

# **AML/CFT Legislation in India**

## **CH – 6 KYC/AML PART A**



India has a robust **Anti-Money Laundering (AML) & Countering Financing of Terrorism (CFT)** framework, primarily governed by the **Prevention of Money Laundering Act, 2002 (PMLA)** and supported by multiple laws and regulatory bodies.

### **6.1 Legal Framework for AML/CFT in India**

- ✓ **PMLA, 2002 is the principal AML legislation** 
- ✓ **FIU-IND (Financial Intelligence Unit - India) monitors suspicious financial activities** 
- ✓ **Other regulators like RBI, SEBI, and IRDA provide sector-specific AML/CFT guidelines** 
- ✓ **Covers banks, insurance companies, stock exchanges, and even non-financial businesses**



### **6.2 Prevention of Money Laundering Act (PMLA), 2002**

#### **Key Features of PMLA**


 <b>Feature</b>	 <b>Description</b>
<b>Objective</b>	Criminalizes money laundering, provides for seizure of proceeds from crime, and enhances international cooperation.

<b>Brought into Force</b>	1st July 2005
<b>Scope</b>	Applies to banks, financial institutions, intermediaries, and non-financial businesses like real estate agents & jewelers.
<b>Monitoring Body</b>	FIU-IND (Financial Intelligence Unit - India)
<b>Regulatory Authorities</b>	RBI, SEBI, IRDA, Indian Banks Association (IBA)
<b>Major Amendments</b>	2005, 2009, 2013 & subsequent changes to strengthen enforcement.



### 6.2.2 Key Amendments to PMLA

 17 Amendment	 Change Introduced
<b>Money Laundering Offence Definition</b>	Now includes possession, acquisition, concealment, and use of proceeds from crime.
<b>Punishment for Money Laundering</b>	No limit on fines; conviction of a legal entity possible without convicting an individual.
<b>Removal of Monetary Threshold</b>	₹30 lakh threshold removed, bringing more crimes under AML scope.
<b>Expanded Scheduled Offences</b>	Includes violations under Companies Act, Customs Act, and Black Money Act.
<b>Increased Reporting Obligations</b>	Reporting entities must maintain detailed records & verify beneficial ownership.
<b>Additional Financial Entities</b>	Includes commodity brokers, pension funds, stock exchanges, and postal financial services.

<b>Additional Non-Financial Businesses</b>	Real estate agents, dealers in precious metals, and safe-keepers of cash added under AML framework.
<b>Strengthened Compliance Powers</b>	FIU can demand additional transaction records & impose sanctions on non-compliant entities.



 **Example: A real estate agent selling high-value properties must now verify the buyer's source of income under PMLA.**

### **6.2.3 Reporting Entities Under PMLA**

 <b>Reporting Entities (REs)</b>	 <b>Includes</b>
<b>Financial Sector</b>	Banks, NBFCs, insurance companies, stockbrokers, merchant banks, mutual funds, commodity brokers, pension funds.
<b>Non-Financial Sector</b>	Real estate agents, jewelers, dealers in high-value goods, casinos, accountants, auditors.

 **Example: A jeweler selling gold worth ₹10 lakh must report the transaction under PMLA.**



### **6.2.4 Obligations of Banks & Financial Institutions**


 <b>Obligation</b>	 <b>Requirement</b>
<b>Record-Keeping</b>	Maintain records for <b>5 years</b> from the date of transaction.
<b>Transaction Reporting</b>	Report cash transactions above ₹10 lakh & suspicious transactions to FIU-IND.

<b>Customer Identification</b>	Verify identity & beneficial ownership before opening accounts.
<b>Enhanced Due Diligence</b>	Required for high-risk customers & large-value transactions.
<b>Confidentiality</b>	Banks must keep customer AML information secure & report only to FIU-IND.

