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Integration of forensic accounting with corporate governance: A weapon to combat financial frauds

Neetu Singh [1,*] and Anjali [2]

[1] *Department of Economics, Navyug kanya Mahavidalaya, Lucknow (U.P.) India.*

[2] *Department of commerce, Govt. P.G. College, Jalaun, (U.P.) India.*

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Abstract

The ever-increasing numbers of myriad frauds and scams, and the failure to detect and prevent fraud, have increased the demand for forensic accounting services at an incredible rate. Keeping the above in view, this paper has focused on the role of forensic accounting in ensuring good corporate governance (CG) and tried to find out whether integration of forensic accounting with corporate governance is helpful in fraud prevention and detection. The study was theoretical research. Previous literature and reports were analysed to reach a conclusion in the study. From the studies conducted this paper concluded that the integration of forensic accounting with CG will help the organization to formulate a clear and optimal CG policy, maintain transparency by disclosing all material facts and establish an effective and efficient internal control system .

Keywords: Frauds and scams; Forensic accounting; Corporate governance (CG); Internal control System

1. Introduction

In the volatile business environment and with technological advancements, cases of financial fraud are on the rise. We have witnessed major financial frauds from time to time. Satyam scam, PNB/ Nirav Modi scam, Ricoh India fraud, IL&FS crisis, DHFL scam, PMC bank Scam, and Bhusan Power & steel fraud are some examples. According to the findings of ACFE Occupational Fraud 2022: A Report to the Nations, organizations lose 5% of their revenue every year due to fraud. In addition to the direct financial effects, loss of reputation and trust of the customer and breach of regulations, leading to fines and imprisonment are also some of the effects of fraud.

As per Law Insider dictionary, Financial fraud means an act of fraud involving embezzlement of funds, misappropriation of funds, fudging or concealment of related party transactions or diversion of funds, each act with the intent of defrauding the Company and its Shareholders, and where such fraudulent activity has been proven in a court of law and Person committing such fraud has been convicted of the same. Ramaswamy (2005) pointed out following three weak areas that lead to financial fraud in the corporate sector–

- Lack of a well-developed and implemented policy of corporate governance,
- A lack of honesty and transparency in reporting, and
- An inefficient and ineffective internal controls system.

The Steering Group on Corporate Governance Report published by the Organization for Economic Co-operation and Development (OECD), 2009 concluded that the financial crisis can be attributed to failures and weaknesses in the

* Corresponding author: Neetu Singh

Department of Economics, Navyug kanya Mahavidyala, Lucknow,Uttar Pradesh, India.

corporate governance system (Tarraf, 2011). Gupta et al. (2015) also highlighted the following reasons of fraud existence in corporate sector-

- Weak regulatory system;
- Need to redefine the role of auditor,
- Lack of coordination among different regulatory bodies,
- Missing fraud prevention policy, and
- Lack of professionalism.

Kimbro (2002) investigation showed that a more effective judiciary, better laws, good financial reporting standards and a higher concentration of accountants could help prevent fraud. Stephens (2010) stated that fraud can be prevented by improving the quality of accounting and auditing. In the study, we have focused on the role of forensic accounting in ensuring good corporate governance and sought to find out whether integration of forensic accounting with corporate governance is helpful in fraud prevention and detection. We analyzed the previous literatures and reports to arrive at the conclusions.

1.1. Conceptual Framework of Corporate Governance (CG)

OECD describes CG as “the procedures and processes according to which an organization is directed and controlled”. The CG structure specifies the distribution of rights and responsibilities among the different participants in the organization –such as the board, managers, shareholders and other stakeholders- and lays down the rules and procedures for decision making. The Cadbury Committee Report states that the board of directors is responsible for the governance of their companies. The role of shareholders in governance is to appoint directors and auditors and satisfy themselves that an appropriate governance structure exists. The Institute of Company Secretaries of India (ICSI) defined CG as “the application of best management practices, compliance of law in true letter and spirit and adherence to ethical standards for effective management and distribution of wealth and discharge of social responsibility for sustainable development of all stakeholders”.

