

Topic: Categorization of accounts as fraud by bank

Incidence of frauds, cheating, robberies, etc., in banks is a matter of concern. RBI Guidelines on frauds insists, among others, that banks are required to introduce necessary safeguards / preventive measures by way of appropriate procedures and internal checks so as to prevent/minimize occurrence of frauds and resultant financial loss to the banks.

The banks are supposed to provide focus on the "Fraud Prevention and Management Function" to enable, among others, effective investigation in fraud cases and prompt as well as accurate reporting of fraud cases to appropriate regulatory and law enforcement authorities including RBI.

Banks are required to frame their internal policy for fraud risk management and fraud investigation function with the approval of their respective Boards.

1. Important Definition:

1.1 Fraud: Fraud is intentional deception to secure unfair or unlawful gain, or to deprive a victim of a legal right. Fraud can violate civil law, a criminal law, or it may cause no loss of money, property or legal right but still be an element of another civil or criminal wrong. The purpose of fraud may be monetary gain or other benefits.

1.2 Misappropriation: Misappropriation is the unauthorized use of another's name, likeness, identity, property or funds without that person's permission, resulting in harm to that person.

1.3 Cheating: As per section 415 of Indian Penal Code-Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to "cheat".

1.4 Forgery: As per section 463 of Indian Penal Code - Whoever makes any false documents or false electronic record or part of a document or electronic record, with intent to cause damage or injury], to the public or to any person, or to support any claim or title, or to cause any person to

part with property, or to enter into any express or implied contract, or with intent to commit fraud or that fraud may be committed, commits forgery.

2. Classification of Fraud:

2.1 Frauds have been classified as under based mainly on the provisions of the Indian Penal Code:

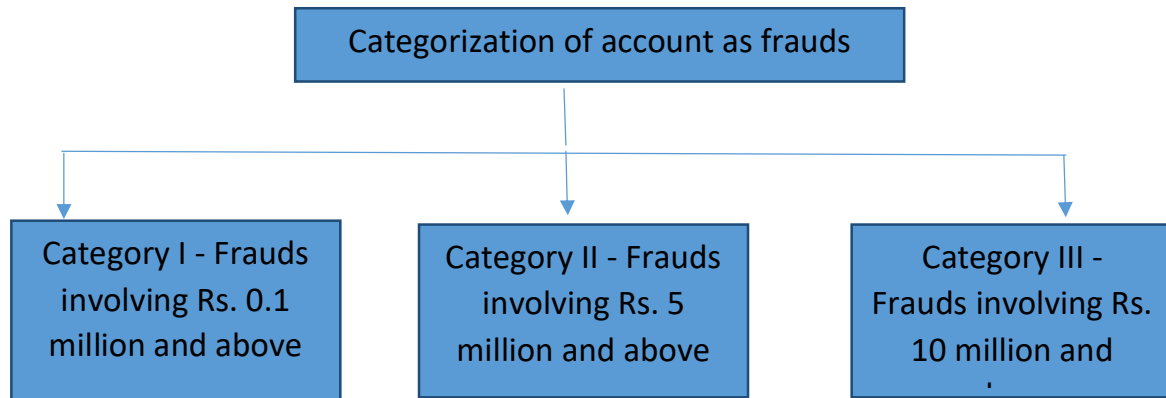
- (a) Misappropriation and criminal breach of trust.
- (b) Fraudulent encashment through forged instruments, manipulation of books of account or through fictitious accounts and conversion of property.
- (c) Unauthorised credit facilities extended for reward or for illegal gratification.
- (d) Negligence and cash shortages.
- (e) Cheating and forgery.
- (f) Irregularities in foreign exchange transactions.
- (g) Any other type of fraud not coming under the specific heads as above.

2.2 Cases of 'negligence and cash shortages' and 'irregularities in foreign exchange transactions' referred to in items (d) and (f) above are to be reported as fraud if the intention to cheat/defraud is suspected/ proved. However, the following cases where fraudulent intention is not suspected/ proved at the time of detection will be treated as fraud and reported accordingly:

- (a) cases of cash shortage more than ₹10,000/-, (including at ATMs) and
- (b) cases of cash shortage more than ₹5,000/- if detected by management / auditor/ inspecting officer and not reported on the day of occurrence by the persons handling cash.

3. Categorization of accounts as frauds:

Categorization and reporting of fraud by bank are broadly divided into 3 categories.



3.1 Banks need to furnish Fraud Monitoring Return (FMR) in individual fraud cases, irrespective of the amount involved, to RBI electronically using FMR Application in XBRL System supplied to them within three weeks from the date of detection.

