

FORENSIC ACCOUNTING: A NEW APPROACH OF INVESTIGATING CORPORATE FRAUDS, SCAMS AND ITS PREVENTION IN INDIA

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ABSTRACT

Today the Financial irregularities & complexities in business and commercial operations are increasing day by day because of the mindless obsession with profit maximization at any cost in India. But there are no appropriate conventional accounting and auditing procedures that can provide absolute assurance in detecting and preventing all fraudulent financial reporting. As a mechanism to detect and prevent corporate frauds and scams, forensic accounting has emerged as a relatively new, simple and effective tool in the hands of accountants within the broader arena of accounting to find out mistakes and malpractices in accounting world. Forensic accounting is the use of professional accounting skills in matters involving potential or actual criminal or civil litigation, including, but not limited to, generally acceptable accounting and audit principles; the determination of lost profits, damages income or assets; evaluation of internal controls; fraud; and any other matter involving accounting expertise in the legal system. Forensic accounting in India has come to limelight only recently due to rapid increase in white-collar crimes and the belief that our law enforcement agencies do not have sufficient expertise or the time needed to uncover frauds. This paper focuses on the conceptual framework, various techniques, applicability as well as the role and importance of forensic accounting and a forensic accountant in investigating corporate frauds, scams and deduction of frauds in India. This exploratory research paper discusses on the key challenges, prospects and growth of forensic accounting, as profession in India on the basis secondary data collected from various sources.

KEYWORDS: Auditing Law, Corporate Frauds and Scams, Forensic Accounting, Forensic Accountants, White-collar Crimes.

INTRODUCTION

Forensic accounting has become an emerging topic for academic, research and industries due to growth of regulatory compliance requirements, fraud cases and demand of forensic accountants with forensic technologists both within and outside the profession. Forensic accounting is a field that deals with possible illegal and fraudulent financial transactions through integration of accounting, auditing and investigative skill. Financial Forensics, Forensic Accounting or Forensic Accountancy is the specialty practice area of Accountancy that describes engagements that result from actual or anticipated disputes or litigation. Accountants all over the world need to make sure that their explanation of Generally Accepted Accounting Practices (GAAP) make certain “a true and honest representation of accounting data and information. Today the nature of fraud in India has undergone a change. Forensic accountants are trained to look beyond the numbers and deal with the business realities of the situation. Analysis, interpretation, summarization and presentation of complex financial and business related issues are prominent features of the profession. A forensic accountant may have been able to

track these complexes. Corporate crime is a greater damage for our society because numerous corporate frauds and scams of past and present imposed the need for deeper investigation of irregularities in the area of financial reporting in India. The scandals that shocked the corporate world namely, Enron and Satyam Computer Service cases have also brought the field of forensic accounting to the forefront. Forensic accounting can, therefore, be seen as an aspect of accounting that is suitable for legal review and offering the highest level of assurance. In combating corporate frauds and scams through investigations and resolving allegations of frauds and embezzlements, a new regulatory bodies and the appearance of a new profession as a dynamic and strategic tool called Forensic Accounting Investigation or simply Forensic Accounting (FA) has been established. According to KPMG Fraud Survey (2013) white-collar crime in corporate India has witnessed a substantial increase of 13% in 2013. It has an adverse impact on entrepreneurial spirit in India. Therefore, in Indian perspective the Forensic accountants are the most required in the wake of the growing frauds.

