



FORENSIC INVESTIGATIONS AND FRAUD REPORTING IN INDIA

Practical insights to Predict, Prevent, Detect and Investigate Frauds

Sandeep Baldava • Deepa Agarwal

Forewords by

Arun Duggal

Audit Committee Chairman – ITC Limited

D. Sundaram

Audit Committee Chairman - Infosys Limited

Highlights

- Comprehensive guidance on
 - Forensic accounting and fraud investigation methodology
 - Fraud risk management and fraud reporting under governance regulations in India
 - Fraud concepts and theories, discussion on white-collar crimes
 - Role of CEO, CFO, CHRO, Independent Director, Auditors (external/internal)
- Covers
 - Types of frauds in banks and financial institutions
 - Difference between audit and forensic investigation
 - Practical case studies with modus operandi & key learnings
 - Illustrative examples of reporting by auditor and useful templates

B L O O M S B U R Y

Bloomsbury Professional India

FORENSIC INVESTIGATIONS AND FRAUD REPORTING IN INDIA

**Practical insights to Predict, Prevent,
Detect and Investigate Frauds**

No responsibility for loss caused to any individual or organization acting on or refraining from action as a result of the material in this publication can be accepted by Bloomsbury or the author.

The content of this book is the sole expression and opinion of its author and do not represent the views, opinions and concurrence of the author's organizations, businesses or institutions the author is, or has been a part of.

No person should rely on the contents of this publication without first obtaining advice from a qualified professional person. This publication is sold on the terms and understanding that: (1) the author is not responsible for the results of any actions taken on the basis of information in this publication, nor for any error in or omission from this publication; (2) the publisher is not engaged in rendering legal, accounting, professional or other advice or services and (3) the author is not by means of this publication rendering legal, accounting, professional or other advice or services and therefore do not owe any duty of care to any person whomsoever. The publisher, and author, expressly disclaim all and any liability and responsibility to any person, whether a purchaser or reader of this publication or not, in respect of anything, and of the consequences of anything, done or omitted to be done by any such person in reliance, whether wholly or partially, upon the whole or any part of the contents in this publication.

While best efforts have been made in preparing this book, the publisher and author makes no representations or warranties of any kind and assumes no liabilities of any kind with respect to the accuracy or completeness of the content and specifically disclaims any implied warranties of merchantability or fitness of use for a particular purpose.

The publisher and author believe that the content of this book does not violate any existing copyright/intellectual property of others in any manner whatsoever.

However, in case any source has not been duly attributed, the publisher may be notified in writing for necessary action.

BLOOMSBURY and the Diana logo are trademarks of Bloomsbury Publishing Plc

ISBN 978-93-54351-06-8

Bloomsbury Publishing India Pvt. Ltd
DDA Complex, LSC Building No.4
Second Floor, Pocket C-6 & 7, Vasant Kunj, New Delhi 110070
Phone: +91-11-40574957, 40574954
www.bloomsbury.com
CIN: U22130DL2012PTC232353

To provide feedback, please mail at professionalbooks@bloomsbury.com

To find out more about our authors and books
visit www.bloomsbury.com/in/academic/accounting-tax-law

Here you will find extracts, author interviews, details of forthcoming events and the option to sign up for our newsletters.

For laws/regulations referred in the book, it is recommended for readers to refer to latest laws and provisions while using the book.

FORENSIC INVESTIGATIONS AND FRAUD REPORTING IN INDIA

Practical insights to Predict, Prevent,
Detect and Investigate Frauds

Sandeep Baldava • Deepa Agarwal

Forewords by

Arun Duggal

Audit Committee Chairman – ITC Limited

D. Sundaram

Audit Committee Chairman – Infosys Limited

B L O O M S B U R Y

NEW DELHI • LONDON • OXFORD • NEW YORK • SYDNEY

Acknowledgement

As this is my first book I would like to take this opportunity to thank key people who shaped my personal and professional beliefs as well as who mentored me through my professional journey to date.

I first thank my grandfather (Late Shri Chandanmal Baldava) who was my first mentor and guru. I learnt my first on the job lessons about personal and business ethics as well as moral values from him. I spent most of my childhood with him while he was managing our family business. After school hours I used to mostly spend time with him at our business establishment. I am sure he is observing me from heaven and is happy that I continue to follow the ethical and moral path which I started on holding his hands.

My lessons on ethics and values continued through my father (Dr. Shankar Lal Baldava) and my mother (Suraj Baldava) who laid higher emphasis on values than achieving results at any cost. This book would not have seen the light of the day but for the patience of my wife (Dr.Shital) and kids Kunal & Nihal. Over the last seven months, I practically did not devote any time to them being busy with work during the week and with writing this book over the weekends.

