

Emerging Trends in Corporate Crime(s): An Indian Legal Perspective

***Dr. Rakesh Kumar Handa**

Assistant professor, University School of Law and Legal Studies, Guru Gobind Singh Indraprastha University, Dwarka sector 16-c Delhi

***Dr. Vani Prakash**

Assistant professor, University School of Law and Legal Studies, Guru Gobind Singh Indraprastha University, Dwarka sector 16-c Delhi

Abstract

Motivation, Opportunity, and Rationalization are three significant elements to commit a crime. Motive comes from monetary tension; opportunity happens through shortcoming in interior control and rationalization is crime inside avocation for their demonstration. Cutthroat and financial endurance can be a rationale to commit a crime. The white-collar crimes are not often committed by hardcore criminals; these are often committed by moral people who are under financial strain and distress. In committing a crime, motivation has an important role as compared to opportunity to commit a crime. People often commit crime because they want to be wealthier and do not care about the consequences of their wrongful acts. Sometimes, crimes are committed by people to satisfy their ego or to maintain their false status.

1. Introduction

Corporate crime reflects the tripartite relation among by components viz. motivation, rationalization, and behavior. A crime is an act of an individual(s) which can be of civil nature as well as criminal nature. People claiming different culture heritage differ. not only in how they perceive a crime in general, but also in how they evaluate the specific type of crimes. Corporate crimes can be for or against the company, as it is an act or omission of disguise of fact/info by an individual with an intention to benefit or injure the stakeholder of the company for any wrongful gain or loss. Corporate culture is largely responsible for the occurrence of any crime. A company cannot grow and prosper in long run without holding and establishing ethical demeanor. The Companies Act, 2013 introduced offense of crime u/s 447 and stringent penalty has been incorporated for those who indulge in any crime. The corporate sector is basically managed by the Companies Act, since various provisions have been arranged in the Act to control undertakings of a company and the initial time the perception of crime has been embedded in the Companies Act, 2013. Regardless of the definition used, certain characteristics are common to all types of crimes. These are: misrepresentation of a material fact; knowingly and deliberately

engaged in criminal activities; intention to deceive; rely on the misrepresentation by victim; resulting in damage or harm to the victim. Legal provisions have been made for preventing and curbing corporate crimes u/s 447 of the Companies Act, 2013.

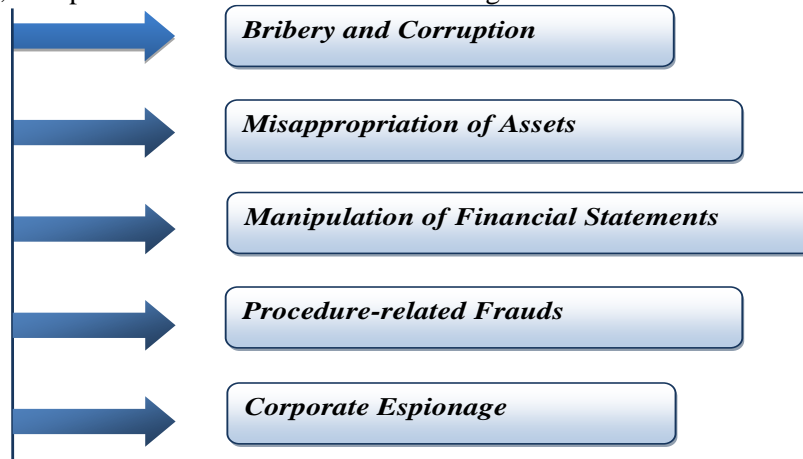
Any crime perpetrated by, for, or against a company is known as corporate crime. Such crimes are often intended to satisfy the economic needs of the officials, or executives or of a Company whose compensation is based largely on one measure of performance. An organizational crime is intended to benefit the organizational identity and to harm the entity. Crimes against the company are intended to benefit only the perpetrator. In the crimes, which are directed against the company, the victim is a company while in crimes that are for the company, the company is a beneficiary.

2. Types of corporate crimes

Corporate crimes may be of different types encompassing the various activities and legal procedures involved. Corporate crimes can be committed internally or externally in a company by employees, customers, vendors, management, Chief Financial Officer, Board of Directors, or any additional functional head. While an internal crime is a crime occurring within the organisation and is committed by employees, or the Board of directors, an external crime is a crime committed by the

outsiders. As per the research studies and expert surveys, corporate crimes can be

divided into five categories as shown in Figure:



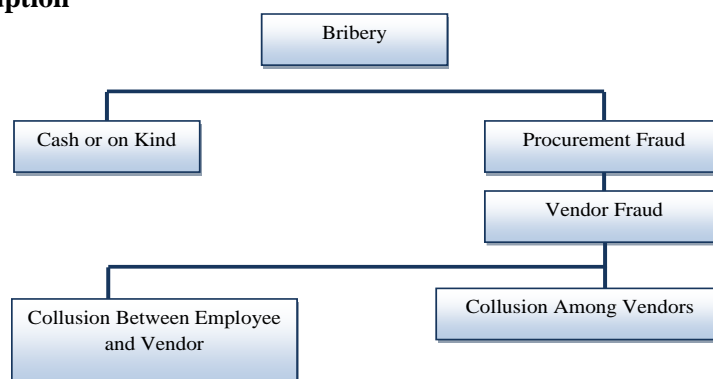
2.1 Bribery and Corruption

Bribery includes giving or getting some significant worth to impact an exchange. Bribery and Corruption are either in cash or in kind and include procurement crime. A procurement crime is a subcategory of bribery and corruption plans. It is basically control of the proceeding involved with acquiring an agreement for goods and services or acquiring an approval from a government agency or obtaining an approval from a government agency or even getting a favorable order from a judge.

Bribery is to pay someone to do something illegal, corruption is to take bribe to do the illegal act and crime is doing an act intentionally which is against the law. The control is for the most part pointed toward

Bribery and Corruption

acquiring a benefit in the offering or proposition process, and such demonstrations can go from an unjust utilization of insider info to utilization of nefarious means to impact the proceedings. Bribery refers to offering, giving, getting, or requesting anything of significant worth to impact an 'official act', where 'official act' signifies the installments settled on to impact decision of government agent or representative. Simply, the bribe means to give, offer or promise to give money or something to a person in power to induce that person to do a certain act. Corruption is a wider concept which includes bribery also. Corruption can be categorized as bribery, economic extortion, illegal gratuity, and a conflict of interest. Corruption is untruthful or unlawful behavior of commanding persons.



