

## Changes to Prevention of Money Laundering Act 2002 (PMLA)

### Why in news?

Recently finance ministry placed all transactions involving virtual digital assets (VDA) under the purview of PMLA.

### What is the Prevention of Money Laundering Act (PMLA)?

- **Aim** - The main focus of the PMLA is
  1. To prevent money-laundering
  2. To provide for confiscation of property derived from or involved in money-laundering

### Key features of PMLA

- **Confiscation of property** - The PMLA deals with the confiscation of both movable and immovable property.
- **Intermediaries** - The Act provides that every banking company, financial institution and intermediaries should maintain a record of transaction.
- **Appellate Tribunal** - The Appellate Tribunal was established by Central Government to hear appeals against the dealers of Adjudicating Authority and authorities under this Act.
- **Special Courts** - The Central Government shall constitute the Special Courts in consultation of the Chief Justice of India to try the offence of Money Laundering.
- **Location of an entity** - The third party of any entity in the country shall not be located in any country classified as 'high risk' by the [Financial Action Task Force \(FATF\)](#)

*The Enforcement Directorate is the main agency probing allegations under PMLA*

### What are the recent changes in the PMLA?

#### Bringing five types of activities under PMLA

- Exchange between virtual digital assets (VDA) and fiat currencies
- Exchange between one or more forms of VDA
- Transfer of VDA
- Safekeeping or administration of VDA or instruments enabling control over them
- Participation in and provision of financial services related to an issuer's offer and sale

of a VDA.

**VDA** is any data, code, number, or token generated using cryptography or another method

**Fiat currencies** are government-issued currency that is not backed by a physical commodity, such as gold or silver, but rather by the government that issued it.

## **Changes in the Prevention of Money-laundering (Maintenance of Records) Rules, 2005**

- Defining the term - politically exposed person( PEP)
- Every banking company or financial institution must shall register the details of clients on the DARPAN Portal of Niti Aayog.
- The rules broadens the *definition* of a *non-profit organization* to now also include organizations that function for charitable purposes including relief to the poor, education or medical relief etc.
- The new rules add more data retention requirements to NGOs

*'Politically exposed persons' (PEPs) - Individuals entrusted with prominent public functions by a foreign country, including heads of states or governments, senior politicians, senior government or judicial or military officers, senior executives of state-owned corporations, and important political party officials.*

## **What are the impacts of changes in PMLA?**

### **Impact on Crypto exchanges**

- If activities related to exchange of VDAs are carried out for or on behalf of another person, it shall be regarded as an activity under PMLA
- The crypto-entities are required to verify the identity of clients and beneficial owners, and maintain records of transactions for 5 years from the date of transaction
- The crypto exchanges must maintain records of identity, files and correspondences of clients for 5 years

### **Impact on Foreign portfolio investors**

- FPIs will have to rework the mechanism for maintenance of records because of the change in threshold for determining beneficial ownership

## **Quick facts**

### **Financial Action Task Force**

- Financial Action Task Force (FATF), commonly referred to as the world's terrorism

- financing watchdog, is an inter-governmental decision-making body.
- It was established in 1989 during the G7 Summit in Paris to develop policies against money laundering.
  - Its Secretariat is located in **Paris**.
  - It set standards and promotes effective implementation of:
    - Legal, regulatory and operational measures for combating money laundering.
    - Identify national-level vulnerabilities with the aim of protecting the international financial system from misuse.
  - In 2010, **India became the 34th member country** of FATF.
  - FATF maintains two types of lists.
    - **Black List** - Countries known as Non-Cooperative Countries or Territories (NCCTs) are put in the blacklist.
    - These countries support terror funding and money laundering activities.
    - The FATF revises the blacklist regularly, adding or deleting entries.
    - **Grey List** - Countries that are considered safe haven for supporting terror funding and money laundering are put in the FATF grey list.

## References

1. [The Hindu Business Line | PMLA](#)
2. [The Hindu Business Line | Crypto Currencies](#)

