



# Money Laundering-Tools of investigation

Presented by  
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# OECD Academy for Tax and Financial Crime Investigation

## *Managing Financial Investigations*



- Money Laundering -India  
The Legislation  
Tools of investigation
- International cooperation  
Formal & informal
- Domestic Inter Agency  
Cooperation
- Case study- while we walk through





# Prevention of Money Laundering Act (PMLA)



# Objectives of PMLA, 2002

- To prevent Money Laundering- investigate and prosecute
- To provide for confiscation of property derived from or involved in ML
- Setting up of agencies and mechanisms for coordinating measures for combating ML

# AGENCIES HANDLING ML INVESTIGATION IN INDIA

**Enforcement Directorate (ED)**- under Ministry of Finance, Government of India.

**FIU-IND** assists in collection of information. Responsible for receiving, processing, analysing and disseminating information relating to suspicious financial transactions.



# SCHEME OF Indian ML Act

- Registration of a Predicate Offence by an Investigating Agency – Scheduled Offence under PMLA.
- Attachment of property derived from ML.
- Confiscation of property subsequent to conclusion of trial.
- Prosecution for the offence of ML.

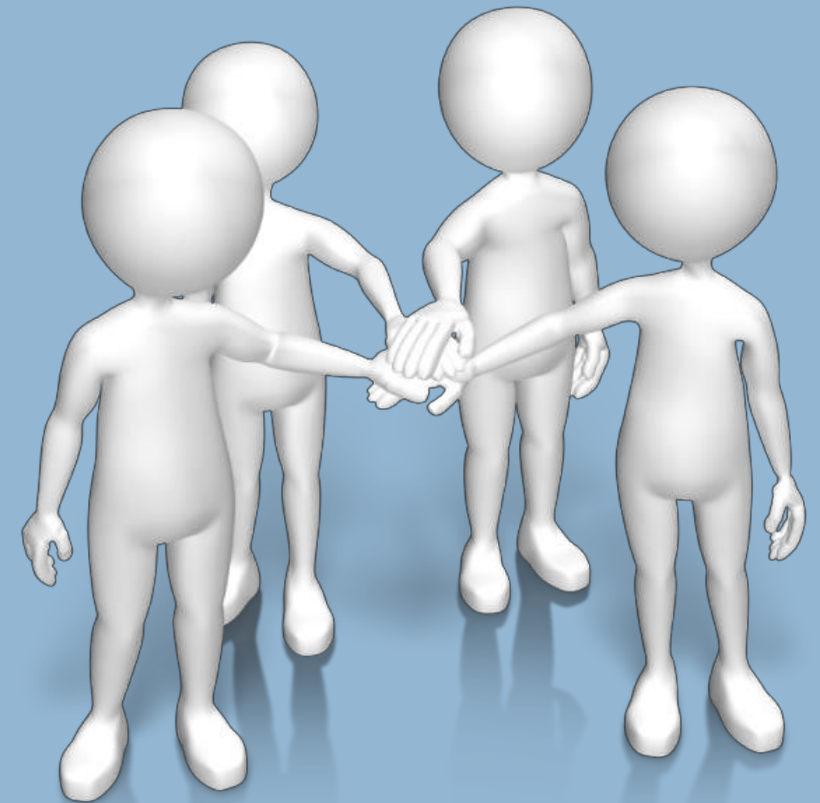


Discuss, among your group,  
the issues involved in  
attachment of property/ asset  
recovery.

Importance

Timeline

How do you deal with Third party claims.



# Predicate Offence/Scheduled offences under PMLA

Various offences under 30 statutes are scheduled offences.

- Fraud, Cheating, criminal conspiracy
- Drug cases
- Terror Finance cases
- Human Trafficking
- Customs duty fraud.....

You can take a look at the list of scheduled offences at [https://fiuindia.gov.in/files/AML\\_Legislation/scheduled\\_offences.html](https://fiuindia.gov.in/files/AML_Legislation/scheduled_offences.html)



# Legislative History of ML Legislation in India

- ML Bill, known as Prevention of Money Laundering Bill, 1998 was introduced in August 1998
- Bill received assent of the President of India on 17<sup>th</sup> Jan, 2003
- PMLA came into force w.e.f. 1<sup>st</sup> July, 2005
- Amended several times in order to comply with the global standards set up by international communities like FATF, Asia Pacific Group (APG), Eurasian Group (EAG) as well as to address various issues which have arisen while implementing provisions of PMLA.

