

Fraud Risk Assessment , WB Policy (Module 2)

DFA

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Vigilance definition, types

- ◆ *“Action or state of keeping careful watch for possible danger or difficulties.”*
- ◆ (1) **Preventive vigilance**, aimed at reducing occurrence of a lapse (violation of a law, a norm,
- ◆ (2) **Detective vigilance**, which is aimed at identifying and verifying the occurrence of a lapse;
- ◆ (3) **Punitive vigilance**, which is aimed at deterring the occurrence of a lapse
- ◆ (4) **Consultative Vigilance**

7 Golden Principles - CVC

- ✓ To find *Facts* and not *Faults*
- ✓ To *Guide* and not *Chide*
- ✓ To extend a *helping hand* and not *point fingers*
- ✓ To *Demonstrate* and not *Remonstrate*
- ✓ To be *Corrective* and not *Coercive*
- ✓ To “*Be Aware*” instead of saying “*Beware*”
- ✓ To distinguish *bonafide* from *malafide*

Leveraging Technology

- ◆ **WB Mechanism & hotline**
- ◆ **All work contracts & procurement**, auction above Rs. __ Lakhs being done by e-procurement mode.
- ◆ The **pending bills** are displayed on the website every fortnightly.
- ◆ **Notice Inviting Tenders (NIT)**, Tender documents, Corrigendum published
- ◆ The **details of registered vendors** are published on Website.
- ◆ The **details of Procurement and the Work contracts** are published and updated on website on monthly basis.
- ◆ **"Online Complaint Form"**,
- ◆ **Integrity Pact**
- ◆ complaints regarding contracts above Rs 50 Crores & purchase of material above Rs 5 Crores may be referred to Independent External Monitor (IEM)

CVC Mandate

- ◆ **CVC Scrutinizes Audits of PSB & Insurance companies (External & Concurrent audit reports)**
- ◆ **to check incidents of fraud and suggest corrective measures**
- ◆ **banks reporting large scale fraud cases and the high number of NPA , wilful Defaults& write-offs**

Jet Airways case

- 1) Jet Airways = incorporated as LLC on April 1992 as an air taxi operator.
 - 2) The founder and chairman of Jet Airways is Naresh Goyal.
- ☐ First airline to operate Boeing 737-400 aircraft in India.
 - ☐ Less Competitor-Good Opportunity in the Industry.
 - ☐ Easy to Survive and Growth Perspective was high.
 - ☐ Company's market share were rising rapidly.
 - ☐ On 18th Jan,2006 Company acquired Air Sahara for Rs.1,450 Cr. and rebranded it as Jetline and had the market share of 32%
 - ☐ It also launched one more Subsidiary and called it Jet Konnect
 - ☐ **2006 onwards :**
 - ☐ Companies started entering the Airline Industry(Ex-Indigo).
 - ☐ This lead to cut throat competition in the Industry.
 - ☐ Jet Co. could not cope up with the market change and hence started incurring losses

Failure & Last flight – April 2019

- ❑ Due to liquidity crunch, company approached SBI on January 2019 for further working capital loans.
- ❑ SBI asked for forensic audit report for period from April,2014 to March,2018 for sanctioning the further loans
- ❑ E&Y appointed as the forensic auditor .
- ❑ It took 3-4 months to complete forensic audit report which was reported only on April 2019.
- ❑ Due to such delay the company could operate and hence it collapsed and its last flight was 17th April,2019 from Amritsar to Mumbai.