One person who had significant influence over my professional and personal development especially over the last decade is my current guru and mentor Rajiv Memani. It is difficult to summarize in a sentence the number of learning experiences I have gained while working under him on different projects and initiatives. The most important ones I can capture is to think strategically, be positive and maintain your composure even under the most difficult or adverse situations. He is the most compassionate leader I have interacted with in my career.

I would like to thank:

- Utkarsh Palnitkar, my first boss and mentor, under whose tutelage I started my career in the year 1998. The first few years of one's professional career are crucial to lay a strong foundation for the professional journey ahead. I was lucky to start my career under Utkarsh. In addition to getting groomed as a well-rounded professional, I also honed my forensic accounting skills working under his direct supervision on some of the largest investigations in India during the years 1999 to 2001. Practical learning experiences gained from those investigations especially on conducting interviews and report writing are still fresh in my mind and have helped me throughout my journey as a forensic accountant.

- G Kali Prasad, my mentor and former colleague who introduced me to the world of professional organizations like ACFE and IIA. I also delivered my first international session on Forensic Accounting and Investigations under his guidance at Mauritius in the year 2005.
- Sunil Chandiramani, my mentor and former colleague who helped me sharpen my multi-tasking skills. Thinking on my feet all the time is a skill set that I sharpened while under his direct supervision.
- Sarath Kumar P, Chartered Accountant who first introduced me to Vigilance Study Circle, Hyderabad. Together, we delivered several sessions on combating white-collar crime at top investigation and enforcement agencies in India including CBI, Intelligence Bureau, NIA, Income Tax etc.
- All my colleagues and team members who accompanied me on several of my forensic expeditions over the last twenty-plus years and helped me crack complex and unique cases.

Special thanks to my co-author Deepa Agarwal who acted as the catalyst for me to co-author and publish this book. It started with a casual conversation when I congratulated her on the successful launch of a book authored by her. I shared with her that professional friends have nudged me for long to write a book to capture my practical experience of over two decades in the forensics arena. She quickly prodded me to write a book. I agreed with a condition that she will be the co-author of the book. I requested her to cover all the technical aspects of regulations with her well-recognized expertise in this area as I had no prior experience of writing a book. Thus, started our journey to write this book and I must admit that, considering the professional commitments and workload, without her rigorous follow-up every weekend over the last seven months, we would not have completed the book in time.

Sandeep Baldava

‘Passion is energy. Feel the power that comes from focusing on what excites you’ – a famous quote by Oprah Winfrey. This is exactly what came to my mind when I decided to co-author this publication with Sandeep. The idea turned out to be a unique and exciting opportunity to pen down the experiences and learnings in a simple manner with practical case studies to explain the concepts.

While I must acknowledge that it is not easy to write but I am indeed delighted with the release of this fourth publication in the last five years. I thank my parents and family for their continuous support and guidance without which achieving this was impossible. Special thanks to my beloved mother who is my mentor and my role model. She taught me not to give up in life right from my childhood days and she continues to inspire me with her hard work.

I would like to acknowledge my co-author Sandeep Baldava for this fantastic idea of bringing out this unique book, adding and sharing his rich experiences and ensuring that we give our best while authoring this publication. He has been able to devote quality time to this book balancing with his existing professional commitments and I compliment him for that. He has captured the essence of his vast experience of more than two decades in this book. It has been an honour to co-author this publication with him and I hope readers will find it interesting and relevant given the unique combination of 'Forensic Investigations' and 'Fraud Reporting'.

I would also like to place on record my sincere appreciation for all the professional colleagues who have supported me in all these years in my professional endeavours.

Deepa Agarwal

Special Thanks:

Thanking all the experts who contributed to this book - Mr. Nawshir H Mirza, Mr. M.D. Ranganath, Mr. Varun Berry, Mr. Saumen Chakraborty, Mr. Uday S. Dutt, Mr. Amit Garg, Ms. Rajani Kesari, Mr. Percy Amalsadiwalla, Mr. Aditya Vikram Bhat, Mr. Sudhir Soni and Mr. Anil Bhandari.

We would also like to acknowledge the contribution made by Mr. Toby Thomas and Ms. Nikita Gupta, for their untiring efforts in reviewing and providing additional inputs in the preparation of this publication.

Sandeep Baldava & Deepa Agarwal

About the authors



CA. Sandeep Baldava

B.Com (Hons.), ACA, CFE, CISA

Sandeep Baldava is a Chartered Accountant, a Certified Fraud Examiner and a Certified Information Systems Auditor by qualification with over 25 years of professional experience. Over the last two decades, he has led more than 1000 forensic investigations, fraud risk assessments and Anti-Corruption review engagements for companies headquartered in India, US, Asia, Europe & Africa.

In his role as an international peer reviewer, he has performed reviews on forensic engagements across the globe giving him unparalleled experience in this field.

His forensics experience spans across sectors and business functions. From deciphering complex forex transaction frauds or revenue recognition frauds to unravelling fund diversion/corporate loan defaults, to cracking recruitment fraud schemes to uncovering conflict of interest situations, he has deployed his forensic skills widely in bringing white collar criminals to justice.

