

Frauds Incorporate World

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Abstract

There are galore of cases of frauds in the corporate world and is ample enough to awaken the perpetrators benefiting themes elves illegally with the hard earned money of public at immense level. There are a number of categories of frauds which take place in primary, secondary and within walls of the organization itself, because these condemning activities are corroding the foundation of security market as well as interrupting the Indian economy. The subheads of these frauds affects the entire firm in many ways such as, psychological, economical and loss of job by employees which becomes a matter of grave concern. In this research paper, we will elaborate further the concept of different categories of frauds and how it takes place by making fools to the entire public. As we all know Investors are the backbone of the security market and the number of investors in increasing subs equity and it is going to help in pros parity of individuals along with nation but certain frauds which have taken place over a period of time have diminish had the confidence of Investors and for the smooth functioning of security market, investors participation is mandatory in enhancement of Indian economy. Therefore, there is an extreme need to maintain confidence of investors in the security market and all other concepts will be dealt in categorical all manner in the entire research paper.

Keywords: Corporate Frauds, Employees, Economical

Introduction

Corporate frauds are of much more significance from investor's point of view in the corporate world. Fraud can be defined as, an act of deceiving or misrepresent ending intentionally in order to obtain benefits in an illegal or unwanted manner. According to Association of Certified Fraud Examiners (ACFE) Fraud is, deception or misrepresent negation that an individual makes knowing that misreports negation could result in some unauthorized benefits to the individual or to the entity or some other party. Fraud consists of many unscrupulous activities by individual or company for making large amount of personal benefits. Frauds is an indirect way of attaining huge amount of money, the problem is in order to augment the level of company in corporate world, it indulges itself into unwanted activities, which affects organization to the larger extent as well as the investors loses trust over the company and they beware in future form these mistakes which take place. Now a days Corporate frauds have become a matter of serious condemn, since it affects, entity's reputation and investor's faith on the organization.

Organizations of all types, whether private or public or any other sector are facing these fraudulent activities. The major public companies have experienced financial reporting fraud, resulting in turmoil in the capital markets, a loss of shareholder value, and in some cases the bankruptcy of the company itself. there are various mechanisms are being adopted by the companies for keeping an eye on these intentional and harmful activities and now a days investors are taking precautionary measures in order to avoid monetary risks which can take place through various conducts because they want their investments to be safe in the hands of the entity. The investors are the backbone of the securities market, They actively take part in security market and become conducive in the enhancement of the economy of the nation. The number of investors are increasing in India at large level. Every organization needs money for carrying out their functions in secured and well establish had manner; Therefore investors are taking initiative to indulge themselves in the money market for fulfillment of their needs and become prosperous people through becoming a part of the company. Companies borrow money form banks, individuals and many financial institutions through issue of their financial securities like debentures, shares and bonds. Therefore for the battement of the corporate world, the faith of investors over companies need to be static always because they want benefit from their investments.

Aim of the Study

1. To familiarize participants with the most common forms of corporate fraud.
2. To analyze the main types of corporate fraud and methods of its commitment to impart the necessary skills for both analysis and detection of fraud risks.
3. To learn the principals of carrying out an internal investigation based on disclosed misuses and taking into account national specifics.
4. To get acquainted with the approach to carrying out an investigation, its planning and generalization of results.
5. To solidify the acquainted knowledge and skills with practice.

I am sure this knowledge paper will give rich insight and adequate knowledge to all stakeholders.

Thus, it is time for organisations to examine the role of corporate governance, particularly of those involved in preventing and detecting frauds.

Who commits Corporate Fraud

Corporate frauds can be committed through many ways. It can be done inside the organization by the employee through manipulation of audit and financial statements of the company for the purpose of attainment of unauthorized benefit.

