

Prevention of Money Laundering Act, 2002 (PMLA)

Implications for Chartered Accountants

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Introduction and Objective of PMLA

- PMLA was enacted in 2002 to prevent money laundering and to confiscate proceeds of crime.
- The Act came into force on 1 July 2005.
- The legislation aligns India with global Anti-Money Laundering (AML) standards.
- Administered primarily through the Enforcement Directorate (ED).

Objectives of PMLA

- Prevent and control money laundering activities.
- Confiscate and attach proceeds of crime.
- Enable investigation and prosecution of laundering offences.
- Coordinate with international AML standards and obligations.

Understanding Money Laundering

Placement – Introduction of illicit funds into the financial system.

Layering – Multiple transactions used to conceal source of funds.

Integration – Reintroduction of funds as apparently legitimate assets.

Complex corporate structures are often used during layering.

Why PMLA is Important for CAs



CAs are involved in audits, taxation, financial structuring, compliance, and advisory services.



Professionals may encounter suspicious transactions, shell entities, or layering arrangements.



Failure in due diligence can create professional, regulatory, and reputational risks.



Strong documentation and KYC processes are critical.

Section 3 – Offence of Money Laundering

- Section 3 defines the substantive offence under PMLA.
- Covers direct or indirect attempts to indulge or knowingly assist in laundering activities.
- Includes concealment, possession, acquisition, use, projection or claiming proceeds as untainted property.
- The offence can continue as long as the person enjoys proceeds of crime.

Section 3 – Offence of Money Laundering

- Offence of money laundering [Sec. 3] defined as
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.
- It is hereby clarified that,-
 - (i) a person shall be guilty of offence of money-laundering if such person is found to have directly or indirectly attempted to indulge or

Section 3 – Offence of Money Laundering

- (a) concealment; or
 - (b) possession; or
 - (c) acquisition; or
 - (d) use; or
 - (e) projecting as untainted property; or
 - (f) claiming as untainted property, in any manner whatsoever;
- (ii) the process or activity connected with proceeds of crime is a continuing activity and continues till such time a person is directly or indirectly enjoying the proceeds of crime by its concealment or possession or acquisition or use or projecting it as untainted property or claiming it as untainted property in any manner whatsoever

Proceeds of Crime

- **Proceeds of crime [Sec.2(1)(u)]** 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 or
 - Where such property is taken or held outside the country, then the property equivalent in value held within the country or abroad.
- **Explanation.—**For the removal of doubts, it is hereby clarified that "proceeds of crime" include property not only derived or obtained from the scheduled offence but also any property which may directly or indirectly be derived or obtained as a result of any criminal activity relatable to the scheduled offence.

Scheduled Offences under PMLA

- The offences listed in the schedule to PMLA, 2002 are scheduled offence which are divided in 3 parts – [sec. 2(1)(y)]
- Part A comprise of 29 Scheduled offences with No Monetary limits
- Part B for scheduled offences where the monetary threshold of Rs. 100 Lakhs for initiating investigations – Only 1 offence listed
- Part C deals with trans border crimes. consist of 2 offences in addition to all the offences listed under Part A.

Scheduled Offences under PMLA

Part A

- Indian Penal Code, 1860
- Copyright Act, 1957
- Unlawful Activities (Prevention) Act, 1967
- Trade Marks Act, 1999
- Prevention of Corruption Act, 1988
- Information Technology Act, 2000
- Customs Act, 1962
- Offences under the Child Labour
- SEBI Act, 1992
- Passport Act, 1967
- Environment Protection Act, 1986
- Water (Prevention and Control of Pollution) Act, 1974
- Child Labour (Prohibition and Regulation) Act, 1986

Scheduled Offences under PMLA

- Air (Prevention and Control of Pollution) Act, 1981
- The Emigration Act, 1983
- The Companies Act, 2013 (Section 447 of Companies Act – Punishment for fraud shall be treated as scheduled offence under PMLA by 2018 Amendment and accordingly ED could initiate action either suo moto action or on reference by Registrar of Companies for enforcement of the provisions of PMLA, 2002)

Part C

- All 29 entries of Part A
- Chap. XVII of IPC – Offences against property
- Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015.

