

A Descriptive Study on Frauds in Various Banking Operations of India

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ABSTRACT

After liberalisation of economy in 1991, Indian banking system has faced several growth and challenges. Although Indian banking system is well regulated, yet this sector suffers from many challenges and frauds in the present time. Banking fraud is a criminal act. Bank fraud is considered to be a white-collar crime. These types of frauds are now becoming more and more frequent and can be considered as one of the main reasons for damaging the economy of the country. Over the years, frauds in the sector have become more sophisticated and have extended to technology based services offered to customers. This paper focus on frauds in various banking operations based on the date of reporting and Frauds in Various Banking Operations Based on the Date of Occurrence during the period 2014-15 to 2018-19.

Keywords: Banking frauds, Indian banking system, advances, technology.

INTRODUCTION

Banking is the lifeblood of every nation and plays a very vital role in activating and sustaining the economic growth. Banks provide the facility of deposits, withdrawals, transfer of money borrowing facilities and many more other financial facilities. Banks provide advances to customers, firms, individuals, corporate for availing their financial needs such as loan for house, conveyance or loan for working capital facilities, expansion of business etc. There are number of reasons for which bank provides the imprest facility for the betterment of the individuals, business and economy but the persons with mala fide intentions divert the money to the purposes other than the verbally expressed and cause wrongful losses to banks & victims.

Fraud can loosely be defined as "any behaviour by which one person intends to gain a dishonest advantage over another". In other words, fraud is an act or omission which is intended to cause wrongful gain to one person and wrongful loss to the other, either by way of concealment of facts or otherwise. Fraud, under Section 17 of the Indian Contract Act, 1872, includes any of the following acts committed by a party to a contract, or with his connivance, or by his agents, with intent to deceive another party thereto or his agent, or to induce him to enter into the contract:

- The suggestion as a fact, of that which is not true, by one who does not believe it to be true;
- The active concealment of a fact by one having knowledge or belief of the fact;
- A promise made without any intention of performing it;
- Any other act fitted to deceive;
- Any such act or omission as the law specially declares to be fraudulent.

During last few years, financial frauds have been regularly reported in India. Though banking frauds in India have often been treated as cost of doing business, post liberalisation the frequency, complexity and cost of banking frauds have increased

manifold resulting in a very serious cause of concern for regulators, such as the Reserve Bank of India (RBI). RBI had, *per se*, not defined the term “fraud” in its guidelines on Frauds. A definition of fraud was, however, suggested in the context of electronic banking in the Report of RBI Working Group on Information Security, Electronic Banking, Technology Risk Management and Cyber 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”.

Fraud is the critical activity that affects the economy and the nations. Fraud describes any products or system as unauthorized use. Fraud is described by the use of unlawful products which is carried out by the information of credits and acquired deliberately without charging for products. A fraud is achieved based on telecommunications, computer intrusion, money laundering, credit cards, and medical and scientific detection and so on. During past few years in India, the annual increase was more than 40% have filled with hacking, credit cards, publication of absence contents and banking fraud.

The term 'Banking Fraud' or 'bank fraud' as it is used interchangeably, has received very few attempts at its definition, largely due to the reason that Banking Frauds as such have not been recognised by none of the market regulators, legislators or experts of the field as a distinct and imminent problem. This casual attitude towards the problem of Banking Fraud has deprived the issue of Banking Fraud of the due attention of theorists as well.

In the *Black's Law Dictionary*, the meaning the term of 'bank fraud' is adopted from an American Legislation as, "The criminal offense of knowingly executing or attempting to execute, a scheme or artifice to defraud a financial institution or to obtain property owned by or under the control of a financial institution, by means of false or fraudulent pretenses, representations, or promises.

Various authors on banking including even those who are writing books distinctively on the issue of Banking Frauds have not attempted to define Banking Fraud, rather have tried to give the broad outline of the Banking Frauds by enumerating different instances of frauds in banking sector.

