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Research Paper

King of Banking Frauds in India and Measures to Combat It Thereof'

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Abstract:-
Of all white collar crimes, corporate scams are the most sophisticated and adversely affect the society. The reason for enormous increase in corporate frauds in recent decades is to be found in the fast developing economy and industrial growth of this developing country. The motives of committing fraud by a company may be many, but the main motive is making money and creating a false soundness for the company in order to save its image in the market and to misguide the government departments to avoid the heavy tax burdens.
The purpose of the paper is to analyze the nature and development of Corporate scams as an emerging trend with special light on the most recent corporate scam of Vijay Mallya, Chairman, Kingfisher, his story from the riches to rags and others starting from 2000s.
The Securities and Exchange Board of India (SEBI) is the regulator of the securities market in India charged with the orderly functioning, to protect the interests of investors and ensure development of the securities market.
This paper intends to deepen the understanding of the regulatory system that currently oversees the regulation of securities markets in India .It was found that the regulatory system is weak, and there is dire need to redefine the roles and after every scam, there is a blame game and how they can be dealt with.
Keywords— *Regulation, Fraud prevention, Corporate fraud, Fraud inducements, Securities Market, Primary Market, Secondary Market, Corporate espionage, Asset misappropriation fraud*
Abbreviations— *Securities Contract Regulation Act(SCRA), Securities and Exchange Boardof India (SEBI),*

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I. Introduction:-

Corporate fraud is a problem for companies, regardless of size, sector or region where they operate in. While the vast majority of public companies provide financial reports that are free from material misstatements; fraud continues to exist including the well publicized frauds at Enron and WorldCom among others. In the literature, two types of accounting frauds are identified: (i) fraud committed by top management to maintain an illusion of high performance by the company in order to raise capital for their firms and mislead investors and others (e.g., auditors, board of directors and the general public), and (ii) fraud committed by top or middle management for personal gain, to earn bonuses and enhanced compensation. Accounting fraud is an issue of great concern to the business community including: (a) auditors who are engaged to render an opinion as to whether the financial reports fairly present the company's financial position and results of operations in conformity with established standards; (b) board of directors who bear the primary responsibility for the preparation and content of the financial reports; (c) investors and potential investors; (d) corporate managers; and (e)the general public, and as a result, regulators, legislators and other public policy makers. These parties all have an interest in preventing and detecting fraud before investment decisions are made on materially misstated financial statements. This paper critically analyses literature based on the factors, motivation and antecedents of fraudulent financial reporting. The overall objective for the review is to improve understanding of anatomy of fraud, thereby improving the ability to detect fraud.
The structure of the paper is as follows: The definition of fraud and corporate fraud with the views of author and their existing studies. Special light is thrown on the fraud by Vijay Mallya and the measures to combat are provided. In this paper, we attempt to give some othersuggestions in the need of the hour.

Objectives of the study:-

- to identify the nature of the corporate frauds
- to analyse the current literature review and status
- to throw light on existing measures to combat scams
- to scrutinise the scam of Kingfisher
- to give additional suggestions to combat it

II. CORPORATE FRAUD :-

Fraud is the use of false representations to gain unjust advantage and criminal deception. The Internal Resources Service, Department of the USA of the Treasury, defines a corporate fraud as a violation of the Internal Revenue Code and related statutes committed by large, publicly traded corporations and/or by their senior executives (IRIS, 2010). Corporate frauds, conceptually, is broad and encompasses a variety of criminal and civil violations. In addition, corporate frauds have gradually become very complex in nature (Sutherland, 1949). A typicalfraud triangle quoted in the literature has three major components:

(1) **Opportunity** – Sometimes referred to as perceived opportunity, which defines the method of committing crimes or frauds;

(2) **Motivation** – The pressure or "need" that a person feels which could also be a perceived financial need, whereby a person strongly desires material goods but does not have money ormeans to acquire them; and

(3) **Rationalisation** – The method and mental process by which an individual can come to an understanding in their mind and to justify any act or acts that they take part in.

Duffield and Grabosky (2001) have defined fraud as an act involving deceit (such as intentional distortion of the truth or misrepresentation or concealment of a material fact) to gain an unfair advantage over another to secure something of value or deprive another of a right. It occurs when a perpetrator communicates false statements with the intent of defrauding a victim out of property or something of value (Vasiu and Vasiu, 2004).

Types of Frauds- It can be classified into:

- financial reporting fraud;
- misappropriation of tangible assets, intangible assets or proprietary business opportunities;and
- corruption, including bribery, gratuities, money laundering and embezzlement.

Asset misappropriation fraud involves taking cash and other assets, and various schemes are used to accomplish this. Assets misappropriation includes cash skimming, cash larceny and theft of inventory or equipment, as well as shell-company scams. Financial statement fraud is a serious threat to market participants' confidence in published audited financial statements. Capital market participants expect vigilant and active corporate governance to ensure the integrity, transparency and quality of financial information (Rezaee, 2005). *Corporate espionage* is a threat to any business whose livelihood depends on information. The information sought after could be client list, supplier agreement, personal rewards, research documents or prototype plans for a new product or service. Companies under the law and different legislations make applications to the different authorities to cover up the frauds committed by them. Those who commit occupational fraud tend to have many similar characteristics, but they are not all quite as easy to spot or as common as implied above. Understanding what motivates employees to steal from companies is the key to detecting andpreventing internal fraud.