Power to Call for Records - Section 11

11. Power regarding summons, production of documents and evidence, etc.—
- (1) The Adjudicating Authority shall, for the purposes of this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit in respect of the following matters, namely:—
- (a) discovery and inspection;
 - (b) enforcing the attendance of any person, including any officer of a banking company or a financial institution or a company, and examining him on oath;
 - (c) compelling the production of records;
 - (d) receiving evidence on affidavits;
 - (e) issuing commissions for examination of witnesses and documents; and
 - (f) any other matter which may be prescribed.

Power to Call for Records - Section 11

- (2) All the persons so summoned shall be bound to attend in person or through authorised agents, as the Adjudicating Authority may direct, and shall be bound to state the truth upon any subject respecting which they are examined or make statements, and produce such documents as may be required.

- (3) Every proceeding under this section shall be deemed to be a judicial proceeding within the meaning of section 193 and section 228 of the Indian Penal Code (45 of 1860).

Importance of Section 11 for CAs

- Maintain organized and retrievable documentation.
- Ensure compliance with KYC and AML obligations.
- Retain supporting evidence for financial transactions and advisory work.
- Understand confidentiality obligations alongside statutory reporting duties.

Section 16 – Power to inspect

Section 16 provides “Where an authority has reason to believe that an offence under section 3 has been committed, he may enter any place, inspect records, verify proceeds of crime or transactions related thereto.” Authorities may inspect records, verify assets, place identification marks, and record statements.

In essence:

- Authorized officers may enter specified premises for survey operations.
- Authorities can inspect records, verify transactions, and identify proceeds of crime.
- Survey may be conducted at business premises linked to suspicious activities.
- Important preliminary investigative mechanism.

Scope of inspection under Section 16

- Inspection of books of account and electronic records.
- Verification of cash, assets, and securities.
- Identification of suspicious financial structures.
- Collection of evidence relevant to laundering activities.

Punishment for Money Laundering

Section 4 - Punishment for Money-Laundering

- "Whoever commits the offence of money-laundering shall be punishable with rigorous imprisonment for a term which shall **not be less than three years** but which may extend to **seven years** and shall also be liable to fine.
- Imprisonment of **10 years** instead of 7 years; where the proceeds of crime involved in money-laundering relates to any offence under The Narcotic Drugs and Psychotropic Substances Act.

Regulatory Agency

The Directorate of Enforcement (ED)

- Under Department of Revenue, Ministry of Finance is responsible for investigating the cases of offence of money laundering under Prevention of Money Laundering Act, 2002

Powers of ED

- Power to summon and record statements under Section 50
- Power of search and seizure under Sections 17 & 18
- Power of provisional attachment under Section 5
- Power of arrest under Section 19
- Power to conduct survey under Section 16

Section 50 provides “The Director shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908.”

ED authorities may summon any person to give evidence or produce records.

Regulatory Agency

The Financial Intelligence Unit - India (FIU-IND)

- Central national agency to facilitate information sharing among various law enforcement agencies and International FIUs.
- Independent body reporting directly to the Economic Intelligence Council (EIC), Ministry Finance

Functions of FIU

- Collection of Information
- Analysis of Information
- Sharing of Information with LEA, & Regulators
- Act as Central Repository
- Research and Analysis

Search, Seizure and Arrest

- Searches may be conducted based on 'reason to believe' recorded in writing under Sections 17 & 18
- Assets, records, electronic devices and valuables may be seized
- Arrest powers under Section 19 apply where material indicates involvement in money laundering
- Statements recorded under Section 50 carry evidentiary value

- Section 19 empowers authorized ED officers to arrest a person believed to be guilty of an offence under PMLA. The officer must record 'reasons to believe' in writing before making the arrest.
- Grounds of arrest must be informed to the accused at the time of arrest.
- The arrested person must be produced before the Special Court or Judicial Authority within 24 hours.

Practical Implications of Section 19

- Professionals may be summoned during investigations involving suspicious transactions.
- Documentation quality and transaction substantiation become critical during scrutiny.
- Professional advice should avoid aggressive or opaque transaction structuring.
- Maintaining independence, due diligence, and ethical compliance reduces exposure risks.