The Indian legislature has attempted the definition of 'bank fraud' while proposing the Criminal Law (Second Amendment) Bill, 1995 in the Lok Sabha for creation of 'Bank Frauds' as a separate offence under the Indian Penal Code, 1860, as follows,

"Whoever dishonestly or fraudulently (a) removes or conceals or transfers or causes to be transferred any property in his custody or control which is subject to any form of security interest created in favour of any bank without the express or implied consent or concurrence of such banks or he furnishes any statement which is false in any material particular to any bank concerning any property which is in his custody or control and which is either subject to any form or security interest in favour of any bank or which is offered by him to any bank to be made subject to any security interest in favour of the bank, shall be punished with imprisonment of either description which may extend to two years or with fine or both".

This proposed legislative definition of 'bank fraud' dealt solely with the frauds with respect to security interest, which is definitely a serious fraud causing huge losses to banks. However, this proposed definition lacked the comprehensiveness or even the scope for inclusion of various dimensions of Banking Frauds which is desired of an evolving definition.

TYPES OF BANK FRAUDS

Banking frauds may be classified as:-

- Fraud by Insiders
- Fraud by Outsiders

Fraud by Insiders

It includes:-

- Purchased Bill Frauds
- Loan Fraud
- Fraud in Borrower's Account
- Fraud in Foreign Exchange Areas
- Frauds in Computerized Environment
- Deposit Account Fraud
- Frauds in Inter-Branch and Inter-Bank Transactions

Fraud by Outsiders

It includes:-

- Booster Checks
- Bill Discounting Frauds
- Forgery and Altered Checks
- Stolen Check Frauds
- Accounting Fraud
- Credit Card Frauds

LITERATURE REVIEW

The first most significant and noticeable acknowledgement on Banking Frauds in India that has been found while reviewing the available literature is, the "Banking Frauds in India" by V.R. Solanker (1937). This work shows the evidence of existence of Banking Fraud in pre-independence era, where the author highlighted the practical instances of unscrupulous cases of Banking Frauds which were identified by realizing the weaknesses in the banking practices. This work came into lime light when the Reserve Bank of India Act, 1934 was passed and subsequently the scenario of Indian banks was gradually changing to cope with the new developments after the above-mentioned legislation. The author was the internal auditor of various Indian commercial banks and visited places like Mumbai, Madras, Rangoon, Hyderabad, Karachi, Lahore etc. The author found out that the Banking Frauds are regularly occurring and also that the frauds belonging to different banks are of multifarious kinds, which had not even found mention in the press. In many cases, the details gathered were not quite clear but the accounts were sufficient to bring out the fact of irregularity in the procedure or defects of the then legal position. This book enumerates instances where many of the frauds had already been repeated. The author found remarkable resemblance in most of the frauds because of loose control, absence of system, ignorance of banking principles and unwarranted reliance on subordinate employees, and the possibility of frauds of similar nature to recur. This book mentions numerous instances of various fraudulent practices traced by desperate attempts of the customer and financial losses that had put banking institution's reputation at stake.

This observation reveals that the rapid development of banking in India had changed the face of banking institutions, but at their inception itself reporting of various instances of Banking Frauds compiled by the author, was the alarm bell for the times to come. This

work pointed out what the legal system had to face in future due to the fact of rapid occurrences of Banking Frauds. The review further reveals that the author highlighted various situations like handling cash, blank-cheque, strong room custody, advances against life policies, vouchers, custody of unused cheques, extending due dates of bills, negligence on the part of auditors, advances to companies, registering of charge on assets of companies, temporary parting with security, confirming endorsement, forged letter of credit, advances against mortgage, hundis on bogus parties, taking over account from other banks, stamps on foreign bills, opening of current account, advances related frauds, collecting of cheques, carelessness in checking of books, auditor's negligence etc. as some of the core areas which are prone to fraud.

