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MINISTRY OF FINANCE
(DEPARTMENT OF ECONOMIC AFFAIRS)

PREVENTION OF FRAUDS IN
NATIONALISED BANKS

ESTIMATES COMMITTEE
1994-95

FIFTIETH REPORT

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TENTH LOK SABHA



सत्यमेव जयते

LOK SABHA SECRETARIAT
NEW DELHI

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ESTIMATES COMMITTEE
(1994-95)

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MINISTRY OF FINANCE
(DEPARTMENT OF ECONOMIC AFFAIRS)

PREVENTION OF FRAUDS IN
NATIONALISED BANKS

*[Action taken by Government on the recommendations contained in the
Thirty-Fourth Report of Estimates Committee (Tenth Lok Sabha)]*



सत्यमेव जयते

Presented to Lok Sabha on 26 April, 1995

LOK SABHA SECRETARIAT
NEW DELHI

April 7, 1995 / Vaisakha, 1917(S)

Corrigenda to 50th Report of
Estimates Committee (1994-95)

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**COMPOSITION OF THE ESTIMATES COMMITTEE
(1994-95)**

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Dr. Krupasindhu Bhoi

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3. Shri A. Asokaraj
4. Shri Pawan Kumar Bansal
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28. Shri Laeta Umbrey
29. Shri Sobhanadreeswara Rao Vadde
30. Shri Devendra Prasad Yadav

SECRETARIAT

- | | | |
|----------------------------|---|-----------------------------|
| 1. Shri S.N. Mishra | — | <i>Additional Secretary</i> |
| 2. Shrimati Roli Srivastva | — | <i>Joint Secretary</i> |
| 3. Shri K.L. Narang | — | <i>Deputy Secretary</i> |
| 4. Shri Raj Shekhar Sharma | — | <i>Under Secretary</i> |
| 5. Shri S.B. Arora | — | <i>Committee Officer</i> |

INTRODUCTION

I, the Chairman of the Estimates Committee, having been authorised by the Committee to submit the Report on their behalf, present this Fiftieth Report on action taken by Government on the recommendations contained in the Thirty-Fourth Report of the Estimates Committee (Tenth Lok Sabha) on the Ministry of Finance (Department of Economic Affairs)—Prevention of Frauds in Nationalised Banks.

2. The Thirty-Fourth Report was presented to Lok Sabha on 9th December, 1993. The Government furnished its replies indicating action taken on the recommendations contained in that Report on 7th September, 1994 and 29th December, 1994. The Draft Report was considered and adopted by the Committee on 19th April, 1995.

3. The Report has been divided into the following chapters:

I. Report.

II. Recommendations which have been accepted by Government.

III. Recommendations which the Committee do not desire to pursue in view of Government's reply.

IV. Recommendations in respect of which replies of Government have not been accepted by the Committee.

V. Recommendations in respect of which final replies of Government are still awaited.

4. An analysis of action taken by Government on the recommendations contained in the Thirty-Fourth Report of Estimates Committee (Tenth Lok Sabha) is given in Appendix-II. It would be observed therefrom that out of 94 recommendations made in the Report, 59 recommendations *i.e.* 62.76% have been accepted by the Government and the Committee do not desire to pursue 25 recommendations *i.e.* 26.60% in view of Government's replies. Replies have not been accepted in respect of 5 recommendations *i.e.* 5.32%. The Ministry have furnished interim replies in respect of 5 recommendations *i.e.* 5.32 %.

NEW DELHI;
April 21, 1995

Vaisakha 1, 1917 (Saka)

DR. KRUPASINDHU BHOI,
Chairman,
Estimates Committee.

CHAPTER I

REPORT

This Report of the Committee deals with the action taken by Government on the recommendations contained in their 34th Report (Tenth Lok Sabha) on the Ministry of Finance (Department of Economic Affairs)—Prevention of Frauds in Nationalised Banks.

2. The Committee's 34th Report (Tenth Lok Sabha) was presented to Lok Sabha on 9th December, 1993. It contained 94 recommendations. Action Taken Notes on all these recommendations have been received from the Ministry of Finance (Department of Economic Affairs).

