



The Indian Journal for Research in Law and Management

Open Access Law Journal – Copyright © 2025

Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

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CORPORATE FRAUD AND LEGAL RECOURSE IN INDIA : NAVIGATING THE REGULATORY FRAMEWORK

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ABSTRACT

Corporate fraud is an enduring threat against India's economic health, investor confidence, and corporate governance. High - profile scandals in recent years have illustrated that there are weaknesses in terms of regulatory oversight as well as the abilities of companies to exercise internal controls. The need for legal reform has led to substantial changes to business law. This article will provide a critical and comparative examination of the corporate fraud environment in India. It will look at the statutory framework of corporate fraud law, describe the key regulatory authorities in relation to corporate fraud and look at corporate fraud enforcement against perpetrators and remedies available to the victim of corporate fraud. It will examine the inter - relationship of the Companies Act, 2013, the Indian Penal Code, the Prevention of Money Laundering Act and industry - specific regulations. It will examine regulatory threats posed by the international financial environment and the challenges posed by digital fraud. Key category and industry developments will be discussed, including the relationship between corporate fraud policies and regulatory frameworks. The article will discuss case law, legal authority, regulatory authority, responses and emerging trends, thus providing insight into navigating a distinct and complex regulatory environment and enhance India's corporate anti - fraud regulatory regime.

INTRODUCTION

Corporate fraud in India is a significant issue that is deeply impacting the integrity of the overall business sector and the economy, creating uncertainty for investors and disrupting market order. Corporate fraud, in forms like financial misreporting, embezzlement, insider trading and cyber - enabled fraud, is a significant threat to the Indian corporate sector and the economy as a whole. The

infamous cases of Satyam, IL&FS, and Yes Bank, not only reflect the impact of corporate fraud, but also demonstrate the impact on the public's trust on corporate India and lack of consistent regulatory oversight. The advent of new digital technologies and a rich variety of financial instruments has contributed to an increase in the potential scale and complexity of corporate fraud, as new legislation and regulation need to keep pace.

UNDERSTANDING CORPORATE FRAUD : TYPES AND NATURE, DEFINITION AND SCOPE

Corporate fraud consists of acts or omissions that are undertaken, or not undertaken, by an individual or entity belonging to, or with a connection to, a corporation with the aim of deceiving other parties and obtaining unlawful benefits for himself, herself, or itself or causing wrongful loss. Corporate fraud may take the form of (but need not be limited to) :

- Falsification of financial statements
- Misappropriation of assets
- Insider trading and market manipulation
- Bribery and corruption
- Cyber - enabled fraud (phishing, data theft, and identity theft)

Common Typologies in India

Financial Mis - reporting : Misstatement of accounts to show profits and/or solvency.

Asset Misappropriation : Theft of cash or diversion of company assets for personal use.

Insider Trading and Market Abuse : Utilising confidential information to gain an unfair advantage in the securities market.

Cyber Fraud : Access, acquisition, impersonation and abuse of information by electronic means.

Shell Companies and Money laundering : Exposing illicitly acquired gains through complicated ownership structures and corporate entities.

THE LEGAL AND REGULATORY FRAMEWORK

Response to corporate fraud in India is not monolithic, but rather multi - faceted, including general criminal provisions, as well as sector - specific laws.

The Companies Act, 2013¹

The Companies Act, 2013 is the principal source of corporate governance and anti - fraud laws in India. The key provisions which are important for anti - fraud compliance include :

Section 447² : The section defines corporate fraud and provides for punishment by way of imprisonment for 6 months to 10 years and fine up to three times the amount, while increased punishment if involved in public fraud.

Section 149³ : The section provides for independent directors to ensure checks on management.

Section 177⁴ : The section provides for audit committees to review financial statements and whistle - blower complaints.

Sections 210, 212, and 213⁵ : These sections allow government agencies and tribunals to investigate suspected fraud.

Indian Penal Code, 1860 (IPC)⁶

The IPC provides general criminal remedies for acts that would constitute fraud, and includes :

Section 406⁷ : Criminal breach of trust

Section 420⁸ : Cheating and inducing delivery of property with dishonest means

Sections 463 - 477A⁹ : Forgery, use of forged documents, and falsification of accounts

Prevention of Money Laundering Act (PMLA), 2002¹⁰

¹ Companies Act, 2013

² Companies Act, 2013, Section 447

³ Companies Act, 2013, Section 149

⁴ Companies Act, 2013, Section 177

⁵ Companies Act, 2013, Sections 210, 212, 213

⁶ Indian Penal Code, 1860

⁷ IPC, 1860, Section 406

⁸ IPC, 1860, Section 420

⁹ IPC, 1860, Sections 463 - 477A

¹⁰ Prevention of Money Laundering Act (PMLA), 2002

The PMLA applies to the proceeds of crime. The Enforcement Directorate (ED) can trace, freeze, and confiscate proceeds and assets derived from fraudulent activity.

