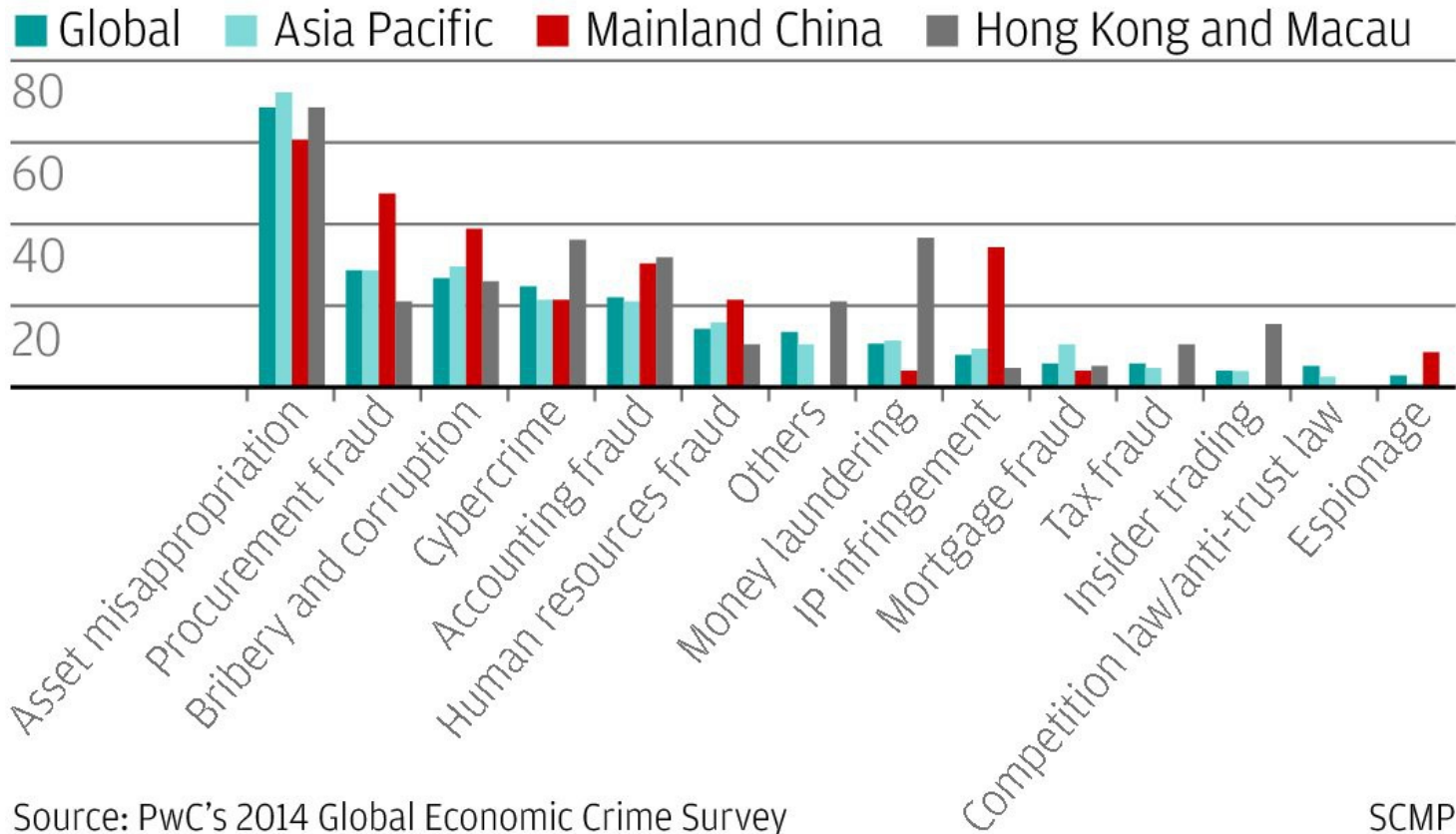
- The Indian government has recently tightened an often used route for trade-based money laundering.
- Issuance of remittances or opening of letter of credit in trade will now be done electronically involving the Reserve Bank of India, banks and customs authorities.
- RBI has decided to do away with the requirement for the banks to obtain a physical copy of the bill of entry from the importer as an evidence of import, because this data can be transferred in a secured manner from the system of the customs department

De-Risking

- De-Risking has become a popular practice in financial institutions, particularly banks. The absence of an agreed definition leaves room for lengthy discussion and debate particularly in the banking industry. Some reports issued in this regard indicate that the term of de-risking refers to terminating the business relationship with customers, specifically correspondent banking relationship, instead of applying due diligence requirements to avoid the potential risk involved

Funny money

Types of fraud (%)