3. Replies to the recommendations and observations contained in the Report have broadly been categorised as under:—

(i) Recommendations which have been accepted by the Government.

Sl. Nos. 2 to 5, 7 (ii to iv, vi & vii), 8, 9, 10 (i to v), 11 (i to iv), 12, 13, 14 (i to v, vii to x), 15, 16, 19 (i & ii), 20 (ii, v to vii), 21 (ii, vi & vii), 22, 23, 27, 28 (v, vi & viii), 29, 33 to 37, 39, 40, 42, 45 & 48.

(Total 59, Chapter-II)

(ii) Recommendations which the Committee do not desire to pursue in view of Government's replies.

Sl. Nos. 7 (v & viii), 14 (vi), 18, 19 (iii), 20 (i, iii & iv), 21 (iii & viii), 24 to 26, 28 (i to iv & vii), 30, 31, 32, 38, 41, 43 & 47.

(Total 25, Chapter-III)

(iii) Recommendations in respect of which Government's replies have not been accepted by the Committee.

Sl. Nos. 1, 7 (ix), 21 (i, iv & v).

(Total 5, Chapter-IV)

(iv) Recommendations in respect of which final replies of Government are still awaited.

Sl. Nos. 6, 7(i), 17, 44 and 46.

(Total 5, Chapter-V)

4. The Committee will now deal with action taken by Government on some of the recommendations.

Growing incidence of frauds

Sl. No. 1 (Para No. 1.31)

5. As the incidence of frauds and forgeries in the nationalised banks have assumed serious proportions, the Committee had recommended that the Ministry of Finance/RBI should issue necessary comprehensive guidelines and ensure their effective implementation for prevention of frauds.

6. In their action taken reply, the Ministry of Finance have stated as under:—

“Reserve Bank of India & Government have always considered the growing incidence of frauds in banks as a cause of concern.

It has been the endeavour of the Government/RBI to prevent recurrence of frauds and forgeries in banks. Circulars/guidelines have been issued from time to time. In the context of growing incidence of frauds and malpractices, RBI at the instance of Government of India had, set up a high level Committee under the Chairmanship of Shri A. Ghosh, the then Deputy Governor, in 1991 to enquire into various aspects relating to frauds and malpractices (hereinafter referred to as Committee on frauds and malpractices). The Committee has highlighted certain critical areas in the operational fields of the banks which are prone to frauds and has also recommended certain precautions to be taken by the banks to avoid perpetration of frauds. The banks have been advised in August, 1992 to implement most of these recommendations and report progress in implementation of the same to the RBI. The progress is being closely monitored by RBI.”

7. The Committee find that the action taken reply of the Government is merely repetition of what they have stated earlier. In their opinion efforts made by the Government/RBI for dealing with the growing incidence of frauds, like issuing of circulars/guidelines and certain precautionary measures recommended by the Committee on frauds and malpractices (Ghosh Committee) for avoiding perpetration of frauds needs consolidation. The recommendation by the Committee in this regard was made taking into account variety of existing guidelines issued by Government/RBI, from time to time, which lacked cohesion and clarity. The need is issuing a comprehensive set of guidelines, encompassing and updating all the previous guidelines issued on the subject, which are devoid of ambiguity and confusion and help in prevention of frauds effectively.

8. The Committee, therefore, reiterate their earlier recommendation and urge upon the Government/RBI to issue a consolidated and comprehensive set of guidelines on banking operations and ensure their effective implementation for prevention of frauds.

Investigation Reports
(Sl. No. 6, Para 1.36)

9. Expressing their unhappiness over the complacent attitude of the bank's management and the Government in completing the investigation of fraud cases, the Committee have recommended as under:—

“Suitable measures be taken to complete investigations of all cases of fraud urgently. Report of investigation into cases involving Rs. 100 lakhs and above referred to in Annexure-II of the Report be furnished to the Committee within a period of six months.”

