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Banks uncertain about recovering their dues after FEO tag on Vijay Mallya

Lenders to Vijay Mallya seem uncertain about the fate of their dues after the beleaguered liquor baron was declared a fugitive economic offender (FEO) last week.

By [Kala Vijayraghavan](#), [Joel Rebello](#), ET Bureau | Jan 09, 2019, 11:43 AM IST

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Bankers say they hold the first right on pledged shares as a charge was created while disbursing loans to Mallya and his companies. The ED is compiling a list of immovable property for confiscation.

Mumbai: Lenders to [Vijay Mallya](#) seem uncertain about the fate of their dues after the beleaguered liquor baron was declared a fugitive economic offender (FEO) last week, with provisions of the new law allowing the government and its agencies to confiscate the defaulter's assets.

Confiscation makes the seized assets the property of the government, leaving some bankers rather worried that they may lose the right to recover their loans.

Under the provisions of the Prevention of Money Laundering Act (PMLA), the properties were attached and lenders could make an application for the sale and release the assets to the new owners, helping recover their dues. The new act, however, is unclear on this provision.

"Technically speaking, the assets are confiscated by the government. In that case, we are not sure how to make our claims. Mallya is the first person to be named an FEO, and we are hoping that the government will allow us to register our claims," said a banker at a public sector lender that has loaned money to Mallya.

Top legal experts say the laws applicable under PMLA are not applicable under FEO and bankers will need further clarity before staking claim to the confiscated assets estimated at ₹12,200 crore. The lenders, as interested parties, were part of the application filed by the [Enforcement Directorate](#) (ED) to declare Mallya a fugitive. However, there is no clarity on

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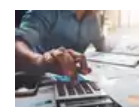
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how to make the claims.

"There is a provision under this law for interested parties like creditors and even unrelated parties, who could have purchased assets from Mallya that were later attached," said Babu Sivaprakasam, partner at Economic Laws Practice (ELP). "But we will have to wait and see how it will work. It could lead to an interesting situation where one bank must have financed a Mallya property while another must have taken the same property as collateral. Instances like this will test the law because the property will be in the custody of the government."



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Bankers said under the PMLA, the ED could sell assets where there is no charge, but banks held the right to pledged shares where a charge has already been created. Top lawyers say the new law would lead to some changes in the procedure for banks making their claims.

"The FEO is a completely different Act and banks will eventually have to file a separate application in an appropriate forum to claim their dues" said Zulfikar Memon, a criminal lawyer.

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