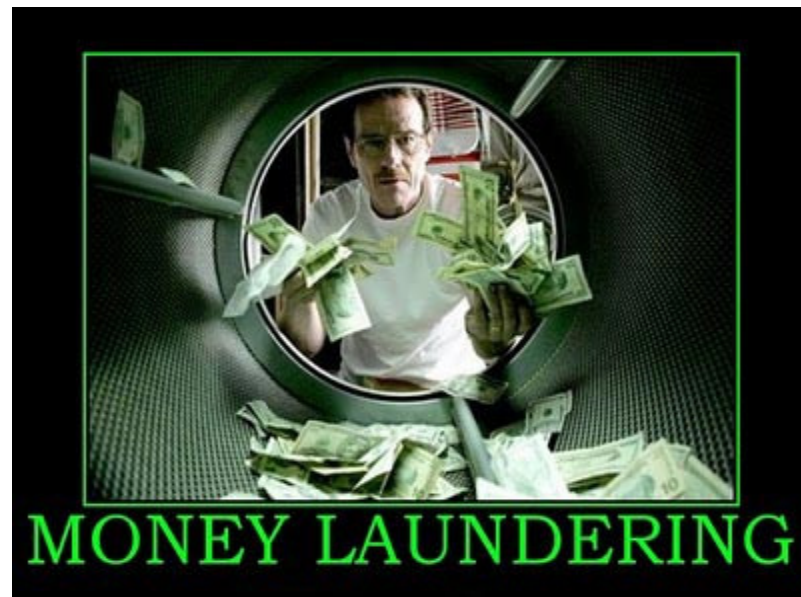


Introduction & Overview of Prevention of Money Laundering Act



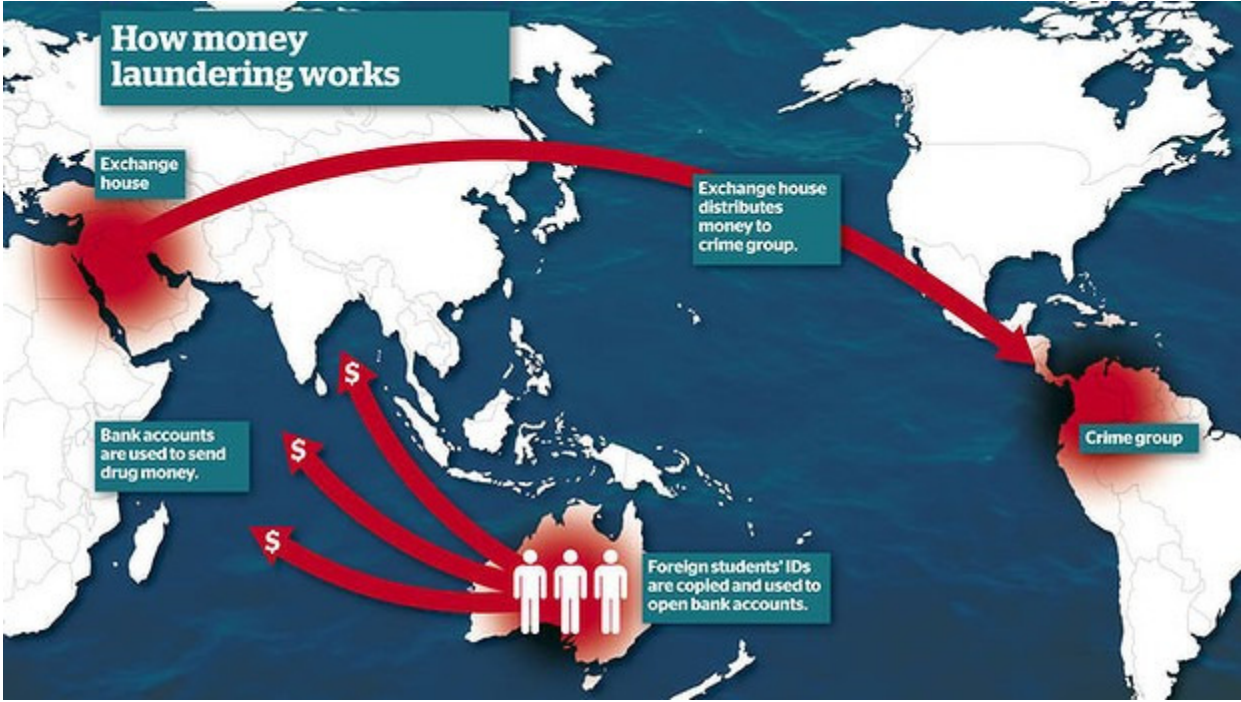
WIRC of ICAI

By: CA Dilip M Shah

Date: 19th April, 2014

Origin & Object

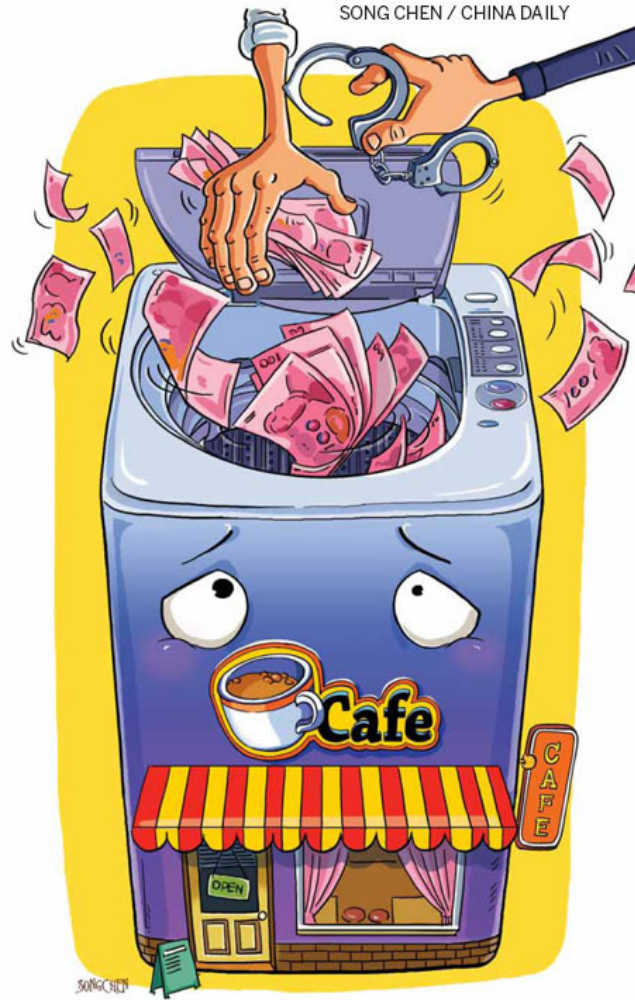
- PMLA, 2002 came into force w.e.f 1st July 2005, PMLA was amended in 2009, PMLA amended in 2013
- It extends to whole of India including Jammu and Kashmir
- Preamble is to prevent money-laundering and provide for confiscation of property derived from, or involved in money-laundering and to punish those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



