



# PMLA-DOUBLE EDGED SWORD ON THE PROFESSIONAL



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PMLA

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# NATURE OF PMLA LAW ????

**PMLA**

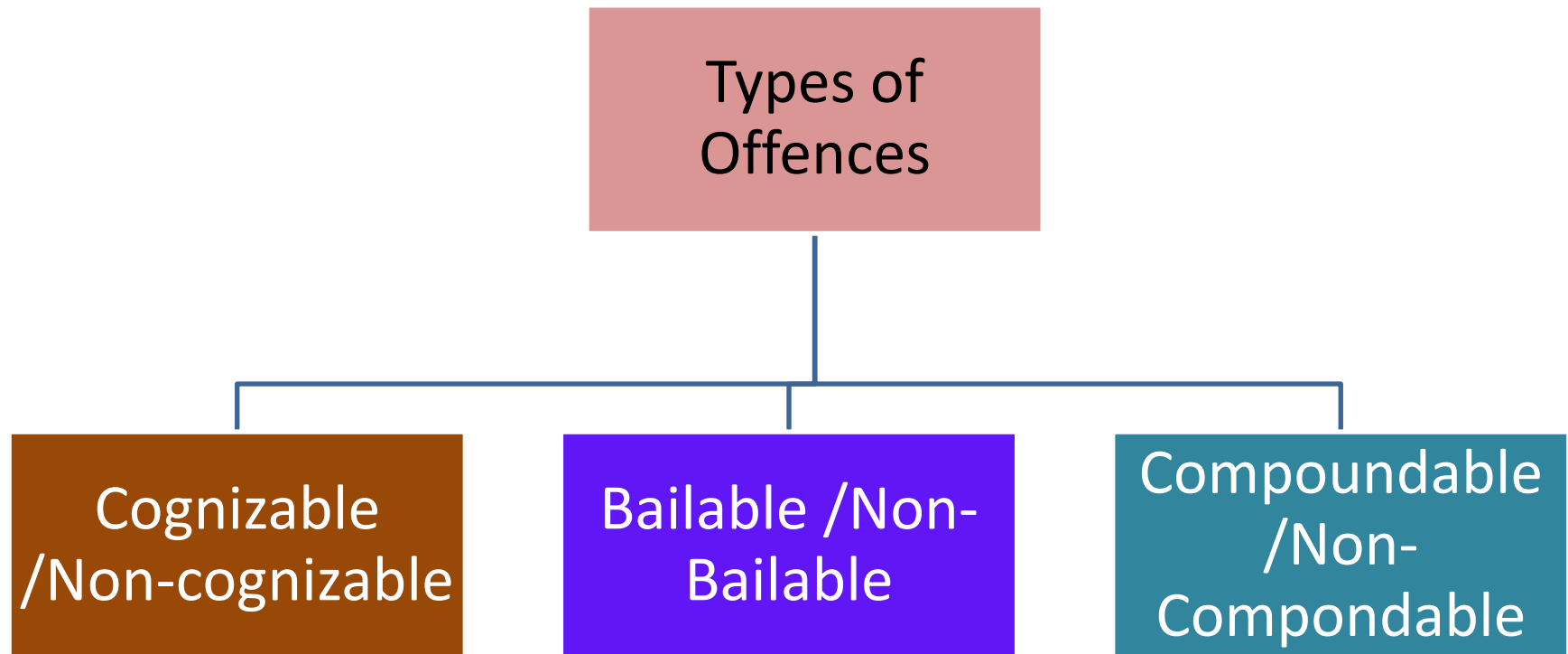
**CRIMINAL LAW**



**CIVIL LAW**



# Types of Offences



# Types