LITERATURE REVIEW

1. **According to Webster's Dictionary, FA means,** "Belonging to, used in or suitable to court, of judicature or to public discussions, debate and ultimately dispute resolutions, it is also defined as an accounting analysis that is suitable to the court which will form the basis for discussion, debate and ultimately dispute resolution."
2. **According to TS Elliot,** "Where is the Life we have lost in living? Where is the wisdom we have lost in knowledge? Where is the knowledge we have lost in information?"
3. **According to Crumbley,** "Forensic Accounting is an accounting that is suitable for legal review offering the highest level of assurance and including the now generally accepted connotation of having been arrived at in a scientific fashion."
4. **Lalit Wadhwa & Dr. Virender Pal,** "The role of forensic accountants in investigating corporate frauds has long been identified by many countries and they now play a major role in probing corporate frauds. However the field is still in its nascent stage in India due to rapid increase in "white collar crimes" and the notion that the law enforcement agencies do not have sufficient time or expertise to expose the frauds committed."
5. **The Companies Act 2013 (the Act) introduces a new term - Internal Financial Control (IFC)** which has certain features of IC and certain features of ICFR. The Indian regulatory environment aspires to set up a legal framework to incorporate the global standards and provisions in its statutes. This convergence with the global laws is extremely important with the idea of bringing Indian corporate laws at par with the global standards and ensuring that the disparity in laws cannot be used to the advantage of fraudsters.

OBJECTIVES OF THE STUDY

1. To study of Forensic Accounting Concept in India.
2. To study of growth of Forensic Accounting in India.
3. To know the various types of Frauds and Scams hampering the growth of our economy.
4. To know the Agencies dealing with frauds in India.
5. To study of various techniques of Forensic accounting in relation to auditing.
6. To understand the conceptual framework of Financial and Corporate Frauds.

7. To understand the role of forensic accountant and its Institutions to prevent occupational fraud under forensic accounting in India.
8. Role of Forensic Accounting in solving financial problem like financial fraud and malpractices in corporate world.

RESEARCH METHODOLOGY

This paper is exploratory in nature and the sources of data are secondary data (inclusive of quantitative and qualitative data) which are collected from different research papers, case studies, reputed journal, magazines, periodicals, newspapers, annual published reports of government, white papers, SEBI guidelines, government websites on Forensic Accounting. Publically available data is taken into consideration for the purpose of the study and few cases of corporate sector also have been discussed. Some information and data modified in the paper during research. Source of data is accurate and reliable due to information taken from various government website.

CONCEPT AND HISTORY OF FORENSIC ACCOUNTING

The term 'Forensic Accounting' was first used in 1946 by Maurice E. Peloubet, a partner in a New York based accounting firm. The word forensic is derived from the Latin word forensis, meaning thereby belonging to the forum, which was the site for public discussion and debate in ancient Rome. Forensic Accounting is the combination of the Accounting, Auditing and Investigation skills. Forensic Accounting can also be termed as a scientific process in which the financial information is firstly gathered then analysed and finally presented in a proper document that can be used as a test of time in the courts. It refers as assistance in disputes regarding allegations or suspicion of fraud which are likely to involve litigation, expert determination and enquiry by an appropriate authority and investigations of suspected fraud, irregularity or impropriety which could potentially lead to civil, criminal or disciplinary proceedings. It is a powerful instrument to curb the rising frauds in the corporate sector. Forensic Accounting assists an organization in following two ways: (1) Investigative Accounting: Criminal matters like employee theft, securities fraud, insurance fraud etc., provisions and suggestions regarding possible courses of action. (2) Litigation Support: Quantification of economic damages amount, accounting assistance in litigation matters.



FORENSIC ACCOUNTING IN INDIA

Forensic means 'suitable for use in a court of law' and it is to that standard and potential outcome that forensic accountants generally have to work (Crumbley et al., 2005). Forensic Accounting (FA) is an umbrella term which consists of accounting, auditing and investigative skills. It is a type of accounting suitable for legal review and blended with services like providing the highest level of assurance gathered through legal documentation of latest scientific fashion, core knowledge of GAAPs, standards and codes etc. Today, Forensic accounting has become an indispensable tool for investigation in India due to rapid increase in white-collar crimes and our law enforcement agencies do not have the expertise or time to uncover such stock market fraud or bank fraud or

cyber fraud. In India forensic accounting is still considered a new inclusion into the field of fraud detection. Forensic accounting has not got its due recognition in this country even after alarming increase in the complex financial crimes due to dearth of qualified accountants with adequate technical know-how on forensic issues and lack of properly trained professionals to investigate and report on the complex financial crimes. The task of Forensic accountants is handled by Chartered Accountants who apart from handling traditional practice of auditing as required under the Companies Act, 1956 or Income Tax Act are engaged by the law enforcement agencies or the companies or private individuals to assist in investigating the financial crime or scam. The CA or CWAs in India are best suited for this profession due to their financial acumen acquired during their rigorous training which can be further honed by introducing post qualification degree or diploma in investigating and forensic accounting similar to one introduced by CICA. According to the Corruption Perception Index 2016 Report released by Transparency International, India's rank is 79th among 176 countries affected with corruption.