Introduction

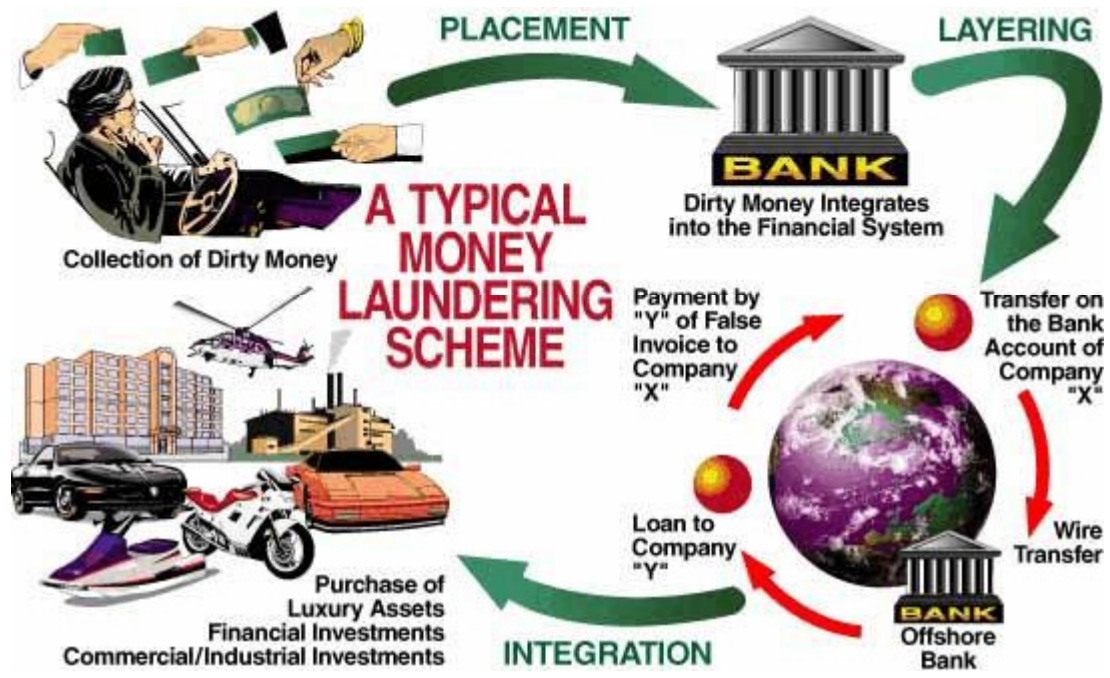
- Money laundering has fairly benign origins in the *hawala* and *hundi* systems of South Asia, which were informal financial systems which allowed people to execute financial transactions in confidence and secrecy.
- These systems were perfectly legitimate to begin with, and merely reflected institutional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

SONG CHEN / CHINA DAILY



Introduction

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



Introduction

- The term "money laundering" is said to originate from Mafia ownership of Laundromats in the United States.
- Gangsters there were earning huge sums in cash from extortion, prostitution, gambling and bootleg liquor.
- They needed to show a legitimate source for these monies.
- One of the ways in which they were able to do this was by purchasing outwardly legitimate businesses and to mix their illicit earnings with the legitimate earnings they received from these businesses.



Collection of Dirty Money

Placement



BANK

Dirty money Integrates into the financial system

Layering



Transfer into bank account of company 'X'.



Payment by 'Y' of false invoice to company 'X'.



Wire Transfer



Offshore Bank



Loan to Company 'Y'

Integration



Purchase of luxury Assets
Financial Investments

Introduction

- Laundromats were chosen by these gangsters because they were cash businesses and this was an undoubted advantage to people like Al Capone who purchased them.
- Al Capone, however, was prosecuted and convicted in October, 1931 for tax evasion.
- It was this that he was sent to prison for rather than the predicate crimes which generated his illicit income.