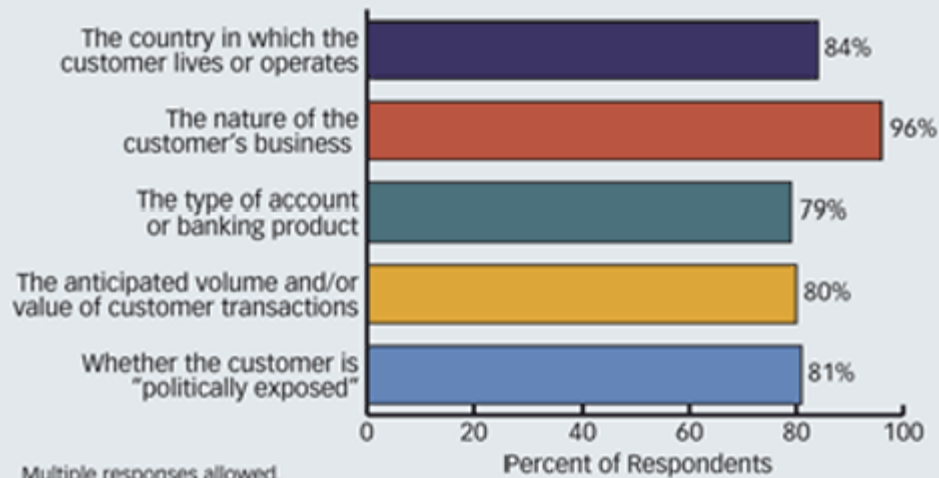


Source: PwC's 2014 Global Economic Crime Survey

SCMP

Red Flags

Factors considered by financial institutions when using a risk-based approach at the account-opening stage:



Multiple responses allowed.

Source: KPMG's Global Anti-Money Laundering Survey, 2007

RBI penalises 22 Banks

for violation of its instructions, among other things,
on Know Your Customer/Anti Money Laundering



Monetary Penalty (in ₹Crores)

Andhra Bank	2.50	Kotak Mahindra Bank Ltd.	1.501
Bank of Baroda	3.00	Oriental Bank of Commerce	2.00
Bank of India	3.00	Punjab and Sind Bank	2.50
Canara Bank	3.001	Punjab National Bank	2.50
Central Bank of India	3.00	State Bank of India	3.00
Deutsche Bank A.G.	1.00	The Federal Bank Ltd.	3.00
Development Credit Bank Ltd.	1.00	The Lakshmi Vilas Bank Ltd.	2.50
Dhanlaxmi Bank Ltd.	2.00	The Ratnakar Bank Ltd.	0.50
Indian Overseas Bank	3.002	United Bank of India	2.50
ING Vysya Bank Ltd.	1.50	Yes Bank Ltd.	2.00
Jammu & Kashmir Bank Ltd.	2.501	Vijaya Bank	2.00

Cautionary Letter

Barclays Bank PLC	Standard Chartered Bank
BNP Paribas	State Bank of Patiala
Citibank N.A.	The Bank of Tokyo
Royal Bank of Scotland	Mitsubishi UFJ Ltd.





Bombay Stock Exchange (BSE)

To check money laundering through stock markets, BSE has asked its members in August 2015 to report on a monthly basis details of the STRs (Suspicious Transaction Reports) submitted to the government's Financial Intelligence Unit (FIU).

The information required to be furnished to the FIU includes all cash transactions worth over Rs.10 lakh, all suspicious transactions whether or not made in cash and all series of cash transactions below Rs.10 lakh but connected to each other and having taken place within a month.

Besides, all transactions over Rs.10 lakh involving receipts by non-profit organisations and transactions where counterfeit currency or forged security or documents have been used are also required to be reported to FIU.

Centre ropes in ED, guns for D-gang assets

TIMES NEWS NETWORK

New Delhi: The Narendra Modi-led NDA government has launched a serious drive to break underworld don Dawood Ibrahim's nexus in India and has roped in the Enforcement Directorate (ED) to investigate all properties linked to the D-gang and other associates. Attorneys and politicians helping him launder the crime proceeds are also under the scanner.



The ED is in the process of approaching enforcement agencies of the UK, Cyprus, Turkey, Spain and Morocco with information on bank accounts and property details of Dawood Ibrahim's associates

The ED, which is being assisted by other agencies to collate information related to financial interests of the Dawood gang in India and abroad, last week wrote to the BMC seeking information on specific land and building deals made by Dawood's associates in Mumbai.

Transactions in properties, drug rackets and extortions are believed to be running into thou-

sands of crores. A source said the D-gang's operations in India were mainly run by Iqbal Mirchi, who died in the UK, and his relatives. The proceeds of crime were laundered to foreign destinations where it was reinvested in property.

The agency is in the process of formally approaching enforcement agencies of the UK, Cyprus, Turkey, Spain and Morocco with specific information on bank accounts and property details of D-gang associates.