10. Expressing their difficulties in furnishing investigation Reports, the Government have stated the following:—

“In recommendation No. 136, the Estimates Committee have called for investigation reports in respect of 49 cases of major frauds in public sector banks as listed in Annexure-II of the Committee's report. The copies of the Reports of investigation of the cases referred to in Annexure-II available with the banks have been obtained from the Banks. It is observed that investigation of the CBI is still continuing in some of the cases. In a few cases, the investigations were conducted by the bank's internal vigilance machinery and in some cases investigations were conducted by the local police. There are also cases where frauds have occurred in overseas branches of public sector banks where investigations were conducted abroad by the investigation agency of the country concerned.

The investigation reports of CBI and others are confidential in nature....The matter has been considered in the Banking Division. It is felt that since the investigation reports are confidential documents containing logical inferences drawn from evidence on record collected by the investigating agency and forms the basis of the decision to send the accused persons on trial, disclosure of the contents of the report would not only adversely effect the trial of the criminal case but also civil suits filed by banks for recovery of dues pertaining to the case in question.”

11. The Committee note the difficulties explained by the Ministry for furnishing investigation reports of bank fraud cases. The Committee, however, desire that the gist of the investigation reports and connivance/complicity of bank officials, if any, alongwith action taken may be furnished.

Cheques Operation
(Sl. No. 7, Para No. 2.72 (ix))

12. Keeping in view the fact that the Banks suffer loss by payment of forged cheques, the Committee had recommended that payments against uncleared cheques should not be made as a matter of policy.

13. The Government in their reply have stated as under:—

“The Banks generally do not make payments against uncleared cheques as a matter of policy. However, at times the banks allow such payments to their prime customers. Reserve Bank of India had prescribed a number of safeguards to be followed by the banks. These are as under:-

(a) The limits against clearing cheques should be sanctioned only in respect of prime customers. Even in such cases it should be allowed on a temporary basis. The extent and the need for such limits should be subjected to a thorough scrutiny/appraisal, before allowing on a regular basis and subjected to periodical review.

(b) Drawings should normally be confined to bank drafts, Government cheques and to a limited extent third party cheques in which case after ascertaining their market standing and genuineness of the transaction. Drawings against cheques of allied/sister concerns or other cheques of accommodation nature should not be permitted.

(c) The Branch Managers should use their discretionary powers in this regard very sparingly that too in respect of respectable customers after recording it in a separate register such as overdraft passing register. Such uncleared effects within the discretionary powers/beyond discretionary powers even if squared on the same day should be reported to the controlling office for information/confirmation. The internal inspectors should specifically look into this aspect and furnish specific comments. Any failure on their part should be viewed seriously and suitable action taken against them.

(d) In respect of cases where the limit against uncleared effects is not sanctioned to constituents the banks may afford credit to the constituents accounts for the cheques deposited by them on the same day Reserve Bank credits the banks' accounts in settlement of the clearing. However, the banks should ensure that withdrawals against such clearing instruments should be allowed only after the fate thereof is known *i.e.*, consistent with the time prescribed by Clearing House for return of the unpaid instruments.

(e) Certain banks have a practice of issuing Banker's cheques against instruments deposited in clearing. Banks should stop this practice if still in vogue.

(f) To prevent misuse of cheque purchase facilities banks should introduce a system under which two officials should be authorised for purchase of cheques beyond certain limits.

(g) Any large returns should be carefully watched and reported. The limits if any sanctioned to such constituents should be cancelled forthwith.

These guidelines have again been reiterated by RBI in 1992.”

14. The reply of the Government is somewhat disquieting in as much as it is neither a committal nor a denial. Though the payments against uncleared cheques, as stated by the Government, are 'generally' not made, the Committee feel these are 'generally' made on one ground or the other. The reply further states that sometimes it is allowed on temporary basis and at times it is also allowed on a regular basis. Again, Branch Managers are allowed to use discretionary powers to a certain limit in this regard and yet he is also allowed to use discretionary powers beyond that limit. Further, the Bank allow credit to the constituents accounts for the cheques deposited by them on the same day. In certain banks, bankers cheques against instruments deposited in clearing are also issued.

