



ANALYZING BANK FRAUDS IN INDIA

Trends, Regulatory Gaps, And Risk Management Reforms

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Abstract : The Indian banking sector has undergone changes since the liberalization of the economy in 1991. Although the banking sector is generally adequately regulated and supervised, the sector faces its own challenges in terms of ethical practices, financial distress, and corporate governance. This has been taken up by a complete rise of fraud cases, particularly in the last two decades, which have threatened the stability of the financial institutions. The paper is a comprehensive study into the emerging trends in bank frauds of India from 2004-05 to 2022-23, with prime focus on the prominent scandals such as the Vijay Mallya Fraud Case, Nirav Modi scam, Winsome Diamond Fraud, Sterling Biotech Fraud, etc. It attempts to undertake a critical analysis of the regulatory framework governing the banking sector and identifies some major lacunae that have contributed to the growth of fraudulent activities. The paper, informed by data from the Reserve Bank of India and supported by a scrutiny of extant risk management practices, highlights certain systemic vulnerabilities and recommends a set of sound reforms in pursuit of constructing superior fraud detection, prevention, and mitigation mechanisms. The finding of this study, therefore, has brought into sharper focus the need for increased regulatory oversight, better internal controls, and even advanced technological solutions to ensure security in the Indian banking ecosystem. This paper deals with some current discussions on financial security and reform in banking law and offers some pragmatic solutions to reduce future risks.

IndexTerms - Banking frauds, Financial Security, Banking law reform, Reserve Bank of India.

INTRODUCTION

"Fraud and deceit are anxious for your money. Be informed and prudent."

— John Andreas Widtsoe

In today's world, which is changing with every minute, banking fraud has turned out to be a very real imminent threat not only to individual institutions but also to the general economy as a whole. While modern technologies increasingly pervade banking operations and the growing interconnectedness of global financial systems, fraudulent exploits have become more attainable. These frauds are important, not only in terms of immediate financial loss but also regarding the integrity of financial institutions, loss of public confidence, and possibly even the effect on national economies. It is neither a local issue nor an isolated one; bank fraud is a national problem involving greater ramifications. High-profile fraud cases, like the Nirav Modi scam, have necessitated the need for appropriate fraud detection and prevention mechanisms at the earliest. The consequences of such frauds have been multidimensional: financial losses, loss of institutional reputations, and erosion of consumer confidence in the banking system. The annual report of RBI 2021 states that frauds detected during the period FY 2020-21 have declined by 15 percent in numbers and 25 percent in value compared to the previous FY 2019-20. According to reports, Indian banks reported 3,67,845 fraud cases involving nearly Rs.5.74 lakh crores; out of this, a fraud amount of Rs.75,912 crores alone comes from eight individual corporate accounts. Thus, addressing these issues is of high relevance with regard to economic stability and also to the goals of providing a safe, reliable financial environment.

LITERATURE REVIEW

The Reserve Bank of India, the regulatory authority for banks in India, defines fraud as "an act of omission or a commission by an individual either singly or in collusion with other/s, which is perpetrated during banking transaction or in respect of banker's records, documents, etc., whether manual or computerized, causing wrongful gain to self or any other person either with or without causing a loss to the bank."¹ The Basel Committee 2006 defines fraud as losses due to internal process failure, people, systems, or external events. Lord Herschell in the case *Derry v. Peek*² explained that fraud means a false statement made by one who does not believe it to be true, made recklessly without caring whether it be true or false, though in fact true. At the close of the arguments, Herschell summed up that a statement made by a man who does not believe it to be true amounts to fraudulent misrepresentation.

¹ https://rbi.org.in/scripts/BS_SpeechesView.aspx?Id=826

² *Derry v Peek* (1889) 14 App Cas 337

Swain and Pani (2016) conducted a trend analysis of fraud in the Indian banking sector and found that as a result of inefficiency and inexperience within the staff, many banks compromised on KYC norms. They also mentioned innovation in the banking sector, which has created further challenges. Bhasin (2016), through a survey conducted in 2012-13, presented data to show that banks have yet to institute a zero-tolerance policy for fraud. Many banks have not adhered to national banking regulations regarding the operation of passbook accounts, cheques, interbank, intra-bank accounts monitoring system, and deposit accounts management. The survey also found that the junior bankers know little about frauds and central bank instructions as compared to middle and senior managers.