Name of the return	Amount involved in the fraud	Medium in which to be reported	To whom it should be reported	Timeline for reporting
FMR 1- Report on actual or suspected frauds	Frauds involving ₹0.1 million and above	Soft copy	Central Fraud Monitoring Cell (CFMC), Bengaluru.	Within three weeks of detection
FMR 1- Report on actual or suspected frauds	₹0.1 million and above - ₹5 million	Hard copy	1. To the Regional Office (RO) of RBI, Department of Banking Supervision (DBS) under whose jurisdiction the branch where the fraud has taken place is located. 2. To the RO, DBS / SBMD under whose jurisdiction the	Within three weeks of detection

			Head Office of the bank where the fraud has taken place is located or to the SSM of the Bank.	
FMR 1- Report on actual or suspected frauds	Fraud cases involving an amount of ₹5 million and above.	Hard copy	1. CFMC Bengaluru 2. RO of RBI (DBS) / SBMD under whose jurisdiction the head office of the bank falls or the SSM of the bank.	Within three weeks of detection
FMR 1- Report on actual or suspected frauds and Flash Report	For frauds involving ₹10 million and above	Hard copy	1. Through a DO letter addressed to the PCGM/CGM-in-Charge, DBS RBI, Central Office, Mumbai. 2. Copy to the RO of RBI under whose jurisdiction the bank's branch, where the fraud has been perpetrated, is functioning and RO of RBI (DBS) / SBMD under whose jurisdiction the head office of the bank falls or the SSM of the bank.	Within a week of such frauds coming to the notice of the bank's head office
FRM 2	Quarterly report on frauds outstanding	Soft copy	CFMC Bengaluru	Within 15 days of the end of the quarter to which it relates
FRM 3	Case-wise quarterly progress reports on frauds involving ₹0.1 million and above	Soft copy	CFMC Bengaluru	Within 15 days of the end of the quarter to which it relates

3.2 In respect of frauds in borrowal accounts, additional information as prescribed under Part B of FMR 1 should also be furnished. It is observed while scrutinizing FMR 1 returns from the banks, that certain vital fields in the returns are left blank. As the complete particulars on frauds perpetrated in the banks are vital for monitoring and supervisory purposes and issue of caution advices, banks should ensure that the data furnished are complete/accurate and up-to-date. Incidentally, if no data is to be provided in respect of any of the items, or if details of any of the items are not available at the time of reporting of FMR 1 return, the bank may indicate as “no particulars to be reported” or “details not available at present” etc. In such a situation, the banks have to collect the data and report the details invariably through FMR 3 return on quarterly basis.

3.3 Fraud reports should also be submitted in cases where central investigating agencies have initiated criminal proceedings suo moto and/or where the Reserve Bank has directed that such cases be reported as frauds.

3.4 Banks may also report frauds perpetrated in their subsidiaries and affiliates/joint ventures in FMR 1 format in hard copy only. Such frauds should, however, not be included in the report on outstanding frauds and the quarterly progress reports referred to in paragraph 4 below. Such frauds will not be entered in the FRMS package at any stage. In case the subsidiary/affiliate/joint venture of the bank is an entity which is regulated by Reserve Bank of India and is independently required to report the cases of fraud to RBI in terms of guidelines applicable to that subsidiary/affiliate/joint venture, the parent bank need not furnish the hard copy of the FMR 1 statement in respect of fraud cases detected at such subsidiary/affiliate/joint venture.

3.5 Banks (other than foreign banks) having overseas branches/offices should report all frauds perpetrated at such branches/offices also to RBI.

3.6 Central Fraud Monitoring Cell (CFMC), Department of Banking Supervision, Central Office located at Bengaluru will publish a directory of officers of all banks/Financial Institutions (FI) responsible for reporting of Frauds etc. All banks/Financial Institutions should furnish to Department of Banking Supervision, Central Fraud Monitoring Cell, Bengaluru any changes in the names of officials that will be necessary for inclusion in the directory on priority basis as and when called for.

3.7 Report on Frauds Outstanding - FMR 2

The total number and amount of fraud cases reported during the quarter as shown in Parts B and C of the return should tally with the totals of columns 4 and 5 in Part - A of the report.

Banks should furnish a certificate, as part of the above report, to the effect that all individual fraud cases of ₹0.1 million and above reported to the Reserve Bank in FMR 1 during the quarter have also been put up to the bank's Board and have been incorporated in Part - A (columns 4 and 5) and Parts B and C of FMR 2. A 'Nil' report should be submitted if there are no frauds outstanding at the end of a quarter.

3.8 Progress Report on Frauds - FMR 3

A list of cases of frauds where there are no developments during a quarter with a brief description including name of branch and date of reporting may be furnished in Part - B of FMR 3. A 'Nil' report should be submitted if there are no frauds above ₹0.1 million outstanding.

Source: https://m.rbi.org.in/Scripts/BS_ViewMasDirections.aspx?id=10477#