15. It would be worthwhile to mention again the following observations made by the Reserve Bank of India as contained in para 2.15 of 34th Report in regard to cheques/drafts operation:—

“Some other cases of kiteflying operations have also been noticed by RBI where unscrupulous clients have been misusing the facility of drawal against cheques sent in clearing. There have been occasions when the branch managers granted permission to drawals against uncleared effects of cheques deposited by the company drawn on its associate were subsequently returned unpaid.”

16. The Committee therefore, are of the firm belief that payments against uncleared cheques give rise not only to perpetration of frauds but also provoke the bank officials to indulge in corrupt practices by destroying the instruments/advice.

17. The Committee, therefore, strongly re-emphasise that payment against uncleared cheques should be stopped forthwith.

Reconciliation of Accounts

(Sl. Nos. 8 & 9, Para Nos. 2.78 and 2.79)

18. The Committee recommended that arrears in inter-branch reconciliation of accounts, which is a highly fraud prone area and causes delay in detection of frauds, should be given topmost priority and the entries reconciled as per time schedule suggested by the Working Group.

19. The position of reconciliation should be reviewed quarterly and corrective measures taken including departmental action against delinquent officials. In no circumstances, entries should be allowed to remain unbalanced beyond one year.

20. In their action taken reply, the Ministry of Finance have stated as follows:—

After the recommendations of the Working Group on inter-branch reconciliation were conveyed to banks in April 1993, quarterly progress reports are being obtained by RBI. Banks were advised to clear all entries pertaining to the period 1989-90 and earlier years by

June 1993. It may be mentioned that out of 28 public sector banks, 7 banks (viz. State Bank of India, State Bank of Patiala, State Bank of Saurashtra, Allahabad Bank, Corporation Bank, Oriental Bank of Commerce and Union Bank of India) have achieved the target. RBI is following up with other banks. As regards the corrective measures taken including departmental action against delinquent officials, it may be mentioned that banks have already been advised that punitive action should be taken against the concerned staff who consistently violate or ignore the laid down procedures. As for Estimates Committee's suggestions not to allow banks to keep entries unadjusted beyond a period of one year, it may be added that RBI, have, advised the banks that from 1993-94 onwards no bank would be permitted to keep entries unadjusted for more than six months."

21. The Committee are informed that the banks were advised to clear all entries pertaining to the period 1989-90 and earlier years by June 1993. The Ministry have pointed out that out of 28 public sector banks, 7 banks (viz., State Bank of India, State Bank of Patiala, State Bank of Saurashtra, Allahabad Bank, Corporation Bank, Oriental Bank of Commerce and Union Bank of India) have achieved the target. RBI is following up with other banks.

22. The Committee note with dismay that only 7 banks out of 28 public sector banks have been able to achieve the target of clearing all entries of previous years by June 1993. Remaining 21 banks are yet in arrears in inter-branch reconciliation of accounts.

23. The above facts clearly establish that the accounting system of nationalised banks leaves much to be desired. Tracing of frauds also becomes problematic given the pendency of unreconciled accounts and that too for longer duration.

24. The Committee desire that work of reconciliation of accounts should be accorded proper attention and priority. Remedial measures may also be initiated for improving the efficiency of the accounting system adopted by the banks in India.

25. The Committee would like to be apprised of the progress achieved in inter-branch and inter-bank reconciliation of accounts by the remaining banks as also of arrears of outstanding entries of unreconciled accounts of the nationalised banks and the amount involved therein year-wise as on 31st March, 1995.

Lending Policy

[Sl. No. 14, Para No. 2.91 (vii)]

26. Loans and advances portfolio being the single largest contributory factor in so far as the amount involved in the frauds is concerned, the Committee had recommended that in the light of experience gained, a

uniform "not too rigid" detailed lending policy should be formulated with internal loan review department.

27. The reply of the Government on the above proposal is as follows:—

"For every important area of work, the banks have their own operational manual, including the one for advances portfolio. RBI also have been issuing necessary guidelines from time to time. Recently, the Ghosh Committee on frauds and malpractices in banks has dealt with the subject extensively and recommended that there should be a formal written lending policy for each bank approved by its Board of Directors. The policy should further be amplified through operational manuals and implemented/administered by the concerned functionaries in letter and spirit. Further, the Committee has also recommended setting up of internal loan review department at different levels to evaluate the quality of credit portfolio for early detection of problem loans and notification to appropriate management levels. RBI have advised the banks to implement the observations/suggestions of the Ghosh Committee in August, 1992. All nationalised banks have also entered into agreements with RBI in terms of which commitments have been obtained from the banks relating to their performance in certain key areas. In terms of these agreements, the banks are required to evolve operational policies including loan policy."