SBI, LIC also involved in money laundering: Cobrapost

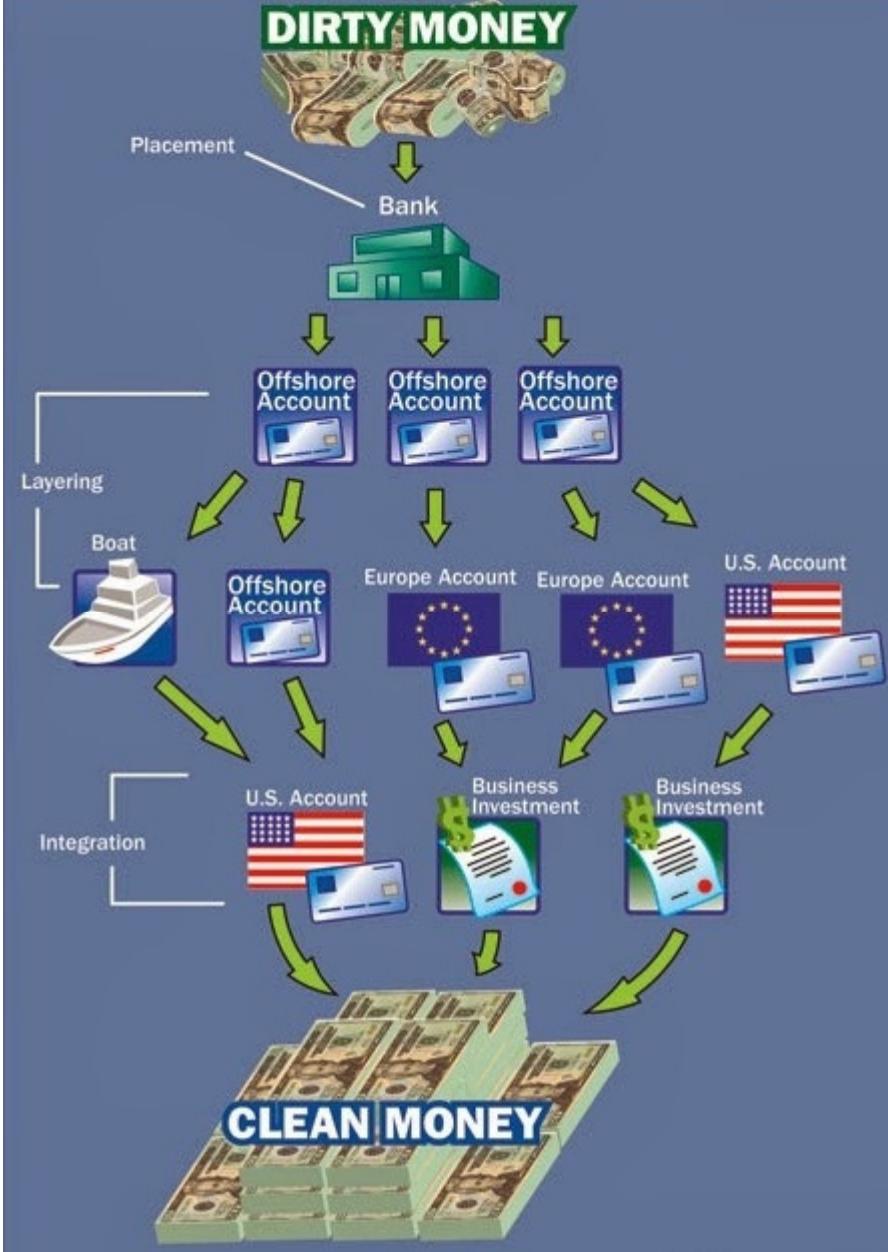
NEWS YAPS
THIS IS ME



Introduction

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

How Money Laundering Works Stages



Money Laundering

- According to **Section 3 of Prevention of Money Laundering Act** – “whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected with the proceeds of crime including its concealment, possession, acquisition or use and projecting or claiming it as untainted property shall be guilty of offence of money-laundering.



AIRTEL

ED is investigating top mobile phone carrier Bharti Airtel under its money laundering and foreign exchange rules in what a company source said was a probe related to the grant of airwaves a decade ago.

Money laundering

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

BLACK AND WHITE

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

10 SHARP PRACTICES

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

BANKS DENY

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

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

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



What is Money laundering

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

How Money Laundering Works



**Money from
illegal activities...**

**is deposited
in numerous
legitimate accounts...**

**making it
difficult to trace...**

**so the money can
be used freely.**

Scheduled Offence

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

HSBC CRIMES

- LAUNDERED **\$880 BILLION** FOR MEXICAN DRUG CARTELS
- CONDUCTED **25,000** WITH IRAN TOTALING OVER **\$19 BILLION**
- CONDUCTED BUSINESS WITH CUBA, SUDAN, ETC.
- PARTNERED WITH AL RAJHI BANK UNTIL **2010**
- ACCUSED OF PREDATORY/ DISCRIMINATORY LENDING SCHEMES AGAINST MINORITIES



HSBC BACK IN COURT

CET

22 16

BAHRAINI POLICE USE TEAR GAS AGAINST ANTI-GOVT PROTESTERS












Proceeds of Crime

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

Money Laundering Charges

For the week ending March 23, 2013 we highlight 11 cases. A total of **\$231.8mm** was laundered. **Fraud** accounted for **\$205mm** while **drug trafficking** accounted for **\$25.9mm**.

Country Cases Laundered

United States 		\$230.5mm 
Nigeria 		Unknown
Haiti 		\$0.4mm 
India 		\$1 mm 

What is a Scheduled Offence

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



Diamonds

- Blood / Conflict Diamonds
- Common Parking Avenue for Large Cash

Money Laundering

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



Slot Machines in Britain

- Recent phenomena in Britain amongst the young and old
- Large Undisclosed Cash Money is being involved
- Currently under Government investigation

Process of Money Laundering

- Placement
 - Dirty money being inserted in financial system
- Layering
 - Separates the proceeds from their criminal origin by moving them through a series of financial transactions
- Integration
 - Creating a legitimate explanation for their sources of funds, allowing them to be retained, invested or used, to acquire goods or assets

Money laundering demystified

Placement

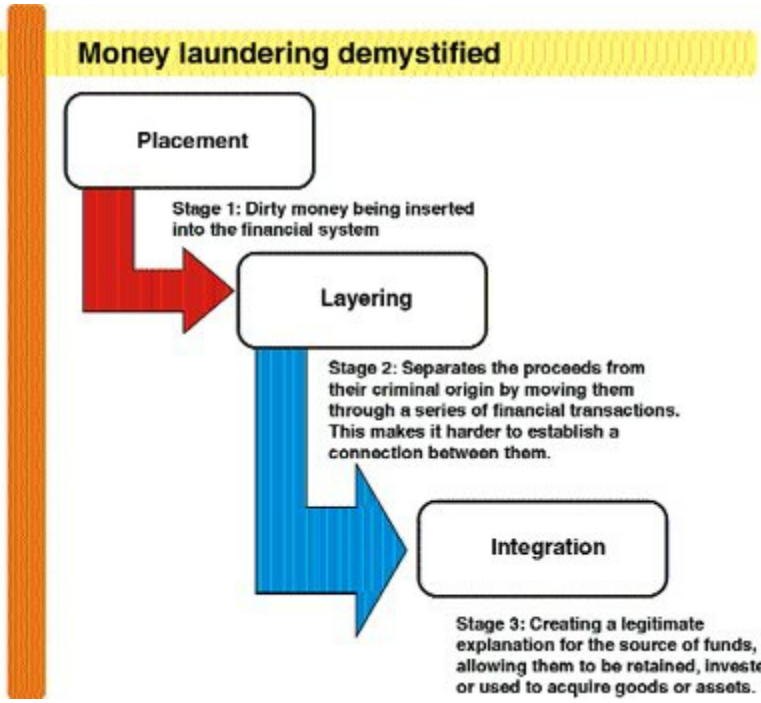
Stage 1: Dirty money being inserted into the financial system

Layering

Stage 2: Separates the proceeds from their criminal origin by moving them through a series of financial transactions. This makes it harder to establish a connection between them.

Integration

Stage 3: Creating a legitimate explanation for the source of funds, allowing them to be retained, invested or used to acquire goods or assets.



Placement

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



Jorge Messi, & Barcelona star Lionel Messi

- Recently being cleared of charges of money laundering
- Both were involved with the alleged money laundering surrounding fundraising matches for Messi and Friends for charity