 **Example: A bank must verify the source of funds before processing an international remittance of ₹50 lakh.**


### **6.2.5 Penalties for Non-Compliance**

 <b>Violation</b>	 <b>Penalty</b>
<b>Failure to report transactions</b>	₹10,000 - ₹1,00,000 per violation
<b>Non-compliance with customer verification</b>	Sanctions on responsible directors & employees
<b>Repeated violations</b>	License suspension or business closure

 **Example: A bank that fails to report multiple high-value suspicious transactions may be fined ₹10 lakh by FIU-IND.**

### **6.2.6 Definition of Money Laundering Offence**

**Under Section 3 of PMLA:**

 Any act of:

✓ **Concealment** 

✓ **Possession** 



✓ **Acquisition** 

✓ Use of Proceeds of Crime 💰

✓ Claiming Illicit Funds as Legitimate 📄



📌 Example: If a company routes illegal earnings through multiple shell companies to make them appear clean, it is guilty of money laundering.

### 🚓 6.2.7 Punishment for Money Laundering

 Punishment	 Details
<b>Imprisonment</b>	3 to 7 years (10 years for specific crimes).
<b>Fine</b>	No upper limit; based on severity of crime.



📌 Example: A businessman convicted of laundering ₹100 crore could face 10 years in prison & unlimited fines.

### 📄 6.2.8 Predicate Offences (Scheduled Offences)

 Category	 Examples
<b>Crimes Against State</b>	Terrorism, sedition, waging war against India.
<b>Economic Crimes</b>	Tax evasion, customs duty fraud, banking frauds.
<b>Organized Crime</b>	Drug trafficking, extortion, illegal arms trade.
<b>Corporate Violations</b>	Insider trading, fraudulent financial reporting.




📌 Example: Tax evasion under the Black Money Act is now a predicate offence for money laundering prosecution.

## 6.2.9 Other Provisions of PMLA


 Provision	 Details
<b>Attachment &amp; Confiscation</b>	Authorities can freeze and seize assets obtained through money laundering.
<b>Special Courts</b>	Designated courts handle money laundering cases swiftly.
<b>Reciprocal Agreements</b>	India collaborates with foreign governments for AML enforcement.

 **Example: A foreign account held by an Indian businessman can be frozen under reciprocal AML agreements.**

## Final Summary Table

 AML/CFT Aspect	 Key Indian Regulation	 Main Provisions
<b>Principal AML Law</b>	Prevention of Money Laundering Act, 2002 (PMLA)	Criminalizes money laundering, provides for asset seizure.
<b>Financial Regulator</b>	Financial Intelligence Unit - India (FIU-IND)	Monitors AML compliance, receives transaction reports.
<b>Reporting Requirements</b>	PMLA (Maintenance of Records) Rules	Banks, NBFCs, and businesses must report large & suspicious transactions.
<b>Punishment</b>	Section 4 of PMLA	3-10 years imprisonment + unlimited fines.

<b>Scheduled Offences</b>	PMLA Schedule	Covers tax evasion, fraud, terrorism, customs violations.
---------------------------	---------------	---

 **Prevention of Money Laundering (Maintenance of Records) Rules, 2005 (PMLR) & Unlawful Activities (Prevention) Act, 1967 (UAPA)**



 **6.3 Prevention of Money Laundering (Maintenance of Records) Rules, 2005 (PMLR)**

 **6.3.1 Purpose of PMLR**

PMLR was implemented on **July 1, 2005**, to establish procedural requirements under **PMLA** for financial institutions, particularly banks, in the design of KYC/AML policies.



 **6.3.2 Amendments to PMLR**

The **latest amendment in December 2020** aligned the rules with **PMLA** and **FATF standards**. Major changes include:

 <b>Key Amendment</b>	 <b>Description</b>
<b>Client Due Diligence (CDD)</b>	Enhanced identity verification, third-party reliance, risk-based approach, CDD for existing clients.
<b>New Reporting Requirements</b>	Added <b>Cross Border Wire Transactions</b> and <b>Non-Profit Organisation Transactions</b> .

<b>Counterfeit Currency Report</b>	Changed to <b>monthly reporting</b> .
<b>Delay in Reporting</b>	Now considered a <b>violation of PMLA</b> .
<b>Digital KYC</b>	Permitted <b>Aadhaar-based e-KYC authentication</b> .
<b>Central KYC Registry</b>	Digital storage of KYC data with unique <b>KYC Identifier</b> .
<b>Closure of Non-KYC Accounts</b>	Banks can now close accounts <b>without KYC records</b> .

