

UNIQUE SERVICES A CA CAN PROVIDE TO GUIDE CLIENT UNDER PMLA, BENAMI, & PREVENTION OF CORRUPTION LAWS ETC.



BY

CA. (Dr.) Adukia Rajkumar Satyanarayan



Your Candidate for Central Council Election (ICAI-Western Region) 2021 requesting your FIRST/BEST preference vote to **Ballot No. 1** on my credentials and proven record and performance and let us contribute to make India No. 1 economy in world by making contributory services in all levels of economic activities, policy making initiatives through you and ICAI

**MY MISSION IS TO TRANSFORM CA PROFESSION - MAKE EVERY CITIZEN ECONOMICALLY POWERFUL &
INDIA THE MOST POWERFUL NATION OF WORLD !
MY PASSION IS TO MAKE EVERY CA MEMBER & STUDENT SPEAKER & WRITER !**

Author of more than 300 books & Global business, professional growth and motivational coach
Passionate to make anyone Speaker, Writer, Acquiring New Knowledge ,Professional Qualifications ,
Growth in Business & Promotion As CEO

Member IFAC-PAIB committee 2001-2004; Member IFRS SMEIG London 2018-2020
Ex-director - SBI mutual fund, BOI mutual fund, global mediator and international arbitrator
B. Com (Hons), M. Com , FCA, FCS, FCMA, LL.B, LLM(Constitution),Dip CG, MBA, Dip IFRS (UK),
DLL&LW, Dip IPR, Dip in Criminology, Ph. D, Mediation ,IP(IBBI), MBF, Dip HRM, Dip Cyber Law
20+ Certificate courses; 75+ Self Development Courses
Student of : MA(Psychology), MA (Economics), PGD CSR, PGD Crime
Investigation IBBI(RV)+++++

Ranks ALL INDIA 1st in Inter CA; 6th in CA Final; 3rd in CMA Final, 5th in Mumbai University +++
Chairman western region ICAI 1997; Council Member ICAI 1998-2016
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**By giving your most valuable First/Best Preferential Vote to me,
I vouch you yourself will be the member of the council!**

AGENDA

1. Building a mindset to study the subject
2. Socio-economic offences
3. How to become master of this unexplored area of practice
4. The Prohibition of Benami Property Transactions Act 1988
5. The Prevention of Money-laundering Act 2002
6. The Fugitive Economic Offenders Act 2018
7. The Prevention of Corruption Act 1988
8. The Black money (undisclosed foreign income and assets) and imposition of tax act, 2015
9. How to get the work and render service to society at large

COMPETENCE OF CA'S FOR PRACTICE IN FIELD OF ECONOMIC OFFENCES

- We are master of interpretation of comma, full stop , inclusive , exclusive definition
- The Income Tax Act 1961 and The CGST Act are considered most complex laws
- Ticket size in economic offence is big – resulting fees is big
- CA is Most conversant with business environment
- CA has Expertise in finance
- Client does not only First approach CA for any solution to any legal notices but also for social and family matters like matrimonial matters
- Knowledge in this field will enhance skill for audit and direct and indirect tax practice

PROFESSIONAL OPPORTUNITIES FOR CAS

1. Consultancy
2. Appearance before regulators SFIO, EOW, CBI, ACB , NCB etc. etc.
3. First response to legal authority is very important
4. Due diligence under PMLA
5. Filing monthly compliances under PMLA
6. Appearance before adjudicating authorities
7. Appearance before tribunal
8. Economic laws compliance audit
9. Advisor to regulators, ministries

PROFESSIONAL OPPORTUNITIES FOR CHARTERED ACCOUNTANTS- REPORTING ENTITIES 2(1)(WE) PMLA

- **250 plus large banks members of Indian Banks Association**
www.iba.org.in
- 85 plus Housing Finance Companies
- 4594 Registered Stock Brokers in equity segment
- 80 Share Transfer Agents registered with SEBI
- 66 Bankers to issue
- 215 merchant bankers registered with SEBI
- 62 Cooperative Banks registered under MSCS Act, 2002 and 2000 plus state cooperative banks www.nafcub.org
- Chit funds, payment system operators, insurance companies

PROFESSIONAL OPPORTUNITIES FOR CHARTERED ACCOUNTANTS

- The statistics reveal that there is tremendous potential in this field.
- The various intermediaries who are reporting entities are the very entities where the scope of our work lies
- We can find opportunities for growing our practice and income
 - By being advisors to these reporting entities
 - By appearing at the Appellate tribunal under these laws
 - By presenting the case of our clients to the Adjudicating authority
 - In conducting due diligence for clients to comply with the laws
 - For putting in place the policies and guidelines as required under the law.

HOW TO UNLOCK THE POTENTIAL?

- Change the Mindset. Move beyond the limitations
- Embrace new areas of practise
- Master the subject by thorough reading, giving seminars, webinars or writing a book on this subject.
- Writing to the concerned authority for being their advisors
- Writing to Financial institutions, intermediaries, cooperative banks, intermediaries registered under pension Fund regulatory and development Authority, recognised stock exchange, housing Finance institutions for being their advisors
- Assist the client in drafting the replies, to comply by KYC requirements, assist in appearing before the Adjudicating Authorities

Andrew Carnegie



You are what you think. So just think big, believe big, act big, work big, give big, forgive big, laugh big, love big and live big.

AZ QUOTES


**“The mind is everything.
What you think you
become.”**

– Buddha



THE HUMAN BRAIN

- Made up of about 75% water.
- Consists of about 100 billion neurons.
- Consists of at least 60% fat.
- Uses 20% of the total oxygen in the body.
- If your brain loses blood for 8 to 10 seconds, you will lose consciousness.
- While awake, your brain generates between 10 and 23 watts of power -- or enough energy to power a light bulb.
- The brain can live for 4 to 6 minutes without oxygen, and then it begins to die.



**"For him who has
conquered the mind, the
mind is the best of
friends; but for one who
has failed to do so, his
very mind will be the
greatest enemy."
*Bhagavad Gita, 6.6***

Mind - friend or enemy?

FOCK

A close-up photograph of a very muscular man's torso and arm. He is holding a black dumbbell with his right hand, flexing his bicep. The background is a plain, light grey color. Overlaid on the image is a motivational quote in large, white, bold, sans-serif capital letters. At the bottom center of the image, there is a small circular logo with a stylized 'L' and the word 'Lifhack' next to it.

**TODAY I WILL DO WHAT OTHERS WON'T SO
TOMORROW I CAN DO WHAT OTHERS CAN'T.**

 Lifhack

WHAT IS AN OFFENCE?

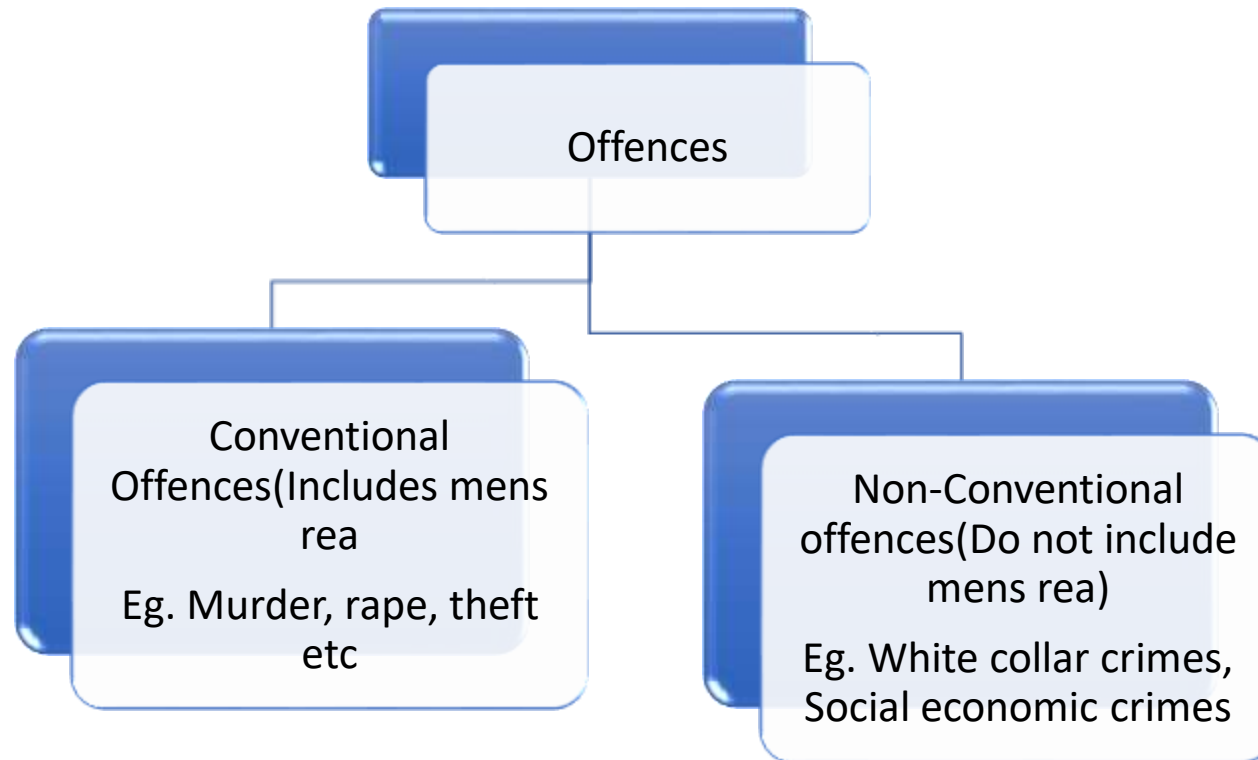
- According to the definition by Oxford

An offense is a breach of a law or rule; an illegal act.

- Offence is the British spelling of *offense*, meaning "a punishable act." If you break a law for the first time, it's your first *offence*.
- The noun *offence* comes from the Latin word *offend ere*, which means "strike against." Any time you break a law or a rule it is an offence against that law or rule. Also meaning "rudeness" — or the anger caused by it. In countries like the United States, the preferred spelling is *offense*, so don't take offense if someone corrects you.

TYPES OF OFFENSES

There are mainly two types of offences



CONVENTIONAL AND NON CONVENTIONAL

- A number of offences have been prevailing in the society for a long time. Offences are the illegal actions resulting from the breach of law. These offences can be classified into two main categories namely,
 - (i) conventional offences and
 - (ii) non- conventional offences.
- Conventional Offences consist of Mens Rea. For e.g., murder, theft, rape etc. Non- Conventional Offences do not contain Mens Rea.
- White collar crimes, socio economic offences, organised crimes, etc. are a few examples of non-conventional crime.
- Traditional crimes like theft, robbery, rape, murder etc. were more common and were dealt with the general law of crimes.
- But Socio economic crimes as its name suggest are social crimes and affects the health and morals of the public and economic crimes consist of those offences that affect the economy of the country as a whole.
- These are punishable under the special laws of crimes ABOUT 600 LAWS – 2000 OFFENCES

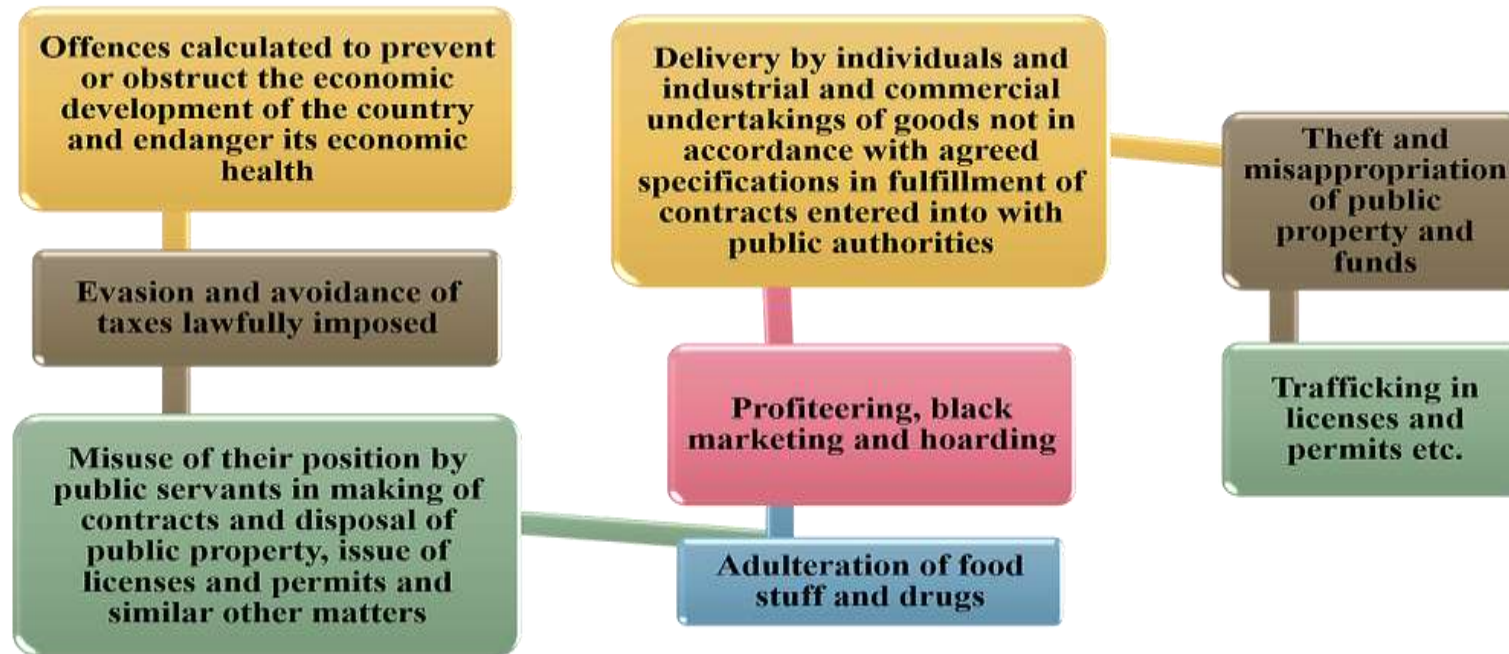
CHARACTERISTICS OF SOCIO-ECONOMIC OFFENCES