Jet : 2019 scenario

- ◆ Debt burden crossed INR 26,000 Cr
- ◆ Referred to Insolvency – NCLT in June 2019
- ◆ Fast track insolvency : 90 days
- ◆ Revival plan from IP submitted

“SuperCert” solution

- ◆ permissioned blockchain architecture = decentralization, intelligent identity encryption & identity interlinking for issuance of educational certificates
- ◆ i. Creation of student identity – Superidentity. A unique BC representation of the identity is provided, along with a set of public & private keys.
- ◆ ii. Issuance of certificate by university, together with Superidentity of student.
- ◆ iii. SuperCert i.e. creation of a block of student certificate – hashed version of the certificate on blockchain
- ◆ iv. Verification of the certificate using public key of student & public key of university.
- ◆ The solutions have features for both online and offline verification
- ◆ BC = immutability feature - ensures : tampering of certificate is not feasible – both content of certificate & identity of certificate holder.
- ◆ Tamper & fraud resistant
- ◆ Scalable to national and global level
- ◆ Real-time, automated verification from anywhere in the world.

ONGC - Fraud Risk Management Approach,

- ◆ Guidelines on **Corporate Governance for Central Public Sector Enterprises (CPSE's)** issued by **Department of Public Enterprises (DPE)**:
- ◆ **Section 177(9) of the Companies Act**, shall establish a **vigil mechanism** for directors and employees to report genuine concerns in such manner as may be prescribed
- ◆ **section 143(12) of the Act** - : Auditors Report to CG
- ◆ **Mission Statement of the Fraud Prevention Policy**
- ◆ *“To protect ONGC from any kind of frauds resulting in loss and reputation damage by adopting integrated measures for effective and efficient fraud prevention, detection and remediation.”*

ONGC : FRM - Objectives of the policy

- ◆ *Promote an ethical and fraud-free environment at ONGC.*
- ◆ *□ Create a culture at ONGC that promotes fraud prevention by all stakeholders;*
- ◆ *including senior management, employees, business associates, vendors, customers and others doing business or having dealings with ONGC*
- ◆ *Create awareness among senior management, employees, business associates, vendors, customers and others doing business or having dealings with ONGC of their responsibilities for prevention, detection and reporting of fraud and for establishing controls and procedures for identification, prevention and detection of fraud.*
- ◆ **Scope of Fraud**
- ◆ *section 447 of the Companies Act, 2013,*

Actions Constituting Fraud in ONGC

- ◆ Misappropriation of funds, securities, supplies or other assets
- ◆ ☐ Forgery or alteration of any document, record or account belonging to ONGC
- ◆ ☐ Forgery or alteration of a cheque, bank draft, account or any other financial instrument
- ◆ ☐ Fraudulent financial reporting
- ◆ ☐ Mis-utilization of ONGC funds for personal purposes
- ◆ ☐ Authorization or receipt of payments for goods not supplied or services not rendered
- ◆ ☐ Unauthorised destruction, removal or inappropriate use of records, furniture, fixtures, and equipment;
- ◆ ☐ Making false written or oral statements or representation with respect to Company activities
- ◆ ☐ Impropriety in the handling or reporting of money or financial transactions
- ◆ ☐ Profiteering as a result of insider knowledge of ONGC's activities
- ◆ ☐ Disclosing confidential and proprietary information to unauthorised parties
- ◆ ☐ Bribery or kickbacks
- ◆ ☐ Accepting or seeking anything of material value from contractors, vendors, or persons providing services/materials to the ONGC
- ◆ ☐ Wilful suppression of facts/deception in matters of appointment; placements; submission of reports
- ◆ ☐ Any other act that falls under the scope of fraudulent activity

Fraud Reporting - ONGC

- ◆ Any employee, representative of vendors, contractors, or any other third party doing any type of business with ONGC as soon as he / she comes to know of any suspected fraud or fraudulent activity must report such incident(s).
- ◆ Such reporting **will be through Nodal Officer(s) at Work Centre Level.**
- ◆ Anonymous / Pseudonymous Complaints **will not be entertained** for further action at any stage.
- ◆ Whenever complaint of Fraud is received, report thereof shall be submitted by Nodal Officer to **Fraud Risk Management Committee (FRMC) through the Fraud Control**

