

Introduction to Forensic Audit & Reporting

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What is Forensic Audit

A Science & an Art

Definition

Understanding

Definition of Forensic Audit

Not defined by any law in India



Forensic Audit

Suitable for use in Court

Independent
Examination of Data

Collection of
Documentary Evidences





Banking & Regulation Act 1949

As amended by The Banking
Regulation (Amendment) Act, 2017

About The Banking Regulation Act

- In Addition to the Current Enactments (such as Companies Act etc)
- Section 35A of the Act gives powers to RBI to issue directions to Banks



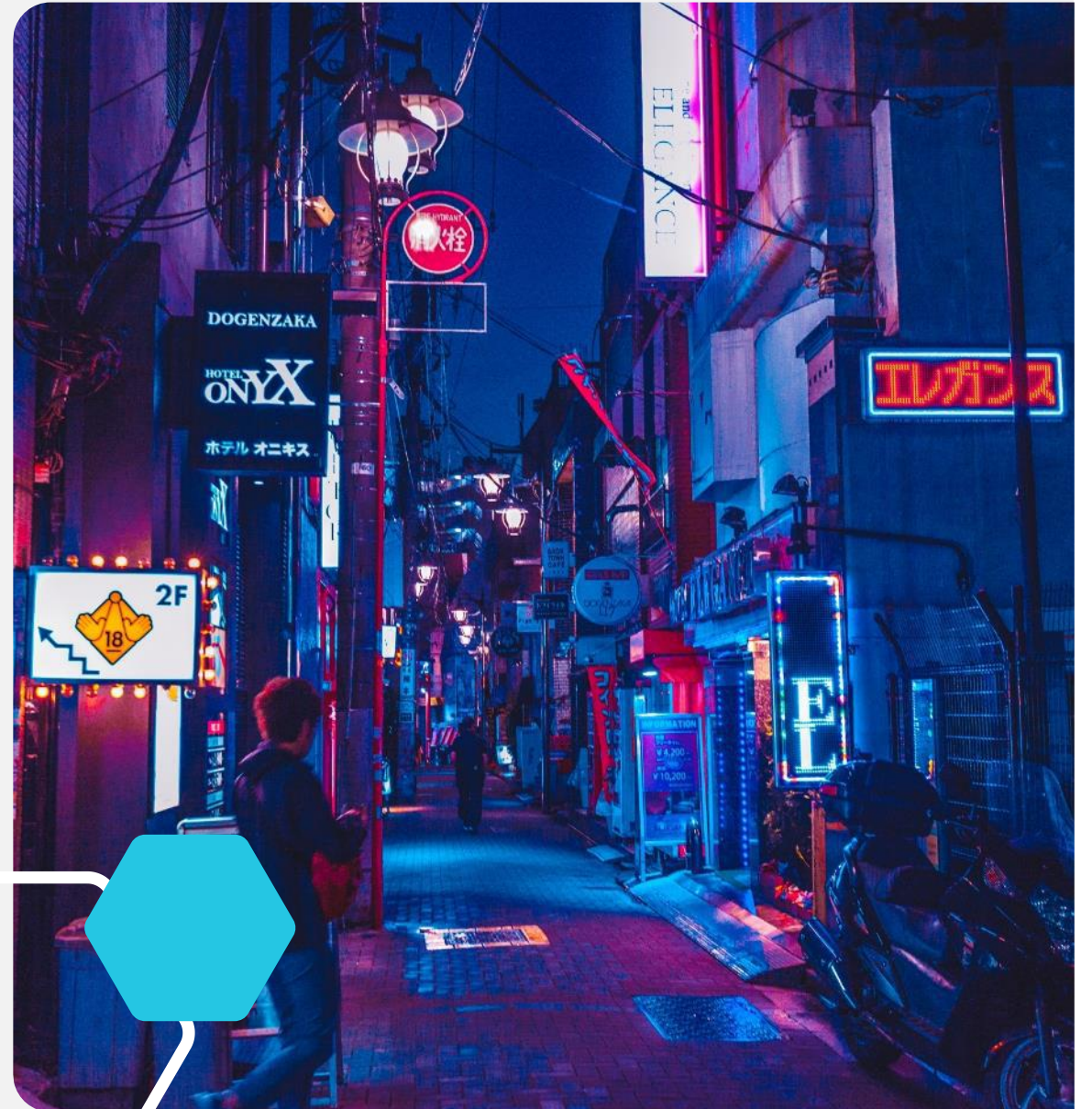
Instructions Issued by RBI

Subsequently, using the powers u/s 35A of the Banking Regulation Act, RBI has issued notifications for