Dyck and Zingales (2004), Dyck et al. (2007) show that frauds are revealed by several different mechanisms; analysts bring 15 per cent of the frauds to light, and the probability of detecting a fraud increases after a turnover of the external auditors. Johnson et al. (2009) examine the effect of executive equity compensation on corporate frauds incentives. Beasley (1996) showed that firms that have outside directors, are lesser likely in the category of fraudfirms compared to internally manage ones.

Fraud detection and control

Researchers have proposed various measures to reduce the intensity of frauds. These are broadly classified into governance structures, modification in the legal and reporting systems and self-correction exercise within the organisation.Reiss and Tonry (1993) suggest that for fraud prevention, one has to rely on governments to make laws and rules governing the behaviour of organisations and to establish techniques for their enforcement or compliance with them. Mesquita et al. (2004) show that these governance structures influence corporate performance and compensation packages are used to reward management and stockholders. Baer (2008) argues that corporate frauds are often presumed to be the type of crime that can be deterred. From the organisations' perspective, vigilance and innovativeness can prevent frauds (Coburn, 2006). Coburn (2006) also shows how to conduct an effective corporate investigation and the relevant steps that should be considered if an investigation is undertaken. Li (2010) studies corporate financial fraud and detection using empirical

framework that models the strategies' interdependence between fraud and detection and accounts for the possibility that some fraud remains undetected. Bonner et al. (1998) show that certain types of financial reporting fraud result in a higher likelihood of litigation against independent auditors. Khanna (1996) contends that corporate civil liability avoids the undesirable features of corporate criminal liability. Mutyala and Himachalam (2011) find that the recent corporate scams and frauds that came to light in recent times have brought about a change and necessitated substantial external regulations apart from internal controls and regulations. Therefore, corporate governance issues are of paramount importance both for the international business community and international financial institutions. Failure to supervise is one contributing factor to internal fraud and espionage. If an employee is in an environment in which there is little or no supervision then this makes it less of a threat to take part in fraud against the organisation because they feel they will not be detected (Liska and Messner, 1999). Power is a key social concept in organisational situations. Advances in information technology (IT) have also induced frauds. Vasiu and Vasiu (2004) have proposed taxonomy of IT fraud with respect to the perpetration platform and method. For Internet fraud, Baker (1999, 2002) categorises fraud into fraud in securities sales and trading, fraud in electronic commerce and fraud by Internet companies. MacInnes et al. (2005) categorise IT fraud into five major causes:

(1) incentives of criminals;
(2) characteristics of victims;
(3) the role of technology;
(4) the role of enforcement; and(5)system-related factors.

Corporate fraud occurrences have direct relation to audit quality, standards and practices. Payne and Ramsay (2005) further propose the need for increased focus on professional scepticism through ongoing training for auditors and continuous reminders to auditors. Lange (2008) devised a typology of organisational control on corruption fraud that includes bureaucratic punishment, incentive alignments, legal/regulatory sanctioning, social sanctioning, vigilance, self-controls and concertive controls. Literature, therefore, indicates that corporate frauds assume different forms, and the persons viewing frauds carry varying perceptions. Most of the studies contribute to the fact that corporate decision-makers have a strong incentive to commit fraud, knowing that the legal action will not have substance or may not be applicable. In India, we have a variety of legislation dealing with frauds; however, frauds are still on rise in India. Corporate frauds carry a large impact on various stakeholders. Identification and prevention of frauds is a national issue. The prevention of frauds is important for the corporate image of the national economy, and efficient mechanism must exist to identify and stop the continuation of the frauds and strict prosecution should be in place. We therefore examine the nature and types of corporate frauds and their consequences and analyse the perception of companies in relation to factors inducing corporate frauds, views on regulatory framework and fraud prevention mechanisms.

We analyse the following research propositions:

- whether the corporate perception on relative importance of fraud types is same across various company types;
- publication of fraud prevention policy statement is uniform across companies;
- the people responsible for corporate frauds are same as those for post-fraud action; and
- present fraud prevention regulatory and action mechanism is efficient

For the purpose of this paper, we have taken results from a survey of literature on the corporate frauds inter-alia covering the nature, fraud types, inducements, motivations, detection and control mechanisms and roles of auditors, boards, etc. In this light, we analysed a questionnaire to see the perception of corporate world in India and substantiate the results with arguments.

This conducted sample survey of the corporate professionals, management, investors, government offices and authorities having wide experience on the issue of corporate frauds through a well-structured questionnaire judgmentally administered to 400 respondents through personal interviews, as well as mailed questionnaire methods and web survey, namely, www.surveymonkey.com, during the period from July 2010 to January 2013. Out of400 respondents, 346 were selected for the purpose of the study.

The survey questionnaire used for the purpose of our examinations enquires about the:

- status of the organisation;
- corporate frauds ranking according to prominence;
- organisations policy and practice for preventing frauds;
- views on factors behind corporate frauds;
- the position of corporate frauds in India, role and performance of Indian companies in prevention of corporate frauds; and

- consequences of corporate frauds.

We also conducted an unstructured interviews (43) at the offices of government agencies like Company Law Board, Serious Fraud Investigation Office (SFIO), Registrar of Companies, Securities and Exchange Board of India, erstwhile Monopolistic Research Trade Practise Commission and respective courts. We use the descriptive statistics and ANOVA on SYSTAT to derive and present the results.

