

Introduction to PMLA, 2002



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Origin & Object

- PMLA, 2002 came into force w.e.f 1st July 2005, PMLA was amended in 2009, PMLA was again amended in 2013, Budget 2015 also proposes some changes
- 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


PMLA & Union Budget 2015


- One provision is that it is proposed in the Finance Bill that the **Indian property** of equivalent value of foreign assets **can be seized**. This amendment applies to all offences under PMLA.
- **Example:** A person derives money from corruption and transfers the same outside India. He launders it and projects it as funds received through clean manner / sources. Indian Government may find it difficult to bring the funds into India. However his Indian funds of equivalent value will be considered as Proceed of Crime. Indian funds can be seized.

PMLA & Union Budget 2015

- The second provision is from the budget speech that additionally **offence of tax evasion relating to foreign assets** will be considered as predicate offence.
- “Predicate offence” has not been derived. The dictionary meaning is that it is a component of more serious offence. Offence of money laundering is considered as predicate offence. I.e. The main and serious offence (corruption, terrorism, etc.) will be tried under the respective laws. However funds derived from the main offence and **presented as clean money (laundering)** is “**predicate offence**”. It is a money laundering offence.

FOLLOWING ARE THE HIGHLIGHTS OF AN 88-CLAUSE BILL INTRODUCED IN THE LOK SABHA THAT SEEKS TO UNEARTH BLACK MONEY AND ASSETS STASHED ABROAD



Undisclosed foreign income and assets to be taxed under the stringent provisions of the proposed new legislation	
It will apply to all persons resident in India	
Undisclosed foreign income or assets shall be taxed at the flat rate of 30 per cent	Penalty for non-disclosure of income or an asset located outside India will be equal to three times the normal tax rate of 30 per cent
Persons having overseas accounts having maximum balance of ₹5 lakh in a year will not attract penalty or prosecution	
One time limited period compliance opportunity will be provided to persons to disclose overseas assets by paying 30 per cent tax and an equal amount by way of penalty and escape prosecution	
The compliance opportunity will not be an amnesty scheme as no immunity from penalty is being offered	 <p>Failure to furnish return in respect of foreign income or assets shall attract a penalty of ₹10 lakh</p> <p>Punishment for wilful attempt to evade tax will be rigorous imprisonment from three years to 10 years in addition to fine</p> <p>Provisions will also apply to beneficial owners or beneficiaries of such illegal foreign assets</p>
Abetment or inducement to make a false return or a false account or statement or declaration will be punishable with rigorous imprisonment from 6 months to 7 years	<p>PROVISIONS OF THE BILL WILL COME INTO EFFECT FROM APRIL 1, 2016</p>
This provision will also apply to banks and financial institutions aiding in concealment of foreign income or assets of resident Indians or falsification of documents	
There will be a right to appeal to the Income-tax Appellate Tribunal, and the High Court and the Supreme Court	Prevention of Money Laundering Act (PMLA), 2002, to be amended to include offence of tax evasion under the proposed legislation as a scheduled offence under PMLA

Introduction

- Money laundering has fairly benign origins in the *hawala* and *hundi* systems of South Asia, which were informal financial systems which allowed people to execute financial transactions in confidence and secrecy.
- These systems were perfectly legitimate to begin with, and merely reflected institutional underdevelopment or unfamiliarity or lack of confidence in the formal banking system.

Introduction

- However, these systems soon attracted criminal organizations, which began to use them along with other means in order to launder money to remove the taint of illegality.
- In the past century, money laundering has become an international problem.

Money Laundering

Illegal arms sales, smuggling, and other organized crime, including drug trafficking and prostitution rings, can generate huge amounts of money.

Embezzlement, insider trading, bribery and computer fraud schemes can also produce large profits and create the incentive to “legitimize” the ill-gotten gains through moneylaundering.

The money so generated is tainted and is in the nature of ‘dirty money’.

Money Laundering is the process of conversion of such proceeds of crime, the ‘dirty money’, to make it appear as ‘legitimate’ money.

Introduction

- 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).

Introduction

- In India 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.

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

BLACK AND WHITE

3 private sector banks, HDFC, ICICI & Axis, accused of money laundering. Sting ops show number of bank execs offering to turn black money into white by using the banking system

10 SHARP PRACTICES

- 1** Put huge amounts of cash in insurance products, gold
- 2** Open fake account in order to route cash into investment schemes
- 3** Split money into tranches to evade detection
- 4** Use 'benami' accounts to convert black money
- 5** Use accounts of other clients to channelize black money into system for a fee
- 6** Make demand drafts to facilitate investment
- 7** Open multiple accounts and close them to facilitate investment of black money
- 8** Invest black money in multiple instruments in different names
- 9** Allot large lockers for safekeeping of cash
- 10** Help transfer black money abroad through non-resident external/ non-resident ordinary account

BANKS DENY

ICICI BANK: "We have constituted a high level inquiry committee to investigate and submit its findings in 2 weeks."

HDFC BANK: "The matter is being investigated on top priority."

AXIS BANK: "We will examine whatever information is brought to our notice and investigate thoroughly."



16 Banks Fined By RBI For Violating AML

- The Reserve Bank of India penalised 16 central cooperative banks with a fine of Rs 5 lakh each for non-adherence of the Know Your Customer and Anti-Money Laundering guidelines in March, 2015.
- The lenders were issued show-cause notices and the action was taken after going through the responses, the RBI said in a notification.
- "After considering the facts of the cases, the banks' replies and personal submissions in the matter, the Reserve Bank of India came to the conclusion that the violations were substantiated and warranted imposition of penalty," it said.
- Earlier in March, over 480 urban cooperative banks were put under scrutiny by the central bank for alleged violation of anti-money laundering laws. The RBI had also issued instructions to block accounts of all non complying customers

What is Money laundering

- Money laundering involves disguising financial assets so that they can be used without detection of the illegal activity that produced them.
- Through money laundering, the launderer transforms the monetary proceeds derived from criminal activity into funds with an apparently legal source.
- Section 3 of the PMLA

Money Laundering

- According to **Section 3 of Prevention of Money Laundering Act** – “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 with the 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.