Investigation Process under PMLA

- Registration of scheduled offence by another agency.
- ECIR (Enforcement Case Information Report) by ED.
- Collection of financial records and intelligence.
- Summons, survey, search, seizure, and attachment.
- Prosecution complaint before Special Court.

Role of CAs During Investigation

- Support lawful compliance and document production.
- Ensure accuracy and integrity of financial records.
- Advise clients on procedural compliance and risk management.
- Avoid participation in concealment or misleading disclosures.

Please keep in mind

- PMLA has significantly expanded the financial compliance landscape in India.
- Chartered Accountants play a critical role in governance and financial transparency.
- Robust documentation, due diligence, and ethical conduct are essential.
- Awareness of investigative powers and obligations reduces professional risk.



Reporting Entity under PMLA



Reporting Entities– Section 2(1)(wa)

- Section 2(1)(wa) defines 'Reporting Entity'.
- Includes banking companies, financial institutions, intermediaries, and persons carrying on designated business or profession.
- Reporting entities are subject to AML/KYC and reporting obligations under PMLA.

Categories of Reporting Entities

1. Banking Companies
2. Financial Institutions
3. Intermediaries
4. Designated Businesses and Professions (DNFBPs)

Reporting Entities– Section 2(1)(wa)

Banking Companies

- Includes entities governed under the Banking Regulation Act.
- Public Sector Banks, Private Banks, Foreign Banks, Cooperative Banks and RRBs are covered.
- Banks are required to maintain KYC, transaction monitoring and reporting systems.

Financial Institutions

- Includes NBFCs, insurance companies, housing finance companies and payment operators.
- Also covers leasing and financing companies.
- Required to implement AML risk management frameworks.

Statutory Definition – Section 2(1)(wa)

Intermediaries under PMLA

- Intermediaries are generally regulated by SEBI.
- Includes stock brokers, merchant bankers, portfolio managers and investment advisers.
- Mutual funds and depository participants are also covered.

Designated Businesses and Professions

- Chartered Accountants, Company Secretaries and Cost Accountants.
- Real estate agents and dealers in precious metals/stones.
- Casinos and Virtual Digital Asset Service Providers are also covered.

Coverage of Chartered Accountants

The Central Government, exercising powers under Section 2(1)(sa)(vi) of the Prevention of Money-laundering Act, 2002 (PMLA), issued Notification No. **S.O. 2036(E)** dated **3 May 2023**. This notification significantly expanded the scope of “persons carrying on designated business or profession” (DNFBPs) under PMLA.

Professionals Covered

The notification applies to practicing:

- Chartered Accountants (CAs)
- Company Secretaries (CSs)
- Cost and Works Accountants (CMAs/ICWAs)

whether practicing: individually, or through a firm.

Coverage of Chartered Accountants

Effect of the Notification

These professionals become: “Reporting Entities” under Section 2(1)(wa) of PMLA.

As reporting entities, they become subject to:

- KYC obligations
- Client Due Diligence (CDD)
- Maintenance of records
- Reporting obligations to FIU-IND
- Suspicious transaction monitoring
- Beneficial ownership identification

under: Section 12 of PMLA and PML Rules, 2005.

Compliance Obligations on CAs

1. Client Identification (KYC)

- verify identity of clients,
- identify beneficial owners,
- obtain PAN/Aadhaar/company incorporation documents, etc.

2. Record Maintenance

- transaction records,
- account files,
- business correspondence
- for minimum 5 years.

Compliance Obligations on CAs

3. Reporting to FIU-IND

- Suspicious transactions and prescribed transactions must be reported to: Financial Intelligence Unit – India (FIU-IND).

4. Risk-Based Due Diligence

Enhanced scrutiny for:

- high-risk clients,
- shell entities,
- cross-border structures,
- politically exposed persons (PEPs).

Practical Impact on Chartered Accountants

Activities likely covered:

- assisting in company incorporation involving fund structuring,
- handling escrow/client accounts,
- advising on mergers/acquisitions involving fund routing,
- managing trust or LLP structures,
- arranging financial transactions.