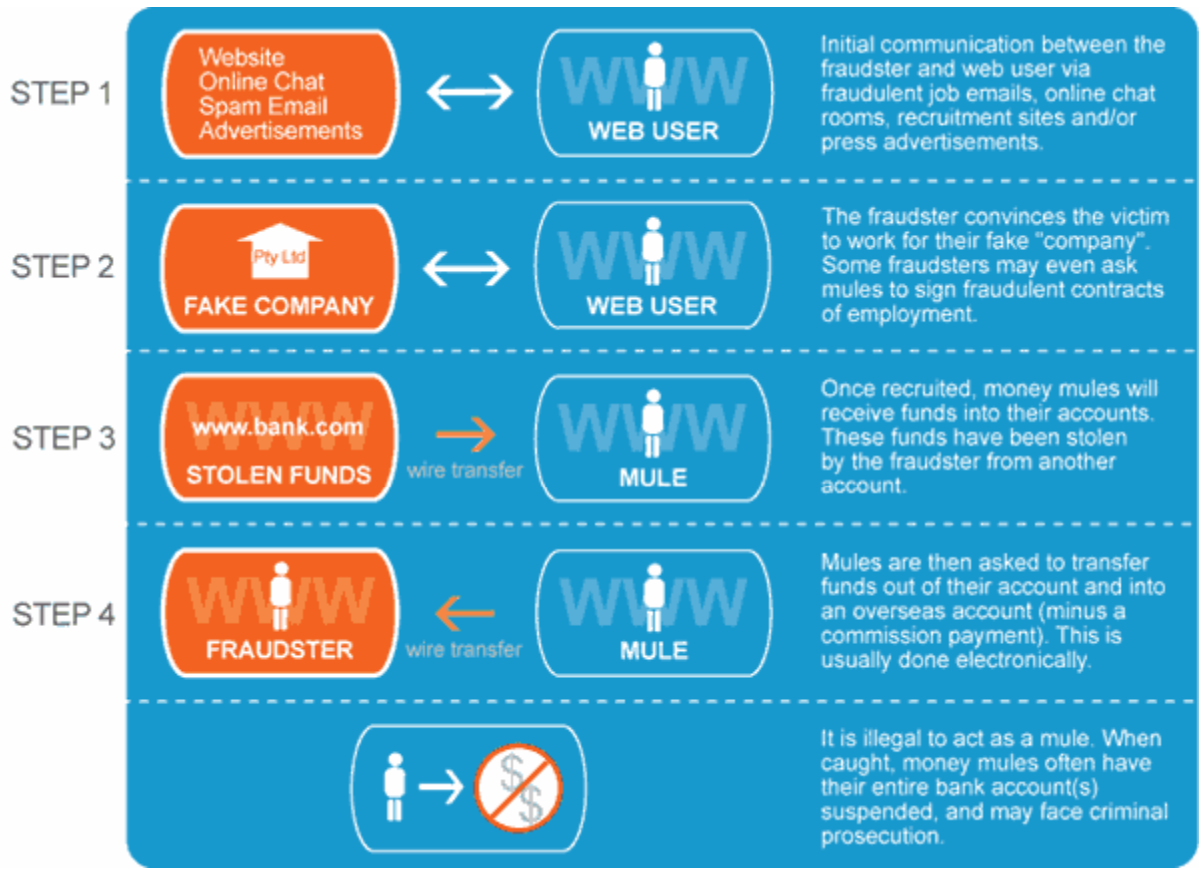
Placement

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



Digital Crime & Money laundering

- Digital crime is on the raise
- Increasing number of web fraudsters
- Every action you do on the Computer leaves a trail



Layering

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

Cobrapost Expose



MONEY LAUNDERING BY BANKS?

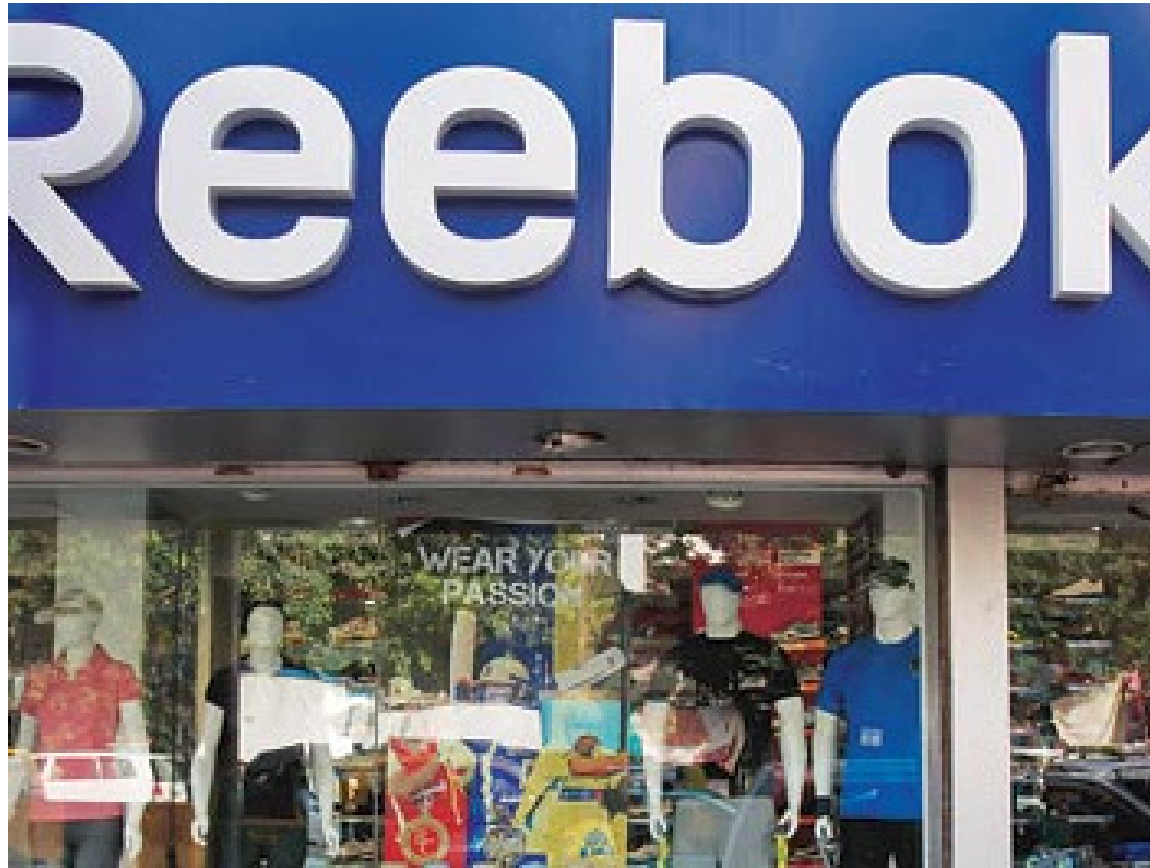
Magazine Cobrapost's expose on private banks

IBN Live

CNN
IBN

Layering

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



Reebok & Money laundering

- The Enforcement Directorate has begun a money laundering probe into the alleged Rs 870 crore corporate fraud in sports apparel company Reebok India

Integration

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



How a Bitcoin transaction works

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

WALLETS AND ADDRESSES



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



Wallets are files that provide access to multiple Bitcoin addresses.



An address is a string of letters and numbers, such as IHULMwZEPkjEPeCh43BeKJLybLCWrfDpN.



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

CREATING A NEW ADDRESS

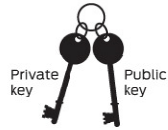


Each address has its own balance of bitcoins.

SUBMITTING A PAYMENT



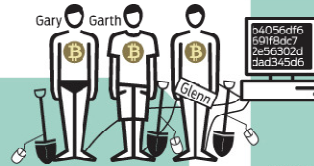
Alice tells her Bitcoin client that she'd like to transfer the purchase amount to Bob's address.