2.1.1 Modus operandi of Bribery and Corruption

The modus operandi of bribery and corruption is briefly described below:

Modus operandi in cash or kind type of Bribery

Crime perpetrators use the different methods to give bribe a few of them are stated below:

- (1) Kickback

- (2) Diverting Business to Vendor
- (3) Over invoicing

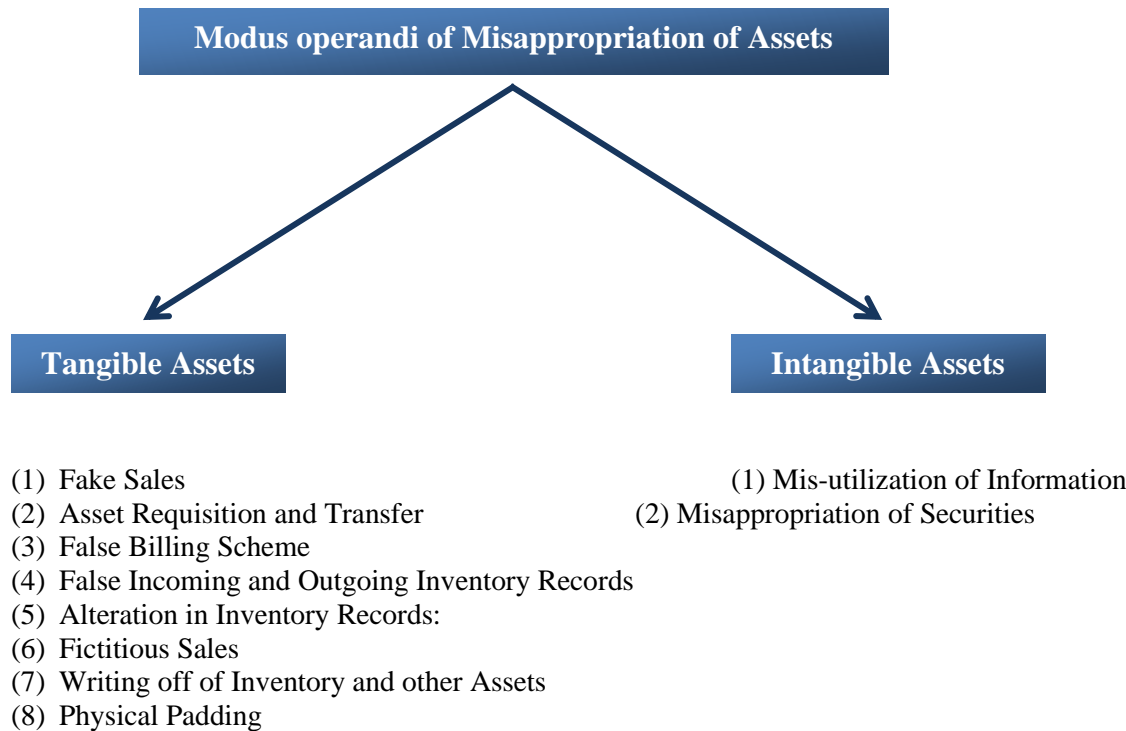
Modus operandi in Procurement type of Business

Like receiving cash or offering some benefits, crime perpetrators have different strategies, to commit a crime. These Strategies are: -

- (1) Bid-Rigging Schemes
- (2) Misappropriation of Assets

2.1.2 Modus operandi of Misappropriation of Assets

The company adopts different modes of theft of inventory and other assets to commit a crime. The assets may be categorized as “tangible assets” and “intangible assets”. The modus operandi of theft of these assets is depicted in figure.



3. Crime through Manipulation of Financial Statements

Annual accounts containing three statements, the major financials namely, Balance sheet, Profit & Loss Account and Cash Flow Account, which reflect economic health of a company, and companies manipulate these financial reports to upsurge the economic health.

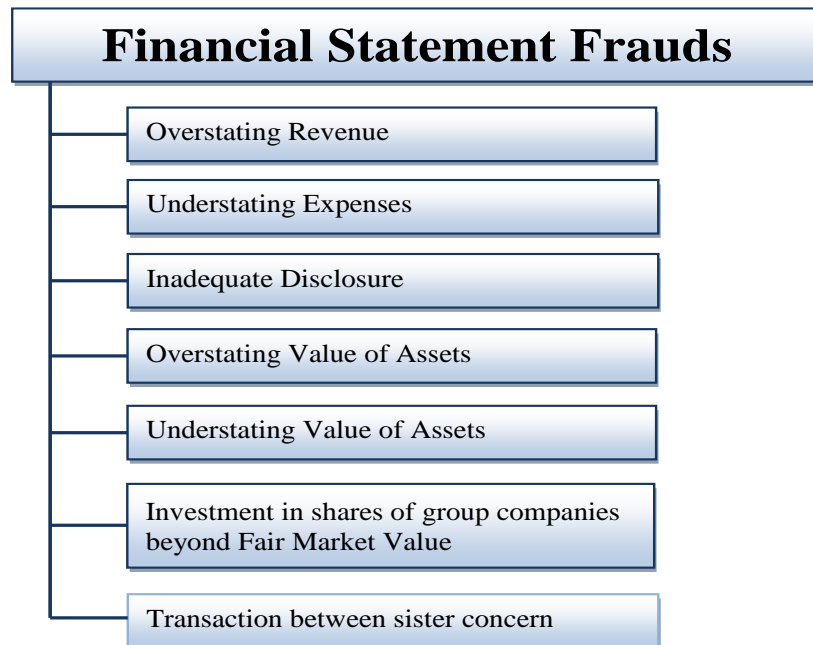
Balance Sheet: Its a statement of company’s resources, responsibilities, and owner’s fairness. Assets include land, plant and machinery, inventory, investment, loan given and cash bank balances whereas liabilities include creditors, tax liabilities, unsecured and secured loan taken, and owner’s equity is amount inserted by owners by way of equity.

Profit & Loss Statement: It depicts income and expenses, or we can say receipts and

payments and it shows the profit/loss of a company in a particular year.

Cash Flow Statement: It shows inflow and outflow of money. Cash flow is from sale of goods, income from services, interest acknowledged, pay for buying of foods, pay of goods, payment against services received, pay for functioning expenditures, buy or sale of properties, debts, equity, loan or advance to others.

Fraudulent Financial Statement are financial statements that are intentionally misstated in order to mislead users. The general users of financial statements include management, financial analyst, shareholders, suppliers and others. Financial statement crime is slightest normal job-related crime, as it is easy and the costliest.

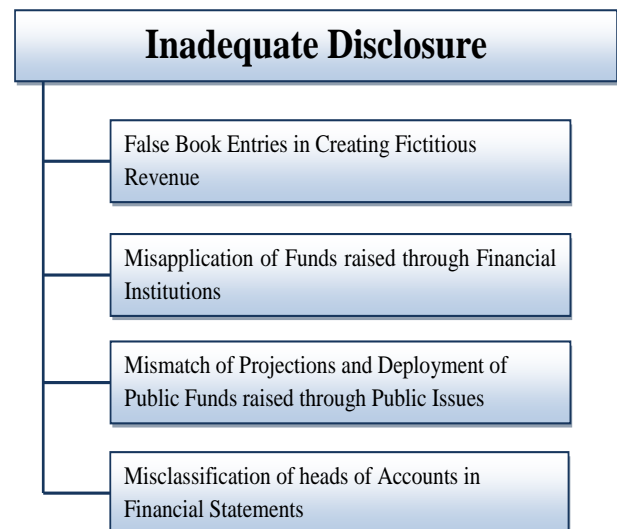


3.1 Modus operandi of Manipulation in Financial Statements

The methods, adopted by the companies, leading to financial statement crimes, are described below:

- (1) Overstating the Revenue
- (2) Understanding the Expenses or Liability
- (3) Inadequate Disclosure

(i) **Non –Disclosure of Poor Financial Health:** The fundamental financial accounting principles, policies and disclosure are camouflaged. The basic functioning of a business entity is on the basis of resources of funds being deployed into useful capital/revenue expenditure given rise to revenues. The sources of funds which are usually in the nature of share capital, loans, creditors, liabilities and reserves and surpluses are deployed as fixed assets or kept as current assets, loans, and advances. When the funds, which are shown in the balance sheet, are properly utilized, they lead to revenue expenditure in the form of purchases



