

**56**

**STANDING COMMITTEE  
ON FINANCE  
(2011-2012)**

**FIFTEENTH LOK SABHA**

**MINISTRY OF FINANCE  
(DEPARTMENT OF REVENUE)**

**THE PREVENTION OF MONEY LAUNDERING  
(AMENDMENT) BILL, 2011**

**FIFTY-SIXTH REPORT**



सत्यमेव जयते

**LOK SABHA SECRETARIAT  
NEW DELHI**

*May, 2012 / Vaisakha, 1934 (Saka)*

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MINISTRY OF FINANCE  
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(AMENDMENT) BILL, 2011

*Presented to Lok Sabha on 9 May, 2012*

*Laid in Rajya Sabha on 9 May, 2012*



LOK SABHA SECRETARIAT  
NEW DELHI

*May, 2012 / Vaisakha, 1934 (Saka)*

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COMPOSITION OF STANDING COMMITTEE ON FINANCE  
(2011-2012)

Shri Yashwant Sinha — *Chairman*

MEMBERS

*Lok Sabha*

2. Shri Shivkumar Udasi
3. Shri Jayant Chaudhary
4. Shri Harishchandra Deoram Chavan
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- 30. Shri Yogendra P. Trivedi
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SECRETARIAT

- 1. Shri A.K. Singh — *Joint Secretary*
- 2. Shri R.K. Jain — *Director*
- 3. Shri Ramkumar Suryanarayanan — *Deputy Secretary*

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\*Nominated to be the Member of the Standing Committee on Finance *w.e.f.* 4th May, 2012.

## INTRODUCTION

1. I, the Chairman of the Standing Committee on Finance, having been authorized by the Committee, present this Fifty-sixth Report on the Prevention of Money Laundering (Amendment) Bill, 2011.

2. The Prevention of Money Laundering (Amendment) Bill, 2011 introduced in Lok Sabha on 27 December, 2011, was referred to the Committee on 5 January, 2012 for examination and report thereon, by the Speaker, Lok Sabha under rule 331E of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. The Committee obtained written information on various provisions contained in the aforesaid Bill from the Ministry of Finance (Department of Revenue).

4. Written views/memoranda were received from the Indian Banks' Association (IBA), Securities and Exchange Board of India (SEBI), Reserve Bank of India (RBI) and Federation of Indian Chamber of Commerce and Industry (FICCI).

5. The Committee, at their sitting held on 9 April, 2012 took evidence of the representatives of the Ministry of Finance (Department of Revenue).

6. The Committee, at their sitting held on 08 May, 2012 considered and adopted the draft report and authorized the Chairman to finalise the same and present it to the Parliament.

7. The Committee wish to express their thanks to the officials of the Ministry of Finance (Department of Revenue) for appearing before the Committee and furnishing the requisite material and information which were desired in connection with the examination of the Bill.

8. The Committee also wish to express their thanks to the Indian Banks' Association (IBA), Securities and Exchange Board of India (SEBI), Reserve Bank of India (RBI) and Federation of Indian Chamber of Commerce and Industry (FICCI) for placing before them their considered views on the Bill in the form of memoranda.



9. For facility of reference, the observations/recommendations of the Committee have been printed in thick type in the body of the Report.

NEW DELHI;  
8 *May*, 2012  

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18 *Vaisakha*, 1934 (*Saka*)

YASHWANT SINHA,  
*Chairman,*  
*Standing Committee on Finance.*

## REPORT

### **Introduction**

The Prevention of Money Laundering Act, 2002 (PMLA) was enacted in 2003 and brought into force on 1st July 2005 to prevent money laundering and to provide for attachment, seizure and confiscation of property obtained or derived, directly or indirectly, from or involved in money laundering and for matters connected therewith or incidental thereto. The PMLA was brought into the statute to implement the resolution and declaration made under the Political Declaration and Global Programme of Action against Money Laundering adopted by the General Assembly of the United Nations in 1998. The PMLA has been amended first in 2005 and thereafter in 2009 subsequent to the presentation of Report by the Standing Committee on Finance on 19 December, 2008 to overcome some of the difficulties that were being faced in its enforcement and to increase the coverage of the Act to include payment system operators, etc.

The problem of money-laundering is no longer restricted to the geo-political boundaries of any country. It is a global menace that cannot be contained by any nation alone. In view of this, India has become a member of the Financial Action Task Force (FATF) and Asia Pacific Group on money-laundering, which are committed to the effective implementation and enforcement of internationally accepted standards against money-laundering and the financing of terrorism.

The anti-money laundering legislative framework of the country has been evaluated by the Financial Action Task Force (FATF), an inter-Governmental body, for development and promotion of policies to combat money laundering and terrorist financing. A comprehensive evaluation of the country's legislative and administrative framework for prevention of money laundering and countering financing of terror was made by the FATF in November/December, 2009. The mutual evaluation report prepared after the comprehensive evaluation identified several shortcomings in the existing administrative and legislative framework to handle activities related to prevention of money laundering. An action plan was prepared by the Government of India, which was submitted to FATF. This action plan lists various short-term and medium-term measures which are required to be taken. This action plan also envisages several amendments in the PMLA so that the legislative and administrative

framework of the country to prevent money laundering and countering financing of terror becomes more effective and capable of handling the new evolving threats. The amendments proposed are stated to be based not only on the mutual evaluation report of the FATF but also the Government's own experiences in the implementation of the PMLA. Accordingly, the Prevention of Money Laundering (Amendment) Bill, 2011 was introduced in Parliament and subsequently referred by the Hon'ble Speaker, Lok Sabha to the Standing Committee on Finance of Parliament on 5 January, 2012 for examination and Report thereon.

## **II. Salient features of the Amendment Bill**

**1. Amendments and insertions in the definition:** Certain new definitions have been proposed to be incorporated in section 2 of the Act, provisions relating to which have been made in the Bill. They are namely- 'beneficial owner', 'client, dealer', 'precious metal', 'precious stone', 'real estate agent'.

**2. Changing the definition of offence of money-laundering:** During Mutual Evaluation of India, it was pointed out by FATF that concealment, possession, acquisition and use of the proceeds of crime are not criminalized by PMLA. Article 6 of Palermo Convention requires that such activities should also to be criminalized. Hence Section 3 of PMLA has been proposed to include these activities under offence of money-laundering.

**3. Punishment for money-laundering:** FATF Recommendation requires that "legal persons" also (and not just "natural persons") should be subject to effective, proportionate and dissuasive criminal, civil or administrative sanctions for money laundering. In PMLA the punishment prescribed in section 4 is rigorous imprisonment not less than 3 years but which may extend to 7 years and also fine which may extend to Rs. 5 lakh. This amount appears disproportionately low, given the gravity of the offence of money laundering. It has therefore been proposed to amend Section 4 so as to provide for imposition of fine proportionate to the gravity of the offence which will be determined by the court. The limit of Rs. 5 lakh is therefore proposed to be deleted altogether. Further an explanation has been inserted in Section 70 that the prosecution or conviction of any legal juridical person shall not be contingent on the prosecution or conviction of any individual.

### **4. Amendment in provisions implemented by FIU:**

- (i) Sec. 12 prescribes obligation of banks, Financial Institutions and intermediaries for verification of identity of clients,

maintenance of records of transactions and identity and furnishing STRs, CTRs etc to the Financial Intelligence Unit-India (FIU-IND). The proposed legislation includes the following new reporting entities: Department of Posts, Commodity Exchanges and brokers, Stock Exchanges, Entities registered with PFRDA, entities who can be included when notified by the Government -Real estate agents, sub-registrars (registering property), dealers in precious metals/stones, high value goods and safe deposit keepers.

- (ii) Director, FIU-IND is proposed to be empowered by insertion of a new Section 12A in the PMLA so that he may call for records of transactions or any additional information that may be required for the purposes of the PMLA and also the power to make inquiries for non-compliance of reporting entities to the obligations cast upon them.

**Strengthening of KYC and reporting obligation:**

- Know Your Customer (KYC) obligations—In the proposed legislation the reporting entity has to identify “beneficial owner” during KYC.
- Reporting obligations— It is proposed in the legislation that reporting entity has to report even an attempted transaction.
- Reference to “integrally connected transactions” is deleted.

The proposed changes will be reflected in the amended Section 12 (1).

- (iii) **Record keeping obligation:** KYC documents to be maintained for 10 years after “the business relationship has ended” [proposed sec. 12(4)] instead of “after cessation of transactions”, as at present. “Account files and business correspondence” also needs to be retained for 10 years [proposed sec. 12(3)], information about “attempted transactions” reported to FIU also needs to be retained.
- (iv) An exemption clause has also been proposed to exempt any class of reporting entities from any of the obligations to identify clients, maintain records and send reports to FIU.

(v) **Measures for effective compliance:**

- (a) In the proposed legislation Director, FIU-IND can refer special audit of a reporting entity with regard to their obligations [sec 13(1A)]. Expenses of such audit can be recovered from the reporting entity [sec. 13(1B)].
- (b) Graded penalty is proposed for failures. Such as written warning, directions to comply, directions to send reports and finally, fine [sec 13(2)].
- (c) Penalty can also be imposed on “designated director on the Board” and “employees” of reporting entities, in place of only “officers” at present.

**5. Amendment in provisions implemented by Enforcement Directorate:**

- (i) *Attachment of property:* The present Act in section 5 stipulates that the person from whom property is attached must “have been charged of having committed a scheduled offence”. It is proposed to be deleted as property may come to rest with someone, who has nothing to do with the scheduled offence or even the money-laundering offence. Procedure for attachment is at present done as provided in the Second Schedule to the Income Tax Act, 1961. Now it is proposed in section 5(1) that the procedure will be prescribed separately. Time for Adjudicating Authority to confirm attachment of property by ED has been proposed to be increased from 150 days to 180 days.
- (ii) *Freezing of property:* At present PMLA provides for attachment of property after charge sheet u/s 173 CrPC has been filed in scheduled offence case and seizure of property after FIR u/s 157 CrPC has been filed in scheduled offence case. However, in a number of situations it may not be practicable to seize a record or property. In such cases, there has to be a provision for freezing such property, so that it can be seized or attached and confiscated later. The new sub-section 17(1A) is proposed to be added for this purpose. Consequential changes are also proposed in a number of places in the Act, where “seizure” under section 17 or 18 is referred to.

At present under PMLA search and seizure can be done only after FIR u/s 157 CrPC has been forwarded to a Magistrate

(in scheduled offence cases where FIRs are required). However, in cases where FIR is not required (e.g., Forest Act violation, Copyrights Act violation), search and seizure can take place only after charge sheet is filed. This may happen after a prolonged gap and chances of disappearance of proceeds of crime cannot be ruled out. To obviate this problem it is now proposed in the proviso to section 17(1) to undertake search and seizure in such cases (where there is no requirement to file FIR) after the investigating officer files a report (similar to FIR) to a superior officer.

- (iii) *Making confiscation independent of conviction:* At present attachment of property becomes final under section 8(3) “after the guilt of the person is proved in the trial court and order of such trial court becomes final”. Problems are faced in such cases where money-laundering has been done by a person who has not committed the scheduled offence or where property has come to rest with someone who has not committed any offence. Therefore, it is proposed to amend section 8(5) to provide for attachment and confiscation of the proceeds of crime, even if there is no conviction, so long as it is proved that predicate offence and money-laundering offence have taken place and the property in question (*i.e.*, the proceeds of crime) is involved in money-laundering.
- (iv) *Amendment relating to the procedure of confiscation:* PMLA provides for confiscation of attached property to be ordered by Adjudicating Authority, after conviction in the scheduled offence case. Appeals to such orders lie with Appellate Authority, then High Court and Supreme Court, which implies that there can be another set of appeals after confiscation. To streamline the process power to confiscate attached property is proposed to be given to the Special Court, who shall pass the order to confiscating or release the attached property, along with judgment in the predicate offence/ money-laundering case.

A new sub section 7 is proposed to be inserted in section 8 to address confiscation or release of property by the Special Court when a trial cannot take place in a case on account of death or accused being declared proclaimed offender or for any other reason.

A new sub-section 60(2A) has been added to address the issue when trial takes place outside India or the case initiated abroad is closed and the property is to be confiscated.

- (v) *Retention and presumption provisions:* In the existing Act, section 20 relates to retention of “property” and section 21 to “records”. It is now proposed to combine these 2 sections to cover retention of both property and records. Further the time limit for retention is proposed to be increased from 3 months to 6 months, that is, 180 days in line with the extension of time limit for attachment under section 5.
- (vi) Presumption that records or property (sec. 22) found in possession of person who is searched or surveyed that it belongs to the person, contents are true, signature is correct, etc. is proposed to be extended when such record or property is produced by a person before an investigating officer, or has been resumed or seized from the custody of a person by LEA in course of investigation in the predicate offence under the provisions of any other Act.

**6. Burden of Proof:** The existing provision in section 24 reads as— ‘When a person is accused of having committed the offence under section 3, the burden of proving that proceeds of crime are untainted property shall be on the accused.’ There can be situations where the accused may cleverly pass off the property to someone to avoid confiscation. To take care of these eventualities section 24 is proposed to be amended as below:—

**Section 24:** In any proceedings relating to proceeds of crime under this Act, unless the contrary is proved, it shall be presumed that such proceeds of crime is involved in money-laundering.

**7. Committing of cases to Special Court:** Presently PMLA requires under sections 43(1) and 44(1) that trial for both the predicate offence and the money-laundering offence to take place in the Special Court (Sessions Court). When ED files a charge sheet under money-laundering case, the court where the scheduled offence trial is taking place has to commit that case to the Special Court and to obviate any problem it is specifically mentioned that the Special Court shall, on receipt of such case proceed to deal with it from the stage at which it is committed.

**8. Officers empowered and required to assist:** New officers are being added to sec. 54, who are “empowered and required to assist authorities in enforcement of the Act”.

**9. Appeal against the order of Appellate Tribunal to lie in the Supreme Court:** Under the existing provision in section 42, an appeal against the order of the Appellate Tribunal lies before High Court within

the jurisdiction of which the aggrieved party resides or carries on its business. Since the attached properties may be located in different parts of the country in a particular case, the appeals can be filed in various High Courts in the country in the same case. Hence, such provision is likely to lead a situation where order of Money Laundering Tribunal might be reversed by one High Court and upheld by another High Court. In order to obviate this difficulty, it is proposed in section 42 that the appeal may lie before the Supreme Court. Concurrently it is also proposed in section 28 to raise the status of the Appellate Tribunal on the lines of the Appellate Tribunals under the SEBI Act.

**10. Removing monetary threshold for investigating the offence of money laundering:** Under the current provisions the offences specified in Part A of the Schedule do not prescribe any monetary threshold. However the offences specified in Part B of the Schedule are considered Offence of Money-laundering only if the total value involved in such offences is thirty lakhs rupees or more. The FATF standards do not envisage monetary threshold for investigating the offence of money-laundering. To conform to the FATF standards it has been proposed to move the offences listed in Part B of the Schedule to Part A.

### III. FINANCIAL ACTION TASK FORCE (FATF)

The Financial Action Task Force (FATF) is an inter-governmental body that works for the development of standards for combating money-laundering and terrorist financing. It also ensures adherence to its standards by making sure that countries across the world bring about legislative and regulatory reforms in these areas. It further monitors the progress of the anti-money laundering efforts of its members. Forty plus nine recommendations of FATF are considered as global standards on Anti-money laundering and combating of financing of terrorism.

Benefits of implementing the FATF Recommendations:

The benefits of implementing the FATF recommendations have been stated to be as under:—

1. *Securing a more transparent and stable financial system that is more attractive to foreign investors:* Corrupt and opaque financial systems are inherently unstable. Excessive money laundering can cause increased volatility of international capital flows and exchange rates, market disparities, and distortions of investment and trade flows.
2. *Ensure that financial institutions are not vulnerable to infiltration or abuse by organised crime groups:* Financial institutions that



are exploited in this manner are exposed to reputational risk, financial instability, diminished public confidence, threats to safety and soundness and other losses.

3. *Build the capacity to fight terrorism and trace terrorist money:* Terrorists need money to finance attacks. Tracing this money is one of the few preventive tools that governments have against terrorism.
4. *Meet binding international obligations, and avoid the risk of sanctions or other action by the international community:* The international community—through numerous international treaties, United Nations Security Council Resolutions and best practices—has endorsed the FATF Recommendations at the highest political level.
5. *Avoid becoming a haven for criminals:* Countries with weak AML/CFT systems are attractive to criminals because they provide an environment in which criminals can enjoy the profits of their crimes and finance their illicit activities with little fear of facing punishment.

**Membership of India:** Pursuant to the decision of the Core Group on Security, India submitted its application for the membership of FATF in 2003. India was accorded the status of an ‘observer’ by the FATF in the year 2006. As part of technical procedure to qualify for membership, India underwent a mutual evaluation process. A FATF Mutual Evaluation (ME) Team visited India in December 2009 for on-site discussions and evaluation of Indian legislative, regulatory and institutional framework for AML/CFT against each of the 40+9 recommendations of FATF. The Mutual Evaluation Report pointed out the deficiencies in AML/CFT framework of India. Subsequently, India has suggested an Action Plan with short, medium and long term objectives to address the specific issues raised in the Mutual Evaluation Report that includes proposed amendments in the PMLA. With these amendments, it is believed that PMLA would largely conform to the global standards and help in strengthening and coordinating efforts of national and international intelligence, investigation and enforcement agencies in combating money laundering and terrorist financing.

After submission of India’s Action Plan with an assurance of Finance Minister that India will bring about changes in legislations, regulatory and institutional framework to conform to FATF standards, membership was granted to India in June, 2010.

#### IV. MUTUAL EVALUATION OF INDIA BY FATF

The evaluation of the anti-money laundering (AML) and combating the financing of terrorism (CFT) regime of India in terms of the Forty Recommendations and the Nine Special Recommendations on Terrorist Financing of the Financial Action Task Force (FATF) was carried out by FATF during 2009 and 2010. The FATF team of experts reviewed the institutional framework, the relevant AML/CFT laws, regulations, guidelines and other requirements, and the regulatory and other systems in place to deter money laundering and financing of terrorism through financial institutions and Designated Non-Financial Businesses and Professions (DNFBP), as well as assessed the capacity, the implementation and the effectiveness of all these systems. The Mutual Evaluation Report (MER) of FATF was released in June, 2010, which was discussed and adopted in the June Plenary of FATF at Paris. India was admitted as a member of FATF based on the findings of MER.

However, the MER 2010 highlighted certain deficiencies in the AML legislation which adversely affected the ratings on a few FATF recommendations. The areas are broadly summarized below:—

- (a) Commodities market out of the ambit of PMLA.
- (b) DNFBP sector not subjected to PMLA (except Casino).
- (c) Effectiveness concerns due to absence of ML conviction.
- (d) Identification and verification of beneficial ownership of legal persons.
- (e) Ineffective sanctions regime for non-compliance. India has suggested an Action Plan with short, medium and long term objectives to address the specific issues raised in the MER 2010 that includes proposed amendments in the PMLA.

#### V. ROLE OF FINANCIAL INTELLIGENCE UNIT—INDIA (FIU—IND)

Financial Intelligence Units (FIUs) are specialized government agencies created to act as an interface between financial sector and law enforcement agencies for collecting, analysing and disseminating information, particularly about suspicious financial transactions.