Activities generally not covered:

- routine tax filing,
- statutory audit,
- accounting/bookkeeping,
- advisory without handling covered transactions.

Practical Risks for Chartered Accountants

- Exposure to shell companies and layering structures.
- Risk in undisclosed beneficial ownership arrangements.
- Potential liability for facilitating suspicious transactions.
- Importance of professional skepticism and documentation.

Best Practices for Compliance

- Strengthen client onboarding and KYC procedures.
- Maintain complete audit trails and working papers.
- Conduct source-of-funds verification.
- Implement internal AML compliance protocols.

To summarize

- The notification is applicable to Chartered accountants with certificate of practice practicing individually or through a firm:
 - actually carrying a financial transaction
 - on behalf of his/her client
 - in relation to the specified activities

- Funds resulting from the specified activities related to financial transactions or required for execution of those transactions, are routed through or managed by a Chartered Accountant.

- Practicing CA carrying out any of the specified activities shall be treated as a Reporting entity and will be required to comply with guidelines issued by FIU-IND.

Reporting Obligations to FIU-IND

Suspicious Transaction Reports (STRs)
– No Monetary threshold.

Cash Transaction Reports (CTRs).

Cross-border transaction reporting obligations.

Reporting entities must furnish information within 7 working days of determining the transaction is suspicious.

Suspicious Transaction Report (STR)

- STR is required whenever a reporting entity, including a Chartered Accountant covered under the notification, forms a reasonable suspicion that a transaction:
 - Involves proceeds of crime;
 - Appears unusually complex;
 - Has no apparent economic or lawful purpose;
 - Lacks commercial justification;
 - Involves abnormal movement of funds;
 - Appears designed to evade regulatory reporting requirements; or
 - Indicates possible money laundering or terror financing activity.

- There is no minimum monetary threshold for filing an STR. Even a comparatively small transaction may require reporting if the surrounding circumstances create suspicion.

Suspicious Transaction Report (STR)

CA may encounter suspicious indicators such as:

- Large investments made through multiple layered entities.
- Frequent transfer of funds between related parties without business justification.
- Purchase of immovable property at undervalued or overvalued prices.
- Use of cash-intensive arrangements inconsistent with client profile.
- Complex offshore structures without legitimate tax or commercial rationale.
- Sudden infusion of funds into dormant companies.
- Multiple companies operating from the same address with no actual business activity.
- Reluctance of clients to disclose beneficial ownership information.
- Use of proxies or nominees to conceal actual ownership.

Suspicious Transaction Report (STR)

- As per the Prevention of Money-laundering (Maintenance of Records) Rules, an STR must be furnished to FIU-IND within seven working days of arriving at a conclusion that the transaction is suspicious.
- The reporting timeline begins not merely from the date of transaction, but from the date the reporting entity develops sufficient grounds to classify the transaction as suspicious after internal examination or scrutiny.
- Therefore, it is important to maintain effective internal monitoring systems to ensure prompt identification and escalation of suspicious activities.

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Suspicious Transaction Report (STR)

- An extremely critical obligation under the PMLA framework is the prohibition against “tipping off.”
- Once an STR is filed, or even where internal suspicion is being examined, the Chartered Accountant must not disclose to the client or any third party that:
 - A suspicious transaction report has been filed;
 - The client is under scrutiny;
 - Authorities may investigate the transaction; or
 - Additional regulatory examination is taking place.

Cash Transaction Report (CTR)

CTR is required for:

- Cash transactions exceeding ₹10 lakh; or
- Series of interconnected cash transactions occurring within a month whose aggregate value exceeds ₹10 lakh.
- The purpose of CTR is to monitor large cash dealings which may facilitate laundering of unaccounted money.

Examples include:

- Multiple cash deposits structured below reporting limits;
- Cash received towards property transactions;
- Large cash-based business settlements lacking supporting documentation.
- Even where individual transactions are below ₹10 lakh, interconnected transactions must be aggregated for reporting purposes.

Non-Profit Organisation Transaction Report ***(NTR)***

An NTR is required where transactions involving non-profit organisations exceed prescribed thresholds.