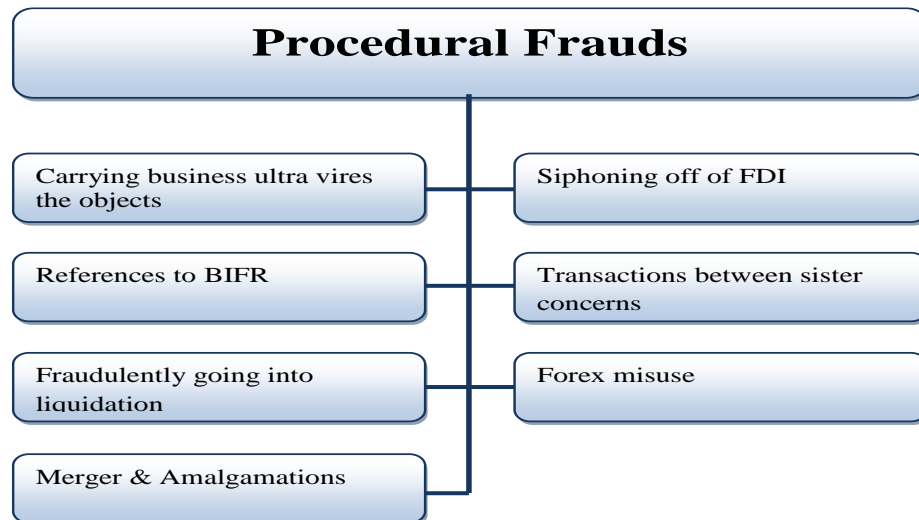
(ii) and other direct and indirect expenses which generate income, in other words, called profits. The modus operandi of camouflaged economic health of company through financial accounts and Balance Sheet is explained as under:

- a) False Book Entries
- b) Misapplication of Funds borrowed from Financial Institutions

(iii) **Large-sized companies whose main source of funds is Public Issue**

(iv) **Misclassification/fudging of heads of accounts in the Balance Sheet/ Profit and Loss Account**

Procedure –Related Crime

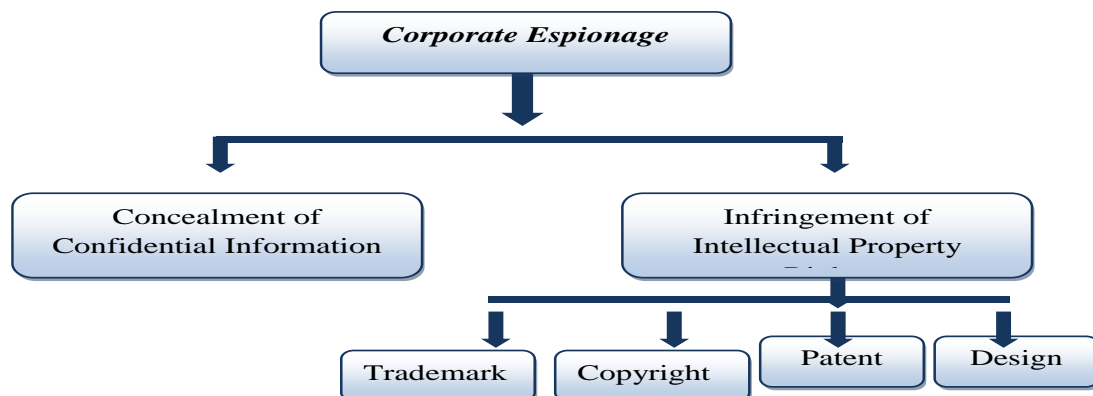


4. Corporate Espionage

The expression 'corporate espionage' has curved inseparable from 'industrial espionage'. With intensification of contest and growth of productivity in undertakings, corporate authorities started depending on some inventive strategies for getting info of their adversaries. Industrial espionage alludes to every one of the covert exercises which are accomplished by business people for getting info of their adversaries for business benefits. Designated survivors of espionage exercises array from rival commercial association to government agencies. Info can have the effect among progress and disappointment, or benefit and loss account in commercial biosphere. Theft of infringement upon the intellectual property or secret information of a company is the aim of corporate espionage. It is a danger to any occupation whose job relies upon info. The info pursued could be customer list, provider contract, individual prizes, research record, and model designs for another item. As per the American Society for Industrial Security & Price Waters house Coopers, in 1999, 1000 companies lost greater than \$45

billion from burglary of occupational innovations. A company can become victims of corporate espionage due number of factors such as social engineering; Dumpster driving; False pretenses; Viruses and Trojan horses; and corporate identity theft.

Corporate espionage not only leads business to insolvency as well as influence the binds with friendly countries. Non-monetary harms to trade incorporate public humiliation for a company, tainting of the corporate picture, loss of commercial certainty among accomplices or investors and a public misguided judgment that company is a security hazard. Out of long-term impacts of a corporate espionage is a disintegration of company's innovative work base. The most common way of growing innovative idea and bringing them to realization is over the top expensive, and deficiency of coming about innovation or research data can be monetarily debilitating. The national monetary strength of a nation is checked in party by soundness of its business firms and their capacity to prevail in the worldwide commercial place.



Concealment of confidential information is self-explanatory while the term Trademark, Copyright, Patent and Design need some elaborations as these kinds of Intellectual Property Rights serve different purposes such as Trademark; Copyright; Design; Patent.

Modus operandi of Corporate Espionage

The employees of the company of the company itself commit crime by concealing the confidential information of the company for the benefit of its competitor company. The main *modus operandi* in such crimes is described below:

Major Scams of Corporate Sector

S.No.	Year	Name of the Scam	Amount (Rs. crore)	Involved
1	1992	Harshad Mehta scam	4,000	
2	1992-96	C R Bhansali scam	12,000	
3	1995	Cobbler scam	2,880	
4	1995-96	Virendra Rastogi scam	43	
5	1997	JVG scam	1000	
6	1998	Anubhav Plantation scam	400	
7	2000	Abdul Karim Telgi scam	171	
8	2000	UTI scam	4800	
9	2001	Dinesh Dalmia scam	595	
10	2001	Ketan Parekh scam	1,000	
11	2001	Sanjay Agarwal Home Trade scam	600	
12	2005	IPO scam	4.04	
13	2009	Satyam scam	8,000	
14	2013	Saradha scam	4,000	
15	2013	National Spot Exchange Limited scam	5,000	
16	2015	Bank of Baroda scam	6,172	
17	2015	PACL scam	47,000	
18	2016	Vijay Mallya (King Fisher Airline)	12,000	
19	2018	Nirav Modi (PNB)	11,500	

6. Regulatory Measures of Curbing Corporate Crimes: Incidental Legislation

The government is regulating corporate crimes indirectly through some / Legislations namely, The Reserve Bank of India Act, 1934; The Income Tax Act, 1961; The Foreign Exchange Management Act, 1999; The Indian Contract Act, 1872; The Competition Act, 2002, The

- To conceal and to act on confidential information
- To use/infringe trademark, copyright, patent or design of its competitor, to sale the product and to cheat the consumer

5. Major Corporate Crimes in India

The major cases of corporate crimes occurred as show in Table, which were reported during the period from 1992 to 2018 briefly described below, so as to bring out their features and *modus operandi*.