- **47th law Commission Report submitted on 28th February 1972 by Shri. P B Gajendragadkar**

Characteristics of Socio-economic offences

- In these types of offences the *mens rea* is not lust, hate, revenge, etc.. like any other criminal act rather it is greed.
- Usually, in these types of offences the victim is mainly public at large, especially the consuming public and even though if there is no harm to any particular person, but the harm is caused to the society which has a very large impact upon the society,
- The mode of these type of offences is fraud generally and not force,
- The act which results in the commission of these type of offences is generally a deliberate and willful act,

TYPES OF SOCIO-ECONOMIC OFFENCES



THE PERIOD OF LIMITATION FOR TAKING COGNIZANCE OF OFFENCES IS LAID DOWN IN SECTION 468 OF CR.P.C. 1973

- Period of limitation is 6 months for offences punishable with fine only;
- Period of limitation is 1 year for offences punishable with imprisonment for a term not exceeding one year;
- Period of limitation is 3 years for offences punishable with imprisonment for a term exceeding one year but not exceeding three years.
- There is NO period of limitation for offences which are punishable with imprisonment exceeding three years or which are punishable with death penalty.

COGNIZABLE AND NON-COGNIZABLE OFFENCE

- The offence in which the police suo motu takes cognizance of crime and also does not need approval of court, known as a cognizable offence. While, in non-cognizable, police has no authority to arrest a person for crime on its own, without prior approval of court.
- In cognizable, the police can arrest a person without any warrant. While, in case of non-cognizable offence, a warrant must be needed for arrest of person.
- In cognizable, court's order is not required to start an investigation. Conversely, in the non-cognizable offence, first of all, court's order should be obtained for undertaking an investigation.
- Cognizable are heinous crimes, whereas non-cognizable offences are not so serious.
- Cognizable encompasses murder, rape, theft, kidnapping, counterfeiting, etc. On the contrary, non-cognizable offences include offences like forgery, cheating, assault, defamation and so forth.
- For a cognizable, one can file FIR or make a complaint to the magistrate. Unlike, in case of non-cognizable offence one can only make a complaint to the magistrate.

BAILABLE OFFENCE

- Section 2(a) of CrPC defines bailable offences as the offence that has been shown in the First Schedule as bailable or which is made bailable by any other law for the time being in force. The first schedule of the CrPC is divided into two parts wherein the first part deals with the offences given under IPC and the second part deals with the offences under other laws.
- As per the last item of the First Schedule, an offence in order to be bailable would have to be an offence which is punishable with imprisonment for less than three years or with fine only. Some of the common bailable offences are: Simple Hurt (Section 337; IPC), Bribery (Section 171E; IPC), Public Nuisance (Section 290; IPC), Death by Rash or Negligent Act (Section 304A; IPC).

NON BAILABLE OFFENCE

- As per Section 2(a) of CrPC, non-bailable offence includes all those offences which are not included in bailable offence in the First Schedule. Further, the First Schedule in its Second part at its end has defined non-bailable offence as the offences which are punishable with death, imprisonment of life or imprisonment for more than seven years.
- A person accused of a non-bailable offence does not have right to be released on bail but the bail can be granted at the discretion of the court, subject to certain conditions given in Section 437 of CrPC.

THE PROHIBITION OF BENAMI PROPERTY TRANSACTIONS ACT 1988

Year	
1971	Insertion of s.281A in the Income Tax Act, 1961 by Taxation Laws (Amendment) Act
7 th August 1973	Law Commission 57 th Report “Benami Transactions”
19 th May 1988	The Benami Transactions (Prohibition of the Right to Recover Property) Ordinance, 1988 promulgated
14 th August 1988	Law Commission 130 th Report “Benami Transactions – a Continuum”
5 th Sept 1988	The Benami Transactions (Prohibition) Act,1988 enacted
18 th August 2011	The Benami Transactions (Prohibition) Bill introduced
13 th Sept 2011	Bill referred to Standing Committee on Finance
15 th June 2012	Standing Committee on Finance Report
1 st November 2016	The Benami Transactions (Prohibition) Amendment Act, 2016 enacted
1 st November 2016	The Prohibition of Benami Property Transactions Rules, 2016 come into force

THE 57TH LAW COMMISSION REPORT SUBMITTED ON 7TH AUGUST 1973 BY SHRI P B GAGENDRAGADKAR

- Cause of reference – problem of property held benami causing concern to tax authorities – whether such transactions should be prohibited
- Origin of benami
 - Joint Hindu Family system & desire to make provisions
 - To defraud creditors
 - To evade taxes
 - To avoid political & social risks
- Principle that transaction is presumed to be for the benefit of the person providing money
- Creates resulting trust by virtue of s.82 of Indian Trusts Act, 1882
- Section 81 & 82 repealed by the benami transactions(prohibition) Act 1988 wef 19th may 1988
- English law – presumption of resulting trust; presumption of advancement in case of wife or child
- Indian law – no presumption of advancement in case of wife or child

CONTD....

- Clubbing provisions adequate to deal with transfer to wife/minor child
- S.281A requires disclosure of benami transactions – no further radical measures required for checking evasion of direct taxes
- Recommendation – law should provide that where property is transferred benami, the benamidar will become real owner

THE BENAMI TRANSACTIONS PROHIBITION (AMENDMENT) ACT, 2016

- Notified on 10th August 2016
- Came into force on 1st November 2016
- Name of Act changed to Prohibition of Benami Property Transactions Act, 1988
- Now applicable to Jammu & Kashmir vide the entry 5 of fifth schedule under the Jammu & Kashmir Reorganization Act, 2019 effective from 31st October 2019
- Prohibition of Benami Property Transactions Rules, 2016 notified on 25th October 2016 – come into effect from 1st November 2016
- Repeal of sections 81, 82 & 94 of Indian Trusts Act, 1882, section 66 of Code of Civil Procedure, 1908 and section 281A of Income Tax Act, 1961 (s.281A continues to be applicable in J & K)

BENAMI TRANSACTIONS

- Definition of benami transaction
 - *a transaction or an arrangement—*
 - (a) where a property is transferred to, or is held by, a person, and the consideration for such property has been provided, or paid by, another person; and*
 - (b) the property is held for the immediate or future benefit, direct or indirect, of the person who has provided the consideration*
- Specifically included in definition of benami
 - Property transaction or arrangement carried out or made in a fictitious name
 - Property transaction or arrangement where owner is not aware of or denies knowledge of such ownership
 - Property transaction or arrangement where person providing the consideration is not traceable or is fictitious

EXCEPTIONS OF BENAMI TRANSACTIONS

- Exceptions to main definition –
 - Karta or member of HUF – held for benefit of members, consideration out of known sources of HUF
 - Fiduciary capacity – includes trustee, executor, partner, director of a company, a depository or a participant as agent of depository
 - Spouse or child of individual, where consideration out of known sources of individual
 - Brother or sister or lineal ascendant or descendant, where name appears as joint-owner, consideration out of known sources
 - transaction involving the allowing of possession of any property to be taken or retained in part performance of a contract referred to in s. 53A of the Transfer of Property Act, 1882, if following conditions met:
 - (i) consideration for such property has been provided by the person to whom possession of property has been allowed but the

person who has granted possession thereof continues to hold ownership of such property;

(ii) stamp duty on such transaction or arrangement has been paid; and

(iii) the contract has been registered.

BENAMI TRANSACTIONS

- Transactions - whether benami?
 - Unregistered agreements/MoUs for purchase of property where possession taken pending approvals of Collector/Government, with 90% of consideration paid
 - Possession of property given under PoA with agreement to sell
 - Property held in name of grandson
 - Property held jointly with daughter-in-law
 - Property purchased by son-in-law with interest-free loans from father-in-law
 - Land purchased by aggregator for buyer, held in name of aggregator with funds provided by buyer
 - Land/shares purchased by company, having nominal capital, with interest-free loans from a) shareholders; b) relatives of shareholders
 - Shares purchased by customer through margin funding by broker

IMPLICATIONS OF BENAMI PROPERTY TRANSACTIONS

- No person should enter into any benami transaction – applicable post commencement of the Act
- No suit, claim or action to enforce any property rights by real owner against benamidar or any other person – no defense based on any property right allowed by real owner in any suit, claim or action
- Benami property liable to be confiscated by Central Government – shall vest in Central Gov. free of all encumbrances – no compensation
- Benamidar cannot re-transfer benami property to beneficial owner or any person acting on his behalf
 - if done, such transaction deemed to be null and void
 - Not applicable to transfer pursuant to s.190 of Finance Act 2016 (Income Declaration Scheme 2016)

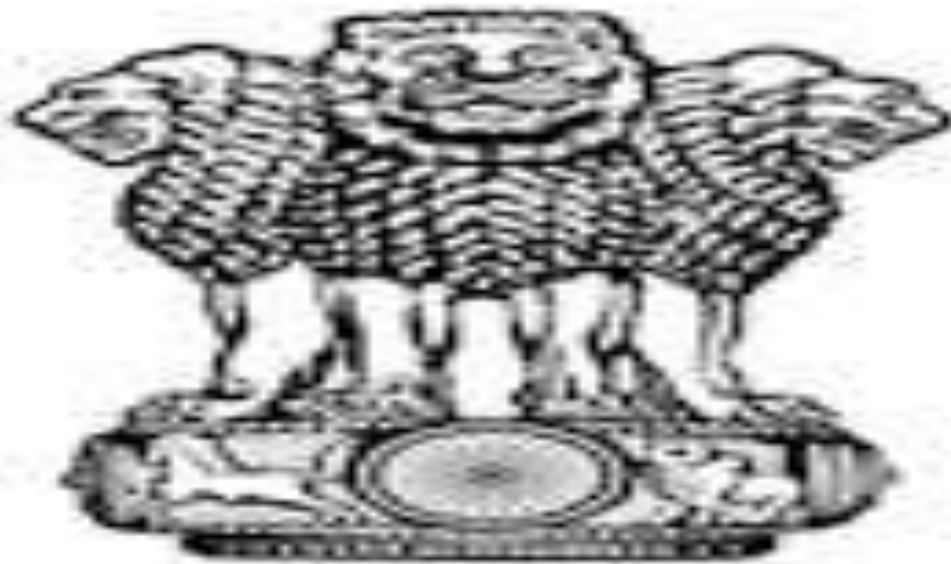
PROCEDURES

- Initiating Officer (ACIT/DCIT) – if reason to believe, record reasons, to issue show cause notice – to both benamidar as well as beneficial owner (if known)
- Power of provisional attachment of property by the Initiating Officer
- Power to call for information, impound documents, and conduct enquiry after obtaining prior approval of Approving Authority (Addl/Jt CIT)
- Draw up statement of case and refer it to Adjudicating Authority
- Opportunity of being heard to benamidar, Initiating Officer and person claiming to be owner
- Adjudication by the Adjudicating Authority – 1 year time limit
- Administrator to take possession of property on confiscation order
- Appeal to the Appellate Tribunal (Chairperson, Judicial Member, Administrative Member) – confiscation subject to appeal order
- Appeal to High Court

PENALTIES FOR BENAMI PROPERTY TRANSACTIONS

- If benami transaction is done in order to defeat provisions of any law or to avoid payment of statutory dues or to avoid payment to creditors – beneficial owner, benamidar and other person who abets or induces any person to enter into benami transaction shall be guilty of offence of benami transaction
 - Whether requirement of offence of benami transaction essential prerequisite for order of confiscation?
- Rigorous imprisonment of not less than 1 year up to 7 years, and also fine up to 25% of the fair market value of the benami property
- Provision of false information or document – rigorous imprisonment for not less than 6 months up to 5 years, and also fine up to 10% of fair market value of property

The Prevention of Money Laundering Act, 2002



सत्यमेव जयते



ORIGIN OF WORDS MONEY LAUNDERING

- A common belief is that the term '[money laundering](#)' originated in 1920 because Italian members of the mafia in the United States, such as Al Capone .
- Amount of cash flowing into the Laundromat operations was hard for law enforcement to monitor, which means a lot of cash could sneak past the system unnoticed.
- Capone's connection to Laundromats may have given us the glamorous phrasing, however the act was going on from a long time before the twentieth century.