28. As per instructions issued by RBI, and in terms of agreements entered into by it with all the nationalised banks, the banks are required to evolve their own operational policies including loan policy.

29. However, the Committee while recommending for a uniform lending policy had in mind the need to minimise the chances of perpetration of frauds by the constituents, who take advantage of loopholes in different lending policies during the course of their interaction with different banks. It was also hoped that by having a uniform lending policy RBI would be able to have a close liaison with all the banks and their constituents.

30. In view of the above, the Committee desire the Government to reconsider the feasibility of formulating a uniform lending policy applicable uniformly to all banks. The Committee would like to be informed about the action taken in this regard.

Making Fraudulent Disposal of Stocks Hypothecated to Banks as a Cognizable Offence

[Sl. Nos. 17 & 45 (Para Nos. 2.94 & 4.36)]

31. The Committee recommended that “any tampering with stocks hypothecated to the banks should be made a cognizable offence”.

32. The Ministry of Finance, in their action taken reply have stated as follows:—

“The issue of making suitable amendments to the I.P.C. in this regard has been taken up with the Ministry of Home Affairs who have advised that this proposal has been examined in consultation with Department of Legal Affairs. Ministry of Home Affairs is considering certain other important proposals for amendments to the I.P.C. Since it may not be possible to delink only the amendment to the I.P.C. for the purpose of making diversion of stocks hypothecated to banks, as cognizable offence, the Ministry of Home Affairs have assured to expedite the process of comprehensive amendments to the I.P.C. including the one relating to fraudulent disposal of goods hypothecated to banks.”

33. In another para, the Committee recommended as follows:—

“Diversion of funds and multiple finance against the same security as well as tampering with the security, removal of goods hypothecated with the banks should be made cognizable offence, punishable under the Law.”

34. The Ministry in their reply have stated as follows:—

“The Ghosh Committee on frauds and malpractices in banks has observed that ‘Removal of goods under hypothecation and disposal thereof or any breach of trust/intentional violation of the terms of sanction, diversion of funds, bogus financial position and valuation, false declaration for raising funds should be made a cognizable offence and banks should be allowed to proceed for these type of breach of trust’. This issue is under consideration in consultation with the Home Ministry.”

35. The Committee hope that the proposed amendments to IPC including the one making fraudulent disposal of goods hypothecated to banks a cognizable offence would be expedited.

Complaints against CMDs/Executive

[Sl. No. 21 (Para No. 2.142(i), (iv) and (v))]

36. Since CMDs/Executives are the main functionaries of Banks, the following recommendations were made by the Committee:—

- (i) any irregularity committed by them or any complaints received against them should be taken up immediately. If, there is a *prima facie* substance in the complaints the concerned persons should be asked to proceed on leave for fair and speedy investigation.
 - (ii) when charges are substantiated he should not be allowed to resign but action should be pursued vigorously and exemplary punishment given.
 - (iii) after the *malafide* has conclusively been proved, apart from dismissal, criminal proceedings should invariably be initiated.
37. The action taken reply of the Government is as follows:—

“Complaints received from whatever source against CMDs and Executives of banks are invariably given due weightage by RBI and Government and such complaints are investigated through Reserve Bank of India wherever necessary. In cases where it is considered necessary in the public interest or in the interest of the banking company or its depositors so to do RBI appoint under provisions of Section 30 (1—B) of the Banking Regulation Act, 1949, special auditors to investigate such accounts. There is no provisions of suspending CMDs/EDs. However, when *prima facie* case of serious irregularities is established against them the Government which is the appointing authority terminates his services prematurely. Cases involving irregularities of criminal nature are entrusted to CBI for investigation/prosecution”.