The objective is to ensure that charitable or non-profit structures are not misused for:

- Diversion of funds;
- Terror financing;
- Layering of illicit proceeds; or
- Anonymous donations lacking transparency.

Where a Chartered Accountant assists NGOs, trusts, societies, or charitable institutions in financial management or structuring, enhanced scrutiny may become necessary.

Cross-Border Wire Transfer Report (CBWTR)

A Cross-Border Wire Transfer Report (CBWTR) is required for cross-border wire transfers exceeding ₹5 lakh.

These reports help authorities monitor international movement of funds which may involve:

- Offshore layering;
- Tax havens;
- Hawala structures;
- Terror financing; or
- Illicit foreign remittances.

Transactions involving foreign entities, offshore structures, or high-risk jurisdictions require enhanced due diligence by professionals.

Registration with FIU-IND

Chartered Accountants covered under the notification are required to register on the FIU-IND reporting portal.

The registration process generally includes:

- Entity registration;
- Appointment of designated directors/principal officers;
- Compliance framework setup;
- Reporting utility access; and
- Filing mechanism activation.

Without registration, the reporting process cannot be undertaken properly.

Consequences of Non-Compliance

- Monetary penalties and regulatory scrutiny.
- Summons and investigation by Enforcement Directorate.
- Professional and reputational risks.
- Potential prosecution under PMLA provisions.

NIL Reporting

Generally, if there are no reportable transactions or suspicious activities, a reporting entity may not be required to file “Nil Reports” for every category. However, internal monitoring systems, due diligence records, and compliance documentation should still be maintained properly.

Let's clarify

Service	Covered under PMLA?
Accounts and Books Writing Services	No IF not managing any funds/bank accounts of clients
Auditing, Attestation and Certification Services	No
Special Purpose Audit Reports Due Diligence Reports	No
Furnishing of Returns or information related to direct tax and indirect taxes	No
Tax Audit and other Review Services	No
Services under FEMA, Companies Act, RERA etc.	No IF not managing any funds/bank accounts of clients
Paying Taxes on behalf of the Clients viz. IT, TDS, GST, MCA Fees, or any type of Govt. Fees etc	No UNLESS client bank account or client money/assets managed by the CA and that also if in relation to the specified 5 activities.
Application of PAN, TAN, GST, PF, ESIC, PT, Trademark Number etc. Incorporation services	No

Let's clarify

Service	Covered under PMLA?
Incorporation of Companies LLP and Trust not for buying and selling purposes	No IF not managing any funds/bank accounts of clients
Incorporation of Companies LLP and Trust	Yes IF it involves buying and selling of such entities on its own
Project Financing	Yes since it involves organisation of contributions for creation, operation or management of the Companies

Let's clarify

Service	Covered under Notification dated 03 rd May, 2023?
Official Liquidator	No
Insolvency Professional	No
Independent director	No
Nominee director	No
Recovery Consultant	Yes
Executor of the will	<p>Yes</p> <p>Applicable only when a client relationship is established.</p>
Insurance Broker	<p>May be</p> <p>Since it involves managing of client's money</p>
Trustee	<p>A. Public trust – No since it is for altruistic purposes & not in the course of professional assignment. Such Trustees shall consider other notifications issued for compliance with provisions of PMLA</p> <p>B. Private Discretionary trust – Yes since it can be in the course of professional obligations. Applicable only when client relationship is established.</p>

How to mitigate the risk

- Prevention Measures : Implement KYC norms, client due diligence, and risk assessment protocols. Lookout for red flags:
 - Unusual transaction patterns
 - Complex ownership structures
 - Reluctant or secretive clients
 - Inconsistent documentation

- Detection Mechanisms: Monitor transactions, identify suspicious patterns, maintain records.

- Reporting Procedures: File STRs/CTRs/ CBWTR as applicable with FIU-IND within prescribed timelines and inform ICAI as well.

- Follow guidance notes on PMLA compliance issued by ICAI.

Thank you



Mind, Heart, Aspiration =

Passion, Integrity, Excellence

Thank You

Please feel free to contact, if you need any further information or clarification:

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