COMBATING SOCIO-ECONOMIC OFFENCES

- The Financial Action Task Force (FATF) is the global money laundering and terrorist financing watchdog.
- It is the inter-governmental body which sets international standards that aim to prevent these illegal activities and the harm they cause to society.
- The FATF has developed the FATF [Recommendations](#), or FATF Standards, which ensure a coordinated global response to prevent organized crime, corruption and terrorism.

FINANCIAL ACTION TASK FORCE

- The Financial Action Task Force (FATF) is the global money laundering and terrorist financing watchdog.
- The inter-governmental body sets international standards that aim to prevent these illegal activities and the harm they cause to society.
- As a policy-making body, the FATF works to generate the necessary political will to bring about national legislative and regulatory reforms in these areas.
- The Financial Action Task Force (FATF) was established in July 1989 by a Group of Seven (G-7) Summit in Paris, initially to examine and develop measures to combat money laundering. .
- In October 2001, the FATF expanded its mandate to incorporate efforts to combat terrorist financing, in addition to money laundering. In April 2012, it added efforts to counter the financing of proliferation of weapons of mass destruction.

FATF RECOMMENDATIONS

- The FATF has issued 40 recommendations divided into 7 sections

A – AML/CFT POLICIES AND COORDINATION

- i. Assessing risks & applying a risk-based approach
- ii. National cooperation and coordination

B – MONEY LAUNDERING AND CONFISCATION

- i. Money laundering offence
- ii. Confiscation and provisional measures

FATF RECOMMENDATIONS

C – TERRORIST FINANCING AND FINANCING OF PROLIFERATION

i. Terrorist financing offence

ii. Targeted financial sanctions related to terrorism & terrorist financing

iii. Targeted financial sanctions related to proliferation

iv. Non-profit organizations

D – PREVENTIVE MEASURES

Financial institution secrecy laws

Customer due diligence and record keeping

Additional measures for specific customers and activities

FATF RECOMMENDATIONS

Reliance, Controls and Financial Groups

Reporting of suspicious transactions

Designated non-financial Businesses and Professions (DNFBPs)

**E – TRANSPARENCY AND BENEFICIAL OWNERSHIP OF LEGAL PERSONS
AND ARRANGEMENTS**

i. Transparency and beneficial ownership of legal persons

ii. Transparency and beneficial ownership of legal arrangements

FATF RECOMMENDATIONS

F – POWERS AND RESPONSIBILITIES OF COMPETENT AUTHORITIES AND OTHER INSTITUTIONAL MEASURES

- i. Regulation and Supervision
- ii. Operational and Law Enforcement
- iii. General Requirements
- iv. Sanctions

G – INTERNATIONAL COOPERATION

- i. International instruments
- ii. Mutual legal assistance

FATF RECOMMENDATIONS

- iii. Mutual legal assistance: freezing and confiscation
- iv. Extradition
- v. Other forms of international cooperation

PROLIFERATION FINANCING

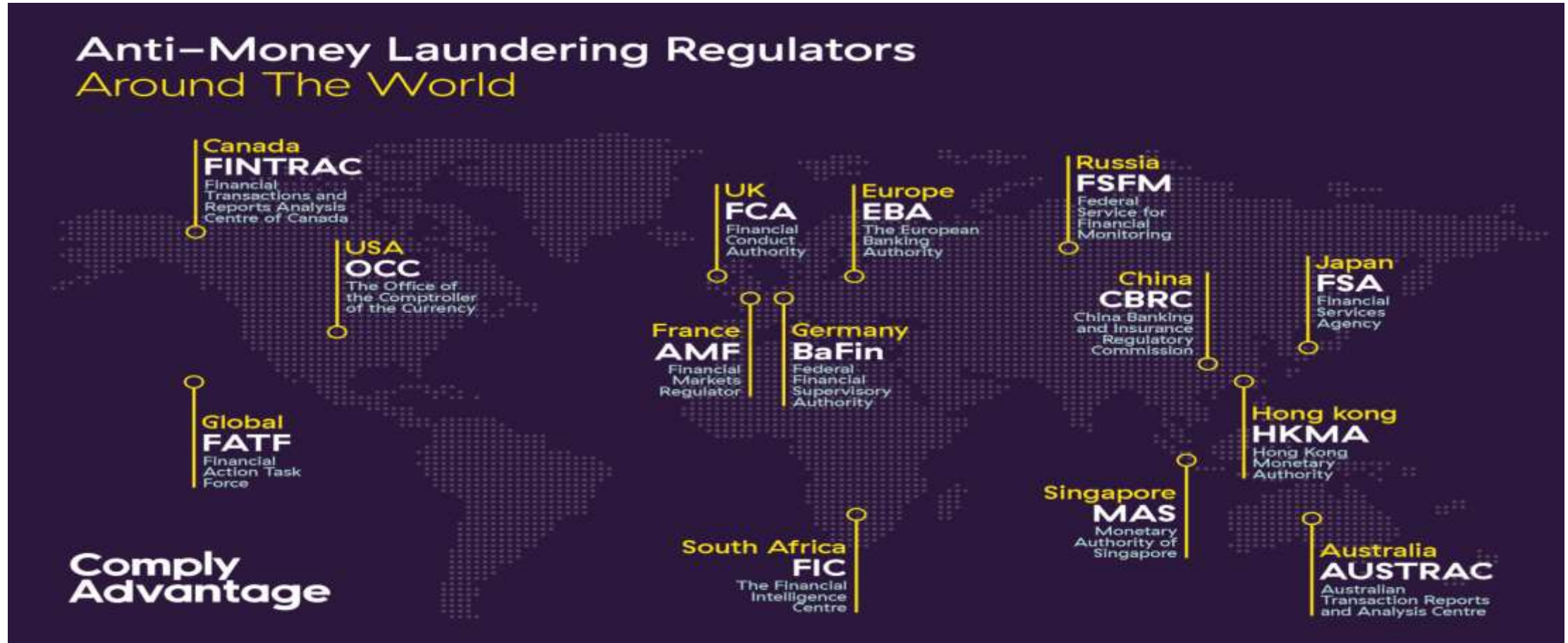
- "Proliferation financing" is an act of providing funds or financial services which are used, in whole or in part, for the manufacture, acquisition, possession, development, export, trans-shipment, brokering, transport, transfer, stockpiling or use of nuclear, chemical or biological weapons and their means of delivery and related materials (including both technologies and dual use goods used for non-legitimate purposes), in contravention of national laws or, where applicable, international obligations.
- Proliferation financing facilitates the movement and development of proliferation-sensitive items and as such, can contribute to global instability and potentially catastrophic loss of life if weapons of mass destruction (WMD) are developed and deployed.
- As also set out in the PF Typologies Report, proliferators operate globally and mask their acquisitions as legitimate trade.
- They exploit global commerce, for example by operating in countries with weak export controls or utilising free-trade zones, where their illicit procurements and shipments are more likely to escape scrutiny.

FINANCIAL MEASURES TO STOP PROLIFERATION

FINANCING:

- To prevent the provision of financial services for the development of weapons of mass destruction and their means of delivery.
- To prevent financing for individual shipments related to WMD proliferation.
- To contribute to stopping funding and to seizing funds under specific circumstances if sufficient information is available on time.
- To protect the international financial system from abuse by proliferators.
- To provide financial investigative support to existing counter proliferation investigation systems.
- To hinder the financial activities of proliferators to the extent possible.
- To the extent possible, to contribute to the identification and disruption of proliferation networks

Anti money laundering regulators around the world



LEGISLATIONS TO COMBAT SOCIO-ECONOMIC OFFENCES IN INDIA

The Prevention of Money laundering Act 2002 was enacted by the Government of India as its commitment to combat the Money laundering.

The Legislation was enacted to comply by the political declaration and Global programme of Action of the united nations.

THE PREVENTION OF MONEY-LAUNDERING ACT 2002

- The PMLA Act, 2002 after being passed by both the houses received the assent of the president on 17th January, 2003 and made applicable with effect from 1st July, 2005.
- 1st Amendment was made in the year 2009 and was made applicable with effect from 1st June, 2009.
- 2nd Amendment was made in the year 2012 which was made applicable with effect from 15th February, 2013.
- 3rd Amendment was made in the year 2017 which was made applicable with effect from ..
- 4th Amendment was made in the year 2018 which was made applicable with effect from 19th April 2018.

STRUCTURE

The act is divided into x chapters with 75 sections and 1 schedule having 3 parts (A ,B and C)

1 RECENT RULE

- The prevention of Money-laundering (Maintenance of Records) Third Amendment Rules, 2020.

REGULATIONS:

- The Adjudicating Authority (Procedure) Regulations, 2013 issued on dated 18-3-2013 which were amended by the Adjudicating Authority (Procedure) Amendment Regulations 2017 issued on dated 24-5-17

SCHEDULED OFFENCE

Section 2(1)(y) “scheduled offence” means—

- (i) the offences specified under Part A of the Schedule; or
- (ii) the offences specified under Part B of the Schedule if the total value involved in such offences is one crore rupees or more; or
- (iii) the offences specified under Part C of the Schedule.

OFFENCES SPECIFIED UNDER PART A OF THE SCHEDULE

A 01. The Indian Penal Code, 1860

A 02. The Narcotic Drugs and Psychotropic Substances (Regulation of Controlled Substances) Order, 2013

A 03. The Explosive Substances Act, 1908

A 04. The Unlawful Activities (Prevention) Act, 1967

A 05. The Arms Act, 1959

A 06. The Wild Life (Protection) Act, 1972

OFFENCES SPECIFIED UNDER PART A OF THE SCHEDULE

A 07. The Immoral Traffic (Prevention) Act, 1956

A 08. The Prevention of Corruption Act, 1988

A 09. The Explosives Act, 1884, The Explosives Rules, 2008

A 10. The Antiquities and Art Treasures Act, 1972

A 11. The Securities and Exchange Board of India Act, 1992

OFFENCES SPECIFIED UNDER PART A OF THE SCHEDULE

A 12. The Customs Act 1962(Evasion of duty or prohibitions)

A 13. The Bonded Labour System (Abolition) Act, 1976, The Bonded Labour System (Abolition) Rules, 1976

A 14. The Child and Adolescent Labour (Prohibition and Regulation) Act, 1986

A 15 The Transplantation of Human Organs and Tissues Act, 1994, The Transplantation of Human Organs and Tissues Rules,2014

OFFENCES SPECIFIED UNDER PART A OF THE SCHEDULE

A 16. The Juvenile Justice (Care and Protection of Children) Act, 2000,
The Juvenile Justice (Care and Protection of Children) Rules, 2007

A 17. The Emigration Act, 1983, The Emigration Rules, 1983

A 18. The Passports Act, 1967, The Passports Application (Facilitation
and Processing) Rules, 2010

A 19. The Foreigners Act, 1946

OFFENCES SPECIFIED UNDER PART A OF THE SCHEDULE

A 20. The Copyright Act, 1957, The Copyright Rules, 1958, The International Copyright Order, 1999, The Copyright Rules, 2013

A 21, the Trade Marks Act, 1999

A 22. The Information Technology Act, 2000

A 23. The Biological Diversity Act, 2002

OFFENCES SPECIFIED UNDER PART A OF THE SCHEDULE

A 24. the Protection of Plant Varieties and Farmers' Rights Act, 2001

A 25. The Environment Protection Act, 1986

A 26. The Water (Prevention and Control of Pollution) Act, 1974

A 27. The Air (Prevention and Control of Pollution) Act, 1981

A 28. The Suppression of Unlawful Acts against Safety of Maritime Navigation and Fixed Platforms on Continental Shelf Act, 2002

A 29. The Companies Act, 2013

OFFENCES SPECIFIED UNDER PART B AND C OF THE SCHEDULE

- Part B The Customs Act, 1962(false declaration, false documents, etc
- PART C .