Information Technology Act, 2000, and The Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015. The legislations have provisions regarding regulation of business crimes in India and relevant sections of the Act are described in Table:

6.1 Incidental Legislations Regulating Corporate Crimes in India

S. No.	Name of the Act	Relevant Section	Enforcement Authority	Appeal Against SOrder of the Authority/Court
1.	The Reserve Bank of India Act, 1934	Sections 58A, 58B, 58C, 58E(1), 58q 31, 45-1A, 45MA.	Adjudicating Officer	Foreign Exchange Regulation Appellate Board

2.	The Income Tax Act, 1961	Sections 116, 131, 132, 132A, 133, 134, 135, 271A, 271AA, 271AAA, 271B, 271F, 271FA, 271H, 275A, 275B, 276, 276AB, 276BB, 276C, 276D, 277A, 278, 278A, 278AB, 278B, 278D, 279B, 280, 280B	Income Tax Appellate Tribunal	(i) High Courts (ii) Supreme Court
3.	The Foreign Exchange Management Act, 1999	Sections 10, 12, 13, 15, 17, 18, 19, 28, 34, 35, 36, 37, 41, 48, 49	Income Tax Appellate Tribunal	(i) High Courts (ii) Supreme Court
4.	The Indian Contract Act, 1872	Section 17	Civil Courts	(i) High Courts (ii) Supreme Court
5.	The Competition Act, 2002	Sections 36, 41, 42, 43, 44, 45, 48	Income Tax Appellate Tribunal	Competition Appellate Tribunal followed by Supreme Court
6.	The Black Money (undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015	Sections 2(11), 2(12), 3, 4, 6, 8, 15, 18, 19, 21, 73	Income Tax Appellate Tribunal	High Court and Supreme Court
7.	The Information Technology Act, 2000	Sections 65, 66, 66C, 66D, 66E, 67C	Controller of Certifying Authorities	(i) Cyber Appellate Tribunal (ii) High Courts
8.	The Economic Offence (Inapplicability of Limitation) Act, 1974	Section 2	-	-

6.2 Regulatory Agencies Under the Ministry of Corporate Affairs

The Central Government under Ministry of Corporate Affairs has specialized agency called the Serious Crime Investigation Office (SFIO) that is a multi-disciplinary association comprising of specialist drawn from fields of accounting, law, scientific, assessing, Information Technology, investment bazaar, banking and taxation. The Central Government also has another specialized department namely Investigation and Inspection under Ministry of Corporate Affairs which is led by Director of Inspection & Investigation (DII). The Companies Act, 2013, has requirements for establishing of National Company Law Tribunal (NCLT) to substitute standing Company Law Board (CLB), Board for Industrial & Financial Reconstruction (BIFR).

The National Company Law Tribunal (NCLT), also has capacities to deal with certain matters which are now under the High Court jurisdiction like Merger and Amalgamation, winding up etc. These agencies detects, prosecutes and summons cases for prosecution of white-collar crimes.

6.3 Authorities under the Ministry of Corporate Affairs

The composition and functioning of various authorities, established under the Ministry of Corporate Affairs for regulation and prevention of corporate crimes are firefly discussed below:

1. National Company Law Tribunal (NCLT) & National Company Law Appellate Tribunal (NCLAT)

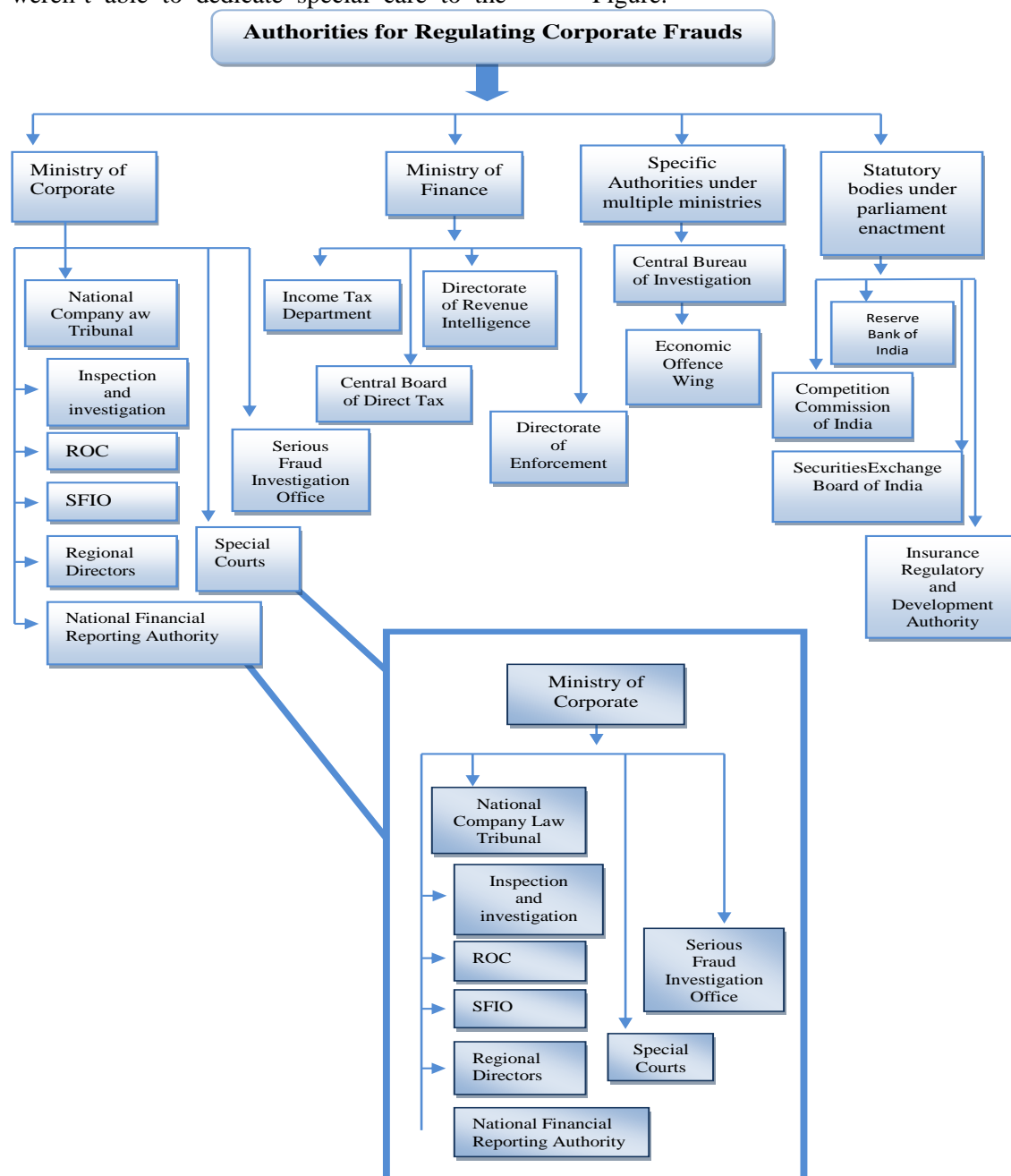
The management of companies is normally built on value of majority rule. However, this rule has infrequently been ill-treated and the 'whip' of the majority has frequently produced

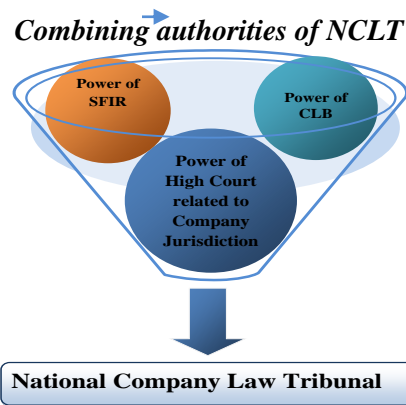
undesirable effects, detrimental to interest of shareholders. Before the Companies Act, 1956, lone remedy accessible to troubled minority was to go to the court for winding up of company. The winding up remedy isn't at all times beneficial to petitioning stockholders. Nevertheless, the oppression or mismanagement calls for some remedial action after enforcement of the Companies Act, 1956. Section 397-409 of the Companies ACT, 1956 empowered the Company Law Board and the Central Government to pact with such circumstances.