Fraud Risk Management Committee

- ◆ Fraud Risk Management Committee (FRMC) shall be responsible for overseeing the fraud risk management at ONGC.
- ◆ FRMC shall comprise of:
 - ◆ □ Chief Internal Audit as Fraud Control Officer
 - ◆ □ Chief – Legal
 - ◆ □ Chief – Material Management
 - ◆ □ Chief – Corporate Finance
 - ◆ □ Head – ICE
 - ◆ □ Chief – ER
- ◆ EC – Exec Committee

LIC I – Anti Fraud Policy

- ◆ **ANTI FRAUD POLICY, (Revised on 12th January, 2021)**

- ◆ **Preamble (key excerpts)**

- ◆ Corporation aims to be an honest and ethical Organization, seeking to conduct its business to the highest level of integrity and objectivity. In order to protect its financial systems, resources and assets and the honesty and integrity of its employees and intermediaries, it is important that the Corporation has an established policy in place to minimize the risk and impact of fraudulent activity.

- ◆ Life Insurance Corporation of India will implement the following Anti Fraud Policy as a part of Fraud Monitoring Framework for the Corporation in accordance to Para C of IRDA Circular ref: IRDA/SDD/MISC/CIR/009/01/2013 dated Jan 21, 2013

- ◆ **References**

- ◆ 1. **Indian Penal Code, 1860** (“IPC”) Section 25 of IPC defines "Fraudulently “as:

- ◆ A person is said to do a thing fraudulently if he does that thing with intent to defraud but not otherwise.

- ◆ 2. **Indian Contract Act, 1872**, Section 17 of the Act defines Fraud

LIC Definition of “Fraud” –

- ◆ **Fraud:** The term fraud means and includes but does not limit to any/all of the following acts committed by a party to a Contract, or with his connivance, or by his agent, with intent to deceive another party thereto or his agent or to induce him to enter into the contract:
 - ◆ 1) The suggestion, as to a fact, of that which is not true by one who does not believe it to be true;
 - ◆ 2) The active concealment of a fact by one having knowledge or belief of the fact;
 - ◆ 3) A promise made without any intention of performing it;
 - ◆ 4) Any other act fitted to deceive;
 - ◆ 5) Any such act or omission as the law specially declares to be fraudulent.
 - ◆ 6) Any intentional false representation, including failure to declare information
 - ◆ 7) Abuse of position which is carried out to make gain, cause loss or expose another to the risk of loss.
 - ◆ 8) Fraud may include such acts as deception, bribery, forgery, extortion, corruption, theft, conspiracy, embezzlement, misappropriation, false representation, concealment of material facts and collusion.
 - ◆ 9) Deliberately misrepresenting, concealing, suppressing or not disclosing one or more material facts relevant to financial decision, transaction or perception of the insurer's status.
 - ◆ 10) Abusing responsibility, a position of trust or a fiduciary relationship

- ◆ 11) The criminal act is the attempt to deceive; attempted fraud is therefore treated as seriously as accomplished fraud.
- ◆ 12) Altering, concealing or destroying manual or computer records, misuse of computer facilities or changing computer programs
- ◆ 13) Possessing articles for use in fraud and an offence of making or supplying articles for use in fraud.
- ◆ 14) Misappropriation of assets or insider trading.
- ◆ 15) Any dishonest or fraudulent Act.
- ◆ 16) Unauthorized destruction, Removal or conversion of records.
- ◆ 17) Improper withholding of any money or premia paid on an Insurance policy.
- ◆ 18) Accepting or seeking anything of material value in exchange for special consideration from proposers, beneficiaries, intermediaries or other interested parties.
- ◆ 19) Forgery or alteration in any financial documents.
- ◆ 20) Passing/revealing sensitive information to any third party, with the intention to gain any personal benefit or assisting other to get some advantage.
- ◆ 21) Any other act not covered above but deemed as “Fraud” by the Competent Authority

Scope of LIC AF Policy

- ◆ The Anti Fraud Policy extends to all the offices of the Corporation situated within the jurisdiction of India.
- ◆ In respect of offices outside India, local laws of that country relating to Anti Fraud will be followed.
- ◆ This policy covers frauds & losses within the Corporation and applies to all the areas of its operations.
- ◆ The Anti Fraud policy should be approved by the Risk Management Committee and subsequently by the Board.