He led fraud risk assessments at leading corporates across sectors including pharmaceuticals, banking, technology, automobile, infrastructure, and retail. He has advised corporates on claiming/repudiating damages on account of termination/non-compliance with commercial contracts or other disputes. He has led engagements in M&A Scenario advising corporates and Private Equity firms on pre-investment forensic due diligence as well post-investment monitoring/investigations.

From interviewing the junior-most employee of an NGO at a remote village in India to interviewing several high-profile promoters/CEOs/CFOs, his breadth of forensic experience is very wide providing him the ability to handle unique situations that crop up regularly while conducting forensic investigations. He has closely worked with, as well as presented findings to regulators and enforcement agencies on some of the most complex and high-profile white-collar crime investigations in India.

Professional Achievements

Conferred with 'Lifetime Dedication to Vigilance Award' instituted by Vigilance Study Circle. The award was presented by the Central Vigilance Commissioner of India. He was a member of the Committee on Anti-Corruption Compliance of the American Chamber of Commerce in India. He was also a member of CII's Special Group on Code of Business Ethics. He served as a member of the National Governing Council of the Institute of Internal Auditors, India Chapter and was President of

the Hyderabad Chapter. He served as a member of the Board of Directors of the Association of Certified Fraud Examiners, India Chapter.

Articles/Publications

His articles on white collar crime, fraud prevention and forensics that are published regularly in media and professional publications/journals receive wide appreciation for explaining complex cases/topics in simple to understand language with practical examples. He has developed unique and innovative terms related to fraud and forensics that help in a better understanding of underlying concepts. A few examples include: TecKnowledgeY, Conveniently Delay Repayment Scheme ('CDR'), "Passive" fraudsters, etc.

Trainings/Presentations

As a recognized thought leader on issues concerning fraud and corruption risks, Sandeep has delivered presentations and conducted training workshops for leading corporates and for central and state enforcement agencies in India.

- "Vigilant India leveraging technology in structures and processes" – National Conference on Vigilance Awareness organized jointly by The Central Vigilance Commission and The Central Bureau of Investigation
- Cracking Trade Based Money Laundering & other fraud schemes using forensic investigation techniques, Sardar Vallabhbhai Patel National Police Academy (NPA), Hyderabad
- Fraud Concepts and Cyber Frauds - Reserve Bank of India
- Terrorist Financing & White-Collar Crime - Training, National Investigation Agency (NIA), New Delhi
- Workshop on Forensic Accounting, Central Bureau of Investigation Academy, Ghaziabad,
- Reshaping Board's Strategy to Embrace Technology for Sustainability in the Pandemic Era – Institute of Directors
- Round-Table Discussion on "Corporate Governance Developments in India – Opportunities and Challenges" India-America Chamber of Commerce, New York, USA
- India Governance & Compliance Update, The Asia Pacific Pharmaceuticals Compliance Congress, Shanghai
- Wilful Default & Cross-Border Asset Recovery - ICC Fraud Net
- Presentation on Forensic Accounting & Technology led Frauds at SBI Academy, Hyderabad
- Invited regularly to present on the topic of forensic investigations and fraud prevention at conferences organized by industry bodies and professional institutes such as ICAI, IIA, ISACA, Amcham, CII, FICCI, IOD, VSC, etc.



Deepa Agarwal

B.Com, FCA, DISA, ASA (Australia)

Deepa Agarwal is a Chartered Accountant having bagged 13th and 5th rank at all over India and Northern India levels respectively. She has almost 20 years of experience in serving national and multi-national companies in the areas of Auditing, Accounting, Reporting, Corporate Laws, and other related matters. She has completed Information Systems Audit (ISA)

course from ICAI in Sept 2006 and a Certified course on IFRS from the ICAI, New Delhi in March 2011. She is an Associate Member of CPA Australia also. She has worked with the Technical Directorate of ICAI for around 5 years and was closely involved in the preparation of various publications such as Guidance Note on Companies (Auditor's Report), 2020, Implementation guide on Auditing and Reporting Standards, Implementation guide on Key Audit Matters and other information, Guide to physical verification of inventory under COVID 19, Guidance note on reporting in company prospectus, Background material on AS 16, Technical Guide on Accounting and Auditing issues in Chit fund, Technical Guide on internal auditing in case of intangible assets. She has been working with renowned multinational consultancy firms for almost 16 years in a technical role dealing with accounting, auditing, reporting, Companies Act, risk management, and quality-related matters.