An offence which is the offence of cross border implications and is specified in,—

C (1) Part A; or

C (2) Omitted in 2013

C (3) The offences against property under Chapter XVII of the Indian Penal Code.(Theft, extortion, robbery, dacoity, dishonest misappropriation of property, Criminal breach of trust, stolen property, cheating, mischief, criminal trespass, house trespass, lurking house trespass, house breaking

C (4) The offence of wilful attempt to evade any tax, penalty or interest referred to in Section 51 of the Black Money (Undisclosed Foreign Income and Assets) Imposition of Tax Act, 2015.

RULES UNDER THE PML ACT 2002

1. The Prevention of Money-laundering (Appeal) Rules, 2005
2. The Prevention of Money-laundering (the Forms and the Manner of Forwarding a Copy of Order of Arrest of a Person along with the Material to the Adjudicating Authority and its period of Retention) Rules, 2005
3. The Prevention of Money-laundering (Forms, Search and Seizure or Freezing and the Manner of Forwarding the Reasons and Material to the Adjudicating Authority, Impounding and Custody of Records and the Period of Retention) Rules, 2005

RULES UNDER THE PML ACT 2002

4. The Prevention of Money-laundering (the Manner of forwarding a copy of the Order of Provisional Attachment of Property along with the Material, and copy of the Reasons along with the Material in respect of Survey, to the Adjudicating Authority and its period of Retention) Rules, 2005
5. The Prevention of Money-laundering (Receipt and Management of Confiscated Properties) Rules, 2005
6. The Prevention of Money-laundering (the Manner of Forwarding a Copy of the Order of Retention of Seized Property along with the Material to the Adjudicating Authority and the Period of its Retention) Rules, 2005
7. The Prevention of Money-laundering (Manner of Receiving the Records authenticated Outside India) Rules, 2005

RULES UNDER THE PML ACT 2002

8. The Prevention of Money-laundering (Maintenance of Records) Rules, 2005
9. The Prevention of Money-laundering (Issuance of Provisional Attachment Order) Rules, 2013
10. The Prevention of Money-laundering (Taking Possession of Attached or Frozen Properties Confirmed by the Adjudicating Authority) Rules, 2013
11. The Prevention of Money-Laundering (Restoration of Property) Rules, 2016

OBJECTIVE OF THE ACT

The PMLA seeks to combat money laundering in India and has 3 main objectives:

- To Prevent and Control Money Laundering
- To confiscate and seize the property obtained from the Laundered Money
- To deal with any other issue connected with Money Laundering in India

SOME OF THE IMPORTANT PROVISIONS OF THE ACT

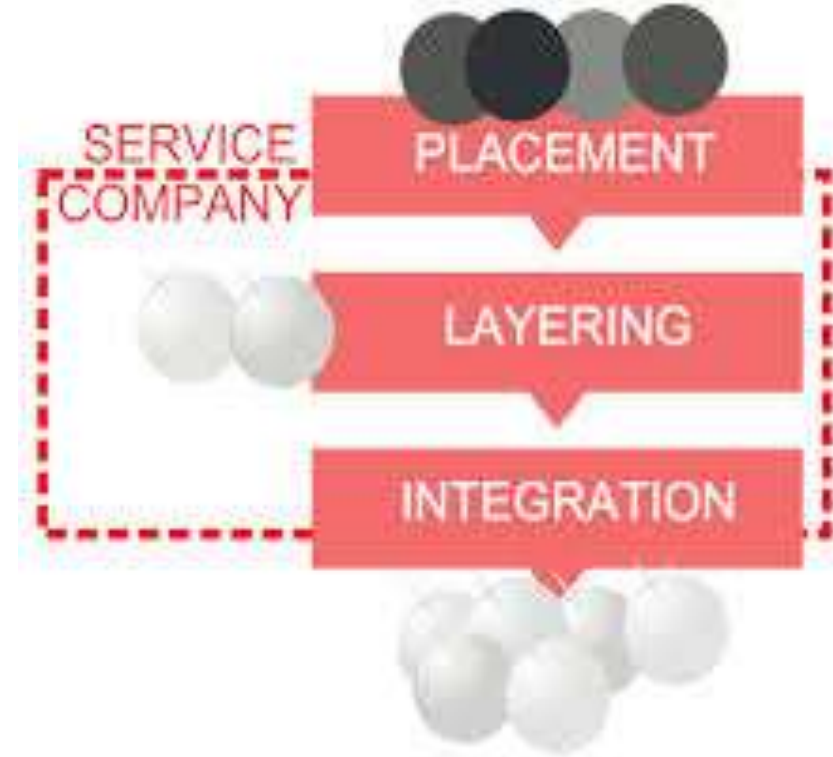
Section 2(1)(d) “attachment” means prohibition of transfer, conversion, disposition or movement of property by an order issued under Chapter III

Sec.2(1)(u) “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 or where such property is taken or held outside the country, then the property equivalent in value held within the country or abroad;

Explanation.—For the removal of doubts, it is hereby clarified that “proceeds of crime” include property not only derived or obtained from the scheduled offence but also any property which may directly or indirectly be derived or obtained as a result of any criminal activity relatable to the scheduled offence;

STAGES IN MONEY LAUNDERING

- **Placement**: Illegal funds or assets are bought into the financial system.
- **Layering**: Use of multiple accounts, banks, intermediaries, corporations, countries etc. to disguise the origin.
- **Integration**: Funds are made available as apparently legitimate



SOME OF THE IMPORTANT PROVISIONS OF THE ACT

2(1)(v) “property” means any property or assets of every description, whether corporeal or incorporeal, movable or immovable, tangible or intangible and includes deeds and instruments evidencing title to, or interest in, such property or assets, wherever located;

Explanation.—For the removal of doubts, it is hereby clarified that the term “property” includes property of any kind used in the commission of an offence under this Act or any of the scheduled offences

WHAT IS MONEY LAUNDERING ACCORDING TO THE PML ACT 2002

Section 2(1)(p) defines money laundering as

“money-laundering” has the meaning assigned to it in Section 3

Section 3 forming part of Chapter II of the PML Act 2002 defines offence of money-laundering. It states:

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.

WHAT IS MONEY LAUNDERING ACCORDING TO THE PML ACT 2002

The *Explanation* appended to the section states that
For the removal of doubts, it is hereby clarified that,—

(i) a person shall be guilty of offence of money-laundering if such person is found to have directly or indirectly attempted to indulge or knowingly assisted or knowingly is a party or is actually involved in one or more of the following processes or activities connected with proceeds of crime, namely—

- (a) concealment; or
- (b) possession; or
- (c) acquisition; or
- (d) use; or

WHAT IS MONEY LAUNDERING ACCORDING TO THE PML ACT 2002

(e) projecting as untainted property; or

(f) claiming as untainted property,

in any manner whatsoever;

(ii) the process or activity connected with proceeds of crime is a continuing activity and continues till such time a person is directly or indirectly enjoying the proceeds of crime by its concealment or possession or acquisition or use or projecting it as untainted property or claiming it as untainted property in any manner whatsoever.

COURSE OF ACTION BY THE DIRECTOR OR DEPUTY DIRECTOR

The Director or any other officer not below the rank of Deputy Director authorised by the Director has the powers to provisionally attach such property for a period not exceeding **one hundred and eighty days** from the date of the order.

For attaching of the property the following should be adhered to:

- (a) the person is in possession of any proceeds of crime; and
- (b) such proceeds of crime are likely to be concealed, transferred or dealt with in any manner which may result in frustrating any proceedings relating to confiscation of such proceeds of crime under this Chapter

COURSE OF ACTION BY THE DIRECTOR OR DEPUTY DIRECTOR

(c)a report has been forwarded to a Magistrate under Section 173 of the Code of Criminal Procedure, 1973 (2 of 1974),

(d)or a complaint has been filed by a person authorised to investigate the offence mentioned in that Schedule,

If the Director or the deputy director as the case may attach the property immediately if he has reasons to believe that, the non-attachment of the property is likely to frustrate any proceeding under this Act

APPOINTMENT OF DIRECTOR AS REQUIRED BY THE CENTRAL GOVERNMENT UNDER SECTION 49(1)

The Central Government has appointed the following as the “Director” under this Act

- The Director, Financial Intelligence Unit, India, under the Ministry of Finance, Department of Revenue, (As per notification issued on 1st July 2005)
- the Director of Enforcement holding office immediately before the said date under the Foreign Exchange Management Act, 1999 (42 of 1999),(As per notification issued on 1st July 2005)

APPOINTMENT OF DIRECTOR AS REQUIRED BY THE CENTRAL GOVERNMENT UNDER SECTION 49(1)

The Director so appointed shall exercise the exclusive powers conferred under:

- i. clause (b) of sub-section (1) of section 12 and its proviso,
- ii. section 13, sub-section (2) of section 26
- iii. sub-section (1) of section 50 of the said Act
- iv. sub-section (3) and sub-section (5) of section 26,
- v. section 39, section 40, section 41, section 42, section 48,
- vi. sub-section (2) of section 49,
- vii. section 66 and section 69 of the afore-said Act.

ADJUDICATING AUTHORITY

- The Central Government has appointed an Adjudicating Authority to exercise jurisdiction, powers and authority conferred by or under the said Act.
- The Adjudicating Authority shall consist of a Chairperson and two Members and shall function within the Department of Revenue, Ministry of Finance of the Central Government with Headquarters at New Delhi.
- Adjudicating Authority, Prevention of Money Laundering
Room No. 26,4th Floor, Jeevan Deep Building
Parliament Street, New Delhi-110001

SPECIAL COURTS

A **special court** is a court with limited jurisdiction, that deals with a particular field of law rather than a particular territorial jurisdiction.

Section 43. Special Courts.-

The Central Government, in consultation with the Chief Justice of the High Court, designate one or more Courts of Session as Special Court or Special Courts or such area or areas or for such case or class or group of cases as may be specified in the notification.

APPELLATE TRIBUNAL

Section 25

The Appellate Tribunal constituted under sub-section (1) of Section 12 of the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 (13 of 1976) shall be the Appellate Tribunal for hearing appeals against the orders of the Adjudicating Authority and the other authorities under this Act.(w.e.f 1.06.2016)

Website: www.atfp.gov.in

OBLIGATIONS OF BANKING COMPANIES, FINANCIAL INSTITUTIONS AND INTERMEDIARIES

Section 11-A Under the chapter iv provides that

Every reporting entity shall verify the identity of its clients and the beneficial owner, by—

- (a) authentication under the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 (18 of 2016) if the reporting entity is a banking company; or
- (b) offline verification under the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 (18 of 2016); or
- (c) use of passport issued under Section 4 of the Passports Act, 1967 (15 of 1967); or
- (d) use of any other officially valid document or modes of identification as may be notified by the Central Government in this behalf

OBLIGATIONS OF BANKING COMPANIES, FINANCIAL INSTITUTIONS AND INTERMEDIARIES

Section 2(1)(*wa*) “reporting entity” means a banking company, financial institution, intermediary or a person carrying on a designated business or profession.

Section 2(1)(*sa*) “person carrying on designated business or profession” means,—

- (*i*) a person carrying on activities for playing games of chance for case of kind, and includes such activities associated with casino;
- (*ii*) Inspector-General of Registration appointed under Section 3 of the Registration Act, 1908 (16 of 1908) as may be notified by the Central Government;]
- (*iii*) real estate agent, as may be notified by the Central Government;

OBLIGATIONS OF BANKING COMPANIES, FINANCIAL INSTITUTIONS AND INTERMEDIARIES

- (iv) dealer in precious metals, precious stones and other high value goods, as may be notified by the Central Government;
- (v) person engaged in safekeeping and administration of cash and liquid securities on behalf of other persons, as may be notified by the Central Government; or
- (vi) person carrying on such other activities as the Central Government may, by notification, so designate, from time to time;

OBLIGATIONS OF BANKING COMPANIES, FINANCIAL INSTITUTIONS AND INTERMEDIARIES

- The central government has notified the following as reporting entities:
- the Multi-State Co-operative Society registered under the Multi-State Cooperative Societies Act 2002
- ‘real estate agents’ as defined under clause (zm) of section 2 of the Real Estate (Regulation and Development) Act, 2016

FINANCIAL INTELLIGENCE

- **Financial intelligence (FININT)** is the gathering of information about the financial affairs of entities of interest, to understand their nature and capabilities, and predict their intentions.
- Purpose or functions of
 - To identify financial transactions that may involve tax evasion, money laundering or some other criminal activity.
 - To identify financing of criminal and terrorist organizations.
 - Financial intelligence can be broken down into two main areas, collection and analysis.