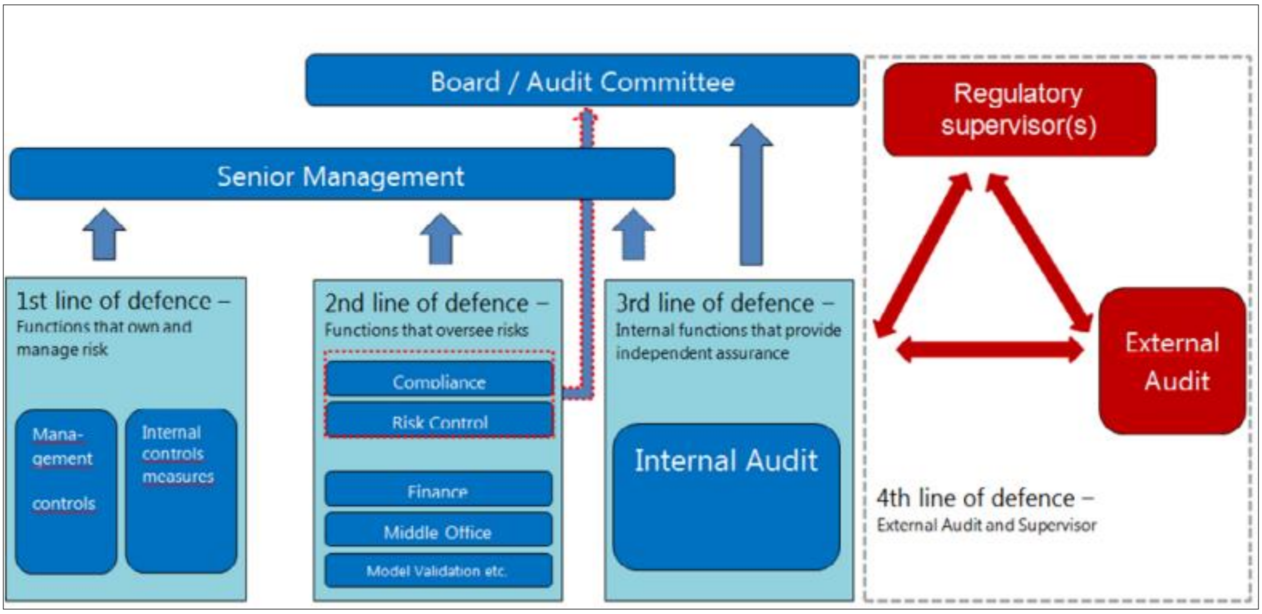
The G20/OECD has laid down the principles of CG to establish good CG that cover six main areas. These principles are:

- Ensuring the basis for an effective CG framework: It should promote fair and transparent markets and efficient allocation of resources.
- The rights and equitable treatment of shareholders and key ownership functions: The CG framework should protect shareholders’ rights and facilitate the exercise of them; and ensure the equitable treatment of all shareholders, including minority and foreign shareholders.
- Institutional investors, stock markets, and other intermediaries: The CG Framework should provide concrete incentives across the entire investment chain and enable the stock markets to function in a manner that contributes to good CG.
- The role of stakeholders in CG: The CG Framework should recognize the rights of stakeholders established by law or through mutual agreements and encourage active collaboration between corporations and stakeholders in building wealth, employment and sustainability of financially sound enterprises.
- Disclosure and transparency: The CG framework should ensure that timely and accurate disclosures are made on all material matters relating to the corporation, including the company's financial position, performance, ownership and governance.
- The responsibilities of the board: The CG framework should ensure strategic guidance of the company, effective oversight of management by the board and accountability of the board to the company and shareholders.

Good corporate governance can remove mistrust among different Stakeholders, reduce the cost of capital and improve performance, but at the same time its failure can have devastating effects on the company, the market and the national economy (Panfilii et al. 2011). Through the proper application of corporate governance principles, a company may increase profitability and returns, improve its competitiveness, credibility and reputation, and improve relationships with key stakeholders (Todorović, 2013). IFC (2018) stated that good corporate governance contributes to sustainable economic growth by enhancing the performance of companies and increasing their access to external capital. Reilly et al. (2018) highlighted that companies with strong CG can build trust among their shareholders by reducing uncertainties, taking into account the interests of shareholders and management, and through the formulation of strategic plans. Robust corporate governance significantly reduces companies’ intention toward fraudulent financial reporting (Roastmi et al. 2022).