She was a special invitee on AASB of the ICAI for two years and is a special invitee on Corporate Laws & Governance Committee of the ICAI. She has worked extensively on publications, projects, and Assurance Standards with the various Committees and Boards of the ICAI

She has authored three publications titled:

- 'The Law & Practice of Financial Reporting Requirements and Auditor's Responsibilities under Companies Act, 2013' released in June 2016, 2017 and January 2018.
- 'A complete Guide to Interim Financial Reporting' released in January 2017.
- 'Complete Guide to Director's Roles, Responsibilities & Liabilities under Companies Act, 2013' released in February 2021.

She has worked extensively on the preparation of comments, guidance, and presentations on the Companies Bill and Companies Act, 2013. She acted as a faculty member for the ICAI course organised by Ind-AS IFRS Implementation Committee, Centre for Audit Quality, Committee for members in practice, Women Empowerment Committee and Board of Studies. She acted as a speaker in seminars on accounting, auditing and Companies Act matters at various forums including

ICAI and C&AG. She has imparted multiple training to Chartered Accountants on Accounting Standards, Ind AS, Auditing Standards, Reporting matters etc. She regularly provides comments on various drafts on documents related to accounting, auditing, and corporate laws issued by ICAI and MCA and works extensively on the issuance of interpretations, opinions, and guidance on related matters. She has authored and contributed various articles published in ICAI Journal, NIRC Journal, Bombay Chartered Accountants Journal, Association of Corporate Advisers & Executives Journal.

Foreword 1

Good Corporate Governance is the foundation for long term success of any business. Corporate culture that resolves to conduct the business in an ethical manner and is promoted by the right tone at the top is the essential element of Good Corporate governance.

In the last decade, while on one hand corporate governance standards in India have improved significantly, on the other hand we continue to see corporate frauds of varied magnitude.

This book is very timely and is an excellent framework providing practical approach for proactive fraud risk management and forensic investigation. It clearly outlines the role of each stakeholder in addressing the risk of frauds.

Sandeep and Deepa are most recognized professionals in forensic investigations and governance practices. They have captured their decades of experience in this book in a very lucid and easy to understand manner.

I recognize that it is very difficult to explain complex technical/regulatory requirements in a manner useful for all relevant stakeholders. The authors have done a great job of achieving this fine balance with their unique approach of capturing real life case studies and inviting expert stakeholders to present their views on key topics.

The section on practical tips for planning and successfully executing forensic investigations including collating evidence and conducting interviews is a classic example of how authors have captured their vast experience in the form of a simple capsule. It will serve as an excellent checklist for anyone conducting or overseeing forensic investigations in India. The Chapter on Case Studies is a rich summary of learnings from different types of frauds discovered and investigated in India.

As a committed promoter of improving overall Corporate Governance standards in India, I am glad to be a part of this excellent initiative by Sandeep and Deepa. I am sure this book will make valuable contribution to improving Corporate governance practices specially around prevention, detection, investigation and reporting of frauds. I wish a great success to this unique initiative.

Arun Duggal

*Founder Chairman, FICCI Centre for Corporate Governance and Audit Committee
Chairman – ITC Limited*

Foreword 2

Management and directors have a big responsibility to ensure that the financial resources of a company are applied only for their intended purposes. Acts and attempts of fraud are always a challenge to this. Weak systems of internal controls, inadequate supervision of processes, insufficient independent validation of transactions and complicity of internal and external persons are among the leading reasons for such frauds.

Fraud is driven by greed and by the psychology of wanting to get richer at the soonest by means fast and foul. Fraud on individuals, companies and national resources has been happening from time immemorial. The governance of societies and communities has always been cognizant of this darker side of some humans, and sought to prevent such fraudulent acts by penal deterrents and punishments. Books of ethics and religion have always advised humans to shun coveting others' resources. 2000 years ago, Thiruvalluvar, a poet saint of Tamil Nadu, said in his book of ethics, *Thirukkural*, 'Even the very thought of defrauding others' property and possessions is despicable and wrong.' (Kural, 282.) In spite of all this, fraudulent acts and practices have persisted unabated.

Sandeep Baldava and Deepa Agarwal have done an excellent job in authoring this book; they have elegantly pulled together their collective experience of more than fifty years in audit, investigations and forensic examinations. The comprehensive nature of this book is commendable, with its 360° view of a complex subject with insights from excellent practical examples and case studies.

This book contains well-articulated chapters on concepts, regulatory requirements, governance dimensions, and the responsibilities of agents of assurance such as internal and statutory auditors. The chapter on financial statement fraud is a timely warning as to how fraudulent practices, often perpetrated from within, could mislead investors and defraud the government of its due share of revenue. The role and purpose of the whistle blower as an integral element of good corporate governance has been highlighted. In all these, the authors have illuminated many anonymised but real-life incidents, and the lessons such case studies impart. These range from simple embezzlement of cash to complex cyber-crimes.

I see this book as an invaluable guide and reference for all stakeholders, including company board members, CXOs and management, auditors, legal practitioners and academicians. It is an excellent addition to the library of practical knowledge and wisdom in the field of corporate governance.