Financial Intelligence Unit—India (FIU—IND) was set up by the Government of India on 18th November, 2004 as an administrative FIU *i.e.*, a central national agency responsible for receiving, analyzing and disseminating information related to suspicious financial transactions.

It receives prescribed information from various entities in financial sector under the Prevention of Money Laundering Act 2002 (PMLA) and in appropriate cases disseminates information to relevant intelligence/law enforcement agencies which include Central Board of Direct Taxes, Central Board of Excise and Customs, Enforcement Directorate, Narcotics Control Bureau, Central Bureau of Investigation, Intelligence agencies and regulators of financial sector. FIU-IND does not investigate cases. It is an independent body reporting to the Economic Intelligence Council headed by the Finance Minister. For administrative purposes, FIU-IND is under the control of Department of Revenue, Ministry of Finance. FIU-IND is headed by the Director, who is of the rank of Joint Secretary to the Government of India.

Section 12 of PMLA requires every banking company, financial institution and intermediary (referred to as reporting entities) to verify the identity of all its clients in the manner prescribed, maintain records of transactions and identity of clients and furnish information of prescribed transactions to the Director, Financial Intelligence Unit-India.

## VI. ROLE OF DIRECTORATE OF ENFORCEMENT

The Directorate of Enforcement is statutorily notified for investigating the offence of money laundering under PMLA and to take the consequential actions of attaching the proceeds of crime involved in money laundering and for prosecuting the persons. The Directorate of Enforcement has the powers to carry out survey, searches, seizures and arrest besides attachment and confiscation of proceeds of crime or property involved in money laundering.

The Directorate is presently headed by the Director, a Special Secretary level officer who is appointed as per Section 25 of the CVC Act, 2003. The Legal wing is headed by the Additional Director (Prosecution) assisted by Deputy Legal Advisor and Assistant Legal Advisor.

Presently, PMLA has 156 sections covering 28 acts as scheduled offences.

The following enforcement actions can be taken under PMLA for preventing money laundering:—

- (i) Provisional attachment of property derived or obtained as result of criminal activity relating to a scheduled offence. The same may be confiscated and vested with Central Government free from all encumbrances once the guilt of the

accused person for the scheduled offence is proved in the Trial Court and the conviction attains finality.

- (ii) Persons found guilty of an offence of Money Laundering are punishable with rigorous imprisonment for a term which shall not be less than three years but may extend up to seven years and shall also liable for fine up to Rs. 5 lakhs. In the case of scheduled offence under NDPS Act, the punishment may extend up to ten years.

The scheduled offences are investigated by various Law Enforcement Agencies such as State Police, NCB, CBI, Customs, SEBI and other Central and State Agencies. As per scheme of the Act, at present, the confiscation of property is linked with conviction in trial of scheduled offence. In case the accused is acquitted and the acquittal attains finality, the attachment of properties shall cease to have effect.

The provisional attachment of proceeds of crime as well as property involved in money laundering is made by the authorised officers of the Directorate as per the provisions contained under Section 5 of PMLA.

#### ISSUES RELATING TO AMENDMENT BILL

Several pertinent issues relating to the Amendment Bill were raised by the Committee and discussed with the representatives of Ministry of Finance (Department of Revenue). These included suggestions received from organisations/institutions such as IBA, RBI, SEBI and FICCI. Written information/replies was also obtained from the Ministry.

#### VII. TRAILING THE FLOW OF MONEY

- (a) Multi-layered transactions and round-tripping

7 (a) During the oral evidence tendered by the representatives of the Department of Revenue, the Committee desired to know whether there was a way the layering transactions across several countries be limited so that it was easier to trail the flow of money and whether the FATF could be sensitized of the numerous layers through which transactions were routed so that a standard in this regard could be formulated by it.

The Ministry have *inter-alia* submitted in this regard that the FATF has issued recommendations that takes into account the risk posed by such multi-jurisdictional entities and have recommended measures to mitigate the risk in their revised recommendations issued in Feb.2012.

The Committee further desired to know about the method to detect the round tripping of black money from India through the Foreign Investment and whether the new Amendment would help in that regard.

The Ministry have replied as below:—

“As per the scheme of the PMLA, the Directorate of Enforcement initiates investigations on registration of FIR for a scheduled offence by the concerned law enforcement agency. However, evasion of income tax, which leads to generation of black money, is not a scheduled offence under PMLA. It may be mentioned that in certain cases where charge sheets have been filed by CBI concerning scheduled offences under IPC and Prevention of Corruption Act, the Directorate of Enforcement is conducting investigations under PMLA.”

**The Committee, while expressing their serious concern over multi-layering of transactions across countries including the round-tripping of unaccounted money generated from India, would recommend that the Government should take concrete steps to mitigate the risks posed by such multi-jurisdictional entities and their transactions. The enforcement mechanism requires to be sensitized for this purpose.**

**In this context, the Committee note that Clause 58 A of the Bill provides that where on conclusion of trial in a criminal court outside India under the corresponding law of any other country, such court finds that the offence of money-laundering has not taken place or the property in India is not involved in money-laundering, the designated Special Court shall on an application moved by the concerned official, order release of such property.**

**It has been pointed out that the above provision is drafted in such a manner as to make it mandatory on the part of the Special Court to release the property, in case the person is acquitted by the corresponding law of any other country. This amounts to abridgement of powers of local court. The Committee would recommend that Clause 58A may be suitably re-drafted so as to restore the power of the local court in India to decide matters on its merits, even when the person is acquitted by an overseas court.**

(b) Participatory Notes and Stock Markets Role of SEBI :

The Committee during the oral evidence also enquired as to what steps SEBI was taking to stop generation of Black Money through Participatory Notes.

The Ministry in their post-evidence reply have elaborated as under:—

“With a view to regulate issuance of Participatory Notes (PNs) with Indian underlying securities, the SEBI (FII) Regulations, 1995 was amended in January, 2004 by inserting Regulation 15A, which requires that PNs can be issued only to those entities which are regulated by the relevant regulatory authority in the countries of their incorporation and are subject to compliance of “Know-Your-Client” norms. Further, downstream issuance or transfer of the instruments can be made only to a regulated entity.

The FIIs who issue PNs against underlying Indian securities are required to report issued and outstanding PNs to SEBI in a prescribed format. In the year 2003, Regulation 20(A) was inserted in the SEBI (FII) Regulations which obligates FIIs to fully disclose information concerning off-shore derivative instruments issued by them, as and when and in such form as the Board may require.

As per the extant regulatory structure, FIIs, which are registered with SEBI and are issuing PNs are required to submit to SEBI a monthly report in a prescribed format. As per the format, FIIs report the following information:—

- Name and Location of the person to whom the PNs are issued.
- Type of the investor.
- Name and jurisdiction of the Regulator by whom the person holding the PNs is regulated.
- Nature of Underlying security.
- Quantity and Value of PNs issued/redeemed/outstanding.

Further, FIIs can issue PNs to regulated entities only and are further required to submit an undertaking which states that they have not issued PNs to Resident Indians/NRIs.

The PN issuing FIIs are also required to provide the following undertaking along with the monthly report:

“We undertake that the beneficial owner and the person(s) to whom the Off-shore Derivative Instrument is issued in compliance with Regulation 15A of SEBI (FII) Regulations. We also undertake that the KYC compliance norms have been followed for the beneficial owner of the Off-shore Derivative Instrument.”

As per our records, the FIIs issuing PNs are regularly submitting the reports with the requisite information and undertakings.”

Further, elaborating on this issue, the Ministry have submitted that:—

“Based on reports being filed with SEBI, it may be stated that out of the 1765 FIIs registered with SEBI as of March 2012, 30 FIIs are issuing PNs. Of these, about 8 FIIs account for the bulk of PNs being issued. The PN issuing entities are large sized reputed Financial Institutions with presence in a host of markets globally. They issue PNs directly or indirectly through global financial centers such as London, Hong Kong, Singapore etc. which have Anti-Money Laundering (AML) and Combating Financing of Terrorism (CFT) regulations in place. Additionally, FII investments into India are also subject to Indian Anti-Money Laundering laws. As stated above, SEBI, on its part, has mandated that PNs with Indian underlyings can only be issued to regulated entities subject to ‘Know-Your-Client ’ norms.

Investment in the stock market by individual investors as well as by institutional investors takes place by the use of funds channelised through bank accounts. Banks maintain details of each account holder in accordance with the Know-Your-Customer norms which have been put in place by the banking regulator. The foreign currency/monetary flows in India’s domestic market is not monitored by SEBI. It is monitored by Reserve Bank of India.”

The Committee further enquired as to what steps SEBI has taken to stop infusion of black money in secondary market.

The Ministry have submitted as follows:—

“SEBI has been continuously taking steps to prevent money laundering. Some of the major initiatives taken by SEBI in this regard are as follows:—

- I. SEBI has issued a master circular on anti-money laundering in line with the FATF recommendations and PMLA Act, 2002. In terms of this circular, intermediaries in securities market are required to frame policies and procedures to effectively manage the risks based on categorization of clients as low, medium or high risk. The circular also gives an illustrative list of clients belonging to high risk category and high risk geographies. Intermediaries are required to carry out higher due diligence process in respect of clients of high risk category.

Intermediaries are required to report cash transaction reports and suspicious transaction reports to Financial Intelligence Unit (FIU).

- II. FATF through its public statements inform the specific lists of geographies and jurisdictions of higher risk. This list of high risk jurisdictions as received from the Ministry of Finance is regularly communicated to the intermediaries. The intermediaries are required to carry out enhanced due diligence of clients from these high risk jurisdictions.
- III. Because of constant monitoring and inspections, as mentioned above, the compliance level of the intermediaries has improved considerably. As a result, during inspections no serious violations are observed. Wherever necessary, monetary penalties are also imposed.

All transactions in securities market are required to be carried out through banking channels. Money invested through stock exchanges is required to come from the client's own account only.

The Committee enquired whether the amended PMLA would be an answer to the rampant money laundering taking place through the stock market by allowing/facilitating huge overseas funding of Indian companies, the sources of which are not clear from doubts and whether this Act was going to only harass small people or can catch hold of big corporate.

The Ministry have *inter-alia* submitted as under:—

“The offences under section 12-A read with section 24 (Prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control) of the Securities and Exchange Board of India Act, 1992 are already covered in the Schedule of offences under PMLA. Further, section 70 of PMLA provides for imposition of fine on companies for the offence of money laundering as well as on every person who, at the time the contravention was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, if on completion of the trial for prosecution, the guilt of the company and its officers is established. As per the Amendment Bill, section 4 of PMLA is being amended to remove the maximum limit of fine of Rs. 5 lacs and it is being left for the trial Court to adjudge the quantum of fine having regard to the gravity of the offence of money laundering committed by the company or any individual”.



**The Committee have been informed that the Participatory Notes (PNs) being issued by FIIs are being regulated by SEBI and that the PNs can be issued to regulated entities only. However, the Committee are surprised to learn that other investments in the stock market including foreign currency flows by both individual and institutional investors are not being monitored by SEBI. The Committee would like the SEBI to set up a coordination mechanism in this regard with RBI so that funds flow into the domestic stock/securities markets is properly monitored.**

**In the Committee's view, scrutiny of fund flows into the markets cannot be left to individual banks, as tainted money flowing into markets remains a distinct possibility. Suitable amendments may therefore be made in the Bill to monitor and curb possible money laundering taking place through stock/securities markets. All the regulatory and intelligence agencies including the RBI, SEBI, FIU (IND), the Enforcement Directorate, the Directorate of Revenue Intelligence and Investigation Wing of Income Tax Department should set up a monitoring/coordination mechanism for this purpose, while remaining alert to such financial flows.**

#### **VIII. MONEY-LAUNDERING AND GENERATION OF UNACCOUNTED MONEY**

The Committee specifically sought to know whether PMLA amendments will address black money generated through the illegitimate mining and sale of iron ore and other minerals and illegal land acquisition in the real estate sector and whether the proposed amendment would provide mechanism to trace the money trail of mining related transactions.

The Ministry have replied in their post-evidence note that:—

“Cases of illegal mining of iron ore in the States of Karnataka and Andhra Pradesh, based on the charge sheet filed by CBI for the scheduled offence, is currently under investigation by the Directorate of Enforcement under PMLA”.

The Committee further enquired on the issue of sources of money-laundering and desired to know as to which authority was mandated to determine whether the correct production level is reported or not.

The Ministry have submitted in their reply that Central Excise now acts on self assessment and self removal basis. If there is any complaint with regard to goods being moved without any payment or under reporting of production, the Excise Department takes care of it.

In this connection, the Committee also desired to know the details of cases detected by the Intelligence wing of the Income Tax Department and whether there were enough personnel in the Deptt. to handle this.

The Ministry have explained the position as below:—

“The Income Tax department takes action against tax evasion based on information/complaints, which are processed and verified. Information technology tools are used appropriately for processing and verification of such information. During the last three financial years, unaccounted assets worth Rs. 2,620 crore, including cash amounting to Rs. 1,235 crore, have been seized and undisclosed income of Rs. 28,040 crore has been detected by the Investigation Directorates of the Central Board of Direct Taxes. Besides, during income tax assessment proceedings also, under-reported or misreported incomes are detected and brought to tax”.

On the manpower side, they have submitted that:—

“There is acute shortage of both manpower and budgetary resources in the Income Tax department, particularly in the Investigation Directorates. Increasing number of taxpayers, processing of large quantum of data collected, new responsibilities, and increasing expectations of taxpayers for international quality services have necessitated increase in manpower resources of the department. The department has, accordingly, submitted a proposal for cadre restructuring seeking about 20,000 additional manpower in different grades. Complementary budgetary resources will be required to fund the expenditure for hiring, training, equipping and meeting employment expenses of thus additional manpower. It is also to be noted that as against the average global cost of 1% - 1.5 %, the cost of collection of the Income Tax department is less than 0.58 %, indicating shortage of resources.”

The Committee, while further probing the issue of large unaccounted money leading to money-laundering activities, asked as to what effective infrastructure has been put in place to de-accelerate the generation of black money.

The Ministry on this point have explained as under:—

“The Income Tax Department has set up an Integrated Taxpayer Data Management System (ITDMS) to electronically collate information collected from various sources, *i.e.* Tax Returns, TDS returns, Annual Information Returns, information collected by the Central Information Branches (CIB), etc. The same is utilized for

investigation of tax evasion information/complaints, including for developing cases for search and seizure action. Information received from Financial Intelligence Unit (FIU-IND) regarding suspicious transactions from various banks and financial institutions are also investigated by the Income Tax Department.”

While elaborating on the efforts made by the Department to augment revenue, the Ministry have submitted that persistent efforts made by the Income Tax Department and its investigative machinery have resulted in substantial increase in Direct Tax revenue collections, indicating increased voluntary compliance and reduction of black money and tax evasion.

**The Department of Revenue have submitted that the Income Tax Department has set up an Integrated Taxpayer Data Management System (ITDMS) to electronically collate information collected from different sources and that “the efforts made by the Department have resulted in substantial increase in direct tax revenue, indicating increased voluntary compliance and reduction of black money and tax evasion”. The Committee, however, do not share the optimism of the Department on the revenue front, as there is widespread perception of tax avoidance and evasion leading to large-scale generation of unaccounted money in the economy. Tax-GDP ratio has also been only stagnating. Incidence of under-reporting of production levels as also under-invoicing of exports and over-invoicing of imports are also major factors behind generation of unaccounted money, which eventually leads to money-laundering. Thus, the Government, specially the Department of Revenue, must always remain alive to the sources engendering unaccounted money in the country, if they have to counter the menace of money-laundering. Needless to emphasise, this requires concerted planning and coordinated enforcement action on the part of all the enforcement agencies functioning under the Department. The Committee desire a status report on the existing framework, its efficacy and measures taken by the Department of Revenue in this regard. The Committee would also expect the Department to plug loopholes in the existing framework including related enactments, taking into account all the aspects engendering generation of unaccounted money.**

## **IX. TRADE-BASED MONEY-LAUNDERING**

The Committee sought to know as to how many cases were registered involving trade-based money-laundering (TBML) and as to how PMLA would deal with trade-based money-laundering.

In their post-evidence submission, the Ministry stated as below:—

“Trade based money-laundering has not been distinguished from other forms of money-laundering as a distinct offence. Hence, no separate data is available showing the number of TBML cases. Whenever proceeds of crime generated out of offences listed in the Schedule to PMLA are laundered through trade, the necessary action of attachment of such proceeds and further legal proceedings under PMLA are initiated. In addition, offences under section 135 of the Customs Act, 1962 is also a scheduled offence under PMLA. As and when the Customs Department launches prosecution in cases of evasion of customs duties, the Directorate of Enforcement takes up investigation in such cases under PMLA.”

**The Committee would like the Department of Revenue to take into reckoning and incorporate incidence of trade-based money laundering, which has not been distinguished so far as a money-laundering offence. The Department also requires to maintain a comprehensive data-base in this regard, which will enable them to tap trade-based offences.**

#### **X. ONUS OF PROOF-DISTINCTION BETWEEN *BONAFIDE* AND *MALAFIDE* TRANSACTION**

The Committee expressed their concern that the onus of proof that the property is not proceeds of crime being on the accused was rather stringent.

The Ministry clarified their position as under:—

“As per existing section 24 of PMLA, already there is a provision that when a person is accused of having committed the offence of money-laundering under section 3, the burden of proving that proceeds of crime are untainted property shall be on the accused. This section is being amended to provide that in any proceedings relating to proceeds of crime under PMLA, unless the contrary is proved, it shall be presumed that such proceeds of crime is involved in money-laundering. By virtue of this amendment, the burden of proof would not only be on the accused but on anyone who is in possession of the proceeds of crime.”

In this context, the Committee desired a specific clarification as to whether this Act can distinguish between *bonafide* and *malafide* transactions of property so that innocent persons, who end up with any property, are not penalized.

The Ministry have sought to clarify that:—

“Section 8 of PMLA adequately safeguards the interests of persons who are not found to be involved in the offence of money laundering.”

**The Committee recommend that the prescribed onus of proof that the property in question is not out of proceeds of money-laundering crime, being not only on the accused but also on anyone who is in possession of the proceeds of crime, should be subject to adequate safeguards to protect the innocent.**

## **XI. BENEFICIAL OWNERSHIP**

Clause 2 (i)(fa) reads as:—

“beneficial owner” means an individual who ultimately owns or controls a client of a reporting entity or the person on whose behalf a transaction is being conducted and includes a person who exercises ultimate effective control over a juridical person.”

The proposed amendment contemplates that identification of the beneficial owners is to be done by the reporting entity in respect of such clients as may be prescribed. The Central Government will specify the categories of customers in respect of whom banks will be required to verify the beneficial owner. It has been pointed out that even if such requirement may be restricted to certain specified clients, ascertaining beneficial owners will be extremely difficult task for the banks.

On this issue, the Ministry have stated their position as below:—

“PMLA in present form imposes obligation on the reporting entities and does not impose obligation on clients. This is in conformity with the FATF standards which do not impose any direct obligation on clients to declare beneficial ownership while undertaking transaction with the bank.”

They have further added that:—

“FATF standards also mention that “where the financial institution is unable to comply with the applicable requirements, it should be required not to open the account, commence business relations or perform the transaction; or should be required to terminate the business relationship; and should consider making a suspicious transactions report in relation to the customer.” Thus there is distinct obligation not to open account if the beneficial ownership cannot

be ascertained. This aspect, which has been mentioned in the circulars of the regulators, should address the concern of the banks.”