FINANCIAL INTELLIGENCE

- Collection is normally done by a government agency, known as a financial intelligence organization or Financial Intelligence Unit (FIU). The agency will collect raw transactional information and Suspicious activity reports (SAR) usually provided by banks and other entities as part of regulatory requirements. Data may be shared with other countries through intergovernmental networks.
- Analysis, may consist of scrutinizing a large volume of transactional data using data mining or data-matching techniques to identify persons potentially engaged in a particular activity. SARs can also be scrutinized and linked with other data to try to identify specific activity.

INTERNATIONAL organizations TO TACKLE MONEY LAUNDERING

The Egmont Group (www.egmontgroup.org) is a united body of **165 Financial Intelligence Units (FIUs)**. The Egmont Group provides a platform for the secure exchange of expertise and financial intelligence to combat money laundering and terrorist financing (ML/TF).

The Asia/Pacific Group on Money Laundering(www.apgml.org) is an inter-governmental organization, consisting of 41 member jurisdictions, focused on ensuring that its members effectively implement the international standards against money laundering, terrorist financing and proliferation financing related to weapons of mass destruction.

FINANCIAL INTELLIGENCE UNIT

(<https://fiuindia.gov.in/>)

- The FIU-IND or FIU is the regulatory arm of the government that keeps track of all the suspicious transactions and/or cash transactions taking place across the country and devises strategies to counter money laundering. The FIU maintains a national database of all transactions received from the reporting entities, and analyse it for discrepancies. The agency also disseminates information to domestic and international intelligence/fraud investigation agencies, promotes awareness on the issue and suggests policy changes to counter it.

REPORTING TO FINANCIAL INTELLIGENCE UNIT-INDIA

The reporting entity has to verify and record client identity, fund beneficiaries and related transaction details to the Financial Intelligence Unit – India

Reporting to Financial Intelligence Unit-India

The following reports need to be submitted monthly by every reporting entity to furnish FIU-IND information relating to-

- i. All cash transactions of the value of more than rupees ten lakhs or its equivalent in foreign currency;
- ii. All series of cash transactions integrally connected to each other which have been valued below rupees ten lakhs (Rs. 10,00,000) or its equivalent in foreign currency where such series of transactions have taken place within a month;

REPORTING TO FINANCIAL INTELLIGENCE

UNIT-INDIA

- iii. All transactions involving receipts by non-profit organizations of value more than rupees ten lakh (Rs. 10,00,000) or its equivalent in foreign currency.
- iv. All cash transactions where forged or counterfeit currency notes or bank notes have been used as genuine or where any forgery of a valuable security or a document has taken place facilitating the transactions.
- v. All suspicious transactions whether or not made in cash.

REPORTING TO FINANCIAL INTELLIGENCE

UNIT-INDIA

vi. All cross-border wire transfers of the value of more than five lakh rupees (Rs. 5,00,000) or its equivalent in foreign currency where either the origin or destination of fund is in India.

vii. All purchase and sale by any person of immovable property valued at fifty lakh rupees or more that is registered by the reporting entity, as the case may be.

As per section 14 of the PMLA provides that Reporting Entities and their officers shall not be liable to any civil or criminal proceedings against them for furnishing information under clause (b) of sub-section (1) of section 12.

REPORTING TO FINANCIAL INTELLIGENCE

UNIT-INDIA

The reporting entities also need to submit the following *cash transaction* reports within 7 days of identification of a suspicious transaction:

1. Counterfeit Currency Report (CCR): Reporting of counterfeit currency.
2. Suspicious Transaction Report (STR): All suspicious transactions irrespective of whether they are in cash or otherwise.

THE PREVENTION OF MONEY-LAUNDERING (MAINTENANCE OF RECORDS) RULES, 2005

Some Important definitions in the rules

Rule 2(1)(g) “Suspicious transaction” means a transaction referred to in clause (h), including an attempted transaction, whether or not made in cash, which to a person acting in good faith—

- (a) gives rise to a reasonable ground of suspicion that it may involve proceeds of an offence specified in the Schedule to the Act, regardless of the value involved; or
- (b) appears to be made in circumstances of unusual or unjustified complexity; or
- (c) appears to have no economic rationale or bona fide purpose; or
- .]

THE PREVENTION OF MONEY-LAUNDERING (MAINTENANCE OF RECORDS) RULES, 2005

(d) gives rise to a reasonable ground of suspicion that it may involve financing of the activities relating to terrorism;]

Explanation.—Transaction involving financing of the activities relating to terrorism includes transaction involving funds suspected to be linked or related to, or to be used for terrorism, terrorist acts or by a terrorist, terrorist organisation or those who finance or are attempting to finance terrorism.

THE PREVENTION OF MONEY-LAUNDERING (MAINTENANCE OF RECORDS) RULES, 2005

Section 2(1)(h) “transaction” means a purchase, sale, loan, pledge, gift, transfer, delivery or the arrangement thereof and includes—

- (i) opening of an account;
- (ii) deposits, withdrawal, exchange or transfer of funds in whatever currency, whether in cash or by cheque, payment order or other instruments or by electronic or other non-physical means;
- (iii) the use of a safety deposit box or any other form of safe deposit;
- (iv) entering into any fiduciary relationship;
- (v) any payment made or received in whole or in part of any contractual or other legal obligation;
- (vi) any payment made in respect of playing games of chance for cash or kind including such activities associated with casino; and
- (vii) establishing or creating a legal person or legal arrangement.

THE PREVENTION OF MONEY-LAUNDERING (MAINTENANCE OF RECORDS) RULES, 2005

Rule 3

- Every reporting entity shall maintain the record of all transactions including, the record of—
 - (A) all cash transactions of the value of more than ten lakh rupees or its equivalent in foreign currency;
 - (B) all series of cash transactions integrally connected to each other which have been individually valued below Rupees Ten lakh or its equivalent in foreign currency where such series of transactions have taken place within a month and the monthly aggregate exceeds an amount of Ten lakh rupees or its equivalent in foreign currency;]
 - (BA) all transactions involving receipts by non-profit organizations of value more than Rupees Ten lakh, or its equivalent in foreign currency;]
 - (C) all cash transactions where forged or counterfeit currency notes or bank notes have been used as genuine or where any forgery of a valuable security or a document has taken place facilitating the transactions;]

THE PREVENTION OF MONEY-LAUNDERING (MAINTENANCE OF RECORDS) RULES, 2005

(D) all suspicious transactions whether or not made in cash and by way of:—

(i) deposits and credits, withdrawals into or from any accounts in whatsoever name they are referred to in any currency maintained by way of:—

(a) cheques including third party cheques, pay orders, demand drafts, cashiers cheques or any other instrument of payment of money including electronic receipts or credits and electronic payments or debits, or

(b) travellers cheques, or

(c) transfer from one account within the same banking company, financial institution and intermediary, as the case may be, including from or to Nostro and Vostro accounts, or

(d) any other mode in whatsoever name it is referred to;

THE PREVENTION OF MONEY-LAUNDERING (MAINTENANCE OF RECORDS) RULES, 2005

- *ii)* credits or debits into or from any non-monetary accounts such as d-mat accounts, security account in any currency maintained by the banking company, financial institution and intermediary, as the case may be;
- *(iii)* money transfer or remittances in favour of own clients or non-clients from India or abroad and to third party beneficiaries in India or abroad including transactions on its own account in any currency by any of the following:—
 - (a) payment orders, or
 - (b) cashiers cheques, or
 - (c) demand drafts, or
 - (d) telegraphic or wire transfers or electronic remittances or transfers, or
 - (e) internet transfers, or

THE PREVENTION OF MONEY-LAUNDERING (MAINTENANCE OF RECORDS) RULES, 2005

- (f) Automated Clearing House remittances, or
- (g) lock box driven transfers or remittances, or
- (h) remittance for credit or loading to electronic cards, or
- (i) any other mode of money transfer by whatsoever name it is called;
- (iv) loans and advances including credit or loan substitutes, investments and contingent liability by way of:
 - (a) subscription to debt instruments such as commercial paper, certificate of deposits, preferential shares, debentures, securitised participation, inter-bank participation or any other investments in securities or the like in whatever form and name it is referred to, or
 - (b) purchase and negotiation of bills, cheques and other instruments, or
 - (c) foreign exchange contract, currency, interest rate and commodity and any other derivative instruments in whatsoever name it is called, or,
 - (d) letters of credit, standby letters of credit, guarantees, comfort letters, solvency certificates and any other instrument for settlement and/or credit support;

THE PREVENTION OF MONEY-LAUNDERING (MAINTENANCE OF RECORDS) RULES, 2005

(v) collection services in any currency by way of collection of bills, cheques, instruments or any other mode of collection in whatsoever name it is referred to.

(E) all cross border wire transfers of the value of more than Five lakh rupees or its equivalent in foreign currency where either the origin or destination of fund is in India;

(F) all purchase and sale by any person of immovable property valued at fifty lakh rupees or more that is registered by the reporting entity, as the case may be.

PROCEDURE AND MANNER OF FURNISHING INFORMATION

- Every reporting entity shall communicate to the Director the name, designation and address of the Designated Director and the principal Officer
- The principal Officer shall furnish the information referred to
- in clauses (A), (B), (BA), (C), (D), (E) and (F) of sub-rule (1) of Rule 3 to the Director on the basis of information available with the reporting entity by the 15th day of the succeeding month.
- in respect of transactions referred to in clause (D) of sub-rule (1) of Rule 3 not later than seven working days on being satisfied that the transaction is suspicious.

PROCEDURE AND MANNER OF FURNISHING INFORMATION

- in clause (F) of sub-rule (1) of Rule 3, every quarter to the Director by the 15th day of the month succeeding the quarter.
- in respect of transactions referred to in clauses (A), (B), (BA), (C) and (E) of sub-rule (1) of Rule 3 for the months of March 2020, April 2020 and May 2020, and in respect of transactions referred to in clause (F) of sub-rule (1) of Rule 3 for the quarter [January-March 2020] by the 30th June, 2020.



BARE ACT

**THE
FUGITIVE
ECONOMIC
OFFENDERS
ACT, 2018**

[Act No. 17 of 2018, w.e.f. 11-4-2018]

along with Rules

ASIA LAW HOUSE
HYDERABAD

THE FUGITIVE ECONOMIC OFFENDERS ACT, 2018

- The Fugitive Economic Offenders Bill, 2018 was introduced on the 12th day of March, 2018 in the Lok Sabha.
- However could not be taken up for consideration and passing in the House of the People
- Therefore in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President promulgated the **Fugitive Economic Offenders Ordinance, 2018**
- The Act was then passed and received the assent of the President of India on 31st July 2018

OBJECTIVE OF THE ACT

To provide for measures to deter fugitive economic offenders from evading the process of law in India by staying outside the jurisdiction of Indian courts, to preserve the sanctity of the rule of law in India and for matters connected therewith or incidental thereto

STRUCTURE OF THE ACT

- The Act comprises of 26 Sections divided into 3 chapters and
- one schedule.
- There are 5 Rules issued by the central government

RULES UNDER THE ACT

- Fugitive Economic Offenders (Procedure for Conducting Search and Seizure) Rules, 2018
- Fugitive Economic Offenders (Manner and Conditions for Receipt and Management of Confiscated Properties) Rules, 2018
- Fugitive Economic Offenders (Manner of Attachment of Property) Rules, 2018
- Fugitive Economic Offenders (Procedure for Sending Letter of Request to Contracting State) Rules, 2018
- Declaration of Fugitive Economic Offenders (Forms and Manner of Filing Application) Rules, 2018

SOME IMPORTANT DEFINITIONS

Section 2(1)(f) “fugitive economic offender” means any individual against whom a warrant for arrest in relation to a scheduled offence has been issued by any Court in India, who—

- (i) has left India so as to avoid criminal prosecution; or
- (ii) being abroad, refuses to return to India to face criminal prosecution;

Section 2(2) The words and expressions used and not defined in this Act but defined in the Prevention of Money Laundering Act, 2002 shall have the meanings respectively assigned to them in that Act.

DECLARATION OF FUGITIVE ECONOMIC OFFENDERS AND CONFISCATION OF PROPERTY

- The director or any other officer designated by the director if he has reasons to believe that any individual is a fugitive economic offender, he may file an application in such form and manner as may be prescribed in the Special Court that such individual may be declared as a fugitive economic offender.

CONTENTS OF APPLICATION

Subsection(2)of section 4 of the act provides for the contents of application

(a) reasons for the belief that an individual is a fugitive economic offender;

(b) any information available as to the whereabouts of the fugitive economic offender;

(c) a list of properties or the value of such properties believed to be the proceeds of crime, including any such property outside India for which confiscation is sought;

(d) a list of properties or benami properties owned by the individual in India or abroad for which confiscation is sought; and

(e) a list of persons who may have an interest in any of the properties listed under clauses (c) and (d).