“Master Directions on Frauds – Classification and Reporting by commercial banks” dated 01-07-2016

Master Directions on Frauds:

“These directions are issued with a view to providing a framework to banks enabling them to detect and report frauds”



What is covered in the Circular

RBI's circular covers fraud as below activities

- Misappropriation and criminal breach of trust.
- Fraudulent encashment through forged instruments, manipulation of books of account or through fictitious accounts and conversion of property.
- Unauthorised credit facilities extended for reward or for illegal gratification.
- Cash shortages.
- Cheating and forgery.
- Fraudulent transactions involving foreign exchange
- Any other type of fraud not coming under the specific heads as above.



Decoding Forensic Audits

Important to also understand how these aspects will be addressed in the Forensic Audit Report

- Suitable for use in the Court of Law
- *Chain of Custody of Data*
- *Origin of Data*
- *Data Ownership & Control*
- **Independent Examination of Data**
- **Not Relying on the work of experts**
- **Examining Trends**
- **Same Same Same Test**
- **Same Same Different Test**
- **Using Observation Power**

Indian Evidence Act

- **How & What Evidences are acceptable in the court of law ?**
- **Primary evidence** means that the original document is itself presented before the court. If the document is executed in several parts, each part is **primary evidence** of the document and where a document is executed in counterparts, each counterpart is **primary evidence** against the party signing it
- **Digital Evidences**
 - MD5 Hash
 - Copies of Hard Disks
 - Extracting Data

Understanding the Purpose & Act under which the Forensic Audit is being Done

- **Forensic Audit may be allotted by :**

- **Lenders / Bankers**

- **CoC through the RP**

- **SEBI**

- **SFIO**

- **CBI**

- **Evidence Collection & Report Drafting**

- **Transfer of Assets**

- **Manipulation of Financial Statements**

- **Personal Gratification**

- **Over payment to Promoters & Management**

- **Falsification of Public Notices & News**

- **Submission of false documents to secure good terms on renewal of facilities**

Things to note while conducting the Forensic Audit

- **Novice Practices?**
- **Let us record the auditee's team saying the wrong doings**
- **Let us record a confession over a call by asking trick questions**
- **Gaining unauthorized access to secure data or facts and then present our findings in the report**
- **Oral Communication with the Appointing Authorities**
- **Overselling your findings (to win confidence)**
- **Being partial in dealings & findings (language drafting & neutrality)**
- **Working with a prejudiced mind (by performing web searches and making up your mind) (assign codes)**

Things to note while conducting the Forensic Audit

- **Risk Assessment**

- **Assess the risk associated with a Forensic Audit and determine counteractive measures to mitigate them (using 1-2-6 travel)**

- **Securing identities**

- **Asking irrelevant information**

- **Getting Creative**

- **Team Composition // Good Cop // Bad Cop**

- **Showing inefficiencies**

- **Social Connections**

- **Social Media Connections Establishment**

Behavioral Analysis

Decoding the behavior of the auditee

Simple but Effective Methods of Analysing the behaviour of the team / Promoters during Forensic Audits

Behavioural Forensic Audit will never be the answer to the problem statement, but will always point you in the right direction



The T₃ Formula for Forensic Audit

TEST ~ TRACE ~ TRACK

***New Method developed by
CA Gyan Pipara for Forensic
Auditing & Decoding***

Test (Compliances, AS, IND AS, Minutes,
Resolutions, Ultra Vires, Corporate Governance)

Trace (Symptoms)

Track (Secret Reserves, Assets, Money, Funds)



Thank You

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