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

What is a Scheduled Offence

- Scheduled offence means an offence specified under Part A of the Schedule,
- Earlier limit of Rs 30 lacs as mentioned in Part B of the Schedule is now removed

Proceeds of Crime

- Proceeds of crime means any property derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to a scheduled offence or the value of any such property



Diamonds

- Trading of diamonds especially with a gulf country has come under the lens of intelligence agencies for suspected terror financing and money laundering.
The matter of suspected terror financing and money laundering was red flagged by the Cabinet Secretariat and discussed during a recent high-level meeting between top government official and revenue intelligence sleuths, in March, 2015.
- The officials discussed a report collaborated by Paris- based Financial Action Task Force (FATF) and Egmont Group of Financial Intelligence Units highlighting that diamond trade was allegedly being used for routing of finances for terror activities, they said.
- During the meeting, discussion on the report raised some eyebrows as it cited overvaluing of exports of diamonds in absence of any stable price in India and highlighted record increase of trade of the precious stones and minerals with United Arab Emirates (UAE), they said.

Diamonds

- The Central Economic Intelligence Bureau (CEIB) has been examining the inputs from other intelligence agencies in this regard, the sources said, adding, that Financial Intelligence Unit (FIU) has been asked to find out different typology and sharing of Suspected Transaction Reports (STRs) with other agencies to check it.
- The CEIB is also considering to form an inter-ministerial team of officials from intelligence agencies, Commerce and Finance Ministries, among others, they said.
- Intelligence agencies are also relying on the findings of the report that claimed India to be one of the five countries along with Israel, Belgium, Canada and the US where trade accounts of diamond business have been used to launder illegal funds.
- The report mentioned instances where diamond prices were overvalued for purposes of laundering and suspected terror financing as there were no set standards of diamond pricing in India.
- It cited an unidentified case where some Indian importers based in Surat and Mumbai imported diamonds from Hong Kong and China by grossly overvaluing them.
- The report suspected 'round tripping' (which can be referred to a deal or transaction that returns to the place from where it had started) in diamond trade between the Indo-UAE bilateral trade as a reason for the emergence of UAE as the largest trading partner.

International Response

In response to mounting concern over money laundering, the Financial Action Task Force (FATF) on Money Laundering was established by the G-7 Summit in Paris in 1989 to develop a co-ordinated international response.

One of the first tasks of the FATF was to develop Recommendations, which set out the measures national governments should take to implement effective anti-money laundering programmes.

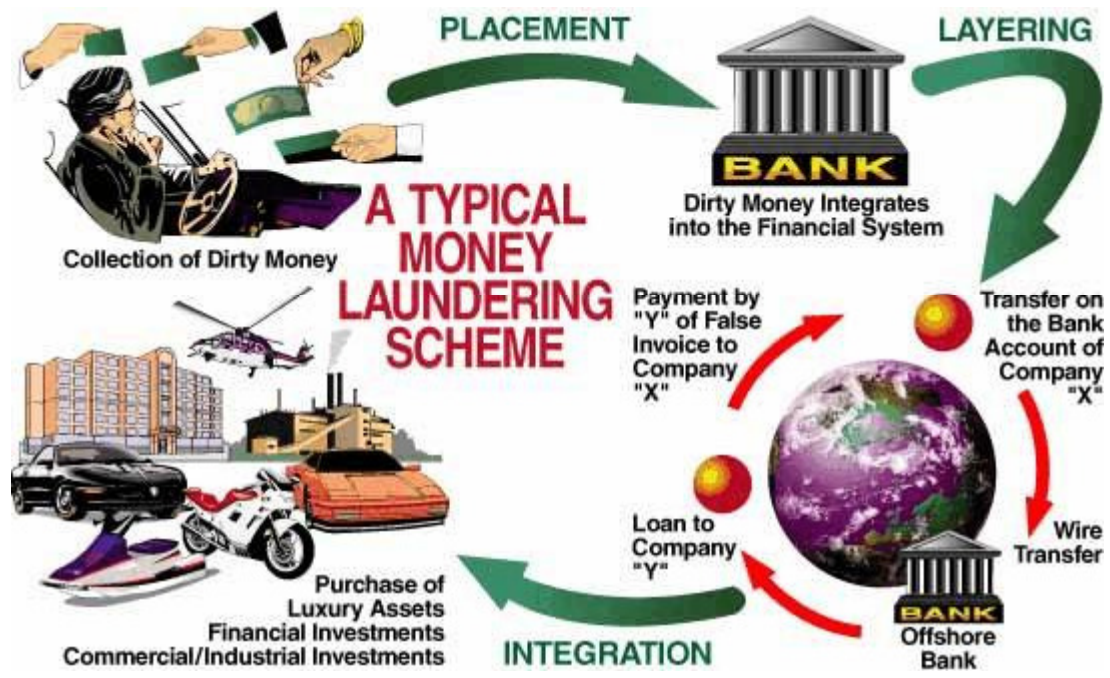
India is an active member of the FATF.

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.”

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



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.).

Recent Development

The Ahmedabad zonal unit of Enforcement Directorate (ED) on 28th March, 2015 filed prosecution in two money laundering cases against seven persons and one company under prevention of money laundering act (PMLA).

In the Rs 12 crore Ponzi scheme fraud case, ED filed prosecution against V G Dutta, Amrish Choudhary, Monica Choudhary and Achint Infracon Pvt Ltd. The three accused in 2011 had fooled people into investing in their firms promising returns of 7%. The trio had set up several fake firms including Ablaze Green, Ablaze Fincap and Ablaze Stockbroker. Earlier, ED had attached three shops and office in Galaxy Bazar in Bodakdev which is estimated to be worth Rs 1.5 crore.

In another case, ED filed prosecution against Manju Gupta, Dinesh Gupta, Chandrakant Mehta and Jatin Shah in Rs 58 lakh fraud case. The accused were running the company Oasis Media Matrix Ltd (OMML) and through the company's public offer they had made money worth Rs 58 lakh and invested in various properties.