The issue of Banking Fraud in relation to the banking system has also found a prominent place in the work of B.R. Sharma (2009, Reprint, 2012) while B.R. Sharma recommends strong research and critic in his work of Banking Frauds, Prevention and Detection, has suggested and highlighted the increasing number of Banking Frauds, which pose an imminent threat to the banking system. His book lays down, keeping in view the challenges of 21st Century that much water has flowed through the banking industry and presently the banking business is handled by computers, ATMs, EFTs, Credit Cards etc.

He emphatically mentioned that changes in the old order/manner of handling money are also bringing changes in the fraudster's mechanism. His book on "Bank Frauds" caters to the needs of changes that have taken place during recent years. The book highlighted the computer frauds, credit cards, production of bank documents, information technology, handling of bank frauds, exhaustive revision of old traditional ways of doing banking business etc. as the strength of this work. In pursuit of the goal to further address the issue of Banking Fraud to deal with present challenges, the author also highlighted the future problems and challenges of Banking Frauds. As an additional feature, the supplement containing the new law on various aspects of Banking Frauds, make it more informative for researchers. This monograph is multi-professional in nature and is written in non-technical language by addressing to all those who are concerned with the menace of Banking Frauds.

In credit of academic interest in the relation to the Banking Fraud, the work of R.P. Nainta (2005) deserves specific mention. In his work "Banking System, Frauds and Legal Control", he lays down that the India's banking system has several outstanding achievements to its credit, the most striking of which is its reach. An extensive banking system is no longer confined to metropolitan cities and towns. In fact,

Indian banks are now spread out into the remote comers of our Country. A sound banking system should possess three basic characteristics to protect depositors' interest and public faith. These are (i) a fraud-free culture (ii) a tested best practice code, and (iii) an in-house immediate grievance remedial system. All these conditions are either missing or extremely weak in India. The bank, therefore, has to ensure, at all times, that the money of the depositors is not drawn fraudulently. Time has come when the security aspects of the banks have to be dealt with on priority basis. Safety and security are primarily an attitude, awareness, and a state of mind that recognizes risk and danger and does something to reduce that risk and danger. The author in the present book proceeded cautiously through an evolutionary process of the banking system the RBI, nature of crimes in the banks, legal provisions in the regard, the methods of safety and security etc. and the emerging trends affirmatively to bring a change, transformation, or outlook in the banking system. Since the traditional banking functions are also prevailing presently but this book has critically analysed the transformation scenario and application of e-banking through technological development and expected that this academic work will encourage further research that will prove useful to meet the challenges of the time to come. R.P. Nainta's book has

exposed the sensitivity of traditional transactions in banking business and fraud thereof. In pursuit of the goal to further address the issue of Banking Fraud, the author has only given glimpses and ice-berg points to alert the readers about the challenges which will come in future because of technological development. In other words, the author has not given the detailed account critically about the plastic money and credit card, mobile and internet based banking services in banking automation system.

Keeping this in mind, the work in hand has incorporated an exhaustive scenario of the latest development though without generating any face of possible future banking trends.

The menace of Banking Fraud in relation to banking system has also found systematic treatment in the work of Rupa Mehta and Rohinton Mehta in "Credit Cards: A Legal Guide," (With special reference to Credit Card Frauds) (2009). This book has highlighted the proliferation of credit cards in day to day life. This book aims at and remains useful to the people with a wide range of backgrounds from the readers with the little prior knowledge about the Credit cards to the experts in the field. This book highlights the significance of plastic money and discusses the criteria for acceptance, credit rating, credit control techniques necessary for reasonable policy as well as for precautionary measures. Moreover, this book perhaps concentrates on types of cards, smart cards, credit rating, debt repayment assurance, model code of conduct, collections, credit card fraud and investigation and applications of laws etc as the salient features of this book. This book as a whole highlights only one segment of technological development of 21st Century i.e. credit cards, whereas the correlated development which are co-terminus are not a part of this study. Those developments include bank automation, CBS, Tele-banking, home banking, ECS, EDI, NEFT, CMP, RTGS, and numerous bank networks created for the banking sectors exclusively. This book is comprehensively providing the simplified information of technical concepts and at the same time, giving detailed account relating to credit cards. The common frauds are duly discussed and the best possible approach to identify them is the strength of this book. The book also highlighted the relevant provisions of the Negotiable Instruments Act, 1881, Indian Penal Code, 1860 and Foreign Exchange Management Act, 1999 which are discussed to give detailed account of law relating credit cards with special reference to the frauds thereof. At the very beginning of the 21st Century, "The Report of Expert Committee on Legal Aspects of Bank Frauds" (2001) was submitted to the RBI, as prepared under the Chairmanship of N.L. Mitra, covering the legal aspects of bank frauds and an illustrative legislation is proposed to be enacted to combat the financial and bank frauds. This report instead of using the connotation 'bank fraud' also used the term 'financial fraud' and provides recommendation including both the preventive and curative measures. The committee had investigated multi-dimensional aspects by considering the nature of frauds, which are continuously and regularly being reported to the authorities. The committee examined the pros and cons, and made an effort to take precautions and to eliminate this menace through legislating designs.

