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**STANDARD OPERATING PROCEDURE (SOP)  
FOR INVESTIGATION OF CASES OF  
HIGH QUALITY COUNTERFEIT INDIAN CURRENCY NOTES**

**1. BACKGROUND**

1.1. Offences related to counterfeiting of currency notes or bank notes were added to the Indian Penal Code (IPC), 1860, by inserting Sections 489A to 489 D & 489E by Act 12 of 1899 and Act 6 of 1943, respectively. These sections in the IPC define and deal with the offences of counterfeiting of currency notes, use of such currency notes as genuine, possession of such currency notes, making or possessing instruments or material for forging or counterfeiting currency-notes, bank-notes and so on.

**2. ORIGIN OF THE TERM “FICN”**

2.1 The other term used for counterfeit currency note is Fake Indian Currency Note (FICN). It has its origin in notification No. 43/2008-CUSTOMS (N.T.) S.O. 1129(E), of the Government of India, issued on 13.05.2008, which states that “In exercise of the powers conferred by Sub-clause (c) of Clause (i) of sub-section (l) of Section 135 of the Customs Act, 1962 (52 of 1962), the Central Government hereby specifies “Fake Indian Currency Notes” as the goods falling in the category of prohibited goods for the purposes of the said section”.

2.2 The Directorate of Revenue Intelligence (DRI) registers offences related to the procurement, smuggling, transportation and circulation of FICN, under section 135 of the Customs Act, 1962, as per the above notification.

2.3 Prior to this notification, the Government of India had issued notification No. 23/99-CUS(N.T.) G.S.R. 259(E), dated 13.04.1999, which reads as “In exercise of the powers conferred by sub-section (1) of section 11 of the Customs Act, 1962, (52 of 1962), and, having due regard to the need to maintain the security of India, prevent injury to the economy of the country and prevent smuggling, the Central Government, on being satisfied that it is necessary to do so, hereby prohibit, absolutely, the import of counterfeit currency notes or fake currency notes into India”. By virtue of this notification, it was for the first time that the expression prevent injury to the economy of the country was used in the Indian Penal Law.

2.4. Other than the DRI, the local police and the Central Bureau of Investigation (CBI) also register offences related to FICN, under sections 489A to 489E of the IPC and the UA(P) Act, 1967, as amended, for investigation.

### **3. BIRTH OF THE NIA**

3.1 Over the past several decades, India has been a major target of terrorist attacks. Though most of these attacks relate to cross border terrorism, there have been several cases involving Indian nationals operating from within and outside the country. A large number of such incidents are found to have complex inter-state and international linkages, and possible connection with activities like smuggling of arms and drugs, circulation of fake Indian currency, infiltration from across the borders and other such activities. Taking all these facts into consideration, the need for an Agency at the Central level for investigation of offences related to terrorism and other acts involving national security, having inter-state and international ramifications was felt. Several experts and committees, including the Administrative Reforms Commission, in their reports, had recommended establishment of an agency which could investigate such important cases, on the directions of the Central Government, as and when felt necessary.

3.2 The National Investigation Agency (NIA) came into existence through enactment of the National Investigation Agency Act, 2008 (34 of 2008), on 31.12.2008. The offences related to counterfeiting of currency notes, viz, sections 489A to 489E (both inclusive) of the IPC were included in the schedule of the National Investigation Agency Act, 2008, (hereinafter read as the NIA Act) along with the Unlawful Activities (Prevention) Act, 1967, (hereinafter read as the UA(P) Act), and other scheduled Acts, dealing with terrorist acts of different nature.

3.3 Creation of Terror Funding and Fake Currency (TFFC) Cell in the NIA: Terror funding is like oxygen to the terrorists, and its supply needs to be cut so that unlawful/terrorist activities in the country may be choked. An urgent need was felt to create a specialised wing within the NIA to look into the cases of terror funding and circulation of FICN cases. The Govt. of India created a specialised cell within the NIA, named as the Terror Funding and Fake Currency (TFFC) Cell, on 22.06.2010.

### **4. NIA'S WORK ON FICN**

The NIA has registered and investigated a total of 24 FICN cases up to 31.12.2016, out of which 7 cases were registered prior to the amendments made to the UA(P) Act, 1967, on 01.02.2013. In two cases, RC-07/2011 (Janipur, Jammu, case) & RC-07/2012 (Punjab FICN case), out of the 24 cases, linkages between FICN and other terror activities were found. A total of 139 persons have been arrested, so far 31 persons are absconding, out of whom 5 absconders are Pakistanis, 12 Bangladeshis & 3 Nepalese. Four cases have been decided and all of them have ended in conviction. A total of 28 persons have been convicted, and 9 persons acquitted.

**4.1 RC-03/2009/NIA/DLI (Mumbai FICN Case):** Investigation into the very first case of FICN smuggling and circulation, carried out by the NIA, in RC-03/2009/NIA/DLI, dated 16.06.2009, under sections 120B, 489A, 489B & 489C IPC (originally FIR No. 07/2009, under sections 120B, 489A, 489B & 489C, IPC, dated 14.05.2009, Police Station ATS, Mumbai, Maharashtra) paved the way for the amendments to the UA(P) Act, 1967, for including circulation of High Quality Counterfeit Indian Currency as a terrorist act, as it impacts the economic security of the country. The charge sheet in this case had stated that “the wilful circulation of such high quality FICN printed abroad and smuggled into the country with the intent to threaten the economic security and sovereignty of India, therefore, tantamounts to a “terrorist act” committed “by other means of whatever nature to cause damage, destruction of India’s legal tender and monetary system, thereby impeding the economic security of India”.