ATTACHMENT OF PROPERTY

The Director or any other officer, may, by an order in writing, at any time prior to the filing of the application under Section 4, attach any property—

(a) for which there is a reason to believe that the property is proceeds of crime, or is a property or benami property owned by an individual who is a fugitive economic offender; and

(b) which is being or is likely to be dealt with in a manner which may result in the property being unavailable for confiscation

ATTACHMENT OF PROPERTY

The Application under section 4 has to be made within a period of thirty days from the date of such attachment before the Special Court.

The attachment of any property shall continue for a period of one hundred and eighty days from the date of order of attachment

NOTICE UNDER SECTION 10

Where an application is received, the Special Court shall issue a notice to

- an individual who is alleged to be a fugitive economic offender.
- to any other person who has any interest in the property

A notice shall specify the place and time which shall not be less than six weeks from the date of issue of such notice; and

In case he fails to appear on the specified place and time it shall result in a declaration of the individual as a fugitive economic offender and confiscation of property under this Act.

PROCEDURE FOR HEARING APPLICATION

(1) Where any individual to whom notice has been issued under subsection (1) of Section 10 **appears in person** at the place and time specified in the notice, the Special Court may **terminate** the proceedings under this Act.

(2) Where any individual to whom notice has been issued under subsection (1) of Section 10 **fails to appear** at the place and time specified in the notice, **but enters appearance through counsel**, the Special Court may in its discretion give a period of **one week** to file a **reply** to the application under Section 4.

(3) Where any individual to whom notice has been issued under subsection (1) of Section 10 **fails to enter appearance** either in person or through counsel, and the Special Court is satisfied—

PROCEDURE FOR HEARING APPLICATION

- (a) that service of notice has been effected on such party; or
 - (b) that notice could not be served in spite of best efforts because such individual has evaded service of notice,
- (4) The Special Court may also give any person to whom notice has been issued under sub-section (2) of Section 10 a period of one week to file a reply to the application under Section 4.

DECLARATION OF FUGITIVE ECONOMIC OFFENDER

After hearing the application under Section 4, the Special Court, declare the individual as a fugitive economic offender

The following properties stand confiscated to the Central Government—

- (a) the proceeds of crime in India or abroad, whether or not such property is owned by the fugitive economic offender; and
- (b) any other property or benami property in India or abroad, owned by the fugitive economic offender.

DECLARATION OF FUGITIVE ECONOMIC OFFENDER

The confiscation order of the Special Court shall,

- identify the properties in India or abroad that constitute proceeds of crime which are to be confiscated and in case such properties cannot be identified, quantify the value of the proceeds of crime.
- separately list any other property owned by the fugitive economic offender in India which is to be confiscated.

DECLARATION OF FUGITIVE ECONOMIC OFFENDER

- The Special Court may, exempt from confiscation any property which is a proceed of crime in which any other person, other than the fugitive economic offender, has an interest if it is satisfied that such interest was acquired bona fide and without knowledge of the fact that the property was proceeds of crime.
- All the rights and title in the confiscated property shall, vest in the Central Government and be free from all encumbrances.

DECLARATION OF NOT BEING A FUGITIVE ECONOMIC OFFENDER

Where on the conclusion of the proceedings, the Special Court finds that the individual is not a fugitive economic offender, the Special Court shall order release of property or record attached or seized under this Act to the person entitled to receive it.

The Director or any other officer authorised by him in this behalf may withhold the release of any such property or record for a period of ninety days from the date of receipt of such order, if he is of the opinion that such property is relevant for the appeal proceedings under this Act.

LIST OF FUGITIVE ECONOMIC OFFENDER (FEO)

Name of the person	Amount Swindled in Rs.Crores	Accused Company Name	Lives in	Extradition Status
Vijay Mallaya	7,505 ^[7]	M/s.Kingfisher Airlines Ltd	United Kingdom	Not extradited – extradition is in progress
Mehul Choksi	7,080 ^[7]	Gitanjali group (M/s.Gitanjali Gems Ltd, M/s.Gili Jewellery, M/s.D'damas, M/s.Nakshatra World Ltd)	Antigua	Not extradited – India does not have an extradition treaty with Antigua, but India is trying to bring back Choksi under the provisions of the 1993 Extradition Act of Antigua and Barbuda, which provides for extradition of a fugitive to a designated Commonwealth country. ^[8]
Jatin Metha	6,580 ^[9]	M/s.Winsome Diamonds and Jewellery Ltd, M/s.Precious Jewellery and Diamond and M/s.Su-Raj Diamonds	St Kitts and Nevis	Not extradited – India does not have an extradition treaty with St Kitts and Nevis
Nirav Modi	6,498 ^[7]	M/s.Firestar Diamond Ltd and M/s.Nirav Modi Ltd	United Kingdom	Not extradited – extradition is in progress
Nitin Sandesara and Chetan Sandesara	5,383 ^[10]	M/s.Sterling Biotech Ltd, M/s.Sterling SEZ and M/s.PMT Machines ^[11]	Nigeria	Not extradited

LIST OF FUGITIVE ECONOMIC OFFENDER (FEO)

Umesh Parekh, Kamlesh Parekh and Nilesh Parekh	2672	M/s.Shree Ganesh Jewellery House Ltd	Dubai, Kenya	2,672 ^[12]
Lalit Modi	1,700 ¹	M/s.Modi Enterprises Ltd and M/s.IPL	United Kingdom	Not extradited – extradition is in progress ^[15]
Ritesh Jain ^[16]	1,421	M/s.Rajeshwar Exports Ltd and M/s.Auro Gold Jewellery Private Ltd		Not extradited
Rajiv Goyal and Alka Goyal ^[19]	778 ¹	M/s.Surya Pharmaceuticals Ltd		Not extradited
Ashish Jobanputra ^[20]	770 ¹	M/s.ABC Cotspin Private Ltd		Not extradited
Sabhya Seth	39 ¹	M/s.Dwarka Das Seth International Private Ltd ^[21]	Dubai ^[22]	Not extradited
Sanjay Bhandari	150 ¹	M/s.Offset India Solutions Private Ltd and M/s.Avaana Software and Services Private Ltd ^[23]		Not extradited

The Prevention of Corruption Act, 1988



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THE PREVENTION OF CORRUPTION ACT, 1988

The Prevention of Corruption Act 1988 which became effective from 9th September 1988 and was passed to make the existing anti-corruption laws more effective by widening their coverage and by strengthening the provisions of the Prevention of Corruption Act 1947 which was repealed after coming into effect of this law.

A major amendment was made by The prevention of Corruption (Amendment) Act 2018 as India ratified the United Nations Convention Against Corruption, Which dealt with the international practice on treatment of the offence of bribery.

This necessitated a review of the existing provisions of the Prevention of Corruption Act 1988 and the need to amend it so as to fill in gaps

IMPORTANT DEFINITIONS

Section 2(1)(c) “public servant” means—

- (i) any person in the service or pay of the Government or remunerated by the Government by fees or commission for the performance of any public duty;
- (ii) any person in the service or pay of a local authority;
- (iii) any person in the service or pay of a corporation established by or under a Central, Provincial or State Act, or an authority or a body owned or controlled or aided by the Government or a Government company as defined in Section 617 of the Companies Act, 1956 (1 of 1956);

- (iv) any Judge, including any person empowered by law to discharge, whether by himself or as a member of any body of persons, any adjudicatory functions;
- (v) any person authorised by a court of justice to perform any duty, in connection with the administration of justice, including a liquidator, receiver or commissioner appointed by such court;
- (vi) any arbitrator or other person to whom any cause or matter has been referred for decision or report by a court of justice or by a competent public authority;
- (vii) any person who holds an office by virtue of which he is empowered to prepare, publish, maintain or revise an electoral roll or to conduct an election or part of an election;
- (viii) any person who holds an office by virtue of which he is authorised or required to perform any public duty;

(ix) any person who is the president, secretary or other office-bearer of a registered co-operative society engaged in agriculture, industry, trade or banking, receiving or having received any financial aid from the Central Government or a State Government or from any corporation established by or under a Central, Provincial or State Act, or any authority or body owned or controlled or aided by the Government or a Government company as defined in Section 617 of the Companies Act, 1956 (1 of 1956);

(x) any person who is a chairman, member or employee of any Service Commission or Board, by whatever name called, or a member of any selection committee appointed by such Commission or Board for the conduct of any examination or making any selection on behalf of such Commission or Board;

(xi) any person who is a Vice-Chancellor or member of any governing body, professor, reader, lecturer or any other teacher or employee, by whatever designation called, of any University and any person whose services have been availed of by a University or any other public authority in connection with holding or conducting examinations;

(xii) any person who is an office-bearer or an employee of an educational, scientific, social, cultural or other institution, in whatever manner established, receiving or having received any financial assistance from the Central Government or any State Government, or local or other public authority.

Explanation 1.—Persons falling under any of the above sub-clauses are public

servants, whether appointed by the Government or not.

Explanation 2.—Wherever the words “public servant” occur, they shall be understood of every person who is in actual possession of the situation of a public servant, whatever legal defect there may be in his right to hold that situation.

UNDUE ADVANTAGE DEFINED

Section 2(1)(d) “undue advantage” means any gratification whatever, other than legal remuneration.

Explanation.—For the purposes of this clause,—

(a) the word “gratification” is not limited to pecuniary gratifications or to gratifications estimable in money

(b) the expression “legal remuneration” is not restricted to remuneration paid to a public servant, but includes all remuneration which he is permitted by the Government or the organization, which he serves, to receive.

SECTION 7. OFFENCE RELATING TO PUBLIC SERVANT BEING BRIBED

Any public servant who,—

- (a) obtains or accepts or attempts to obtain from any person, an undue advantage, with the intention to perform or cause performance of public duty improperly or dishonestly or to forbear or cause forbearance to perform such duty either by himself or by another public servant; or
- (b) obtains or accepts or attempts to obtain, an undue advantage from any person as a reward for the improper or dishonest performance of a public duty or for forbearing to perform such duty either by himself or another public servant; or
- (c) performs or induces another public servant to perform improperly or dishonestly a public duty or to forbear performance of such duty in anticipation of or in consequence of accepting an undue advantage from any person,

SECTION 7. OFFENCE RELATING TO PUBLIC SERVANT BEING BRIBED

Punishment

-imprisonment for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine.

Explanation 1.—For the purpose of this section, the obtaining, accepting, or the attempting to obtain an undue advantage shall itself constitute an offence even if the performance of a public duty by public servant, is not or has not been improper.

SECTION 7. OFFENCE RELATING TO PUBLIC SERVANT BEING BRIBED

Explanation 2.—For the purpose of this section,—

(i) the expressions “obtains” or “accepts” or “attempts to obtain” shall cover cases where a person being a public servant, obtains or “accepts” or attempts to obtain, any undue advantage for himself or for another person, by abusing his position as a public servant or by using his personal influence over another public servant; or by any other corrupt or illegal means;

(ii) it shall be immaterial whether such person being a public servant obtains or accepts, or attempts to obtain the undue advantage directly or through a third party.]

8. OFFENCE RELATING TO BRIBING OF A PUBLIC SERVANT.

Any person who gives or promises to give an undue advantage to another person or persons, with intention—

(i) to induce a public servant to perform improperly a public duty; or

(ii) to reward such public servant for the improper performance of public duty;

shall be punishable with imprisonment for a term which may extend to seven years or with fine or with both:

Provided that the provisions of this section shall not apply where a person is compelled to give such undue advantage:

Provided further that the person so compelled shall report the matter to the law

enforcement authority or investigating agency within a period of seven days from the date of giving such undue advantage:

Provided also that when the offence under this section has been committed by commercial organization, such commercial organization shall be punishable with fine.

SEC 9. OFFENCE RELATING TO BRIBING A PUBLIC SERVANT BY A COMMERCIAL organization.

Where an offence under this Act has been committed by a commercial organization, such organization shall be punishable with fine, if any person associated with such commercial organization gives or promises to give any undue advantage to a public servant intending—

- (a) to obtain or retain business for such commercial organization; or
- (b) to obtain or retain an advantage in the conduct of business for such commercial organization:

defense FOR COMMERCIAL organization

Provided that it shall be a defense for the commercial organization to prove that it had in place **adequate procedures in compliance of such guidelines** as may be prescribed to prevent persons associated with it from undertaking such conduct.