Coverage of AF Policy – LIC

- ◆ Classification of Frauds
- ◆ □ Fraud Detection
- ◆ □ Fraud Monitoring
- ◆ □ Potential Areas of Fraud
- ◆ □ Training
- ◆ □ Co-ordination with Law Enforcement Agencies
- ◆ □ Exchange of Information
- ◆ □ Due Diligence
- ◆ □ Regular Communication Channels
- ◆ □ Reporting Obligations.

Fraud Classification

- ◆ The frauds against the Corporation are classified into following Categories:
- ◆ a) **Internal Frauds**: Frauds/misappropriation of Corporations funds by the employees/Officers of the Corporation on their own or in collusion with others who are either internal or external to the Corporation and frauds by the employees of the Corporation on deputation
- ◆ b) **Intermediary fraud**: Fraud perpetuated by an Insurance Agent, Corporate Agent, Financial Service Executive, Direct Sales Executive, Chief Life Insurance Advisors, Senior Business Associates, Agents, Brokers, Third Party Administrators, Micro Insurance Agents, Intermediaries etc. on their own or in connivance with policyholders against the Corporation and/or the Policyholders.
- ◆ c) **Policyholder fraud and/or Claims fraud**: Fraud against the Corporation in the purchase and/or execution of an Insurance Product, including fraud at the time of making a claim by the claimant/or payment of Loan/Surrender

INVESTIGATION

- ◆ □ Any complaint alleging fraud with verifiable facts will be investigated with the approval of Competent Authority.
- ◆ Investigation officer shall carry out the investigation as per the established procedures of the Corporation.
- ◆ The investigation has to be completed within a period of 30 days of it being assigned to the officer. Specific permission of the Competent Authority shall have to be sought if additional time is required for completing the investigation.
- ◆ In case lesser time is prescribed by the Competent Authority the same has to be adhered to.
- ◆ □ Role analysis of all the officials found to be involved in the fraud, due to contributory negligence or lack of supervision etc, shall be done and disciplinary action as deemed fit as per the prevalent procedures of the Corporation shall be initiated, if required.

Fraud Risk Management Policies / SOP

- ◆ Customer Identification Process through KYC norms while introducing New Business.
- ◆ ¶ Identity Proof shall be called for any Policy Servicing transaction on the Policy.
- ◆ ¶ Corporation has established internal procedures and controls in order to avoid money laundering and regular training in this area is being imparted in all training sessions.
- ◆ ¶ Complaint Redressal Procedures are in place which attempt to identify the cause of complaints including the commission of potential fraudulent activity.
- ◆ ¶ Appropriate provisions to initiate Disciplinary Proceedings against Agents under LIC of India (Agents) Regulations, 2017 shall be invoked. Similarly, action against Employees, Pensioners and retired PF optees shall be taken as per relevant LIC of India (Staff) Regulations, 1960 for the commission of fraudulent acts.
- ◆ ¶ If the act of fraud is an act involving Moral turpitude, the gratuity payable to such employee shall be wholly/partially forfeited to the extent of loss, as the case may be.
- ◆ ¶ Corporation has an IT Security Policy in place to prevent misuse of its systems & data.
- ◆ All the employees of the Corporation shall be responsible for maintaining the secrecy of their passwords.
- ◆ ¶ Through Data vigilance module, an eye is kept on the suspicious transactions to rule out the possibility of any potential fraud