The establishment of single authority, i.e. NCLT was recommended as the High Courts weren't able to dedicate special care to the

instance of a winding up with result that winding up proceedings took long time.

The Companies Act, 2013, has provisions for establishing of a National Company Law Tribunal (NCLT) & National Company Law Appellate Tribunal (NCLAT) to substitute present Company Law Board (CLB) and the Board for industrial & Financial Reconstruction (BIFR). It likewise has provisions to deal with several matters that were within jurisdiction of High Court in pursuance of several provisions dealt in earlier Act. Thus, the NCLT is a body which exercises the combined powers of CLB, BIFR and HC (company jurisdiction) as shown in Figure.

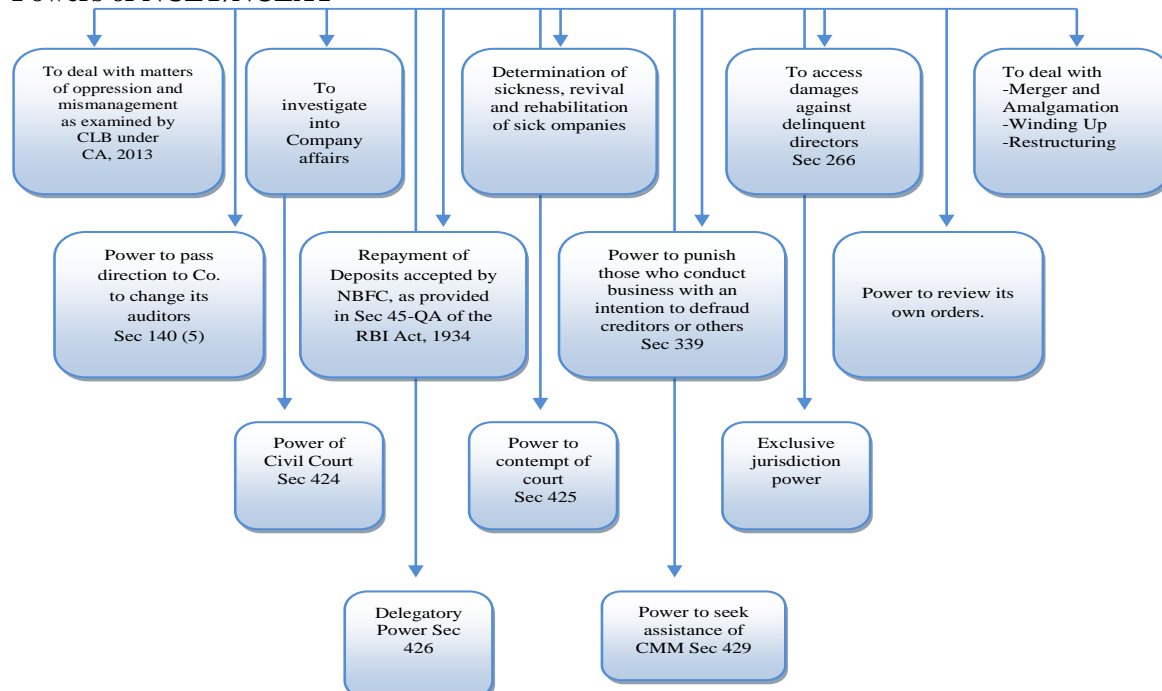




Powers of NCLT/NCLAT: For the prevention of corporate crimes in India, the major provisions are dealt in Sec. 241 of Companies Act, 2013, which basically are intended to control the oppression &

mismanagement in dealings of a company. The powers of NCLT has been given in Figure. The basic purpose to establish the NCLT is to evade the plurality of cases before numerous courts to quasi-judicial builds or tribunals.

Powers of NCLT/NCLAT



The powers of NCLT are described in the following paragraphs:

- a) **Providing relief in case of oppression and mismanagement:** Section 397 and 409 of Companies Act, 1956, empowered the CLB & the Central Government to pact with the matters of CLB has been transferred to NCLT u/s 230 of the Companies Act, 2013 as the CLB has been abolished under the Companies Act, 2013
- b) **Providing relief in case of class-action suits:** small investors through class-action suit will get justice and can be able to file

their claim against crimeulent companies. Before the Companies Act, 2013, the shareholders can get relief through filing of an application under oppression and mismanagement, but now class-action suits give them additional right, and they can get justice against abuse of powers by the company, its management, auditors, and consultants. The class action suits can be file to seek following orders: -

- a) To prevent the company from doing a demonstration that is ultra vires the articles or memorandum of the company.

- b) To control the company from breaking of any arrangement of association of the company's articles or memorandum.
- c) To pronounce a resolution modifying the memorandum or articles of association of company as invalid if resolution was approved by concealment of material facts or acquired by mis-explanation to the investors.
- d) To control the company and its directors from following up on such resolution.
- e) To control the company from working that is in opposition to the arrangements of this Act or some other law enforced.
- f) To prevent the company from making a move in opposition to any resolution passed by members.
- c) **Declaring a company as a sick company and determining measures for revival and rehabilitation:** The Tribunal is empowered to declare a company as a sick company after receiving an application from secured creditors having the minimum of fifty per cent sum of outstanding debt and has unsuccessful to get its amount in 30 days of serving of notice to the company. The Tribunal can also declare the company as sick after an application made by company itself.
- d) **Assessing damages against delinquent directors:** During the scrutiny of revitalization of rehabilitation scheme of an unhealthy company, if the Tribunal finds that any person, including Director/ Manager/ Employee, who has taken part in the promotion, formation or management of the sick company, has misapplied or retained any money or property of the sick company or has been guilty of any misfeasance, malfeasance or non- feasance or breach of trust, then the Tribunal can pass an order directing those persons to repay or restore the money or property or to contribute to the assets of the company.
- e) **Passing an order for merger, amalgamation, and winding up:** The Tribunal has the power to pass an order of merger and amalgamation, arrangement, winding up and restricting of companies. These terms have been defined as follows:
 - **Merger**
 - **Amalgamation**
 - **Arrangement**

➤ **Winding-up**

➤ **De-merger**

- f) **Directing the company to change its auditor:** Each company, registered under the Companies Act, is required to appoint an auditor of the company to audit accounts of the company and to make a description to shareholders of the company on the accounts and fiscal summaries placed before shareholders in Annual General Meeting. The auditor needs to answer to the Central Government in case of crime opposed to the company by officials or representatives of the company. Auditor can provide only those services as provided by the Audit Committee of the Board of Directors.
 - g) **Punishing the people who are answerable for deceitful lead of business:** If over the span of ending up, the tribunal is satisfied that occupation of company has been continued with an expectation to swindle creditors of the company or some other individual or for somewhat fake reason, it can pronounce that Director/Manager/Officer or any individual who was intentionally parties of the above occupation shall be personally responsible for each obligation or liability of the company.
 - h) **Powers of Civil Court:** The Tribunal during discharging its function has the following capacities conferred with the civil court in regard of any suit: -
 - a) Summoning & authorizing the participation of any individual and examining on pledge.
 - b) Necessitating the revelation and creation of documents.
 - c) Getting proof on affidavit.
 - d) Demanding public documents or a duplicate of such documents from any office.
 - e) Issuance commissions for assessment of witness or records.
 - f) Discharging a portrayal for defaulting or deciding ex parte.
 - g) Cancelling an order of firing of any portrayal for defaulting or an *ex-parte* order given by it.
 - h) Another matter that might be prescribed.
- In following cases, the orders of investigation were allowed and upheld by the Courts:**