Sources said the agency has specific information where Dawood's major investments were made through Mirchi and his associates. Some of these properties are located at Worli seaface. The agency has put all those people, including lawyers, under the scanner for helping him in the sale of these properties. Some of these transactions date back to 2010.

Home minister Rajnath Singh had said in Parliament that India has specific details of Dawood's location, which it has shared with Pakistan, seeking his extradition.

Soon after the Parliament session, the government put together all its investigative agencies to track all financial interests of the D-gang to launch a crackdown in India and abroad. The ED, after investigation, will move to attach these properties.



France busts international cannabis money-laundering network

French police have busted in 2014 one of the biggest cannabis money-laundering networks ever discovered in the country. Companies in France, Belgium, Dubai, Hong Kong, India and Morocco were part of a criminal network that turned drug money into gold jewellery to be sold in India

ED attaches ₹485 cr assets in Odisha chit fund, mining scams

PNS ■ NEW DELHI

The Enforcement Directorate (ED) on Thursday issued orders for attachment of assets worth ₹485 crore of three mining companies and a chit fund firm in connection with its money laundering probes in mining and chit fund scams in Odisha.

In the first case, the agency's Kolkata zonal office, under which Odisha falls, issued orders attaching assets worth ₹400 crore of three firms, their owners and associates in the Uliburu mining scam.

A number of immovable and movable assets of the accused firms, including Deepak Steel, Deepak Steel and Power and Sneh Pushp, and their directors Deepak Kumar, Champak Gupta and Haricharan Gupta and a few others, stand attached following the agency's order, sources said.

The ED attached the assets of the three firms and their direc-

The agency attached the assets of the three mining firms and their directors spread across Odisha and Kolkata under the provisions of Prevention of Money Laundering Act



tors spread across Odisha and Kolkata under the provisions of the Prevention of Money Laundering Act (PMLA).

The case relates to Uliburu mines area located in Joda mining circle in Keonjhar district of Odisha where large-scale alleged irregularities were detected by the State mines department a few years back. The case was also probed by the Justice (retd.) MB Shah Commission.

Continued on Page 4

Income Tax-CBI-ED-Police

- New Strategy
- Local Police to register FIR
- Opening for ED to register a case under PMLA
- Once under PMLA, his properties and assets equivalent to the alleged unaccounted income can be attached and confiscated on proving the charges
- ED on 13 Nov arrests 7 persons in Bangalore on charges of PMLA after IT search
- CBI arrests a casino owner in Bangalore after IT search finds Rs 5.7 crores in his bathroom
- RBI official also arrested

Rohit Tandon

- Lawyer in GK-1, New Delhi
- IT & Delhi Police recovered 13.6 crore in cash recently in December, 2016
- In October, 2016 he had declared 125 crores after an IT search
- In November, 19 crores was seized from him

Parasmal Lodha

- Has massive business interests in West Bengal, was arrested on December 21, 2016 while he was trying to flee the country from Mumbai.
- Arrested in connection with conversion of more than Rs 25 crore of old notes to new notes in Shekhar Reddy and Rohit Tandon case
- The Enforcement Directorate in Feb, 2017 charge sheeted Paras Mal Lodha in a city court
- The charge sheet gives details of how the accused persons "cheated public at large" and caused monetary loss to the central government.

Parasmal Lodha

- Lodha has been accused of being involved in the conspiracy along with Tandon and indulging in converting old demonetised notes into new currency on commission basis, which constitutes the offence of money laundering.
- ED has alleged that the new currency, which was entrusted to banks and government officials and was supposed to be delivered to public/bank account holders, appeared to have been misappropriated by Lodha and others for their monetary gains, thereby "cheating public at large" and causing monetary loss to the government.

Napal & Bhutan

- A team from the Reserve Bank of India (RBI) arrived in Nepal in Feb, 2017 for discussions with its Nepalese counterparts on management of demonetised Indian bank notes held by Nepalese citizens, banks and financial institutions.
- Senior officials from the RBI's currency management and regulatory departments are part of the team. They will meet representatives of the Nepal Rastra Bank and Nepal Bankers Association, the umbrella organisation of banks.
- The RBI team focused on client identification and Nepal's system for countering money laundering.
- After completing discussions with stakeholders in Nepal, the RBI team will visit Bhutan, another South Asian country that has faced problems because of the demonetisation drive by India last November. Indian currency is widely used in both Bhutan and Nepal.
- On the basis of the team's findings, the RBI will come up with a model for exchanging the demonetised high-value Indian notes held by citizens of Nepal and Bhutan.