In their interview-based study related to banking fraud, Singh, T., & Nayak, S. (2015) underlined some unethical practices predominant in the financial industry. The fact that today's financial institutions are too big, too complicated, and truly global is adding to unethical factors as far as a single prevailing culture is concerned. Many dealings in finances remain faceless and, as such, result in unethical behaviour. It is suggested that ethical codes must permeate the entire financial sector with the blacklisting of practitioners involved in unethical practices.

Khanna, A., & Arora, B. (2009) looked into the causes of banking fraud and the status of implementation of security controls in Indian banks. They showed the variable adherence of employees to guidelines set out by the central bank and, therefore, the need for experience and training to prevent fraud. Kundu and Rao (2014) reported that the majority of bank frauds do not come to the surface out of fear of loss of reputation among banks. The causative factors identified include ignorance on the part of employees, pressures in the situation, disposition toward fraud, and delays in detection and reporting.

BANK FRAUD AND ITS COMPONENTS

Bank fraud is usually an intentional and deceitful act conducted for the reasons of achieving improper or unlawful gain within a bank institution by customers as well as stakeholders involved. This leads to massive loss, lessened confidence in those customers, damage to reputation, undermining of stability within the financial system, and also damages the integrity in the economy. Knowing the elements of fraud will be able to tackle effectively the detection, prevention, and mitigation of fraud. Any fraudulent act committed by a bank employee or in conspiracy with a borrower usually involves two essential factors: one subjective, the intent to defraud, and the other objective, the opportunity to defraud. Banking systems should be designed in such a way that even if the intentions of a person are not beyond reproach, no opportunities for fraud could be availed. Analyses of a number of bank frauds reveal that, broadly speaking, there are four major factors contributing to these: involvement and initiative of bank staff operating singly or with outsiders; incompetence or negligence of staff members in terms of compliance with rules, guidelines, and laid-down procedures; duping of banks by outsiders with check, draft, and other similar forms of manipulations and forgery; and recently, a nexus comprising businessmen, top bank management, bureaucrats, and powerful politicians who, through rule bending and law breaking and undermining principles of banking, connive and collaborate to cheat the banks.

MODUS OPERANDI OF MAJOR FRAUD CASES

With increased digital transactions in India, financial scams have also risen. On an average, the country reported 229 banking frauds per day in fiscal 2020-21³. In all, 83,638 incidents of banking fraud were reported and involved Rs 1.38 lakh crore. However, only Rs 1,031.31 crore recovery has been made so far. It is a marginal rise from the previous FY20 when 84,540 scams were reported, with a total implicated amount of Rs 1.86 lakh crore, and Rs 16,197 crore were recovered.

1. Rotomac Pen Scam

The company was a manufacturer of pens, and there were several loans taken by the firm from different banks. Its account was turned as a Non-Performing Asset in 2015 itself. The fraud also was reported in the same year and the amount involved was Rs. 3,695 crores. During investigation, the funds were found diverted; whereas the firm was sanctioned packing credit, no exports were made as required. While the causes of the fraud were many, suffice it to say it was due to inadequate post-sanction monitoring and lapses in internal controls regarding appraisal and oversight within the banks. The prime perpetrator identified was the customer, Vikram Kothari⁴.

2. Winsome Diamond Fraud

In 2016, a fraud of Rs. 6,500 crores was reported in Winsome Diamond, owned by Jatin Mehta. The firm drew loans from various banks in the form of letters of credit, among others. It incurred huge losses in commodity trading and failed to return the loans availed of. The modus operandi was to divert around 80% of the sanctioned loan amount for personal purposes by raising fake invoices. This has happened as a result of the bank's inadequate monitoring mechanism post-sanction and high sectoral concentration. The main accused behind this fraud case is Jatin Mehta.

