

Bank Frauds : Basics and Investigation

Introduction

- ▶ Banks are an essential part of the Indian economy.
- ▶ While the primary responsibility for preventing frauds lies with banks themselves.
- ▶ Banks dealing with public's money: due care and diligence
- ▶ The RBI advisory to banks for prevention of frauds.

Definition of fraud

- ▶ Fraud can loosely be defined as “any behaviour by which one person intends to gain a dishonest advantage over another“ fraud, under section 17 of the Indian contract act, 1872,
- ▶ RBI has defined the term “fraud” in its guidelines on frauds which reads as under.
- ▶ “A deliberate act of omission or commission by any person, carried out in the course of a banking transaction or in the books of accounts maintained manually or under computer system in banks, resulting into wrongful gain to any person for A temporary period or otherwise, with or without any monetary loss to the bank”.

Table 1: Number of frauds cases reported by RBI regulated entities

(No. of cases in absolute terms and amount involved in Rs. crore)

Sl. No.	Category	No. of cases	Amount involved
1	COMMERCIAL BANKS	169190	29910.12
2	NBFCs	935	154.78
3	UCBs	6345	1057.03
4	FIs	77	279.08
5	Total	176547	31401.01

Doing this Ensures the money goes to a Bank account only and not given to someone in Person

Types of frauds



- ▶ **Account opening fraud:** this involves a deposit and cashing of fraudulent cheques.
- ▶ **Cheque kiting:** is a method where by a depositor utilizes the time required for cheques to clear to obtain an unauthorized loan without any interest charge.
- ▶ **Cheque fraud:** most common cases of this kind of fraud are through stolen cheques and forged signatures.
- ▶ **Counterfeit securities:** documents, securities, bonds and certificate could be forged, duplicated, adjusted or altered and presented for loan collection.

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- ▶ **Computer fraud:** hacking, tampering with a diskette to gain access to unauthorized areas and give credit to an account for which the funds were not originally intended.
 - ▶ **Loan fraud:** when funds are lent to a non-borrowing customer or a borrowing customer that has exceeded his credit limit.
 - ▶ **Money laundering fraud:** this is a means to conceal the existence, source or use of illegal obtained money by converting the cash into untraceable transactions in banks.

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- ▶ **Letters of Credit:** Most common in international trading, these are instruments used across borders and can be forged, altered, adjusted and take longer to identify.
 - ▶ **Advanced Fees Fraud:** Popularly known as ‘419’, advanced fees fraud may involve an agent with an offer of a business proposition which would lead to access often for a long term.

Table 2: Year-wise and amount of fraud cases in the banking sector

(No. of cases in absolute terms and amount involved in Rs. crore)

Sl. No.	Year	No. of cases	Total amount
1	2009-10	24791	2037.81
2	2010- 11	19827	3832.08
3	2011- 12	14735	4491.54
4	2012- 13	13293	8646.00

Frauds in banks' advances portfolio

- ▶ Frauds related to the advances portfolio accounts for the largest Share of the total amount involved in frauds in the banking sector. (Involving amount of Rs. 50 crore and above)
- ▶ Another point that public sector banks account for a substantial chunk of the total amount involved in such cases.
- ▶ Declaration of frauds by various banks in cases of consortium/multiple financing we have on occasions observed more than 12–15 months lag in declaration.
- ▶ The large value advance related frauds, which pose a significant challenge to all stakeholders, are mainly concentrated in the public sector banks.

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- ▶ Majority of the credit related frauds are on account of deficient appraisal system, poor post disbursement supervision and inadequate.
 - ▶ Reserve bank has also advised banks to audit periodically so that cases of multiple financing may be detected in the initial stages itself.

Table 4: Bank Group wise Advance Related Frauds Rs. 1 Crore & above in value

(No. of cases in absolute terms and amount involved in Rs. Crore)

Bank Group	2009-10		2010-11		2011-12		2012-13		Cumulative total (As at end March 2013)	
	No. of cases	Amount Involved	No. of cases	Amount Involved						
Nationalised Banks including SBI Group	152	736.14	201	1820.12	228	2961.45	309	6078.43	1792	14577.28
Old Private Sector Banks	16	99.10	20	289.31	14	63.31	12	49.87	149	767.75
New Private Sector Banks	10	63.38	18	234.18	12	75.68	24	67.47	363	1068.18
Sub-total	26	162.48	38	523.49	26	138.98	36	117.34	512	1835.93
Foreign Banks	4	45.26	3	33.20	19	83.51	4	16.75	456	277.05
Grand Total	182	943.87	242	2376.81	273	3183.94	349	6212.51	2760	16690.26

Source: BIS central bankers' speeches

Expectations of the supervisor

- ▶ RBI has clearly indicated that fraud risk management, fraud monitoring and fraud investigation function must be owned by the bank's CEO, audit committee of the board.
- ▶ In respect large value frauds, the special committee of the board are CMDs, CEOs, audit committee and the special committee evolving robust fraud risk management systems.
- ▶ They are responsible for effective investigation of fraud cases and accurate reporting to appropriate regulatory and law enforcement authorities.
- ▶ Top management puts in place targeted fraud awareness training for its employees focusing on prevention and detection of fraud.

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- ▶ Audit systems prevalent in banks have not proved effective in detecting fraud cases.
 - ▶ Providing individuals a means to report suspicious activity is a critical part of an anti-fraud program.
 - ▶ A system of protected disclosure scheme has been evolved which is regulated by CVC in case of public sector banks.

Investigation of Bank Frauds

- ▶ **Target:** Minimize Losses, Least Adverse Publicity, Preserving of material Evidence, Effective Legal Action
- ▶ **Agencies:** District Police,
CID(CB),
EoW
SFIO
CBI (fraud amount more than 3 crores in Public Sector Banks)

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- ▶ **Important Steps in investigation:**
 - ▶ Preliminary Enquiry (if required, permitted in SC judgment of *Lalita Kumari*) to ascertain cognizable offence, N.I Act, Civil matter?
 - ▶ FIR : Proper drafting is key,(Bhajan Lal case) moneyed suspects.
 - ▶ Understand the banking methodology, co-opt experts(Satyam case)
 - ▶ Searches , collection of documents including hard disks(proper custody , 65B I. EV.Act, 2A Bankers Books of Evidence Act), imaging of hard disk.
 - ▶ *Contd...*

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- ▶ Motivate the witnesses with the help of bank
 - ▶ Examine witnesses showing original documents
 - ▶ Arrest and seizure u/s 27 Ev.Act, LOC
 - ▶ Freeze accounts u/s 102 CrPC and inform magistrate
 - ▶ Analysis and examination of documents: CAs, FSL
 - ▶ Is there any need for Letter Rogatories?

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- ▶ Summing up evidence: FR/CS? , DE?, CVO? CBI? ED?
 - ▶ Necessary follow up action with other agency.
 - ▶ **Key of investigation**: immediate collection of documents, evidence about dishonest knowledge, *mensrea*,

Conclusion

- ▶ The impact of frauds on entities like banks, and the economic cost of frauds can be huge in terms of likely disruption, confidence in the banking system and may damage the integrity and stability of the economy.
- ▶ It can bring down banks, undermine the central bank's supervisory role and even create social unrest, discontent and political upheavals.
- ▶ The vulnerability of banks to fraud has been heightened by technological advancements in recent times.
- ▶ Challenge before investigation agencies lies in shape of capacity building, quality of investigation, support from experts.

▶ **CASES: STUDIES**



Thanks