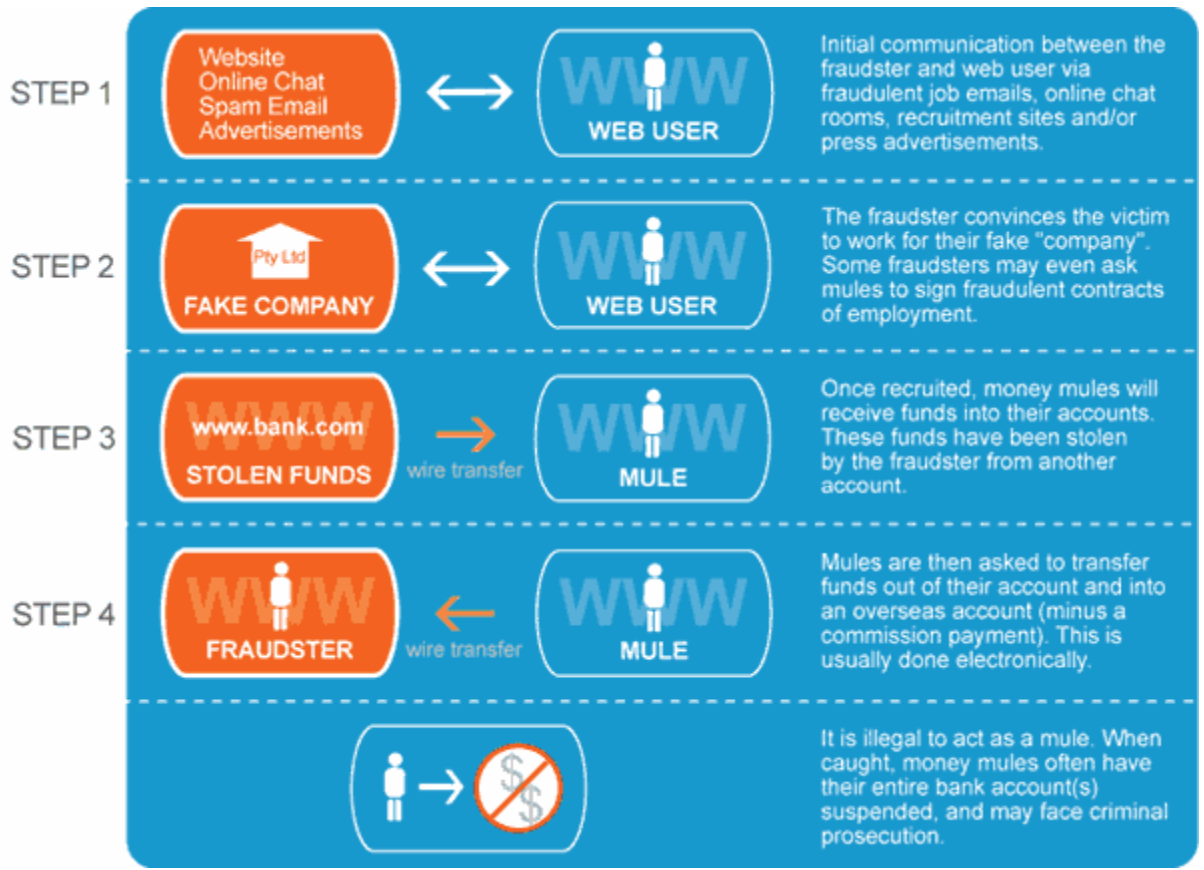
Placement

- 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.



Silk Road (anonymous market place)

- USA took down the illicit drug laundering website Silk Road in March 2015.
- Massive investigation and surveillance operation conducted over several years from multiple offices.
- The investigation culminated in the arrest of Ross Ulbricht, aka the Dread Pirate Roberts, who was convicted of all charges and faces 30 years to life in prison.
- It's now emerged that two of the federal agents working on the case used it as an opportunity to siphon hundreds of thousands of dollars in black market profits into their own personal accounts



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.



Bitcoins

- It is an invisible (virtual) currency that lets people do business with each other.
- Bitcoins are anonymous and are not traceable by anyone. They are the perfect way for people to do business with each other without revealing identities. They don't leave any digital footprints like credit card records, bank transactions, etc.
- Bitcoin has been repeatedly criticized for its usage in the money laundering cases and funding other criminal operations such as that of ISIS
- The Reserve Bank of India's advisory on Dec. 24, 2013 prompted some Indian bitcoin traders to suspend their operations, even as regulators seek clarity on digital currencies and ways to regulate them. The RBI's worries include taxation, security risks, losses due to the volatility and money laundering.
- A conference organized by India's first Bitcoin app, [Zebpay](#) in association with The Indus Entrepreneurs (TiE) on March 19, 2015 in Gujarat, India was attended by over 400 Bitcoin enthusiasts.
- Initially launched as an Indian Bitcoin exchange **buysellbitco.in**, Zebpay is now leading the formation of Bitcoin India Alliance, the digital currency association aimed at creating awareness about the cryptocurrency and boosting its adoption.

Bitcoins & India

- While regulators have not deemed virtual currencies illegal, India's law enforcement agency, the Enforcement Directorate, raided the offices of a few companies that operate bitcoin trading websites. While this might slow the adoption of bitcoins as a method of exchange, some see it as a necessary step in the currency's evolution.
- Like the RBI, global regulators are wary of the currency, which is not subject to the same kind of regulations as traditional money. China has banned banks from clearing transactions in bitcoins, while Switzerland has said they are prepared to treat it as a foreign currency. Only the United States [and Canada] supports the coin openly.
- [Unocoin](#) became the first Indian Bitcoin start-up to be funded internationally in August 2014

Biggest money-laundering settlements with US authorities

Bank	Settlement, \$m	Date	Countries involved in allegation
HSBC	1,921	December 2012	Cuba, Iran, Libya, Mexico, Myanmar and Sudan
Standard Chartered	667	August/December 2012	Iran, Libya, Myanmar and Sudan
ING	619	June 2012	Cuba and Iran
Credit Suisse	536	December 2009	Cuba, Iran, Libya, Myanmar and Sudan
RBS (<i>ABN AMRO</i>)	500	May 2010	Iran and Libya
Lloyds Banking Group	350	January 2009	Iran and Sudan
Barclays	298	August 2010	Cuba, Iran, Myanmar and Sudan