3. Vijay Mallya Fraud Case

The famous businessman, Vijay Mallya, who had his reputation based on the brewery business and later on Kingfisher airline, has his firm involved in major banking fraud. His firm borrowed money from 17 different banks, wherein State Bank of India acted as the largest lender, and public sector banks gave the majority advances. The fraud was reported in the year 2016 and the estimated amount of fraud was Rs. 9,000 crores. The modus operandi mainly adopted was diversion of funds, wherein the company utilized bank loans for purposes other than those for which they were availed. The firm was unable to return the advances on account of losses sustained in the airline's business and had leveraged political influence to secure loans beyond its repayment capacity. This

³ Business Today Desk. (2022, January 22). India saw 229 banking frauds per day in FY21, less than 1% amount recovered. Business Today. <https://www.businesstoday.in/union-budget-2022/banking/story/india-saw-229-banking-frauds-per-day-in-fy21-less-than-1-amount-recovered-315685-2021-12-15#ssologin=1>

⁴ Agencies. (2018, February 20). Rotomac Pens fraud: How Vikram Kothari conned 7 banks; FIR details revealed. www.business-standard.com. https://www.business-standard.com/article/finance/rotomac-pens-fraud-how-vikram-kothari-conned-7-banks-fir-details-revealed-118022000300_1.html

was attributed to the lapses in effective internal controls within the banks such as improper appraisal and monitoring coupled with a lack of an effective fraud management strategy. There was also a high concentration of advances in one sector. The perpetrators were Vijay Mallya, who had sanctioned amounts with the intent of misusing such by raising fake invoices⁵.

4. Sterling Biotech Fraud

The Gujarat-based company is engaged in the manufacturing of pharmaceuticals and had availed loans from different banks, with the erstwhile Andhra Bank being the major lender. In 2017, this firm reported a fraud of Rs. 16,000 crores. The modus operandi here was one big siphoning-off operation wherein investigations showed that the loan proceeds were diverted to support their oil business by creating several shell companies. Lack of effective post-sanction monitoring and internal controls' lapses in the banks, such as ineffective appraisal and supervision, gave rise to this fraud. It was recorded that the fraud was committed by the customers of the firm, namely Nitish and Chetan Sandesara.

5. Kanishk Gold Bank Fraud

The company was mainly involved in the manufacture of jewelry and supplied its products to retail outlets. The company had obtained loans from 14 banks from 2008. The account turned NPA as there was no repayment, and when the asset valuation was done after declaring NPA, it was only one-fifth of the declared value of the assets. The fraud was detected in 2017 involving a total amount of Rs. 825 crores. The modus operandi was diversion of funds and availing multiple credit limits through presentation of forged and fabricated financial statements. The causes of the fraud included improper post-sanction monitoring at the banks, weaknesses in internal controls at the banks in the form of improper appraisal and monitoring, and improper internal auditing at the banks. In this fraud, the customers of the firm were found to be the fraudsters. Their names were Bhoopesh Jain and Neeta Jain.

6. Nirav Modi Fraud

Nirav Modi is a big diamantaire who took credit for his diamond imports on the basis of a spate of fraudulent letters of undertakings to the Punjab National Bank worth Rs. 11,400 crores. The total amount of fraud, which surfaced in 2018, was Rs. 14,000 crores. Modi, over six years, was doled out with fraudulent letters of undertakings as a result of collusion between him and some bank officials. The significant causes of the fraud are lapses in internal controls within the bank, which especially included inadequate audit and inspection mechanism and non-implementation of guidelines of vigilance department, lack of technological measures for fraud detection, and high concentration of the bank's advances portfolio in one sector, mainly concentrated in one branch. Both Nirav Modi, the customer, and the bank officials involved were the perpetrators of this fraud⁶.