**The Committee note that the anti money-laundering law in its present form does not impose any obligation on clients, but it casts responsibility on the reporting entities only to ascertain ‘beneficial ownership’. According to the Ministry, FATF standards do not impose any direct obligation on clients to declare beneficial ownership while transacting with the bank. The reporting entities are also required to make a suspicious transactions report in relation to their customer. Further, there is distinct obligation not to open account, if the beneficial ownership cannot be ascertained. The Committee are, however, of the view that clients as well may be required to declare ‘beneficial ownership’ while undertaking transaction with the bank. Further, the Committee believe that considering the large volume of transactions, which banks are required to deal with, it may not be possible for the banks to ascertain “the beneficial owners” involved in all such transactions. Therefore, the Committee would recommend appropriate parameters clearly defining the nature and scope of “suspicious transactions” and its “beneficial ownership”, enabling their systematic sifting from general transactions, so that these transactions are reported by banks only after *prima facie* examination based on such parameters/guidelines.**

## **XII. PERSONS CARRYING ON DESIGNATED BUSINESS OR PROFESSION**

Clause 2 (ii)(ha) reads as:—

“client” means a person who is engaged in a financial transaction or activity with a reporting entity and includes a person on whose behalf the person who engaged in the transaction or activity, is acting.

It has been suggested that in the definition of “reporting entities”, travel agents, vehicle sellers who deal in large value cash transactions, may also be included.

The Ministry have however submitted that the Government does not agree with the suggestion.

**The Committee would recommend that the definition of ‘reporting entities’ may be widened so as to include categories such as travel agents, vehicle sellers/dealers etc., who deal in large value cash transactions.**

### XIII. PERSONS ENGAGED IN SAFE KEEPING AND ADMINISTRATION OF CASH AND LIQUID SECURITIES ON BEHALF OF OTHER PERSONS

Clause 2 (ix)(sa)(v) reads as:—

“person engaged in safekeeping and administration of cash and liquid securities on behalf of other persons, as may be notified by the Central Government”.

It has been suggested that necessary changes may be made in the proposed amendments to exclude any obligation on the part of banks to verify contents of the safe deposit lockers to satisfy themselves that they are not proceeds of crime. The Ministry have again submitted that the Government does not agree with the suggestion.”

**Banks, as represented by the IBA, have submitted that it will be very difficult for the banks to examine and verify each transaction carried out by their clients, especially in the case of safe deposit lockers, which is a safety facility extended to the general public. The Committee would recommend that an appropriate declaration from the customer may be secured in the case of safe deposit lockers maintained by banks, so that the ordinary bank customer is not inconvenienced.**

### XIV. AUDIT

Clause 11 (ii) (1A) reads as:—

“(1A) If at any stage of inquiry or any other proceedings before him, the Director having regard to the nature and complexity of the case, is of the opinion that it is necessary to do so, he may direct the concerned reporting entity to get its records, as may be specified, audited by an accountant from amongst a panel of accountants, maintained by the Central Government for this purpose.”

It is proposed to amend section 13 of the PMLA Act making provision enabling the Director to cause an inquiry to be made with regard to the obligations of the reporting entity (Banks and Financial Institutions) and also cause an audit of the records of the reporting entity by an accountant from amongst a panel of accountants maintained by the Central Government for this purpose. As far as the banks are concerned, they are already subject to audit by the Statutory Auditors as well as annual inspection by the Reserve Bank of India. In the course of such audit and inspection the records of the banks are verified to

check whether all the requirements under the PMLA Act have been complied with the banks. The banks as represented by the IBA are, therefore, of the view that there is no need for one more audit to be conducted by the auditors appointed by the Central Government. If the Director is of the view that the records of a particular bank are not being maintained or there are any other non-compliances, the same can be reported to the Reserve Bank of India who can do the necessary verification during the annual inspection or by conducting a special inspection, if necessary.

The Ministry have however not agreed to this suggestion.

**The Committee are of the view that causing an additional audit of the banks to be conducted under the proposed Bill may only create duplication and put needless burden on the banks, as they are already subject to audit by the Statutory Auditors as well as annual inspection by the RBI. The Committee would, therefore, suggest that in the course of such audit and inspection, the records of the banks can be mandated to be verified for their compliances under the anti-money laundering law as well. Necessary instructions in this regard may be issued separately.**

## **XV. IMPOSITION OF FINE**

Clause 4 reads as:—

“In section 4 of the principal Act, the words “which may extend to five lakh rupees” shall be omitted.”

It has been suggested that there may be an upper limit for the fine. Moreover, a percentage of the amount of money laundered may be considered as the fine. It has also been suggested that since the proposed amendment to impose fine on the entity does not make any distinction between Directors who are in charge of and responsible to the company for the conduct of its business and other Directors like Independent Directors, nominee Directors, etc., it would be desirable to limit the ambit of the clause only to Directors and employees entrusted with the day-to-day conduct of business.

The Ministry have submitted their comments as follows:—

“Recommendation 17 of FATF prescribes that countries should ensure that effective, proportionate and dissuasive sanctions on natural or legal persons who fail to comply with anti-money laundering or terrorist financing requirements, is imposed. As per the existing provisions in section 4, the fine cannot exceed Rs. 5 lakh. This amount appears disproportionately low, given the



gravity of the offence of money laundering and particularly so for a legal person. It has therefore been proposed to amend section 4 so as to provide for imposition of fine proportionate to the gravity of the offence which will be determined by the court. It needs to be left to judgment of the court to decide the quantum of fine”.

**The proposed amendments seek to empower the authorities to give directions/warnings and impose fines on the directors and employees of the reporting entities. The Committee, however, find that this does not make any distinction between Directors who are in charge of and responsible to the company for the conduct of its business and other Directors (Independent Directors, Nominee Directors etc.) It would therefore be desirable to limit the ambit to Directors and employees who are responsible and entrusted with the conduct of the day-to-day business of the reporting entity and who are entrusted with the task of complying with the provisions of PMLA.**

#### XVI. MAINTENANCE OF RECORDS

Clause 9 (sub-clause 3 and 4) reads as:—

“(3) The records referred to in clause (a) of sub-section (1) shall be maintained for a period of ten years from the date of transaction between a client and the reporting entity.

(4) The records referred to in clause (e) of sub-section (1) shall be maintained for a period of ten years after the business relationship between a client and the reporting entity has ended or the account has been closed, whichever is later.”

It has been pointed out that from the proposed amendments it appears that even documents related to transactions would have to be maintained till ten years from the date of cessation of business relationship or the closing of the account, whichever is later. This implies that if the customer in case of banking account does not close his account, such documents will become permanent documents and have to be maintained forever.

The Ministry’s submission on this issue is as follows:—

“FATF standards require maintenance of records of transactions for at least five years. In case of records obtained through CDD measures etc., they have to be maintained for at least five years after the business relationship has ended. This period under PMLA is ten years. The assumption that ‘even documents related to transactions would have to be maintained till ten years from the

date of cessation of business relationship' is not factually correct as obligation under PMLA is to maintain record of all transactions for a period of ten years from the date of transaction.”

**The Committee desire that it may not be necessary to maintain all kinds of records for a period of ten years from the date of transaction between a client and the reporting entity. If the business relationship between a client and the reporting entity has ended or the account has been closed, the period for maintenance of records may be reduced to five years. Clause 9 may be clarified/modified accordingly.**

## XVII. ELECTRONIC VERIFICATION OF IDENTITY

It has been suggested that inclusion of Electronic verification of identity would provide flexibility for the banks and financial institutions in ensuring KYC compliance, which may otherwise become increasingly time-consuming.

The Ministry have submitted that:—

“The procedure and manner of verification and list of officially valid documents is specified in the PML Rules and circulars of the regulators. This suggestion can be examined and considered while amending the PML Rules. The Government, therefore, does not consider that any amendment in PMLA will be required for this purpose. The proposed section 12(1)(c) already uses words, ‘as’ may be prescribed.”

**The Committee would suggest that provision for electronic verification of identity may be made in the Rules, as it would help the banks and financial institutions in ensuring KYC compliance.**

## XVIII. ADEQUACY OF MANPOWER AND TRAINING REQUIREMENTS

The Committee during the oral evidence expressed their concern as to whether the Law Enforcement Agencies and banks are properly equipped with manpower and requisite information technology to handle the additional responsibilities brought about by the amending PMLA.

The Ministry in their post-evidence reply stated as follows:—

“The Directorate of Enforcement has been sanctioned additional manpower which will be adequate to effectively deal with the cases of money laundering under PMLA. The process of induction of the sanctioned additional manpower is already underway by direct

recruitment, promotion and deputation. The Directorate of Enforcement is also enhancing its technological capabilities through the NIC for greater application of IT in its work processes.

The proposed amendments to Section 12 and 13 of the PML Act do not place any additional obligations on the banks as compared to the present requirements. It may be mentioned that after introduction of Core Banking Solutions (CBS) by banks maintenance and retrieval of records is no longer manpower intensive”.

On being enquired as to whether there were adequate personnel in the Enforcement Directorate to effectively implement the PMLA. The Ministry in a written note have submitted that the sanctioned strength of the officers and staff at various levels in the Directorate of Enforcement has been recently increased from 745 to 2064 in order to enhance its operational effectiveness having regard to the increase in work relating to PMLA. Recruitment has been undertaken in three phases.

The Committee desired to know the Ministry’s views on the desirability of large training budget for the organizations for training of their personnel in overseas crime enforcement agencies.

The Ministry have expressed their views as under:—

“The suggestion of the Committee is well taken. While the officers at various levels are already being sent on training to other countries for upgrading of their skills in fiscal crimes, capacity building in investigating money laundering offences etc., the Dept. will take further steps to augment training in related areas”.

**The Committee find although the sanctioned strength of the nodal enforcement agency under the PMLA, namely the Enforcement Directorate has been substantially enhanced, their effective strength still remains inadequate. The Committee are therefore of the view that all the agencies entrusted with key responsibilities under PMLA, especially the FIU-IND and the Enforcement Directorate should be adequately staffed with requisite skills to meet their operational requirements. They should also be provided professional training in line with international standards. The Committee would like to emphasise that the operational effectiveness of enforcement agencies should not suffer for want of staff and training.**

#### XIX. MANAGEABILITY OF FINANCIAL DATA

On the issue of manageability, the Committee specifically enquired about reduction in the volume of financial data received

under the PMLA reporting framework so that attention is focused on larger cases.

The Ministry's reply in this regard is re-produced as under:—

“Under the FATF standards, two kinds of reports are required to be filed with FIU- (1) STRs, which are irrespective of any monetary value, and (2) threshold based report *e.g.* Cash Transaction Reports (CTRs). In terms of numbers, CTRs constitute the bulk of financial information received in FIU. In some major countries(\*) the reporting threshold for CTR is at the level of \$ 10,000. In India, this threshold is Rs.10 lakh, which is substantially higher than \$ 10,000 and therefore raising it further only to reduce the volume of financial data may not be desirable.

FIU-IND is in advanced stage of rolling out Project FINnet which has been designed with the objective to adopt industry best practice and appropriate technology to collect, analyse and disseminate financial information. Project FINnet would harness data mining and business intelligence tools for identifying actionable cases from the financial data received from the reporting entities”.

**The Committee believe that the volume of financial data required under PMLA may become very unwieldy and hence unmanageable. It would also require large number of staff which Government may not be able to provide. The Committee would, therefore, suggest that certain parameters/thresholds may be stipulated so that all kinds of data are not processed. The proposed framework should thus focus on larger cases and laundering-prone categories/sectors. In this context, the Committee would suggest that a comprehensive data-base would be useful for analyzing the complex inter-relationship among the transactions and entities and their trend and pattern over time.**

## XX. FAST-TRACKING OF CASES

On the question of expediting the cases, the Committee desired to know whether this law bring about fast-tracking of cases and speed in investigation.

The Ministry have explained that:—

“With the sanction of additional manpower to the Directorate of Enforcement, the investigations under PMLA are expected to be conducted expeditiously. Secrecy in concerned matters is being maintained. Further, section 43 of PMLA provides for designating

Courts of Session as Special Courts for trial of the offence of money laundering punishable under section 4 *ibid.*”

**The Committee would not like the enquiries under PMLA to become open-ended without any concrete outcomes. It is, therefore, necessary that time-lines are prescribed for completing the investigative process. If fruitful action has to be taken against money-laundering, it is important that cases are fast-tracked, the culprits punished and the proceeds confiscated without any delay. Special courts, being set up to decide cases of money-laundering should be geared up to help achieve this objective without any hitch.**

**With the modifications and amendments suggested by the Committee, it is expected that the PMLA would substantially conform to the global standards and help in strengthening and coordinating efforts of both national and international intelligence, investigation and enforcement agencies in combating money laundering and terror-financing. In this context, the Committee would like to once again emphasise that the anti-money laundering law should seek to tighten any laxity in the existing enforcement mechanism and secure speedier convictions in a stipulated time-frame.**

NEW DELHI;  
8 May, 2012  

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18 Vaisakha, 1934 (*Saka*)

YASHWANT SINHA,  
*Chairman,*  
*Standing Committee on Finance.*

## APPENDIX I

### MINUTES OF THE SEVENTEENTH SITTING OF THE STANDING COMMITTEE ON FINANCE (2011-12)

The Committee sat on Monday, the 9th April, 2012 from 1430 hrs.  
to 1645 hrs.

#### PRESENT

Shri Yashwant Sinha — *Chairman*

#### MEMBERS

#### *Lok Sabha*

2. Shri Shivkumar Udasi
3. Shri Bhakta Charan Das
4. Shri Gurudas Dasgupta
5. Shri Nishikant Dubey
6. Shri Prem Das Rai
7. Shri Rayapati S. Rao
8. Shri Yashvir Singh
9. Shri Manica Tagore
10. Dr. M. Thambidurai

#### *Rajya Sabha*

11. Shri Piyush Goyal
12. Shri Satish Chandra Misra
13. Dr. K.V.P. Ramachandra Rao

#### SECRETARIAT

- |                                 |   |                         |
|---------------------------------|---|-------------------------|
| 1. Shri A.K. Singh              | — | <i>Joint Secretary</i>  |
| 2. Shri Ramkumar Suryanarayanan | — | <i>Deputy Secretary</i> |
| 3. Smt. Meenakshi Sharma        | — | <i>Deputy Secretary</i> |
| 4. Shri Kulmohan Singh Arora    | — | <i>Under Secretary</i>  |



land acquisition in the real estate sector and mechanism existing to deaccelerate the generation of black money etc. The Chairman directed the representatives of the Ministry of Finance (Department of Revenue) to furnish replies to the points raised by the Members during the discussion within a week's time.

A verbatim record of proceedings was kept.

*The witnesses then withdrew.*

*The Committee then adjourned at 1645 hours.*



MINUTES OF THE NINETEENTH SITTING OF THE STANDING  
COMMITTEE ON FINANCE (2011-12)

The Committee sat on Tuesday, the 08th May, 2012 from 1000 hrs.  
to 1145 hrs.

PRESENT

Shri Yashwant Sinha — *Chairman*

MEMBERS

*Lok Sabha*

2. Shri Shivkumar Udasi
3. Shri Harishchandra Deoram Chavan
4. Shri Nishikant Dubey
5. Shri Bhartruhari Mahtab
6. Shri Prem Das Rai
7. Dr. Kavuru Sambasiva Rao
8. Shri Rayapati S. Rao
9. Shri Magunta Sreenivasulu Reddy
10. Shri G.M. Siddeswara

*Rajya Sabha*

11. Smt. Renuka Chowdhury
12. Shri Piyush Goyal
13. Dr. K.V.P. Ramachandra Rao
14. Shri Yogendra P. Trivedi

SECRETARIAT

- |                                 |   |                         |
|---------------------------------|---|-------------------------|
| 1. Shri A.K. Singh              | — | <i>Joint Secretary</i>  |
| 2. Shri R.K. Jain               | — | <i>Director</i>         |
| 3. Shri Ramkumar Suryanarayanan | — | <i>Deputy Secretary</i> |
| 4. Shri Kulmohan Singh Arora    | — | <i>Under Secretary</i>  |

2. The Committee took up the draft Report on the 'Prevention of Money Laundering (Amendment) Bill, 2011 for consideration and adoption.

3. The Committee adopted the above draft report with some minor modifications as suggested by Members. The Committee authorised the Chairman to finalise the Report in the light of the modifications suggested and present the same to Parliament.

*The Committee then adjourned.*

## APPENDIX II

AS INTRODUCED IN LOK SABHA

**Bill No. 133 of 2011**

### THE PREVENTION OF MONEY-LAUNDERING (AMENDMENT) BILL, 2011

A

BILL

*further to amend the Prevention of Money-laundering Act, 2002.*

BE it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:—

Short title  
and  
commence-  
ment.

1. (1) This Act may be called the Prevention of Money-laundering (Amendment) Act, 2011.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment  
of section  
2.

2. In section 2 of the Prevention of Money-Laundering Act, 2002 (hereinafter referred to as the principal Act), in sub-section (1),—

15 of 2003.

(i) after clause (f), the following clause shall be inserted, namely:—

‘(fa) “beneficial owner” means an individual who ultimately owns or controls a client of a reporting entity or the person on whose behalf a transaction is being conducted and includes a person who exercises ultimate effective control over a juridical person;’;

(ii) after clause (h), the following clause shall be inserted, namely:—

*(ha)* “client” means a person who is engaged in a financial transaction or activity with a reporting entity and includes a person on whose behalf the person who engaged in the transaction or activity, is acting;’;

*(iii)* after clause *(i)*, the following clauses shall be inserted, namely:—

*(ia)* “corresponding law” means any law of any foreign country corresponding to any of the provisions of this Act or dealing with offences in that country corresponding to any of the scheduled offences;

*(ib)* “dealer” has the same meaning as assigned to it in clause *(b)* of section 2 of the Central Sales Tax Act, 1956;’;

74 of 1956.

*(iv)* clause *(ja)* shall be omitted;

*(v)* for clause *(l)*, the following clause shall be substituted, namely:—

*(l)* “financial institution” means a financial institution as defined in clause *(c)* of section 45-I of the Reserve Bank of India Act, 1934 and includes a chit fund company, a housing finance institution, an authorised person, a payment system operator, a non-banking financial company and the Department of Posts in the Government of India;’;

2 of 1934.

*(vi)* for clause *(n)*, the following clause shall be substituted, namely:—

*(n)* “intermediary” means,—

*(i)* a stock-broker, sub-broker, share transfer agent, banker to an issue, trustee to a trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser or any other intermediary associated with securities market and

registered under section 12 of the Securities and Exchange Board of India Act, 1992; or 15 of 1992.

(ii) an association recognised or registered under the Forward Contracts (Regulation) Act, 1952 or any member of such association; or 74 of 1952.

(iii) intermediary registered by the Pension Fund Regulatory and Development Authority; or

(iv) a recognised stock exchange referred to in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956;'; 42 of 1956.

(vii) in clause (q), the words “and includes a person carrying on designated business or profession” shall be omitted;

(viii) in clause (ra), in sub-clause (i), for the word “remits”, the words “transfers in any manner” shall be substituted;

(ix) after clause (s), the following clauses shall be inserted, namely:—

‘(sa) “person carrying on designated business or profession” means,—

(i) a person carrying on activities for playing games of chance for cash or kind, and includes such activities associated with casino;

(ii) a Registrar or Sub-Registrar appointed under section 6 of the Registration Act, 1908, as may be notified by the Central Government; 16 of 1908.