Sources: Company reports; national sources

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

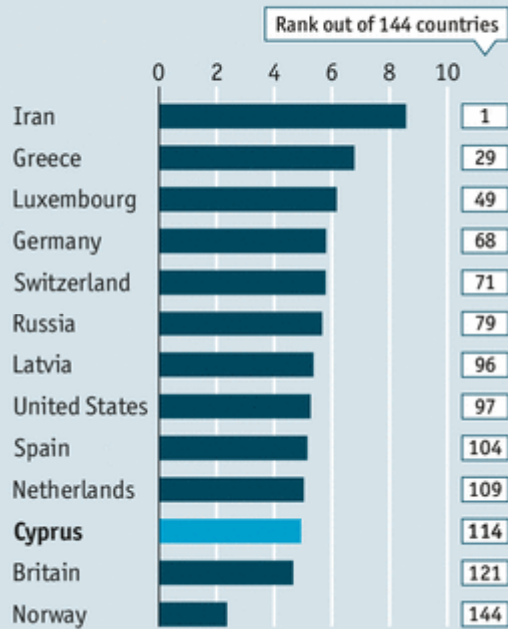
- **Money Services and Currency Exchanges:**
Money services and currency exchanges provide a service that enables individuals to exchange foreign currency that can then be transported out of the country
- **Asset Purchases with Bulk Cash**
- **Electronic Funds Transfer**
- **Postal Money Orders**

Medical Seats Scam

- The Enforcement Directorate (ED) probing a money laundering case against Kavitha G. Pillai and six others, accused in the medical seat scam case, filed a charge sheet before the Ernakulam Principal and Sessions Court in March, 2015.
- The accused in the case are Kavitha Pillai of Edappally, K. Harikrishnan of Alappuzha, Jaykrishnan of Ambalapuzha, Alan Philip of Thiruvananthapuram, Shivaramakrishnan of Muppathadam, Rashlal of Pattathanam, Kollam, and Muhammad Altaf of Kochi.
- ED officials said the accused had collected Rs.4.17 crore from people promising to arrange MBBS and MD seats in various medical colleges.
- Using this amount, they purchased properties at different parts of the State.
- The probe also revealed that the funds collected by the accused were illegal under provisions of the Prevention of Money Laundering Act.

Who are you calling dodgy?

10=highest risk of money laundering/
terrorist financing



Source: Basel AML index 2012

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

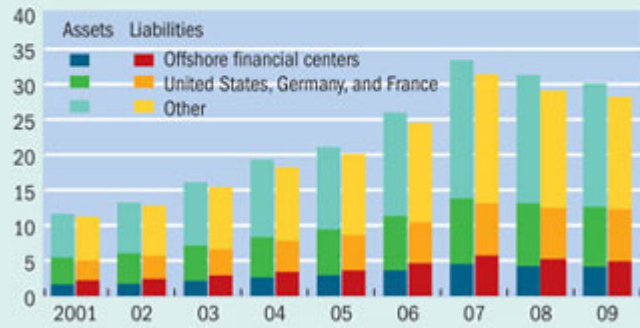
- **Loan Back:** Using this method, a criminal provides an associate with a sum of illegitimate money and the associate creates the paperwork for a loan or mortgage back to the criminal for the same amount, including all of the necessary documentation. This creates an illusion that the criminal's funds 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.

Chart 1

Counting for more

Offshore financial centers are holding increasingly large amounts of global assets and liabilities.

(trillion dollars)



Sources: Bank for International Settlements; and IMF staff calculations.

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;



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

- putting all the offences listed in Part A and Part B of the Schedule to the aforesaid Act into Part A of that Schedule instead of keeping them in two Parts so that the provision of monetary threshold does not apply to the offences.

Global Developments

- U.S. Foreign Account Tax Compliance Act (FATCA) due to take effect during 2013 and 2014
- EU Fourth Money Laundering Directive currently under development
- The UK Bribery Act 2010

Global Developments

- The importance of Anti Money Laundering (AML) to European senior management is falling faster than the other regions, with only around half of respondents stating that AML was a high profile issue in which the main board of directors took an active interest
- Most of respondents working in the American continent stated AML as being a high profile issue in which senior management took an active interest.

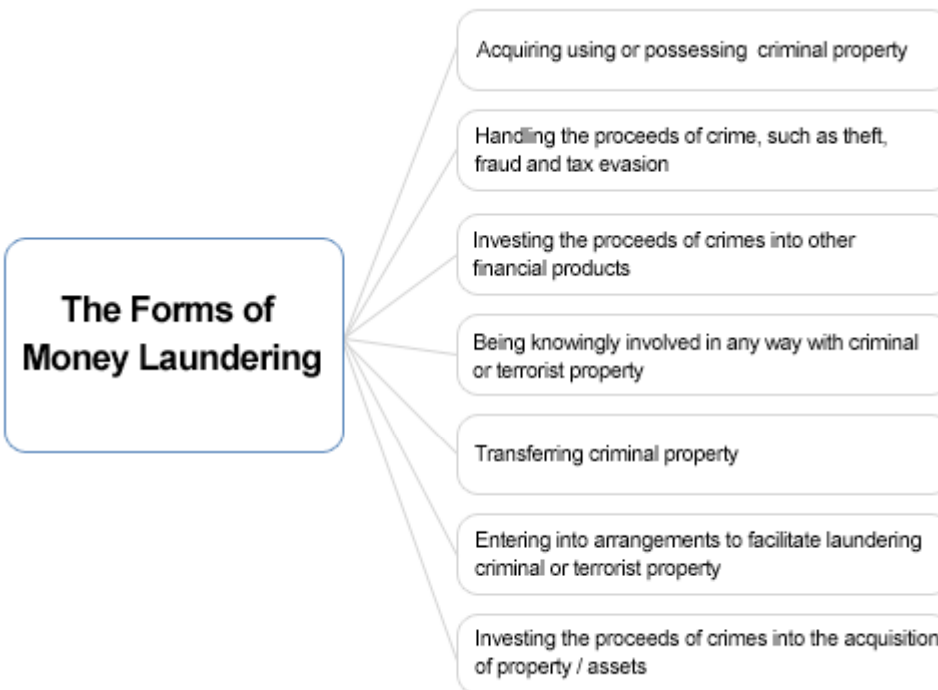
Global Developments

- This could be because of new money laundering cases in the region relating to narcotics trafficking and political corruption;
- More stringent requirements imposed on financial institutions in the region by banks in the U.S.;
- Number of countries in the region being singled out recently by the Financial Action Task Force (FATF) for deficiencies in their approach to AML and counter-terrorist financing.