D. Sundaram

Vice Chairman, TVS Capital Fund, and independent director for leading companies; Audit Committee Chairman – Infosys Limited, formerly Vice Chairman and Chief Financial Officer of Hindustan Unilever.

Praise for the book

“We’ve taken some unorthodox calls in investing in India and as fiduciaries are also required to have very strong conviction on the integrity of the operations and financials that we back with our capital. While the accounting standards and the hygiene factors are relatively high quality in India, the reassurance on the authenticity and sanctity of the team and the metrics are an absolutely integral element of our investment process. Historically, a number of factors have induced the promoters and the senior management teams to fabricate numbers, and dress up the story and the financial statements. The objectives might be to secure leverage, increase the valuations or the market caps, earn the stock options as well as scoring over competitors in the quest to report the best in class margins and growth. As we approach these investment opportunities, one overriding concern we carry is if the numbers are in fact too good to be true and are we being delusional in backing the best performing companies which are nothing except an amplified set of metrics we are betting on. The fundamental premise of deploying capital on the basis of the trust and faith in the teams and businesses could quickly unravel and lead to not just loss of capital for us, but more importantly reputational damage and the stigma of being set up to be conned. One of the essential components of diligence includes forensic or integrity diligence, and there is no one who has worked more extensively with us and whom we have trusted more than Sandeep. His varied experience, instincts, structured approach and access and network have served us well over the years, and stood the tests of authenticity and robustness as we have leaned into these transactions and invested significant amounts of capital. The quality of work has proven itself out, and there is no better validation of this than not having tripped on anything whether tangible or contingent over the many years across multiple investments we have made in India. The translation of touch and feel and my gut tells me supported by anecdotal evidence to a near-science on integrity diligence has been one of the hallmarks and the playbooks of Sandeep and team, and this assurance has helped us in building conviction. This pioneering script will make informative and scintillating reading, and I’m sure the readers will benefit from the insights and the war stories that Sandeep has crafted based on his long experience and multiple assignments.”

Puneet Bhatia
Co-Managing Partner and Country Head,
India of TPG Capital Asia

“With the upsurge in large-scale frauds in corporate India in recent years, triggering an arms race of regulatory and institutional countermeasures for fraud prevention, increased transparency and accountability, Sandeep and Deepa’s book offers an extremely comprehensive and first-of-a-kind treatment of this complex subject, in an Indian context.

This book boldly faces off with almost every question on the subject of corporate fraud that confronts contemporary boards, independent directors, investors, regulators and those entrusted with institutional oversight and governance, besides addressing some of the more nuanced questions that often confront experienced investigators in the field.

What is unique is the book goes well beyond just detailing the institutional and regulatory frameworks, and presents a multi-dimensional view of the subject, blending the collective wealth of the authors’ [four] decades of experience in investigating

high-profile, complex, frauds, with the “benefit-of-hindsight” insights of [CxOs, audit committee chairs, independent directors, lawyers and stakeholders], who have lived through them. The book offers not only practical guidance on forensic investigations, such as dealing with the approaches in collecting WhatsApp chats as evidence, but also goes as far as providing templates for execution in the field, making it a veritable “how-to” manual on investigations.

Written in what I’ve come to recognize as Sandeep’s characteristically precise and succinct style, the book tells several interesting stories that would certainly excite any professional even casually interested in the subject. Commendable job by Sandeep and Deepa. I wish them all success with this initiative.”

William Vivian John
Partner, L&L Partners

“With his vast experience on forensic accounting and investigations Sandeep was part of the group formed by ICAI to conceptualize and publish Forensic Accounting and Investigation Standards. Deepa, who was part of ICAI technical directorate, is an accomplished author and thought leader on topics relevant to auditors and directors.

This book by Sandeep and Deepa is a perfect mix of technical inputs and practical guidance. The book beautifully dissects and presents succinctly the difference between auditing and investigation which is very critical to understand for all stakeholders. With expectations from auditors increasing by the day to detect large scale frauds, the book also provides practical steps that auditors can take to detect such frauds.”

Sanjeev Singhal
Central Council Member and Member, DAAB, ICAI

“Increased pressures on financial viability or on maintaining day-to-day operations coupled with opportunities created by deterioration in internal controls create new fraud risk factors that were not present in prior periods. The hybrid working model have further increased these risks. Fraud risks can be higher not only at the entity level, but also within the ecosystem in which it operates (e.g., customers, suppliers, related parties, service organizations, investor etc).

Management should establish a comprehensive fraud risk management framework, to tackle the risk of fraud and to minimize the resultant financial and reputational loss to their organization. This book provides in-depth insights on forensic investigations and fraud reporting combing the two critical areas. The authors have articulated the fraud risk management principles in a lucid manner. I am sure that this book should be a useful reference point for professionals with diverse background. My best wishes for the great success of this book and many more such contributions in future.”