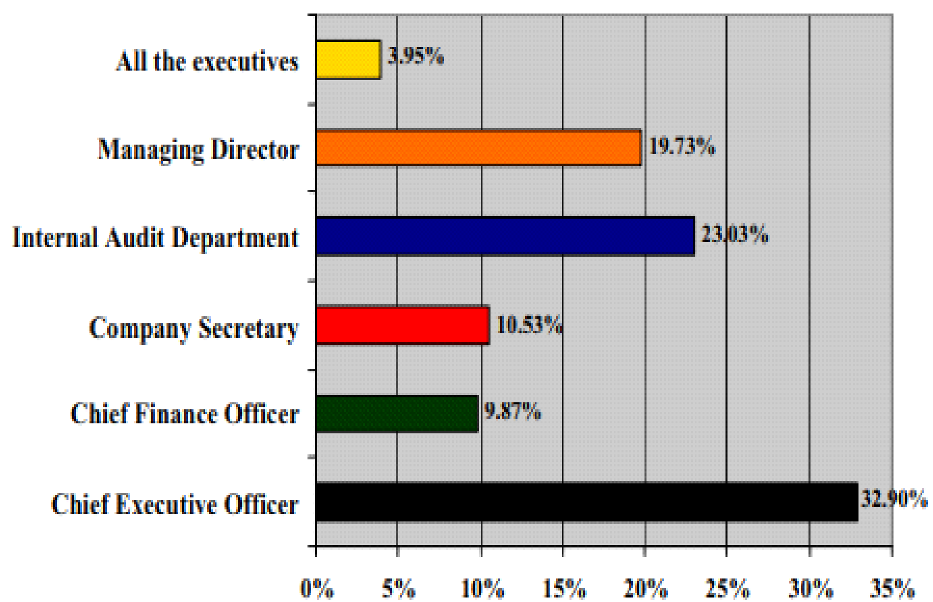
Sl No.	Name of scams	Nature of industry	Year	Fraud perpetrators	How fraud committed?	Fraud quantum (in crores)	Whether SEBI existed
1	Hashad Mehta	Capital Market and Asset Management	1992	Managing Director	Harshad Mehta led to rise in Stock Market by Trading in Shares at Premium.	4000	Yes
2	C.R. Bhansali	Capital Market	1992-1996	Managing Director	Established Finance company and collected money from public and transfer money to Co. that never existed.	1200	Yes
3	Cobbler Scam	Co-operative Society	1995	Promoter	Availed loan of crores of Rupees and created fictitious Co-Operative societies	600	Yes
4	Virendra Rastogi	Trading co.	1995-1996	CEO	Exported the bicycles by heavily invoicing the value of goods	43	Yes
5	Abdul Karim Telgi	Printing	2000	Promoter	Involved in Fake stamps Papers	171.33	NA
6	UTI	Mutual Fund	2000	Chairman, Executive Director, Stockbroker	UTI issued 40000 Shares which were purchased for about Rs. 3.33 crores.	32	Yes
7	Ketan Parekh	Capital Market	2001	Managing Director	Took loan of Rs. 250 crore from the Bank Whereas maximum limit was 1.5 crore.	1500	Yes
8	Dinesh Dalmia	Information Technology	2001	Managing Director	Rs. 1.30 crore shares are unlisted in Stock Exchange. Dalmia resorted ill legal ways to make money through partly paid up shares.	595	Yes
9	Satyam	Information Technology	2009	Auditor, Director, Manager	Accounting Entries has been hugely inflated involving about Rs. 100 crores.	8000	Yes

III. Results:-

We present the results of corporate perception on types of corporate frauds and organisation policy and prevention mechanism in India. Corporate frauds types and inducements Corporate frauds have been classified into four major groups, namely, Bribery, Misappropriation of Assets (MOA), Corporate Espionage, Procedural Frauds and Financial Statement Frauds (FSFs) and are rated by the respondents on a scale of 1-5 in the order of prominence.

Fraud type	1	2	Ranks 3	4	5
Bribery	60	29	44	19	4
MOA	–	74	29	39	14
Corporate espionage	38	18	45	47	8
Procedural frauds	–	24	55	27	50
FSFs	66	–	35	43	12

Notes: 1 – being the highest and 5 – being the lowest



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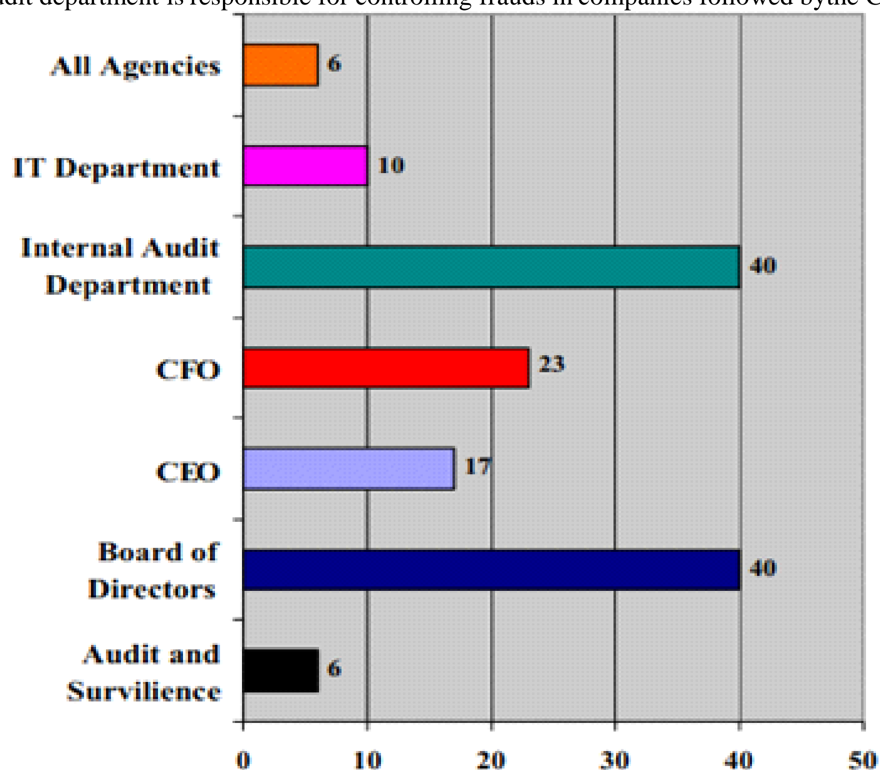
The internal audit department is responsible for controlling frauds in companies followed bythe CEO (Figure 2).