OBLIGATIONS OF BANKING COMPANIES, FINANCIAL INSTITUTIONS AND INTERMEDIARIES

- Every banking company, financial institution and intermediary should –
- maintain a record of all transactions, the nature and value of which may be prescribed, whether such transactions comprise of a single transaction or a series of transactions integrally connected to each other, and where such series of transactions take place within a month;
- furnish information of such transactions to the Director;
- verify and maintain the records of the identity of all its clients.



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.



Jaganmohan Reddy

The Enforcement Directorate (ED) on March 5, 2014 had attached assets worth Rs 863 crore & on March 26, 2015 attached assets worth Rs 130 crores of YSR Congress leader Jaganmohan Reddy and his associates in connection with its probe into alleged corruption in an infrastructure project in Andhra Pradesh.

The ED slapped separate notices against Jagan and Nimmagada Prasad whose companies were allegedly favoured by the then AP government (when Jagan's father Y S Rajasekhara Reddy was Chief Minister) in the Vadarevu and Nizampatnam Industrial Corridor (VANPIC) project whose aim was to develop sea ports and a green field airport in coastal areas of the southern state and industrial corridors in Prakasam and Guntur districts.

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MAINTENANCE OF RECORDS

- "Records" include the records maintained in the form of books or stored in a computer or such other form as may be prescribed. (Sec 2(1)(w) of PMLA, 2002)
- Section 12 (1) (a) of the Act makes it mandatory for every banking company, financial institution and intermediary to maintain a record of all transactions, the nature and value of which may be prescribed, whether such transactions comprise of a single transaction or a series of transactions integrally connected to each other, and where such series of transactions take place within a month.

FURNISHING OF INFORMATION

- Section 12 (1) (b) of the Prevention of Money Laundering Act, 2002, makes it mandatory for every banking company, financial institution and intermediary to furnish information of transactions to the Director within such time as may be prescribed.
- However, if the principal officer of a banking company or financial institution or intermediary, as the case may be, has reason to believe that a single transaction or series of transactions integrally connected to each other have been valued below the prescribed value; such officer shall furnish information in respect of such transactions to the Director within the prescribed time.

FURNISHING OF INFORMATION

- **Reports prescribed under PMLA, 2002**
- The Prevention of Money laundering Act, 2002 and the Rules there under requires every reporting entity (banking company, financial institution and intermediaries) to furnish the following reports:
 - Cash Transaction reports (CTRs)
 - Suspicious Transaction Reports (STRs)
 - Counterfeit Currency Reports (CCRs)
 - Non Profit Organisation reports (NPRs)



CARBON TRADING in BELGIUM

Belgian prosecutors highlighted the massive losses faced by EU governments from VAT fraud after they charged three Britons and a Dutchman with money-laundering following an investigation into a multimillion-pound scam involving carbon emissions permits.

The three Britons, who were arrested in Belgium, were accused of failing to pay VAT worth €3m (£2.7m) on a series of carbon credit transactions.

CDBT & ED

- The finance ministry has roped in Enforcement Directorate, Financial Intelligence Unit and Directorate of Revenue Intelligence besides the I-T department to investigate the list of 600 who have allegedly stashed funds in tax havens
- ED has begun investigation of foreign exchange violations, and possible money laundering against these 600 entities. The database of 600 was first brought out by the International Consortium of Investigative Journalists (ICIJ) in the summer of 2013.



VATICAN CITY

Drug enforcement chiefs have for the first time identified the Vatican as a possible centre for money laundering from criminal activity.

The report by the American State Department's International Narcotics Control Strategy lists the Holy See as one of 68 countries including Yemen, Algeria and North Korea, describing it as a 'country of concern' for money laundering or other financial crimes.

Officials said they had placed the Vatican on its watch list because of the 'huge amount of cash' that flows into the tiny city state and also because it was still unclear how effective anti money laundering legislation introduced last year by Pope Benedict XVI had been.

IDENTITY OF CLIENTS

- It is mandatory for every banking company, financial institution and intermediary, at the time of opening an account or executing any transaction with it, to verify the record of identity and current address or addresses including permanent address or addresses of the client, the nature of business of the client and his financial status.
- If it is not possible to verify the identity of the client at the time of opening an account or executing any transaction, the banking company, financial institution and intermediary are required to verify the identity of the client within a reasonable time after the account has been opened or the transaction has been executed.

Identity of Clients

- Every banking company, financial institution and intermediary, as the case may be, should exercise ongoing due diligence with respect to the business relationship with every client and closely examine the transactions in order to ensure that they are consistent with their knowledge of the customer, his business and risk profile.
- No banking company, financial institution or intermediary, as the case may be, should keep any anonymous account or account in fictitious names.

NSEL

- The Enforcement Directorate (ED) is launching prosecution in March, 2015 against 60 former management and key executives of National Spot Exchange Ltd (NSEL) along with 13 defaulters, under the Prevention of Money Laundering Act, (PMLA) in connection with the Rs 5,600 crore scam at the exchange.
- The pre-meditated countrywide commodity scam had affected 13,000 retail investors across the country. The commodity exchange had been grappling with a payment crisis since suspending trade in July 2013.
- According to sources, the key accused who will face prosecution are Anjani Sinha, former CEO, NSEL, Amit Mukherjee, former, VP, NSEL, Jai Bahukhandi, former associate VP, warehouse development, NSEL, Shankarlal Guru, former chairman, NSEL, among others.
- It will also launch prosecution against 13 borrowers/defaulters, whose properties has been attached by the ED. This includes Mohan India and its group companies, N K Proteins, Lotus Refineries, PD Agro, Spincot Textile. ED has so far attached assets of worth Rs 1,000 crore-- both movable and immovable, under PMLA in connection with NSEL scam.