(iii) real estate agent, as may be notified by the Central Government;

(iv) dealer in precious metals, precious stones and other high value goods, as may be notified by the Central Government;

(v) person engaged in safe-keeping 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;

(sb) “precious metal” means gold, silver, platinum, palladium or rhodium or such other metal as may be notified by the Central Government;

(sc) “precious stone” means diamond, emerald, ruby, sapphire or any such other stone as may be notified by the Central Government;’;

(x) after clause (v), the following shall be inserted, namely:—

*‘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;

(va) “real estate agent” means a real estate agent as defined in clause (88) of section 65 of the Finance Act, 1994;’;

32 of 1994.

(xi) after clause (w), the following clause shall be inserted, namely:—

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

3. In section 3 of the principal Act, for the words “proceeds of crime and projecting”, the words “proceeds of crime including its concealment, possession, acquisition or use and projecting or claiming” shall be substituted.

Amendment  
of section  
3.

Amendment  
of section  
4.

4. In section 4 of the principal Act, the words “which may extend to five lakh rupees” shall be omitted.

Amendment  
of section  
5.

5. In section 5 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Where the Director or any other officer not below the rank of Deputy Director authorised by the Director for the purposes of this section, has reason to believe (the reason for such belief to be recorded in writing), on the basis of material in his possession, that—

(a) any person is in possession of any proceeds of crime;

(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,

he may, by order in writing, provisionally attach such property for a period not exceeding one hundred and eighty days from the date of the order, in such manner as may be prescribed:

Provided that no such order of attachment shall be made unless, in relation to the scheduled offence, a report has been forwarded to a Magistrate under section 173 of the Code of Criminal Procedure, 1973, or a complaint has been filed by a person authorised to investigate the offence mentioned in that Schedule, before a Magistrate or court for taking cognizance of the scheduled offence, as the case may be, or a similar report or complaint has been made or filed under the corresponding law of any other country: 2 of 1974.

Provided further that, notwithstanding anything contained in clause (b), any property of

any person may be attached under this section if the Director or any other officer not below the rank of Deputy Director authorised by him for the purposes of this section has reason to believe (the reasons for such belief to be recorded in writing), on the basis of material in his possession, that if such property involved in money-laundering is not attached immediately under this Chapter, the non-attachment of the property is likely to frustrate any proceeding under this Act.”.

**6. In section 8 of the principal Act,—**

Amendment  
of section  
8.

*(i)* in sub-section (1), after the words and figure “section 5, or, seized”, the words “or frozen” shall be inserted;

*(ii)* in sub-section (3),—

*(a)* in the opening portion, for the words “record seized under section 17 or section 18 and record a finding to that effect, such attachment or retention of the seized property”, the words “record seized or frozen under section 17 or section 18 and record a finding to that effect, whereupon such attachment or retention or freezing of the seized or frozen property” shall be substituted;

*(b)* in clause (a), for the words “scheduled offence before a court; and”, the words “offence under this Act before a court or under the corresponding law of any other country, before the competent court of criminal jurisdiction outside India, as the case may be; and” shall be substituted;

*(c)* for clause (b), the following clause shall be substituted, namely:—

“(b) becomes final after an order of confiscation is passed under sub-section (5) or sub-section (7) of section 8 or



section 58B or sub-section (2A) of section 60 by the Adjudicating Authority”;

(iii) in sub-section (4), for the words “possession of the attached property”, the following shall be substituted, namely:—

“possession of the property attached under section 5 or frozen under sub-section (1A) of section 17, in such manner as may be prescribed:

Provided that if it is not practicable to take possession of a property frozen under sub-section (1A) of section 17, the order of confiscation shall have the same effect as if the property had been taken possession of.”;

(iv) for sub-sections (5) and (6), the following sub-sections shall be substituted, namely:—

“(5) Where on conclusion of a trial of an offence under this Act, the Special Court finds that the offence of money-laundering has been committed, it shall order that such property involved in the money-laundering or which has been used for commission of the offence of money-laundering shall stand confiscated to the Central Government.

(6) Where on conclusion of a trial under this Act, the Special Court finds that the offence of money-laundering has not taken place or the property is not involved in money-laundering, it shall order release of such property to the person entitled to receive it.

(7) Where the trial under this Act cannot be conducted by reason of the death of the accused or the accused being declared a proclaimed offender or for any other reason or having commenced but could not be concluded, the Special Court shall, on an application moved by the Director or a person

claiming to be entitled to possession of a property in respect of which an order has been passed under sub-section (3) of section 8, pass appropriate orders regarding confiscation or release of the property, as the case may be, involved in the offence of money-laundering after having regard to the material before it.”.

Amendment  
of section  
9.

**7.** In section 9 of the principal Act,—

(i) in the opening portion, for the words, brackets and figures “sub-section (6) of section 8”, the words, brackets and figures “sub-section (5) or sub-section (7) of section 8 or section 58B or sub-section (2A) of section 60” shall be substituted;

(ii) in the first proviso,—

(a) for the words “Adjudicating Authority”, the words “Special Court or the Adjudicating Authority, as the case may be,” shall be substituted;

(b) after the words “or seized”, the words “or frozen” shall be inserted.

Amendment  
of section  
10.

**8.** In section 10 of the principal Act, in sub-section (2), for the words, brackets and figures “sub-section (6) of section 8”, the words, brackets and figures “sub-section (5) or sub-section (6) or sub-section (7) of section 8 or section 58B or sub-section (2A) of section 60” shall be substituted.

Substitution  
of new  
section for  
section 12.

**9.** For section 12 of the principal Act, the following section shall be substituted, namely:—

Reporting  
entity to  
maintain  
records.

“12. (1) Every reporting entity shall—

(a) maintain a record of all transactions, including information relating to transactions covered under clause (b), in such manner as to

enable it to reconstruct individual transactions;

*(b)* furnish to the Director within such time as may be prescribed, information relating to such transactions, whether attempted or executed, the nature and value of which may be prescribed;

*(c)* verify the identity of its clients in such manner and subject to such conditions, as may be prescribed;

*(d)* identify the beneficial owner, if any, of such of its clients, as may be prescribed;

*(e)* maintain record of documents evidencing identity of its clients and beneficial owners as well as account files and business correspondence relating to its clients.

*(2)* Every information maintained, furnished or verified, save as otherwise provided under any law for the time being in force, shall be kept confidential.

*(3)* The records referred to in clause *(a)* of sub-section *(1)* shall be maintained for a period of ten years from the date of transaction between a client and the reporting entity.

*(4)* The records referred to in clause *(e)* of sub-section *(1)* shall be maintained for a period of ten years after the business relationship between a client and the reporting entity has ended or the account has been closed, whichever is later.

*(5)* The Central Government may, by notification, exempt any reporting entity or class of reporting entities from any obligation under this Chapter.”.

**10.** After section 12 of the principal Act, the following section shall be inserted, namely:—

Insertion of  
new section  
12A.

“12A. (1) The Director may call for from any reporting entity any of the records referred to in sub-section (1) of section 12 and any additional information as he considers necessary for the purposes of this Act.

Access to  
information.

(2) Every reporting entity shall furnish to the Director such information as may be required by him under sub-section (1) within such time and in such manner as he may specify.

(3) Save as otherwise provided under any law for the time being in force, every information sought by the Director under sub-section (1), shall be kept confidential.”.

**11.** In section 13 of the principal Act,—

Amendment  
of section  
13.

(i) in sub-section (1), for the words “call for records referred to in sub-section (1) of section 12 and may make such inquiry or cause such inquiry to be made, as he thinks fit”, the words “make such inquiry or cause such inquiry to be made, as he thinks fit to be necessary, with regard to the obligations of the reporting entity, under this Chapter” shall be substituted;

(ii) after sub-section (1), the following sub-sections shall be inserted, namely:—

“(1A) If at any stage of inquiry or any other proceedings before him, the Director having regard to the nature and complexity of the case, is of the opinion that it is necessary to do so, he may direct the concerned reporting entity to get its records, as may be specified, audited by an accountant from amongst a panel of accountants, maintained by the Central Government for this purpose.

(1B) The expenses of, and incidental to, any audit under sub-section (1A) may be determined by the Director and shall be paid by the reporting entity and in default of such payment, shall be recoverable from such reporting entity in the manner provided in section 69.”;

(iii) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) If the Director, in the course of any inquiry, finds that a reporting entity or its designated director on the Board or any of its employees has failed to comply with the obligations under this Chapter, then, without prejudice to any other action that may be taken under any other provisions of this Act, he may—

(a) issue a warning in writing; or

(b) direct such reporting entity or its designated director on the Board or any of its employees, to comply with specific instructions; or

(c) direct such reporting entity or its designated director on the Board or any of its employees, to send reports at such interval as may be prescribed on the measures it is taking; or

(d) by an order, impose a monetary penalty on such reporting entity or its designated director on the Board or any of its employees, which shall not be less than ten thousand rupees but may extend to one lakh rupees for each failure.”;

(iv) after sub-section (3), the following Explanation shall be inserted, namely:—

“*Explanation.*— For the purpose of this section, “accountant” shall mean a chartered accountant within the meaning of the Chartered Accountants Act, 1949.” 38 of 1949.

**12.** For section 14 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 14.

“14. Save as otherwise provided in section 13, the reporting entity, its directors and employees 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.”.

No civil or criminal proceedings against reporting entity, its directors and employees in certain cases.

**13.** For section 15 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 15.

“15. The Central Government may, in consultation with the Reserve Bank of India, prescribe the procedure and the manner of maintaining and furnishing information by a reporting entity under sub-section (1) of section 12 for the purpose of implementing the provisions of this Act.”.

Procedure and manner of furnishing information by reporting entities.

**14.** In section 17 of the principal Act,—

Amendment of section 17.

(i) in sub-section (1),—

(a) in clause (iii), after the word “money-laundering,” , the word “or” shall be inserted;

(b) after clause (iii), the following clause shall be inserted, namely:—

“(iv) is in possession of any property related to crime,”;

(c) in clause (d), after the words “such record or”, the words “property, if required or” shall be inserted;

(d) for the proviso, the following proviso shall be substituted, namely:—

“Provided that no search shall be conducted unless, in relation to the

scheduled offence, a report has been forwarded to a Magistrate under section 157 of the Code of Criminal Procedure, 1973, or a complaint has been filed by a person, authorised to investigate the offence mentioned in the Schedule, before a Magistrate or court for taking cognizance of the scheduled offence, as the case may be, or in cases where such report is not required to be forwarded, a similar report of information received or otherwise has been submitted by an officer authorised to investigate a scheduled offence to an officer not below the rank of Additional Secretary to the Government of India or equivalent being head of the office or Ministry or Department or Unit, as the case may be, or any other officer who may be authorised by the Central Government, by notification, for this purpose.”;

2 of 1974.

(ii) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) Where it is not practicable to seize such record or property, the officer authorised under sub-section (1), may make an order to freeze such property whereupon the property shall not be transferred or otherwise dealt with, except with the prior permission of the officer making such order, and a copy of such order shall be served on the person concerned:

Provided that if, at any time before its confiscation under sub-section (5) or (7) of section 8 or section 58B or sub-section (2A) of section 60, it becomes practical to seize a frozen property, the officer authorised under sub-section (1) may seize such property.”;

(iii) in sub-section (2), after the words, “immediately after search and seizure” the words “or upon issuance of a freezing order” shall be inserted;

(iv) for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) The authority seizing any record or property under sub-section (1) or freezing any record or property under sub-section (1A) shall, within a period of thirty days from such seizure or freezing, as the case may be, file an application, requesting for retention of such record or property seized under sub-section (1) or for continuation of the order of freezing served under sub-section (1A), before the Adjudicating Authority.”.

**15.** In section 18 of the principal Act, in sub-section (1), for the proviso, the following proviso shall be substituted, namely:—

Amendment  
of section  
18.

2 of 1974.

“Provided that no search of any person shall be made unless, in relation to the scheduled offence, a report has been forwarded to a Magistrate under section 157 of the Code of Criminal Procedure, 1973, or a complaint has been filed by a person, authorised to investigate the offence mentioned in the Schedule, before a Magistrate or court for taking cognizance of the scheduled offence, as the case may be, or in cases where such report is not required to be forwarded, a similar report of information received or otherwise has been submitted by an officer authorised to investigate a scheduled offence to an officer not below the rank of Additional Secretary to the Government of India or equivalent being head of the office or Ministry or Department or Unit, as the case may be, or any other officer who may be authorised by the Central Government, by notification, for this purpose.”;



Substitution  
of new  
sections for  
section 20  
and section 21.  
Retention of  
property

**16.** For sections 20 and 21 of the principal Act, the following sections shall be substituted, namely:—

“20. (1) Where any property has been seized under section 17 or section 18 or frozen under sub-section (1A) of section 17 and the officer authorised by the Director in this behalf has, on the basis of material in his possession, reason to believe (the reason for such belief to be recorded by him in writing) that such property is required to be retained for the purposes of adjudication under section 8, such property may, if seized, be retained or if frozen, may continue to remain frozen, for a period not exceeding one hundred and eighty days from the day on which such property was seized or frozen, as the case may be.

(2) The officer authorised by the Director shall, immediately after he has passed an order for retention or continuation of freezing of the property for purposes of adjudication under section 8, forward a copy of the order along with the material in his possession, referred to in sub-section (1), to the Adjudicating Authority, in a sealed envelope, in the manner as may be prescribed and such Adjudicating Authority shall keep such order and material for such period as may be prescribed.

(3) On the expiry of the period specified in sub-section (1), the property shall be returned to the person from whom such property was seized or whose property was ordered to be frozen unless the Adjudicating Authority permits retention or continuation of freezing of such property beyond the said period.

(4) The Adjudicating Authority, before authorising the retention or continuation of freezing of such property beyond the period

specified in sub-section (1), shall satisfy himself that the property is prima facie involved in money-laundering and the property is required for the purposes of adjudication under section 8.

(5) After passing the order of confiscation under sub-section (5) or sub-section (7) of section 8, the Court or the Adjudicating Authority, as the case may be, shall direct the release of all property other than the property involved in money-laundering to the person from whom such property was seized or the persons entitled to receive it.

(6) Where an order releasing the property has been made by the Court under sub-section (6) of section 8 or by the Adjudicating Authority under section 58B or sub-section (2A) of section 60, the Director or any officer authorised by him in this behalf may withhold the release of any such property for a period of ninety days from the date of such order, if he is of the opinion that such property is relevant for the appeal proceedings under this Act.

21. (1) Where any records have been seized, under section 17 or section 18 or frozen under sub-section (1A) of section 17 and the Investigating Officer or any other officer authorised by the Director in this behalf has reason to believe that any of such records are required to be retained for any inquiry under this Act, such records may if seized, be retained or if frozen, may continue to remain frozen, for a period not exceeding one hundred and eighty days from the day on which such records were seized or frozen, as the case may be.

Retention  
of records.

(2) The person, from whom records seized or frozen, shall be entitled to obtain copies of records.

(3) On the expiry of the period specified under sub-section (1), the records shall be returned to the person from whom such records were seized or whose records were ordered to be frozen unless the Adjudicating Authority permits retention or continuation of freezing of such records beyond the said period.

(4) The Adjudicating Authority, before authorising the retention or continuation of freezing of such records beyond the period specified in sub-section (1), shall satisfy himself that the records are required for the purposes of adjudication under section 8.

(5) After passing of an order of confiscation under sub-section (5) or sub-section (7) of section 8, the Adjudicating Authority shall direct the release of the records to the person from whom such records were seized.

(6) Where an order releasing the records has been made by the Court under sub-section (6) of section 8 or by the Adjudicating Authority under section 58B or sub-section (2A) of section 60, the Director or any officer authorised by him in this behalf may withhold the release of any such record for a period of ninety days from the date of such order, if he is of the opinion that such record is relevant for the appeal proceedings under this Act.”.

Amendment  
of section  
22.

**17.** In section 22 of the principal Act, in sub-section (1), after the words “a survey or a search,”, the words “or where any record or property is produced by any person or has been resumed or seized from the custody or control of any person or has been frozen under this Act or under any other law for the time being in force,” shall be inserted.

Amendment  
of section  
23.

**18.** In section 23 of the principal Act, for the words and figure “under section 8, it shall, unless otherwise proved to the satisfaction of the

Adjudicating Authority”, the words “under section 8 or for the trial of the money-laundering offence, it shall unless otherwise proved to the satisfaction of the Adjudicating Authority or the Special Court” shall be substituted.

**19.** For section 24 of the principal Act, the following section shall be substituted, namely:—

Amendment  
of section  
24.

“24. In any proceedings relating to proceeds of crime under this Act, unless the contrary is proved, it shall be presumed that such proceeds of crime is involved in money-laundering.”.

Burden of  
Proof.

**20.** In section 26 of the principal Act, in sub-section (2), for the words “banking company, financial institution or intermediary”, the words “reporting entity” shall be substituted.

Amendment  
of section  
26.

**21.** In section 28 of the principal Act,—

Amendment  
of section  
28.

(i) in sub-section (1), for the words “he is or has been a Judge of the Supreme Court or of a High Court or is qualified to be a Judge of the High Court”, the words “he is a sitting or retired Judge of the Supreme Court or a sitting or retired Chief Justice of a High Court” shall be substituted.

(ii) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) A person shall not be qualified for appointment as a Member of the Appellate Tribunal unless he is a person of ability, integrity and standing who has shown capacity in dealing with problems relating to handling of matters of proceeds of crime and has qualification and experience of finance, economics, taxation, accountancy, law or administration.”;

(iii) in sub-section (3), for the words “of a High Court”, the words “Chief Justice of a High Court” shall be substituted.

Substitution of new sections for section 42.

**22.** For section 42 of the principal Act, the following sections shall be substituted, namely:—

Appeal to Supreme Court.

“42. Any person aggrieved by any decision or order of the Appellate Tribunal may file an appeal to the Supreme Court within sixty days from the date of communication of the decision or order of the Appellate Tribunal to him on any question of law arising out of such order:

Provided that the Supreme Court may, if it is satisfied that the applicant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.

Continuation of certain appeals before the High Court.

42A. Every appeal filed before a High Court but pending before it immediately before the commencement of the Prevention of Money-laundering (Amendment) Act, 2011 shall continue to be an appeal before the High Court and shall be dealt with by that High Court as if the Prevention of Money-laundering (Amendment) Act, 2011 had not been passed.”.

Amendment of section 44.

**23.** In section 44 of the principal Act, in subsection (1),—

(i) in clause (a), in the proviso, the word “or” occurring at the end shall be omitted;

(ii) in clause (b), for the words “cognizance of the offence for which the accused is committed to it for trial” the words “cognizance of offence under section 3, without the accused being committed to it for trial” shall be substituted;

(iii) after clause (b), the following clauses shall be inserted, namely:—

“(c) if the court which has taken cognizance of the scheduled offence is

other than the Special Court which has taken cognizance of the complaint of the offence of money-laundering under sub-clause (b), it shall, on an application by the authority authorised to file a complaint under this Act, commit the case relating to the scheduled offence to the Special Court and the Special Court shall, on receipt of such case proceed to deal with it from the stage at which it is committed.

2 of 1974.