Effective corporate governance requires a clear understanding of the respective roles of the board, management and shareholders; their relationship with each other; and their relationships with other corporate stakeholders (Business Roundtable, 2016). The four-lines-of-defence model describes a simple and effective route to fraud prevention and detection by clarifying the roles and responsibilities required for business functions in an organization as shown in Figure 1. As per ICAEW (2018), In Four-line-of defence-model -

- Management control is the first line of defence. This line establishes structures for managing risks which include the organization's top level policies, control frameworks, and control and management supervisory processes.
- The various risk control and compliance oversight functions set up by management i.e., 'those charged with governance (TCWG) of the entity' are the second line of defence. This line oversees the control framework so that it operates effectively.
- The third line of defence is internal audit. This line provides reasonable assurance of the overall effectiveness of governance, risk management and controls. The level of assurance depends on the independence and objectivity.



Source: Arndorfer, I. &Minto, A. 2015. The "four lines of defence model" for financial institutions. Bank for international settlement (BIS). ISSN 1020-9999(online), FSI occasional paper No. 11, P.-10.

Figure 1 Four Lines of Defense Model

- The fourth line includes external assurers, specifically external auditors. The fourth line is independent of the organization itself. External assurers are required to adhere to a code of conduct.

In India, the Companies Act, 2013; Foreign Exchange Management Act, 1999; Corporate Governance Code Desirable by Confederation of Indian Industry (CII), 2009; clause 49 of the listing agreement- SEBI; Industries (Development and Regulation) Act, 1951 and other legislations; and various other Acts and Guidelines provide a formal structure, principles, code of conduct and guidelines for corporate governance.

2. Bad Corporate Governance or Problems within Corporate Governance

CG is about promoting fairness, transparency, responsibility, and accountability in the operations of an organization (Kumar et al, 2014). Bad governance puts all parties at risk. Governance failures can lead to a wide range of problems, from reputational damage to bankruptcy (Banks, 2004). The absence of CG principles such as honesty, openness, trustworthiness, transparency, and accountability undermines the financial viability of companies and can lead to their eventual collapse, as evidenced by previous scams and fraud cases. It can also increase corruption, resulting in a lack of accountability for public funds (Krambia, 2016).

Panfilii (2011) highlighted following some issues of CG which lead to CG failure- Ineffective governance mechanisms; Non-independent board and audit committee members; Intentional misleading of the Board by management to protect themselves after evading and bypassing internal controls; Under qualified board members; Ignorance red flags by regulators, auditors, and analysts of the financial results; Dereliction of the procedures stipulated in internal regulations; insufficient attention paid to risk management; Inconsistent distribution of duties and responsibilities; the inefficiency of internal audit; influencing the external auditors to express an audit opinion inconsistent with reality; Poor ethical leadership; lack of integrity; fraud; and corruption.

Bhasin (2013) described the following reasons of CG failure- lack of well developed and implemented policy of CG; lack of honesty and transparency in reporting; and an ineffective and inefficient internal control system. Osajie (2014) found following reasons of CG failure - Not properly informing investors about what was going on in the company; Misleading Financial Statements; Failed to detect warning signs by external auditors; Board Failure; and Inadequate or ineffective financial controls. Sulaiman et al. (2017) found that Lack of integrity and accountability are the two main reasons for CG failure.

2.1. Some past Studies on Corporate Governance in the Indian Context

Some of the studies on corporate governance in India have described the following issues in CG:

- Varma (1997) argued that the problem of CG in the Indian corporate sector is to discipline the major shareholder and protect the minority shareholders. The problem of misuse of corporate governance by the major shareholder can only be solved by forces outside the company.
- Gopinath (2004) raised the some issues of CG in the Indian banking sector with a view to ensuring and improving CG. He argued that the financial crisis due to excessive risk concentration, related party debt, poor credit policy and inadequate management of risk required a better understanding and monitoring of key banking risks at the board level. Supervisors need to ensure that all bank institutions adopt good governance practices. Independent audit committees can help turn audit reports into meaningful action, both corrective and preventive. There is a need to improve transparency through greater disclosure of information related to corporate governance. A combination of market discipline supplemented by mandatory disclosure of conflicts and supervisory oversight is considered necessary to prevent the exploitation of conflicts of interest. A strong culture of compliance is needed at the top of the organization. There is a need for a consultative process to harmonize the approaches suggested by the various committees.
- Chakraborty et al. (2008) elaborated the following shortcomings in the Indian corporate governance system: non-compliance with laws and regulations; Fraud & corruption; the dominant business model resulting from the family business model; and abuse of power by controlling shareholders resulting in loss to the minority shareholder.
- Chandravathi (2016) pointed out the following challenges to effective CG- The dominance of family members on the board and only in name induction of independent directors; Lack of professionalism in top management; erosion of moral and ethical values in board members, CEOs and managers; Growing corruption, bribery and financial scams; Lack of respect for shareholders and low financial disclosure; Inter-agency disputes in the name of reform efforts; weak compliance and weak enforcement of laws; and investor's financial illiteracy.
- Sharma (2017) pointed out that most firms in the Indian corporate sector are family structures. This is the most prevalent issue behind poor corporate governance mechanisms. This raises issues such as related party transactions, non-compliance with disclosure norms and ineffective and inefficient internal control systems.
- Sawakar (2018) disclosed the challenges and imperatives of CG in the study. The researcher argued that corporate governance is about ethical conduct of business. Ethical dilemmas arise from the conflicting interests of the parties involved. To show better financial results, companies use creative accounting where an act is not illegal but is considered unethical. Investors suffer losses due to unscrupulous management. Investor protection is important for a strong CG. Fairness and transparency are of paramount importance to ensure a good CG. Objective of CG is not only to meet the legal requirements but also to ensure a commitment on transparent management to maximize shareholder values.
- Musha (2021) highlighted the following problems of CG in private organization- Conflict of interest; Stressed balance sheet; Improper composition of the board Lack of due diligence by the independent director; Excessive compensation to the top workers for the quod pro quo; Abuse of the power of the voting majority; Non-compliance with disclosure norms; Irregularities in the updating of share registers; Misleading financial statements.

After reviewing the literature in the Indian context, we found that bad CG practices are the result of following challenges and issues such as financial statement fraud, unclear norms and policy, weak compliance and poor enforcement of laws and regulations, abuse of power, lack of professionalism and financial illiteracy. In the report 2018, IFC, BSE and IiAS jointly presented the Corporate Governance Scores of S&P BSE 100 companies (comprising over 2/3 of the market capitalization of BSE). The questions in the scorecard are divided into four categories - Shareholders' Rights and Equal Treatment (Category Weightage 30%); role of stakeholders in corporate governance (Category Weightage 10%); disclosure and transparency (Category Weightage 30%); and responsibilities of the Board (Category Weightage 30%). 3% of companies scored 70 and above. The largest proportion (47%) scored from 60 to 69. 45% of companies scored 50 to 59 and the remaining 5% scored 50 and below 50. The report found that companies in the BSE 100 index score well in terms of disclosure and transparency. These companies have clearly laid down the shareholding pattern and ownership structure along with the details of their board members and top leadership. Detailed description is provided on Corporate Social Responsibility (CSR) initiatives and most companies have disclosed both standalone and consolidated results on a quarterly basis. In addition, all companies have appointed a woman director on the board and have rotated their auditors wherever the auditor's tenure exceeds ten years. The report also highlighted the following areas where improvements are needed-

- Better enforcement of shareholder rights and ensuring equitable treatment of all shareholders;
- Further strengthen the Related Party Transaction (RPT) mechanism with more disclosures in Annual Reports and Appraisal Reports;
- Facilitating shareholder participation in general meetings through webcast and video/tele-conferencing;
- Establishing Strong Investor Complaint Policies;
- Playing a more active role by the Stakeholder Relations Committee in engaging with investors, suppliers, creditors, customers and regulators; and
- Improving disclosure on succession planning, risk management framework and internal control mechanisms.