# PUNISHMENT

- Rigorous Imprisonment for 3 to 7 years plus fine
- Drug cases-up to 10 years plus fine

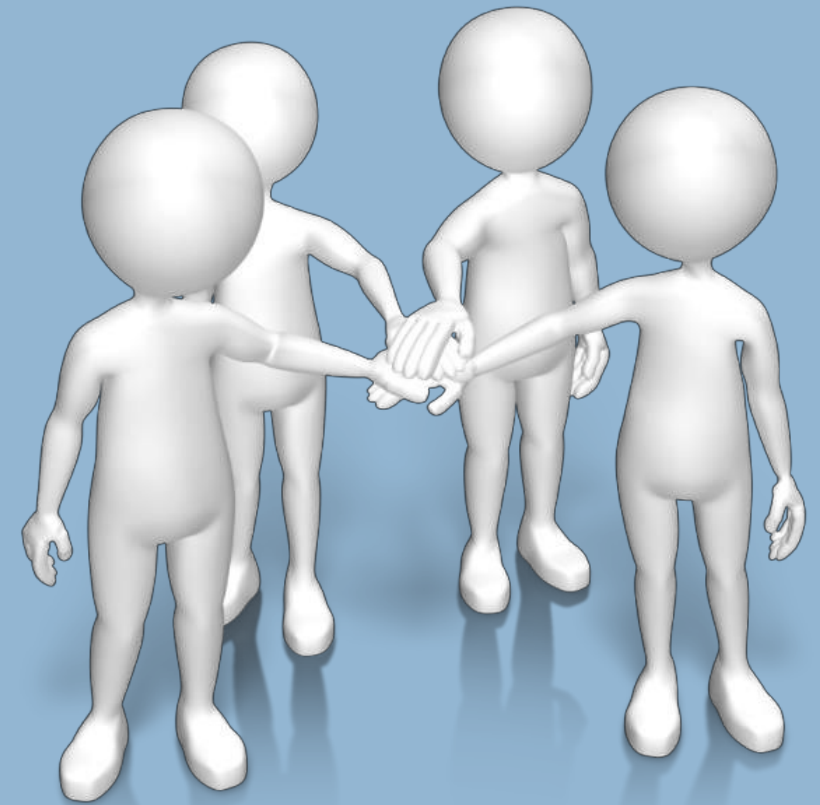


# Indian Act in line with recommendations of FATF

- Declaration of laundering of money carried through serious crimes a criminal offence
- To work out modalities of disclosure by financial institutions regarding reportable transactions- FIU was set up.
- Confiscation of proceeds of crime
- Declaring ML to be an extraditable offence.
- Promoting International cooperation in investigation of ML

# 15 minute discussion

As a member/ supervisor of an investigation, what does your team aim at in an investigation?



# Planning an investigation

1. collecting intelligence/ evidence- towards prosecution and asset recovery.
2. Securing asset- freezing through specific order.
3. Court process- enforcing final court order





# Tools of Investigation under PMLA





PMLA provisions allow to undertake:-

- search,
- seizure,
- arrest,
- attachment,
- Summons,
- prosecution action.



# PRACTICAL EXERCISE

## Part 1

1. As a supervisor/manager, what goal would you set for the investigation? Identify challenges in the planning stage, and how you would deal with them.
2. What investigative tools would you use for gathering evidence and asset recovery at this first stage of the investigation?
3. Identify challenges in collecting intelligence/evidence and how you would deal with them





# International Cooperation: Informal & Formal

# International Cooperation

## Information sharing

### **Informal**

- Intelligence sharing

### **Formal**

- Information sharing for use as evidence

## Asset recovery

### **Informal**

- tracing, identification of assets which are PoC or involved in ML offence

### **Formal**

- restrain, freezing, seizure, forfeiture, confiscation, repatriation or return of assets

### Informal Exchange of Information

- Intelligence & Investigation
- Specific inputs for drafting formal requests

Not admissible  
during trial

### Formal Exchange of Information

- Gathering of evidences
- Establishing money trail
- Examination of witnesses

Admissible during  
trial

# INFORMAL COOPERATION

- FIU – Egmont Group
- CARIN Network
- GlobE Network
- INTERPOL – Police to Police Cooperation
- Embassies including COIN and ITOU
- Liaison office for criminal investigation



## FIU – Egmont Group

- **Egmont Group:** Financial Intelligence Units (FIUs) [<https://egmontgroup.org/about/financial-intelligence-units/>] are specialized government agencies created to act as an interface between the financial sector and LEAs for collecting, analyzing and disseminating information, particularly about suspicious financial transactions, pertaining to money laundering and financing of terrorism.
- FIU- IND [<https://fiuindia.gov.in>] set up under PMLA.