7. Videocon Case

In the year 2019, a loan of Rs 3,250 crore was sanctioned to Videocon, a reputed company, when Chanda Kochhar was MD & CEO of ICICI Bank. Later, the account turned into a non-performing asset. Thereafter, a fraud in the amount of approximately Rs 65 crore received by a company owned by Chanda Kochhar's husband from Videocon subsequent to loan sanction, prima facie, indicated undue favour in the matter. The causes of the fraud were in-effective post-sanction monitoring, lapses in internal controls like improper appraisal and monitoring, and a deficiency in ethical conduct among the staff. The perpetrators were identified as bank staff, including Chanda Kochhar, then- MD & CEO of ICICI Bank, and the owner of Videocon, Venugopal⁷.

8. ABG Shipyard Fraud

The company in question was one of the major shipbuilding centers operational since 2005 and had taken loans from as many as 28 banks. It did not pay its dues since the year 2013. The firm used its huge market standing to repeatedly get loans. In the year 2020, fraud for the amount of Rs. 22,842 crores was reported. A forensic audit showed that huge siphoning of funds was part of the fraud. Intrinsic factors included insufficient monitoring post-sanction, failure of internal controls that included improper appraisal and oversight at banks, and high sector concentration in the advances portfolio of the bank. The customer, R. Agarwal, was identified to be the principal perpetrator of this fraud.

9. Bank of Maharashtra scam

It was alleged that during 2012-2014, the Bank of Maharashtra sanctioned different credit facilities to the drivers of Siddhi Vinayak Logistics Limited without their knowledge. Money was misutilized, in as much as, it was not dispersed for the purposes for which loan was granted. The CBI arrested Padmakar Deshpande, an officer of Bank of Maharashtra, and a director of Siddhi Vinayak Logistics Limited, a Surat-based private logistics company, in connection with Rs 836-crore fraud case⁸.

⁵ Kingfisher Airlines case: Vijay Mallya mocks banks for saying he still owes them money. (2021, July 30). economictimes.indiatimes.com.

⁶ BusinessToday.In. (2018, March 15). Nirav Modi case: How PNB was defrauded of Rs 11,400 crore. Business Today. <https://www.businesstoday.in/industry/banks/story/nirav-modi-case-pnb-fraud-11400-crore-scam-ed-cbi-raid-101200-2018-02-15>

⁷ Sen, M. (2021, March 25). ICICI-Videocon scam: Deepak Kochhar, husband of ex-ICICI Bank CEO Chanda Kochhar, gets bail. Mint. <https://www.livemint.com/news/india/icicivideocon-case-deepak-kochhar-husband-of-chanda-kochhar-gets-bail-1616655710476.html>

⁸ Express News Service (22 July, 2017). Bank of Maharashtra officer arrested over 'Rs 836-crore fraud'. Indian Express. <https://indianexpress.com/article/cities/pune/bank-of-maharashtra-officer-arrested-over-rs-836-crore-fraud-4761756/>

10. Syndicate Bank Scam

Nine accused, including the former Chief Executive Officer of Syndicate Bank, were arrested for allegedly opening 386 accounts across three Syndicate Bank branches in Rajasthan, on suspicion of cheating. The police claimed that the nine accused had cheated the bank of Rs. 1,000 crore by using forged cheques, letters of credit, and life insurance policies⁹.

11. PMC scam

In September 2019, the Reserve Bank of India announced that PMC Bank had allegedly created fictitious accounts to conceal around Rs 4,355 crore of loans granted to Housing Development and Infrastructure Limited, which was on the verge of bankruptcy at that time¹⁰.

12. ABG Shipyard scam

Interestingly, ABG Shipyard in 2001 is said to have received loans from a consortium of banks led by ICICI Bank and IDBI Bank to which SBI joined later. The company has been accused of embezzling Rs 22,842 crore in a period of five years. The CBI reported that the account of ABG Shipyard was classified as NPA in 2013¹¹.

13. Bank of Baroda foreign exchange scam

The Bank of Baroda foreign exchange scam involved washing off money and sending money illicitly from abroad using loopholes in the remittance laws. These were camouflaged as advance payments to the merchants and money was sent to Hong Kong. A range of employees from Oriental Bank of Commerce to Bank of Baroda were involved in the Rs 6,000 crore scandal¹².