Organisation's reaction to "reported frauds" generally takes the form of conducting departmental enquiries or references to the internal investigating agency. The action agencies for the event of frauds are varied (Figure 3). Factors behind corporate frauds- Large numbers of respondents fully or partly agree that corporate frauds are unavoidable in business. This raises doubt on the perception of companies and the corruption index rating of India.

Functional heads are mainly responsible for committing frauds followed by the CEO and the CFO of companies. This implies that top management of the organisations next to the Board of Directors is responsible for committing frauds, although, in practice, the compliance certificates for various purposes are signed by the members of the board of directors. There is a need for imbibing good corporate governance culture at the functional head level and also the scaling down of management audit. Greed and weak internal controls are the major reasons for corporate frauds. Respondents also pointed out that the non-independence between the cash department and the approving department is of the prominent cause of fraud. The finding supports that of earlier research on the psychological motivations forfraud.

VIJAY MALLYA'S KINGFISHER SCAM:-

Vijay Mallya is an indian business baron, multibillionaire Chairman of the Conglomerate- United Breweries Holdings (UB). He was one of the most talked about and prominent business personalities of India. .Vijay mallya is known for his extravagant lifestyle and is popularly termed as called the "King ofGoodTimes" and "the playboy of the East". But however, Kingfisher led to a collective failure of the system, the timeline is-

2005- Vijay Mallya launched Kingfisher began its operations in 2005 with its inaugural fromMumbai to Delhi

2006-Kingfisher announced to offer its passengers with live in flight entertainment whichwas first of its kind

2007- he wanted to fly international, but Indian laws allowed airlines to fly iternationaly on if it was in existence from 5 years, so he acquired one. *Kingfisher Acquired Air Deccan*-by end of 2007 vijay mallya acquired 46% of air deccan shares.

2008- was a good year for airlines and everything went well, he got permit to opetrate on international routes as well.

2009- In 2009 Kingfisher Airlines continued to be nation's largest passenger carrier with a marketshare. However,the shareholders of Kingfisher Airlines were still waiting to receive first dividend from the company but company continued its run of losses i

2010-Restructuring of the loan.It continued to pile up losses and had turned its net-worth negative in the previous financial year.

2011-the Airlines for the very first time declared issues in the cash flows. The blame however was laid on the rising costs of fuel. In that year, Kingfisher was not able to pay the fuel cost to the oil companies and salaries to

the employees. It was because of this reason that pilots left Kingfisher for rival airlines.

2012- Kingfisher Airlines declared a Non-performing Asset. Just in beginning of 2012, SBI bank declared kingfisher airlines to be non- performing assets and government cancelled itslicence in December 2012.
2013- Kingfisher Airlines net worth falls to a negative of Rs. 12,919 crore. UBHL is approached for a payment of Rs. 6,493 crore in loans for Kingfisher Airlines by a consortiumof banks, including the SBI.
2014- United Bank of India announces Mallya a 'wilful defaulter'. Other banks like SBI andPNB follow suit.
2015- The Service Tax Department holds the arlines accountable for a non-payment of Rs. 115 crore.The Department approaches Bombay High Court to seize Mallya's passport, forcing him to appear in court.
2016- In a plea to stop Mallya from escaping the country, a syndicate of banks approached the Supreme Court of India. Mallaya however, has already left the country, taking refuge nearLondon. The Enforcement Directorate approaches a special court in Mumbai to issue another non-bailable arrest warrant under the Prevention of Money Laundering Act, 2002. The court goes ahead and does so. Reports surface alleging that Mallya has transferred $590 million abroad.
2017- Vijay Mallya, who is undergoing an extradition trial in a UK court over Rs 9,000-crorefraud and money laundering charges, will face next year a parallel litigation brought by 13 Indian banks to freeze nearly $1.5 billion of his assets. Also, Vijay Mallya faces assets freezeorder in UK courts until April 2018.
2018- The extradition trial is going on in UK and Mallya is on bail till April 2018.