**4.2 Judgement in RC-03/2009 (Mumbai FICN Case):** The charge sheet in the case was filed on 06.11.2009, under sections 120B, 489A, 489B & 489C, IPC, and section 17 of the UA (P) Act, 1967, in the court of the Additional Metropolitan Magistrate-11, Mazgaon, Mumbai, Maharashtra, against 7 accused persons. The supplementary charge sheet in the case was filed on 14.06.2011, in the court of the Special Judge, NIA, Fort, Mumbai. The Judgement in the case was delivered on 30.01.2014. The Judge concluded the order by observing that, “I, therefore, hold accused Nos. 1 to 6 guilty of the offences punishable under Sec 489C, 489B, 489E r/w 120B of the IPC and also under Sec. 16 and 18 of Unlawful Activities (Prevention) Act, 1967. All the accused persons 1 to 6 are acquitted of the offence punishable under Sec 17 of Unlawful Activities (Prevention) Act, 1967.” During the course of discussion on evidence, the Special Court reflected in the Judgement that “the acts committed by the accused can be definitely said to be committed with an intention to threaten the unity, integrity, economic security, sovereignty of India as well as with an intent to strike terror in the people by smuggling and circulating FICN with full knowledge that such FICN will cause damage, loss, disruption of the supplies and services essential to the life of the community of India. Due to circulation of FICN there has been damage to the monetary stability of India. It is submitted by the prosecution that it has also triggered off inflation of money all over India. It has caused damage and disruption of monetary property of India and also destroyed the fiscal stability. Keeping in mind the evidence on record would definitely show that these accused are also members of a larger criminal conspiracy in tandem with and were working for the bigger actors in this game plan with the clear understanding of the criminal conspiracy entered into by the conspirators and co-conspirators who have printed India’s Legal Tenders and have successfully smuggled the same into India. It is also clear from the evidence herein above that these conspirators have successfully created a network of their close confidantes to circulate the tainted notes all over India and to hoodwink national security”.

## **5. NIA AS THE NODAL AGENCY FOR FICN MATTERS**

The NIA was designated as the Nodal Agency to deal with FICN, in the meeting of the Economic Intelligence Council, held on 08.02.2013, under the chairmanship of the then Hon'ble Finance Minister.

### **5.1 Project on Estimation of the Quantum of FICN in circulation in India:**

The Ministry of Home Affairs, Government of India, in the year 2014, approved a project to estimate the Quantum of FICN in circulation in India. Accordingly, the NIA, in collaboration with the Indian Statistical Institute (ISI), Kolkata, conducted a study, by collecting empirical data from all the central agencies as well as collating and aggregating the data on FICN. Further, the data on FICN, detected by the Scheduled Commercial Banks and other financial institutions was obtained from the Reserve Bank of India. The data collected was analysed, using scientific and statistical tools, developed for the purpose of this study. On completion of the project, the final report was submitted to the Ministry of Home Affairs in February, 2016.

The key findings/observation of the project report are as follows:-

- i) The value of FICN in circulation was found to be about Rs. 400 crore. The value has remained almost constant during the 4 years, from 2011-12 to 2014-15. The existing systems of seizure and detection are found to be enough to flush out the quantum of FICN being infused. It was further estimated that attempts are being made to infuse FICN worth about Rs. 70 crore per year and, approximately, 1/3rd of the FICN being infused are currently being seized.
- ii) The detection rate of fake 100 and 500 rupee notes was found to be about the same and higher than the detection rate of 1000 rupee notes by about 10%.
- iii) The overall rate of occurrence of FICN was estimated to be about 250 pieces per million (ppm) during 2010-11 to 2014-15. This is higher than the published data of occurrence of counterfeit currency for Canada, Mexico, and European Union (Euro).
- iv) The detection of FICN is carried out, primarily, by the commercial banks. However, the reporting by these banks is irregular and only three banks, namely, Axis, HDFC and ICICI banks, report about 80% of the detection. Steps need to be taken to improve the reporting, immediately.
- v) Non-banking financial institutions, handling large volumes of cash, have not been brought under the purview of the system for detecting and reporting the FICN data. These institutions should be identified and brought under the purview of the system, immediately.

vi) ISI, Kolkata, suggested a preliminary system for capture and reporting of data related to recovery of FICN. This system should be reviewed with all stakeholders. An updated system needs to be introduced. A formal project needs to be taken up for the same.

**5.2 Amendments to the UA(P) Act, 1967, criminalising Terror Financing linked with High Quality Counterfeit Indian Currency Notes:** Based on the investigational findings and suggestions made by the NIA and other stakeholders to strengthen the legal regime against financing of terrorism, the following amendments were made to the UA(P) Act, in the year 2013:-

a) Keeping in view the threat posed by the circulation of High Quality FICN to destabilise the economic security of the nation, the Government of India made certain amendments to section 15 of the UA(P) Act making the production and smuggling or circulation of FICN a terrorist act, for which punishment is laid down in section 16. The amendments made to section 15 are as under:-

(i) in the opening portion of sub-section (i), after the word “security”, the words, “**economic security,**” were inserted;

(ii) in clause (a), after sub-clause (iii), the following sub-clause was inserted:-

“(iii) damage to the monetary stability of India, by way of production or smuggling or circulation of **high quality counterfeit Indian paper currency,** coin or of any other material;

(iii) The following **Explanation** was also provided:-

‘Explanation - For the purpose of this sub-section,-

(b) “high quality counterfeit Indian currency” means the counterfeit currency as may be declared after examination by an authorised or notified forensic authority that such currency imitates or compromises with the key security features as specified in the Third Schedule.;

(iv) The third schedule of the UA(P) Act, 1967, was amended by the Central Govt. vide Notification GSR 231 (E), dated 18.03.2014. The amended schedule is as under:-

