Module 18 · Anti-Money Laundering P17 · topics 18.1–18.2

SM pp. 765–833. **53 marks in 7 papers. Q6(a), 7 marks, PMLA in every paper since Jun'24** (how ML works + offences, CDD + record keeping, ED, s.17 search and seizure, FIU-IND) and an MCQ (the "not in PMLA: **life imprisonment**" MCQ came three times word for word). The examined PMLA text sits in the module's introduction, **SM 765–772**; 18.1–18.2 are the FATF documents.

Paper	Q6(a) · MCQ	Paper	Q6(a) · MCQ
Jun'23	Q9(b) **records under PMLA + retention period** (8)	Jun'25	**Enforcement Directorate: responsibilities and powers** · MCQ life imprisonment
Dec'23	MCQ: not in PMLA → life imprisonment	Dec'25	**s.17 power of search and seizure**
Jun'24	**how money laundering works + offences** · MCQ up to 7 years	Jun'26	**FIU-IND: objectives and functions** · MCQ primary objective of AML
Dec'24	**customer due diligence + record keeping** · MCQ life imprisonment	Dec'26?	**s.18 search of persons + s.19 arrest** (PTP) · **AML compliance steps** (MQP) · attachment case (postal)

18.0 Money laundering and how it works · Jun'24 Q6(a)

- SM WORDS Money laundering is the practice of transferring funds gained through **illegal activities** like gambling, drug trafficking, corruption or embezzlement into a **legitimate source** in order to **conceal its true source**; dirty money is made to look clean. **AML**: what financial institutions do to comply with the law and **monitor and report suspicious activities**. [SM 765]
- US **Bank Secrecy Act 1970**; **FATF** formed in **1989** (after 9/11 also terrorist financing); IMF (**189** members). Laundered every year: **2% to 5%** of global GDP. AML = source of funds; CFT = destination of funds. [SM 765]
- Why institutions do AML: compliance; **brand and shareholder value**; avoid consent orders and penalties; cut costs of fines and risk capital. [SM 765–766]

THREE STAGES

1 PLACEMENT
illegal money **injected into the financial system**: cash businesses, false invoices, **"smurfing"** (small deposits below the threshold), trusts and offshore companies, foreign accounts

↓

2 LAYERING
separating funds from their source: complex layers of transactions across accounts and countries to hide origin and ownership

↓

3 INTEGRATION
re-entry into the economy as legitimate business or personal funds (real estate, luxury assets)

[SM 766]

PMLA Definitions, offence, punishment, attachment · the MCQ favourites

- **Proceeds of crime [s.2(1)(u)]**: any property derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to a **scheduled offence**, or its value. **Property [s.2(1)(v)]**: assets of every description — corporeal or incorporeal, movable or immovable, tangible or intangible — and title deeds, wherever located. [SM 767]
- **Scheduled offence [s.2(1)(y)]**: Part A offences; Part B offences if the value is **Rs 1 crore or more**; Part C offences. [SM 767]
- SM WORDS **Money laundering (s.3)**: whosoever directly or indirectly **attempts to indulge, knowingly assists, knowingly is a party, or is actually involved** in any process or activity connected with the proceeds of crime and **projects or claims it as untainted property**. [SM 767]
- **Punishment (s.4)**: rigorous imprisonment **3 to 7 years** and fine; **NDPS Act** proceeds: not less than **3** years, up to **10** years. There is **no life imprisonment** in the PMLA (Dec'23, Dec'24, Jun'25 MCQ). [SM 768, SM 830–833]
- **Provisional attachment (s.5)**: by a **Director or an officer not below Deputy Director**, who records in writing his **reason to believe** that a person holds proceeds of crime likely to be concealed or transferred; valid **180 days**; order and material go to the **Adjudicating Authority**. [SM 768]
- **Adjudicating Authority (s.6)**: a **Chairperson and 2 other members** (one in law — qualified to be a District Judge or Indian Legal Service Grade I; one in finance, accountancy or administration); benches; term **5 years**, up to age **65**. [SM 768–769]
- **s.21 retention of records** seized under s.17/18: up to **180 days**; copies to the person; beyond that only with the AA's permission. **s.23**: if one of several interconnected transactions is proved to be ML, the rest are **presumed** part of it. **s.24**: presumptions and onus of proof. [SM 770–771]

s.16–19 Survey, search and seizure, search of persons, arrest · Dec'25 Q6(a), PTP Q6(a)

s.16 SURVEY · s.17 SEARCH AND SEIZURE (DEC'25)