Public Key Cryptography 101

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

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

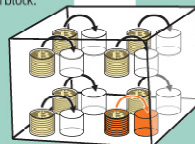


Gary, Garth, and Glenn are Bitcoin miners.

VERIFYING THE TRANSACTION

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

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



Private key

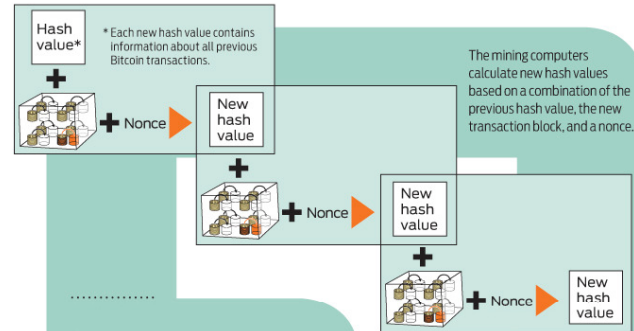


Alice's wallet holds the private key for each of her addresses. The Bitcoin client signs her transaction on request with the private key of the address she's transferring bitcoins from.

Public key



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



Cryptographic Hashes

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

The root of all evil	▶	6d0a1899086a... (56 more characters)
The root of all evil	▶	486c6be46dde...
The root of all evil	▶	b8db7ee98392...

Nonces

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

The root of all evil ???

0000 0000
0000 ...

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

The miners have no way to predict which nonce will produce a hash



value with the required number of leading zeros. So they're forced to generate many hashes with different nonces until they happen upon one that works.

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



TRANSACTION VERIFIED

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



Bitcoins

- It is an invisible (virtual) currency that lets people do business with each other.
- Bitcoins are anonymous and are not traceable by anyone. They are the perfect way for people to do business with each other without revealing identities. They don't leave any digital footprints like credit card records, bank transactions, etc.
- The Reserve Bank of India's advisory on Dec. 24, 2013 prompted some Indian bitcoin traders to suspend their operations, even as regulators seek clarity on digital currencies and ways to regulate them. The RBI's worries include taxation, security risks, losses due to the volatility and money laundering.
- Recently Mt Gox world's biggest bitcoin exchange, which collapsed in Feb, 2014 after losing nearly half a billion dollars worth of customers' digital currency, it had likely lost all 750,000 customer bitcoins it was holding, as well as 100,000 of its own and 2.8 billion yen in cash. That represents \$567 million of vanished assets at current market prices, as well as about 7% of the bitcoins in circulation.

Bitcoin

- **Japan's** government said it has yet to decide whether to regulate Bitcoin, while highlighting that banks must report any suspicions of money laundering stemming from trades of the digital currency.
- Bankruptcy of Mt. Gox Co., an online Bitcoin exchange based in Tokyo, brought the issue of regulating the virtual currency into focus in Japan. Bitcoin has attracted attention from authorities around the world who are concerned that the anonymity of transactions may attract money launderers.
- **Singapore** plans to regulate virtual-currency intermediaries including operators of Bitcoin exchanges and vending machines to address potential **money-laundering** and terrorist-financing risks.
- Digital currencies have come under scrutiny in markets from China to **Russia** and the U.S., with some regulators calling for bans or limits on their use. Charlie Shrem, the founder of exchange company BitInstant, was charged in **Manhattan** with conspiring to launder \$1 million of Bitcoins.

Bitcoins & India

- While regulators have not deemed virtual currencies illegal, India's law enforcement agency, the Enforcement Directorate, raided the offices of a few companies that operate bitcoin trading websites. While this might slow the adoption of bitcoins as a method of exchange, some see it as a necessary step in the currency's evolution.
- Like the RBI, global regulators are wary of the currency, which is not subject to the same kind of regulations as traditional money. China has banned banks from clearing transactions in bitcoins, while Switzerland has said they are prepared to treat it as a foreign currency. Only the United States [and Canada] supports the coin openly.
- Buysellbitco, one of the oldest websites trading in bitcoins in India, was the first to shut down after the RBI's advisory and the company was raided by the enforcement directorate. The site used to record about 12 million rupees (\$194,900) of bitcoin transactions every month

Laxmicoin

- India's own version of virtual currency, Laxmicoin, named after the Indian goddess of wealth, is being developed by a Jaipur-based company of the same name. A survey conducted by the company in Jaipur and Bangalore found that local businessmen were unhappy with the high transaction fees and delays in receiving payment after their customers transacted via card machines, its co-founder Raj Dangi said.

"When we told those guys about this (Laxmicoin), they were thrilled. They said 'if I can transfer funds using my mobile, nothing like it'," Dangi told Reuters at the Global Bitcoin Conference in Bangalore in December.

The company is developing a system to enable Laxmicoin payments through SMS and e-mail, but Dangi did not elaborate further. They are currently waiting for regulators' approval before they launch their model.

Bitcoin prices surged back to over \$1000 apiece on Jan. 7, after online games maker Zynga said they were testing a system to process bitcoin transactions on their network. Prices had fallen to as low as \$455 in December after Chinese authorities prohibited banks from transacting in virtual currencies.

Biggest money-laundering settlements with US authorities

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

Sources: Company reports; national sources

Integration

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



Jewelry & Money Laundering

- Traditional area of saving
- Large amount of liquid cash involved
- Safe parking Zone

Methods of Money Laundering

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

How Money Laundering Works Smurfing

\$30,000 DRUG MONEY

Below deposit
amount banks
must report

\$6,000

\$6,000

\$6,000

\$6,000

\$6,000

Day1

Day2

Day3

Day4

Day5

Bank

Bank

Bank

Bank

Bank

Account Balance =

\$30,000

Methods

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

Who are you calling dodgy?

10=highest risk of money laundering/
terrorist financing



Source: Basel AML index 2012

Methods

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



Casinos & Money laundering

- Large Cash Transactions
- Wire Transfer / Hawala transfer
- Online gambling
- Mafia Connections

Methods

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

Methods

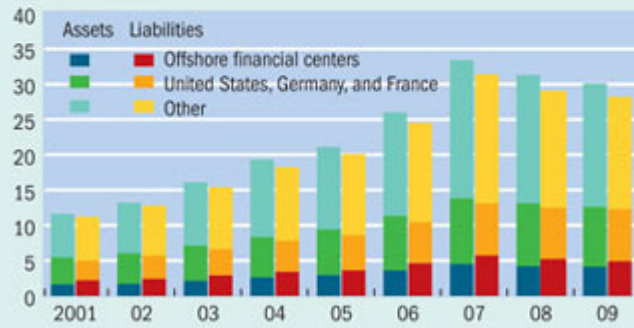
- **Loan Back:** Using this method, a criminal provides an associate with a sum of illegitimate money and the associate creates the paperwork for a loan or mortgage back to the criminal for the same amount, including all of the necessary documentation. This creates an illusion that the criminal's funds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