3. Concept of Forensic Accounting

According to the Association of Chartered Certified Accountants (ACCA), ‘Forensic Accounting’ is the application of accountancy skills and knowledge in situations that have legal consequences. The American Institute of Certified Public Accountants (AICPA) defines forensic accounting as "the application of specialized knowledge and investigative skills possessed by a CPA (Certified Public Accountant) to collect, analyses, and evaluate case of evidence and in the courtroom, boardroom, or other legal or administrative place". Hopwood et al. (2008) defined Forensic accounting as "the application of investigative and analytical skills for the purpose of resolving financial issues in a manner that meets standards required by courts of law. Forensic accountants apply special skills in accounting, auditing, finance, quantitative methods, certain areas of the law, research and investigative skills to collect, analyze and evaluate evidential matter and to interpret and communicate findings”. IndiaForensic pointed out that-

- Forensic accounting is the application of specialized knowledge and skills to stumble upon evidence of economic transactions.
- This job demands reporting where accountability for fraud is established and the report is treated as evidence in court or in administrative proceedings.
- In addition, forensic accountants have knowledge about fraud detection techniques, which require patience and an analytical mind set.
- Forensic accountants are the bloodhounds of bookkeeping. These Bloodhounds sniff out fraudulent and criminal transactions from the financial records of a bank, corporate entity or any other organization. They hunt for conclusive evidence.
- External auditors only detect intentional misrepresentations but forensic accountants detect intentional misrepresentations.
- External auditors look at the numbers but forensic auditors look beyond the numbers.

The AccountingEdu.org highlights that forensic accounting comprises two areas-

3.1. Litigation Support

In support of litigation, forensic accountants act as expert witnesses or advisors for the parties involved in a lawsuit. Litigation support often involves determining financial damages or evaluating businesses or properties. Services that forensic accountants provide during lawsuit include:

- Reviewing documentation to evaluate the case and identify areas of financial loss;
- Obtaining documents required to support or deny the claim;
- Helping the lawyer to put questions in the proper financial context, before and during the trial; and
- Helping with settlement discussions and negotiations

3.2. Investigation

Investigation involves using auditing, quantitative methods, and related investigative skills to reconstruct financial records and determine whether fraud or other illegal financial activities have occurred. Investigative accountants are sometimes called fraud auditors or fraud examiners.

A forensic CPA is expected to write expert reports, assist with statements, testify as an expert witness, investigate fraud, and assist in criminal and civil investigations.

4. Past Studies on Knowledge, Skills and Abilities of Forensic Accountants

- Durkin et al. (2009) disclosed fundamental forensic knowledge which are – Professional Responsibilities and Practice Management; Law, courts and dispute resolution; Planning and Preparation; Information gathering and preservation (documents, interviews/interrogations, electronic data); search; Reporting, Expertise and Testimony.
- Pednault (2012) highlighted a fundamental foundation of knowledge with specific practice areas or applications for forensic accounting as defined by the AICPA. Fundamental Knowledge of Forensic Accountants involves- Laws, Courts, and Dispute Resolution; Planning and Preparation; Information Gathering and Preserving; Discovery; and Reporting, Experts, and Testimony. Specialized Forensic Knowledge involves- Bankruptcy, Insolvency, and Reorganization; Computer Forensic Analysis; Economic Damages Calculations; Family Law; Financial Statement Misrepresentation; Fraud Prevention, Detection, and Response; and Business Valuation.
- Bhasin (2013) investigated the necessary skills for forensic Accountant. The study, 'exploratory' in nature analysed academics, practicing fraud and forensic professional's perceptions. . The findings indicated that critical thinking, unstructured problem-solving, analytical proficiency, investigative flexibility, and legal knowledge are more important skills of Forensic Accountants.
- Saleh et al. (2014) identified and suggested top five traits, basic skills, advanced skills, ethical values for forensic accountants by analysing the responses of 228 respondents collected through survey questionnaires. The essential traits that a forensic accountant in the public sector should possess are: Ethical, Analytical, Detail oriented, Confident, and Evaluative.
- Basic/core skills of the public sector forensic accountants are: Investigative ability, Auditing skills, Critical/ strategic thinker, Identify key issues, and understand the goals of a case.
- Advanced skills for the public sector forensic accountants are: Fraud detection, Analyse and interpret financial statements and information, Audit evidence, Asset tracing, and Internal controls.
- Ethical values to enhance the effectiveness of forensic services are: Integrity, Trustworthiness, Accountability, Transparency/ honesty, and Discipline.
- Filho et al. (2017) identified which skills are considered most relevant to the practice of criminal accounting specialization in Brazil. The study concluded that "critical thinking", "written communication" and "deductive analysis" are considered the most relevant skills. In addition to these skills, forensic accountants must develop well-developed solutions to "unstructured problems," "discovery skills," "technical flexibility," among other skills.