(d) a Special Court while trying the scheduled offence or the offence of money-laundering shall hold trial in accordance with the provisions of the Code of Criminal Procedure, 1973, as it applies to a trial before a Court of Session.”.

**24.** In section 50 of the principal Act, in sub-section (1), in clause (b), for the words “banking company or a financial institution or a company,”, the words “reporting entity” shall be substituted. Amendment of section 50.

**25.** In section 54 of the principal Act,— Amendment of section 54.

(i) in the opening portion, for the word “officers”, the words “officers and others” shall be substituted;

(ii) for clause (d), the following clause shall be substituted, namely:—

42 of 1956.

“ (d) members of the recognised stock exchange referred to in clause (f) of section 2 and the officers of the stock exchanges recognised under section 4 of the Securities Contracts (Regulation) Act, 1956;

(iii) after clause (h), the following clauses shall be inserted, namely:—

“ (ha) officers of the Insurance Regulatory and Development Authority established under section 3 of the

Insurance Regulatory and Development Authority Act, 1999; 41 of 1999.

*(hb)* officers of the Forward Markets Commission established under section 3 of the Forward Contracts (Regulation) Act, 1952; 74 of 1952.

*(hc)* officers and members of the recognised association recognised under section 6 of the Forward Contracts (Regulation) Act, 1952; 74 of 1952.

*(hd)* officers of the Pension Fund Regulatory and Development Authority;

*(he)* officers of the Department of Posts in the Government of India;

*(hf)* Registrars or Sub-Registrars appointed by the State Governments under section 6 of the Registration Act, 1908; 16 of 1908.

*(hg)* registering authority empowered to register motor vehicles under Chapter IV of the Motor Vehicles Act, 1988; 59 of 1988.

*(hh)* officers and members of the Institute of Chartered Accountants of India constituted under section 3 of the Chartered Accountants Act, 1949; 38 of 1949.

*(hi)* officers and members of the Institute of Cost and Works Accountants of India constituted under section 3 of the Cost and Works Accountants Act, 1959; 23 of 1959.

*(hj)* officers and members of the Institute of Company Secretaries of India constituted under section 3 of the Company Secretaries Act, 1980;” 56 of 1980.

*(iv)* in clause *(j)* for the words “banking companies”, the words “reporting entities” shall be substituted.

**26.** After section 58, the following sections shall be inserted, namely:—

Insertion of new sections 58A and 58B.

“58A. Where on closure of the criminal case or conclusion of a trial in a criminal court outside India under the corresponding law of any other country, such court finds that the offence of money-laundering has not taken place or the property in India is not involved in money-laundering, the Special Court shall, on an application moved by the concerned person or the Director, after notice to the other party, order release of such property to the person entitled to receive it.

Special Court to release the property.

58B. Where the trial under the corresponding law of any other country cannot be conducted by reason of the death of the accused or the accused being declared a proclaimed offender or for any other reason or having commenced but could not be concluded, the Central Government shall, on receipt of a letter of request from a court or authority in a contracting State requesting for confiscation or release of property, as the case may be, forward the same to the Director to move an application before the Special Court and upon such application the Special Court shall pass appropriate orders regarding confiscation or release of such property involved in the offence of money-laundering.”.

Letter of request of a contracting State or authority for confiscation or release of the property.

**27.** In section 60, of the principal Act,—

Amendment of section 60.

(i) in sub-section (1), for the words and figures “property under section 5 or where an Adjudicating Authority has made an order confirming such attachment or confiscation of any property under section 8”, the words, figures, brackets and letter “property under section 5 or for freezing under sub-section (1A) of section 17 or where an Adjudicating



Authority has made an order relating to a property under section 8 or where a Special Court has made an order of confiscation relating to a property under sub-section (5) or sub-section (6) of section 8” shall be substituted;

(ii) in sub-section (2),—

(a) for the words “attachment or confiscation”, the words “attachment, seizure, freezing or confiscation” shall be substituted;

(b) for the word and figure “section 3”, the words “a corresponding law” shall be substituted;

(iii) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) Where on closure of the criminal case or conclusion of trial in a criminal court outside India under the corresponding law of any other country, such court finds that the offence of money-laundering under the corresponding law of that country has been committed, the Adjudicating Authority shall, on receipt of an application from the Director for execution of confiscation under sub-section (2), order, after giving notice to the affected persons, that such property involved in money-laundering or which has been used for commission of the offence of money-laundering stand confiscated to the Central Government.”.

Amend-  
ment of  
section 63.

**28.** In section 63 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) Notwithstanding anything contained in clause (c) of sub-section (2), a person who intentionally disobeys any direction issued under section 50 shall also be liable to be

45 of 1860.

prosecuted against under section 174 of the Indian Penal Code.”.

**29.** For section 69 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 69.

“69. Where any fine or penalty imposed on any person under section 13 or section 63 is not paid within six months from the day of imposition of fine or penalty, the Director or any other officer authorised by him in this behalf may proceed to recover the amount from the said person in the same manner as prescribed in Schedule II of the Income-tax Act, 1961 for the recovery of arrears and he or any officer authorised by him in this behalf shall have all the powers of the Tax Recovery Officer mentioned in the said Schedule for the said purpose.”.

Recovery of fine or penalty.

43 of 1961.

**30.** In section 70 of the principal Act, the Explanation shall be numbered as Explanation 1 thereof and after Explanation 1 as so numbered, the following Explanation shall be inserted, namely:—

Amendment of section 70.

“*Explanation 2.*—For the removal of doubts, it is hereby clarified that a company may be prosecuted, notwithstanding whether the prosecution or conviction of any legal juridical person shall be contingent on the prosecution or conviction of any individual.”.

**31.** In section 72 of the principal Act, in sub-section (2), for the words “High Court”, wherever they occur, the words “Supreme Court” shall be substituted.

Amendment of section 72.

**32.** In section 73 of the principal Act, in sub-section (2),—

Amendment of section 73.

(i) after clause (a), the following clause shall be inserted, namely:—

“(aa) the manner of provisional

attachment of property under sub-section (1) of section 5;”;

(ii) after clause (e), the following clause shall be inserted, namely:—

“(ee) the manner of seizing or taking possession of property attached under section 5 or frozen under sub-section (1A) of section 17 or under sub-section (4) of section 8;”;

(iii) clause (h) shall be omitted;

(iv) in clause (i), for the words “the time within which”, the words “the nature and value of transactions and the time within which” shall be substituted;

(v) for clause (j), the following clauses shall be substituted, namely:—

“(j) the manner and the conditions in which identity of clients shall be verified by the reporting entities under clause (c) of sub-section (1) of section 12;

(jj) the manner of identifying beneficial owner, if any, from the clients by the reporting entities under clause (d) of sub-section (1) of section 12;

(jjj) the period of interval in which the reports are sent by the reporting entities or any of its employees under clause (c) of sub-section (2) of section 13;”;

(vi) after clause (p), the following clause shall be inserted, namely:—

“(pp) the manner in which the forwarding of the order for retention or continuation of freezing of the property and the period of keeping such order and material under sub-section (2) of section 20;”.

Amendment  
of the  
Schedule.

**33.** In the Schedule to the principal Act,—

(i) for Part A, the following Part shall be substituted, namely:—

“PART A

PARAGRAPH 1

OFFENCES UNDER THE INDIAN PENAL CODE

(45 OF 1860)

Section	Description of offence
120B	Criminal conspiracy.
121	Waging or attempting to wage war or abetting waging of war, against the Government of India.
121A	Conspiracy to commit offences punishable by section 121 against the State.
255	Counterfeiting Government stamp.
257	Making or selling instrument for counterfeiting Government stamp.
258	Sale of counterfeit Government stamp.
259	Having possession of counterfeit Government stamp.
260	Using as genuine a Government stamp known to be counterfeit.
302	Murder.
304	Punishment for culpable homicide not amounting to murder.
307	Attempt to murder.
308	Attempt to commit culpable homicide.
327	Voluntarily causing hurt to extort property, or to constrain to an illegal act.

Section	Description of offence
329	Voluntarily causing grievous hurt to extort property, or to constrain to an illegal act.
364A	Kidnapping for ransom, etc.
384 to 389	Offences relating to extortion.
392 to 402	Offences relating to robbery and dacoity.
411	Dishonestly receiving stolen property.
412	Dishonestly receiving property stolen in the commission of a dacoity.
413	Habitually dealing in stolen property.
414	Assisting in concealment of stolen property.
417	Punishment for cheating.
418	Cheating with knowledge that wrongful loss may ensue to person whose interest offender is bound to protect.
419	Punishment for cheating by personation.
420	Cheating and dishonestly inducing delivery of property.
421	Dishonest or fraudulent removal or concealment of property to prevent distribution among creditors.
422	Dishonestly or fraudulently preventing debt being available for creditors.
423	Dishonest or fraudulent execution of deed of transfer containing false statement of consideration.
424	Dishonest or fraudulent removal or concealment of property.
467	Forgery of valuable security, will, etc.
471	Using as genuine a forged document or electronic record.

Section	Description of offence
472 and 473	Making or possessing counterfeit seal, etc., with intent to commit forgery.
475 and 476	Counterfeiting device or mark.
481	Using a false property mark.
482	Punishment for using a false property mark.
483	Counterfeiting a property mark used by another.
484	Counterfeiting a mark used by a public servant.
485	Making or possession of any instrument for counterfeiting a property mark.
486	Selling goods marked with a counterfeit property mark.
487	Making a false mark upon any receptacle containing goods.
488	Punishment for making use of any such false mark.
489A	Counterfeiting currency notes or bank notes.
489B	Using as genuine, forged or counterfeit currency notes or bank notes.

## PARAGRAPH 2

### OFFENCES UNDER THE NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES ACT, 1985

(61 OF 1985)

Section	Description of offence
15	Contravention in relation to poppy straw.
16	Contravention in relation to coca plant and coca leaves.

Section	Description of offence
17	Contravention in relation to prepared opium.
18	Contravention in relation to opium poppy and opium.
19	Embezzlement of opium by cultivator.
20	Contravention in relation to cannabis plant and cannabis.
21	Contravention in relation to manufactured drugs and preparations.
22	Contravention in relation to psychotropic substances.
23	Illegal import into India, export from India to transshipment of narcotic drugs and psychotropic substances.
24	External dealings in narcotic drugs and psychotropic substances in contravention of section 12 of the Narcotics Drugs and Psychotropic Substances Act, 1985.
25A	Contravention of orders made under section 9A of the Narcotic Drugs and Psychotropic Substances Act, 1985.
27A	Financing illicit traffic and harbouring offenders.
29	Abetment and criminal conspiracy.

### PARAGRAPH 3

#### OFFENCES UNDER THE EXPLOSIVE SUBSTANCES ACT, 1908

(6 OF 1908)

Section	Description of offence
3	Causing explosion likely to endanger life or property.

- 4 Attempt to cause explosion, or for making or keeping explosives with intent to endanger life or property.
- 5 Making or possessing explosives under suspicious circumstances.

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PARAGRAPH 4

OFFENCES UNDER THE UNLAWFUL ACTIVITIES  
(PREVENTION) ACT, 1967

( 37 OF 1967)

Section	Description of offence
10 read with section 3	Penalty for being member of an unlawful association, etc.
11 read with section 3	Penalty for dealing with funds of an unlawful association.
13 read with section 3	Punishment for unlawful activities.
16 read with section 15	Punishment for terrorist act.
16A	Punishment for making demands of radioactive substances, nuclear devices, etc.
17	Punishment for raising fund for terrorist act.
18	Punishment for conspiracy, etc.
18A	Punishment for organising of terrorist camps.
18B	Punishment for recruiting of any person or persons for terrorist act.
19	Punishment for harbouring, etc.
20	Punishment for being member of terrorist gang or organisation.



Section	Description of offence
21	Punishment for holding proceeds of terrorism.
38	Offence relating to membership of a terrorist organisation.
39	Offence relating to support given to a terrorist organisation.
40	Offence of raising fund for a terrorist organisation.

## PARAGRAPH 5

### OFFENCES UNDER THE ARMS ACT, 1959

(54 OF 1959)

Section	Description of offence
25	<p>To manufacture, sell, transfer, convert, repair or test or prove or expose or offer for sale or transfer or have in his possession for sale, transfer, conversion, repair, test or proof, any arms or ammunition to contravention of section 5 of the Arms Act, 1959.</p> <p>To acquire, have in possession or carry any prohibited arms or prohibited ammunition in contravention of section 7 of the Arms Act, 1959.</p> <p>Contravention of section 24A of the Arms Act, 1959 relating to prohibition as to possession of notified arms in disturbed areas, etc.</p> <p>Contravention of section 24B of the Arms Act, 1959 relating to prohibition as to carrying of notified arms in or through public places in disturbed areas.</p> <p>Other offences specified in section 25.</p>

Section	Description of offence
26	To do any act in contravention of any provisions of section 3, 4, 10 or section 12 of the Arms Act, 1959 in such manner as specified in sub-section (1) of section 26 of the said Act.  To do any act in contravention of any provisions of sections 5, 6, 7 or section 11 of the Arms Act, 1959 in such manner as specified in sub-section (2) of section 26 of the said Act.  Other offences specified in section 26.
27	Use of arms or ammunitions in contravention of section 5 or use of any arms or ammunition in contravention of section 7 of the Arms Act, 1959.
28	Use and possession of fire arms or imitation of fire arms in certain cases.
29	Knowingly purchasing arms from unlicensed person or for delivering arms, etc., to person not entitled to possess the same.
30	Contravention of any condition of a licence or any provisions of the Arms Act, 1959 or any rule made thereunder.

#### PARAGRAPH 6

#### OFFENCES UNDER THE WILD LIFE (PROTECTION) ACT, 1972

(53 OF 1972)

Section	Description of offence
51 read with section 9	Hunting of wild animals.

Section	Description of offence
51 read with section 17A	Contravention of provisions of section 17A relating to prohibition of picking, uprooting, etc., of specified plants.
51 read with section 39	Contravention of provisions of section 39 relating to wild animals, etc., to be Government property.
51 read with section 44	Contravention of provisions of section 44 relating to dealings in trophy and animal articles without licence prohibited.
51 read with section 48	Contravention of provisions of section 48 relating to purchase of animal, etc., by licensee.
51 read with section 49B	Contravention of provisions of section 49B relating to prohibition of dealings in trophies, animals articles, etc., derived from scheduled animals.

## PARAGRAPH 7

### OFFENCES UNDER THE IMMORAL TRAFFIC (PREVENTION) ACT, 1956

(104 OF 1956)

Section	Description of offence
5	Procuring, inducing or taking person for the sake of prostitution.
6	Detaining a person in premises where prostitution is carried on.
8	Seducing or soliciting for purpose of prostitution.
9	Seduction of a person in custody.

PARAGRAPH 8

OFFENCES UNDER THE PREVENTION OF CORRUPTION  
ACT, 1988  
(49 OF 1988)

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Section	Description of offence
7	Public servant taking gratification other than legal remuneration in respect of an official act.
8	Taking gratification in order, by corrupt or illegal means, to influence public servant.
9	Taking gratification for exercise of personal influence with public servant.
10	Abetment by public servant of offences defined in section 8 or section 9 of the Prevention of Corruption Act, 1988.
13	Criminal misconduct by a public servant.

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PARAGRAPH 9

OFFENCES UNDER THE EXPLOSIVES ACT, 1884  
(4 OF 1884)

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Section	Description of offence
9B	Punishment for certain offences.
9C	Offences by companies.

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PARAGRAPH 10

OFFENCES UNDER THE ANTIQUITIES AND ARTS  
TREASURES ACT, 1972  
(52 OF 1972)

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Section	Description of offence
25 read with section 3	Contravention of export trade in antiquities and art treasures.

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Section	Description of offence
28	Offences by companies.

#### PARAGRAPH 11

##### OFFENCES UNDER THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992

(15 OF 1992)

Section	Description of offence
12A read with section 24	Prohibition of manipulative and deceptive devices, insider trading and substantial.
24	Acquisition of securities or control.

#### PARAGRAPH 12

##### OFFENCES UNDER THE CUSTOMS ACT, 1962

(52 OF 1962)

Section	Description of offence
135	Evasion of duty or prohibitions.

#### PARAGRAPH 13

##### OFFENCES UNDER THE BONDED LABOUR SYSTEM (ABOLITION) ACT, 1976

(19 OF 1976)

Section	Description of offence
16	Punishment for enforcement of bonded labour.
18	Punishment for extracting bonded labour under the bonded labour system.
20	Abetment to be an offence.

#### PARAGRAPH 14

OFFENCES UNDER THE CHILD LABOUR (PROHIBITION  
AND REGULATION) ACT, 1986

(61 OF 1986)

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Section	Description of offence
14	Punishment for employment of any child to work in contravention of the provisions of section 3.

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#### PARAGRAPH 15

OFFENCES UNDER THE TRANSPLANTATION OF HUMAN  
ORGANS ACT, 1994

(42 OF 1994)

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Section	Description of offence
18	Punishment for removal of human organ without authority.
19	Punishment for commercial dealings in human organs.
20	Punishment for contravention of any other provisions of this Act.

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#### PARAGRAPH 16

OFFENCES UNDER THE JUVENILE JUSTICE (CARE AND  
PROTECTION OF CHILDREN) ACT, 2000

(56 OF 2000)

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Section	Description of offence
23	Punishment for cruelty to juvenile or child.
24	Employment of juvenile or child for begging.
25	Penalty for giving intoxicating liquor or narcotic drug or psychotropic substance to juvenile or child.

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Section	Description of offence
26	Exploitation of juvenile or child employee.

PARAGRAPH 17

OFFENCES UNDER THE EMIGRATION ACT, 1983  
(31 OF 1983)

Section	Description of offence
24	Offences and penalties.

PARAGRAPH 18

OFFENCES UNDER THE PASSPORTS ACT, 1967  
(15 OF 1967)

Section	Description of offence
12	Offences and penalties.

PARAGRAPH 19

OFFENCES UNDER THE FOREIGNERS ACT, 1946  
(31 OF 1946)

Section	Description of offence
14	Penalty for contravention of provisions of the Act, etc.
14B	Penalty for using forged passport.
14C	Penalty for abetment.

PARAGRAPH 20

OFFENCES UNDER THE COPYRIGHT ACT, 1957  
(14 OF 1957)

Section	Description of offence
63	Offence of infringement of copyright or other rights conferred by this Act.

Section	Description of offence
63A	Enhanced penalty on second and subsequent convictions.
63B	Knowing use of infringing copy of computer programme.
68A	Penalty for contravention of section 52A.

#### PARAGRAPH 21

OFFENCES UNDER THE TRADE MARKS ACT, 1999  
(47 OF 1999)

Section	Description of offence
103	Penalty for applying false trade marks, trade descriptions, etc.
104	Penalty for selling goods or providing services to which false trade mark or false trade description is applied.
105	Enhanced penalty on second or subsequent conviction.
107	Penalty for falsely representing a trade mark as registered.
120	Punishment of abetment in India of acts done out of India.

#### PARAGRAPH 22

OFFENCES UNDER THE INFORMATION TECHNOLOGY  
ACT, 2000  
(21 OF 2000)

Section	Description of offence
72	Penalty for breach of confidentiality and privacy.



Section	Description of offence
75	Act to apply for offence or contravention committed outside India.

#### PARAGRAPH 23

##### OFFENCES UNDER THE BIOLOGICAL DIVERSITY ACT, 2002

(18 OF 2003)

Section	Description of offence
55 read with section 6	Penalties for contravention of section 6, etc.