REASONS BEHIND THE GROWTH OF FORENSIC ACCOUNTING

1. Failure of internal and external audits in the organizations.
2. Rotation and appointment of the statutory auditors is not foolproof as it is prone to collusion and lobbying.
3. Auditor's certificates are hardly scrutinized carefully especially when the reports are unclear, doubtful and qualified.
4. The internal auditors can surely detect what was happening but they are hardly in a position to initiate proper action in proper time.
5. Internal audit and audit committee as a part of the management function fail to shed light on the hidden aspects of corporate fraud.

TYPES OF FRAUDS IN INDIA

Fraud: The dictionary meaning of Fraud is "Wrongful or criminal deception intended to result in financial or personal gain". In simple words Fraud is an intentional activity done to deceive others. It is an act involving misrepresentation or concealment of information deliberately for making personal benefits. Following are types of fraud:

Bank Frauds	Corporate Frauds	Insurance Frauds	Cyber Frauds	Securities Frauds
				

MAJOR FINANCIAL FRAUDS/SCAMS/SCANDAL OF INDIA

Scandal/Year	Scandal Amount	Key Players of Scandal	Summary of Scandal
Stamp Paper Scam (2005)	Rs. 600 Billion	Abdul Karim Telgi & his associates, Police officers, Government	Counterfeiting of stamp papers. Selling fake to bulk purchasers like banks, insurance companies

		employees & Politician	& stockbroking firms. Sentenced to 30 years of rigorous imprisonment.
Satyam(2009)	Rs.14000 Crore	RamalingaRaju& his family, CFO & other top level management, Auditors & Board of Directors.	Falsified revenues, margins and cash balance, operating profit artificially boosted from 61 croresto 649 crores.
2G Spectrum (2010)	Rs. 1760 Billion	A Raja, MK Kanimozhi, Nira Radia, Many Telecom Com.	Irregularities in awarding spectrum licenses. License issued on first cum first serve basis instead of auction. Advancing of cutoff date which is illegal.
Commonwealth Games (2010)	Rs. 35000 Crores	Suresh Kalmadi& otherorganizing committeemembers, 2 privatecompanies & Government officials.	Allegations of corruptions and mismanagement bythe organizing committee, delay in theconstruction of main venue leading to misuse offunds, infrastructural compromise, hefty paymentsmade in the name of non-existing parties.
Adarsh Housing Society Scam (2010)	Not known yet	Top Army officials, IAS officers, Politicians & Legislators	Originally meant to be a sixstorey structure to house Kargil war heroes and widows, got converted into a 31-storey and allotted to bureaucrats, top defence officers, a former environment minister and legislators. The market rate was 6-8.5 crores& was allotted at a throw away price of 60-85 lakhs. Violations in environment rules.
Uttar Pradesh NRHM (2010)	Rs.10,000 Crores	Mayawati, BabuSinghKushwaha	Top politicians and bureaucrats are alleged tohave siphoned off a massive sum estimated at(US\$1.6 billion) from the National Rural HealthMission, a central government program meant toimprove health care delivery in rural areas.
Indian Coal Allocation (2012)	Rs. 1.86 LakhCrore	Comptroller and Auditorgeneral of India, the coalMinistry, many electricboards & Private Companies.	Coal blocks allotted, not auctioned, leading toestimated losses as per the Comptroller andAuditor General of India.
VVIP Chopper Deal (2013)	Rs. 362 Crores	Augusta Westland Company, Former IAF Chief SP Tyagi&his cousins, Politicians, Governmentofficials & severalmiddlemen.	It has been alleged that former IAF chief hasaccepted bribes to win contract worth Rs. 36billion.
Toshiba(2014)	Multinational Conglomerate	Profits were overstated by more than US\$1bn	Toshiba understated its costs on long-term projects and CEOs put intense pressure on subordinates to meet sales which pushed