Information Technology (IT) Act, 2000¹¹

The IT Act is important as more corporate frauds occur via cyber - enabled fraud. The IT Act specifically prohibits identity theft (Section 66C)¹² and cheating by personation by using a computer resource (section 66D)¹³.

Sectoral and Special Laws

SEBI Act, 1992¹⁴ and SEBI (LODR)¹⁵ Regulations, 2015 : Regulate securities market fraud, insider trading, and disclosure violations.

Benami Transactions (Prohibition) Act, 1988¹⁶ : Addresses property held in fictitious names to conceal ownership.

Insolvency and Bankruptcy Code, 2016 (IBC)¹⁷ : Allows for recovery of dues and investigation of fraudulent transactions in insolvency proceedings.

REGULATORY AND INVESTIGATIVE AGENCIES

1) Serious Fraud Investigation Office (SFIO)

Investigates complex frauds related to companies, especially if it involves public interest, large - scale sums (generally above Rs10 crores) or listed companies. Powers conferred under Section 211¹⁸ of Companies Act, 2013.

2) Securities and Exchange Board of India (SEBI)

¹¹ Information Technology (IT) Act, 2000

¹² Information Technology Act, 2000, Section 66C

¹³ Information Technology Act, 2000, Section 66D

¹⁴ SEBI Act, 1992

¹⁵ SEBI (LODR) Regulations, 2015

¹⁶ Benami Transactions (Prohibition) Act, 1988

¹⁷ Insolvency and Bankruptcy (IB) Code, 2016

¹⁸ Companies Act, 2013, Section 211

Regulates listed companies, market manipulation of security, and insider trading. It can impose penalties, debar any entity, and can refer cases for criminal prosecution.

3) Central Bureau of Investigation (CBI)

Investigates multiple- state or high profile corporate frauds, banking scams, and also those involving public officials.

4) Enforcement Directorate (ED)

Investigates money laundering, foreign exchange violations, and asset recoveries in corporate frauds.

5) Reserve Bank of India (RBI)

Investigates fraud in the banking sector, and prescribes guidelines for detecting and reporting frauds.

6) Other Agencies

Consumer Forums : Provide remedies for fraud in relation to financial services.

Lokpal and Lokayukta, Central Vigilance Commission (CVC)¹⁹ : Investigate corruption and abuse of office by employees of public sector undertakings.

LEGAL REMEDIES AND RECOURSE FOR VICTIMS

Victims of corporate fraud in India can utilise civil and/or criminal remedies, depending on the nature and the enormity of the fraud.

Criminal Remedies

F.I.R and Police Complaint - The Victims can file a First Information Report (F.I.R) under relevant sections of IPC or Bharatiya Nyaya Sanhita at the local police station.

¹⁹ Central Vigilance Commission (CVC)

Prosecution under Companies Act and PMLA - Large scale/fraud cases may be referred to SFIO or ED for investigation and prosecution of alleged white collared crime.

Civil Remedies

Civil suits - Victims can file suits to recover their lost funds, for compensation or for restitution of the property.

Injunctions - Courts may provide interim relief to prevent further dissipation of the assets.

Regulatory Complaints

SEBI Complaints - Victims of fraud and deceit in spheres of securities can lodge complaints with the SEBI which can further investigate and order penalty against the wrongdoers.

Consumer Forums - Victims of fraud in the domain of financial services can seek remedies from consumer courts.

Arbitration

Many commercial contracts now include arbitration clauses that enable the parties to resolve commercial disputes resulting from corporate fraud without recourse to regular courts.

PREVENTIVE MEASURES AND CORPORATE GOVERNANCE

- 1) Internal controls and Audit Committees - Audit committees and internal control systems, required by part of the Companies Act, 2013²⁰, serve an important function of signalling early detection.
- 2) Board supervision and financial duties - The directors and officers have a legal duty to act bona fide and in the best interests of the company (Section 166, Companies Act)²¹. A breach of fiduciary duty can result in both civil and criminal liability.