Indians Abroad

- Twelve Indians, arrested in Bahrain in connection with a major money-laundering operation, will go on trial from 1st march, 2014.

The Indians, working for an exchange company, were arrested in December, 2013 following a major investigation spanning Bahrain, Saudi and the UAE.

They along with three others are facing trial for allegedly being part of the money-laundering ring that transferred up to 350 million dinar

They have been charged with hiding data, failing to provide registers documenting the company's transactions and providing Central Bank of Bahrain (CBB) with false information, in addition to money-laundering, illegal transferring and forging documents.

HSBC to pay up \$1.9bn fine for money-laundering

HSBC has agreed to pay a record \$1.92 billion fine to settle a multi-year probe by US prosecutors, who accused Europe's biggest bank of failing to enforce rules designed to prevent the laundering of criminal cash. They also charged the bank with violating sanctions laws by doing business with Iran, Libya, Sudan, Myanmar and Cuba. HSBC admitted to a "breakdown of controls" and promptly apologized. **P 25**

...pected to be on the lines of an investi

Trusts / NGOs

- Charitable trusts, whether temples, churches or mosques, non-government organisations (NGOs), educational institutions or societies, if registered as non-profit organisations (NPOs), will not only have to disclose the source of their funds, but also be scrutinised for large monetary transactions.
- The change has been done by an amendment to the Prevention of Money Laundering Act (PMLA) 2002, notified in the Official Gazette to bring NPOs under the purview of the law. Earlier, the entities that fell under the ambit of the law included only chit fund companies, banking companies, financial institutions and housing finance companies.
- The amendment now says any company registered under section 25 of the Indian Companies Act, 1956, and/or as a trust or society under the Societies Act, 1860, or any similar state legislation, will be brought under the purview of PMLA.

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.



NGOs

- The foreign donations to the Indian Non Governmental Organisations registered a significant spurt, with 22,702 associations reporting to have jointly received Rs 11,546 crore in 2011-12.
- A total of Rs 10,334 crore was received in 2010-2011 by over 22,000 Non Governmental Organizations across the country. According to a latest report of March 2014 of the Ministry of Home Affairs, Delhi received the highest amount of contributions (Rs 2,285 crore), followed by Tamil Nadu (Rs 1,704 crore) and Andhra Pradesh (Rs 1,258 crore). The US was the biggest donor, pumping in Rs 3,838 crore followed by the UK (Rs 1,219 crore) and Germany (Rs 1,096 crore).
- Raising concern over foreign donations, the Ministry of Home Affairs said: “While it is not proper to make sweeping generalizations, it is necessary to note that the Non Governmental Organisations sector in India is vulnerable to the risks of money laundering and terrorist financing.” The Ministry said it would continue to coordinate with other countries and state Police organisations to crackdown on suspicious donations.

Know Your Client (KYC)

- Quality is Important
- Beneficial Owner - KYC
- No alternative & to be fully complied with
- Program to refresh KYC on an ongoing basis
- Rule & Risk based approach
- Concurrent KYC
- Country specific rules are to be adopted

PROVE YOURSELF ONCE MORE

Finish the paperwork soon to avoid hiccups later

WHAT ARE KYC NORMS?

KYC stands for know your customer. Compliance with KYC norms is mandatory in case of investments in mutual funds, direct equities, opening of a bank account, taking a gas connection and others

WHAT IS THE RATIONALE?

To prevent money laundering (by infusing unaccounted money into banking system)

WHAT BANKS ARE ASKING FOR

- Self attested copy of Permanent Account Number (PAN).
- Self attested proof of address
- Passport size photograph
- KYC form sent by the bank duly signed.



Financial Intelligence Unit

- FIU-IND in order to achieve its mission of providing quality financial intelligence for safeguarding the financial system from the abuse of money laundering, terrorist financing and other economic offences, has set three strategic objectives as under:
- Combating money laundering, financing of terrorism and other economic offences;
- Deterring money laundering and financing of terrorism;
- Building and strengthening organisational capacity.
- The main function of FIU-IND is to receive cash/suspicious transaction reports, analyse them and, as appropriate, disseminate valuable financial information to intelligence/enforcement agencies and regulatory authorities.

A TANGLED MONEY TRAIL

1 In 2009 BCCI paid about Rs 300 crore in foreign exchange violating RBI rules to the South African cricket board for change of venue from India.



2 The South African board was advanced Rs 11.62 crore for staging the IPL without RBI clearance. This was adjusted against BCCI's earnings during the tournament.

Rs 11.62 cr

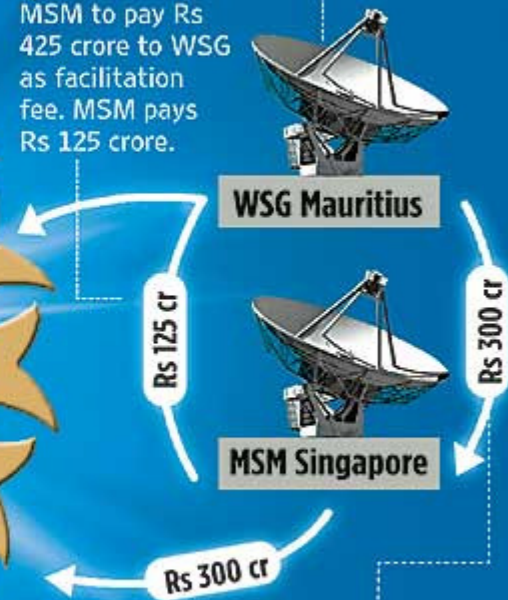
BCCI paid guarantee of Rs 62.69 crore to 55 players in foreign exchange, violating RBI rules.



1 Media rights first given to MSM Singapore were later scrapped and given to WSG Mauritius.

2 BCCI asks MSM to pay Rs 425 crore to WSG as facilitation fee. MSM pays Rs 125 crore.

3 Later, the WSG contract was scrapped and MSM was brought back. WSG is asked to pay Rs 300 crore to MSM. Later, MSM pays the money into BCCI's account.