of Provisions

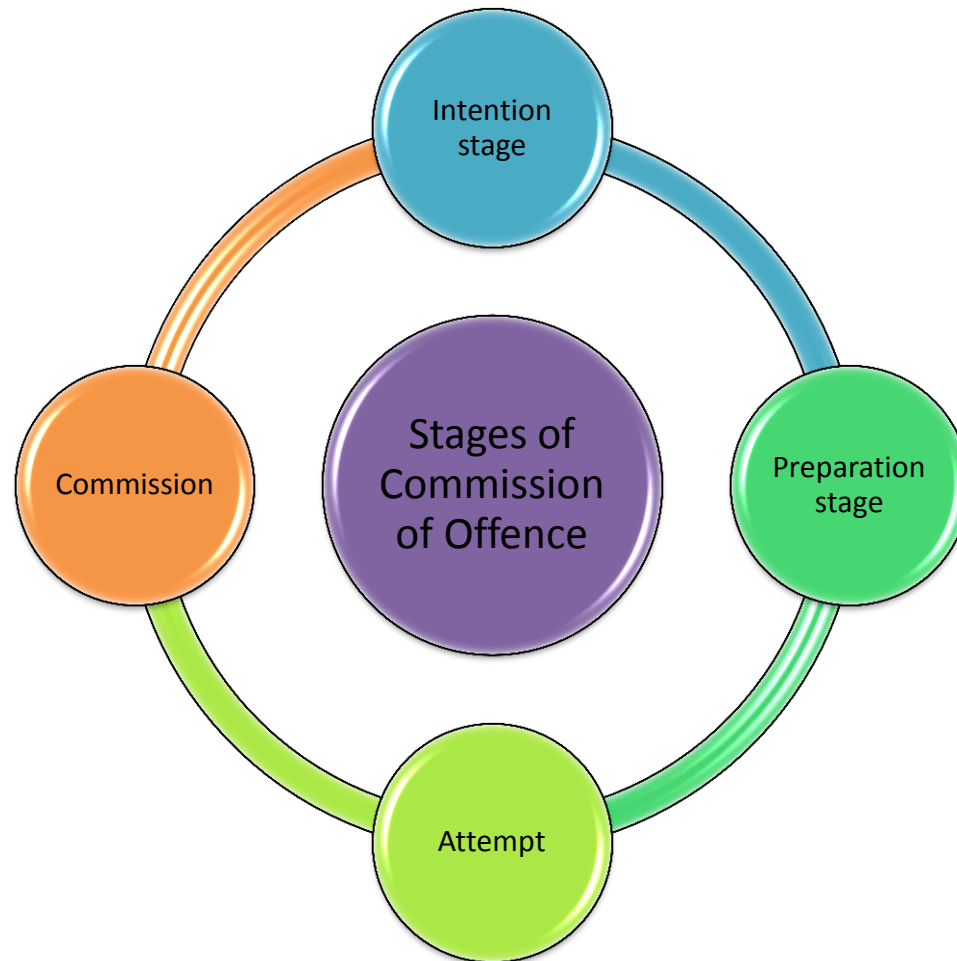
## Types of Provisions

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graph TD; A[Types of Provisions] --> B[Substantive Provisions]; A --> C[Procedural Provisions];
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Substantive Provisions