#### PARAGRAPH 24

##### OFFENCES UNDER THE PROTECTION OF PLANT VARIETIES AND FARMERS' RIGHTS ACT, 2001

(53 OF 2001)

Section	Description of offence
70 read with section 68	Penalty for applying false denomination, etc.
71 read with section 68	Penalty for selling varieties to which false denomination is applied.
72 read with section 68	Penalty for falsely representing a variety as registered.
73 read with section 68	Penalty for subsequent offence.

PARAGRAPH 25

OFFENCES UNDER THE ENVIRONMENT PROTECTION  
ACT, 1986

(29 OF 1986)

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Section	Description of offence
15 read with section 7	Penalty for discharging environmental pollutants, etc., in excess of prescribed standards.
15 read with section 8	Penalty for handling hazardous substances without complying with procedural safeguards.

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PARAGRAPH 26

OFFENCES UNDER THE WATER (PREVENTION AND  
CONTROL OF POLLUTION) ACT, 1974

(6 OF 1974)

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Section	Description of offence
41(2)	Penalty for pollution of stream or well.
43	Penalty for contravention of provisions of section 24.

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PARAGRAPH 27

OFFENCES UNDER THE AIR (PREVENTION AND  
CONTROL OF POLLUTION) ACT, 1981

(14 OF 1981)

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Section	Description of offence
37	Failure to comply with the provisions for operating industrial plant.

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PARAGRAPH 28

OFFENCES UNDER THE SUPPRESSION OF UNLAWFUL  
ACTS AGAINST SAFETY OF MARITIME NAVIGATION  
AND FIXED PLATFORMS ON CONTINENTAL  
SHELF ACT, 2002

(69 OF 2002)

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Section	Description of offence
3	Offences against ship, fixed platform, cargo of a ship, maritime navigational facilities, etc.”;

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*(ii)* in Part B, paragraphs 1 to 25 shall be omitted;

*(iii)* in Part C, serial number *(2)* and the entries relating thereto shall be omitted.

## STATEMENT OF OBJECTS AND REASONS

The Prevention of Money-Laundering Act, 2002 was enacted to prevent money-laundering and to provide for confiscation of property derived from, or involved in, money-laundering and for matters connected therewith or incidental thereto. The aforesaid Act also addresses the international obligations under the Political Declaration and Global Programme of Action adopted by the General Assembly of the United Nations to prevent money-laundering. The Act was amended in the year 2005 and 2009 to remove the difficulties arisen in implementation of the Act.

2. The problem of money-laundering is no longer restricted to the geo political boundaries of any country. It is a global menace that cannot be contained by any nation alone. In view of this, India has become a member of the Financial Action Task Force and Asia Pacific Group on money-laundering, which are committed to the effective implementation and enforcement of internationally accepted standards against money-laundering and the financing of terrorism. Consequent to the submission of an action plan to the Financial Action Task Force to bring anti money-laundering legislation of India at par with the international standards and to obviate some of the deficiencies in the Act that have been experienced by the implementing agencies, the need to amend the Prevention of Money-Laundering Act, 2002 has become necessary.

3. The Prevention of Money-Laundering (Amendment) Bill, 2011, *inter alia*, seeks to—

- (a) introduce the concept of 'corresponding law' to link the provisions of Indian law with the laws of foreign countries and provide for transfer of the proceeds of the foreign predicate offence in any manner in India;
- (b) introduce the concept of 'reporting entity' to include therein a banking company, financial institution, intermediary or a person carrying on a designated business or profession;
- (c) enlarge the definition of offence of money-laundering to include therein the activities like concealment, acquisition, possession and use of proceeds of crime as criminal activities and remove existing limit of five lakh rupees of fine under the Act;

- (d) make provision for attachment and confiscation of the proceeds of crime even if there is no conviction so long as it is proved that offence of money-laundering has taken place and property in question is involved in money-laundering;
- (e) confer power upon the Director to call for records of transactions or any additional information that may be required for the purposes of the Prevention of money-laundering and also to make inquiries for non-compliance of reporting obligations cast upon them;
- (f) make the reporting entity, its designated directors on the Board and employees responsible for omissions or commissions in relation to the reporting obligations under Chapter IV of the Act;
- (g) provide that in any proceedings relating to proceeds of crime under the aforesaid Act, unless the contrary is proved, it shall be presumed that such proceeds of crime is involved in money-laundering;
- (h) provide for appeal against the orders of the Appellate Tribunal directly to the Supreme Court;
- (i) provide for the process of transfer of the cases of Scheduled offence pending in a court which had taken cognizance of the offence to the Special Court for trial of offence of money-laundering and also provide that the Special Court shall, on receipt of such case proceed to deal with it from the stage at which it is committed.
- (j) putting all the offences listed in Part A and Part B of the Schedule to the aforesaid Act into Part A of that Schedule instead of keeping them in two Parts so that the provision of monetary threshold does not apply to the offences.

4. The Bill seeks to achieve the above objects.

NEW DELHI;  
*The 16th December, 2011.*

PRANAB MUKHERJEE

## NOTES ON CLAUSES

*Clause 1.*—This clause provides for the short title and commencement of the proposed legislation.

*Clause 2.*—This clause seeks to amend section 2 of the Prevention of Money-Laundering Act, 2002 relating to definitions. This clause, *inter alia*, seeks to modify, amend or substitute certain definitions and to insert certain other new definitions. Sub-clause (i) seeks to insert the definition of the expression “beneficial owner” to mean an individual who ultimately owns or controls a client of a reporting entity or the person on whose behalf a transaction is being conducted and includes a person who exercises ultimate effective control over a juridical person. Sub-clause (ii) seeks to define the term “client” to mean a person who is engaged in a financial transaction or activity with a reporting entity and includes a person on whose behalf the person who engaged in the transaction or activity, is acting. Sub-clause (iii) seeks to insert two new definitions relating to “corresponding law” to mean any law of any foreign country corresponding to any of the provisions of the Act or dealing with offences in that country corresponding to any of the scheduled offences and the definition of the term “dealer” to provide the same meaning as assigned to it in clause (b) of section 2 of the Central Sales Tax Act, 1956.

Sub-clause (v) seeks to substitute the existing definition of the expression “financial institution” to mean a financial institution as defined in clause (c) of section 45-I of the Reserve Bank of India Act, 1934 and includes a chit fund company, a housing finance institution, an authorised person, a payment system operator, a non-banking financial company and the Department of Posts in the Government of India. Sub-clause (vi) seeks to substitute clause (n) of section 2 so as to substitute the expression “intermediary” to mean a stock-broker, sub-broker, share transfer agent, banker to an issue, trustee to a trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser or any other intermediary associated with securities market and registered under section 12 of the Securities and Exchange Board of India Act, 1992; or an association recognised or registered under the Forward Contracts (Regulation) Act, 1952 or any member of such association; or intermediary registered by the Pension Fund Regulatory and Development Authority; or a recognised stock exchange referred to in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956. Sub-clause (vii) seeks to

amend clause (q) to omit the words “and includes a person carrying on designated business or profession”.

Sub-clause (ix) seeks to insert certain new definitions such as,— (i) “person carrying on designated business or profession” to mean a person carrying on activities for playing games of chance for cash or kind, and includes such activities associated with casino; a Registrar or Sub-Registrar appointed under section 6 of the Registration Act, 1908; real estate agent; dealer in precious metals, precious stones and other high value goods, and any person engaged in safekeeping and administration of cash and liquid securities on behalf of other persons; or person carrying on such other activities as the Central Government may, by notification, so designate, from time to time; (ii) “precious metals” to mean gold, silver, platinum, palladium or rhodium or such other metal as may be notified by the Central Government; (iii) “precious stone” to mean diamond, emerald, ruby, sapphire or any such other stone as may be notified by the Central Government. Sub-clause (x) seeks to insert, for the removal of doubts, an Explanation after clause (v) of sub-section (1) of section 2, 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. Sub-clause (xi) seeks to define the term “reporting entity” to mean a banking company, financial institution, intermediary or a person carrying on a designated business or profession.

*Clause 3.*—This clause seeks to amend section 3 of the Act relating to offence of money-laundering. This clause seeks to include acts of concealment, acquisition, possession and use of the proceeds of crime within the provision of offence of money-laundering.

*Clause 4.*—This clause seeks to amend section 4 of the Act relating to punishment for money-laundering to omit the fine of five lakh rupees, since the limit of fine on legal persons under Act being very small.

*Clause 5.*—This clause seeks to substitute sub-section (1) of section (5) of the principal Act relating to attachment of property involved in money-laundering to facilitate attachment of proceeds of crime in all cases, irrespective of in whose possession the property is, and also provides for attachment in cases where report has been filed under the corresponding law of any other country. Further this clause seeks to increase the period of provisional attachment from existing one hundred and fifty days to one hundred and eighty days.

*Clause 6.*—This clause seeks to amend section 8 of the Act relating to adjudication to delink the attachment of the property to the pendency of the proceedings relating to the Scheduled offence and links it to the

money laundering offence. It further seeks to delink the attachment to conviction. It also seeks to broaden the scope of seizing by also enabling freezing of property and documents which cannot be seized. It also seeks to take away the powers of the adjudicating authority to release the attached properties, where the scheduled offence itself is found not to have been committed or the attached property is not involved in money-laundering and vest the same with the Special Court.

*Clause 7.*—This clause seeks to amend section 9 of the Act relating to vesting of property in Central Government by taking away the power to confiscate the attached property from the Adjudicating Authority and vesting it with the Special Court.

*Clause 8.*—This clause seeks to make the consequential changes in section 10 of the Act relating to management of properties confiscated under this Chapter as the provisions relating to confiscation has been provided under some of the sub-sections of section 8.

*Clause 9.*—This clause seeks to substitute section 12 and to introduce the expression “reporting entity” in the place of “banking company, financial institution or intermediary” in section 12 of the Act. It also widens the scope of maintenance of record that is prescribed for reporting. This clause also seeks to omit the words “series of transactions integrally connected” in section 12.

*Clause 10.*—This clause seeks to insert a new section 12A relating to access to information to empower the Director to call for records of transaction or any additional information that may be required and for the power to make enquires for non-compliance of reporting entities to the obligations imposed upon such reporting entities.

*Clause 11.*—This clause seeks to amend section 13 of the Act relating to powers of Director to impose fine by the Director on the designated Directors and the employees of the reporting entities. It further seeks to empower the director for appointment of a chartered accountant from amongst a panel of accountants, maintained by the Central Government. It also seeks to make the designated directors on the board of a company alongwith the employees responsible for omissions or commissions of any reporting entities in their failure and to impose monetary penalty on such reporting entity, or its designated director on the Board or any of its employees, which shall not be less than ten thousand rupees but may extend to one lakh rupees for each such failure.

*Clause 12.*—This clause seeks to substitute new section for section 14 not to make liable to any civil or criminal proceedings against the



reporting entity, its directors and employees in certain cases for furnishing information under clause (b) of sub-section (1) of section 12.

*Clause 13.*—This clause seeks to substitute a new section for section 15 of the Act relating to procedure and manner of furnishing information by reporting entities. It provides that the Central Government may, in consultation with the Reserve Bank of India, prescribe the procedure and the manner of maintaining and furnishing information by a reporting entity under sub-section (1) of section 12 for the purpose of implementing the provisions of the Act.

*Clause 14.*—This clause seeks to amend section 17 of the Act relating to search and seizure and includes provision for freezing any property, so that it can be seized or attached and confiscated later. Sub-clause (ii) seeks to insert a new sub-section (1A) after sub-section (1) to provide that no search shall be conducted unless, in relation to the scheduled offence, a report has been forwarded to a Magistrate under section 157 of the Code of Criminal Procedure, 1973, or a complaint has been filed by a person, authorised to investigate the offence mentioned in the Schedule, before a Magistrate or court for taking cognizance of the scheduled offence, as the case may be, or in cases where such report is not required to be forwarded, a similar report of information received or otherwise has been submitted by an officer authorised to investigate a scheduled offence to an officer not below the rank of Additional Secretary to the Government of India or equivalent being head of the office or Ministry or Department or Unit, as the case may be, or any other officer who may be authorised by the Central Government, by notification, for this purpose.

Sub-clause (iv) seeks to substitute sub-section (4) with new sub-section to provide that the authority seizing any record or property under sub-section (1) or freezing any record or property under sub-section (1A) shall, within a period of thirty days from such seizure or freezing, as the case may be, file an application, requesting for retention of such record or property seized under sub-section (1) or for continuation of the order of freezing served under sub-section (1A), before the Adjudicating Authority.

*Clause 15.*—This clause seeks to amend section 18 of the Act relating to search of persons. It seeks to substitute the existing proviso with a new proviso in sub-section (1) of section 18 so as to provide that, no search of any person shall be made unless, in relation to the scheduled offence, a report has been forwarded to a Magistrate under section 157 of the Code of Criminal Procedure, 1973, or a complaint has been filed by a person, authorised to investigate the offence mentioned in the

Schedule, before a Magistrate or court for taking cognizance of the scheduled offence, as the case may be, or in cases where such report is not required to be forwarded, a similar report of information received or otherwise has been submitted by an officer authorised to investigate a scheduled offence to an officer not below the rank of Additional Secretary to the Government of India or equivalent being head of the office or Ministry or Department or Unit, as the case may be, or any other officer who may be authorised by the Central Government, by notification, for this purpose.

*Clause 16.*—This clause seeks to substitute new sections for section 20 and section 21 of the Act relating to retention of property and retention of records respectively. It proposes, *inter alia*, to increase the period of withholding of releasing of property or records, as the case may be, from the existing forty-five days to ninety days so as to allow sufficient time to the officers of Enforcement Directorate to file appeal and obtain a stay in the cases required.

*Clause 17.*—This clause seeks to amend section 22 of the Act relating to presumption as to records or property also to include cases such as where any record or property is produced by any person or it has been seized from the custody or control of any person or has been frozen under the Act or under any other law for the time being in force.

*Clause 18.*—This clause seeks to amend section 23 of the Act relating to presumption in inter-connected transactions to include the Special Court also alongwith the Adjudicating Authority for the purposes of adjudication or confiscation under section 8 or for trial of the money-laundering offence.

*Clause 19.*—This clause seeks to substitute section 24 of the principal Act relating to burden of proof. This clause proposes that in any proceedings relating to proceeds of crime under the proposed legislation, unless the contrary is proved, it shall be presumed that such proceeds of crime is involved in money-laundering so as to ensure the property related to the offence is not passed off to someone to avoid confiscation.

*Clause 20.*—This clause seeks to amend section 26 of the Act relating to Appeals to the Appellate Tribunal by replacing reference relating to “banking company, financial institution or intermediary” with the term “reporting entity”.

*Clause 21.*—This clause seeks to amend section 28 of the principal Act relating to qualifications for appointment of Chairperson and member of the Appellate Tribunal.

Sub-clause (i) seeks to amend the sub-section (1) of section 28 to substitute the words “he is a sitting or retired Judge of the Supreme Court or a sitting or retired Chief Justice of a High Court” for the words “he is or has been a Judge of the Supreme Court or of a High Court or is qualified to be a Judge of the High Court”. Sub-clause (ii) seeks to substitute sub-section (2) of the said section to provide for qualification of appointment as a Member of the Appellate Tribunal unless such person is of ability, integrity and standing who has shown capacity in dealing with problems relating to handling of matters of proceeds of crime and has qualification and experience of finance, economics, taxation, accountancy, law or administration.

*Clause 22.*—This clause seeks to substitute the existing section 42 of the Act relating to Appeals to High Court with a new section relating to Appeal to Supreme Court. This clause provides that any person aggrieved by any decision or order of the Appellate Tribunal may file an appeal to the Supreme Court within sixty days from the date of communication of the decision or order of the Appellate Tribunal to him on any question of law arising out of such order. However, the Supreme Court may, if it is satisfied that the applicant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days. This clause further provides for continuation of certain appeals filed before the High Court but pending before it immediately before the commencement of the proposed legislation to continue to be an appeal before the High Court and to be dealt with by that High Court as if the proposed legislation had not been passed.

*Clause 23.*—This clause seeks to amend sub-section (1) of section 44 of the Act relating to offences triable by Special Courts. Sub-clause (ii) provides that if the court which has taken cognizance of the scheduled offence is other than the Special Court which has taken cognizance of the complaint of the offence of money-laundering under sub-clause (b), it shall, on an application by the authority authorised to file a complaint under the proposed legislation, commit the case relating to the scheduled offence to the Special Court and the Special Court shall, on receipt of such case proceed to deal with it from the stage at which it is committed. Sub-clause (iii) seeks to insert a new clause (c) after clause (b) in the said section provides that a Special Court while trying the scheduled offence or the offence of money-laundering shall hold trial in accordance with the provisions of the Code of Criminal Procedure, 1973, as it applies to a trial before a Court of Session.

*Clause 24.*—This clause seeks to amend section 50 of the Act relating to powers of authorities regarding summons, production of documents

and to give evidence. It seeks to make a consequential amendment to substitute the words “banking company or a financial institution or a company,” with the words “reporting entity”.

*Clause 25.*—This clause seeks to amend section 54 of the Act relating to certain officers to assist in inquiry, etc. It seeks to provide for enlarging the scope of section 54 so as to include new set of officials and persons who will be expected to assist the authorities in the enforcement of the Act by bringing various departments, entities and members of organisations under the coverage of the Act, such as the Insurance Regulatory and Development Authority, the Department of Posts, the Forward Markets Commission, the Pension Fund Regulatory and Development Authority, the Registrar or Sub-Registrars appointed under the Registration Act, 1908, the registering Authority empowered to register motor vehicles under the Motor Vehicle Act, 1988, the recognised stock exchanges, the Institute of Chartered Accountants of India, the Institute of Cost and Works Accountants of India and the Institute of Company Secretaries of India.

*Clause 26.*—This clause seeks to insert new sections 58A and 58B. The proposed new section 58A relating to Special Court to release the property, this new clause provides that, if on closure of the criminal case or conclusion of a trial in a criminal court outside India under the corresponding law of any other country, such court finds that the offence of money-laundering has not taken place or the property in India is not involved in money-laundering, the Special Court shall, on an application moved by the concerned person or the Director, after notice to the other party, order release of such property to the person entitled to receive it. The proposed new section 58B relating to letter of request of a contracting State or authority for confiscation or release the property provides that, if the trial under the corresponding law of any other country cannot be conducted by reason of the death of the accused or the accused being declared a proclaimed offender or for any other reason or having commenced but could not be concluded, the Central Government shall, on receipt of a letter of request from a court or authority in a contracting State requesting for confiscation or release of property, as the case may be, forward the same to the Director to move an application before the Special Court and upon such application the Special Court shall pass appropriate orders regarding confiscation or release of such property involved in the offence of money-laundering.