**THE THIRD SCHEDULE**  
**[ Section clause (b) of Explanation to section 15(1) ]**

**SECURITY FEATURES TO DEFINE HIGH QUALITY COUNTERFEIT  
INDIAN CURRENCY NOTES**

Watermark(s), Security thread and any one of the following features:

- (a) Latent image;
  - (b) See through registration;
  - (c) Print quality sharpness;
  - (d) Raised effect;
  - (e) Fluorescent characteristics;
  - (f) Substrate quality;
  - (g) Paper taggant;
  - (h) Colour shift effect in OVI;
  - (i) Colour shift effect in security thread.
- c) Sub-clause (b) was added to the explanation to section 17 of the UA(P) Act which states that raising funds shall include raising or collecting or providing funds through production or smuggling or circulation of high quality counterfeit Indian currency.
- d) Sub-section (3) was inserted in section 33 of the UA(P) Act which states that where any person is accused of an offence concerning high quality counterfeit Indian currency, the court may pass an order directing attachment or forfeiture, as the case may be, of property equivalent to the value of such high quality counterfeit Indian currency involved in the offence including the face value of such currency which are not defined to be of high quality, but are part of the common seizure along with the high quality counterfeit Indian currency.
- e) Under section 40 of the UA(P) Act, an Explanation was inserted which states in sub-clause (b) that raising, collecting or providing funds through production or smuggling or circulation of high quality counterfeit Indian currency.

**5.3 Financial Action Task Force (FATF) – Typological study on Money Laundering and Terrorist Financing related to counterfeiting of currency:** In its report in 2013, the FATF focussed on how counterfeit currency is used for the purpose of terror financing and other crimes. Counterfeiting has become attractive to terrorists and their sympathizers, as it is profitable, particularly, when compared with other forms of criminal activities.

ii) According to FATF reports, in the recent times, India has reported large scale use of counterfeit currency by both state and non-state actors to fund terrorist acts. There is evidence that multiple bases are being used to flood the country with counterfeit notes, thereby attempting to attack the economic security of the country. It is in this light that India has taken measures to amend laws relating to terrorism to include within its ambit, trafficking of high quality counterfeit currency as a “terrorist act”. The amendments also redefine ‘raising funds’ to mean collecting and providing funds through production, smuggling and circulation of counterfeit currency.

## **6. COMPILATION OF DATA ON FICN BY THE NCRB**

6.1 NCRB has come up with a Fake Currency Compilation System i.e. **Jaali Mudra Sankalan**. This is an online system for collection of data and reporting of Fake Indian Currency in circulation. This system collects and generates reports based on the counterfeit currency seized or recovered throughout the country by different agencies like BSF, CBI, CEIB, DEA, DRI, FIU, NIA, RBI, SSB, State/UT Police, etc.

The screenshot shows the login interface of the Fake Currency Compilation System. The header includes the NCRB logo and the text "राष्ट्रीय अपराध रिकार्ड्स ब्यूरो National Crime Records Bureau Fake Currency Compilation System". The login form contains three input fields: "Login Name", "Password", and "Captcha". Below these fields is a "bfbxu" logo. At the bottom of the form, there are "Login" and "Forgot Password" buttons. A status bar indicates "Your Visitor No. is 630" and "No. of Concurrent Users are 3". The footer contains links for "Help", "Settings", "FAQ", and "Contact Us", along with the text "Designed and Developed by B. Venkatesan Assisted by Sachin Kumar".

(Screen short of the Fake Currency Compilation System portal of NCRB)



## **7. SOP FOR INVESTIGATION INTO FICN CASES**

### **7.1 Need for SOP**

7.1.1 Investigation into FICN cases, which includes seizures, field visits by NIA officials, scrutiny of various case documents like interrogation reports, judgement in cases, bail applications filed by the accused and the orders of the courts granting bail to the accused persons, has provided deep insight into various aspects of FICN smuggling and circulation.

Based on the aforesaid, the following points have been compiled for conducting investigation and prosecution in the High Quality FICN cases, within the overall provisions of the CrPC.

### **7.2 DRAFTING OF FIR**

7.2.1 The information related to possession, procurement, smuggling, transportation and circulation of FICN should be recorded in the general diary in a clear cut manner clearly specifying the source of the information. The 154 CrPC report should be recorded mentioning all the details in brief and, in case, information regarding unclaimed quantity of FICN is received, the complete facts and circumstances leading to the discovery of the FICN lying unclaimed should be recorded. In case, the FICN is detected by a bank or any other institution, the complete sequence of events leading to the detection should be recorded. In case of specific source information or otherwise, the team members deputed should be mentioned by name and their movement recorded. In case of other law enforcement agencies such as BSF, SSB, other paramilitary forces and DRI, the information should be recorded and the movement of the team members deputed for verification of the facts in respect of the information, so recorded, should be brought on record.

7.2.2 In case, the information turns out to be true and results in recovery (seizure or detection) of FICN from a place/person, action for registration of the FIR should start immediately and, simultaneously, interrogation of the person/persons, from whose possession the FICN has been recovered, should be started to find out the source, so that the same can be apprehended and evidence regarding his involvement can be obtained.

7.2.3 The memo for registration of the FIR should be drafted carefully keeping in view the time, place, name and addresses of the witnesses and the recoveries made.

7.2.4 A copy of the FIR should be sent to the concerned court and to the IO of the case, immediately, as reflected in the FIR.