Procedural Provisions

# Stages of commission of offence



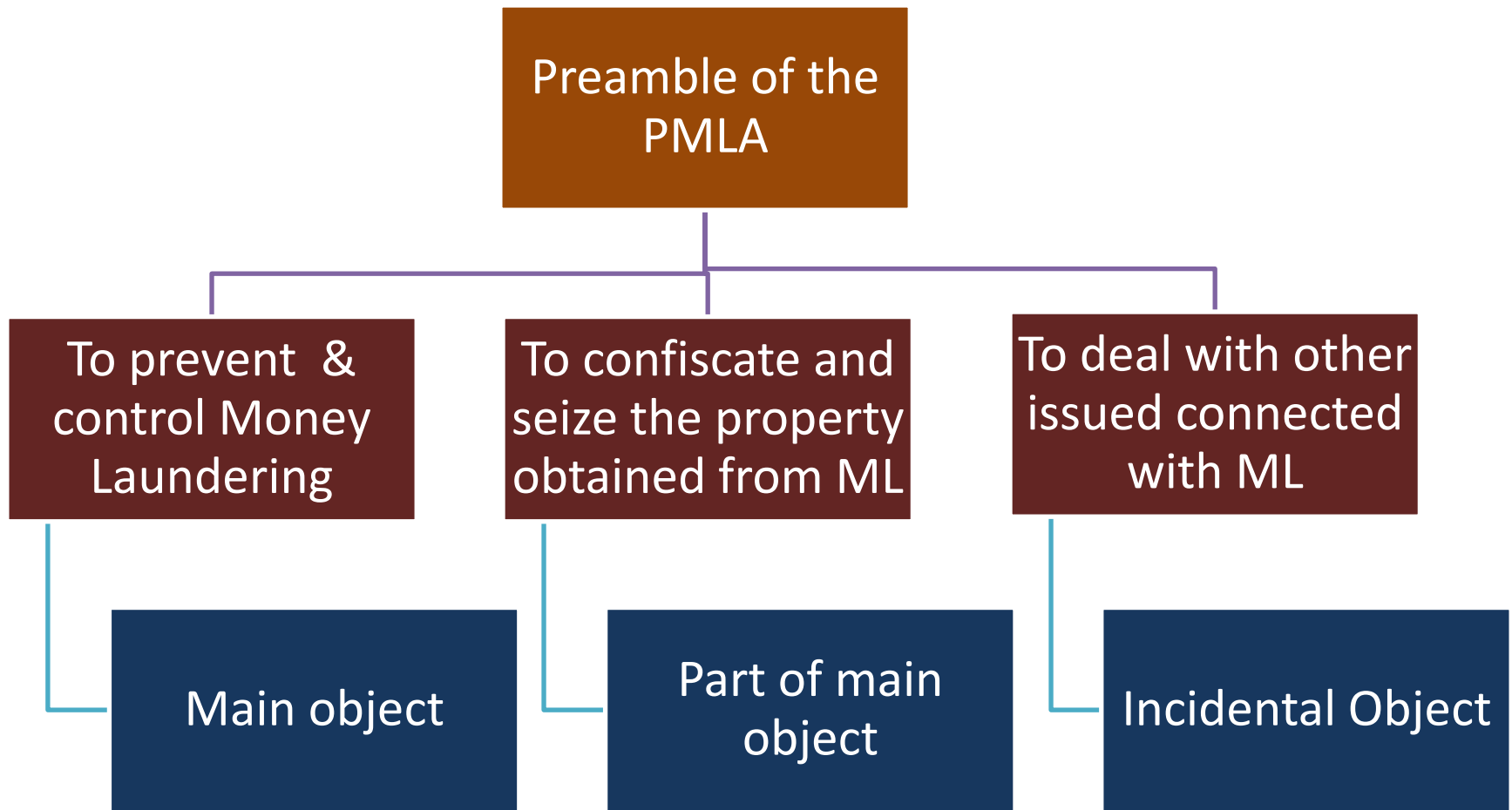
# Money laundering

- Meaning of money laundering
- Genesis of money laundering
- Stages involved in money laundering.
- Money laundering civil or Criminal.
- Criminal Jurisprudence-philosophical change

# Prevention of Money laundering Act, 2002

- Preamble of the Act
- Applicability
- Structure of PMLA Act
- Important definition
- Scope of Code of Civil Procedure
- Applicability of CrPC
- Scope of Indian Evidence Act

# Preamble of the Act





# Some of the Important Definitions

- Designated Business of profession s.2(ja)
- Investigation S.2(na)
- Money laundering 2(p)
- Proceeds of the Crime S.2(u)
- **Person Carrying Designated business or Profession S. 2 (sa)**
- Reporting Entity S.2(wa)
- Scheduled Offence s.2(y)

# Money laundering

When the prevention of money laundering bill, 1999 was introduced in lok sabha on 29.10.1999, the section read as under:-

Amended over the period of time

Whosoever

- Acquires, owns, possesses or transfers any proceeds of crime; or
- Knowingly enters into any transaction which is related to proceeds of crime  
Either directly or indirectly; or
- Conceal or aids in the concealment of the proceeds of crime.

Commits the offence of money laundering.

- **Whosoever**
- Directly or indirectly
- **Attempts** to indulge or
- Knowingly assists or
- Knowingly is a party or
- 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**

# Proceeds of the Crime

- **Means**

- **Any** property **derived or obtained**
- Directly or indirectly
- By **any person** as a result of **criminal activity**
- Relating to **scheduled offence or**
- Value of any property or where such property is taken or held outside the country, then the property the property equivalent to value held within country or abroad

## Scheduled offence S. 2(y)

- Means
  - Offence specified in **part A** of the Schedule
  - Offence specified in **Part B** of the Schedule, if total value involved in such offence is **more than one crore or more**
  - Offence specified in Part C of the Schedule.