- 1) Where the Government entertained the opinion that if members of the Chartered Accountants firm who were the statutory auditors of the company, were also acting as employees in some of the other concerns belonging to or controlled by a person and/or members of his family who also managed the company, it was held that the Central Government could not be said to have acted unreasonably in taking action u/s 237(b) for investigation the affairs of the company. *New Central jure Mills Co. v Dy. Secy. Ministry of Finance (1966) 36 Comp Cas 512(Cal)*.
- 2) Where a company was keeping large sums in reserve and consistently reduced shareholders' dividend from about Rs 37 to Rs 10 per share within two years, an order of investigation based on this ground was held to be justifiable. *Ashoka Marketing Ltd. v Union of India (1966) 1 Comp LJ 267 (Cal)*.
- 3) Where it was found that company recommended a dividend at 7^{1/2} percent and only two months later its state of losses was discovered. *Miles Aircraft Ltd., Re (1948) 1 All ER 225*.
- 4) Where a company fails for an unreasonable send time to its members the Annual Accounts and Report are required by the Act. *Miles Aircraft Ltd., Re (Supra)*.
- 5) Investment of substantial funds in another company when the main object of the company was not investment, diversion of project money to various bodies corporate or otherwise, laxity in collection of loans, taking back principal amount but not interest, payment of substantial commission to a private company and wasteful expenses. These instances were discovered by inspection of accounts under Section 209A. *Incab Industries Limited, Re (1997) 1 Comp LJ 156 (CLB-PB)*.
- 6) Non-compliance of Section 73-Where there was a statement from the side of the Government that general meetings of the company were not properly held, excess application money received in response to public issue not refunded to applicants, the bank in which the refundable portion of the money was place was not listed as a banker to the issue in the prospectus and subscription moneys were not deployed for the purposes mentioned in the prospectus, it was held that a ground for an order of

investigation was made out. The court refused to interfere in the discretion exercised by the judge based on the materials placed before him. *Premier Plantations Ltd. v Ebrahim Kutty (M.) (2002) 110 Comp Cas 721: (2002) 37 SCL 804: 2002 CLC 776: (2002) 49 CLA 341 (Ker)*.

6.4 Serious Crime Investigation Office (SFIO)

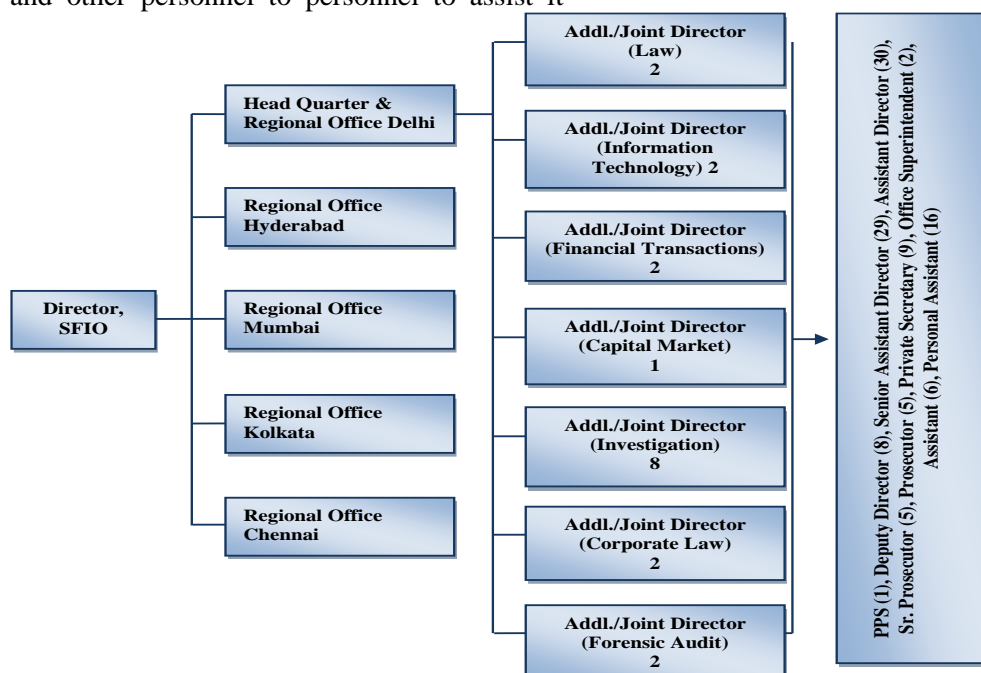
The Serious Crime Investigation Office began working from 1st October 2003 and was built up by the Government of India vide resolution no. 45011/16/2003-Admin 1, on 2nd July, 2003. It was set up on the suggestions of the Naresh Chandra Committee, built up by the Government on Corporate Governance, to lead investigation under the Companies Act, 1956, regarding corporate crimes. It was set up in the background of stoke bazaar scam, disappointment of non-monetary financial organizations, and the peculiarities of disappearing organizations. The SFIO is a multi-disciplinary association comprising of specialists from the monetary area, investment bazaar, accounting, forensic, tax, law, IT, corporate law, duties, and investigation. It is led by an official assigned as Director of the degree of Joint Secretary/Additional Secretary to the Government of India through notice.

The Central Government can allude multifaceted case including generous public interest to the SFIO. The committee felt that establishing of such an association was fundamental to unwind the multifaceted corporate cycles which might conceal deceitful conduct. The Committee observed that corporate cheats were for the most part aftereffect of overly multifaceted and complicated chain of activities. It may be tough for law-implementation offices at the State Government stage to react adequately to such circumstances without any appropriate preparing and advancement of such ability and its dispersal to the State Governments, which may likewise be urged to build up comparative associations and give imperative specialization as a portion of their activity against financial crimes.

As of now, the SFIO has its head office at New Delhi and has 5 territorial workplaces at Delhi, Mumbai, Chennai, Hyderabad & Kolkata. Its functioning strength incorporates officials from Indian Police Services (IPS), Indian Revenue Service (IRS), Indian

Company Law Service (ICLS), Banks and Financial Institutions, and other Enforcement Agencies. The SFIO also appoints consultants and other personnel to personnel to assist it

and its investigation units. The organizational structure of SFIO has been shown in Figure below:



6.5 Miscellaneous cells under the Ministry of Corporate Affairs

Other cells of the Ministry of Corporate Affairs which are working for corporate governance and the regulation of corporate crimes in India are:

i. *The National Financial Reporting Authority (NFRA)*

Sec. 132 of the Companies Act, 2013 sets out the arrangements in regard to establishing of a National Financial Reporting Authority with head office at New Delhi, by Central Government notification. Besides, the Institute of Chartered Accountants of India (ICAI), the NFRA will likewise care for act of those Chartered Accountants who are related with assuring compliance with accounting principles and strategies.