Chart 1

Counting for more

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

(trillion dollars)



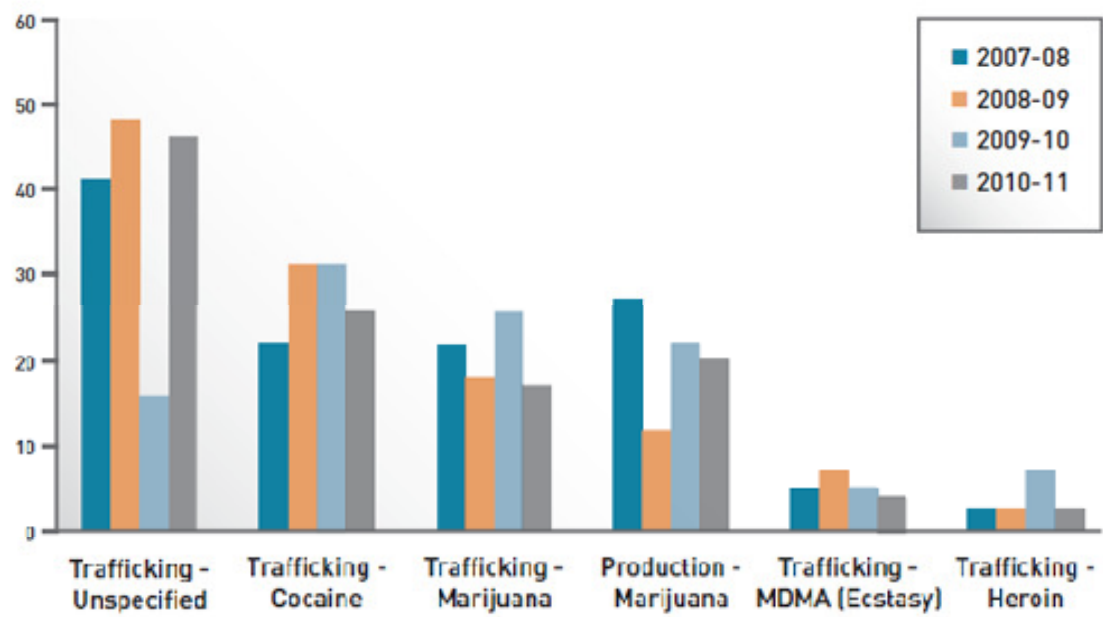
Sources: Bank for International Settlements; and IMF staff calculations.

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

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

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

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



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

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



Political Lobbying

- Large Companies
- Domestic & International laws (proposed changes & new laws)
- Competition

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

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

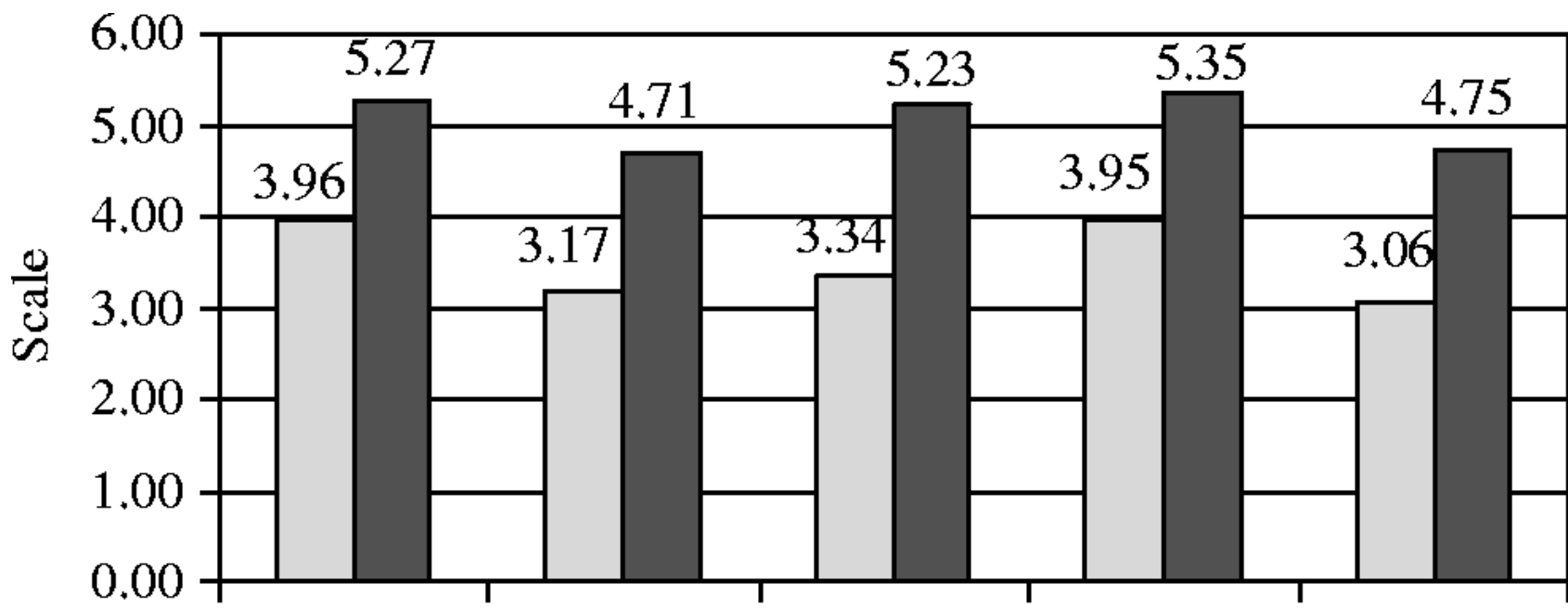


German Bakery Case & Money laundering

- High Taxes in Germany
- Local people used to hide hard cash in breads
- Transfer Money to Switzerland and outside Tax heavens

Global Developments

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



Money Laundering

□ Developing Countries ■ Developed Countries

Global Developments

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

Global Developments

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



J P Morgan & Money laundering Charges in USA

- JPMorgan Chase agreed to pay \$1.7 billion to settle charges with US government's case and overhaul its anti-money-laundering controls in Jan, 2014

OBLIGATIONS OF BANKING COMPANIES, FINANCIAL INSTITUTIONS AND INTERMEDIARIES

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

The Forms of Money Laundering

Acquiring using or possessing criminal property

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

Investing the proceeds of crimes into other financial products

Being knowingly involved in any way with criminal or terrorist property

Transferring criminal property

Entering into arrangements to facilitate laundering criminal or terrorist property

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

Risk – Political Persons

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



Jaganmohan Reddy

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

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

MAINTENANCE OF RECORDS

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

FURNISHING OF INFORMATION

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

FURNISHING OF INFORMATION

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



CARBON TRADING in BELGIUM

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

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

CDBT & ED

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



VATICAN CITY

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

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

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

IDENTITY OF CLIENTS

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



Punjab Kabbadi

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

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

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

Identity of Clients

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



Speak Asia

- More than 210 bank accounts containing over Rs 142 crore has been frozen.
- 150 bank accounts are under investigation over suspicion of funds being transferred in the scam
- Over Rs 750 crore was being laundered across various countries.
- The money was sent from India to banks in Singapore and from there to Dubai, Italy and UK. Interestingly, the money came back from UK again to UAE (Dubai)

Indians Abroad

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

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

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

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

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

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

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

Trusts / NGOs

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

RBI penalises 22 Banks

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



Monetary Penalty (in ₹ Crores)

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

Cautionary Letter

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



NGOs

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

Know Your Client (KYC)

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

PROVE YOURSELF ONCE MORE

Finish the paperwork soon to avoid hiccups later

WHAT ARE KYC NORMS?

