



Fugitive Economic Offenders

Why in News

The **Enforcement Directorate** has transferred assets worth Rs. 8,441.50 crore to **public sector banks** that suffered losses to the tune of Rs. 22,585.83 crore due to frauds committed allegedly by Vijay Mallya, Nirav Modi and Mehul Choksi.

- All the three have been declared '**Fugitive Economic Offenders**' by **PMLA (Prevention of Money Laundering Act)** Court in Mumbai.
- **Extradition** requests to the **United Kingdom (UK), Antigua, and Barbuda**, have also been filed against all the three accused.

Key Points

▪ Fugitive Economic Offenders Act, 2018:

- **About:** It **seeks to confiscate properties of economic offenders** who have left the country to avoid facing criminal prosecution or refuse to return to the country to face prosecution.
- **Fugitive Economic Offender (FEO):** A person **against whom an arrest warrant has been issued** for committing an offence listed in the Act and the **value of the offence is at least Rs. 100 crore.**
- Some of the **offences** listed in the act are:
 - Counterfeiting government stamps or currency.
 - Cheque dishonour.
 - Money laundering.
 - Transactions defrauding creditors.

▪ Declaration of a Fugitive Economic Offender:

- After hearing the application, a special court (designated under the **PMLA, 2002**) may declare an individual as a fugitive economic offender.
- It **may confiscate properties** which are proceeds of crime, Benami properties and any other property, in India or abroad.
- Upon confiscation, **all rights and titles of the property will vest in the central government**, free from encumbrances (such as any charges on the property).
- The central government may appoint an administrator to manage and dispose of these properties.

▪ Bar on Filing or Defending Civil Claims:

- The Act allows any **civil court or tribunal to prohibit a declared fugitive economic offender** from **filing or defending any civil claim.**
- Further, any **company or limited liability partnership** where such a person is a majority shareholder, promoter, or a key managerial person, may also be barred from filing or defending civil claims.
- The authorities may **provisionally attach properties of an accused**, while the application is pending before the Special Court.

▪ Powers:

- The authorities under the PMLA, 2002 will exercise powers given to them under the Fugitive Economic Offenders Act.
- These powers will be **similar to those of a civil court**, including the search of persons in possession of records or proceeds of crime, the search of premises on the belief that a person is an FEO and seizure of documents.

▪ Prevention of Money Laundering Act (PMLA):

◦ Money Laundering:

- Money laundering is **concealing or disguising the identity of illegally obtained proceeds** so that they **appear to have originated from legitimate** sources. It is frequently a component of other, much more serious, crimes such as **drug trafficking, robbery or extortion**.
- According to the [International Monetary Fund \(IMF\)](#), global Money Laundering is estimated between 2 to 5% of World GDP.

◦ Salient Features:

• Punishment for money-laundering:

- Money laundering is punishable with rigorous imprisonment for a minimum of 3 years and a maximum of 7 years and Fine.
- If the crime involves the [Narcotic Drugs and Psychotropic Substances Act, 1985](#), the punishment can go up to 10 years, along with fine.

• Powers of attachment of tainted property:

- The property is believed to be "proceeds of crime" and can be provisionally attached for 180 days. Such an order is required to be confirmed by an independent Adjudicating Authority

• The Enforcement Directorate (ED) is responsible for investigating offences under the PMLA.

- Also, the [Financial Intelligence Unit - India \(FIU-IND\)](#) is the national agency that receives, processes, analyses and disseminates information related to suspect financial transactions.

• Burden of proof: A person, who is **accused of having committed the offence** of money laundering, has to prove that alleged proceeds of crime are in fact lawful property.

Enforcement Directorate

- Directorate of Enforcement is a **specialized financial investigation agency** under the Department of Revenue, **Ministry of Finance**.
- On 1st May 1956, an 'Enforcement Unit' was formed, in the Department of Economic Affairs, for handling Exchange Control Laws violations under Foreign Exchange Regulation Act, 1947.
 - In the year 1957, this Unit was renamed as '**Enforcement Directorate**'.
- ED enforces the following laws:
 - [Foreign Exchange Management Act, 1999 \(FEMA\)](#)
 - [Prevention of Money Laundering Act, 2002 \(PMLA\)](#)

[Source:TH](#)