Generally there are 3 groups of people who commit financial statement fraud. First category is people who are at top level of management such as CEO and CFO commit accounting frauds to conceal true business performance, to preserve personal status and benefits, for instance if company is running out of profits and they are not able to repay their debts to creditors, then they start showing their false income for obtaining huge amount of capital from individuals and from financial institutions without the security and it leads to company in wrong way and pushes it into the well of loss so this is all done for getting personal benefits and for maintain the stagnant position of the company in market.

Mid and Lower level employees falsify financial statements related to the area of their responsibility to conceal poor performance of the company and to earn performance based bonuses. Corporate world criminals falsify financial statements to obtain huge amount of loan from many big firms, individuals, banks and financial institutions, or to elate, they plan to sell in a pump and dump scheme. While many changes in financial audits processes have stemmed from the financial frauds or manipulations, history and related research, repeatedly exhibit that a financial audit simply can't be relied upon to detect frauds at any significant level.

Consequences of Fraudulent Reporting

Fraudulent reporting in accounts of company creates a chaos in the operation of activities of company. It affects public confidence in capital market because it hampers share value of company in capital market, moreover the fraudulent financial reporting impacts organization in numerous areas such as, financial, operational activities and psychological and the consequences can be humble and it can cause company to crumble like commodity because the good will, reputation customer trust over the company

will be vanished and obtaining trust might be a her clean task for the company and from future point of view, when extreme need of capital arises, no one will be ready to provide loans to company. these unwanted activities affect on stakeholders, creditors and employees as well who suffer jobs and diminishes position and value and auditors, atomies and even competitors whose reputation suffer by association.

As fraud can be perpetrated by any member of company, the fore there should be proper mechanism and strategically plans for avoiding these harmful activities to take place in the next level itself and proper fraud management department should be separately available in the organization itself which will eyeballs on company daily operational activities.

Types of Frauds

There are plethora of Corporate Frauds existing at present level in Corporate World and feasible solution need to found for avoiding these indispensable and fraudulent activities.

Payment Fraud

This type of fraud involves falsely creating or diverting payments. For example, creating fake records and bank accounts which enable fraudulent payments to be made, generating false payments, making fraudulent payments to oneself, intercepting and altering payee details.

Pyramid or Ponzi Schemes Fraud

In this category of fraud, investments of later investors are used to pay earlier investors and it often appears at the time of recession when investors want to remove their money from scheme and it is done for giving positive impression that the investments of the initial participants have increased in value in short amount of time.

This type of fraud occurs when legitimate business is established with the intention to make fool to its customers, creditors and suppliers. This type of fraud may take place after attaining good reputation or when apparent business is operative only for few months and when the huge amount of money is grabbed through various investments, business is shut down and huge profit is attained.

Insolvency and Bankruptcy related fraud

Insolvency related fraud occurs when company is aware of its fraudulent conduct and it majorly takes place prior to the anticipated insolvency of company. In order to avoid debts and liabilities, directors establish his astonishment companies just prior or after the insolvency of the company and they transfer all the assets from the first company to newly established company, so that they get immune from paying its debts.

Investor protection

Investors are considered as backbone of the securities market because they contribute heavily in Security market as well as in enhancement of an Indian economy, therefore their invested money need to be safe guarded through effective rules and regulations. Every Organization needs capital for operation of their daily activities in smooth and perfect manner since finance is the lifeline of all corporate sectors and here the Investors Contribution comes

into play for the establishment of admiring and confident image in the eyes of investors. The number of investors are taking part in security market but due to several fraudulent scams which have taken place over a period of time has diminished the confidence of investors in capital market, Therefore, this confidence need to be maintained for existence of capital market or else the consequences will be outrageous and humble which is beyond fantasy of laymen point of view.

The concept of investors protection need to looked from different angles by looking into aspirations and requirements of different category of investors.

- (I) Investors in Equity
- (II) Large institutional investors
- (III) Investors in Debentures
- (IV) Foreign investors and small investors and depositors.

So for the clear understanding of the afore said concepts, it is mandatory to know the term investors in elaborative manner.