- FIU-IND analyses the reports received and disseminates actionable intelligence to law enforcement agencies, intelligence agencies and regulators including the Directorate of Enforcement. ED's coordination with FIU-IND includes:
  - ✓ STRs- Suspicious Transaction Reports
  - ✓ Egmont Requests- to get intelligence information from foreign FIUs – [EGMONT request form](#)
  - ✓ Spontaneous ESW- Forwarded by FIU-IND on its own to ED based on their intelligence inputs received from EGMONT group.
  - ✓ Operational Analysis: Multiple linked STR analyzed

## CARIN/ARIN –AP

- ARIN-AP (Asset Recovery Interagency Network – Asia Pacific) is modelled on Camden Assets Recovery Interagency Network (CARIN).
- Informal network of experts and practitioners in the field of asset tracing, freezing and confiscation which intends to serve as a cooperative group in all aspects of tackling the proceeds of crime in the Asia-Pacific region - [ARIN request from](#)
- Each Member may nominate two representatives, one from a LEA and one from a Judicial/Prosecutorial (as relevant to each jurisdiction) Authority to be their ARIN-AP contacts.



### **28 ARIN-AP Members (Asia Pacific)**

(Asset Recovery Inter-Agency Network of Asia Pacific)

ARIN-AP Members			
Australia	Japan	New Zealand	Singapore
Brunei Darussalam	Kazakhstan	Nepal	Sri Lanka
Cambodia	South Korea	Kyrgyzstan	Thailand
Chinese Taipei	Malaysia	Pakistan	Timor-Leste
Cook Islands	Maldives	Palau	Tonga
India	Mongolia	Papua New Guinea	Vietnam
Indonesia	Myanmar	Philippines	Tuvalu