### **7.3 PROCEDURE TO BE FOLLOWED AT THE TIME OF RECOVERY AND THEREAFTER:**

**7.3.1 Lifting of Finger Prints and DNA Profiling:** Before starting the counting of the recovered FICN, efforts should be made to lift the fingerprints from the packing material and the wads of currency notes. Along with this, efforts should also be made for collection of sample for DNA profiling of the evidence left behind by the persons who have handled the currency notes while exchanging, packing and transporting the FICN.

**7.3.2 Seizure:** After lifting of the fingerprints and preservation of articles for DNA fingerprinting, the seizure memo should be prepared, mentioning the serial numbers of the seized currency notes. The signatures of witnesses and the accused should be obtained on every page of the seizure memo. The total number of currency notes and the total face value should be mentioned in the memo. Statements of the witnesses should be recorded then and there, under section 161 CrPC, so that they remember the sequence of events at the time of seizure, when they depose during the trial. The statements, so recorded, should also be incorporated in the case diary.

**7.3.3 Seizure for DNA Fingerprinting:** The seizure memo of the articles preserved for DNA fingerprinting should be drawn, separately, and the rest of the formalities of the seizure memo should be completed as mentioned above in para 7.3.2.

**7.3.4 Packing and Sealing of seized articles:** The seized fake currency notes should be packed in transparent packets and the packets should be kept inside a transparent container which should be duly sealed. The container should clearly show the indexing of the articles sealed and the index should have the signatures of the witnesses on it. The sample of the seal used for sealing the seized currency notes should be prepared in triplicate and the signatures of the witnesses should be obtained and a mention of the same should be made in the seizure memo itself. The index and the sample seal should be signed by the Investigating Officer.

**7.3.5 Videography of the recovery and seizure process:** Videography of the complete seizure process should be got done properly by the official photographer and the recorded data should be brought on record in a sealed CD (through a production-cum-seizure memo). The statement of the photographer should be recorded then and there, under section 161 CrPC. The statement, so recorded, should also be incorporated in the case diary.

**7.3.6 Case Diary:** Writing of the case diary should commence, immediately, on entrustment of the investigation to the IO concerned. All the proceedings drawn during the course of investigation and the procedure & processes followed should be mentioned in the case diary.

**7.3.7 Action Plan:** The IO, the team members and the supervisory officers should start drawing the ‘to-do’ list with regard to the investigation of the case. It should be updated as and when new points emerge during the course of investigation. The IO should keep in mind that the following points are to be proved:-

- Whether the seized currency is High Quality or otherwise.
- Possession of FICN by the accused.
- Procurement of FICN from the supplier.
- Supplier having stored or transported it.
- Intended places of circulation for the seized FICNs.
- Previous involvement of the gang members and their modus operandi.
- Source of funds for procurement of the FICN and the channels used.
- The channels used for receiving proceeds of crime out of the smuggling, transportation and circulation of FICN and its end use.

**7.3.8 Arrest:** Arrest of the person from whom the FICN is seized should be effected by clearly mentioning the grounds of his arrest in the arrest memo and the case diary and information of the arrest should be conveyed to his relatives, and acknowledgment in the form of his signature on the arrest memo should be obtained. His personal search should be conducted and a memo of the articles found on his person should be prepared and the articles having evidentiary value should be sealed vide a seizure memo and the complete procedure, as mentioned at para no. 7.3.2, should be followed.

**7.3.9 Obtaining samples:** The handwriting specimen, voice samples, finger prints and blood sample of the accused should be obtained. The blood sample, so collected, should be sent for DNA finger printing and matching with the DNA available on the articles seized. The voice samples should be compared with the intercepted call data, if any. The finger prints should be compared with the finger prints lifted from the seized articles, if any. The hand writing specimen should be compared with any questioned documents recovered and seized during the course of investigation. The DNA profile, extracted from the seized articles, should be compared with the DNA profile of the other accused, suspects and accomplices, as well as and when they join the investigation.

**7.3.10 Recovery & Seizure by other Law Enforcement Agencies (LEAs):** In case seizure of FICN is effected during search by officers/officials of other LEAs from a person or found unclaimed, a proper seizure memo should be prepared

by associating independent witnesses. The memo prepared for registration of the case should contain the details of the whole sequence of events which led to the seizure of the FICN. The rest of the procedure of seizure as mentioned above, should be followed. Tracking of the source of FICN should start immediately. For example, in case, the FICN is detected by bank officials, efforts should be made to ascertain as to who deposited the same, when and at which branch, and so on. Any delay in this will reduce the chances of identification of the source of the FICN.

**7.3.11 Seized articles to be deposited in the Maalkhana:** The seized articles should be deposited in the Maalkhana of the Police Station having jurisdiction, as the seized articles should be deposited in the Maalkhana of the nearest Police Station. The chain of custody of the case property should be kept on record. A certified extract of the Maalkhana Register pertaining to this deposit should be obtained and kept with the case diary for the day. Further movement of the case property from the Maalkhana and the deposit should also be kept on record by keeping the certified extract of the Maalkhana Register for that day.

**7.3.12 Forensic examination of the FICN:** Detailed Rules in this regards are at ANN-A. The seized FICN should be sent to the nearest forensic lab within 48 hours of the seizure, to obtain an opinion with regard to the quality of the FICN, so that a decision to invoke the provisions of the UA(P) Act, 1967, may be taken. At present, the authorized forensic authorities for the purposes of Section 15, UA (P) Act, are (i) Laboratories under the Bharatiya Reserve Bank Note Mudran Pvt. Ltd. (ii) the laboratories under the Security Printing and Minting Corporation of India Ltd, (iii) Forensic Labs under the Government of India and the State Governments, and (iv) Any other establishment to notified by the Central Government.