An investor is a person who is an individual or legal entity who invests his earned money in different ventures without indulging himself or itself into activities of that venture. Investor is always ignorant about the going on procedures within internal management of the organization and they never become part of any decision making process. Normally an investor is a blind person who doesn't possess any idea about working environment of the corporation itself. The chance of taking part into business activity comes into picture when investors trade among themselves in secondary market, where they buy and sell shares among investors themselves and here no interjection by the companies take place. Investors invest their money in belief that, they will get sufficient amount of return from their money and it will help them to execute their other planned schemes in future and sometimes investors are not aware about the procedure of security market and they invest money without due devotion and proper care which cause them a huge loss in future, since they can't predict about happenings with their money by the utilizes. An investor has mainly three objectives, which he expects to be fulfilled from his investment, firstly the safety of invested money, secondly liquidity position of invested money, and return on investment in selected securities. Therefore for the fulfillment of those there objectives, precautionary measures need to be adopted for prevention of these unwanted activities which hampers company's reputation as well as confidence of shareholders and other investors.

There are 5 established legislations which groves security markets.

- a. The Security and Exchange Board of India Act, 1992.
- b. The Companies Act, 1956, which sets of the code of conduct for the corporate sector in relation to issuance, allotment and transfer of securities, and disclosures to be made in public issues.
- c. The Securities Contracts Act,1956, which provides for the regulation of transaction in securities through control over stock exchange.

- d. The Depositories Act, 1996, which provides for electronic maintenance and transfer of ownership of demat shares.
- e. The Prevention of Money Laundering Act,2002.

These legislations governs the entire security market scandals and fraud and it works as protective measures of money of investors and helps in establishment of confidence of investors in security market because their participation is necessary for the betterment of economy of country and investors affluence.

Case Analysis SATYAM (2009)

Protagonist – B Ramalinga Raju & Others
Amount – Rs. 7,200 Cr.

What was it about?

An accounting scandal where `Ramalinga Raju confessed to having cooked up the accounts of Satyam Computers and inflated its bank balances. He has, along with his family members, also been accused of laundering money through a mesh of hundreds of companies.

Status

Out of jail, on bail! Raju walked out in late November 2011 after spending 32 months behind bars after the CBI failed to charge him on time and the ED delayed launching criminal prosecution because of lack of clarity on which court will hear the matter. Not just Raju, but all the 10 co-conspirators are also out on bail. The CBI is believed to be nearing completion of the case. But with the ED charge sheet, which includes 37other individuals apart from the 10 prime accused and 166 companies, just being filed, it could take more time before there is closure to this case.

Ketan Parekh Securities Scam(2001)

Protagonist – Ketan Parekh
Amount – Rs. 1,250 Cr

What was it about? –

Parekh was involved in circular trading and stock manipulation through 1999-2001 in a host of companies. Like his mentor Hares had Mehta, Parekh too borrowed from banks like Global Trust Bank and Madhavpura Mercantile CO-operative bank, and manipulated a host of stocks popularly known as K-10 stocks.

Status

Parekh has spent only 1 year in jail but has been banned from trading in the Indian stock markets till 2017. His name though, continues to haunt the street as he has been accused of pulling the strings from the backstage. An IB (Intelligence Bureau) report last year alleged that Parekh and his associates were still engaged in circular and insider trading through front entities, but it was very difficult to establish his complicity because these were largely benami transactions.

SPEAK ASIA ACAM (2013)

Protagonists: Harender Kaur, Manoj Kumar Sharma, Tara Bajpal & others
Amount – Rs. 2,000+ Cr

What was it about

An online business survey firm that collected thousands of crores of rupees from over 24 lakh investors, asking them to fill surveys and guaranteeing to quadruple their income in one year, Speak Asia was accused of running a Ponzi scheme. A criminal case was registered against the firm in 2011, some accounts frozen and its business shutdown.