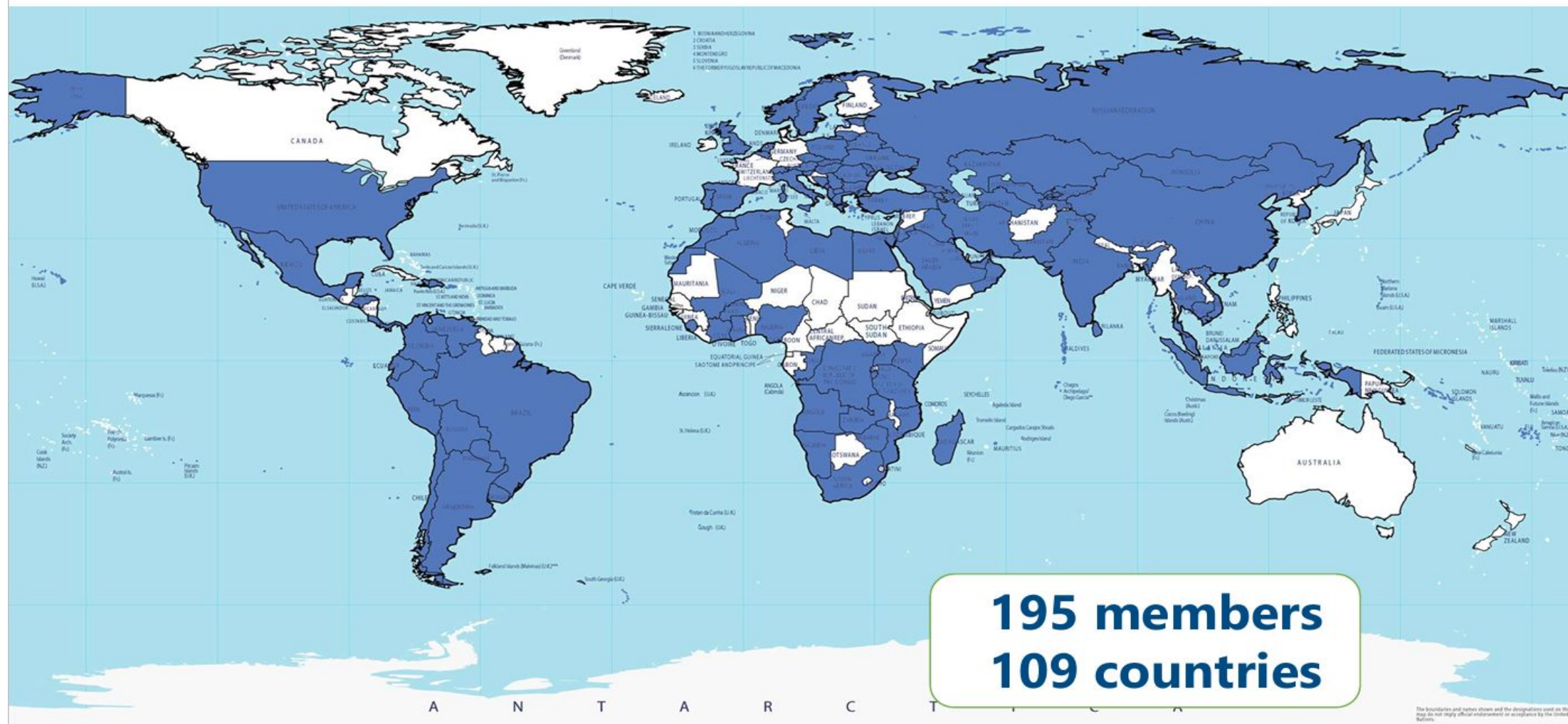
## GlobE Network

- The Global Operational Network of Anti Corruption Law Enforcement Authorities (GlobE Network)
- Informal cooperation between anti corruption Law Enforcement Authorities – [GLOBE Network Request from](#)
- Timely and efficient transnational informal cooperation and collaboration against corruption
- ED is one of the focal points for this network along with CBI for India

## GlobE Network

Established in 2021, the GlobE Network welcomes anti-corruption law enforcement authorities from all UN Member States and States parties to the UN Convention against Corruption (UNCAC). Governed by its members, the Network is supported by the United Nations Office against Drugs and Crime (UNODC), which provides the Network's secretariat.





The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations.



**UNODC**

United Nations Office on Drugs and Crime

**GLOBE Network**

# INTERPOL – Police to Police Cooperation

- INTERPOL is the world's largest international police organisation, with more than 190 member countries.
- Each INTERPOL member country maintains a **National Central Bureau**, linking national police with global network of INTERPOL. In India **Central Bureau of Investigation** is designated National Central Bureau (NCB).
- INTERPOL has also devised a mechanism of publication of various kinds of notices towards informal collection of information.



# INTERPOL NOTICES



**GREEN NOTICE**  
WARNINGS AND INTELLIGENCE



**ORANGE NOTICE**  
IMMINENT THREAT



**PURPLE NOTICE**  
MODUS OPERANDI



**SILVER NOTICE (Pilot Phase)**  
IDENTIFICATION AND TRACING OF CRIMINAL ASSETS



**INTERPOL-UN SECURITY  
COUNCIL SPECIAL NOTICE**  
ENTITIES AND INDIVIDUALS SUBJECT TO  
UNSC SANCTIONS



**RED NOTICE**  
WANTED PERSONS



**YELLOW NOTICE**  
MISSING PERSONS



**BLUE NOTICE**  
ADDITIONAL INFORMATION



**BLACK NOTICE**  
UNIDENTIFIED BODIES



- An important tool for **locating a fugitive criminal** and getting him arrested with a view to his extradition.
- Purpose is to seek the arrest or provisional arrest of wanted persons with a view to extradite.
- INTERPOL cannot compel the law enforcement authorities in any country to arrest someone who is the subject of a Red Notice. Each member country decides what legal value it gives to a Red Notice and the authority of their law enforcement officers to make arrests. **It is not an International arrest warrant.**
- Provisional arrest request and Extradition request should be kept ready
- **RCN REQUEST FORM**





Total number of public Red  
Notices in circulation: **6641**





# INTERPOL – INTERPOL RED Notice

- **Requirements for RCN application:**

- Identification data: Family name, forename, sex, date of birth (at least the year) and one of the following identifiers - **Physical description (Photo)** or DNA profile or Fingerprints or data contained in identity documents (e.g., passport, national identity card).
- Summary of facts of the case: summary of facts of the case, including description of the alleged criminal activity
- **Role of the accused person in offence** - a succinct and clear description of the criminal activities of the wanted person
- Law(s) covering the offence - Brief heading of the Sections of Law.
- Reference to a valid arrest warrant or judicial decision having the same effect (Copy of NBW)

Duly completed proforma after observing above said requirements for publication of Red Notice should be sent to [Assistant Director, NCB-India](#)