Reasons for downfall of kingfisher-

- Frequent Changes On Focus
- Acquisition For Expansion
- Economic Slowdown
- Lack of Management
- High Operational Cost What kingfisher owes to the banks:

BANK	Rs (in crores)
SBI	1600
IDBI bank	800
PNB	800
BOI	650
Bank of Baroda	550
United Bank of India	430
Central Bank	410
UCO Bank	320
Corporation Bank	310
State Bank of Mysore	150
Indian Overseas Bank	140
Federal Bank	90
Punjab & Sind Bank	60
Axis Bank	50
3 other banks	603
Total	**6963**

Source: Indian Express, March 14, 2016

Vijay mallya's side of the story

He made the following statement in media "I have always lived an honorable life and the calumany notwithstadig ,shall continue to do so. As to the allegations in media, all i can say is i hope some sobriety and sense will prevail and truth not held to TRP's."
" The truth about kingfisher airlines and its financial stress due to external factors has been reported by SBI to RBI in their letter dated 31st January 2012" he said in the statement.
The supreme court received on behalf of vijay mallya to pay 4000 crore rupees as settlement of the dues he owes to a consortium of banks led by SBI.
However the banks are not willing to settle for the amount being offered in the settlement. According to the news reports, lenders together have decided that they want a minimum of 4900crore rupees to be paid . Banks further demanded for the interest component as well.

IV. NIRAV MODI'S FRAUD:-

Billionaire jeweller Nirav Modi allegedly acquired fraudulent letters of undertaking from one of its branches for overseas credit from other Indian lenders.
The Enforcement Directorate (ED) on Thursday conducted raids on jeweller Nirav Modi's properties in Mumbai, Surat and Delhi. A case of money laundering has also been lodgedagainst Nirav Modi and others.

In a statement issued to exchanges, Punjab National Bank on Wednesday said it has detected some fraudulent and unauthorised transactions (messages) in one of its branch in Mumbai for the benefit of a few select account holders with their apparent connivance.
"Based on these transactions other banks appear to have advanced money to these customers abroad. In the Bank these transactions are contingent in nature and liability arising out of these on the Bank shall be decided based on the law and genuineness of underlying transactions," it said.
PNB has suspended 10 officers over the Rs 11,400 crore scam and referred the matter to CBI for investigation. According to media reports, Nirav Modi left the country on January 1 weeks before the CBI received complaint from PNB on January 29.

V. MEASURES TO COMBAT SCAMS

The importance of financial markets for the development of an economy has been stressed in Goldsmith (1962) and in more contemporary work by Levine (1998), King and Levine (1993), and Rajan and Zingales (1998). Black (2001) found a positive relationship between firm value and corporate governance practices.

Literature Survey:-

Published academic research on the institutional aspects of Indian securities markets is scanty, in comparison to the literature on market efficiency. Some interest has emerged in recent times on certain specific aspects such as corporate governance , the impact of ownership structure8 on corporate performance and so on.

Two sets of works are noteworthy in the area of institutional developments in the securities markets in India, namely, Gokarn (1996) and Shah (1999), Shah and Thomas (2000) and Shah and Thomas (2001). This paper builds on Gokarn (1996) and Shah (1999). An application of the public interest theory of regulation to securities regulation may be found in Goyal (2005). Gokarn (1996) assesses the contribution of SEBI to the development of institutions in the securities markets in India during the 1992-96 period. It develops a theory of regulation which may be summarized as follows: Regulation is required to ensure that securities markets achieve the four dimensions of efficiency postulated by Tobin.

Shah (1999) focuses on how four key developments relating to trading have transformed the Indian securities markets into being one of the largest and the most competitive in the world in terms of costs and have improved the informational efficiency of the market. The institutional developments it focuses on are (i) the electronic limit order book order matching system (ii) rolling settlement (iii) dematerialised trading and (iv) novation through a clearingcorporation.
Goyal (2005) identifies the sources of market failure that regulation has to address and provides instances of some of the key regulatory initiatives of SEBI that conform to theseprinciples of regulation.
This paper builds on the idea that the objective of regulation is to preempt market failures by anticipating sources of market failure and addressing them through appropriate institutions.
Black (2001) identifies number of prerequisites as essential for ensuring that investors receive good quality information and minimize the risk of self dealing. Black defines self dealing as transactions between a company and its insiders or another firm that the insiders control. This paper proposes the view that the conditions in Black (2001), paraphrased below, are necessary but are not sufficient for the development of a vibrant securities market.

- Local Enforcement and Culture comprising an honest, sophisticated securities agency (and prosecutors for criminal cases), well functioning courts, good civil discovery rules and a class action or similar procedure and a culture of compliance with disclosure and self-dealing rules by insiders, reputational intermediaries and independent directors.
- Disclosure Rules relating to full disclosure of financial results and self-dealing transactions, accounting and auditing rules, auditing of financial statements and disclosure of ownership.
- Inclusion of independent directors on company boards and sophisticated reputational intermediaries accounting professionals, investment banking professionals, securities lawyers.
- A stock exchange with meaningful listing standards and an active insider tradingsurveillance operation.
- Civil liability for insiders who violate the disclosure and self-dealing rules, and for accountants, investment bankers and for independent directors who approve gross selfdealing and criminal liability for insiders who intentionally violate the disclosure and selfdealing rules.

- Market transparency in terms of trading prices and an enforced ban on market manipulation

- Self-Dealing Rules such as (i) procedural controls on self-dealing transactions (review by independent directors, non-interested shareholders, or both) (ii) Accountant review of the disclosure of self-dealing transactions and (iii) enforced securities or other rules banning insider trading
- Other Institutions such as an active financial press and security analysis profession and a good organization to write accounting rules.