FRAUD MONITORING

- ◆ For monitoring all the instances of Frauds, Fraud Monitoring Committee shall be constituted by Chairman at Central Office, Zonal Manager at Zonal Office, Sr.Divisional Manager at Divisional Office and Chief/Sr./Branch Manager at Branch Office.
- ◆ All cases of frauds /suspected frauds should be reported to Fraud Monitoring Committees from the lower offices to higher offices i.e. Branches to Divisional Office, Divisional Office to Zonal Office, Zonal Office to Central Office on at least monthly basis, in order to take documented and approved actions including notifying law enforcement and any other required Government agencies when appropriate.
- ◆ The Fraud Monitoring Committee at Central Office shall report the cases of Fraud through the Risk Management Committee to the Board quarterly.
- ◆ The reports shall include the measures taken or amendments proposed / implemented to system / procedures to strengthen the gaps for mitigating the incidence of fraud.
- 1. The Fraud Monitoring committees at BO / DO / ZO level shall hold monthly meetings & Fraud Monitoring Committee at CO shall hold meeting atleast once in a quarter to monitor the progress in implementation of Anti Fraud Policy, to oversee progress of investigations and to review the monthly reports on fraudulent activities reported during the month.
- ◆ Minutes of all such meetings shall be recorded and preserved.
- ◆ The committees along with the concerned P&IR department shall also coordinate with the law enforcement agencies to monitor the progress of the cases handed over to them

ROLE OF BOARD

- ◆ □ Board shall review and approve the Anti Fraud Policy on an annual basis.
- ◆ □ Board shall provide guidance to minimize the incidents of fraud taking cognizance of fraud cases reported.
- ◆ □ Board shall review the proceedings of Fraud Monitoring Committee at Central office of the Corporation quarterly.
- ◆ **ROLE OF FRAUD MONITORING COMMITTEE**
- ◆ □ The Fraud Monitoring Committee at DO / ZO / CO level shall classify an incidence as fraud or otherwise for the offices under their jurisdiction.
- ◆ □ Fraud Monitoring Committee at DO/ZO/CO level shall conduct a root cause analysis of frauds to identify systemic lacunae, if any that facilitated the perpetration of fraud.
- ◆ Fraud Monitoring Committee will be responsible for monitoring the Fraud cases reported to it and advising the Competent Authority on actions to be taken at various levels viz;
- ◆ □ In Central Office, a Central Fraud Monitoring Committee
- ◆ □ In Zonal Offices, a Zonal Fraud Monitoring Committee
- ◆ □ In Divisional Offices, a Divisional Fraud Monitoring Committee
- ◆ □ In Branch Offices, a Branch Fraud Monitoring Committee

Role of CRO

◆ **ROLE OF CHIEF RISK OFFICER:**

- ◆ Chief Risk Officer (CRO) will go through the Central Fraud Monitoring Committee (CFMC) reports placed to RMC through CERM. CRO will also advise CFMC & the department concerned about the areas of fraud risk where thrust is to be given

◆ **ROLE OF DISCIPLINARY AUTHORITIES**

- ◆ ¶ In case of detection of a fraud, vigorous and prompt investigation should be carried out which should includes imparting proper training to the official who shall be entrusted with the preliminary investigation.
- ◆ ¶ To take appropriate legal and/or disciplinary action against the perpetrators of the fraud.
- ◆ ¶ To consider Disciplinary action against the officials whose contributory negligence/lack of supervision has facilitated the perpetrator of the fraud.
- ◆ ¶ To ensure recovery of financial loss after imposition of penalty.
- ◆ ¶ To establish and maintain systems for recording and subsequently monitoring all the cases of fraud.
- ◆ Corporation follows a Zero tolerance policy in relation to frauds and encourages its employees and intermediaries to act honestly with high level of integrity and to safeguard its interests including Policyholders.

ROLE OF AUDIT, INSPECTION

- ◆ □ Provide opinion about the adequacy of systems & procedures to curb a potential fraud.
- ◆ □ Include areas susceptible to frauds in the questionnaire.
- ◆ □ Provide necessary support in causing investigation.
- ◆ □ The minutes of monthly meetings conducted by various Fraud Monitoring Committees shall be examined during Audit, Inspection & QMA.
- ◆ Appropriate debits shall be given by Audit/Inspection if the minutes are not maintained properly.
- ◆ □ Audit / Inspection departments may make Exception Reporting to Audit Committee, if required.