## INTERPOL – **BLUE** Notice

- To collect additional information about a person's identity, location or activities in relation to a crime
- The subject of this Notice can be a convict/ charged, an accused, a suspect, witness or a victim.
- May be precursor to RCN or Extradition Request (in case of person accused or is suspected to be involved in ML offence)

# COIN/ITOU Offices

- **Income Tax Department** deals with cases of cross-jurisdictional tax evasion, criminal tax offences and tax fraud, Black Money Act cases
- The **Directorate of Revenue Intelligence (DRI)** investigates Customs frauds and smuggling cases.
- Have posted their officers in India's various Mission abroad
- COIN/ITOU units may pass on intelligence/information gathered from overseas to assist in the investigation.
- **Purpose:** Company details (such as its incorporation, shareholder & director details etc. ), details of assets, bank A/c., Import/Export details, nature of business/activity, etc. (*Indicative*)

# Practical exercise.

## Part -2

How would you respond to the ESW received in this case? Identify the countries from whom the assistance is required to be sought. What details will you ask and through which channel?



# Jurisdictions and purpose.

**BVI** to establish the beneficial ownership of Ms.Dory in M/s Birdmont Ventures (BVI). Directors Mr. A and C are dummy directors, questions raised?

**Switzerland**-to get the bank account details/ statement of M/s Birdmont (BVI), KYC documents to establish the actual operator/ signatory details of the bank account- Ms. Dory or Dummy directors-Mr. A and C.

**Liechtenstein**- Insurance policy number available. Documentation of the policy. Signatory details. Terms of maturity.

**Luxembourg- A&B bank.** Details of sender account?

Check whether these countries are part of Egmont group.

<https://egmontgroup.org/members-by-region/eg-member-fiu-information/>

# Practical exercise.

## Part -2 *contd..*

How do you respond to the issue of date till which ban has been applied on execution of full surrender?





# Formal International Cooperation

- Mutual Legal Assistance Treaty (MLAT)
  - Issued by the Central Authority of Requesting country to the Central Authority of the Foreign Country. (Ministry of Home Affairs)
  - Treaty a compulsion.
- Letter Rogatory/ Letter of Request (LR)
  - Issued by Special Court on request of the Investigating Agency.
  - Treaty not a compulsion.



# KEY ISSUES IN MAKING A FORMAL REQUEST

- Name and address of the Investigating Authority
- The legal basis
- Should not be too lengthy and should not be repetitive – summary of facts in two-three pages
- Link between criminal activity and assistance sought – **how the proceeds of crime have been identified and how it is in the foreign country**
- Translation of documents



## THRESHOLD: When to send a formal request abroad?

- Information/document to be obtained from abroad is to be used as evidence if:
  - There is clear **relevance** of the info/ documents sought in the case viz. identification of PoC or additional PoC, for proving offence of ML.
  - **Not available from domestic sources** viz. banks, other LEAs, domestic databases, witnesses etc.
  - Information **cannot be collected through domestic investigative tools**
  - Accused/suspect has been specifically asked to provide the same and he/she has **not cooperated** in providing the same

# Guidelines on Mutual Legal Assistance in Criminal Matters

[https://www.mha.gov.in/sites/default/files/ISII\\_ComprehensiveGuidelines\\_16032020.pdf](https://www.mha.gov.in/sites/default/files/ISII_ComprehensiveGuidelines_16032020.pdf)



# Formal Cooperation -Purpose and legal basis

## Outgoing LRs:

- LR for exchange of information (S. 57)
- LR for service of summons, search warrants and warrant of arrest (S.59)
- LR for Asset Recovery (S.60)

## Incoming LRs:

- Section 58 – Incoming Request for investigation of money laundering offence
- Section 60(2) – Incoming Request for Asset Recovery

# LR for Exchange of Information

If during the course of an investigation:

- ✓ Any evidence is required in connection with investigation into an offence.
- ✓ The IO is of the opinion that such evidence may be available in any place in a contracting State.

AND

- The Special Court on being satisfied that such evidence is required in connection with the investigation into an offence or proceedings under this Act,

May issue an LR to a Court or authority competent to deal with such request.