Additionally, we identify the following additional requirements for the development of a healthy securities market:-

- Safe and efficient securities trading platforms: If trading platforms are not perceived to be safe, liquid and efficient in terms of costs investors are bound to avoid the platform for trading, leading to an eventual failure of the market. Trading platforms encompass the institution of the securities exchange, rules of engagement among traders, and between market intermediaries and their customers and between issuers and investors so as to minimize agency type conflicts among various participants, order processing and handling systems, settlement and clearing systems. The design of the trading platform has to provide for liquidity at low transaction costs. Transaction costs comprise brokerage, stamp duties and so on and bid-ask spreads and impact costs.
- Simple methods can be evolved to deter the perpetrators of the white-collar crime, its timely detection and punishment of the accused and the delinquent persons. Results indicate that rotation of statutory auditors and compulsory appointment of qualified internal auditor can help to prevent or minimise fraud.
- Institutional Mechanism for Efficient Issuance of Securities: Issuance of securities is a complex and costly process involving flow of information, establishment of contracts between the issuer and the investor and the discovery of the price of an asset that may not have had a trading history and may often be dissimilar to other pre-existing assets that are traded on the exchange. An efficient process that assures investors of a fair and transparent process at minimum cost will attract high quality and serious investors to the market.
- An Optimally Designed Set of Corporate Laws: The economic case for corporate laws, existing in addition to securities laws, has been challenged in recent times as in Romano (1998). Black (1998) extends a similar argument. However, the economic case for replacing a corporate law with a set of private contracts is not very well established. Further, a common corporate code may be an efficient contracting mechanism where there are a large number of privately held companies. These laws might cover the most basic aspects of the working of a company such as its formation, dissolution, closure, reorganization, internal governance, resolving basic agency issues between the owner or owner manager on the one hand and the shareholder who is not involved in the management of the firm on the other, mobilization and redemption of capital, resolving agency issues and so on. These laws need to dovetail functionally with the securities laws that govern the working of public companiesso as to avoid regulatory duplication and conflicts.
- Laws relating to transactions in securities: A high velocity of trade is important for a well functioning securities market. Tariffs and taxes can act as "sands in the wheels" of securities markets. Commercial laws governing transfer or trade in securities should at least endeavour to miminise the cost of transactions, if they cannot be eliminated altogether.

The prerequisites identified in our analysis in the previous section may be broadly classified into five categories: (i) an optimally designed corporate law (ii) the organization of the securities regulator (iii) provisions relating to the governance and conduct of the issuer (iv) provisions relating to intermediaries, their quality and incentives; and (v) provisions governing securities exchanges and the trading activity on exchanges.

Together, these provisions deal with the sources of potential market failure pointed out earlier: Information asymmetry, agency related issues, transaction costs and self dealing.

Our analysis is based on the two pieces of statute that SEBI draws upon to discharge its statutory roles, namely, the Securities and Exchange Board of India Act, 1992 (SEBI Act, hereafter) and the Securities Contract Regulation Act, 1956 (SCR Act) and the rules made thereunder and select provisions of the listing agreement between the stock exchanges andthe issuer.

VI. ORGANISATIONS PRESENTLY REGULATING SECURITIES MARKETS ININDIA

Five agencies have a significant regulatory influence, directly or indirectly, over the securities markets in India currently. These are

- The National Company Law Tribunal (NCLT for short) which is a quasi judicial body that exercises some of the quasi judicial and judicial powers under the Act previously exercised by the High Court and the Central Government (earlier, Complany Law Board- CLB)
- The Reserve Bank of India (RBI) which is primarily responsible, inter alia, for the supervision of banks and money markets

- Securities and Exchange Board of India (SEBI) which is responsible for the regulation of capital markets and the various participants and activities therein; and
- Department of Economic Affairs (DEA) which is responsible for the economic management of the country and is the arm of the government that is concerned with the orderly functioning of the financial markets as a whole
- Ministry of Corporate Affairs (MCA) which is at the apex of a three tier structure that has responsibility for the registration and oversight of incorporated entities which fall under the regulatory purview of the Companies Act.

Of the above, the agency that is directly charged with the supervision of the capital marketsin India is SEBI.
The provisions of the SEBI Act define its role in more specific terms.17 These broadly relate to (i) Regulating the business in stock exchanges and any other securities markets (ii) Registration and regulation of a range of financial intermediaries and trade participants (iii) Prohibiting practices that are considered to be unhealthy for development of the securities market such as insider trading and fraudulent and unfair trade practices for promoting and regulating self regulatory organizations (iv) Promoting investors education and training of intermediaries of securities markets (v) Inspection and calling for information from various regulated entities referred to in (ii) above (vi) Conducting research (viii) Collecting fees or other charges for carrying out the purposes of this section and (ix) Performing such other functions as may be prescribed. The SEBI Act leaves open the room for SEBI to perform such other functions as may be prescribed.

VII. SEBI'S PERFORMANCE AS A REGULATOR – A Brief, Critical Review

A description of SEBI as a regulator of the securities market would be incomplete without atleast a brief review of its accomplishments so far. This review is a thumbnail sketch of the regulator's more important contributions and is not meant to be exhaustive. SEBI's role has been reviewed along the following major areas (i) Primary market, market access and intermediaries (ii) Disclosure requirements (iii) Corporate Governance (iv) Market for corporate control (v) Trading Mechanisms (vi) Settlement systems (vii) Dematerialisation
(viii) Institutionalisation of Trading and Ownership of Securities (ix) Market Integrity and Insider Trading (x) Ownership and Governance of stock exchanges; and (xi) Compliance Enforcement.