			certain employees to postpone losses or push forward sales on accounting.
Kingfisher Airlines (2016)	Rs 9,000 Crores	Vijay Mallya, Politicians, Government officials & several middlemen.	Misled Banks and misused money, fraud and money laundering.
PNB Fraud (2018)	Rs 11,400 Crore	Nirav Modi and his maternal uncle Mehul Choksi, Politicians, Government officials & several middlemen.	Agencies Probing India's Biggest Banking Scam. This is about fake bank guarantees/Letters of Understanding (LoUs).

(Source: Compiled by author(s) from various sources.)

AGENCIES DEALING WITH FRAUDS IN INDIA

Serious Fraud Investigation Office (SFIO)	Economic Offences Wing (EOW)
Central Bureau of Investigations (CBI)	Income Tax department (IT)
Central Vigilance Commission (CVC)	Enforcement Directorate (ED)
Securities and Exchange Board of India (SEBI)	Interpol
Company Law Board (CLB)	Various Courts who are major regulatory authorities under respective statutes
Reserve Bank of India (RBI)	

TECHNIQUES OF FORENSIC ACCOUNTING

- Benford's Law:** It is a mathematical tool, and is one of the various ways to determine whether a variable under study is a case of unintentional errors (mistakes) or fraud. On detecting any such phenomenon the variable under study is subjected to a detailed scrutiny. The steps of Benford's law are very simple.
- Computer Assisted Auditing Tools (CAATs):** These are computer programs that help the auditor to perform various auditing procedures like testing details, identifying inconsistencies, sampling programs, redoing calculations etc.
- Theory of Relative Size Factor (RSF):** It is a powerful test for detecting errors and measured as $RSF = \frac{\text{Largest Record in a Subset}}{\text{Second Largest Record in a Subset}}$. This test identifies subsets where the largest element is out of line with the other elements for that subset. It also highlights all unusual fluctuations which may be routed from fraud or genuine errors.
- Data Mining Techniques:** It is a set of computer-assisted techniques like discovery, predictive modeling and deviation and link analysis designed to automatically mine large volumes of data for new and unexpected patterns.
- Benchmarking:** Comparing one financial period with another or the performance of one cost centre, or business unit, with another, overall business performance with its standards defined.

6. Ratio Analysis: This analysis gives indications of the financial health of a company, data analysis ratios report on the fraud health by identifying possible symptoms of fraud and used to identify any abnormal trends and changes.

FORENSIC ACCOUNTING AND AUDIT FORENSIC ACCOUNTING AND AUDITING SERVICES / FRAMEWORK

Accounting	Auditing and Assurance	Investigation Science
<ul style="list-style-type: none"> • Looking beyond Numbers while examining Financial Reporting and Business Information Systems. • Compliance of GAAPs and IFRS/Regional Standards. • Reframing of Accounts Based on Legality and GAAPs. 	<ul style="list-style-type: none"> • Risk Assessment and Analytical Procedures. • Designing and Performing Extended Audit Procedures. • Compliance of Standards of Auditing, where applicable. • Introspective and Skeptical Mindset for Reviewing Transactions and Deals. 	<ul style="list-style-type: none"> • Fixation of Direction of Investigation on Realistic Basis. • Gathering Evidences and clues through Scientific and Latest Investigation Techniques. • Analysis of Psychological Behaviour of Human. • Evidence Documentation for Legal Proceedings.
<ul style="list-style-type: none"> • Litigation Consultancy- Jointly working with Lawyers and Clients engaged in litigation to provide expert advice regarding evidence and strategic proceedings. • Computer Forensic- Providing assistance in Electronic Data Recovery and Retrieval. • He Expert Witness- Providing Evidence and Preparation of Formal Reports for filing in the Court of Law. 		