### 6.3.3 Key Provisions of PMLR

 Provision	 Description
<b>Client Due Diligence (CDD)</b>	Defines KYC norms for individuals & businesses.
<b>Officially Valid Document (OVD)</b>	Lists acceptable ID and address proof documents.
<b>Digital KYC</b>	Specifies live verification via an app.
<b>Beneficial Owners</b>	Criteria for determining actual owners behind legal entities.
<b>Reporting Requirements</b>	Defines reports to <b>FIU-IND</b> and reporting timelines.
<b>Suspicious Transactions</b>	Identifies suspicious transaction patterns that require reporting.
<b>Risk Assessment</b>	Obligates banks to assess risks related to <b>clients, geography, and products</b> .
<b>Designated Director</b>	A senior official responsible for ensuring AML compliance.
<b>Principal Officer</b>	Responsible for <b>timely reporting to FIU-IND</b> .



 PML Rules form the basis for RBI Guidelines on KYC/AML for banks.

## 6.4 Unlawful Activities (Prevention) Act, 1967 (UAPA)

### 6.4.1 Overview of UAPA

UAPA was amended in 2008, 2013, and 2019 to combat terrorism financing, aligning with UN Security Council Resolutions 1267 and 1373.



### 6.4.2 Offence of Terrorist Act (Terrorism)

Section 15 defines a **terrorist act** as an action intended to threaten India's **unity, security, economy, or sovereignty** using lethal methods.

#### *Criminal Acts Considered as Terrorism*



- Use of **explosives, firearms, poison, or nuclear substances**.
- **Kidnapping, assassination, or property destruction**.
- **Smuggling counterfeit currency** to destabilize the economy.
- **Targeting public functionaries** using criminal force.

#### *Punishment (Section 16)*

 Severity of Act	 Punishment
Causing Death	Death penalty or life imprisonment + fine
Other Terrorist Acts	5 years to life imprisonment + fine



### 📄 6.4.3 Offence of Raising Funds for a Terrorist Organisation

**Section 40** criminalizes fundraising for terrorism, even without actual use of funds.

 July 17 <b>Offence</b>	 <b>Punishment</b>
Raising, receiving, or providing funds for terrorism	Up to 14 years imprisonment + fine
Raising funds via counterfeit currency or illegal transactions	Minimum 5 years to life imprisonment + fine

### 6.4.4 Powers to Attach/Freeze Funds (Section 51A)




The **Central Government** has the power to **freeze assets** of individuals and entities engaged in **terrorist activities**.

 <b>Government Power</b>	 <b>Details</b>
<b>Freezing of Funds</b>	Government can <b>freeze or seize financial assets</b> of suspected terrorists.
<b>Banning Financial Support</b>	Prohibits any person or entity from providing funds/services to terrorists.
<b>Blocking Travel</b>	Prevents <b>entry/transit</b> of suspected terrorists in India.
<b>Reporting Obligations</b>	Banks & financial institutions must <b>report transactions</b> linked to banned entities.

## List of 32 Banned Terrorist Organizations

UAPA enforces **sanctions** on 32 organizations listed in the **UN Prevention & Suppression of Terrorism Order (2007)**.

### Summary Table


 Law	 Purpose	 Key Provisions
PMLR, 2005	AML/KYC compliance for financial institutions	CDD, Digital KYC, Risk Assessment, Suspicious Transaction Reporting.
UAPA, 1967	Criminalizes terrorism & terrorist financing	Defines terrorist acts, fundraising penalties, asset seizure provisions.

## AML/CFT Legislation & RBI Guidelines in India




### 6.5 Other Relevant Legislations

 Indian laws support AML & Counter-Terrorism Financing (CFT) efforts  

 Includes tax laws, criminal laws & financial regulations  

 Example: The Benami Transactions Act prevents hiding illegal assets under another person's name.