VIII. INSOLVENCY AND BANKRUPTCY CODE, 2016

The Insolvency and Bankruptcy Code, 2016 (IBC) is the bankruptcy law of India which seeks to consolidate the existing framework by creating a single law for insolvency and
bankruptcy. The code will be able to protect the interests of small investors and make the process of doing business a less cumbersome process.

Key Features :-
Insolvency Resolution : The Code outlines separate insolvency resolution processes for individuals, companies and partnership firms.The process may be initiated by either the debtor or the creditors. A maximum time limit, for completion of the insolvency resolution process,has been set for corporates and individuals. For companies, the process will have to be completed in 180 days, which may be extended by 90 days, if a majority of the creditors agree. For start ups (other than partnership firms), small companies and other companies (with asset less than Rs. 1 crore), resolution process would be completed within 90 days of initiation of request which may be extended by 45 days.

Insolvency regulator: The Code establishes the Insolvency and Bankruptcy Board of India, to oversee the insolvency proceedings in the country and regulate the entities registered under it. The Board will have 10 members, including representatives from the Ministries of Finance and Law, and the Reserve Bank of India.
Insolvency professionals: The insolvency process will be managed by licensed professionals. These professionals will also control the assets of the debtor during the insolvency process.

Bankruptcy and Insolvency Adjudicator: The Code proposes two separate tribunals to oversee the process of insolvency resolution, for individuals and companies: (i) the National Company Law Tribunal for Companies and Limited Liability Partnership firms; and (ii) the Debt Recovery Tribunal for individuals and partnerships.

Procedure:- A plea for insolvency is submitted to the adjudicating authority (NCLT in case of corporate debtors) by financial or operation creditors or the corporate debtor itself. The max time allowed to either accept or reject the plea is 14 days. If the plea is accepted, the tribunal has to appoint an Insolvency Resolution Professional (IRP) to draft a resolution plan within 180 days (extendable by 90 days). following which the Corporate Insolvency Resolution process is initiated by the court. For the said period, the board of directors of the company stands suspended, and the promoters do not have a say in the management of the company. The

IRP, if required, can seek the support of the company’s management for day- to-day operations. if the CIRP fails in reviving the company the liquidation process is initiated.

Amendments:- The Code was amended in 2017 to prohibit certain persons from submitting aresolution plan in case of defaults, and to prohibit the sale of property of a defaulter to such persons during liquidation.

IX. CONCLUSION:-

Corporate frauds are on the rise globally and in India, and therefore detection and preventionis of prime concern of everybody, be it the government or the shareholder. Efforts are being made by all concerned to prevent such corporate frauds and alienate the pain and agony of small investors and shareholders.

The complexity of a corporate frauds (which is the handiwork of a select few) comes bare only when the complete edifice of a company has collapsed. Sudden surprises that a company has cheated the gullible investors and that the directors of the company have gone under ground shakes the confidence of all the stakeholders. Shareholders feel helpless before a large corporate fraud. This shakes up the confidence of all the stakeholders, and the shareholders are helpless before a corporate mammoth. Such a corporate fraud strips of the large taxes that the government could have earned, it strips of the valuable savings of the investors and the National Wealth has a negative plunge and everybody seem bewildered. There is an urgent need for uniformity of publication standards of fraud prevention policy. The detection of corporate frauds, many a times, becomes difficult, as the financial statements are fabricated or the balance sheet is camouflaged and also the frauds are never a part of the directors’ report. The statutory disclosures also give statements on such camouflaged balance sheet; hence, there appears to be a close and strong nexus between the perpetrators of the fraud and the unscrupulous professionals, making the fraud invisible till the lid blows off. The curse of corporate frauds has a silver lining in the cloud, as there are simple methods, which can be evolved to deter the perpetrators of the white-collar crime, its timely detection and punishment of the accused and the delinquent persons. Results indicate that rotation of statutory auditors and compulsory appointment of qualified internal auditor can help to prevent or minimise fraud. The regulatory architecture still suffers from the lack of a holistically designed statutory framework. Many laws needed to be augmented, as in the caseof the disclosure requirements.

Some aspects of the markets functioning had to be completely re-architected and new regulations or laws enacted for that purpose, as in the case of market access, governance of stock exchanges and the oversight of various intermediaries. Some others called for a radical redesign as in the case of the trading, clearing and settlement systems, which touched many other laws as well. This range of regulatory responses required a suitably empowered regulator and a law that provided the basis for such a regulator. The current regulatory framework puts SEBI in charge of the capital market whereas the regulation of the money markets comes under the ambit of the Reserve Bank of India (RBI). For eg., money market mutual funds invest in securities that are regulated by the RBI but the AMC is itself regulated by SEBI82. These and other instances raise the question of whether it makes sense to one single regulator along the lines of the FSA. Yet another area that requires attention is that of investigation and enforcement.

As Shah (1999) points out the status quo on Indian securities markets based on the badla, unofficial bank financing of securities trade, manual trading system without price-time priority and based on paper scrips benefited a powerful set of incumbents. There is no research to assess whether the emergence of NSE spillovers and if so what the nature of such spillovers was. Whatever the nature of the spillovers, the resistance from the incumbents to the numerous reform efforts of SEBI and the apparent slowdown in maintaining the pace of the reforms for a while in the nineties suggest that pure reliance on market forces may not have brought about the changes that SEBI initiated.