# LR for asset recovery

- When an order has been made:
  - ✓ for attachment of any property or
  - ✓ for freezing
  - ✓ where a Special Court has made an order of confiscation relating to a property

and

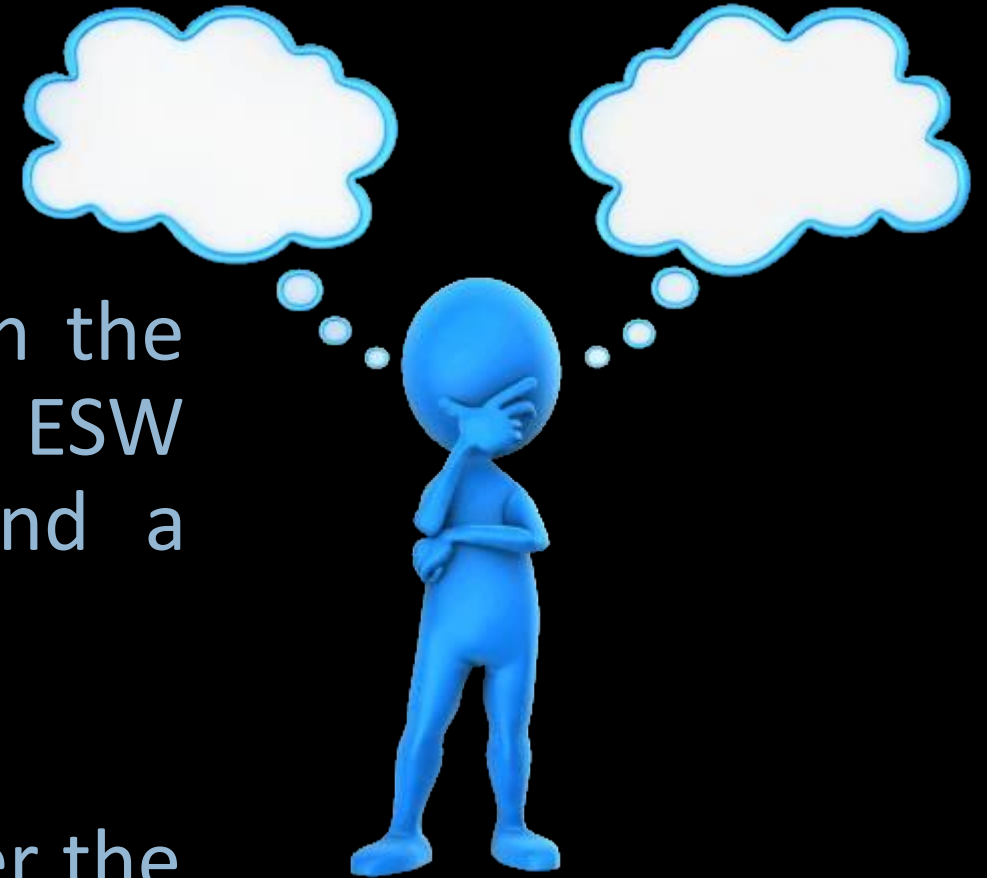
- Such property is suspected to be in a Contracting State,  
Special Court, on application by the Agency, may issue a letter of request to a Court or an authority in the contracting State for execution of such order.

# Practical exercise.

## Part -2 *Contd...*

If you receive all the details from the informal channels with respect to ESW on Dory- where would you send a formal request for asset recovery?

How would you attempt to recover the 3 hotels in Country B.



# EXTRADITION

- Extradition is the **surrender** by one State to another of a person desired to be dealt with for crimes for which he has been accused or convicted and which are justifiable in the Courts of the other States
- Governed by Extradition Act, 1962 and Extradition Treaties – 48 in number
- Extradition Arrangements – 11 in number
  - Ministry of External Affairs (MEA) is the Central Authority

Extradition Affidavit Template-

<https://www.mea.gov.in/Images/amb1/Affidavit-template.pdf>

# Extradition- key points.

The important points to be considered while making Extradition Request

- i) Extraditablity of offences as per the Extradition Act, 1962/Treaty/Arrangement/International Convention if any;
- ii) Dual Criminality;
- iii) Assurances (death penalty, prison conditions, term of sentence, extradition to another country)
- iv) The offences are not barred by the clause of limitation

# Practical Exercise- Part 3

Which tools would  
you use to make Mr.  
Pack participate in  
the investigation?