### 🔍 6.5.1 Indian Laws Supporting AML Compliance

 Law	 Key Role in AML	 Impact
<b>Income Tax Act (1961)</b>	Requires PAN for high-value transactions	Helps track tax evasion
<b>Indian Penal Code &amp; CrPC (1973)</b>	Defines crimes linked to money laundering	Forms legal basis for AML
<b>Foreign Exchange Management Act (FEMA, 1999)</b>	Regulates cross-border financial transactions	Prevents money laundering via foreign accounts
<b>Benami Transactions Act (1988)</b>	Prohibits property ownership under false names	Prevents black money circulation
<b>Black Money &amp; Undisclosed Foreign Income Act (2015)</b>	Addresses offshore tax evasion	Imposes penalties for unreported foreign assets
<b>Narcotic Drugs &amp; Psychotropic Substances Act (1985)</b>	Prevents drug-related money laundering	Controls illicit drug trade profits

 **Example: FEMA ensures illegal funds are not transferred abroad using fake business transactions.**

## 🔍 6.5.2 Indian Laws for Countering Terrorism

✅ Several laws focus on criminal & terrorist activities 🚓 ⚠️

 Law	 Key Objective
Anti-Hijacking Act (2016)	Criminalizes hijacking & related financial support
Suppression of Unlawful Acts Against Civil Aviation (1982)	Prevents terrorist threats to aviation
Terrorist Affected Areas (Special Courts) Act (1984)	Provides for special courts to handle terrorist cases
Protection of Human Rights Act (1993)	Ensures fair legal procedures in counter-terrorism cases
SAARC Convention (Suppression of Terrorism) Act (1993)	Enables regional cooperation against terrorism
Maharashtra Control of Organised Crime Act (1999)	Targets organized crime & terrorism financing
Arunachal Pradesh Control of Organised Crime Act (2002)	Strengthens anti-terrorism laws in Northeast India


📌 Example: MCOCA (1999) allows stronger legal action against terrorist financing in Maharashtra.

## 📌 6.6 RBI Guidelines on AML/CFT

✅ RBI is the key regulator for AML/CFT in banking 🏦 📄

✅ Issues KYC/AML guidelines under PMLA 🔍 🏠


✅ Ensures banks & NBFCs comply with global AML norms 💰 🚓

 **Example:** RBI's KYC norms require all financial institutions to verify customer identities to prevent fraud.

### **6.6.1 Authority of RBI Under PMLA**

 RBI acts as a regulatory authority for AML compliance in financial institutions  

 Mandates KYC, transaction monitoring & suspicious activity reporting  



 **Impact:** Banks must identify high-risk customers, track large transactions & report suspicious activities.

### **6.6.2 Key RBI AML Guidelines**

 RBI has issued consolidated AML guidelines since July 2015






 Master Direction on KYC last updated on May 10, 2021  

 AML Guideline	 Key Requirement
<b>Customer Acceptance Policy</b>	Define eligibility criteria for new accounts
<b>Customer Identification Process</b>	Verify identity using KYC norms
<b>Digital KYC &amp; Video-Based Identification</b>	Allows remote verification of customer identity
<b>Transaction Monitoring</b>	Detect unusual/suspicious transactions

<b>Risk-Based Approach (RBA)</b>	Categorize customers based on risk level
<b>Wire Transfer Rules</b>	Ensure transparency in cross-border payments
<b>Foreign Account Tax Compliance Act (FATCA) &amp; CRS</b>	Ensure global tax compliance
<b>Beneficial Owner Identification</b>	Identify the real owner behind business accounts
<b>Reporting Suspicious Transactions</b>	Report high-risk transactions to FIU-IND
<b>Correspondent Banking Compliance</b>	Conduct due diligence on foreign bank relationships
<b>AML Training &amp; Employee Awareness</b>	Train bank staff on money laundering risks

 **Example: Digital KYC allows banks to verify customers via video calls, reducing fraud risks.**

 **Final Summary Table** 

 <b>Legislation/Guideline</b>	 <b>Focus Area</b>	 <b>Key Impact</b>
<b>Income Tax Act (1961)</b>	High-value transactions	Prevents tax evasion
<b>Benami Transactions Act (1988)</b>	Property ownership	Prevents black money circulation
<b>FEMA (1999)</b>	Cross-border transactions	Blocks illegal foreign fund transfers