Six persons have been arrested in the case involving alleged laundering of black money to the tune of Rs. 6000 crore at a branch of Bank of Baroda in Oct, 2015. Money was being transferred through 59 accounts at the bank's Ashok Vihar branch to companies in Hong Kong and Dubai. The money was disguised as payments for imports. A search revealed that addresses given by at least 50 companies for bank records were fake. Interrogation of the bank officials revealed that some of the employees acted as middle-men for these companies.

Axis Bank

- ED registers a case against 2 managers of Kashmere Gate Branch of Axis Bank at New Delhi under PMLA in Dec, 2016
- A case against a Chartered Accountant's is also registered
- Role in cash deposits of over Rs 40 crore at the Branch
- Money transferred out to shell companies with fictitious addresses



In 2014, ED has registered a money laundering case against Sahara Group under PMLA Act, in connection with non-payment of crores of rupees to depositors as probed by capital markets regulator SEBI.

Around 1/8th (Rs 3600 crore) money of the total suspected amount (Rs 17000 crore) has been laundered to US and UK.

The funds utilised to acquire the hotel in UK, originated from the Sahara India Real Estate Corp. Ltd. and the Sahara Housing Investment Corp. Ltd., from where it made way to Sahara India Commercial Corporation Limited (SICCL) for it to acquire land and undertake project developments.

HDFC Bank

- Cash Deposits of about Rs 100-150 crores in karol Bagh branch of HDFC Bank in Nov, 2016
- ED has tracked suspicious transactions
- 6 accounts
- Based on a tipoff from FIU
- Once deposited the money was transferred to beneficiaries through banking channel
- Front in these cases are suspected to be jewellers, bullion traders

Ex CBI Director

- Former CBI director A P Singh is likely to be booked under the stringent Prevention of Money Laundering Act (PMLA) and may soon face attachment of his properties by the Enforcement Directorate on alleged money laundering charges. The charges stem from his involvement with controversial meat exporter Moin Qureshi.
- ED is in the process of registering a case under PMLA based on "concrete evidence" against Singh who has already been booked under the Prevention of Corruption Act by the CBI in February, 2017. Singh headed CBI from 2010 to 2012.

Hasan Ali

- Stud farm owner Hasan Ali Khan has been slapped with fresh criminal charges of corruption and money laundering by the CBI and the ED, a decade after he first came under the scanner for huge tax evasion.
- CBI sources said the agency has registered a case against Khan and unknown officials for alleged criminal conspiracy and corruption.

Hasan Ali

- The action has been taken on the basis of a complaint received from tax authorities, they said.
- The ED also registered a fresh case of money laundering against Khan, six years after he was booked on the same charges under the Prevention of Money Laundering Act (PMLA).

Hasan Ali

- The fresh FIR by the ED against Khan, touted to be one of the highest tax evaders of the country, is significant as sources said some “fresh evidence has been found” by investigators which includes sensitive information received from foreign shores.
- The first ED complaint did not name any government official or politician associated with Khan (62), the ED’s probe has now thrown some light on these contacts

UK

- Britain will create a new watchdog to coordinate a currently splintered approach by professional bodies to detecting money-laundering
- At the moment, 25 associations, most of them representing accountancy and legal firms, watch out for movements of money raised through crime, potentially allowing money-launderers to exploit different approaches
- The creation of the Office for Professional Body Anti-Money Laundering Supervision (OPBAS) will ensure consistent high standards across the regime, whilst imposing the minimum possible burden on legitimate business

USA

- U.S. authorities on March 1, 2017 charged 19 people with taking part in a complex international fraud and money laundering ring that tricked companies and consumers out of millions of dollars.
- The operation was used to post phony car ads online advertising cars, luring customers with prices far below market value. Once the customers placed a deposit for the cars, the fraudsters would cut off contact and disappear with the money

USA

- learned members of the group, which spanned Europe, Israel and the United States, had also scammed unnamed German and Portuguese companies out of millions of dollars in phony transactions in 2014 and 2015.
- Using fake email addresses to impersonate the chief executive or president of a company, the defendants would instruct mid-level employees to wire hundreds of thousands of dollars for a "secret" financial transaction, such as a corporate acquisition.
- The bank accounts were controlled by the criminals, who disappeared with the money



Bengal

Enforcement Directorate in April, 2015 filed charge sheet in the Rose Valley ponzi scam case against six persons, including the company's incarcerated chairman Gautam Kundu. The charge sheet was filed on the basis of a SEBI complaint to ED. On the basis of the SEBI complaint, ED had found out that Rose Valley had garnered more than Rs 15,000 crore from the public through issue of various financial instruments, which did not have sanction of the capital market regulator. ED had also frozen numerous bank accounts and fixed deposits of the Rose Valley group.

The Enforcement Directorate on December 22, 2016 attached assets worth Rs 1,250 crore of the Rose Valley Group including eight hotels and 12 high-end cars

Thank you