In mostly cases during recent 5 years, it was seen that insufficient exposure and insufficient audits were element for doing crime. To direct and punish auditors, an arrangement of establishing of National Financial Reporting Authority is-

- To recommend the Central Government on accounting strategies and guidelines for reception by specific companies or their auditors
- To monitor and implement compliance of such strategies and guidelines, to supervise

the eminence of the experts related with assuring acquiescence

- To propose measures for development in eminence of expert services.

ii. *National Foundation for Corporate Governance (NFCG)*

Corporate Crimes in last 15 years confirm the public perception that corporate is fraught with greed and greed is one of the ingredients to commit a crime. Corporate Governance is a machinery that comprises and manifests morals, ideologies, strategies, and dealings of a company. The philosophy of good governance is not new to us as the roots of governance are found in ancient Indian era of Ramayana and Mahabharata. The Institute of Company Secretaries of India has likewise explained the expression Corporate Governance as “Corporate Governance is 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.”

iii. *Investor Protection and Grievance-Redressal Cell*

Many provisions of the Companies Act, 2013 seeks to protect investors’ interest in companies. These include the prior approval of related-party transactions above a certain

threshold from shareholders by a Special Resolution, limit on inter-corporate loans; setting of inter corporate loans, rate of interest at no lower than corresponding government securities, concept of class-action suits, increased responsibility of director and management, crime risk mitigation, reporting of crimes by auditors, etc. The Stockholder Protection Cell built up in the Ministry of Corporate Affairs affords a machinery for redressal of stockholder's objections.

iv. Co-ordination and Monitoring Committee (CMC) for Vanishing Companies

The investment bazaar had seen a booming time throughout 1993-95 when numerous newfangled companies tapped investment bazaar and gathered assets from common through an open issue of debentures. Most of the companies dodged in their responsibilities at the time of mobilizing funds.

v. e-Governance

In 20016, The Ministry of Corporate Affairs stated its goal-oriented e-Governance Scheme. In the main stage, the corporate cycle of the Registrar of companies and associated purposes of the Office of Regional Director & Headquarter are putting on e-Governance manner underneath the MCA 21 venture. With this Venture, each company would have the option to record their compliances connected documents on the portal of Ministry from solace of their home of office. The model of MCA 21 was hurled in February 2006 at Coimbatore. The wide range of various ROC areas alongside the Offices of RD and Ministry Headquarter booked to "go live" gradually by May, 2006. In second stage of e-Governance Scheme, the Corporate Procedure of the Authorized Liquidators are recommended to be put on e-Governance manner. The effort for second stage has already been started. By presentation of MCA 21 e-Governance Scheme, the Ministry has started another web www.mca.gov.in. The web fills in as a computer-generated window for real data relating to exercises and projects of the Ministry of Corporate Affairs.

vi. RTI Monitoring Cell

It has been established in the Ministry of Corporate Affairs to track all solicitations for data got from different people and to screen

the advancement in handling of such demands under the RTI Act, 2005, Central Public Information Officers (CPIO) & Appellate Officials have been assigned by Ministry for its headquarters and all its subsidiary workplaces. It's other job is to keep posted refreshed data on the site of MCA on every matter relating to RTI as needed under the Act, providing steady and refreshed modes of execution of the RTI Act by MCA and to guarantee inclusive and viable monitoring of implantation of the RTI Act associated problems inside the domain of MCA.

7. Regulatory Agencies Under Union Ministry OF Finance and other Ministries

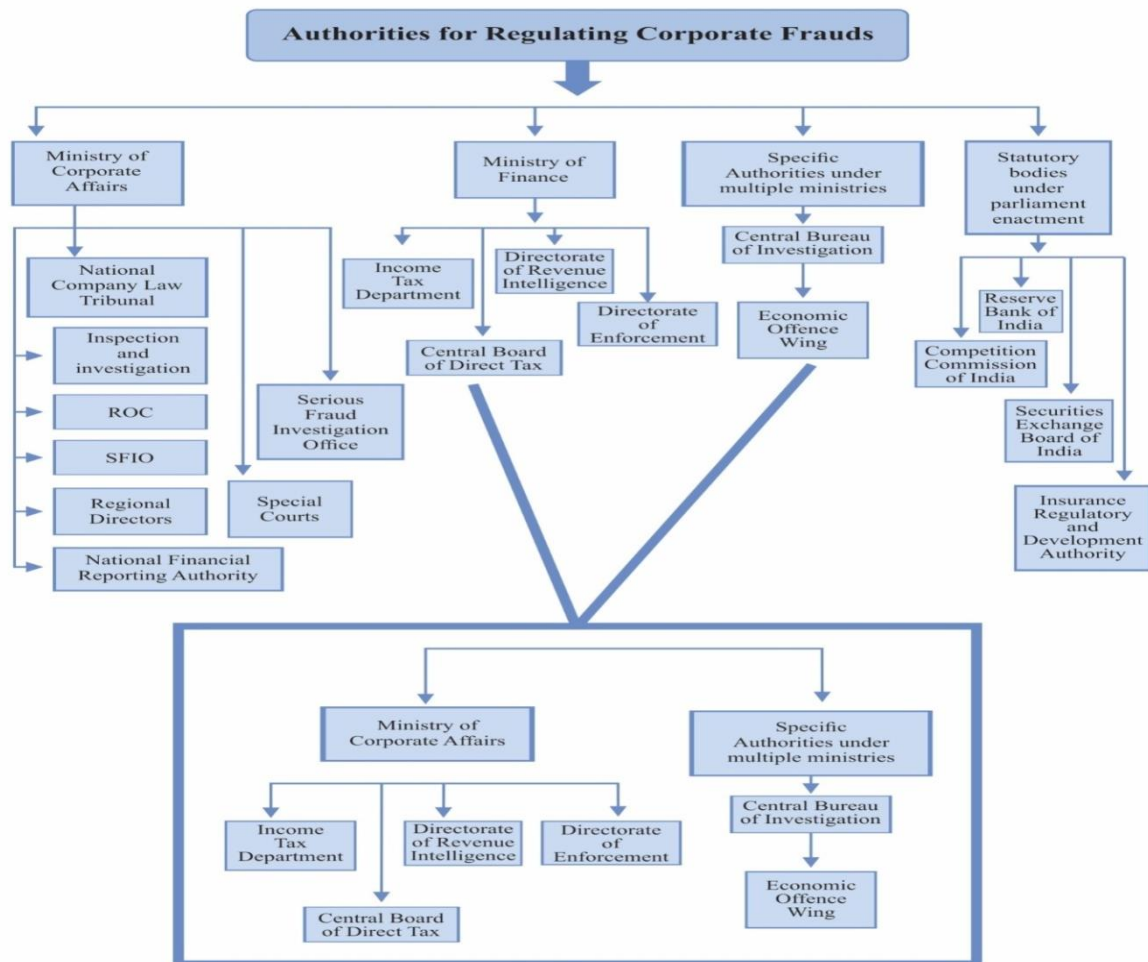
The Central Government under the Finance Ministry and the Ministry of Personnel, Public Grievance and Pension has established different offices to battle financial wrongdoings. The Central Government has built up the Central Bureau of Investigation (CBI), that examines and sues instances of cheating and genuine crimes. The CBI is helped by specific sections of the Central Government, particularly in respect of monetary or global wrongdoings. The significant organizations set-up by Central Government are:

- 1) Central Economic Intelligence Bureau (for curbing monetary offenses and for administration of the Conservation of Foreign Exchange & Prevention of Smuggling Activities Act, 1974 (COFEPOSA)).
- 2) Directorate of Enforcement (for curbing offenses relating to foreign trade and cash laundering).
- 3) Central Bureau of Narcotics (for curbing drug trafficking).
- 4) Directorate-General of Anti-evasion (for curbing offenses identified with central excise).
- 5) Directorate-General of Revenue Intelligence (for checking offenses identified with custom, extract and administration charge).
- 6) Central Vigilance Commission
- 7) Financial Action Task Force