<b>Black Money Act (2015)</b>	Offshore tax evasion	Punishes undisclosed foreign assets
<b>Anti-Hijacking Act (2016)</b>	Aviation security	Criminalizes terrorist hijacking
<b>SAARC Convention Act (1993)</b>	Regional terrorism laws	Strengthens cross-border AML efforts
<b>RBI KYC/AML Guidelines</b>	Banking compliance	Ensures AML risk management in financial institutions
<b>Risk-Based Approach (RBA)</b>	Customer classification	Identifies high-risk clients


## **IBA Guidelines & Enforcement of PMLA**

### **6.7 Indian Banks' Association (IBA) Guidelines on AML/CFT**

 **IBA collaborates with RBI to develop KYC/AML guidelines for banks**  


 **Supports risk-based transaction monitoring & customer due diligence**  


 **Several working groups have issued guidance on AML compliance**  

 **Example: IBA's 2020 KYC/AML guidance helps banks identify high-risk customers & transactions.**






## Key IBA Guidelines on AML/CFT

 Guideline	 Issued Year	 Focus Area
Know Your Customer (KYC) & AML Guidance Notes	2005, 2009, 2012, 2020	Customer identification & transaction monitoring
AML Guidelines for Banks in India	2001	Best practices for detecting & preventing money laundering
Risk-Based Transaction Monitoring	2011	Defining high-risk transactions & their controls


 **Impact:** These guidelines help banks implement strong AML frameworks & prevent financial crimes.

### 6.8 Enforcement Cases Under PMLA





 PMLA (2002) empowers authorities to seize & prosecute financial crimes  

 Over ₹98,368 crore attached under PMLA provisions since inception  

 Multiple high-profile cases investigated & assets recovered 

 **Example:** ₹19,111 crore worth of assets were attached from Vijay Mallya, Nirav Modi & Mehul Choksi.




### 🔍 6.8.1 Major Money Laundering Cases in India

 Case	 Amount Involved	 Crime	 Outcome
<b>Vijay Mallya, Nirav Modi &amp; Mehul Choksi</b>	₹22,585.83 crore	Bank fraud & money laundering	₹19,111.20 crore worth of assets attached
<b>Rose Valley Ponzi Scheme</b>	₹12.82 crore	Illegal debentures	₹12 crore assets attached, official sentenced to 7 years
<b>Galaxy Impex Forex Scam</b>	₹218.66 crore	Fake identity documents for foreign remittances	7 years imprisonment & ₹1 crore fine
<b>Opium Drug Laundering Case</b>	₹30 lakh	Drug trade financing	8 years imprisonment under PMLA
<b>Jharkhand Minister Scam</b>	₹3.72 crore	Public funds misappropriation	7 years RI & ₹85 lakh fine
<b>Lashkar-e-Taiba (LeT) Terror Financing</b>	Unspecified	Funds for terrorism	7 years imprisonment for LeT operative



📌 **Impact:** Strict enforcement of PMLA has led to asset recovery & convictions in financial crime cases.

 **Final Summary Table** 

**DOWNLOAD APP FOR PDFs <https://iibf.info/app>**

 Category	 Focus Area	 Key Impact
<b>IBA Guidelines</b>	KYC & AML compliance for banks	Strengthens AML monitoring
<b>PMLA Enforcement</b>	Seizure of illicit assets	Over ₹98,368 crore attached
<b>Major AML Cases</b>	Banking fraud & terrorist financing	Multiple convictions & recoveries

 **Explanation of Difficult Terms** 

 Term	 Explanation
<b>PMLA (Prevention of Money Laundering Act, 2002)</b>	Indian law to combat money laundering & seize illicit assets.
<b>Benami Transactions</b>	Transactions where property is held under another person's name to hide ownership.
<b>Risk-Based Transaction Monitoring</b>	AML approach where customers & transactions are categorized by risk level.
<b>Ponzi Scheme</b>	A fraudulent investment scheme promising high returns but paying old investors with new investors' money.