**7.3.13 Interrogation:** Custodial interrogation of the accused should be carried out, focusing on the following points:-

- Associates.
- Mobile numbers used.
- Email IDs and other social media platform IDs.
- Previous conduct.
- Bank accounts.
- Place of printing of FICN.
- Means of procurement of FICN.
- Buyers of FICN.

- Circulators.
- The channel used for payment for the FICN procured and for receiving the proceeds.
- Utilization of the FICN proceeds, e.g, purchase of drugs, arms and ammunition, etc.

7.3.14 **Simultaneous Action:** During the course of investigation, the following things should be done simultaneously:-

- Search of house and the place of work of the accused. The outcome should be recorded vide a memo and the search party should share all the details with the IO. The places of residence and work of all the gang members as disclosed by the accused should also be searched simultaneously. This may lead to further recovery of FICN, equipment, packing material for FICN and other evidence regarding the association and modus operandi of the accused as well as his gang members.
- The report of the examiner/expert on the quality of the seized FICN should be obtained at the earliest and, in case, already obtained, the IO should put up a report to the SP concerned for taking a decision as to whether the provisions of the UA(P) Act are to be invoked or not. A speaking order in this regard in terms of the sub-rule (7) of Rule 6 shall be issued by the SP. (Ref: ANN-A)
- Data Preservation Request to all the service providers concerned of the various social network sites should be sent. Evidence may be obtained later under the Mutual Legal Assistance mechanism available or through Letters Rogatory from foreign service providers.
- The data of the email IDs and other social network sites used by the accused should be downloaded after getting his disclosure recorded under section 27 of the Indian Evidence Act and the recovered data should be saved in a password protected CD to which a hash value must be allotted. The whole process should be recorded in a recovery-cum-seizure memo and the rest of the procedure should be followed as mentioned in para 5. The data, so recovered, should be scrutinised and the accused should be asked to explain all the incriminating parts in the data.
- On seizure of any electronic items, e.g., mobile phone, data card, hard disc, pen drive, SD card, etc., the data extracted from these items should be scrutinised to cull out any actionable points for further collection of evidence.

- The other seized articles and documents, if any, should also be scrutinised to carry the investigation forward.
- Mobile phone details should be analysed to see the association of the accused with other gang members. Prominent contacts of the accused should also be examined to find additional evidence regarding the modus operandi of the gang.
- The IMEIs reflected in the CDRs of the accused should be investigated by generating the IMEI CDRs which will help the IO in finding out as to which other mobile numbers were being used by the accused and his associates.
- All foreign reflections in the CDRs of the accused should be investigated by generating the India Hits of the foreign mobile numbers and land line phone numbers. This will enable the IO to know as to who else, other than the accused, has been talking to the foreign players involved in the FICN smuggling and circulation in India.
- All the reflections in the CDR of the accused, should be verified to unearth the inter-state net work of the gang.

**7.3.15 Report of the Forensic Expert and follow up:** In case, the report of the forensic examiner/expert finds the seized FICN to be of High Quality, the IO should submit a report, in this regard, to the concerned Superintendent of Police or such other officer of equivalent or higher rank, narrating the facts and circumstances of the case. After going through the report, the SP concerned, on being satisfied that the act of the accused amounts to damage or an attempt to damage the monetary stability of India, may pass a speaking order for applying the provisions of sub-clause (iiia) of clause (a) of sub-section (1) of section 15 read with section 16 of the UA(P) Act, 1967.

ii) The Central Government vide Gazette Notification No. 2652, dated 08.11.2016, bearing S.O. 3407 (E), issued by the Department of Economic Affairs, Ministry of Finance, Government of India, declared that Rs. 1000 & Rs. 500 denomination notes, issued by the Reserve Bank of India, shall cease to be legal tender with effect from 09.11.2016. Later, new series of Rs. 2000 & Rs. 500 notes have been introduced. Therefore, the three highest denomination notes, as of now, are Rs. 2000, Rs. 500 & Rs. 100. Rule 5(b) of the Investigation of High Quality Counterfeit Indian Currency Rules, 2013, clearly states that, “the seized counterfeit currency includes any one of the three highest denominations issued by the Reserve Bank of India, and in circulation at such point of time.” It is clear that the demonetization

of the old Rs. 1000 denomination notes, replacement of old Rs. 500 denomination notes and introduction of new Rs. 2000 denomination notes will have no bearing, as such, on the existing legal regime.

**7.3.16 Digital Evidence & its Certification:** The certification as warranted under section 65-B of the Indian Evidence Act, 1872, should be obtained, in case, any evidence is collected from a computer system. A sample of the Certificate 65-B is provided as Annexure-D in this booklet.

**7.3.17 Circumstantial Evidence:** Circumstantial evidence should be obtained in the form of oral evidence as well as documentary evidence, e.g., the CDRs of the mobile phone of the accused person showing him to be present at the place of seizure of FICN/point of procurement of FICN and transportation thereof – the account statement showing the gang members depositing money as pecuniary benefits drawn out of the sale of FICN, the statement of independent witnesses establishing the travel and presence of the accused in a particular area on a particular date, and so on.

**7.3.18 Approver:** Depending upon the role of the accused persons and the confessions made, a conscious decision may be taken to make one or more accused person (s) as approvers.

**7.3.19 NBWs, RNs & LOCs:** Efforts should be made to unearth the role of all the gang members in the conspiracy to destabilise the monetary stability of India. The process of issuing non-bailable warrants, RNs and LOCs should be initiated to compel the accused to join the investigation. Proposal for confiscation of the Passport should also be initiated, in case, the accused has obtained one and there is likelihood that he may flee the country.

**7.3.20 LR/MLAT:** In case, evidence relevant to a particular case is available in a place outside India, LR/MLAT request should be sent to the concerned country for collection of the same.