Lalit Kumar Khetan
Executive Director & CFO, Ramkrishna Forgings Limited

Preface

Dear Readers,

It gives us immense pleasure to present before you the first edition of the **book ‘Forensic Investigations and Fraud reporting in India - Practical insights to Predict, Prevent, Detect and Investigate Frauds’**. The book provides in-depth analysis and practical insights into two specialised areas which are high on the radar of regulators, audit committees, auditors, investors, and other corporate stakeholders - **Forensic Investigations and Fraud reporting**.

Frauds and economic crime rates remain at a record high, impacting more and more companies in diverse ways than ever before. The only way to reduce the impact of such frauds is to get a detailed understanding of the subject and adopt preventive measures instead of reactive or corrective measures for fraud prevention.

“Study the past if you would define the future”

“Real knowledge is to know the extent of one’s ignorance”

“He that would perfect his work must first sharpen his tools”

– Confucius

After researching existing publications on this subject, we felt that it is the right time to come up with a publication that comprehensively captures the following aspects:

- Roles and responsibilities of key stakeholders towards
 - Reporting of frauds under governance regulations in India
 - Prevention, detection and investigation of frauds
- Evolution of forensic investigations over the last three decades in India
- Key learnings from historical case studies relevant in current environment
- Practical approach for conducting investigations addressing unique situations
- Expanding role of forensic investigators beyond traditional accounting or financial fraud investigations
- Understanding and adapting leading practices by private sector from enforcement agencies/public sector or vice versa
- Simple and ready to use frameworks and templates

This book addresses the gap and provides relevant stakeholders with a common reference point. It will help them understand the above topics and use practical tips provided in the book to address situations they encounter in their professional roles as auditors (internal or external) or CXOs or independent directors or enforcement

personnel. Aspiring professionals and students will find this book a useful tool to acquire conceptual knowledge on topics such as ethics, fraud theories, etc. and gain a practical understanding of the approach for undertaking fraud risk assessments and forensic investigations.

Insights from experts

In addition to covering a gist of the topic with relevant provisions, and authors' viewpoint, key chapters also include relevant seasoned expert's take on the topic based on their vast practical experience. Each expert has more than three decades of experience including the last two decades in leadership roles. The idea was to present a practitioner's perspective based on practical experience in their role as an independent director or CEO or CFO, etc.

Who will Benefit from Reading this book?

“Non-cooperation with evil is as much a duty as is cooperation with good.”

– Mahatma Gandhi

Fraud reporting is one of the most important themes in the current corporate world. Considering the importance of this area, various regulators have come out with reporting requirements in the recent past with an aim to ensure adequate and timely fraud reporting. This is an area where there still seems to be a significant expectation gap amongst various stakeholders. While one section of stakeholders believe that they should not be expected to find a needle in the haystack, the other set of stakeholders may believe that an elephant in the room is being missed. In this context, understanding of the roles and responsibilities of various stakeholders is pertinent. The objective of this book is to capture all the relevant requirements at one place in a comprehensive manner. Also, the focus of this book is more on application of principles in practical situations through case studies. We are sure that this book should be a useful reference point for professionals with diverse backgrounds.

Forensic accountants investigate fraudulent activities, uncover money laundering and find missing assets through a combination of investigative techniques, digital forensics, and accountancy skills. Pursuant to regulatory requirements, responsibilities have been cast on multiple stakeholders towards reporting frauds. With this background, we believe that this book will benefit cross section of professionals including:

- Forensic accountants
- Independent directors and Audit Committees
- CEO/CFOs/CHROs
- Statutory auditors

- Internal Auditors/Chief Risk Officers
- In-house legal counsel
- Financial institutions including banks and lenders
- Investors including PE Funds, Bond holders, debenture holders
- Promoters of the company
- Corporate legal, accounting and compliance teams

With this note, we would like to place the book in the hands of our esteemed readers. We hope everyone will enjoy reading this book and it will help improve awareness about prevention, detection, investigation and reporting of frauds. We humbly request you to please share your valuable feedback/comments/suggestions with us at *sbthejamesbond007@gmail.com* and *deepa2580@gmail.com*.

Sandeep Baldava & Deepa Agarwal

Contents at a glance

<i>Acknowledgement</i>	v
<i>About the authors</i>	ix
<i>Foreword 1</i>	xiii
<i>Foreword 2</i>	xv
<i>Praise for the book</i>	xvii
<i>Preface</i>	xix
<i>Table of contents</i>	xxv

BACKGROUND, CONCEPTS AND DEFINITIONS - WHITE COLLAR CRIME, ETHICS & INTEGRITY, FRAUD

Chapter 1	Overview of white-collar crimes in India	1
Chapter 2	Definition of “Fraud” under relevant governance regulations	37
Chapter 3	Integrity and ethics	55