The unique feature of the report submitted by the committee was to highlight the weaknesses of the administration of criminal justice and to critically evaluate the existing laws dealing with the sensitive issue, predominantly outstanding. The proposal as per this report was to treat these kinds of frauds in the nature of bank fraud and financial frauds very seriously. The committee comprises of eminent persons including professors, advocates economists, senior officials of banking institutions, legal advisor, central government officials from Ministry of Finance, Central Bureau of Investigation and special invitees having expertise in this field. In view of the need to address the bank frauds the committee also considered the framework of the UK, USA and other European countries. In fact, the RBI, requested the committee to advise about its responsibility in case any bank reports to the RBI about any frauds caused. The in its report comprehensively deliberated

and discussed the dimension and typology of frauds in contractual, tortuous and criminal law sense, to find out the concept in broad sense. The committee prepared the report after various meetings and highlighted various suggestions and recommendations through proceeding to provide the constructive and preventive side of the financial management to save the system from fraud. The status report reveals that to address bank frauds, it is not only India, but also the other law countries, which are struggling to strengthen the common law system as well as the civil law system by creating the appropriate legal structure to eliminate this evil. The proposal of the committee after thorough deliberation resulted into draft which is an illustrative legislation called "The Financial Fraud (Investigation, Prosecution, Restoration, Restoration and Recovery of Property) Bill, 2001". This bill was introduced the Parliament. The proposed draft is having 23 Sections divided into four Chapters, and as a consequential effect, suggests amendment in the Indian Penal Code, 1860, Indian Evidence Act, 1872, Code of Criminal Procedure, 1973 etc.

The review of this report reveals that the committee academically as well as pragmatically highlighted the weaknesses of criminal law by giving the logical reasoning that the term bank fraud having multi-dimensional aspect involving the public and private money does not find concrete provision or best practice code or controlled mechanism in any legislation. Considering the multiple facet nature of bank frauds, this report pinpoints the urgency for passing new comprehensive legislation to control and to provide the stability in the financial world by drafting and passing the legislative design to meet out the challenges of 21st Century.

As the regulator of the banking sector, the responsibility lies with the RBI to provide the umbrella protection to almost all the financial institutions including banking institution from time to time. Being the apex institution the RBI through Master Circulars on various aspects supposed to disseminate the latest trends and reporting on Banking Frauds during the course of a year. The master circular as has been duly updated is circulated and placed on RBI's website as preventive and curative measures to all the concerned institutions. As per the "RBI Master Circular", which consolidated and updated all previous instructions, was issued on July 2, 2012. This circular deal with seven contents and provides the quarterly and annual review of frauds and provides proper guidelines for reporting frauds to police and CBI. Moreover, the circular provides the reporting redressal agencies as per pecuniary jurisdiction for speedy action by the appropriate authority. The Master Circular further provides the documents and forms for reporting of actual or suspected frauds as well as outstanding progress reports on frauds to know the pitfalls, lapses, or reform-seeking areas for speedy disposal of such cases. The close scrutiny of the Master Circular further depicts that the circular re-enforces or re-establishes the kinds of fraud without providing the redressal as well clear-cut directions as to Banking Fraud situations. It looks like the compilation of those positions which are repeatedly being reported through the quarterly, bi-annual or annual survey of banking institutions. The guidelines as per this Master Circular are to bring out uniformity and rationality in banking functions. But one stark reality is that this uniformity or rationality is expected from such guidelines which are not of binding nature.