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

WHAT IS THE RATIONALE?

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

WHAT BANKS ARE ASKING FOR

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



Financial Intelligence Unit

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



Indian Premier League

- IPL spot-fixing scandal to probe alleged routing of hawala funds and other financial irregularities which emerged after police investigations.
- The ED is already probing alleged foreign exchange related violations in the earlier editions of the T20 Indian Premier League (IPL) cricket tournament and has issued penalty notices in many cases.

Enforcement Directorate

The main functions of the Directorate are as under

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

ED

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



Standard Chartered

- USA has accused StanChart of hiding secret transactions involving USD 250 billion with Iran -- leaving the US financial system vulnerable to terrorists, weapons dealers, drug kingpins and corrupt regimes.

Financial Action Task Force

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



Reliance Ind Ltd

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

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

2014 FATF Report

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

2014 FATF Report

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



India – USA Cooperation

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

CASES RELATED TO MONEY LAUNDERING

- **Hasan Ali and associates**
- **German money laundering case**
- **Russian money laundering scandal**
- **Operation Wire Cutter**
- **Wire Remittance Company**

A TANGLED MONEY TRAIL

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



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

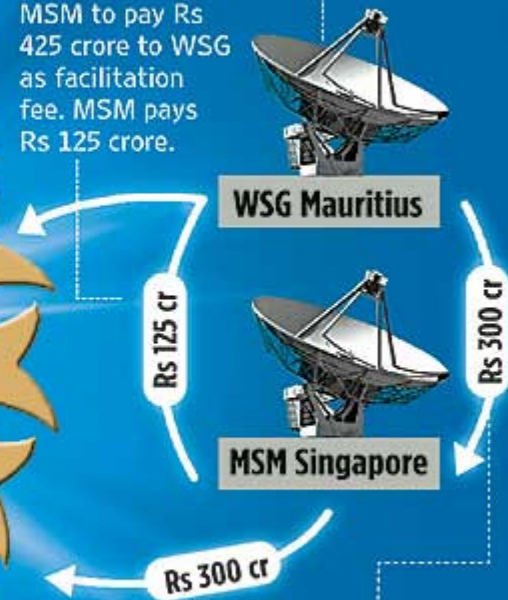
BCCI paid guarantee of Rs 62.69 crore to 55 players in foreign exchange, violating RBI rules.



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

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

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



CASES RELATED TO MONEY LAUNDERING

- Bharti-Walmart: Bribery Allegations
- Saradha Group in West Bengal : The Enforcement Directorate (ED) has registered a regular case under the provisions of the Prevention of Money Laundering Act (PMLA) at its Guwahati office as the Assam police has registered an FIR against the group after allegations were made by investors that they were duped of their hard earned money.

SPOILS OF SALE

\$10.9 billion

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

₹2,288 crore

Revenue of Amway
India (2011-12)

1.5 million

Independent Amway
business owners

Business Model

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

CASES RELATED TO MONEY LAUNDERING

- Suresh kalmadi :ED's probe into money laundering charge against the Pune Member of Parliament is with regard to its complaint on the basis of a CBI FIR on charges of cheating, conspiracy and corruption in the Timing, Scoring Result system (TSR) contract of the Commonwealth Games.
- Satyam

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already creating waves with its
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rare. State officials said ordi-
nary city business would car-
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residents are black.
© 2013 New York Times News
Service

Walmart's Investment in Cedar Violates Fema, RBI Rules: CBI

Agency says cannot investigate matter as violations do not fall within its purview

RASUL BAILAY
NEW DELHI

The Central Bureau of Investigation (CBI) has said Walmart's \$100-million investment in Cedar Support Services, the holding company of Bharti Retail, in 2010, violated India's foreign exchange rules as well as Reserve Bank of India (RBI) guidelines but said as these violations did not fall within its purview, it cannot investigate the matter.

"The case was analysed which reveals violations of RBI guidelines and Fema regulations," the CBI said in a letter addressed to CPI Rajya Sabha member MP Achuthan. But the investigating agency ad-

ded that it could not investigate the matter further as Fema violations do not fall within its purview.

CBI was replying to a letter Achuthan had written to the Prime Minister in early 2012 about potential violations of foreign investment rules by Walmart. The letter was also copied to the CBI as well as the Central Vigilance Commission. CVC had replied to Achuthan saying that it has forwarded his request to the Chief Vigilance Officer in the Ministry of Commerce.

The Enforcement Directorate, the agency that probes alleged FEMA violations, is currently investigating the Walmart transaction. It has already summoned Bharti and Walmart officials as part of its

ongoing probe. In March 2010, Wal-

Mart, through its Mauritius subsidiary, had invested the \$100 million in the form of Compulsorily Convertible Debentures (CCD) into Cedar Support with the option to convert those CCDs into 49% equity into the company in the future.

Last year, Achuthan wrote to the Prime Minister, alleging that the \$100 million investment by Walmart

was illegally routed to fund retail operations of Bharti Retail. This fund infusion was made at a time when foreign direct investment was banned in this sector.

"We are in compliance with India's FDI Guidelines and, as we have stated, we have cooperated with the government during this process. The Central Government has sought information and clarification that has been provided by us," a Walmart India spokeswoman said in an e-mailed reply.

A Bharti Spokesperson declined to comment on the CBI findings but the company has in the past maintained that it has strictly followed the Indian laws while receiving the \$100 million into Cedar.



CPI's Achuthan had written to the PM about potential violations by US co

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Boisi Auto

CASES RELATED TO MONEY LAUNDERING

- NRI – Kahlon: ED has registered case of money laundering against NRI businessman and alleged drug dealer Anoop Singh Kahlon in connection with recently held contraband haul from his home by Punjab Police
- Enforcement Directorate filed charge sheet against Anil Bastawade, an aide of former chief minister Madhu Koda, in money laundering case.
- After being chargesheeted by National Investigation Agency (NIA) December 2013, Hizbul Mujahideen chief Syed Salahuddin is now in the Enforcement Directorate's (ED) crosshairs. The agency has registered a case of money laundering against Salahuddin for funding terror in the Kashmir valley through overground NGOs and cross-LoC trade in March 2014. NIA had traced transactions of Rs 80 crore that were pumped into the Valley by Hizb from Pakistan over the years. The ED case is based on the chargesheet filed by NIA.