²⁰ Companies Act, 2013

²¹ Companies Act, 2013, Section 166

- 3) Cybersecurity procedures - Given the proliferation of online fraud, companies need to establish effective cybersecurity protections, employee training and incident response.
- 4) Adhering to Regulatory and Disclosure Requirements - According to SEBI's regulatory requirements will foster transparency and curb irresponsible conduct.

CHALLENGES IN ENFORCEMENT AND RECOVERY

Despite the existence of a strong legislative framework, many challenges remain which inhibit effective enforcement of remediation and recovery for victims :

Scale and Complexity : Often large-scale frauds utilize complex financial instruments, shell corporations, and involve more than one jurisdiction, which can make it difficult to investigate.

Establishment and Delay : Weak internal controls or a failure to provide whistleblower protections may deter employees from identifying fraud and/or delay complaint.

Recovering Assets : Tracking and recovering the proceeds of crime can be challenging, especially if funds are moved through off-shore entities.

Judicial Lag : Cases are delayed in the justice system due to courts being overburdened and trials can take years.

Multiple Governments Managing Jurisdictions : It is not only difficult to identify potential offenders who are committing fraud within a multi-jurisdictional context, but also inefficient when conducting investigations with different government agencies with overlapping jurisdictions.

SIGNIFICANT CASE STUDIES

1. Satyam Computer Services Fraud²²

²² Satyam Computer Services Scandal, 2010

The largest fraud was unearthed in 2009 which resulted in reforms of corporate governance and passage of the Companies Act, 2013. Emphasized the need for independent directors, audit committees and delinked penalties.

2. IL&FS Bankruptcy²³

There were complicated group structures and misreported circumstances which led to regulatory scrutiny and intervention by various bodies.

3. Yes Bank²⁴

Regulatory intervention and criminal proceedings as a result of actionable governance failures and fraudulent lending.

EVOLVING TRENDS: DIGITAL FRAUD, WITH REGULATORY EVOLUTION

Digitalization of business has enabled a more complex continuum of corporate fraud such as;

- Phishing and Social Engineering : exploiting employees and executives for access to sensitive information.
- Insider Threat : Manipulating databases or manipulating access privileges to record or interpret things inappropriately.
- Loss of Data : theft of proprietary corporate or customer data for monetary reasons.

Regulators appear to be reacting by tightening disclosure norms, expected cyber rules and enhanced inter -agency cooperation.

Comparative Positives and International Best Practices

Indian law to respond to corporate fraud has evolved from lessons learned from abroad such as;

²³ IL&FS (Infrastructure Leasing and Financial Services) Insolvency case, 2025

²⁴ Yes bank scam case, 2020

The Sabanes-Oxley Act in the USA²⁵ - Internal Control, Whistleblower Protection and independence of auditors

The Bribery Act in the U.K²⁶ - Sets very high bar for compliance by corporate anti - bribery systems.

By implementing the global best practices, India's anti-fraud framework will be further refined in areas such as digital forensics, transnational cooperation, and real-time monitoring.

KEY RECOMMENDATIONS AND WAY FORWARD

For India's anti-fraud framework to be more impactful, we recommend the following:

Enhance the protection of whistleblowers : Foster an environment of reporting and exposure of wrongdoings by protecting whistleblowers from retaliation.

Increase inter-agency cooperation : Improve the delineation of roles and the cooperation between regulatory and investigative agencies.

Apply technology : Invest in the latest forensic technology, data analytics tools, and AI-enabled monitoring systems to mitigate and detect fraud.

Fast-track justice : Create fast-track courts or tribunals to adjudicate long, complicated corporate fraud matters.

Continue to update regulating legislation : Regularly upgrade laws and guidelines for emerging typologies of fraud, especially within the digital landscape.

CONCLUSION

Corporate fraud and deception in India is dynamic and evolving. As a result, it requires ongoing proactive enforcement, institutional governance, and legal redress. Lessons learned from industry legislation and regulatory enforcement efforts will take time to settle. There will always be

²⁵ The Sarbanes - Oxley (SOX) Act, 2002

²⁶ UK Bribery Act, 2010

enforcement gaps, recovery gaps, and digital resilience gaps. However, if India can build a culture of transparency, accountability, and ethical dealings supported by effective statutes and institutional mechanisms, the Indian corporate landscape can grow stronger and keep investor confidence, as the challenges in the economy become increasingly complex and interdependent.

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