GOVERNING FRAMEWORK AND ROLES & RESPONSIBILITIES OF VARIOUS STAKEHOLDERS TOWARDS PREVENTION, DETECTION, INVESTIGATION

Chapter 4	Reporting of frauds under different governance regulations in India	65
Chapter 5	Roles and responsibilities of CEOs & CFOs in prevention, detection and investigation of frauds	91
Chapter 6	Roles and responsibilities of directors in prevention, detection and investigation of frauds	103
Chapter 7	Role of internal auditor in prevention, detection and investigation of frauds	129

FINANCIAL STATEMENT FRAUD AND ROLES & RESPONSIBILITIES OF STATUTORY AUDITOR

Chapter 8	Fraud detection and reporting – role of statutory auditor	149
Chapter 9	Financial statement frauds	207
Chapter 10	Identification of fraud – Role of whistleblowers and Audit considerations	219

**FRM & FORENSIC INVESTIGATIONS - EVOLUTION, TYPES, METHODOLOGY
& APPROACH**

Chapter 11	Evolution of forensic accounting & investigations in India	253
Chapter 12	Types of forensic investigations in India	285
Chapter 13	Forensic accounting and investigation methodology.	305
Chapter 14	Audit vs. Forensic investigation	347
Chapter 15	Fraud Risk Management	357

FRAUDS AT FINANCIAL INSTITUTIONS, INCLUDING BANKS

Chapter 16	Frauds at financial institutions, including banks	377
------------	---	-----

**CASE STUDIES, FORENSIC STANDARDS, CYBER FRAUD RISK AND
ILLUSTRATIVE EXAMPLES OF REPORTING**

Chapter 17	Case studies –Promoter, management, employee and third- party frauds	437
Chapter 18	ICAI Standards - Forensic Accounting and Investigation Standards.	473
Chapter 19	Cyber fraud risk and Auditors’ role	487
Chapter 20	Illustrative reporting by auditor and examples of reporting	497
Concluding remarks		533

Table of contents

<i>Acknowledgement</i>	vii
<i>About the authors</i>	xi
<i>Foreword 1</i>	xv
<i>Foreword 2</i>	xvii
<i>Praise for the book</i>	xvii
<i>Preface</i>	xix
<i>Contents at a glance</i>	xxiii

BACKGROUND, CONCEPTS AND DEFINITIONS - WHITE COLLAR CRIME, ETHICS & INTEGRITY, FRAUD

Chapter 1	Overview of white-collar crimes in India.	1
1.1	Introduction.	1
1.2	Evolution of white-collar crimes.	3
1.3	Impact of white-collar crimes	3
1.4	Why are educated and well-read people not spared from white-collar crime?	4
1.5	Repeat frauds.	5
1.6	Who commits white-collar crimes and Why?	8
1.7	When & why people commit frauds - Prominent white-collar crime theories	8
1.7.1	Fraud Triangle – Donald R Cressey	8
1.7.2	The Fraud Diamond Theory	11
1.7.3	Theory of Dark Triad Personality.	11
1.7.4	Author’s take on this topic	12
	1.7.4.1 The fence sitter phenomenon	12
	1.7.4.2 ‘We have no choice’ fraudsters	13
	1.7.4.3 Robinhood fraudsters	13
	1.7.4.4 Today’s fraudsters create opportunities.	14
1.7.5	Lightning does strike twice...	14
	1.7.5.1 Case 1: Head clerk at a bank.	15
	1.7.5.2 Case 2: Treasury manager at a agro chemical exports company	16
1.7.6	Repetition of similar modus operandi –case studies	17
	1.7.6.1 Enron (Year 2001)	17
	1.7.6.2 Worldcom (Year 2002)	18
	1.7.6.3 Parmalat SpA (Year 2003)	20
	1.7.6.4 Satyam Computer Services Limited (Year 2009)	20
	1.7.6.5 We learnt our lessons from the above cases or did we?	21

1.8	Evolution of frauds – ACFE’s Report to the Nations	22
1.8.1	Types of frauds	22
1.8.2	Corruption	24
1.8.3	Type of organisation	24
1.8.4	Sector-specific study	25
1.8.5	Duration of frauds	26
1.8.6	Action and recovery	27
1.9	Examples of white-collar crimes	28
1.9.1	Bank frauds	28
1.9.2	Bribery and corruption	28
1.9.3	Corporate frauds	28
1.9.4	Counterfeiting	28
1.9.5	Cyber frauds	29
1.9.6	Embezzlement	29
1.9.7	Insider trading	29
1.9.8	Money laundering	29
1.9.9	Ponzi schemes	30
1.9.10	Tax frauds or tax evasion	30
1.10	Specific measures to reduce or curb White-collar Crimes – Key takeaways	30
Expert Speak:	Unravelling the story of one of the biggest Ponzi scams in India . . . 32 – Amit Garg, IPS, Joint Director, Sardar Vallabhbhai Patel National Police Academy	
Chapter 2	Definition of “Fraud” under relevant governance regulations . . . 37	
2.1	Introduction	37
2.2	General definitions of fraud	40
2.3	Conditions of fraud	40
2.3.1	Fraud vs Error - “Intent is the key”	40
2.3.2	Categories of fraud	42
2.3.3	Association of Certified Fraud Examiners (ACFE)	43
2.4	Definition of fraud under various Acts & statutes	44
2.4.1	Indian Contract Act, 1872	44
2.4.2	Indian Penal Code, 1860	45
2.4.3	Companies Act, 2013	48
2.4.4	Securities and Exchange Board of India (SEBI) Laws	49
2.5	Bottom line	53
Chapter 3	Integrity and ethics	55
3.1	Introduction	55
3.2	Who is responsible for upholding ethical standards in an organisation? 57	
3.3	Setting tone at the top	57