OBJECTIVES OF THE STUDY

The study is based on the following objectives:-

1. To understand the concept of banking fraud.
2. To analyze frauds in various banking operations based on the date of reporting.
3. To analyze frauds in various banking operations based on the date of occurrence.

RESEARCH METHODOLOGY

The study is based on published sources of data collected from various sources. The data were gathered from the secondary sources such as Annual Reports of the Banks, RBI Report of Trends and Progress of Banking in India, Manuals of instructions on loans and advances, journals, research paper and articles published online and offline on various newspapers and websites.

Table 1: Frauds in Various Banking Operations Based on the Date of Reporting
(At the end-March)

(Cases in number and amount

in ₹ crore)

	2014-15		2015-16		2016-17		2017-18		2018-19	
	No.	Amount	No.	Amount	No.	Amount	No.	Amount	No.	Amount
Advances	2251	17122	2125	17368	2322	20561	2525	22558	3606	64548
Card/ Internet	845	52	1191	40	1372	42	2059	110	1866	71
Deposits	876	437	757	809	695	903	691	457	593	148
Cash	153	43	160	22	239	37	218	40	274	56
Others	179	162	176	146	153	77	138	242	197	244
Cheques/demand drafts	254	26	234	25	235	40	207	34	189	34
Off-balance sheet	10	699	4	132	5	63	20	16288	33	5538
Clearing, etc accounts	29	7	17	87	27	6	37	6	24	209
Foreign exchange transactions	16	899	17	51	16	2201	9	1426	13	695
Non-resident accounts	22	8	8	9	11	3	6	5	3	0
Inter-branch accounts	4	0	4	10	1	1	6	1	3	0
Total	4639	19455	4693	18699	5076	23934	5916	41167	6801	71543

Source: RBI Bulletin 2019

Interpretation: - Table 1 depicts the no. of cases and rupees in crore of frauds in banking operations based on the date of reporting. The analysis of the table is as follows:-

- The cases of advances fraud are higher than all other frauds. It is increasing rapidly year by year. It was just 2251 in 2014-15 and it increased upto 3606 in no. of cases in 2018-19. The amount of fraud has risen nearly thrice between 2017-18 and 2018-19.
- Fraud through Cards and Internet transactions were also increasingly continuously from 2014-15 to 2017-18 but in 2018-19 it becomes go down in no. of cases. Most cases have been filed of card and internet between 2016-17 and 2017-18 i.e. 687 cases.
- Frauds through deposits have been continuously go down in no. of cases. As the amount concerned it has risen in 2015-16 in comparison with 2014-15 with 372 crores which is very high. In 2018-19 it has go down by 309 crores in comparison with 2017-18 which is a good sign for the banks.
- Frauds cases through others have go down to 77 crores in 2016-17 in comparison with 2015-16 which was a good sign for the banking sector. But again in 2017-18 it has been risen again very rapidly, which was not a good sign for the banking sector.
- Fraud through off- balance sheet has rising very rapidly in 2017-18 which is very high i.e. 16288 crores and 5538 crores in 2018-19. It means that total fraud of 21826 crores in the last two years. This was the mode of banking fraud which highly used and bank has to take action to control these types of frauds.
- Frauds in clearing etc. Accounts has been increasing very rapidly in 2018-19 almost very high i.e. 209 crores.
- Frauds through foreign exchange transactions have been gone down by 848 crores in 2015-16 which was a good sign for the banking sector. But again in 2016-17, fraud through foreign exchange transactions become rising very rapidly i.e. 2201 crores. After that in

2017-18 and 2018-19, the amount of fraud has been gone down in 2017-18. In 2018-19 it also becomes go down.

