

## **FUGITIVE ECONOMIC OFFENDERS BILL, 2017**

With the recent uncovering of the 12,000 Cr. PNB fraud and subsequent escape of the prime accused, the man touted to have perpetrated the fiasco, our attention is drawn once again to the lax security measures in place against steal-and-fly tactics of financial offenders (other examples being a famous liquor-baron and a famous business personality associated with the Indian Premier League). Once such a person flies out, it becomes extremely difficult to extradite them back to the country for a judicial trial. In this way, not only do such economic offenders escape justice but also enjoy a significant degree of legal and financial protection in the sheltering jurisdiction. With an aim to pre-empt such cases and prevent defaulters from flying out, the Union Cabinet on March 1, 2018 approved the Fugitive Economic Offenders Bill, 2018 (the “**Bill**”) to be tabled in the Parliament.

The Bill aims to lay down measures to deter economic offenders from evading the process of Indian law by remaining outside the jurisdiction of Indian court and covers cases where the value involved in such offences upward of INR 100 Cr. or more. Below, we have highlighted the salient features of the Bill.

The proposed Bill, which will be tabled in the second leg of the Budget Session of Parliament, empowers the government to “confiscate all of a fugitive offender’s assets in India, including benami assets”. Below, are certain key points in the draft Bill –

1. **Who is an Economic Offender?** According to the draft Bill, a fugitive economic offender is “any individual against whom a warrant for arrest in relation to a schedule offence has been issued by any court of India who, either leaves or has left India to avoid criminal prosecution or refuses to return to India to face criminal prosecution”. Attached to the draft are the list of offences, which include cheating, forgery, fraud, corruption, insider trading, customs evasion and more.

### **2. Application for Declaration as Economic Offender**

The draft law says that officials, referred to as directors or deputy directors under the Prevention of Money Laundering Act, can file an application to a Special Court for a declaration that they are a fugitive economic offender. As soon as such an application is filed, the government can attach – meaning prevent the trading or selling of – any properties mentioned in it for 180 days. Once the application is done, the Special Court will send a notice to the person and anyone else who has interests in the attached property. The notice to the person involved will require them to appear at a specific place and time no less than six weeks from the date of the notice. If they refuse to appear for up to six weeks, the Special Court can take up the case and label the person a fugitive economic offender.

3. **Attachment of Properties** Once a fugitive economic offender has been declared, the government can confiscate the “proceeds of the crime”, even if it is not owned by the fugitive offender, and any other properties they own as well. The Special Court could exempt from confiscation any property that may be the proceeds of a crime but has another investor, as long as that person’s interest was acquired without knowledge of the

fact that the property was the proceed of a crime. In other words, the properties that the fugitives have left behind are then controlled by the state if they don't turn up within the stipulated time period.

Further, the Bill proposes that once a person has been declared as a fugitive economic offender, such person shall be disentitled from defending any civil claim against any property.