**7.3.21 Technical Investigation:** Technical evidence plays an important role in linking the criminal with the crime. Analysis of technical inputs, reveals vital information as the accused and suspects are extremely mobile these days.

ii) Forensic examination of seized digital devices and scrutiny of the mirror image of cell phone data can provide a whole range of information about the contacts, text messages forwarded or received, downloaded pictures, videos and so on, revealing the movement of the accused, association, planning, conspiracy and execution of the crime, thus enabling the investigator to collect more evidence for strengthening the case.

**7.3.22 Technical Surveillance – Legal Provisions:** Phone numbers of the accused persons and suspects, found during the investigation, can be put on interception by the technical surveillance unit having the required facilities, if request of the IO / CIO is received through the supervisory officer. A mobile number may be put on TS (Technical Surveillance) for a maximum period of 180 days. The Designated Officer in the CPO / state police has to arrange authorisation for legal interception, duly following the laid down procedure, as available in the form of SOP circulated by the MHA. A written order of the Competent Authority (the Union Home Secretary for CPOs / Home Department for the State Police) must be obtained. Relevant contents of intercepted voice may be used, both for the purpose comparison, by the forensic lab having the requisite facility, with the sample voice of the accused / suspect and also as evidence for corroborating the charges of planning, conspiracy or even execution of any criminal offence.

ii) Agencies may be authorised to intercept messages under transmission as per section 5(2) of the Indian Telegraph Act, 1885. Section 46 of the UA (P) Act, 1967, is the relevant provision which speaks of the admissibility of evidence collected through interception of communication. Rule 419(A) of the Indian Telegraph Rules, 1951, is also relevant. It contains directions for interception of any message or class of messages, etc. Section 69 of the IT Act, 2000, as amended in 2008, speaks of authorisation by the Central or the State Government to any of its agencies to intercept, monitor or decrypt or cause to be intercepted or monitored or decrypted any information generated, transmitted, received or stored in a computer resource, if it is necessary to do so in the interest of the security of the state, integrity of India, defence of India, for preventing incitement to commission of any cognizable offence or for investigation of any offence duly following certain legal steps / prescribed procedures.

iii) There is procedural requirement for obtaining a certificate of authentication from the person in authority, as per section 65 B(4), Indian Evidence Act, 1872, against all the intercepted material, which is normally made available in sealed storage media, like CD, pen drive, etc., to the CIO/IO of the case.

**7.3.23 CDR Analysis:** CDR of any suspected mobile number can be requisitioned through the concerned Nodal Officer of the LEAs / State Police for the purpose of examination and establishing links between the crime and the criminal. TSPs (Telecom Service Providers), in turn, make the CDRs/SDRs/CAFs available and supply it to the Nodal Officer concerned. The applicable time lines, at present, are as follows - within one hour in respect of SDR (Subscriber Data Record), in all cases of subscriber data acquired before 15 days and, in other cases, where subscriber data has been updated, 24 hours in case of subscriber data acquired within 15 days.



Again, CDR upto 6 months old has to be provided within 12 hours and CDRs more than 6 months old within 24 hours. Similarly, copy of CAF (Customer Application Form) has to be provided within one hour as per the time line prescribed by the DoT (Department of Telecommunication).

ii) Similar practice can be adopted in case of CDRs to be produced as evidence in the court of law by the IOs, as already mentioned, in respect of voice clips or extracts of voice clips of a particular cell number that has been placed under lawful interception. It should be borne in mind that no CDR older than one year is supposed to be provided by the TSPs. In case of procurement of CDR, a certificate u/s 65(B) of the Indian Evidence Act has to be obtained from the TSPs by giving a requisition for the purpose of authenticity.

**7.3.24 Evidence Chart:** After completion of the investigation, an evidence chart should be prepared, describing the evidence available against each accused.

## THE INVESTIGATION OF HIGH QUALITY COUNTERFEIT INDIAN CURRENCY OFFENCES RULES, 2013.

1.1 The salient features, of the rules are that once the IO gets the report from the examiner/expert regarding the seized FICN confirming it to be of High Quality, he should prepare a report of the facts and circumstances leading to the seizure of the High Quality FICN and submit the same to the Superintendent of Police concerned who shall go through the same and, if satisfied, that the act of the accused and his associates amounts to an attempt to damage the monetary stability of India, he may order application of the provisions of sub-clause (iiia) of clause (a) of sub-section (1) of section 15 read with section 16. The rules framed, as such, are reproduced below:-

*In exercise of the powers conferred by sub-section (1) and clause (f) of sub-section (2) of section 52 of the Unlawful Activities (Prevention) Act, 1967(37 of 1967), the Central Government hereby makes the following rules, namely-*

**1. Short title and commencement –**

(1) These rules may be called the INVESTIGATION OF HIGH QUALITY COUNTERFEIT INDIAN CURRENCY OFFENCES RULES, 2013.

(2) They shall come into force on the date of their publication in the official Gazette.

**2. Definitions –** (1) In these rules, unless the context otherwise requires,-

(a) “Act” means the Unlawful Activities (Prevention) Act, 1967

(37 of 1967);

(b) “Code” means the Code of Criminal Procedure, 1973 (2 of 1974);

(c) “Face value” means the arithmetic computation of value printed on the seized counterfeit notes;

(d) “Section” means section of the Act.

(2) Words and expressions used herein and not defined in these rules, but defined in the Act, shall have the meanings respectively assigned to them in the Act.

**3. Forensic determination of high quality counterfeit Indian paper currency-** No Investigation Officer shall apply the provisions of sub-clause (iii-a) of clause (a) of sub-section (1) of section 15 read with section 16 unless he obtains a report of the authorised or notified forensic laboratory in respect of the seized currency.