*Clause 27.*—This clause seeks to amend section 60 of the Act relating to attachment, seizure and confiscation, etc., of property in a contracting State or India. Sub-clause (i) seeks to amend sub-section (1) of the said section to substitute for the words and figures “property under section 5 or where an Adjudicating Authority has made an order confirming such

attachment or confiscation of any property under section 8”, with the words , figures, brackets and letter “property under section 5 or for freezing under sub-section (1A) of section 17 or where an Adjudicating Authority has made an order relating to a property under section 8 or where a Special Court has made an order of confiscation relating to a property under sub-section (5) or sub section (6) of section 8”. Sub-clause (ii) proposes to amend sub-section (2) of the said section so as to substitute the words “attachment or confiscation”, with the words “attachment, seizure, freezing or confiscation”. Sub-clause (iii) seeks to insert a new sub-section after sub-section (2) of the said Act which provides that, if on closure of the criminal case or conclusion of trial in a criminal court outside India under the corresponding law of any other country, such court finds that the offence of money-laundering under the corresponding law of that country has been committed, the Adjudicating Authority shall, on receipt of an application from the Director for execution of confiscation under sub-section (2), order, after giving notice to the affected persons, that such property involved in money-laundering or which has been used for commission of the offence of money-laundering stand confiscated to the Central Government.

*Clause 28.*—This clause seeks to amend section 63 of Act relating to punishment for false information or failure to give information. It seeks to insert a new sub-section after sub-section (3) which provides that notwithstanding anything contained in clause (c) of sub-section (2), a person who intentionally disobeys any direction issued under section 50 shall also be liable to be proceeded against under section 174 of the Indian Penal Code.

*Clause 29.*—This clause seeks to substitute section 69 relating to recovery of fine or penalty. It provides that, if any fine or penalty imposed on any person under section 13 or section 63 is not paid within six months from the day of imposition of fine or penalty, the Director or any other officer authorised by him in this behalf may proceed to recover the amount from the said person in the same manner as prescribed in Schedule II of the Income-tax Act, 1961 for the recovery of arrears and he or any officer authorised by him in this behalf shall have all the powers of the Tax Recovery Officer mentioned in the said Schedule for the said purpose.

*Clause 30.*—This clause seeks to amend section 70 of the Act relating to offences by companies. It seeks to insert a new Explanation after the existing Explanation to clarify that a company may be prosecuted, notwithstanding whether the prosecution or conviction of any legal juridical person shall be contingent on the prosecution or conviction of any individual.

*Clause 31.*—This clause seeks to amend section 72 of the Act relating to continuation of proceedings in the event of death or insolvency. It seeks to substitute the words “High Court”, wherever they occur, with the words “Supreme Court”. It is a consequential change in the said section.

*Clause 32.*—This clause seeks to amend section 73 of the Act relating to power to make rules. It proposes to insert clauses (aa), (ee) and clause (pp), to omit clause (h) and to substitute clause (j) with new clause (j), (jj) and (jjj) specifying the matters in respect of which rules may be made.

*Clause 33.*—This clause seeks to amend the Schedule to the Act. Sub-clause (i) seeks to substitute Part A, with new Part so as to include the existing paragraphs 1 to 25 of Part B in Part A. Sub-clause (ii) seeks to omit the paragraphs 1 to 25 and sub-clause (iii) proposes to amend Part C to omit the entries relating to serial number (2).

## **MEMORANDUM REGARDING DELEGATED LEGISLATION**

Sub-clause (1) of clause 5 of the Bill empowers the Central Government to make rules for provisional attachment of property.

2. Clause 9 of the Bill empowers the Central Government to make rules to provide the period within which the reporting entity to furnish information to Director relating to transaction, the nature and value of such transaction; to verify the identity of its client and the identity of beneficial owner of such clients. This clause further empowers the Central Government to notify exempting any reporting entity or class of entities from the obligation.

3. Clause 11 of the Bill empowers the Central Government to make rules to provide the period of interval at which the reporting entity or its designated director on the Board or any of its employees to send reports on the measures taken by it.

4. Clause 13 of the Bill empowers the Central Government to make rules, in consultation with the Reserve Bank of India, to provide the procedure and the manner of maintaining and furnishing information by reporting entity for the purpose of implementing the provisions of the Act.

5. Clause 16 of the Bill empowers the Central Government to make rules to provide the manner in which the officer shall forward a copy of the order alongwith the materials in his possession to the Adjudicating Authority .

6. The rules as may be made by the Central Government are required to be laid before the Parliament. The matters in respect of which rules may be made by the Central Government in accordance with the provisions of the Act are matters of procedure and administrative details and it is not practical to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

## ANNEXURE

### EXTRACTS FROM THE PREVENTION OF MONEY- LAUNDERING ACT, 2002

(15 OF 2003)

\* \* \* \* \*

2. (1) In this Act, unless the context otherwise requires,— Definitions.

\* \* \* \* \*

2 of 1934.

(l) “financial institution” means a financial institution as defined in clause (c) of section 45-I of the Reserve Bank of India Act, 1934 and includes a chit fund company, a co-operative bank, a housing finance institution and an authorised person, a payment system operator and a non-banking financial company;

\* \* \* \* \*

15 of 1992.

(n) “intermediary” means a stock-broker, sub-broker, share transfer agent, banker to an issue, trustee to a trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and any other intermediary associated with securities market and registered under section 12 of the Securities and Exchange Board of India Act, 1992;

\* \* \* \* \*

(q) “non-banking financial company” shall have the same meaning as assigned to it in clause (f) of section 45-I of the Reserve



Bank of India Act, 1934 and includes a person 2 of 1934.  
carrying on designated business or  
profession.

\* \* \* \* \*

(ra) “offence of cross border  
implications”, means—

(i) any conduct by a person at a place  
outside India which constitutes an  
offence at that place and which would  
have constituted an offence specified in  
Part A, Part B or Part C of the Schedule,  
had it been committed in India and if  
such person remits the proceeds of such  
conduct or part thereof to India; or

(ii) any offence specified in Part A,  
Part B or Part C of the Schedule which  
has been committed in India and the  
proceeds of crime, or part thereof have  
been transferred to a place outside India  
or any attempt has been made to transfer  
the proceeds of crime, or part thereof  
from India to a place outside India.

*Explanation.*—Nothing contained in this  
clause shall adversely affect any investigation,  
enquiry, trial or proceeding before any authority  
in respect of the offences specified in Part A or  
Part B of the Schedule to the Act before the  
commencement of the Prevention of Money-  
laundering (Amendment) Act, 2009.

\* \* \* \* \*

## CHAPTER II

### OFFENCE OF MONEY-LAUNDERING

Offence of  
money  
launder-  
ing.

**3.** 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 and

projecting it as untainted property shall be guilty of offence of money-laundering.

4. Whoever commits the offence of money-laundering shall be punishable with rigorous 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 which may extend to five lakh rupees:

Punishment  
for money  
laundering.

Provided that where the proceeds of crime involved in money-laundering relates to any offence specified under paragraph 2 of Part A of the Schedule, the provisions of this section shall have effect as if for the words “which may extend to seven years”, the words “which may extend to ten years” had been substituted.

### CHAPTER III

#### ATTACHMENT, ADJUDICATION AND CONFISCATION

5. (1) Where the Director, or any other officer not below the rank of Deputy Director authorised by him for the purposes of this section, has reason to believe (the reason for such belief to be recorded in writing), on the basis of material in his possession, that—

Attachment  
of property  
involved in  
money-  
laundering.

(a) any person is in possession of any proceeds of crime;

(b) such person has been charged of having committed a scheduled offence; and

(c) 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,

he may, by order in writing, provisionally attach such property for a period not exceeding one hundred and fifty days from the date of the order, in the manner provided in the Second

Schedule to the Income-tax Act, 1961 and the Director or the other officer so authorised by him, as the case may, shall be deemed to be an officer under sub-rule (e) of rule 1 of that Schedule: 43 of 1961.

Provided that no such order of attachment shall be made unless, in relation to the scheduled offence, a report has been forwarded to a Magistrate under section 173 of the code of Criminal Procedure, 1973, or a complaint has been filed by a person, authorised to investigate the offence mentioned in the Schedule, before a Magistrate or court for taking cognizance of the scheduled offence, as the case may be: 2 of 1974.

Provided further that, notwithstanding anything contained in clause (b), any property of any person may be attached under this section if the Director or any other officer not below the rank of Deputy Director authorised by him for the purposes of this section has reason to believe (the reasons for such belief to be recorded in writing), on the basis of material in his possession, that if such property involved in money-laundering is not attached immediately under this Chapter, the non-attachment of the property is likely to frustrate any proceeding under this Act.

\* \* \* \* \*

Adjudication.

**8. (1)** On receipt of a complaint under sub-section (5) of section 5, or applications made under sub-section (4) of section 17 or under sub-section (10) of section 18, if the Adjudicating Authority has reason to believe that any person has committed an offence under section 3 or is in possession of proceeds of crime, it may serve a notice of not less than thirty days on such person calling upon him to indicate the sources of his income, earning or assets, out of which or by means of which he has acquired the property attached under sub-section (1) of section 5, or, seized under section 17 or section 18, the evidence on which he relies and other relevant information and particulars, and to show cause why all or

any of such properties should not be declared to be the properties involved in money-laundering and confiscated by the Central Government:

Provided that where a notice under this sub-section specifies any property as being held by a person on behalf of any other person, a copy of such notice shall also be served upon such other person:

Provided further that where such property is held jointly by more than one person, such notice shall be served to all persons holding such property.

\* \* \* \* \*

(3) Where the Adjudicating Authority decides under sub-section (2) that any property is involved in money-laundering, he shall, by an order in writing, confirm the attachment of the property made under sub-section (1) of section 5 or retention of property or record seized under section 17 or section 18 and record a finding to that effect, such attachment or retention of the seized property or record shall—

(a) continue during the pendency of the proceedings relating to any scheduled offence before a court; and

\* \* \* \* \*

(4) Where the provisional order of attachment made under sub-section (1) of section 5 has been confirmed under sub-section (3), the Director or any other officer authorised by him in this behalf shall forthwith take the possession of the attached property.

(5) Where on conclusion of a trial for any scheduled offence, the person concerned is acquitted, the attachment of the property or retention of the seized property or record under sub-section (3) and net income, if any, shall cease to have effect.

(6) Where the attachment of any property or retention of the seized property or record becomes final under clause (b) of sub-section (3), the Adjudicating Authority shall, after giving an opportunity of being heard to the person concerned, make an order confiscating such property.

Vesting of property in Central Government.

9. Where an order of confiscation has been made under sub-section (6) of section 8 in respect of any property of a person, all the rights and title in such property shall vest absolutely in the Central Government free from all encumbrances:

Provided that where the Adjudicating Authority, after giving an opportunity of being heard to any other person interested in the property attached under this Chapter, or seized under Chapter V, is of the opinion that any encumbrance on the property or lease-hold interest has been created with a view to defeat the provisions of this Chapter, it may, by order, declare such encumbrance or lease-hold interest to be void and thereupon the aforesaid property shall vest in the Central Government free from such encumbrances or lease-hold interest:

Provided further that nothing in this section shall operate to discharge any person from any liability in respect of such encumbrances which may be enforced against such person by a suit for damages.

Management of properties confiscated under this Chapter.

10. (1) \* \* \* \*

(2) The Administrator appointed under sub-section (1) shall receive and manage the property in relation to which an order has been made under sub-section (6) of section 8 in such manner and subject to such conditions as may be prescribed.

\* \* \* \*

## CHAPTER IV

### OBLIGATIONS OF BANKING COMPANIES, FINANCIAL INSTITUTIONS AND INTERMEDIARIES

**12.** (1) Every banking company, financial institution and intermediary shall—

Banking companies, financial institutions and intermediaries to maintain records.

(a) maintain a record of all transactions, the nature and value of which may be prescribed, whether such transactions comprise of a single transaction or a series of transactions integrally connected to each other, and where such series of transactions take place within a month;

(b) furnish information of transactions referred to in clause (a) to the Director within such time as may be prescribed;

(c) verify and maintain the records of the identity of all its clients, in such manner as may be prescribed:

Provided that where the principal officer of a banking company or financial institution or intermediary, as the case may be, has reason to believe that a single transaction or series of transactions integrally connected to each other have been valued below the prescribed value so as to defeat the provisions of this section, such officer shall furnish information in respect of such transactions to the Director within the prescribed time.

(2) (a) The records referred to in clause (a) of sub-section (1) shall be maintained for a period of ten years from the date of transactions between the clients and the banking company or financial institution or intermediary, as the case may be.

(b) The records referred to in clause (c) of sub-section (1) shall be maintained for a period of ten years from the date of cessation of transactions between the clients and the

banking company or financial institution or intermediary, as the case may be.

Powers of Director to impose fine.

**13.** (1) The Director may, either of his own motion or on an application made by any authority, officer or person, call for records referred to in sub-section (1) of section 12 and may make such inquiry or cause such inquiry to be made, as he thinks fit.

(2) If the Director, in the course of any inquiry, finds that a banking company, financial institutions or an intermediary or any of its officers has failed to comply with the provisions contained in section 12, then, without prejudice to any other action that may be taken under any other provisions of this Act, he may, by an order, levy a fine on such banking company or financial institution or intermediary which shall not be less than ten thousand rupees but may extend to one lakh rupees for each failure.

\* \* \* \* \*

No civil proceedings against banking companies, financial institutions, etc., in certain cases.

**14.** Save as otherwise provided in section 13, the banking companies, financial institutions, intermediaries and their officers shall not be liable to any civil proceedings against them for furnishing information under clause (b) of sub-section (1) of section 12.

\* \* \* \* \*

Search and seizure.

**17.** (1) Where the Director or any other officer not below the rank of Deputy Director authorised by him for the purposes of this section, on the basis of information in his possession, has reason to believe (the reason for such belief to be recorded in writing) that any person—

\* \* \* \* \*

(iii) is in possession of any records relating to money-laundering, then, subject to the rules made in this behalf, he may

authorise any officer subordinate to him to—

\* \* \* \* \*

(d) place marks of identification on such record or make or cause to be made extracts or copies therefrom;

(e) make a note or an inventory of such record or property;

(f) examine on oath any person, who is found to be in possession or control of any record or property, in respect of all matters relevant for the purposes of any investigation under this Act:

Provided that no search shall be conducted unless, in relation to the scheduled offence, a report has been forwarded to a Magistrate under section 157 of the Code of Criminal Procedure, 1973, or a complaint has been filed by a person, authorised to investigate the offence mentioned in the Schedule, before a Magistrate or court for taking cognizance of the scheduled offence, as the case may be.

2 of 1974.

(2) The authority, who has been authorised under sub-section (1) shall, immediately after search and seizure, forward a copy of the reasons so recorded along with material in his possession, referred to in that sub-section, to the Adjudicating Authority in a sealed envelope, in the manner, as may be prescribed and such Adjudicating Authority shall keep such reasons and material for such period, as may be prescribed.

\* \* \* \* \*

(4) The authority, seizing any record or property under this section, shall, within a period of thirty days from such seizure, file an application, requesting for retention of such record or property, before the Adjudicating Authority.



Search of persons.

**18.** (1) If an authority, authorised in this behalf by the Central Government by general or special order, has reason to believe (the reason for such belief to be recorded in writing) that any person has secreted about his person or in anything under his possession, ownership or control, any record or proceeds of crime which may be useful for or relevant to any proceedings under this Act, he may search that person and seize such record or property which may be useful for or relevant to any proceedings under this Act:

Provided that no search shall be made unless, in relation to the scheduled offence, a report has been forwarded to a Magistrate under section 173 of the Code of Criminal Procedure, 1973, or a complaint has been filed by a person, authorised to investigate the offence mentioned in the Schedule, before a Magistrate or court for taking cognizance of the scheduled offence, as the case may be. 2 of 1974.

\* \* \* \* \*

Retention of property.

**20.** (1) Where any property has been seized under section 17 or section 18, and the officer authorised by the Director in this behalf has, on the basis of material in his possession, reason to believe (the reason for such belief to be recorded by him in writing) that such property is required to be retained for the purposes of adjudication under section 8, such property may be retained for a period not exceeding three months from the end of the month in which such property was seized.

(2) The officer authorised by the Director immediately after he has passed an order for retention of the property for purposes of adjudication under section 8 shall forward a copy of the order alongwith the material in his possession, referred to in sub-section (1), to the Adjudicating Authority, in a sealed envelope, in the manner as may be prescribed and such Adjudicating Authority shall keep such order and

material for such period as may be prescribed.

(3) On the expiry of the period specified in sub-section (1), the property shall be returned to the person from whom such property was seized unless the Adjudicating Authority permits retention of such property beyond the said period.

(4) The Adjudicating Authority, before authorising the retention of such property beyond the period specified in sub-section (1), shall satisfy himself that the property is prima facie involved in money-laundering and the property is required for the purposes of adjudication under section 8.

(5) After passing the order of confiscation under sub-section (6) of section 8, the Adjudicating Authority shall direct the release of all properties other than the properties involved in money-laundering to the person from whom such properties were seized.

(6) Notwithstanding anything contained in sub-section (5), the Director or any officer authorised by him in this behalf may withhold the release of any property until filing of appeal under section 26 or forty-five days from the date of order under sub-section (5), whichever is earlier, if he is of the opinion that such property is relevant for the proceedings before the Appellate Tribunal.

**21.** (1) Where any records have been seized, under section 17, or section 18, and the Investigating Officer or any other officer authorised by the Director in this behalf has reason to believe that any of such records are required to be retained for any inquiry under this Act, he may retain such records for a period not exceeding three months from the end of the month in which such records were seized.

Retention of records.

(2) The person, from whom records were seized, shall be entitled to obtain copies of records retained under sub-section (1).

(3) On the expiry of the period specified under sub-section (1), the records shall be returned to the person from whom such records were seized unless the Adjudicating Authority permits retention of such records beyond the said period.

(4) The Adjudicating Authority, before authorising the retention of such records beyond the period mentioned in sub-section (1), shall satisfy himself that the records are required for the purposes of adjudication under section 8.

(5) After passing of an order of confiscation under sub-section (6) of section 8, the Adjudicating Authority shall direct the release of the records to the person from whom such records were seized.

(6) Notwithstanding anything contained in sub-section (5), the Director or any officer authorised by him in this behalf may withhold the release of any records until filing of appeal under section 26 or after forty-five days from the date of order under sub-section (5), whichever is earlier, if he is of the opinion that such records are relevant for the proceedings before the Appellate Tribunal.

Presump-  
tion as to  
records or  
property in  
certain  
cases.

**22.** (1) Where any records or property are or is found in the possession or control of any person in the course of a survey or a search, it shall be presumed that—

(i) such records or property belong or belongs to such person;

(ii) the contents of such records are true; and

(iii) the signature and every other parts of such records which purport to be in the handwriting of any particular person or which may reasonably be assumed to have been signed by, or to be in the handwriting of, any particular person, are in that person's

handwriting, and in the case of a record, stamped, executed or attested, that it was executed or attested by the person by whom it purports to have been so stamped, executed or attested.

\* \* \* \* \*

**23.** Where money-laundering involves two or more inter-connected transactions and one or more such transactions is or are proved to be involved in money-laundering, then for the purposes of adjudication or confiscation under section 8, it shall, unless otherwise proved to the satisfaction of the Adjudicating Authority, be presumed that the remaining transactions from part of such inter-connected transactions.

Presumption in inter-connected transactions.

**24.** When a person is accused of having committed the offence under section 3, the burden of proving that proceeds of crime are untainted property shall be on the accused.

Burden proof.

\* \* \* \* \*

**26. (1)\*** \* \* \* \* \*

*(2)* Any banking company, financial institution or intermediary aggrieved by any order of the Director made under sub-section (2) of section 13, may prefer an appeal to the Appellate Tribunal.

Appeal to Appellate Tribunal.