- **s.16**: an officer may enter and survey premises to (1) inspect records, (2) verify proceeds of crime, (3) related transactions, (4) help other proceedings; he **records his reasons** and findings. [SM 769]
- SM WORDS **s.17**: a **Director or an officer not below Deputy Director** authorised by him, with information giving **reason to believe (recorded in writing)** that a person (1) committed money laundering, (2) holds proceeds of crime, (3) holds records relating to ML, or (4) holds property related to crime, may authorise a subordinate to: [SM 769]

a. **enter and search** any building, place, vessel, vehicle or aircraft;
b. **break open** locks of doors, boxes, lockers, safes, almirahs where keys are not available;
c. **seize** any record or property found;
d. place **identification marks**, make extracts or copies;
e. make a **note or inventory**;
f. **examine on oath** any person in possession or control of the record or property.

[SM 770]

s.18 SEARCH OF PERSONS · s.19 ARREST (PTP Q6(a))

- **s.18**: if the authority has **reason to believe (recorded in writing)** that a person has **secreted about his person**, or in anything under his possession, ownership or control, any record or proceeds of crime useful for PMLA proceedings, it may **search that person and seize** the record or property. [SM 770]
- **s.19**: the **Deputy Director, Assistant Director** or an officer authorised by the CG may **arrest** a person if, on material in his possession, he has **reason to believe** the person is guilty of a PMLA offence, the reason **recorded in writing**. Then he must: (1) **inform the grounds** of arrest; (2) send the **arrest order and material to the Adjudicating Authority**; (3) **produce the person within 24 hours** before the Special Court or a Judicial or Metropolitan Magistrate. [SM 770]

MEMORY HOOK

Every coercive power needs a **"reason to believe, recorded in writing"**: s.5 attach (180 days) · s.16 survey · s.17 search premises · s.18 search persons · s.19 arrest (24 hours) · s.21 retain records (180 days).

INDIA FIU-IND, ED, RBI, SEBI · Jun'26 + Jun'25 Q6(a)

FIU-IND (JUN'26)

- Set up by O.M. dated **18.11.2004** as the **national agency** to **receive, process, analyse and disseminate** information on suspect financial transactions; coordinates national and international intelligence, investigation and enforcement agencies; **independent**, reporting to the **Economic Intelligence Council** headed by the **Finance Minister**. [SM 771]
- **Functions:** (1) **collection**: central reception of **CTRs, NTRs, CBWTRs, IPRs and STRs**; (2) **analysis** to find patterns of ML; (3) **sharing** with intelligence, enforcement, regulators and **foreign FIUs**; (4) **central repository** (national database); (5) **coordination**; (6) **research and analysis** of trends and typologies. [SM 771–772]

ENFORCEMENT DIRECTORATE (JUN'25)

- **Responsibility**: enforce the PMLA by **investigating to trace assets** derived from proceeds of crime, **provisionally attaching** property, ensuring **prosecution** of offenders and **confiscation** by the Special Court. [SM 772]
- **Powers**: (1) **penalty on reporting entities** for non-compliance; (2) provisional attachment · survey · search and seizure · search of persons · arrest · retention of property · retention of records. [SM 772]
- **RBI**: guidelines on **CDD, EDD**, transaction monitoring and reporting. **SEBI**: PMLA in securities transactions. Insurance, pension and other regulators in their domains. [SM 772]