- Cases of frauds through non-resident accounts and inter-branch transactions were very low in number and also very low in amount. But still we have to work on it.

Table 2: Frauds in Various Banking Operations Based on the Date of Occurrence
(At the end-March)

(Cases in number and amount

in ₹ crore)

	2014-15		2015-16		2016-17		2017-18		2018-19	
	No.	Amount	No.	Amount	No.	Amount	No.	Amount	No.	Amount
Advances	1897	18168	1743	14570	1265	9550	1024	8863	632	3634
Card/ Internet	918	58	1173	43	1367	40	2127	101	1477	58
Deposits	790	214	719	600	602	665	524	294	320	45
Cash	159	36	155	20	276	41	207	38	193	40
Others	161	33	133	165	132	50	98	146	83	27
Cheques/demand drafts	272	23	235	131	217	33	199	34	104	12
Off-balance sheet	13	1720	11	1132	13	15023	4	298	8	2569
Clearing, etc accounts	23	79	19	4	29	7	33	5	13	205
Foreign exchange transactions	18	3361	9	205	15	473	5	83	4	145
Non-resident accounts	16	3	6	0	7	1	5	4	1	0
Inter-branch accounts	2	0	4	9	4	1	2	0	1	0
Total	4269	23695	4207	16779	3927	25884	4228	9866	2836	6735

Source: RBI Bulletin 2019

Interpretation: Table 2 depicts the no. of cases and rupees in crore of frauds in banking operations based on the date of occurrence. The analysis of the table is as follows:-

- Frauds of advances have become go down regularly in no. of cases as well as in rupees, from 2014-15 to 2018-19. It was 1897 cases in 2014-15, and it has reduced to only 632 cases in 2018-19. Likewise frauds of 18168 crores in 2014-15 have gone down to 3634 crores in 2018-19.
- Fraud through Cards and Internet transactions were also increasingly continuously from 2014-15 to 2017-18 but in 2018-19 it becomes go down in no. of cases. Most cases have been filed of card and internet between 2016-17 and 2017-18 i.e. 760 and 650 cases respectively.
- Frauds through deposits have been continuously go down in no. of cases. As the amount concerned it has risen nearly thrice in 2015-16 in comparison with 2014-15 with 372 crores which is very high. In 2017-18 it has go down by 371 crores in comparison with 2017-18 and by 249 crores in 2018-19 in comparison with 2017-18, which is a good sign for the banks.
- Frauds cases through others have go up by five times in crores rupees in 2015-16 in comparison with 2014-15 which was a good sign for the banking sector. But again in 2017-18 it has been risen again very rapidly, which was not a good sign for the banking sector.
- Fraud through cheques and demand drafts has rising more than five times in 2015-16 which is very high in comparison in 2014-15, which was not a good sign for banking sector. After that fraud through cheques and demand drafts has gone down regularly till 2018-19.
- Fraud through off- balance sheet has rising very rapidly in 2016-17 which was very high i.e. 15023 crores. It has gone down in 2017-18 but after that in 2018-19, it arisen again which was not a good sign for the Indian banking sector.

- Frauds in foreign exchange transactions has been gone down in 2015-16 by 3156 crores in comparison with 2014-15. It increased again more than twice in 2016-17, and again gone down in 2017-18 by five times.
- Cases of frauds through non-resident accounts and inter-branch transactions were very low in number and also very low in amount.

CONCLUSION

India is one of the fastest growing economies and so is the case with the country's banking sector. In conclusion, it can be said that though adoption of technology comes with the evolution of time, but protection of public money and people is the greatest challenge responsibility of a modern day banker. From the above description, we can see that frauds in various banking operations based on the date of reporting frauds in advances has been increasing at very high rate. Off-balance sheet frauds are also rising at a very high rate also. Another aspect is frauds through foreign exchange transactions are also become very high in rate. So banks have to make a proper strategy to control the frauds through banking operations.

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