BCCI & IPL

- The enforcement directorate (ED) in Feb 2015, issued a Rs 425-crore show cause notice to BCCI, IPL over alleged forex violations.
- The notice has been issued to the Board of Control for Cricket in India (BCCI), Multi Screen Media (Singapore), a division of Sony Entertainment, and World Sports Group (Mauritius) for forex violation to the tune of Rs 425 crore.
- The notice has also been sent to N Srinivasan, former IPL commissioner Lalit Modi, IPL COO Sundar Raman, MSM CEO Manjit Singh, International Management Group (IMG) legal counsel Paul Manning and seven other directors of WSG and MSM.
- ED has accused all the parties of fraudulently creating an asset worth Rs 425 crore outside India under the guise of a facilitation fee.
- The issue isn't a new one as the scam revolves around the 10-year media rights of IPL matches awarded to WSG, starting 2009. The total contract value was Rs 4,792 crore.

Enforcement Directorate

The main functions of the Directorate are as under

- To enforce Foreign Exchange Management Act 1999 and Prevention of money Laundering Act 2002.
- To collect and develop intelligence relating to violation of the provisions of Foreign Exchange Management Act and Prevention of money Laundering Act 2002.
(Section 48 & 49 of PMLA)
- To conduct searches of suspected persons, conveyances and premises and seize incriminating materials (including Indian and foreign currencies involved).

ED

- To enquire into and investigate suspected violations of provisions of Foreign Exchange Management Act and Prevention of money Laundering Act 2002.
- To adjudicate cases of violations of Foreign Exchange Management Act penalties departmentally and also for confiscating the amounts involved in violations.
- To realize the penalties imposed in departmental adjudication.
- To attach and confiscate properties involved in the act of Money laundering.
- To arrest the person suspected to be involved in the act of money laundering.
- To prosecute the person involved in the act of money laundering.



Standard Chartered Bank

The settlement with the New York Department of Financial Services, which included a \$300m fine, followed the discovery of a flaw in StanChart's transaction monitoring system that flouted the terms of a 2012 settlement for violating sanctions with countries including Iran.

StanChart has been given 90 days by the US regulator to sell or close the accounts of its small business clients in the UAE. The Gulf country's central bank said 1,400 to 8,000 accounts could be affected.

www.mashahca.com

Standard Chartered Bank

- The Enforcement Directorate (ED) in December, 2014 slapped notices on private sector lenders Tamilnad Mercantile Bank (TMB) and Standard Chartered Bank for contraventions of the Foreign Exchange Management Act (Fema) in the transfer of shares of TMB to non-resident Indian investors in 2007.
- The notice issued by KR Udaya Bhaskar, ED special director in Chennai, asked the banks to reply within 30 days.
- In 2007, some non-resident investors (NRIs) acquired the shares of unlisted TMB from the local shareholders. The Reserve Bank of India (RBI) suspected Fema contraventions in these transfer of shares and referred the issue to ED, for necessary action, said the notice.

Financial Action Task Force

- The Financial Action Task Force (FATF), also known by its French name, Groupe d'action financière (GAFI), is an intergovernmental organization founded in 1989 on the initiative of the G7. The purpose of the FATF is to develop policies to combat money laundering and terrorism. The FATF Secretariat is housed at the headquarters of the OECD in Paris.
- India is member of FATF since 2010



Reliance Ind Ltd

RIL has rejected allegations of making foreign direct investments (FDI) in certain Indian companies through the Singapore-based firm Biometrix.

Describing the allegation of it being involved in the laundering of "monies" in India as completely false, the RIL said in a statement that these baseless allegations are being repeatedly made in the media and in judicial proceedings, and have been already been responded to.

Coal Scam

- The Enforcement Directorate is all set to attach a few properties of former minister of state for coal Dasari Narayan Rao after the allegations of money laundering in the coal scam are established.
- The directorate has identified the properties and process will begin in April, 2015. Naveen Jindal's Jindal Steel and Power Limited had transferred Rs 2.25 crore in Rao's company Saubhagya Media limited in lieu of the favour given by the minister. Rao has already been examined by ED in the case apart from other coal scam cases it is investigating.
- The probe in coal scam case is in advanced stage and investigators have listed the property which will be attached as part of this particular case. CBI had registered a case against Dasari Narayan Rao, Jindal, and unknown screening committee members for alleged irregularities in allocation of Amarkonda Murgadangal coal block to JSPL.

Money Laundering through HK Banks

- Unique modus operandi to launder money by some importers who submitted fake bills to get bank remittances in their foreign accounts mainly located in Hong Kong.
- Huge amount of foreign exchange had been remitted to various overseas accounts located mostly in Hong Kong
- Big corporates are also involved in the Trade Based Money Laundering (TBML).

Money laundering & Martin's lottery

- The CBI probe into lottery scam involving lottery dealer Santiago Martin has found out that Sikkim state lottery was widely used for money laundering.
- Most of the winners told CBI that they had bought Sikkim lottery tickets from middlemen to launder money. They claimed to have paid middlemen more than the prize money. The first prize was Rs20 lakh

Kemrock Industries

- Enforcement Directorate (ED) filed a money laundering case against Vadodara-based Kemrock Industries and Exports Pvt Ltd (KIEPL) for siphoning off Rs 140 crore taken in loans from a private bank.
- This is the 12th case of money laundering detected by the ED's regional office in Ahmedabad in 2014. As many as five and four cases have been filed in Indore and Ahmedabad respectively, while in Surat two cases have been registered including the Rs 5,395 crore hawala racket, where the figure can reach Rs 7,000 crore

2014 FATF Report

- The recent report of the global anti-money laundering body shows India is the one member of the 34-nation group ringed by the largest number of countries with a patchy record, surrounding it.
- The report by the FATF is meant to show progress in combating money laundering in the world. Action against this crime is significant as most of the other trans-national crimes including terrorism uses this as a conduit.
- The Reserve Bank of India has placed the update of the report on its website on March 17, 2014. In the Indian neighborhood, the countries where progress in combating money laundering and financial terrorism has been scratchy include Iran, Pakistan, Afghanistan and Myanmar. Two other countries which were under FATF surveillance, Nepal and Bangladesh have emerged from there as per the report.