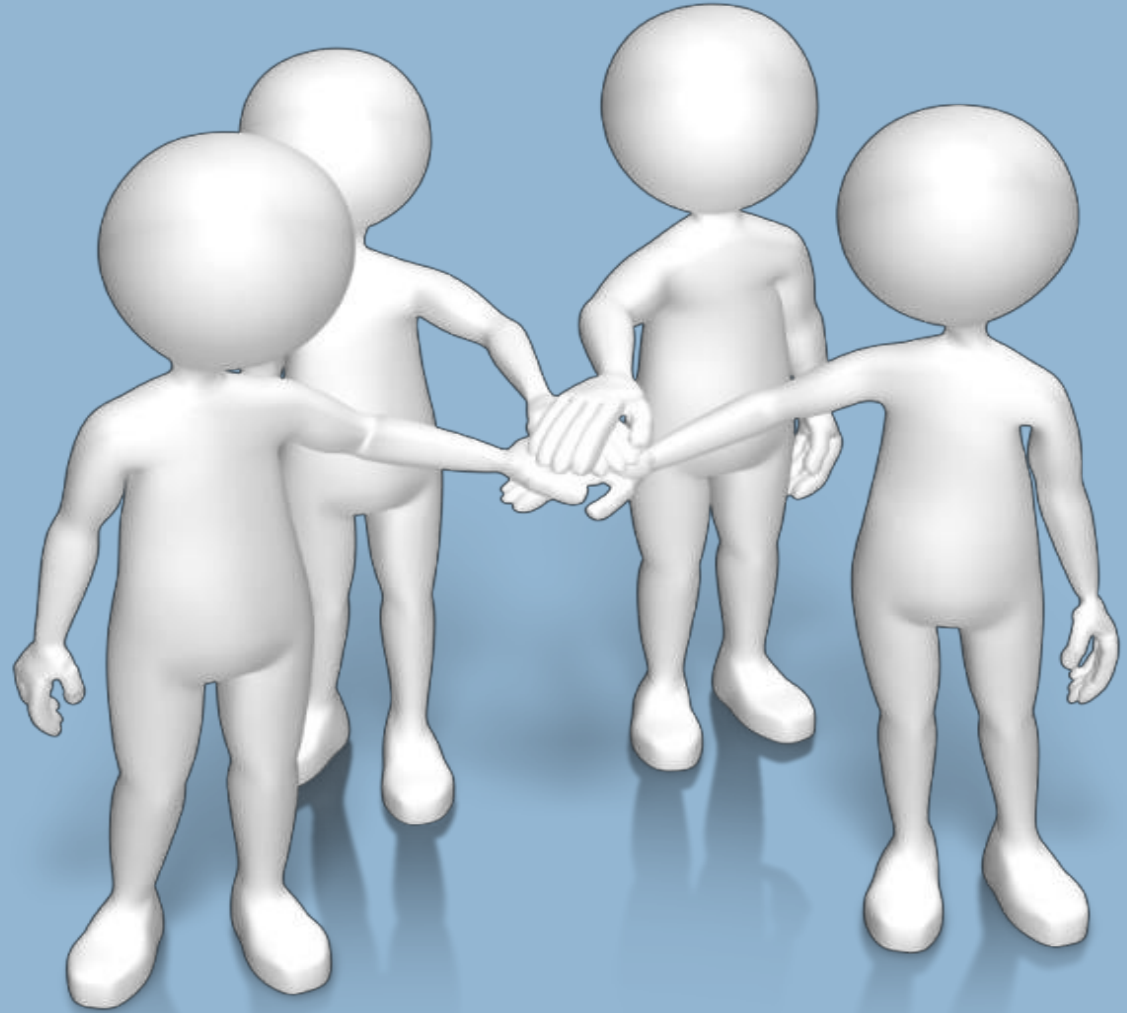




# Collaboration with Other Law Enforcement Agencies

# Group Discussion

What are the challenges faced by your agency while interacting with other domestic agencies?



# Statutory obligation of other bodies towards sharing of information.

- Customs & Central Excise, Narcotic Control Bureau, Income Tax authorities, Recognized stock exchanges, Reserve Bank Of India, SEBI, IRDA, PFRDA, Department of Posts, Registrars or Sub-registrars, ICAI, ICSI and other reporting entities as notified by the Central Government.

Two way obligation.

# Coordination with domestic agencies

- **CBIC** - Details of prosecution filed under Customs Act, SCN issued by DRI etc. are being received from CBIC which are useful in action under FEMA and PMLA.
- **Various banks** - Details of XOS data, import pending information etc. are being received from various banks which are useful in action under FEMA/PMLA.
- **Other Agencies** - Registry data from Sub-Registrar Office, Insurance Policy related data from IRDAI, Shares/MF related data from NSDL, ML-I & ML-II reports by states, charge sheets by other LEAs etc.