18.1 FATF Recommendations: CDD, record keeping, STR · Dec'24 Q6(a), Jun'23 Q9(b)

R.10 CUSTOMER DUE DILIGENCE

- **No anonymous or fictitious accounts.** CDD is required when: (i) **establishing business relations**; (ii) **occasional transactions** above **USD/EUR 15,000**, or wire transfers; (iii) **suspicion** of ML/TF; (iv) **doubts** about earlier identification data. [SM 776]
- **Measures:** (a) **identify and verify the customer** from reliable, independent documents; (b) **identify the beneficial owner** and understand ownership and control; (c) understand the **purpose and nature** of the relationship; (d) **ongoing due diligence** and scrutiny of transactions, incl. **source of funds**. Extent decided on a **risk-based approach**. [SM 776–777]

R.11 RECORD KEEPING · R.20–21 · R.29

- SM WORDS Keep, **for at least five years**, all necessary records on transactions, domestic and international, sufficient to **reconstruct individual transactions** (amounts, currency) as evidence; keep **CDD records** (passports, ID cards, driving licences), account files, business correspondence and results of analysis; make them available to authorities. [SM 777]
- **R.20**: report suspicions **promptly to the FIU** (STR). **R.21**: protection for **good-faith** reporting; **no "tipping-off"**. **R.29**: an FIU as the national centre for STRs and other information. [SM 780, SM 783]
- FATF has **40** recommendations (SM MCQ 18) in groups A–G: policies and coordination; ML and confiscation; terrorist

- Verify **before or during** onboarding; if CDD cannot be done: **do not open** the account or **terminate** the relationship and **consider an STR**; apply to existing customers on materiality and risk. [SM 777]

financing; preventive measures; transparency of legal persons; powers of authorities; international cooperation. [SM 774–777, SM 833]

⚠ PMLA'S OWN RETENTION RULE (NOT IN THE SM)

For Jun'23 Q9(b) write the Act too: s.12 PMLA — reporting entities keep records of transactions and of client identity for **five years** (transactions: from the date of transaction; identity: after the business relationship ends), and furnish information to the Director (FIU-IND).

18.2 Risk-based approach for accountants · the AML compliance steps (MQP Q6(a))

1. **Risk assessment** of the firm and each client (country, client, service risk).
2. **Client due diligence**: identify and verify the client and the **beneficial owner**; source of funds and wealth; refresh on a change in identity, ownership, services, location, wealth, business, or on watch-list hits.
3. **Additional requirements**: record keeping; assessing new products and technologies; reliance on third parties; STRs; internal controls (employee screening, training, independent audit); a **Compliance Officer** at management level; high-risk countries; staff training.
4. **Ongoing monitoring** (R.10 and R.22): regular review of client activity against the initial risk rating.
5. **Reporting suspicious transactions** (R.20): appoint a CO or **MLRO** to file STRs (red flags: indifference to losses, unexplained foreign transfers, cash inconsistent with the profession, unidentifiable deposits).
6. **Internal controls and compliance** (R.18 and R.23): Board-approved policies; training; regular review of risk assessment; **designate a Compliance Officer** and run a compliance programme.

[SM 789–790]

SM EXERCISE KEYS (SM 829–833)

1 PMLA 2002 = **Act No.15 of 2003** · 2 in force **1st July 2005** · 3 financial institution includes all listed (chit fund, housing finance, payment system operator, NBFC, Department of Posts) → none excluded · 4 payment system: cards and money transfer — all · 5 "person": HUF, AOP, artificial juridical person — all · 6 precious metal excludes **diamond** · 7 precious stone excludes **graphite** · 8 offence **s.3** · 9 punishment **s.4** · 10 not in PMLA: **life imprisonment ★** · 11 up to **seven years** · 12 NDPS-linked: **ten years** · 13 attachment **180 days** · 14 **thirty days** · 15 **Adjudicating Authority** · 16 FATF set up by the **G7** · 17 in **1989** · 18 **40** recommendations · 19 **10** · 20 **FIU**.

[SM 829–833]

Number	Rule
3–7 years · NDPS 3–10 years	s.4 punishment
Rs 1 crore	Part B scheduled offence
180 days	attachment (s.5); record retention (s.21)
24 hours	produce the arrested person (s.19)
chair + 2 · 5 years · 65	Adjudicating Authority
USD/EUR 15,000 · 5 years	FATF occasional-transaction CDD · record keeping
18.11.2004	FIU-IND set up