FORENSIC ACCOUNTANT AND ITS INSTITUTIONS

The CA or CWA who acquire post qualification in investigative & forensic Accounting can use the designation CA-IFA or CWA-IFA and be legally recognized as the forensic accounting experts to handle the investigation of financial crimes and give specialist testimony in the Court of Law. However, no efforts has so far been made by the ICAI and ICWAI, the two leading statutory accounting professional bodies to move in this direction and set up a institute which can offer the post qualification diploma in investigative and forensic accounting to its members.

Forensic accountants are currently in great demand with the public need for honesty, fairness and transparency in reporting increasing exponentially. FA has come to the limelight only recently due to rapid increase in frauds and white-collar crimes. The idea of FA is at a nascent stage in India till now. The pioneer Indian accounting regulator, the Institute of Chartered Accountants of India (ICAI) has taken the challenges to start a course on forensic accounting for only its members. It is “Certificate Course on Forensic accounting and Fraud Detection using IT and CAATs”. At present very few academic institutions are offering courses (full time or part time) on forensic accounting. Indian universities are lagging behind in this area as compared to other foreign universities. Some leading organisation such as India forensic (Pune, Maharashtra) has started certificate course in Bank Forensic Accounting (CBFA), Certified Forensic Accounting professional (CFAP). Institute of Chartered Financial Analyst of India (ICFAI) University, Tripura also started to offer a Postgraduate Diploma in Forensic

Accounting. Although this is at nascent stage in most of the Indian universities, however many college and universities are providing courses on “Forensic Science”. In the background of increasing levels of frauds and economic irregularities, it is expected that the prospects of forensic accountants are bound to Increase substantially in the near future



ROLE / SCOPE OF FORENSIC ACCOUNTANT

A Forensic Accountant is often retained to analyze, interpret, summarize and present complex financial and business-related issues in a manner that is both understandable and properly supported. Forensic Accountants can be engaged in Public Practice or employed by insurance companies, banks, police forces, government agencies and other organizations. The services rendered by the forensic accountants are given below:

1. **Fraud Investigations:** Forensic accountants to assist in business investigations where the employee involve in fraudulent activities and is caught to have committed fraud. He tries to establish any assets created by them out of the funds defalcated and trying to find out the secret truth. He gives his/her expert opinion about the nature and extent of fraud and the likely individual or group of individuals who have committed the crime on the review of the available documentary evidence.



2. **Criminal Investigation:** Forensic accountant are engaged for fraud and white-collar crime investigations of documentary and other available evidence of Government departments, the Revenue Commissioners, the Fire Brigade, Private Sector etc. Forensic accountants often attend court to testify in civil and criminal court hearings, as expert witnesses and give his/her expert opinion for the purpose of civil and criminal actions to individuals or corporate bodies.



3. **Professional Negligence:** Forensic accountant identified the Professional negligence cases like Non-conformation to Generally Accepted Accounting principles (GAAP) or non-compliance to auditing practices or ethical codes of any profession. They measure the loss due to such professional negligence or shortage in services. The professional might be an accountant, a lawyer, an engineer etc. The forensic expert uses his/her investigative skills to provide the services required for this assignment.



4. **Meditation and Arbitration Service:** Forensic accountants render both arbitration and mediation services for the business community, since they are trained in the area of alternative dispute resolution (ADR) which otherwise would have been expensive and time consuming for individuals or businesses involved in commercial disputes with a third party. They also resolve the matters related with partnership and corporation disputes.



5. **Settlement of Insurance Claims:** Insurance companies recruit forensic accountants for the assessment of claims to be settled. Similarly, policyholders seek the help of a forensic accountant when they need to challenge the claim settlement as worked out by the insurance companies. A forensic accountant handles the claims relating to substantial loss policy, property loss due to different risks, loyalty insurance and other types of insurance claims. In the case of Personal Injury Claims, where losses arise as a result of personal injury, insurance companies sometimes seek expert opinion from a forensic accountant before deciding whether the claim is valid and how much to pay.



6. **Dispute Settlement:** Business firms appoint forensic accountants for resolving the cases related with construction claims, contract disputes, product liability claims, and infringement of trademarks and patent, liability arising from breach of contracts and so on.