MEANING OF COMMERCIAL organization

Sec 9 (3)(a) “commercial organization” means—

(i) a body which is incorporated in India and which carries on a business, whether in India or outside India;

(ii) any other body which is incorporated outside India and which carries on a business, or part of a business, in any part of India;

(iii) a partnership firm or any association of persons formed in India and which carries on a business whether in India or outside India; or

(iv) any other partnership or association of persons which is formed outside India and which carries on a business, or part of a business, in any part of India;

(b) “business” includes a trade or profession or providing service;

(c) a person is said to be associated with the commercial organization, if such person performs services for or on behalf of the commercial organization irrespective of any promise to give or giving of any undue advantage which constitutes an offence under sub-section

PERSON IN CHARGE OF COMMERCIAL organization TO BE GUILTY OF OFFENCE

Any director, manager, secretary or other officer shall be of the commercial organization, such director, manager, secretary or other officer shall be guilty of offence if it is proved that the offence was committed with their consent or connivance.

Penalty

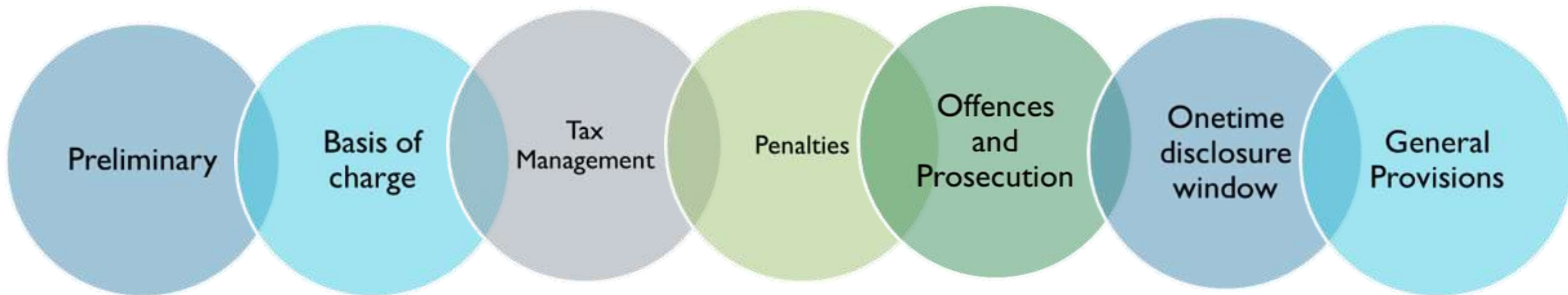
with imprisonment for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine.

THE BLACK MONEY (UNDISCLOSED FOREIGN INCOME AND ASSETS) AND IMPOSITION OF TAX ACT, 2015



STRUCTURE OF THE BLACK MONEY ACT

Black Money act has 88 sections and 7 chapters as under:



BLACK MONEY PROBE

- A list of 628 names was submitted in 2010 by France to India. There are people who allegedly held bank accounts at HSBC's Geneva branch.
- India has so far initiated action in 121 cases. No activity or money deposits have been found in 202 accounts.
- Late Mr Arun Jaitley in 2018 had said 250 Indians on the HSBC list had admitted to holding foreign accounts but cautioned that not all of them were illicit.

WHERE IS
THE CAPITAL OF INDIA?



IN
SWISS
BANKS!



BLACK MONEY (UNDISCLOSED FOREIGN INCOME AND ASSETS) AND IMPOSITION OF TAX ACT, 2015

IMPORTANT DEFINITIONS: (SECTION 2)

(2) “assessee” means a person,—

(a) being a resident in India within the meaning of Section 6 of the Income

- Tax Act, 1961 (43 of 1961) in the previous year; or

(b) being a non-resident or not ordinarily resident in India within the meaning

- of clause (6) of Section 6 of the Income Tax Act, 1961 (43 of 1961) in the

- previous year, who was resident in India either in the previous year to

- which the income referred to in Section 4 relates; or in the previous year in

- which the undisclosed asset located outside India was acquired:

- Provided that the previous year, in case of acquisition of undisclosed

- asset outside India, shall be determined without giving effect to the

- provisions of clause (c) of Section 72;]

- (11) “**undisclosed asset located outside India**” means an asset (including
- financial interest in any entity) located outside India, held by the assessee in
 - his name or in respect of which he is a beneficial owner, and he has no
 - explanation about the source of investment in such asset or the explanation
 - given by him is in the opinion of the Assessing Officer unsatisfactory;

- (12) “**undisclosed foreign income and asset**” means the total amount of
- undisclosed income of an assessee from a source located outside India and
 - the value of an undisclosed asset located outside India, referred to in Section
 - 4, and computed in the manner laid down in Section 5;

SECTION 3- BASIS OF CHARGE

- The charge is for every assessment & hence this Act is permanent feature of our tax system & will act as a deterrence to accumulate income or assets abroad.
- Tax on Undisclosed Income and Assets is @ 30% & charged to tax in the previous year in which it has come to the notice of the assessing officer.
- No Surcharge and Education Cess on Tax or Penalty
- Value of Assets shall be taken at “**Fair Market Value**” determined as per Rules in the previous year in which such asset comes to the notice of Assessing Officer.

SCOPE OF TOTAL UNDISCLOSED FOREIGN INCOME AND ASSET (S.4)

- The Act will apply from FY 2015-16 (AY 2016-17).
- Scope will cover –
- Income in respect of which no return is filed within time allowed u/s 139(1), 139(4) & 139(5) of the ITA.
- Value of an undisclosed asset located outside India
- Any variation made in the income from a source outside India in the Assessment or Reassessment of the total income of any previous year, in accordance with section 29 to 43C (Business Income), 57 to 59 (Income from Other Sources) or 92C of the ITA shall not be considered as Undisclosed Income
- Note: Income from House Property and Capital Gains excluded from above

SECTION 5 - COMPUTATION MECHANISM

- No deduction of expenses and setoff of any losses.
- Means taxed on Gross Basis
- No deduction for liability in relation to any foreign assets purchased
- If assessee furnishes evidence that any income which is assessable or assessed to tax in any previous year prior to 01.04.2015, shall not be added.

COMPUTATION OF TAX ON UFIA

Computation of total UFIA	
Income from source located outside India (foreign income or 'FI') which has not been disclosed in IT Return	XX
FI in respect of which no IT return has been filed	XX
FMV of UFA (no explanation or unsatisfactory explanation about the source of income has been provided) –manner of valuation to be provided	XX
<u>Less</u>	
Income which has been assessed to tax for any assessment year under the ITA prior to relevant AY in which UFIA applies	XX
Income which is assessable or has been assessed to tax for any assessment year	XX
In case of immovable properties, the deduction will be: Value of UFA in the same proportion as assessed / assessable foreign income bears total cost	XX
Total value of UFIA	XX
Tax @ 30%	XX

COMPUTATION OF TAX ON UFIA

Illustration:

- Mr. A acquired foreign asset (immovable property) in the AY 2010-11 for Rs.60 lacs. Out of the total investment, Rs.40 lacs was assessed to tax in an earlier year.
- In AY 17-18, AO identified the value of such undisclosed asset as Rs.2 crore for which no explanation was provided

Computation of total UFIA	Rs. (in crores)
FMV of UFA (no explanation provided or explanation not satisfactory)	2.00
Less	
Income which has been assessed to tax for any assessment year under the ITA prior to relevant AY in which the Black Money Act [Rs.2crore -(Rs.2crore X 0.40 lacs / 0.60lacs)]	(1.33)
Amount chargeable to tax under Black Money Act	0.67

TAX MANAGEMENT - ASSESSMENT PROCEDURE (CHAPTER III)

- No requirement to file a separate return under Black Money Act.
- The assessing officer on receipt of information from Income Tax Authority under the ITA or any other authority under any law or on coming of any information to his notice (source of information not specified shall serve a notice requiring assessee to produce such information and document as he may require.
 - *E.g: Information may be from sources such as legal or illegal or stolen data.*
- Issue of notice for assessment/reassessment (no timeline provided), opportunity of being heard and furnishing of evidences/documents will be given –principles of natural justice to be followed
- Inquiry or investigation by Tax Authorities into matters of the assessee even though there are no proceedings pending before it

- Time limit for completion of assessment and reassessment shall be 2 years from the end of the financial year in which notice was issued
- It is expected that two assessment orders will be passed in respect of period covered by a single return of income: under section 143(3) of ITA and 10(3) of Black Money Act
- Remedial measures provided-appeal to CIT(A)/ITAT/High Court and Supreme Court (for substantial question of law), rectification of mistakes, revision of orders, recovery of arrears

CHAPTER IV - PENALTY & CHAP V - OFFENCES & PROSECUTIONS

SECTION 41. Penalty in relation to undisclosed foreign income and asset.—The Assessing Officer may direct that in a case where tax has been computed under Section 10 in respect of undisclosed foreign income and asset, the assessee shall pay by way of penalty, in addition to tax, if any, payable by him, **a sum equal to three times the tax computed under that section.**

SECTION 42. Penalty for failure to furnish return in relation to foreign income and asset.— the Assessing Officer may direct that such person shall pay, by way of penalty, a sum of ten lakh rupees

SECTION 43. Penalty for failure to furnish in return of income, an information or furnish inaccurate particulars about an asset (including financial interest in any entity) located outside India.— the Assessing Officer may direct that such person shall pay, by way of penalty, a sum of ten lakh rupees

SECTION 44. Penalty for default in payment of tax arrear.— making payment of tax, and in case of continuing default by such assessee, he shall be liable to a penalty of an amount, equal to the amount of tax arrear.

SECTION 45 Penalty for other defaults.—

(1) A person shall be liable to a penalty if he has, without reasonable cause, failed to—

(a) answer any question put to him by a tax authority in the exercise of its powers under this Act;

(b) sign any statement made by him in the course of any proceedings under this Act which a tax authority may legally require him to sign;

(c) attend or produce books of account or documents at the place or time, if he is required to attend or to give evidence or produce books of account or other documents, at certain place and time in response to summons issued under Section 8.

(2) The penalty referred to in sub-section (1) shall be a sum which shall not be less

• **than fifty thousand rupees but which may extend to two lakh rupees.**

PENALTIES - PROCEDURE

- Notice can be issued during pendency of proceedings
- For failure to attend etc., notice can be issued up to 3 yrs. from the end of FY in which default occurred
- Order of penalty to be passed within 1 year from end of FY in which notice was issued Penalties.

Limitation of order:

- Order of penalty to be passed within 1 year from end of FY in which notice was issued

FRAMEWORK OF RULES

- RULE 2 Definitions
- RULE 3 Fair Market Value
- RULE 4 Tax Authorities
- RULE 5 Notice of demand
- RULE 6, 7 Appeals
- RULE 8 Form of tax arrears
- RULE 9 Form of declaration
- RULE 10,11,12 Other Rules

FORMS PRESCRIBED

- FORM 1 (Rule 5) Notice of demand
- FORM 2 (Rule 6(1)) Form of appeal to Commissioner/Designation of the Commissioner (Appeals)
- FORM 3 (Rule 7(1)) Form of appeal to the Appellate Tribunal
- FORM 4 (Rule 7(2)) Form of memorandum of cross-objections to the Appellate Tribunal
- FORM 5 (Rule 8) Certificate u/s 31 or 33 of the B.M. Act, 2015
- FORM 6 (Rule 9(1)) Form of declaration of undisclosed asset located outside
- FORM India u/s 59 of B. M. Act, 2015
- FORM 7 (Rule 9(2)) Acknowledgment of declaration of undisclosed foreign asset under Chapter VI of B. M. Act, 2015

RULE 3 – FMV OF ASSET LOCATED OUTSIDE INDIA

- Value of bullion, jewelry or precious stone shall be higher of:
 - its cost of acquisition and
 - open market price if sold on valuation date
- Assessors may obtain report from valuer recognized by the Govt. of foreign country/foreign territory under any regulation or law

VALUATION OF SHARES & SECURITIES

- FMV of quoted shares and securities shall be higher of cost of acquisition and market price to be determined as prescribed in Rule 3(1)(c).
- FMV of unquoted equity shares to be higher of its cost and value as per formula given in Rule 3(1)(c)(II).
- FMV of unquoted share and security other than shares in a company shall be higher of its cost and open market price for which recognized valuer's report can be obtained.

VALUATION OF IMMOVABLE PROPERTY

- FMV of immovable property shall be higher of its cost and open market price for which recognized valuer's report can be obtained – Rule 3(1)(d).

VALUE OF A BANK ACCOUNT IN FOREIGN COUNTRY

- The sum of all deposits made in the account since the date of opening of the account .
- If such bank account is voluntarily declared during compliance period on which tax and penalty are paid, the value shall be sum of deposits made after the date of such declaration.

Value of a interest in Firm/LLP/AOP

- To be derived from net assets of such entity and to be allocated in the ratio of capital/profits as prescribed in Rule 3(1)(g).