Association of Certified Fraud Examiners (ACFE) describes the essential knowledge, skills and abilities that forensic accountants should possess.

Table 1 Knowledge, skills and abilities that forensic accountants should possess

Knowledge	**Skills**	**Abilities**
White-collar crime	Writing reports	Interpersonal communication
Money laundering	Testifying as expert witness	Verbal communication
Insurance claims		Written communication
GAAP or GAAS violations		Attention to detail
Telemarketing fraud		Analytical
Check kitting		Integrity
Contract and procurement fraud		Objectivity
Asset misappropriation		Independence

Securities fraud Financial statement fraud Bankruptcy fraud Credit card fraud Embezzlement Financial data analysis Evidence integrity analysis Computer application design Damage assessment Trading illicit funds Locating hidden assets Due diligence reviews Forensic intelligence gathering Accounting procedures Legal system and its procedures Regression analysis Computer applications		Credibility

Source: Career Path Detail: Forensic Accountant (acfe.com)

4.1. Role of Forensic Accounting in Strengthening Corporate Governance

Bhasin (2013) explored the role of a forensic accountant in designing the CG system. The Forensic Accountant has strong background knowledge of the legal and institutional requirements of CG which can help in formulating clear and optimal CG policy and system through the following: a) Ensuring proper composition of the Board; b) Determining the appropriate responsibilities of the owner, management, board and audit committees to improve accountability system; c) Fair allocation of power between the parties to better enforcement of rights; and d) Establishing a company code of conduct for employees and management to reinforce ethical behaviour that helps develop zero-tolerance attitude toward questionable behaviour.

Created Fraudulent physical documents and fraudulent electronic documents or files, altered physical documents and electronic documents or files are methods of concealment of fraud by fraudsters, as per ACFE report 2020. Forensic accounting can help in ensuring accurate disclosure and transparency of all material matters relating to a company's financial position and performance. As forensic accountants are trained to look beyond the numbers and deal with the business reality of a situation (Bhasin, 2007). Forensic accountants have good knowledge and understanding of accounting and auditing, good communication skills and appropriate information technology knowledge and techniques that facilitate the identification of signs of fraud. Popula et al. (2015) study revealed that forensic accountants has significantly higher levels of knowledge (KR), skill (SR) and task performance Fraud Risk Assessment (TPFRA) than auditors in relation to fraud prevention, detection and response.

Forensic accountants not only act as a deterrent to creative and fraudulent practices but also serve the purpose of improving accountability (ojo, 2012). By detecting and preventing fraudulent activities, forensic accountants can help management ensure that their organization has a good internal control system, checks and balances that are transparent, thereby having a positive impact on corporate governance (Nakma & onoh, 2016). Forensic audit is sophisticated tool-mix of accounting and investigation that serves all the five E's of good governance and makes the corporates to grow and develop on the parameters of being Effective, Efficient, Easy, Empower, and Equity (Nandini & Ajay, 2021).

5. Conclusion

Forensic accountants have the specialized skills and knowledge required in any fraud assessment and red flags identification. It will help in improving the accountability system. As a result, corporate governance participants such as external auditors, audit committee, directors and management will be motivated to discharge their responsibilities efficiently and reduce financial frauds. Integration of Forensic Accounting with CG will help the organization to formulate a clear and optimal CG policy, maintain transparency by disclosing all material facts and establish an effective and efficient internal control system; this will definitely ensure good corporate governance system.

Compliance with ethical standards

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Disclosure of conflict of interest

Authors have no conflict of interest.

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