Satyam

- In 2013, the ED had filed a charge sheet against Raju and 212 others before the XXI additional magistrate court in Hyderabad
- ED under the Prevention of Money Laundering Act, had attached 350 properties worth about Rs 1,075 crore.

CASES RELATED TO MONEY LAUNDERING

- A money laundering case is ongoing against Tarique Ahmed Dar, who had allegedly masterminded and funded the 2005 Diwali-eve blasts at prime markets in Delhi.
- The Crime Branch police arrested seven functionaries of Safex Infra India Limited for allegedly operating illegal money circulation activities
- The crime branch recently arrested four employees of the dubious financial management company Ashore Group for allegedly laundering crores of rupees
- In a first of its kind case in Goa, the enforcement directorate (ED) has in Feb, 2014 filed a complaint against alleged drug dealer Sadanand alias Bhui Chimulkar, a resident of Anjuna, before a designated NDPS court to confiscate property owned by him and valued at around Rs 1.10 crore



France busts international cannabis money-laundering network

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

PMLA

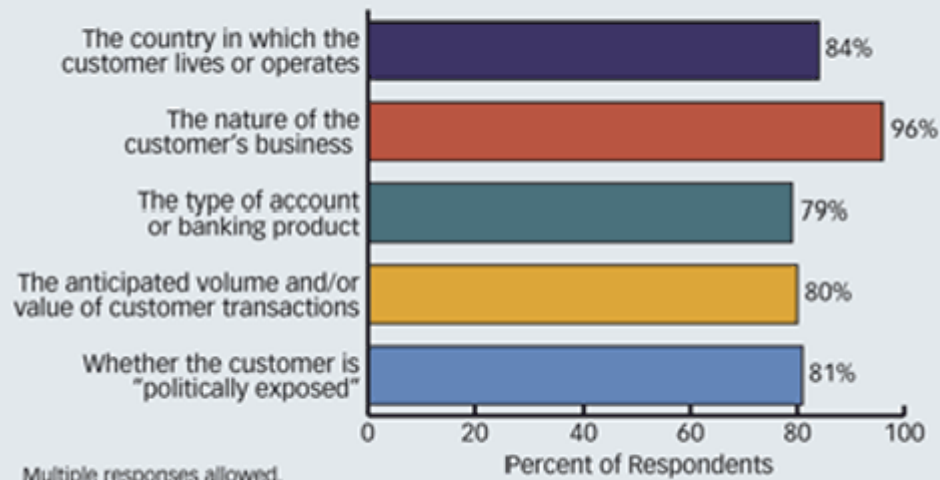
- ED has filed two cases against businesswoman Sejal Shah under the Prevention of Money Laundering Act in Ahmedabad in March, 2014
- The cases were filed in connection with two forgery complaints filed in 2009 and January 2014.
- In September 2009, Shah and her accomplices Mahendra Shah, Rashmikant Patel and Mrugesh Patel were accused of embezzling Rs 14.53 crore from the HDFC account of Karnavati Dyechem Private Limited.
- A complaint was filed by former director of the company Deepak Trivedi who accused Sejal of forging signatures on cheques with the help of Mrugesh Patel.
- According to the complaint, the cheque book had been obtained from the bank using forged signatures.
- In January 2014, Sejal had sold two flats in Ratnamani flats in Satellite area for an undisclosed amount through fake power of attorney.

SEBI & PMLA

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

Red Flags

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



Multiple responses allowed.

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

SEBI & PMLA

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

Cars and Cocaine

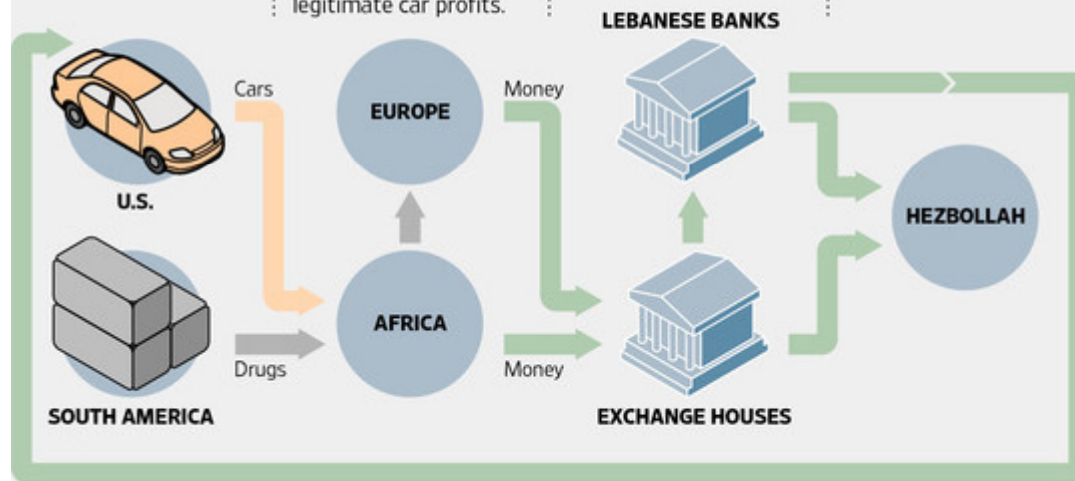
The U.S. alleges that Lebanese money-exchange houses used car sales to launder cash from drug proceeds and funneled the profits to the militant group Hezbollah.

1. Used cars from the U.S. and cocaine from South America are shipped to Africa.

2. Cars are sold in Africa and drugs are sent to Europe for sale. Proceeds from drug sales are mixed with legitimate car profits.

3. Profits are sent to Lebanese banks via exchange houses.

4. Some money is diverted to Hezbollah, and some is returned to the U.S. to purchase more used cars.



Source: U.S. Drug Enforcement Agency

The Wall Street Journal

Carson Yeung

- Birmingham City owner Carson Yeung insisted he amassed his fortune through legitimate means including high-end hair salons as he testified for the first time recently in his \$93 million money-laundering trial in Hong Kong.
- The hairdresser-turned-football tycoon from the southern Chinese city was arrested and charged in June 2011 with dealing in ill-gotten gains worth tens of millions of dollars.



NSEL

- ED has registered a case against the **National Spot Exchange Ltd** (NSEL), its promoters including Jignesh Shah, and directors under PMLA
- Under PMLA, the ED can probe the spot exchange, along with other related parties mentioned in the First Information Report (FIR), for alleged money laundering and siphoning off funds abroad

Thank you