4. **Notification of Forensic Authority-** For the purposes of section 15, the following shall be authorised or notified forensic authorities, namely:-

- (a) Laboratories under the Bharatiya Reserve Bank Note Mudran Private Limited or Security Printing and Minting Corporation of India Limited.
- (b) Forensic Laboratories under the Government of India and the State Governments;
- (c) Any other establishment having necessary facilities and trained personnel so notified by the Central Government from time to time.

5. **Damage to the monetary stability of India-** Damage to the monetary stability of India, referred to in section 15 by way of production or smuggling or circulation of high quality counterfeit Indian paper currency, shall be deemed to have been caused, if in addition to other considerations,-

- (a) seizure is of high quality counterfeit Indian currency of face value of such threshold amount as may be decided by the Central Government from time to time, not being less than rupees one lakh:

Provided that the said threshold limit shall not apply when the counterfeit Indian currency has been intercepted at the international border, international airport or Immigration Check Post;

- (b) the seized counterfeit currency includes any one of the three highest denominations issued by the Reserve Bank of India, and in circulation at such point in time.

6. **Procedure for applying the provisions of sub-clause (iii-a) of clause (a) of sub-section (1) of section 15 read with section 16.-**

(1) When a case has been registered upon seizure of currency suspected to be high quality counterfeit Indian currency, the Investigation Officer shall forthwith send the seized currency or sample thereof to the authorised or notified forensic authority and the said authority shall forward a preliminary report, as to whether the seized currency is “high quality counterfeit Indian currency” within fifteen days of receipt of such samples.

(2) The Investigating Officer shall forward the seized currency by the quickest means to the notified forensic authority, not later than forty-eight

hours of the seizure, and the notified forensic authority shall communicate the results of the examination to the requisitioning officer by the quickest possible means including e-mail or facsimile:

Provided that the preliminary report may not contain a detailed forensic report, but may restrict itself to the question of whether the key security features as specified in the Third Schedule to the Act have been imitated or compromised in the seized counterfeit currency and the complete report for the purposes of prosecution shall be provided before completion of the investigation:

Provided further that the procedure referred to in sub-rule (1), shall not preclude the continuation of investigation under any other law for the time being in force.

(3) On receipt of a positive preliminary forensic report, the Investigating Officer shall transmit the same along with a report on the facts of the seizure to the concerned Superintendent of Police or such other officer of equivalent or above rank, and if such officer is satisfied that the act amounts to an attempt to damage the monetary stability of India, he may order applying of the provisions of sub-clause (iii-a) of clause (a) of sub-section (1) of section 15 read with section 16.

(4) While determining whether the act amounts to damage or an attempt to damage the monetary stability of India, the Superintendent of Police or such officer empowered under [sub-rule (3)] shall, in addition to the conditions specified in rule 5, shall also take into account any one or more of the following, namely:

- (a) whether the accused was previously involved in a case of counterfeit currency;
- (b) whether the accused belongs to a terrorist gang or terrorist organisation;
- (c) whether the recovery of high quality counterfeit Indian currency is associated with recovery of arms, ammunition, or explosives prohibited under laws for the time being in force;
- (d) whether the high quality counterfeit Indian currency has been recovered while smuggling through international check posts or borders;
- (e) whether there is prima facie indication that the high quality counterfeit Indian currency has been produced in a foreign country;

- (f) whether the high quality counterfeit Indian currency is being produced, smuggled or circulated at the instance of a foreign country, entity, agency, or person situated abroad;
  - (g) whether complex methods have been used to smuggle or transport high quality counterfeit Indian currency, and to collect or move the proceeds of crime;
  - (h) whether the high quality counterfeit Indian currency is mixed with genuine currency in currency chest, Automated Teller Machines;
  - (l) whether the face value of high quality counterfeit Indian currency seized is extremely high, or the proceeds of crime to be generated are extremely large;
  - (j) any other circumstance that reveals that the production, smuggling or circulation of high quality counterfeit Indian currency was undertaken with the object of threatening the monetary stability of the country.
- (5) For the purpose of sub-rule (3) and sub-rule (4), the empowered officer shall, while ordering investigation, record the reasons thereof in writing.

(6) The Authority appointed under section 45 [shall take into consideration the order] under sub-rule (3), while disposing of the request of sanction for prosecution.

(7) Notwithstanding anything contained in these rules, an officer not below the rank of Inspector General of Police of States or Union Territories, Commissioner of Police of Delhi and Kolkata, Director and Inspector General of Delhi Special Police Establishment or Director General of the National Investigation Agency may order investigation under sub-clause (iii-a) of clause (a) of sub-section 15 read with section 16 under special circumstances as explained in rule 7.

**7. Investigation in special cases.-**

- (1) When any case is registered upon seizure of currency suspected to be of high quality counterfeit Indian currency, which does not conform to the conditions laid down in rule 5, but the Investigating Officer submits a report to the concerned Superintendent of Police, or such other officer of equivalent rank shall send the report thereof with his recommendations

to the authorised officer under sub-rule (7) of rule 6, who on being prima facie satisfied, shall cause the seized counterfeit currency to be sent for forensic examination, as per the procedure laid down in sub rule (1) of rule 6.

(2) On obtaining a positive forensic report, and on being convinced from the special circumstances of the case, the authorised officer under sub-rule (7) of rule 6 may proceed after recording the reasons thereof to order investigation under sub-clause (iii-a) of clause (a) of sub-section (1) of section 15 read with section 16.

