

omissions are income tax evasion, including smuggling of human beings, cigarettes, pharmaceuticals and alcohol, computer piracy, gambling, trafficking in stolen antiquities and cars. "It is true that USA, UK and Singapore have got many more violations that are considered as [predicates for a] money laundering offence," said Panda, "The Government of India too is thinking of putting some more of the (criminal) acts in the schedule. One must realise that we are only in the first stage of implementation," he added. Agrawal is also supportive: "The government has seized the problem," but the volume and complexity of transactions in India is such that the only effect may be "that the speed of its growth has been curbed."

## Notes

1. A chit fund can be used as a deposit, loan facility and contingency insurance. It is very common amongst small traders in India. A simple example will illustrate: 25 shopkeepers in a local markets contribute 1000 rupees every month for 25 months to a pool. In the first month all 25 traders may bid to take the full Rs. 25,000 at a discount. If, say, three need money, they might bid 24,000, 23,000 and 20,000.

The one who bids 20,000 will receive that sum and the remaining 5,000 will be split equally between all 25 traders. The trader who took the 20,000 will not bid for the remaining duration of the fund. The auction process repeats monthly until 25 months later the last trader receives the full 25,000.

## A war of attrition - UK assets recovery

Jane Earl, Director of the UK Assets Recovery Agency (ARA), is disappointed at the rattle from the tinbox of realised receipts. The actual sum collected through civil recovery, criminal confiscation and taxation cases in the year to 31 March 2006 totalled £4.1 million, a significant shortfall against the target range of £6-12 million. In the Agency's annual report, published last month, the director's diplomatic language does little to disguise her sense of frustration: "We continue to be beset by the time taken to litigate cases through the civil legal system and by the proper desire of respondents to defend their cases to the full." She notes that cases take approximately three years to complete. (Proceedings brought under the Director's taxation powers when there are reasonable grounds to believe that income, gain or profit has arisen from criminal conduct, are now expected to last between 18 months and 2 years.)

To a large extent resolution of these difficulties is outside the Agency's control but it has been working with the Home Office, the Department of Constitutional Affairs and the Attorney General's Office to speed matters and with some evident success. The main breakthrough came with amendments to the *Proceeds of Crime Act 2002* (POCA), enacted by the *Serious Organised Crime and Police Act 2005* (SOCPA). Perhaps the most important change, which took effect on 1 January this year, is the ability to pay respondents' legal expenses out of frozen assets in civil recovery claims, which should overcome delays associated with applications for legal aid. *Section 98(1)* of SOCPA introduced property freezing orders (PFOs) in

England, Wales and Northern Ireland (prohibitory property orders in Scotland), also on 1 January 2006. PFOs prevent those in possession of potentially recoverable property from handling their assets while investigations into its status continue. Previously, when ARA relied on an interim receiving order, it was not able to obtain further investigative orders under POCA if the property was covered by a freezing order (*Mareva* injunction) in accordance with Part 8 of the Civil Procedure Rules. In the last quarter of 2005/6 the Agency restrained UK£1,421,445 using PFOs in six cases. A further amendment, *section 99* of SOCPA, now enables the Agency to apply for payment of receivers' and external trustees' fees out of recovered assets, which means that more cases can be handled out of its baseline funding, (set at UK£15.5 million for 2006/7; total resource allocation for 2005/6 was UK£17.109 million).

The broader recovery picture is also brighter than the low receipts figure would suggest. ARA has won all legal challenges to its powers so far and it expects to obtain recovery orders for 15 cases currently before the High Court in 2006/7. It dramatically exceeded its 2005/6 target for early restraint of assets by locking UK£85.7 million against a goal of UK£25 million. As the director observed in a BBC Radio 4 interview, "That's not money that has gone away that we are not pursuing, that's all money which is being litigated through the courts as we speak." The bar has been raised accordingly and the aim over the next 12 months is to achieve early restraint - whether through freezing, a confiscation or recovery order, voluntary settlement, undertakings not to deal with assets or by issue of a tax