The various regulatory agencies set up for curbing of corporate crimes in India are discussed here. The Statutory and administrative agencies, set up by the Central Government with a view to preventing and

controlling corporate crimes, are controlled, and administered by different ministries. Different ministries have set-up various departments and statutory bodies, as shown in

Figure which are working for the prevention and controls of corporate crimes in India and each of these is discussed below

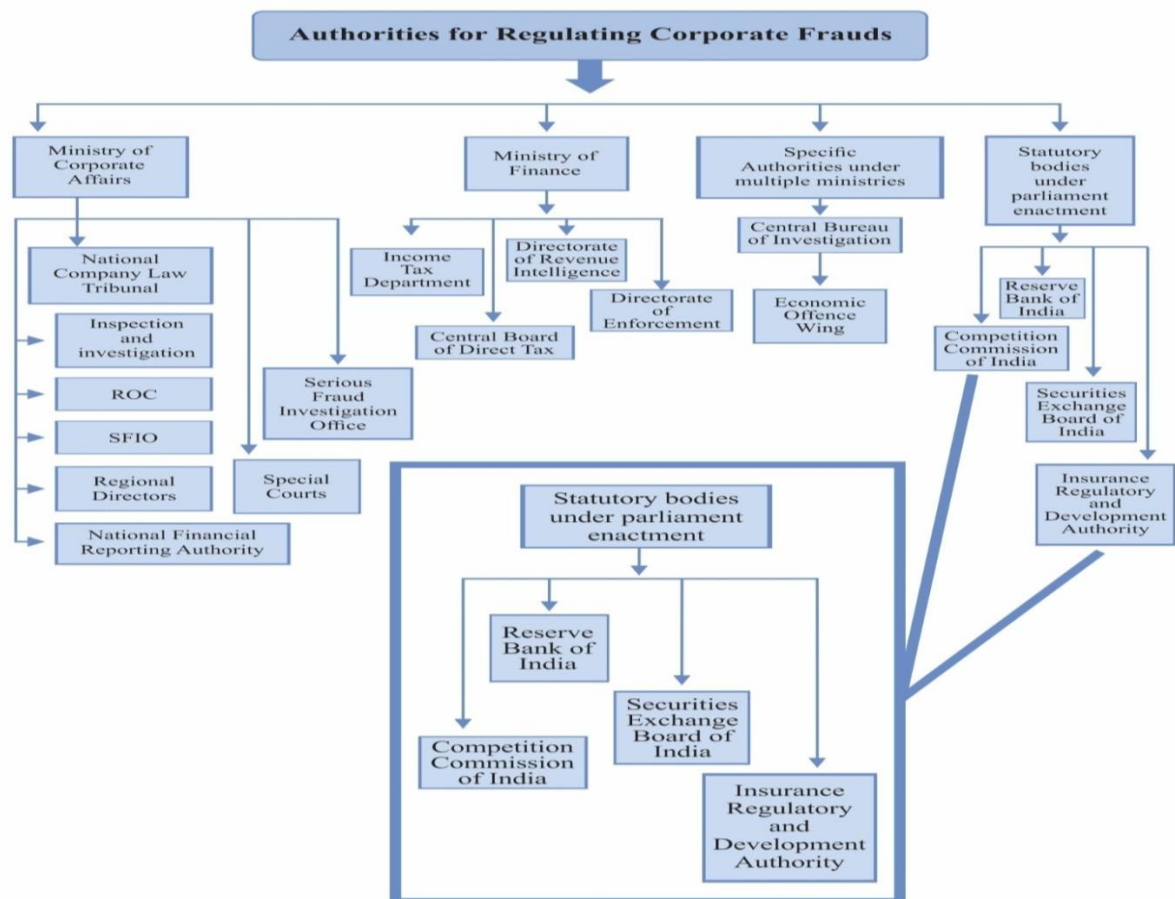


8. Statutory Bodies Under Parliament Enactment

There are several bodies which are established under an Act of Parliament and these bodies have been set up to prevent and curb crimes in India. Major authorities among them are discussed here. The authorities are:

1. Securities & Exchange Board of India
2. Competition Commission of India
3. Reserve Bank of India
4. Insurance Regulatory and Development Authority of India (IRDA)

The various authorities for regulatory corporate crimes are shown in Figures below:



8. Conclusion

Delinquent directors with assistance of unprincipled specialists, tend to indulge themselves in different type of crimes. Some companies with weak financial statements, to display a well monetary condition, misclassify or fudge with head of accounts leading to a glowing image of company and that the infringement of several requirements of law go unnoticed. Corporate espionage is due to increase of competition in global marketplace and this crime can be caused through non-classification of sensitive information, absence of risk assessment to identify vulnerability, non-adoption of security policies and improper training to employees and users of the trade secrets, higher income and hoping culture which results in escaping of occupation confidences and IPR confidences in commercial world. Misappropriation of assets affects investors and bank or financial institutions as it leads to manipulate bazaar assessment of securities for stockholders.

Proper scrutiny is required to be made regarding the intention of the directors during the proceedings of approval of merger and

amalgamation schemes and in case of foreign direct investment, an investigation is to be done on the ground of whether the funds are obtained from eminent parties from overseas, whether company was making profits or incurring losses and whether substantial money has been invested by the Indian partners. The transactions between associated parties must be examined carefully as sale/buying with associated parties is disguised by hovering credit/debit notes to give a favorable price to associated parties.

Regulatory agencies and authorities in India are progressively recognizing conceivable corporate crimes areas and flattering proactive in their activities. There is a requirement to take up prosecution of concerned business and officials defaulting in suitable forum. For this reason, methodology should be improved to empower SFIO to go quickly and deliberately for effective prosecution of blameworthy.

All companies are needed to record their yearly budget reports with the Registrar of Companies and listed companies need to furthermore file such Documents with the stock exchange where shares are recorded. The

Registrar of Companies is authorized by the Companies Act to demand for data or clarification comparable to budget summaries other than forcing punishments for non-compliance; nevertheless, we tracked down not very many instances of prosecution under such arrangements. This demonstrate that there are no significant problems requiring investigation and further clarification; or it could show that the ROC doesn't investigate the budget summaries which are regularly documented by companies. Business crimes have flourished in India and their recognition and avoidance are of major worry to everyone, be it, the public authority, or any stakeholder. Endeavors must be made by totally worried to forestall these business crimes and distance the aggravation and distress of stakeholders.

The complexity of a corporate crime comes bare just when the total building of a company has distorted. This stirs up the certainty of investors; and the investors are vulnerable before a commercial mammoth. Such crimes strip enormous taxes, which the government might have procured, strip the important reserve funds of depositors and the national treasure has an adverse dive and everyone appears to be befuddled. Furthermore, expanded coordination amongst regulatory authorities in different lands has brought a novel fad in implementation. For instance, FIU in India has associated with the Egmont Group to handle cash laundering.

The enforcement of regulatory measures and the relevant authorities have been less effective due to political interference, delayed justice, and absence of heavy penalties, rigid bureaucratic structures and processes, tolerance of corruption and huge gap between policies and practice, lack of periodical training to the government officers of the regulatory bodies, and the lack of awareness of law.

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