7. **Matrimonial Disputes:** Solicitors often need the services of forensic accountants in divorce cases involving disputes about matrimonial assets. Assignments of this sort might require the forensic accountants to trace, locate and evaluate assets. Such assets, for instance, might technically be owned by a business in which one of the parties to the divorce case has a share. The assets would need to be accurately valued to ensure equity when splitting the divorcing couple's assets and liabilities.



8. **Litigation Consultancy:** Working with lawyers and their clients engaged in litigation and assisting with case preparation, evidence and strategy.

tangible impact created through such programmes. Also, the pressure to meet targets and actions of senior management may tacitly encourage employees to overpower/ violate the organisation's message on integrity and ethical values. Such instances fail to demonstrate compliance with the ethics programme.

6. **Lack of Segregation of Duties:** Failure to segregate duties appropriately across multiple systems/manual processes can inadvertently allow employees to commit fraud or conceal fraudulent activity. For example, there could be cases where password sharing (for gaining access to system/ financial transactions) amongst a group of people has diluted internal controls, leading to fraud.

FRAUD DETECTION, PREVENTION, AND A RESPONSE MECHANISM

1. **Formulating a Strong Anti-Fraud Programme:** A robust control environment is vital to reduce the risk on account of fraud and misconduct within companies and their dynamic business environment. The following are some key aspects of the anti-fraud framework that an organization should implement to mitigate the fraud risks.



2. **Leadership Setting the Tone:** Board of directors are responsible for setting the "tone at the top", which flows across the entire company and its various locations. Management views on mitigating fraud, corruption and misconduct should be revealed to the employees. It is recommended that management should actively assess frauds, corruption and misconduct risks and controls. Without ensuring that all suspected allegations of misconduct are independently investigated, management might not be able to develop the requisite neutral and balanced environment within the organisation. Disciplinary action and zero tolerance for violations should also be part of the message that the Board sends out to employees.



3. **Fraud Prevention Policies:** Organisations willing to counter fraud should develop sound fraud prevention policies that must have the following key components: Extensive background checks on new-hires, promotion candidates, suppliers, customers and business partners (including international third parties), Segregation of duties, Position rotation, Limitations of physical access to assets, Removal of unauthorised and old system users, Whistle blower mechanism.



4. **Ethics Code:** The ethics code of the company should be developed keeping in mind the size of the organisation, the mix of employees, the number of employees, and the key risk areas. Once developed, this code must be

formally documented and communicated to the employees, third parties, and other stakeholders (official website of the organisation, if any). It should describe the disciplinary actions that can be initiated against people. This function should be continuously monitored.



- **Whistleblower or Complaint Mechanism:** A whistleblower is a person(s) who has and reports insider knowledge of illegal activities occurring in an organisation. Whistleblowers can be employees, suppliers, contractors, clients or any individual who becomes aware of illegal or fraudulent activities taking place in a business either through witnessing the behaviour or being told about it. The organisations need to consider the following: Maintaining anonymity of the complaint mechanism, Ensuring confidentiality of information reported through the whistle-blower mechanism, Policy of non-retaliation against the whistle-blower, Actions that can be initiated based on the nature and seriousness of the issue reported?, Issues that are “not serious” taking up senior executive time.



CONCLUSION

The increased number of financial frauds and white collar crimes has produced heavy loss to our economy in the form of frauds and scams. To detect and prevent these frauds and scams Forensic Accounting has been introduced as a powerful tool. Forensic Accounting uses very techniques to fulfill its objectives. Forensic accounting with its techniques will certainly be proved successful in preventing these frauds. This study is on the forensic Accounting, forensic accountants and corporate fraud reduction. The objectives set out at the beginning include the examination of the concept of forensic accounting, the need for it and its role in providing solution to the problem of fraud in corporate organizations. A large global accounting firm believes the market is sufficiently large to support an independent unit devoted strictly to forensic accounting. These forensic accountants need investigative law accounting, finance and research skills to identify, interpret, communicate and prevent fraud. However, as the incidence of white collar crime (fraud, bribery and corruption, money laundering etc.) continues to increase, demand for the services of the forensic accountant looks set to grow.

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