# Coordination with domestic agencies, contd..

- **FIU-IND** - Info in the form of ESW, STR, Operational Analysis, etc. enquiries in respect of persons/entities residing in India as well as in foreign jurisdiction.
- **CEIB** - FIRs details registered by CBI, EOW and various States Police, Prosecution filed by CBDT, Customs etc., order passed by SEBI, DRI etc. are being received from CEIB.
- **RBI** - Information related to overseas investment by individuals/entities.
- **CBDT** - Details of prosecution filed by CBDT under BMA, 2015 which can be acted upon under PMLA and FEMA. Various information viz. ITR information, PAN information etc.



## Practical exercise: Part 4

How would you coordinate with other domestic agencies, in this case. At what stage will you share information and to what extent with other domestic agencies.





What really happened with the practical exercise case.



Mr. King - behind bars, prosecuted both in Predicate and ML offence along with and M/s Max Corporation Ltd.



Assets in Country B held by M/s Mini Ltd- attached by sending an LR.

Matter dealt by the Court in Country B- ordered for Sale of the asset. Sale proceeds brought back to India. Distributed among Investors.





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Mr. Catch- arrested, found to be the  
mastermind and enjoyed the PoC; prosecuted.  
The land on which residential project was  
constructed- attached.



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Mr. Pack- RCN process initiated.  
Extradition request sent.





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# Thank you for your attention

## **Practical exercise**

Mr. King floated a company, M/s Max Corporation Limited in 2018 in your country and launched a Ponzi scheme. Investors were lured into investing in the scheme by promising high returns. The investors were not given the promised returns. A case of cheating and criminal conspiracy against Mr. King and his company was registered by the Police.

In its investigation, the predicate agency established that the accused entities through their illegal and fraudulent activities collected more than USD 10 Million through the Ponzi Scheme from more than 1 Million investors.

You have information that the money collected from investors was further diverted to various channels. Through multiple front companies Mr. King transferred the funds received from investors to entities controlled by his associates. The diversion of funds is shown as bogus land development expenses in the books of account.

M/s Max Corporation Ltd entered into a bogus land development agreement with Mr. Pack through his companies. Around 60 % of the funds were transferred to the companies of Mr. Pack. Mr. Pack routed these funds through multiple levels of transactions in his companies and fled to country Z. Mr. Pack is not participating in the investigation.

A new residential project has come up in your country which is being constructed by M/s Trine Ltd. You have intelligence that this project is being constructed on land purchased by the proceeds of crime. Mr Catch is the controller of M/s Trine Ltd but not the formal owner. Mr Catch has a history of working with Mr King earlier as his accountant.

M/s Max Corporation Ltd purchased 99% shares of a company M/s Mini Ltd registered in country B. Three Hotels were purchased by Ms/ Mini Ltd in country B.

Mr. King was arrested by the police. You have information that his daughter Ms. Dory left the country immediately after his arrest and lives in Singapore. Your agency receives an intelligence in from of ESW - Ms. Dory, a resident of Singapore, is a beneficial owner of M/s Birdmont Ventures, an entity registered in BVI; M/s Birdmont purchased an insurance policy worth USD 1.1 M. The funds were transferred from the Swiss Bank account of M/s Birdmont to the account of a Liechtenstein Insurance Company held with A & B bank, Luxembourg. M/s A and M/s C, Directors of M/s Birdmont (BVI) have sent a full surrender for the insurance policy; however, in absence of a source of funds for the policy, the full surrender was not executed. A date has been specified by the information sharing country till which the ban has been applied on execution of full surrender.

### Part 1

1. As a supervisor/manager, what goal would you set for the investigation? Identify challenges in the planning stage, and how you would deal with them.
2. What investigative tools would you use for gathering evidence and asset recovery at this first stage of the investigation?
3. Identify challenges in collecting intelligence/evidence and how you would deal with them.

### Part 2

4. How would you respond to the ESW received in this case? Identify the countries from whom the assistance is required to be sought. What details will you ask and through which channel?

How do you respond to the issue of date till which ban has been applied on execution of full surrender?

If you receive all the details from the informal channels with respect to ESW on Dory- where would you send a formal request for asset recovery?

- 5 .How would you attempt to recover the 3 hotels in Country B?

### Part 3

6. Which tools would you use to make Mr. Pack participate in the investigation?

### Part 4

7. How would you coordinate with other domestic agencies, in this case. At what stage will you share information and to what extent with other domestic agencies.