2014 FATF Report

- The Indian customs and other border patrolling agencies have found that the largest source from where fake Indian currency notes are pushed into the country is Pakistan.
- The extension of the FATF sanction over such a large swathe of India's neighbours mean this is a lethal cocktail for the Indian security agencies



India – USA Cooperation

Focusing on terrorism financing and money laundering, India and the US have agreed to expand cooperation in targeting the financial networks of terrorist organisations, including Pakistan based Lashkar-e-Taeba (LeT).

SPOILS OF SALE

\$10.9 billion

(about ₹60,000 crore)
US-based Amway
Corporation

₹2,288 crore

Revenue of Amway
India (2011-12)

1.5 million

Independent Amway
business owners

Business Model

- It is based on retailing of products wherein new members enrich old ones
- There is no joining fee. Any adult can enroll
- Members' earnings are calculated on the basis of points value that you earn on buying a product and business volume, which is equal to the distributor's cost of acquiring Amway products minus taxes



France busts international cannabis money-laundering network

French police have busted in March, 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



Punjab Kabbadi

First it was a dubious link to an international synthetic drugs racket and now another accusation has come - money laundering.

The Central Bureau of Investigation (CBI) has in March, 2014 asked the Punjab government to furnish records of the World Kabaddi Cup organised by it in recent years.

The CBI, which recently booked owners and directors of realty company Pearls Group in an alleged Rs.45,000-crore agricultural land scam, had turned its focus on the World Kabaddi Cup, an event of the Punjab government.

Bhola Drug case in Punjab

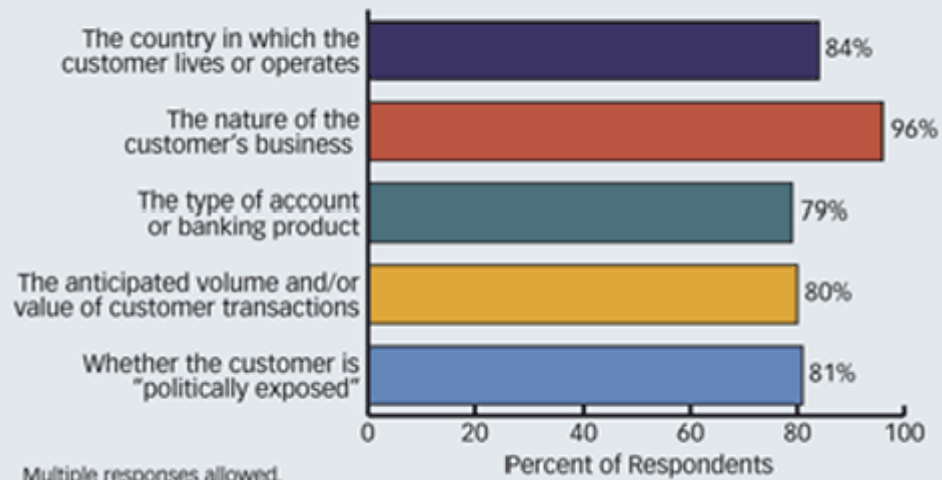
- Case involving, investing of Drug money into property & transferring drug money overseas through havala
- ED had in March, 2014 filed a Chargesheet against 7 persons & now 12 new persons have been named on march 2, 2015. another 35 persons are under scrutiny
- More than 100 of benami entries to accounts opened overseas had received money

SEBI & PMLA

- The Securities and Exchange Board of India has tweaked its anti-money laundering/countering the financing of terrorism norms, reducing the time intermediaries have to maintain client records and allowing them to depend on third parties for carrying out due diligence of its clients.
- According to a circular issued on March 12, 2014, the changes were made following amendments made to the Prevention of Money Laundering Act and the Prevention of Money Laundering Rules.

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

SEBI & PMLA

- In the circular, stock exchanges have been asked to monitor compliance of the new norms through half-yearly audits and inspections, and inform SEBI. The regulator has reportedly been increasing its vigilance of money laundering activity in the light of the general elections. “Registered intermediaries may rely on a third party for the purpose of (a) identification and verification of the identity of a client and (b) determination of whether the client is acting on behalf of a beneficial owner, identification of the beneficial owner and verification of the identity of the beneficial owner,” said the circular.

Rose Valley

- Enforcement Directorate on March 25, 2015 arrested Chairman of Rose Valley group of companies [Gautam Kundu](#) in money laundering and ponzi scheme scam case in Kolkata.
- According to reports, the Rose Valley group had raised at least Rs 10,000 crore under a so-called time-share scheme.
- Reports say that the group claims the deposits collected under the scheme were to be redeemed on maturity in form of accommodation in their hotels.
- However, the ED official claim that the scheme was just an eye-wash and the group promised repayment in cash on maturity, adding that they have enough proof back it.

Betting Racket in Gujarat

- Racket involving more than 500 Crores busted by Gujarat ED, in March 2015
- During Cricket World Cup, 2015
- 100 Mobiles, 25 laptops are seized
- 2 persons are arrested – Tommy & Kiran Patel
- Both the above persons used to shift base regularly

Corporate Espionage

- The Enforcement Directorate (ED) is likely to initiate its own investigations into the corporate espionage case currently being investigated by the CBI.
- The agency would probe foreign exchange violations, if any, in the case by the suspects, including suspected multi-national firms.
- The ED is now scrutinising FIR registered by the CBI in this regard. If required, the ED may initiate a preliminary enquiry into the matter.
- The CBI on February 12, 2015 had registered a case of criminal conspiracy, theft under IPC and misuse of official position under the provisions of the Prevention of Corruption Act
- The CBI recently questioned several private persons belonging to multi-national firms in connection with case.
- The ED may also seek clarifications from representatives of the private firms allegedly involved in the case being probed by the CBI. The CBI recovered a huge cache of documents related to several files on foreign investment proposals

Thank you