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REFERENCES:-

[1]. Agrawal, A. and Chadha, S. (2005), “Corporate governance and accounting scandals”,Journal of Law and Economics, Vol. 48 No. 2, pp. 371-406.
[2]. Alexander, C.A. and Cohen, M.A. (1996), New Evidence on the Origins of Corporate Crime,US Department of Justice – Antitrust Division, Washington, D.C.
[3]. Baker, C. (1999), “An analysis of fraud on the internet”, Internet Research, Vol. 9 No. 5, pp.348-360.
[4]. Baker, C. (2002), “Crime, fraud and deceit on the internet: is there hyperreality in cyberspace?”, Critical Perspectives on Accounting, Vol. 13 No. 1, pp. 1-15.
[5]. Beasley, M.S. (1996), “An empirical analysis of the relation between the board of director composition and financial statement fraud”, The Accounting Review, Vol. 71 No. 4, pp. 443-465.

[6]. Bebchuk, L.A. (2003), "Why firms adopt antitakeover arrangement", University of Pennsylvania Law Review, Vol. 152 No. 2, pp. 713-753.
[7]. Collapse of Kingfisher Airlines, http://www. civilserviceindia.com/subject/Essay/KingfisherShobhit.html, accessed on 18th April, 2016
[8]. Conclusions, http://www.reachoutsid.com/reasons-for-the-downfall-of-kingfisher-airlines/
[9]. Doogar, R., Sivadasan, P. and Solomon, I. (2010), "The regulation of public company auditing: evidence from the transition to AS5", Journal of Accounting Research, Vol. 48 No.4, pp. 795-814.
[10]. Duffield, G. and Grabosky, P. (2001), The Psychology of Fraud, Trends and Issues in Crime and Criminal Justice 200, Australian Institute of Criminology, Canberra.
[11]. Durtschi, C., Hillison, W. and Pacini, C. (2004), "The effective use of Benford's law to assist in detecting fraud in accounting data", Journal of Forensic Accounting, Vol. 5 No. 5, pp. 17- 34.
[12]. Dyck, A., Morse, A. and Zingales, L. (2007), "Who blows the whistle on corporate fraud?", available at: ideas.repec.org/p/nbr/nberwo/12882.html (accessed 22 December 2012).
[13]. Fabozzi, Frank J., Franco Modigliani, Frank J Jones and Michael G Ferri [2002] : Foundations of Financial Markets and Institutions, 3 rd ed., Pearson Education Asia
[14]. Glen, Jack and Ananth Madhavan [1998] : Primary Securities Market in Peru : A Case Study of Peru, Emerging Market Quarterly No.2
[15]. Glaeser, Edward L., and Ander Shleifer [2002] : Legal Origins., The Quarterly Journal OfEconomics, November 2002, p 1193-1229
[16]. Harris, Larry [2002]: Trading and Exchanges –Market Microstructure for Practitioners,Oxford University Press
[17]. Johnson, Simon, Rafael La Porta, Florencio Lopez-de-Silanes and Andrei Shleifer [2000] Tunneling., American Economic Review Papers and Proceedings, XC, 22-27.
[18]. Jarell, Greg (1981) : "The Economic Effects of Federal regulation of the market for New Security Issues". Jour of Law and Economics, No.
[19]. La Porta,R., F. Lopez de-Silanes, and A. Shleifer (2003), "What works in securities laws",Harvard University mimeo
[20]. Levine, Ross (1998); The Legal Environment, Banks and Long-Run Economic Growth;Jour. of Money, Credit and banking No.30.
[21]. NSE (2009)
[22]. Nayak, Jayendra P (1999): in India's Financial System: Getting Ready for the Twenty First Century, edited by James A Hanson and Sanjay Kathuria
[23]. Rajan, Raghuram and Luigi Zingales (1998), "Financial Dependence and Growth." AmericanEconomic Review 88, 559-86.
[24]. Romano, Roberta [1998] : Empowering Investors: A Market Approach to Securities Regulation, Yale Law Review, Vol. 107, No. 5, 1998.
[25]. SEBI: Various reports of the annual report from 1992-93 to 2008-09 43. [2003] : Securities and Exchange Board of India Annual Report for 2002-03
[26]. Sabarinathan, G., (2007), A Critique of SEBI's Regulation of Public Offerings of Equity Shares and Convertible Securities in India, Unpublished Thesis submitted to the NationalLaw School of India University
[27]. Subramanian, Samanth (2010), What is this Sebi-Irda-Ulip Issue all about, available at http://www.livemint.com/2010/04/14162251/What-is-this-SEBIIRDAULIP-is.html Vijay Mallya blames media, seeks to clarify why Kingfisher failed,http://articles.economictimes.indiatimes.com/2016-03- 07/news/71276119_1_kingfisherairlines-vijay-mallya-usl, accessed on 11th April
[28]. Vijay Mallya Offers to Pay Rs.4,000Crores to Settle Dues, http://thewire.in/2016/03/30/vijay- mallya-offersto-pay-rs-4000-crores-to-settle-dues-26735/, accessed on 7th April, 2016
[29]. World Bank (2004), Report on Observance of Standards and Governance, CorporateGovernance Country Assessment, India.
[30]. Wang, T.Y., Yue, X. and Winton, A. (2010), "Corporate fraud and business conditions: evidence from IPOs", Journal of Finance, Vol. 65 No. 6, pp. 2255-2292.