MEASURES TO CURB BLACK MONEY FOREIGN BLACK MONEY - BLACK MONEY (UNDISCLOSED FOREIGN INCOME AND ASSETS) AND IMPOSITION OF TAX ACT, 2015

- Bill for a comprehensive new law to deal with black money parked abroad to be introduced in the current session
- Evasion of tax in relation to foreign assets to have a punishment of rigorous imprisonment upto 10 years, be non-compoundable, have a penalty rate of 300% and the offender will not be permitted to approach the Settlement Commission
- Non-filing of return/filing of return with inadequate disclosures to have a punishment of rigorous imprisonment upto 7 years
- Undisclosed income from any foreign assets to be taxable at the maximum marginal rate

MEASURES TO CURB BLACK MONEY

- Mandatory filing of return in respect of foreign asset
- Entities, banks, financial institutions including individuals all liable for prosecution and penalty
- Concealment of income/evasion of income in relation to a foreign asset to be made a predicate offence under Prevention of Money Laundering Act, 2002
- Prevention of Money Laundering Act, 2002 and Foreign Exchange Management Act 1999 to be amended to enable administration of new Act on black money

IMPACT ON CERTAIN CLASSES OF HONEST ASSESSEES

- Professionals Going Abroad
- Indian Students Studying Abroad
- NRIs returning to India

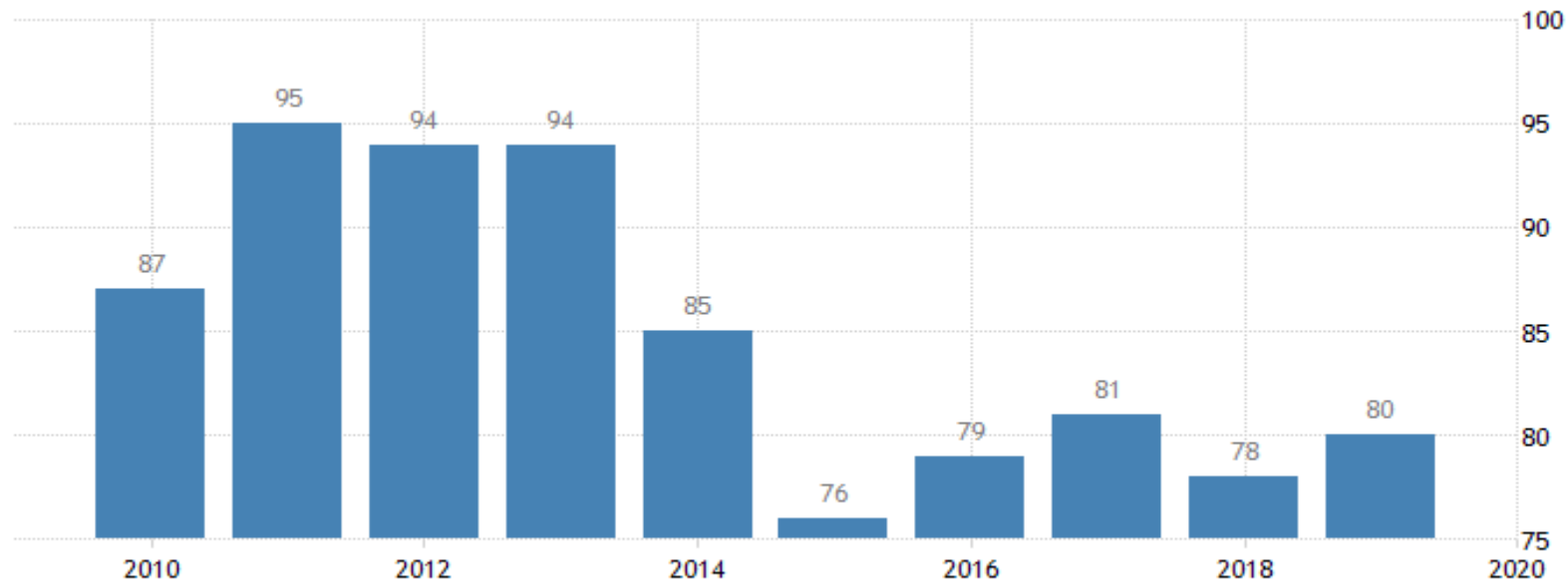
IMPACT ON NATIONAL ECONOMY

Economic crimes cause significant damage to the general economy of the country, adversely affecting the growth and development of the nation.

- Increase in inflationary pressure
- Generation of abundant black money
- Undermining of developmental works/efforts
- Becomes a breeding ground for corruption
- Illicit businesses thrive affecting licit business
- Resources of financial and commercial institutions are diverted and distorted
- Weakens morale and commitment of citizens
- Poor/weakest continue to be at risk
- Countries economic equilibrium is at stake
- Uneven distribution of resources and creation of elitism

SOME IMPORTANT FACTS

- India is the 80 least corrupt nation out of 180 countries, according to the 2019 Corruption Perceptions Index reported by Transparency International. (<https://www.transparency.org/en/cpi/2019>)



SOURCE: TRADINGECONOMICS.COM | TRANSPARENCY INTERNATIONAL

AFFIRMATIONS FOR OUR MIRACLE MORNING

1. I am in charge of my mind.
2. I am strong in mind, body and spirit.
3. I feel good about being me.
4. Amazing opportunities exist for me in every aspect of my life.
5. I choose to be happy right now.
6. I am grateful for all that I have.
7. I live in joy.
8. I am positive and optimistic.

PAMPERING ONESELF IS MOST IMPORTANT

- Make yourself most happy person
- Doing what one likes
- Hobby
- Job
- spiritualism
- Entertainment
- Eating
- Movie
- Keep the company you like
- Etc. etc.. etc..

ENHANCE CONTINUOUSLY OUR MARKET PRICE/REPLACEMENT VALUE

- Keep on learning new things
- New courses
- New hobbies
- New methods of marketing
- Leaving impression of Increase with customers
- Scaling up our activity
- MONEY –MONEY –MONEY IS IMPORTANT





FIXED MINDSET
AVOIDS CHALLENGES
GIVES UP EASILY
SEES EFFORT AS FRUITLESS
IGNORES NEGATIVE FEEDBACK
FEELS THREATENED BY SUCCESS OF OTHERS

GROWTH MINDSET
EMBRACES CHALLENGES
PERSISTS IN FACE OF CHALLENGES
SEES EFFORT AS PATH TO MASTERY
LEARNS FROM CRITICISM
FINDS LESSONS AND INSPIRATION IN SUCCESS OF OTHERS



Conscious Mind

Subconscious Mind

IT IS OUR DUTY TO REACH EVERYONE

- Magical Sharing – Make yourself Visible
- Create a website
- Sharing Knowledge
- Personal Networking
- Business Networking

THREE BROAD GROUPS IN KNOWLEDGE PRACTICE

- Training – self development topics /professional topics

Mode – self – through trade forum – through training organisations

Core Professional areas

Hobby – yoga /astrology/numerology/graphology etc. etc.

LIST OF UNEXPLORED GOLDMINE PROFESSIONAL OPPORTUNITIES

1. Specialized Audits, Certifications and other Statutory Recognitions
2. The Companies Act 2013 /other corporate laws/formation/annual compliance
3. The Insolvency and Bankruptcy Code 2016/recovery laws
4. Micro, Small and Medium Enterprises (MSMEs)
5. Corporate Governance /independent director
6. Drafting, Registration and Stamping of Documents
7. Representation Before Authorities and Tribunals

LIST OF UNEXPLORED GOLDMINE PROFESSIONAL OPPORTUNITIES- CONTD-2

8. Competition Laws /consumer laws/metrology laws compliance
9. will/succession laws/family settlement
10. Labour Law- locked down/advisory /drafting of documents/HRM
11. Laws Relating to Alternate Dispute Resolution – arbitration, conciliation, mediation & negotiation
12. The Banking industry – loans, credit , stock, revenue, OTS, fema, pmla , risk management

LIST OF UNEXPLORED GOLDMINE PROFESSIONAL OPPORTUNITIES- CONTD-3

13 financial planning –wealth management – income, incometax, insurance, investment, retirement, succesion plannings

14. Energy audit/carbon credit/renewal energy

15. The Laws relating to Intellectual Property Rights (IPR)- IPR valuation/audit/registeration

16. IFSC/SEZetc- setting up /taxation/

LIST OF UNEXPLORED GOLDMINE PROFESSIONAL OPPORTUNITIES- CONTD-4

17. Valuation- section 247 of companies act- regd valuer
18. Capital market services – securities laws compliances
19. Virtual CFO services/virtual general legal council
20. Economic offences benami properties/PMLA/Black Money/Fugitive
21. Charitable trusts/NPO/societies/FCRA/social stock exchange capital
22. International & NRI taxation
23. Private equity/restructuring

LIST OF UNEXPLORED GOLDMINE PROFESSIONAL OPPORTUNITIES- CONTD-5

24. Internal audit- all industries /section 138 /psus/insurance /mutual funds/pension funds /COSO internal control framework/SOP/IFC under section 134(5)(e) of companies act 2013
25. Risk management – COSO ERM-risk audit –risk dept
26. CSR- section 135/policy /international and national grants/ MDG 8/SDG 17/sustainability reporting/business responsibility reporting /ESG /GRI standards/CSR project implementation, monitoring/schedule VII of Companies Act 2013 compliance
27. FEMA/cofeposa/safema/foreign exchange related matters
28. Cyber security- personal data protection/non personal/gdpr
29. Forensic audit/fraud prevention/ section 447 of companies act 2013

LIST OF UNEXPLORED GOLDMINE PROFESSIONAL OPPORTUNITIES- CONTD-6

- 30. Atma Nirbhar Bharat Schemes
- 31. Foreign trade Policy consultancy/export growth
- 32. Central and State Subsidies , countervailing measures– new policy for Gujrat /Haryana- standupmitra.in
- 33. IFRS/Ind AS/all countries GAAP
- 34. Insurance & pension sector/Insurance Surveyor/Insurance Broker
- 35. Agriculture business/insurance/marketing

LIST OF UNEXPLORED GOLDMINE PROFESSIONAL OPPORTUNITIES- CONTD-7

36. Real estate laws/RERA/title certificate/conveyance/redevelopment/development plan/land laws
37. Industry specific specialization – pharma/telecommunications/electricity
38. Guidance in Setting up new business/mentoring to become entrepreneur
39. NBFCs/HFCs/Money lenders/ Chit Funds/MFIs
40. Cooperative Sector
41. Commodity markets-future –derivatives-warehousing authorities
42. Commercial contracts management/litigation
43. Mergers/amalgamation/cross border mergers/due diligence

LIST OF UNEXPLORED GOLDMINE PROFESSIONAL OPPORTUNITIES- CONTD-8

- 43. Assistance and advise in documentation – peer review, quality review
- 44. Appearance before and handling NFRA matters & disciplinary matters CS CMA , advocates
- 45. ISO , BIS registration

LIST OF UNEXPLORED GOLDMINE PROFESSIONAL OPPORTUNITIES- CONTD-9

46. training – personal development topics – time management/personality developments/stress management
47. training professional topics – income tax, GST ,trade bodies /large companies
48. Blog writing /books writing /content development
49. Our hobbies converted into profession – astrology /numerology
50. Becoming entrepreneur- making entrepreneur/agriculturist/any service provider/www.nsdcindia.org/ministry of skill development & entrepreneurship

PRINCIPLE OF IMPRESSION OF INCREASE

- Wallace wattles in 1910 propounded this principle
- In the book science of getting rich
- Napoleon Hill in book Think & Grow Rich reconfirmed
- If clients gives X Rs – value given by us is X+++++



USING SOCIAL MEDIA

- Facebook
- LinkedIn
- Instagram
- Pinterest
- Twitter
- Snapchat
- You Tube
- Blog
- WhatsApp

13 STEPS TO BECOME RICH

The 1937 bestselling book 'Think and Grow Rich' by Napoleon Hill contains 13 principles which convey the path to making money;

1. Desire
2. Faith
3. Auto-Suggestion
4. Specialized Knowledge
5. Imagination
6. Organized Planning

13 STEPS TO BECOME RICH

7. Decision

8. Persistence

9. Power of the Master Mind

10. Enthusiasm (Mystery of sex transmutation)

11. Sub-conscious Mind

12. The Brain

13. The Sixth Sense


I AM PASSIONATE TO ASSIST ANYONE

1. Book writing
2. Doing additional courses
3. Expanding non traditional area of practice
4. Writing articles
5. Studying together any subject in world as co-learners

Pl. whatsapp on 9820061049 alongwith your interest and profile or email to me at cadrrajkumaradukia@gmail.com

C
R
A
P



A sunset over the ocean with a large white text overlay. The sky is a gradient of orange and yellow, and the water is a deep blue. The text is centered and reads: "All of our potentials for good are unlimited." Below the text, there is a small red box with the name "Colin Bevan" and a small white box with the name "Colin Bevan".

All of our potentials
for good are unlimited.

Colin Bevan

Colin Bevan