Status

The Economic Offences Wing (EOW) despite promising to file a watertight case hasn't yet filed a charge sheet in the case, even with the Bombay High Court rapping it for clubbing all the cheating cases together, leading to a delay. Speak Asia's panelists have still not been refunded their money (Over Rs 2,000 Cr is due according to some media reports) and its key management personnel are absconding, with no convictions made till date.

Home Trade Scam (2002)

Protagonists – Sanjay Agarwal, Sunil Kedar
Amount – Rs. 600 Cr

What was it about

A brokerage embezzling funds from over 25 corporate banks across Maharashtra by luring them with higher interest rates on gilt trading. Investigations revealed that the G-Seces which home Trade claimed to have bought, were not physically delivered and may not have even existed.

Status

According to an India Today report aggarwal who was arrested in 2002 is out on bail. The case has been indefinitely delayed due to the accused not turning up for court hearings.

Saradha Chit Fund Scam (April 2013)

Potagonist – Sudipto Sen
Amount – Rs. 2060 – 2400 Cr

What was it about

One of the biggest Ponzi schemes in West Bengal that enjoyed political patronage and lured millions of investors to deposit money with the promise of abnormally high returns including fancy holidays etc. The chit fund eventually collapsed leading to defaults after a crackdown by SEBI and the Reserve Bank of India. The default, apart from leaving small depositors high and dry, also led to 10 media outlets owned by Saradha being forced to wind up, leaving 1000 journalists jobless.

Status

Various agencies including ED and SFIO are probing the misappropriation of funds. Sudipto Sen, the Chairman and managing director of the Saradha Group was arrested earlier this year and the Enforcement Directorate has been granted his custody for intenogation to probe money laundering. Suspended TMC MP kunal Ghosh, who was accused by Sen for being involved in the scam has been called for questioning by SFIO, but not arrested yet. The state had set up a fund of Rs 500 crore for compensating poor depositors. Of Saradha's 1.7 million investors, only 1000 depositors were indemnified in September and about 1 lakh were expected to be compensated before durga puja.

Conclusion

The number of Corporate scandals related with primary and secondary market affects the whole entity in many ways such as, financial, psychological and reputation of the company gets hampered and whoever was involved in company's various operational activities becomes prey of one negligent and greedy decision which drowns the entire firm. the ramifications of scams are easily predictable, therefore for avoidance of these decisions from being taken be employees at all level of entity should carefully indulge into proper decision making process because obtaining money be following wrong direction leads to devastation and collapse of the entire community and affects economy as whole.

Investors should always be careful and due diligence need to be adopted by them before they indulge into investment process. There is different category of investors and their knowledge differs in field of security market, therefore those investors who don't possess knowledge about working procedure of capital market, they should always take consolation with appointed financial brokers by SEBI and every organization should have properly established fraud department which keeps an eye on day to day transactional activities therefore the security market system need to be transparent and trustworthy since the confidence of investors should always be given priority because capital market can't stand without contribution and full support of investors.

India has enacted various legislation for safeguard of investor's money because they can't predict the intention of utilizers of that money and it can be used in many wrong ways, but proper implementation of these laws are necessary for resisting scams in corporate world. These 2 concepts corporate fraud and more of significant value to make sure about protection of investors money because they have certain objectives from these investments which must be fulfilled at any cost and if all goes ell, the relationship between investors and conglomerates will increase and it will be conducive for the Indian security market

References**Books Name**

1. *The Economics Stricture Corporate Law.*
2. *Corporate Law & Allied Laws.*
3. *Philippine Corporate Law Compendium*
4. *Delaware General Corporation Law*

Website Search Link

1. kie.vse.cz/wp-content/.../51E471_The_Economic_Structure_of_Corporate_Law.pdf
2. students.icaai.org/?page_id=5432
3. https://books.google.com/books/about/Philippine_Corporate_Law_Compendium.html
4. https://en.wikipedia.org/wiki/Delaware_General_Corporation_Law