14. Bribe for Loan scam

UCO Bank, Bank of Maharashtra and Canara Bank were involved in the Rs 8,000 crore bribe-for-loan scam. The CBI arrested a Chartered Accountant, Pawan Bansal, for allegedly masterminding deals between Syndicate Bank and large companies to obtain huge loans. The deal was in its systematic operation involving paying bribes to chiefs of public sector banks and financial institutions to sanction loans. Bansal had brokered loans of over Rs 8,000 crore with those banks¹³.

IMPACT AND MAGNITUDE OF BANK FRAUDS

Bank frauds affect the banking system in two ways and the economy as a whole. Bank fraud, economically speaking, inflicts heavy financial loss on banks, thereby weakening their profitability and stability. The effects normally include loss of investors' confidence coupled with heightened costs towards fraud recovery and litigation costs. Furthermore, these chronic frauds reduce the soundness of the general financial system and may thereby increase regulatory scrutiny and operational costs for all banks. The after-effect is also fanning out to the economy as a whole since such financial instability causes the dampening of economic growth and probable discouragement of investors.

Bank frauds have an equally strong impact on the issue of consumer trust. If banks get frauded, then that generally leads to a loss in public confidence regarding the safety and soundness of such institutions. The customers may get scared about depositing their money or doing transactions; it reduces customer loyalty and hampers the corporate image. These frauds, when going through legal and regulatory implications, may heavily fine the banks; by doing so, this increases compliance costs, loss of bank reputation, etc. In all, bank frauds not only bring direct financial losses but also erode trust and stability in the financial system.

FACTORS CAUSING BANK FRAUDS

Bank frauds mostly result from internal and external factors that result in a loss of credibility of financial institutions. Internal control failures due to supervision, internal auditing processes, and operational lapses in procedures provide opportunities for fraud to take place. For example, inadequate segregation of duties and inefficient monitoring systems sometimes facilitate fraudulent actions by employees by taking advantage of these loopholes. Other technological vulnerabilities in their security systems, apart from lax cybersecurity practices, also tend to expose the banks to cyber frauds such as phishing and hacking. The rapidly changing nature of financial technologies and their further complexity exacerbate the fraud prevention process since it becomes difficult for banks to keep pace with advanced fraudulent schemes.

External factors also play an important role in facilitating bank frauds. Regulatory and supervisory gaps make banks particularly vulnerable when the existing laws and guidelines are not effectively enforced or updated to deal with emerging threats. Besides, economic pressures and competitive practices at times lead to complacency or deliberate wrongdoing on the part of persons and

⁹ CBI files charge sheet in Rs 1,000 crore Syndicate Bank scam. (2016, June 14). The Economic Times. <https://economictimes.indiatimes.com/news/politics-and-nation/cbi-files-charge-sheet-in-rs-1000-crore-syndicate-bank-scam/articleshow/52749573.cms?from=mdr>

¹⁰ India TV Business Desk (02 October, 2019) PMC Bank used more than 21,000 fake accounts to hide loans: Report. India TV News. <https://www.indiatvnews.com/business/news-pmc-bank-crisis-punjab-and-maharashtra-co-operative-bank-21-000-fake-accounts-to-hide-loans-553872>

¹¹ TIMESOFINDIA.COM. (2022, February 16). Explained: What the SBI, ABG Shipyard Rs 22,892 crore controversy is all about. The Times of India. <https://timesofindia.indiatimes.com/business/india-business/explained-what-the-sbi-abg-shipyard-rs-22892-crore-controversy-is-all-about/articleshow/89607587.cms>

¹² Asthana, S. (2015, October 15). 5 things to know about the Bank of Baroda forex scam. www.business-standard.com. https://www.business-standard.com/article/companies/5-things-to-know-about-the-bank-of-baroda-forex-scam-115101500367_1.html

¹³ Bhalla, A. (2014, August 12). Bribe-for-loan scam scales Rs 8,000 crore peak. Business Today. <https://www.businesstoday.in/latest/corporate/story/syndicate-bank-scam-net-widens-cbi-uncovers-rs-8000-cr-scam-136947-2014-08-12>

institutions which bypass controls to achieve undue personal or financial gain. The mitigating and preventive strategy for bank frauds should be multifaceted, including strong internal controls, revision in regulatory frameworks, and usage of advanced fraud detection technologies.