\* \* \* \* \*

**28. (1)** A person shall not be qualified for appointment as Chairperson unless he is or has been a Judge of the Supreme Court or of a High Court or is qualified to be a Judge of the High Court.

Qualifications for appointment.

*(2)* A person shall not be qualified for appointment as a Member unless he—

\* \* \* \* \*

(b) has been a member of the India Legal Service and has held a post in Grade I of that Service for at least three years; or

(c) has been a member of the Indian Revenue Service and has held the post of Commissioner of Income-tax equivalent post in that Service for at least three years;

(d) has been a member of the Indian Economic Service and has held the post of Joint Secretary or equivalent post in that Service for at least three years; or

(e) has been a member of the Indian Customs and Central Excise Service and has held the post of a Joint Secretary or equivalent post in that Service for at least three years; or

(f) has been in the practice of accountancy as a chartered accountant under the Chartered Accountants Act, 1949 or as a registered accountant under any law for the time being in force or partly as a registered accountant and partly as a chartered accountant for at least ten years: 38 of 1949.

Provided that one of the members of the Appellate Tribunal shall be from category mentioned in clause (f), or

(g) has been a member of the Indian Audit and Accounts Service and has held the post of Joint Secretary or equivalent post in that Service for at least three years.

(3) No sitting Judge of the Supreme Court or of a High Court shall be appointed under this section except after consultation with the Chief Justice of India.

\* \* \* \* \*

**42.** any person aggrieved by any decision or order of the Appellate Tribunal may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Appellate Tribunal to him on any question of law or fact arising out of such order:—

Appeal to  
High Court.

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.

*Explanation.*—For the purposes of this section, “High Court” means—

(i) the High Court within the jurisdiction of which the aggrieved party ordinarily resides or carries on business or personally works for gain; and

(ii) where the Central Government is the aggrieved party, the High Court within the jurisdiction of which the respondent, or in a case where there are more than one respondent, any of the respondents, ordinarily resides or carries on business or personally works for gain.

\* \* \* \* \*

2 of 1974. **44.** (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973,—

Offences  
triable by  
Special  
Courts.

(a) The scheduled offence and the offence punishable under section 4 shall be triable only by the Special Court constituted for the area in which the offence has been committed:

Provided that the Special Court, trying a scheduled offence before the commencement of this Act, shall continue to try such scheduled offence; or

(b) A Special Court may, upon a complaint made by an authority authorised

in this behalf under this Act take cognizance of the offence for which the accused is committed to it for trial.

\* \* \* \* \*

Powers of authorities regarding summons, production of documents and to give evidence, etc.

**50.** (1) The Director shall, for the purposes of section 13, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit in respect of the following matters, namely:— 5 of 1908.

(a) Discovery and inspection;

(b) enforcing the attendance of any person, including any officer of a banking company or a financial institution or a company, and examining him on oath;

\* \* \* \* \*

Certain officers to assist in inquiry, etc.

**54.** The following officers are hereby empowered and required to assist the authorities in the enforcement of this Act, namely:—

\* \* \* \* \*

(d) officers of the stock exchange recognised under section 4 of the Securities Contracts (Regulation) Act, 1956; 42 of 1956.

\* \* \* \* \*

(j) such other officers of the Central Government, State Government, local authorities or banking companies as the Central Government may, by notification, specify, in this behalf.

\* \* \* \* \*

Attachment, seizure and confiscation, etc., of property in a contacting State or India.

**60.** (1) Where the Director has made an order for attachment of any property under section 5 or where an Adjudicating Authority has made an order confirming such attachment or confiscation of any property under section 8, and

such property is suspected to be in a contracting State, the Special Court, on an application by the Director or the Administrator appointed under sub-section (1) of section 10, as the case may be, may issue a letter of request to a court or an authority in the contracting State for execution of such order.

(2) where a letter of request is received by the Central Government from a court or an authority in a contracting State requesting attachment or confiscation of the property in India, derived or obtained, directly or indirectly, by any person from the commission of an offence under section 3 committed in that contracting State, the Central Government may forward such letter of request to the Director, as it thinks fit, for execution in accordance with the provisions of this Act.

\* \* \* \* \*

**69.** Where any fine imposed on any person under section 13 or section 63 is not paid within six months from the day of imposition of fine, the Director or any other officer authorised by him in this behalf may proceed to recover the amount from the said person in the same manner as prescribed in Schedule II of the Income-tax Act, 1961 for the recovery of arrears and he or any officer authorised by him in this behalf shall have all the powers of the Tax Recovery Officer mentioned in the said Schedule for the said purpose.

Recovery of fines.

43 of 1961.

\* \* \* \* \*

**72. (1)** \* \* \* \*

(2) Where—

(a) after passing of a decision or order by the Appellate Tribunal, no appeal has been preferred to the High Court under section 42; or

Continuation of proceedings in the event of death or insolvency.



Power to  
make rules.

(b) any such appeal has been preferred  
to the High Court,—

then—

(i) in a case referred to in clause (a), the  
person entitled to file the appeal dies or is  
adjudicated an insolvent before preferring an  
appeal to the High Court, or

(ii) in a case referred to in clause (b), the  
person who had filed the appeal dies or is  
adjudicated an insolvent during the  
pendency of the appeal before the High  
Court, then, it shall be lawful for the legal  
representatives of such person, or the official  
assignee or the official receiver, as the case  
may be, to prefer an appeal to the High Court  
or to continue the appeal before the High  
Court in place of such person and the  
provisions of section 42 shall, so far as may  
be, apply, or continue to apply, to such  
appeal.

Power to  
make rules.

**73.(1)\*** \* \* \*

(2) In particular, and without prejudice to  
the generality of the foregoing power, such rules  
may provide for all or any of the following  
matters, namely:—

\* \* \* \* \*

(h) the nature and value of transactions  
in respect of which records shall be  
maintained under clause (a) of sub-section  
(1) of section 12;

(i) the time within which the information  
of transactions under clause (b) of sub-section  
(1) of section 12 shall be furnished;

(j) the manner in which records shall be  
verified and maintained by banking  
companies, financial institutions and

intermediaries under clause (c) of sub-section (1) of section 12;

\* \* \* \* \*

## THE SCHEDULE

[SEE SECTION 2(y)]

### PART A

#### PARAGRAPH 1

##### OFFENCES UNDER THE INDIAN PENAL CODE

Section	Description of offence
121	Waging, or attempting to wage war or abetting waging of war, against the Government of India.
121A	Conspiracy to commit offences punishable by section 121 against the State.
“489A	Counterfeiting currency notes or bank notes.
489B	Using as genuine, forged or counterfeit currency notes or bank notes.”;

#### PARAGRAPH 2

##### OFFENCES UNDER THE NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES ACT, 1985

Section	Description of offence
“15	Contravention in relation to poppy straw.
16	Contravention in relation to coca plant and coca leaves.
17	Contravention in relation to prepared opium.

Section	Description of offence
18	Contravention in relation to opium poppy and opium.
19	Embezzlement of opium by cultivator.
20	Contravention in relation to cannabis plant and cannabis.
21	Contravention in relation to manufactured drugs and preparations.”;

### PARAGRAPH 3

#### OFFENCES UNDER THE EXPLOSIVE SUBSTANCES ACT, 1908

Section	Description of offence
3	Causing explosion likely to endanger life or property.
4	Attempt to cause explosion, or for making or keeping explosives with intent to endanger life or property.
5	Making or possessing explosives under suspicious circumstances.

### PARAGRAPH 4

#### OFFENCES UNDER THE UNLAWFUL ACTIVITIES (PREVENTION) ACT, 1967

Section	Description of offence
10 read with section 3	Penalty for being member of an unlawful association, etc.
11 read with sections 3 and 7	Penalty for dealing with funds of an unlawful association.

Section	Description of offence
13 read with section 3	Punishment for unlawful activities.
16 read with section 15	Punishment for terrorist act.
16A	Punishment for making demands of radioactive substances, nuclear devices, etc.
17	Punishment for raising fund for terrorist act.
18	Punishment for conspiracy, etc.
18A	Punishment for organising of terrorist camps.
18B	Punishment for recruiting of any person or persons for terrorist act.
19	Punishment for harbouring, etc.
20	Punishment for being member of terrorist gang or organisation.
21	Punishment for holding proceeds of terrorism.
38	Offence relating to membership of a terrorist organisation.
39	Offence relating to support given to a terrorist organisation.
40	Offence of raising fund for a terrorist organisation.;

## PART B

### PARAGRAPH 1

#### OFFENCES UNDER THE INDIAN PENAL CODE

Section	Description of offence
120B	Criminal conspiracy.
255	Counterfeiting Government stamp.

Section	Description of offence
257	Making or selling instrument for counterfeiting Government stamp.
258	Sale of counterfeit Government stamp.
259	Having possession of counterfeit Government stamp.
260	Using as genuine a Government stamp known to be counterfeit.
302	Murder.
304	Punishment for culpable homicide not amounting to murder.
307	Attempt to murder.
308	Attempt to commit culpable homicide.
327	Voluntarily causing hurt to extort property, or to constrain to an illegal act.
392	Voluntarily causing grievous hurt to extort property, or to constrain to an illegal act.
364A	Kidnapping for ransom, etc.
384 to 389	Offences relating to extortion.
392 to 402	Offences relating to robbery and dacoity.
411	Dishonestly receiving stolen property.
412	Dishonestly receiving property stolen in the commission of a dacoity.
413	Habitually dealing in stolen property.
414	Assisting in concealment of stolen property.
417	Punishment for cheating.

Section	Description of offence
418	Cheating with knowledge that wrongful loss may ensue, to person whose interest offender is bound to protect.
419	Punishment for cheating by personation.
420	Cheating and dishonestly inducing delivery of properties.
421	Dishonest or fraudulent removal or concealment of property to prevent distribution among creditors.
422	Dishonestly or fraudulently preventing debt being available for creditors.
423	Dishonest or fraudulent execution of deed of transfer containing false statement of consideration.
424	Dishonest or fraudulent removal or concealment of property.
467	Forgery of valuable security, will, etc.
471	Using as genuine a forged document or electronic record.
472 & 473	Making or possessing counterfeit seal, etc., with intent to commit forgery.
475 & 476	Counterfeiting device or mark.
481	Using a false property mark.
482	Punishment for using a false property mark.
483	Counterfeiting a property mark used by another.
484	Counterfeiting a mark used by a public servant.
485	Making or possession of any instrument for counterfeiting a property mark.

Section	Description of offence
486	Selling goods marked with a counterfeit property mark.
487	Making a false mark upon any receptacle containing goods.
488	Punishment for making use of any such false mark.” ;

## PARAGRAPH 2

### OFFENCES UNDER THE ARMS ACT, 1959

Section	Description of offence
25	<p>To manufacture, sell, transfer, convert, repair or test or prove or expose or offer for sale or transfer or have in his possession for sale, transfer, conversion, repair, test or proof, any arms or ammunition in contravention of section 5 of the Arms Act, 1959. To acquire, have in possession or carry any prohibited arms or prohibited ammunition in contravention of section 7 of the Arms Act, 1959.</p> <p>Contravention of section 24A of the Arms Act, 1959 relating to prohibition as to possession of notified arms in disturbed areas, etc.</p> <p>Contravention of section 24B of the Arms Act, 1959 relating to prohibition as to carrying of notified arms in or through public places in disturbed areas.</p> <p>Other offences specified in section 25.</p>
26	To do any act in contravention of any provisions of section 3, 4, 10 or 12 of the Arms Act, 1959 in such manner as specified in sub section (1) of section 26 of the said Act.

Section	Description of offence
	To do any act in contravention of any provisions of sections 5, 6, 7 or 11 of the Arms Act, 1959 in such manner as specified in sub section (2) of section 26 of the said Act.
	Other offences specified in section 26.
27	Use of arms or ammunitions in contravention of section 5 or use of any arms of ammunition in contravention of section 7 of the Arms Act, 1959.
28	Use and possession of fire arms or imitation fire arms in certain cases.
29	Knowingly purchasing arms from unlicensed person or for delivering arms, etc., to person not entitled to possess the same.
30	Contravention of any condition of a licence or any provisions of the Arms Act, 1959 or any rule made thereunder.

### PARAGRAPH 3

#### OFFENCES UNDER THE WILD LIFE (PROTECTION) ACT, 1972

Section	Description of offence
[51 read with section 9	Hunting of wild animals.]
51 read with section 17A	Contravention of provisions of section 17A relating to prohibition of picking, uprooting etc., of specified plants.
51 read with section 39	Contravention of provisions of section 39 relating to wild animals, etc., to be Government property.



Section	Description of offence
51 read with section 44	Contravention of provisions of section 44 relating to dealings in trophy and animal articles without licence prohibited.
51 read with section 48	Contravention of provisions of section 48 relating to purchase of animal etc., by licence.
51 read with section 49B	Contravention of provisions of section 49B relating to prohibition of dealings in trophies animal articles, etc., derived from scheduled animals.

#### PARAGRAPH 4

##### OFFENCES UNDER THE IMMORAL TRAFFIC (PREVENTION) ACT, 1956

Section	Description of offence
5	Procuring, inducing or taking person for the sake of prostitution.
6	Detaining a person in premises where prostitution is carried on.
8	Seducing or soliciting for purpose of prostitution.
9	Seduction of a person in custody.

#### PARAGRAPH 5

##### OFFENCES UNDER THE PREVENTION OF CORRUPTION ACT, 1988

Section	Description of offence
7	Public servant taking gratification other than legal remuneration in respect of an official act.
8	Taking gratification in order, by corrupt or illegal means, to influence public servant.

Section	Description of offence
9	Taking gratification for exercise of personal influence, with public servant.
10	Abetment by public servant of offences defined in section 8 or section 9 of the Prevention of Corruption Act, 1988.
[13	Criminal misconduct by a public servant.]

“PARAGRAPH 6

OFFENCES UNDER THE EXPLOSIVES ACT, 1884

Section	Description of offence
9-B	Punishment for certain offences.
9-C	Offences by companies.

PARAGRAPH 7

OFFENCES UNDER THE ANTIQUITIES AND ARTS  
TREASURES ACT, 1972

Section	Description of offence
25 read with section 3	Contravention of export trade in antiquities and art treasures.
28	Offences by companies.

PARAGRAPH 8

OFFENCES UNDER THE SECURITIES AND EXCHANGES  
BOARD OF INDIA ACT, 1992

Section	Description of offence
12A read with section 24	Prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control.

## PARAGRAPH 9

### OFFENCES UNDER THE CUSTOMS ACT, 1962

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Section	Description of offence
135	Evasion of duty or prohibitions.

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## PARAGRAPH 10

### OFFENCES UNDER THE BONDED LABOUR SYSTEM (ABOLITION) ACT, 1976

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Section	Description of offence
16	Punishment for enforcement of bonded labour.
18	Punishment for extracting bonding labour under the bonded labour system.
20	Abetment to be an offence.

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## PARAGRAPH 11

### OFFENCES UNDER THE CHILD LABOUR (PROHIBITION AND REGULATION) ACT, 1986

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Section	Description of offence
14	Punishment for employment of any child to work in contravention of the provisions of section 3.

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## PARAGRAPH 12

### OFFENCES UNDER THE TRANSPLANTATION OF HUMAN ORGANS ACT, 1994

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Section	Description of offence
18	Punishment for removal of human organ without authority.
19	Punishment for commercial dealings in human organs.
20	Punishment for contravention of any other provision of this Act.

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### PARAGRAPH 13

#### OFFENCES UNDER THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2000

Section	Description of offence
23	Punishment for cruelty to juvenile or child.
24	Employment of juvenile or child for begging.
25	Penalty for giving intoxicating liquor or narcotic drug or psychotropic substance to juvenile or child.
26	Exploitation of juvenile or child employee.]

### PARAGRAPH 14

#### OFFENCES UNDER THE EMIGRATION ACT, 1983

Section	Description of offence
24	Offences and penalties.]

### PARAGRAPH 15

#### OFFENCES UNDER THE PASSPORTS ACT, 1967

Section	Description of offence
12	Offences and penalties.]

### PARAGRAPH 16

#### OFFENCES UNDER THE FOREIGNERS ACT, 1946

Section	Description of offence
14	Penalty for contravention of provisions of the Act, etc.
14B	Penalty for using forged passport.
14C	Penalty for abetment.]

## PARAGRAPH 17

### OFFENCES UNDER THE COPYRIGHT ACT, 1957

Section	Description of offence
63	Offence of infringement of copyright or other rights conferred by this Act.
63A	Enhanced penalty on second and subsequent convictions.
63B	Knowing use of infringing copy of computer programme.
68A	Penalty for contravention of section 52A.]

## PARAGRAPH 18

### OFFENCES UNDER THE TRADE MARKS ACT, 1999

Section	Description of offence
103	Penalty for applying false trade marks, trade descriptions, etc.
104	Penalty for selling goods or providing services to which false trade-mark or false trade description is applied.
105	Enhanced penalty on second or subsequent conviction.
107	Penalty for falsely representing a trade mark as registered.
120	Punishment of abetment in India of acts done out of India.]

## PARAGRAPH 19

### OFFENCES UNDER THE INFORMATION TECHNOLOGY ACT, 2000

Section	Description of offence
72	Penalty for breach of confidentiality and privacy.

Section	Description of offence
75	Act to apply for offence or contravention committed outside India.

#### PARAGRAPH 20

##### OFFENCES UNDER THE BIOLOGICAL DIVERSITY ACT, 2002

Section	Description of offence
55 read with section 6	Penalties for contravention of section 6, etc.

#### PARAGRAPH 21

##### OFFENCES UNDER THE PROTECTION OF PLANT VARIETIES AND FARMERS' RIGHTS ACT, 2001

Section	Description of offence
70 read with section 68	Penalty for applying false denomination, etc.
71 read with section 68	Penalty for selling varieties to which false denomination is applied.
72 read with section 68	Penalty for falsely representing a variety as registered.
73 read with section 68	Penalty for subsequent offence.

#### PARAGRAPH 22

##### OFFENCES UNDER THE ENVIRONMENT PROTECTION ACT, 1986

Section	Description of offence
15 read with section 7	Penalty for discharging environmental pollutants.

Section	Description of offence
15 read with section 6	Penalty for handling hazardous substance.

#### PARAGRAPH 23

##### OFFENCES UNDER THE WATER (PREVENTION AND CONTROL OF POLLUTION) ACT, 1974

Section	Description of offence
41(2)	Penalty for pollution of stream or well.
43	Penalty for contravention of provisions of section 24.

#### PARAGRAPH 24

##### OFFENCES UNDER THE AIR (PREVENTION AND CONTROL OF POLLUTION) ACT, 1981

Section	Description of offence
37	Failure to comply with the provisions for operating industrial plant

#### PARAGRAPH 25

##### OFFENCES UNDER THE SUPPRESSION OF UNLAWFUL ACTS AGAINST SAFETY OF MARITIME NAVIGATION AND FIXED PLATFORMS ON CONTINENTAL SHELF ACT, 2002

Section	Description of offence
3	Offences against ship, fixed platform, cargo of a ship, maritime navigational facilities, etc.”;

“PART C”

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

- (1) Part A; or
- (2) Part B without any monetary threshold; or
- (3) the offences against property under Chapter XVII of the Indian Penal Code.”



LOK SABHA

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BILL

Further to amend the Prevention of Money-Laundering  
Act, 2002.

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*(Shri Pranab Mukherjee, Minister of Finance)*

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