# Reporting Entities S.2(wa)

## Means

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graph TD; Means[Means] --- A[\"A Banking Company\"]; Means --- B[\"Financial institution\"]; Means --- C[\"Intermediaries\"]; Means --- D[\"Person carrying on designated business or profession\"]
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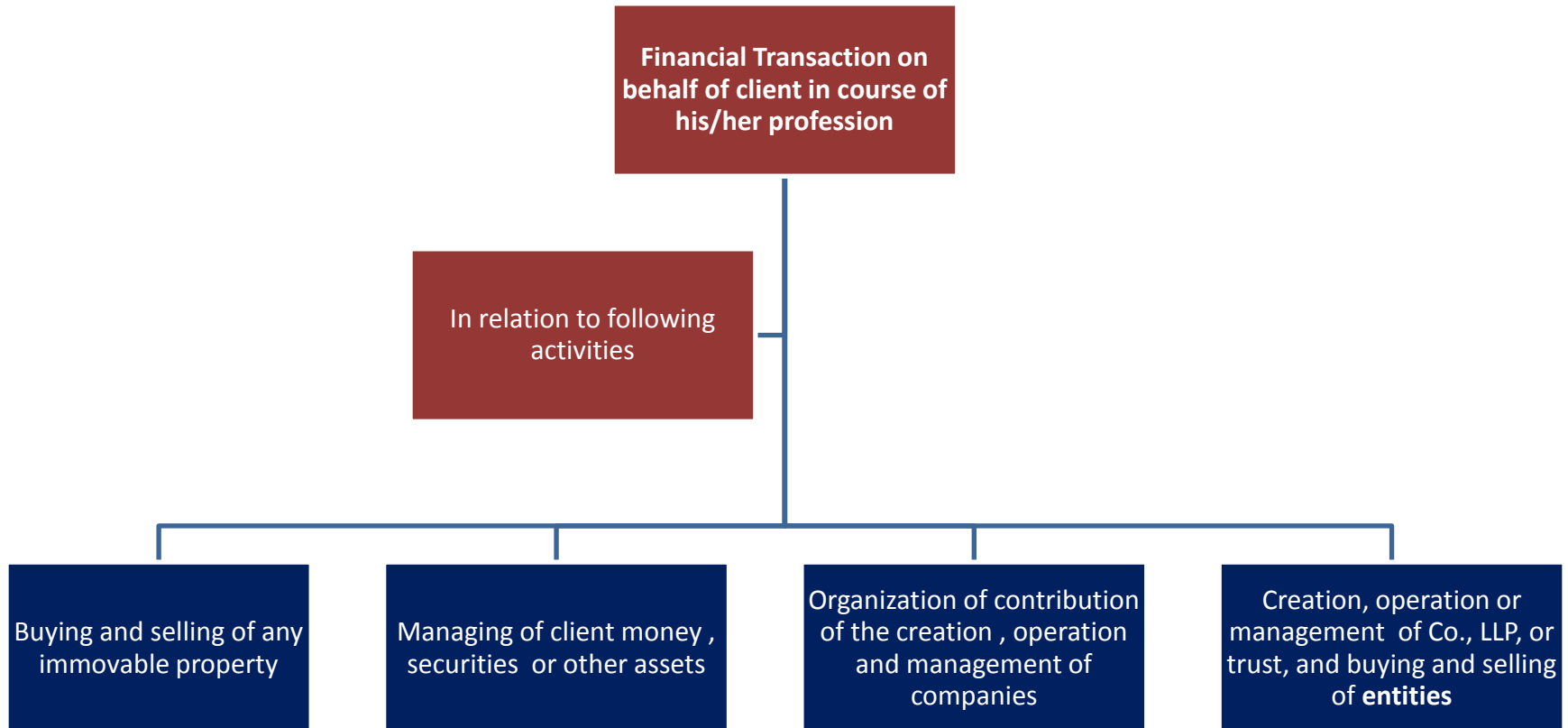
A Banking  
Company