REGULATORY FRAMEWORK AND VIEWS

The regulatory framework relating to banking fraud in India essentially comprises various circulars and guidelines issued by the RBI. The RBI has, in fact, laid down comprehensive measures as regards monitoring and mitigating fraud, including mandatory reporting, internal control systems, and periodic audits. Despite that, there are significant gaps in the regulatory framework. Practices regarding the implementation of guidelines and their adherence vary from bank to bank, and not all of them show full compliance with the regulations of RBI. This creates an asymmetry in the response to frauds in different banking institutions.

The existing regulations may not be adequate to deal with the changing face of banking frauds, more so those frauds which are related to advanced technologies and cyber threats. Most often, the rapid changes in financial technologies run ahead of the actual regulatory mechanism. There is also a need for more robust mechanisms for inter-agency cooperation and data sharing to enhance the effectiveness of fraud detection and prevention. Indeed, addressing these areas would contribute to the bridging of the regulatory gaps that exist and further improve the resilience of the banking sector against fraud.

BANK OPERATIONAL RISK ARCHITECTURE DEFICIENCIES

1. **Inadequate Risk Assessment Frameworks:** Most of the banks have not put in place adequate risk assessment frameworks where the potential fraud risk is suitably identified and assessed. Current procedures in most cases do not adapt to the emerging tactics of fraud.
2. **Weak Internal Controls:** Internal controls in some banks are weak and can easily be manipulated to perpetrate fraudulent activities. Segregation of duties is lame, coupled with inadequate supervision.
3. **Limited Use of Technology:** Most of the banks don't use advanced technologies for fraud detection, such as artificial intelligence and machine learning. The inability of the traditional system to detect in an effective and clear way the complex patterns of fraud or abnormality.
4. **Lack of Training among Employees:** Employees are not well trained to identify or report fraud incidents. Because of this unawareness, the detection turns poor, leading to slow responsive actions against fraudulent activities.
5. **Inadequate Channels of Communication:** In banks, there is usually a deficiency regarding proper or effective channels of reporting suspicious activities. This itself might lead to delay in fraud detection and mitigation.
6. **Lack of Consistency in Fraud Prevention Application:** The application of fraud prevention may vary from branch to branch, making fraud protection inconsistent throughout an organization, thus increasing the risk.
7. **Gaps in Regulatory Compliance:** Banks find it tough to comply with regulatory norms and guidelines that are in a state of constant evolution. Poor compliance with regulatory norms and requirements heightens the prospect of operational risk.
8. **Inadequate Fraud Monitoring Systems:** Fraud monitoring systems may not be able to monitor operations in real time. Consequently, fraudulent activities may not be detected and tackled on time.
9. **Unsatisfactory Incident Response Planning:** The reason is that most of the banks either have a weak or old incident response plan which is causing them to handle the fraud incident less efficiently and minimizing its impacts.

AREAS OF IMPROVEMENT

- A. Deploy robust and dynamic risk assessment frameworks.
- B. Strengthen internal controls by providing enhanced supervision and segregation of duties.
- C. Provide investment in better technology for proactive fraud detection capabilities.
- D. Provide increased training and awareness programs for employees.
- E. Establish clear and efficient reporting channels for fraud incidents.
- F. Ensure fraud prevention measures are uniformly implemented in the organization.
- G. Improve compliance with the regulatory environment and observe changing norms and standards.
- H. Enhance the fraud monitoring systems towards real-time detection.
- I. Expand incident response plans that are regularly updated.

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