3.4	The social psychology of corruption	58
3.5	Ethics and fraud prevention.	59
3.5.1	Leading practices	59
3.6	Conclusion.	60
Expert Speak: Role of CHRO in promoting ethics and preventing frauds		61
– Saumen Chakraborty, Independent Director and Former Global CHRO		

GOVERNING FRAMEWORK AND ROLES & RESPONSIBILITIES OF VARIOUS STAKEHOLDERS TOWARDS PREVENTION, DETECTION, INVESTIGATION

Chapter 4	Reporting of frauds under different governance regulations in India	65
4.1	Introduction.	65
4.2	Management’s responsibility under different regulations.	66
4.2.1	Responsibility – defined under the statute	66
4.3	Governing framework and reporting requirements under various statutes.	67
4.3.1	Fraud reporting under Companies Act, 2013	67
4.3.1.1	Liabilities and penalties under section 447.	67
4.3.2	Fraud reporting under Reserve Bank of India (RBI) laws	69
4.3.2.1	Master Directions on Frauds – Classification and Reporting by commercial banks and select FIs	70
4.3.2.2	Key requirements of Master Directions on Frauds	70
4.3.2.3	Classification of frauds	71
4.3.2.4	Reporting of frauds to Reserve Bank of India.	72
4.3.2.5	Reports to the Board	72
4.3.2.6	Annual review of frauds	73
4.3.2.7	Special committee of the Board	74
4.3.2.8	Role of auditors	74
4.3.2.9	Revisiting the current process of Fraud Reporting by Banks.	75
4.3.3	Fraud reporting under Securities and Exchange Board of India (SEBI)	76
4.3.3.1	Reporting of Fraud/defaults by promoter or key managerial personnel or by listed entity or arrest of key managerial personnel or promoter	76
4.3.3.2	Disclosure of initiation of forensic audit of listed entities – Amendment in SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015	77
4.3.3.3	Role of auditors	82
4.4	Way forward	82

Annexures

Annexure 1: FMR 1 - Report on Actual or Suspected Frauds in Banks. 84
Annexure 2: SEBI FAQs on forensic audits requiring disclosure. 88

Chapter 5 Roles and responsibilities of CEOs & CFOs in prevention, detection and investigation of frauds 91

5.1 Introduction 91
5.2 Management’s responsibility to prevent frauds. 91
5.3 Responsibility under Companies Act, 2013 93
5.4 Responsibility under SEBI LODR Regulations, 2015 95
5.5 Way forward 96

Expert Speak: Role of CEO in promoting ethics and setting “tone at the top” 97
– *Varun Berry, Managing Director, Britannia Industries Limited*

Expert Speak: Role of CFO in Fraud Risk Management. 100
– *Rajani Kesari, CFO Holcim India & CFO Ambuja Cement Limited*

Chapter 6 Roles and responsibilities of directors in prevention, detection and investigation of frauds 103

6.1 Introduction 103
6.2 Responsibilities of those charged with governance (Independent Directors/Audit Committee) in prevention and detection of fraudulent financial reporting 105
6.2.1 Role of independent directors under Companies Act, 2013. 105
6.2.2 Role of Audit Committee under SEBI LODR Regulations, 2015 . . 106
6.2.3 Roles of the Audit Committee in the prevention, deterrence, investigation, and discovery or detection of fraud. . . 107
6.2.4 Role of Audit Committee in review and approval of related party transactions 109
6.2.5 Responsibility of Management - AS 2401: Consideration of Fraud in a Financial Statement Audit. 110
6.2.6 Guidance Note on Reporting on Fraud under section 143(12) of the Companies Act, 2013. 110
6.2.7 SOX Section 302 – Corporate responsibility for financial reports. 111
6.2.8 Companies Act, 2013 – Directors’ responsibility statement . . . 112
6.3 When fraud is discovered – Role of directors. 114
6.4 Liabilities of directors 114
6.4.1 Liability under the Companies Act, 2013. 115
6.4.2 Recommendation by CII with respect to liability of independent directors 117