Financial  
institution

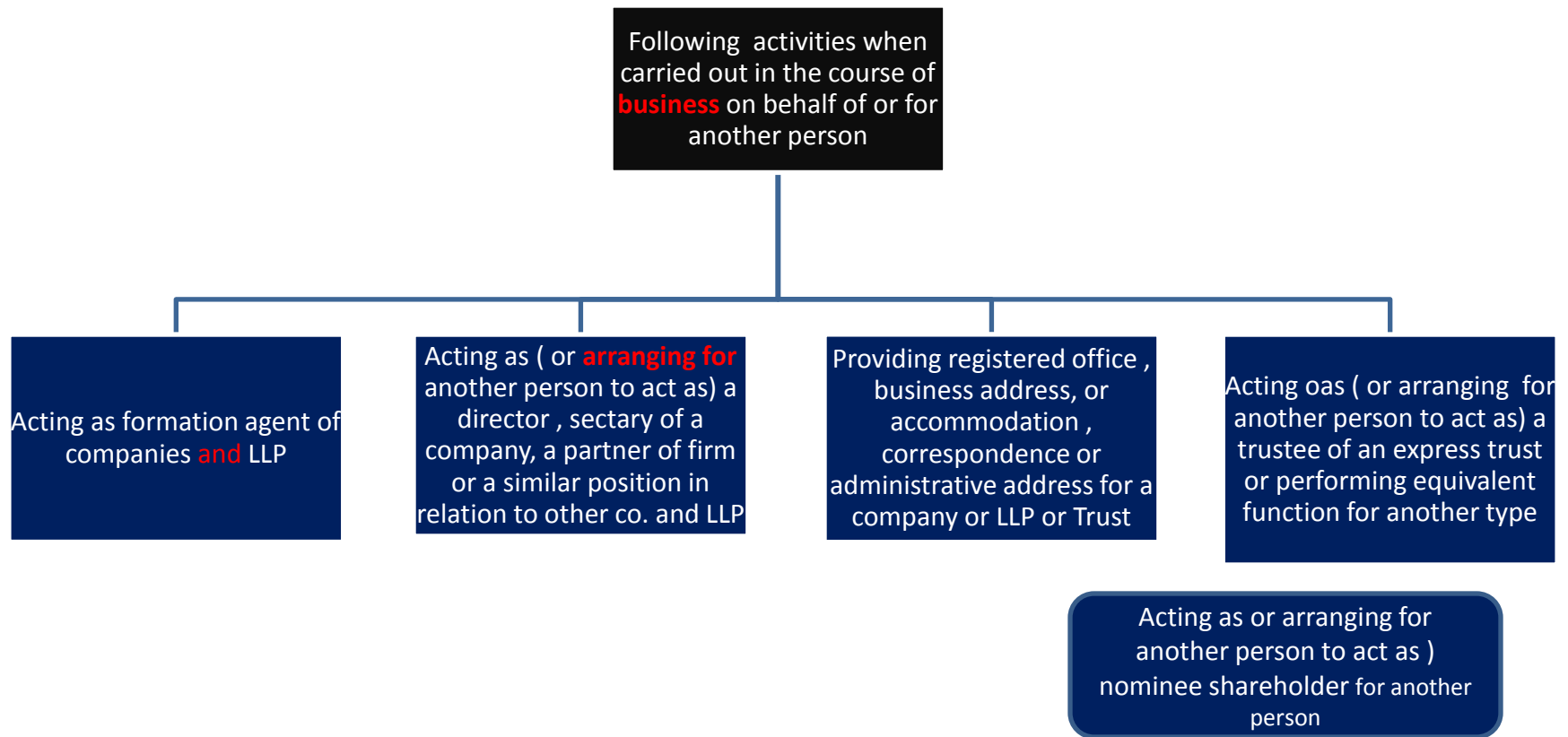
Intermediaries

Person carrying  
on designated  
business or  
profession

# Notification no. S.O.2036, dated 3rd May 2023



# Notification no. S.O.2135, dated 9th May 2023



# Notification no. S.O.2135, dated 9thMay 2023

Following activity shall not be regarded as activity for the purpose of s.2(sa)(vi)

- **Any** activity that is carried out
  - as a part of the any arrangement of lease, sub-lease, Tenancy, or any other agreement or arrangement for the use of land or building or any space and the consideration is subject to TDS u/s 194-I
  - By an employee on behalf of employer in the course of or in relation to his employment
  - An advocate, CA, CS, CWA in practice who is engaged the formation of company to the extent of filing of declaration required u/s 7(1)(b) of the companies Act
- Any activity of a person which falls with in the meaning of intermediary under PMLA



# Financial Intelligence Unit-India (FIU-IND)

## Financial Intelligence Unit – India (FIU-IND):-

- was set by the Government of India vide O.M. dated 18th November 2004 as the **central national agency**
- responsible for **receiving, processing, analyzing and disseminating information relating to suspect financial transactions.**
- responsible for **coordinating and strengthening efforts of national and international intelligence, investigation and enforcement agencies in pursuing the global efforts against money laundering and financing of terrorism.**
- FIU-IND is an independent body reporting directly to the Economic Intelligence Council (EIC) headed by the Finance Minister.

# Financial Intelligence Unit-India (FIU-IND)

- Functions
  - **Collection of Information**
  - **Analysis of Information**
  - **Sharing of Information**
  - **Act as Central Repository**
  - **Coordination**
  - **Research and Analysis:**

# Hong kong Shangai Banking Corporation limited

## Particular of Violations

- FIU filed FIR with State Police
- Indulging into various ban activities
- Conducting or facilitating online gambling
- Routing proceeds of crime through banking channel

## Penalty or direction

- Rs. 400000/- for failure to carry out due diligence
- Rs.1,92,00,000/- failure to implement the effective mechanism
- Failure to Report STR Rs. 5,00,000
- Failure to report cross border transfer report 175000

# Vikramaditya Nagarik Sahakari bank

## Particular of Violations

- Ineffective internal mechanism for reporting STR
- Ineffective internal mechanism classifying NPO
- Failure to verification of beneficial ownership
- Etc.,

## Penalty or direction

- Rs. 300000/- with direction to re-evaluate reporting system related to STR , classification of NPO



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