8. **Review of security features.**- The Bhartiya Reserve Bank Note Mudran Private Limited, and Security Printing and Minting Corporation of India Limited, shall annually conduct a review of the counterfeit currency analysed by them during the period, and submit a report to Reserve Bank of India for recommending to the Central Government, revisions to the Third Schedule.

**THE ROLE OF RESERVE BANK OF INDIA IN DETECTION AND REPORTING OF FICN.**

1.1 The Reserve Bank of India, vide its circular, dated 16.11.2012, laid down detailed guidelines with regard to the detection and reporting mechanism for counterfeit banknotes. The said circular was revised on 27.06.2013 and again on 26.08.2015 to cope up with the fast changing scenario, with respect to detection of Counterfeit Banknotes by scheduled commercial banks and other financial institutions. The Reserve Bank of India guidelines enumerated the procedure to be followed by banks when counterfeit bank notes are detected by them. Among other issues covered by the circular, the notable ones are listed below:-

- i) Whenever a counterfeit currency note is detected by a teller, he shall impound the same and stamp it as fake.
- ii) No FIR shall be registered wherein four or less than four numbers of counterfeit currency notes are detected by a bank. However, a consolidated report of all such counterfeit currency notes detected (four or less than four in single transactions) shall be sent to the nodal Police Station by the Nodal officer of the bank concerned.
- iii) For all transactions, in which five or more counterfeit currency notes are detected, an FIR is to be registered, immediately, by the bank authorities concerned.

**DIVISION OF FICN CASES BETWEEN THE NIA & THE CBI**

1.1 The Govt. of India, demarcated the areas of investigation of FICN cases by the NIA and the CBI vide Ministry of Home Affairs Order No. 17012/97/2012/CFT, dated 30.09.2013. As per the demarcation, NIA investigates the cases of FICN circulation and seizures of the following nature:-

- I) Linked to terror financing (In India or abroad involving Indian citizen/s).
- ii) Linked with seizures of FICN made abroad involving Indian citizen/s.
- iii) Associated with seizures of weapons/explosives/narcotics drugs.
- iv) Seizure of “High Quality Counterfeit Currency” (HQCC), including that by Directorate of Revenue Intelligence (DRI), BSF, SSB or any other agency on the border and at immigration check posts where UA(P) Act has been invoked.
- v) Developed on the basis of suo-motu intelligence by NIA.
- vi) Any other case that MHA may deem fit to be entrusted.

1.2 In addition to above, the following procedure with regard to intelligence collection, collation and forensic verification & reporting, will be followed in case of seizures of FICN in India and abroad:-

- i) All matters related to intelligence collection and collation in India and abroad will be co-ordinated for member agencies by FICN Coordination Intelligence Bureau (FCORD/IB).
- ii) Officers of IB, R&AW and DRI posted abroad, in Indian Missions, and are dealing with FICN matters would communicate all related intelligence and information to FCORD, apart from their parent departments.
- iii) Samples of FICN recovered abroad may be forward by the foreign investigating agency for forensic analysis to the Indian Mission in that country. The Mission would forward the samples to FCORD, under intimation to MEA and MHA. FCORD will coordinate with the forensic laboratories and report accordingly.



**CERTIFICATE UNDER SECTION 65B OF INDIAN EVIDENCE  
ACT, 1872  
(Authenticity of Electronic Records)**

I .....(name) state that I am employed in  
.....(organization) as .....(designation).

2. I state that being employed in \_\_\_\_\_, I have personally supervised in preparation on the following electronic records as noted below, through computer terminals in my / our office, by me / our staff under my direct supervision.

- a. A DVD-R bearing no.....containing true copy of all electronic records pertaining to .....email account, original of which are available in our computers. The hash value of the contents of the DVD-R is.....
- b. A DVD-R bearing no.....containing true copy of all electronic records pertaining to .....email account, original of which are available in our computers.
- c. A computer printout numbering from page..... to .....marked as .....containing true copy of .....electronic records pertaining to .....original of which are available in our computers.

(Please note that print out of an electronic records stored in a computer is also an electronic record) (a,b,c,..... is the list all the electronic documents which are being certified and sent under this certificate. It should be clearly identifiable and therefore the DVD-R or the printout should bear a seal / handwritten note/printed note/ signature, and which should be made note of in the certificate) (Each page of printout should be carrying a seal of the office / officer sending it) (Furnishing the hash value of the contents of the record furnished is not compulsory but desirable in the certificate)

3. I further state that all the electronic records contained in digital media / print outs as noted in para 2 above are true copies made of the original electronic records maintained in our computers, in our establishment and the same have been produced using the computers in our establishment under my command identifiable as noted below:-

- a. Computer no./Computer Series/ Server no.....
- b. Printer.....
- c. ....

(Section 65B (4b) requires that the certificate should “give such particular of any device involved in the production of that electronic record as may be appropriate for the purpose of showing that the electronic record was produced by the computer” and also “describing the manner in which the electronic records were produced”)

5. In respect of the records provided above and the Information contained therein, it is further certified that:-

- a. The computer output containing the information was produced by our computers during the period over which computer was used regularly to store and/ or process information for the purposes of any activities regularly carried on over that period by our authorized employees.
- b. During the said period the information of the kind contained in the electronic record or of the kind form which the information so contained is derived was regularly fed into the computer in the ordinary course of the said activities.
- c. Throughout the material part of the said period, the computer was operating properly or, if not, then in respect of any period in which it was not operating properly or was out of operation for that part of the period, was not such as to affect the electronic record or the accuracy of its contents.
- d. The information contained in the electronic record reproduces or is derived from such information fed into computer in ordinary course of said activities.

6. This is stated to the best of my knowledge and belief.

Place

Date

Signature  
Name & Designation  
(with seal preferably)

(The marked text is only for guidance in making the certificate)