“The complaints received against CMDs and top executives are investigated by Reserve Bank of India whenever considered necessary. The scrutiny notes/reports on misconduct/complaints/irregularities are examined thoroughly and the views of Reserve Bank of India are conveyed to Government for such action as is considered necessary by the Government. In some cases, the terms of some of the top executives have been terminated before completion of their tenure by the Government.

Further, serious complaints of complex nature are investigated by Police/CBI and the advice of the CVC is also obtained. Once the charges of serious irregularities is established against the Chairman/ED concerned, his tenure is terminated and if necessary prosecuted.”

“As per the present practice wherever there is case of *malafide* on the part of officer/employee a criminal complaint normally is lodged by the bank against such offenders. The decision in this regard is taken by the bank management.”

38. The Committee are astonished with the reply of the Government that

'once the charges of serious irregularities are established against the Chariman/Executive concerned, his tenure is terminated and if necessary prosecuted.' The Committee consider that the termination of tenure is not an adequate punishment. They feel that unless the losses suffered by a Bank as a result of irregularities committed by any executive, are made good and punishment befitting the gravity of irregularity awarded to him, the action cannot be considered as complete.

39. The Committee had made their recommendations keeping in view the dilly-dally tactics adopted by the Government in taking action against the top executives of banks. This is substantiated by the observations made by them in para 2.136 of the Original Report wherein it was observed by the Committee that in none of the eight cases where charges were established against CMDs/Executives, no punitive action or punishment was awarded. Instead, in some cases they were allowed to resign.

40. The Committee, therefore, reiterate their earlier recommendation and emphasise that where charges are proved against the Chairman/Executive, he should invariably be prosecuted. The Committee would also like to be informed of the action taken in all the 14 cases where complaints were substantiated against CMDs/Executives.

Setting up of Special Bureau of Frauds

Sl. Nos. 21 & 39 (Para Nos. 2.142(ii) & 4.30)

41. The Committee recommended that an independent agency should be engaged to investigate the contents of the complaint/irregularity.

42. The Ministry, in their reply, have stated as follows:—

"The above recommendation relates to complaints received against the CMDs/Executives of banks. The complaints received against CMDs/Executives are investigated through RBI's regional offices. RBI has been vested with the powers of inspection of the banks and over years it has developed necessary expertise. However, where it is felt necessary to get any accounts probed into by special auditors, RBI appoints such auditors under Section 30(1—B) of Banking Regulation Act, 1949. Further, in cases of frauds or serious irregularities of complex nature involving multiple agencies (and involving CMDs/top Executives) the matter is probed into with the help of CBI. In case of involvement of only lower functionaries in such frauds/irregularities of complex nature, RBI/Government advises the bank to report the matter to CBI. A proposal to set up Special Bureau of Frauds on the lines of Serious Fraud Office of U.K. is under consideration of RBI/Government."

43. In another para, the Committee recommended as follows:—

"As the CBI is entrusted with a number of functions and investigations there is an imperative need to set up a separate Division in CBI for investigation into fraud cases more or less on the lines of Serious

Fraud Office of U.K. As investigation into bank fraud cases required thorough knowledge of various banking operations it is desirable that persons appointed in this Special Division should be acquainted with the banking procedures and legal provisions relating to banking industry."

44. The Ministry in their reply have stated as follows:—

"The recommendation is also connected with the functions and investigations entrusted to Central Bureau of Investigation (CBI). The CBI is having its Banking Unit at New Delhi to look into the offences relating to banks. The Committee on frauds and malpractices in banks while taking cognizance of increasing number of bank frauds have recommended setting up of such Banking Units at Bombay, Calcutta and Madras besides the one which is presently functioning at New Delhi. This recommendation of the Committee is under examination of Government of India. A proposal to set up a Special Bureau of Frauds on the lines of Serious Fraud Office of the United Kingdom is under consideration of RBI/Government."

45. The Committee note from the action taken reply furnished by the Ministry of Finance that a proposal to set up Special Bureau of Frauds on the lines of Serious Frauds Office of UK is under consideration of RBI/Government. The Committee desire that the proposed Special Bureau of Frauds should be vested with the powers to investigate complaints of frauds and serious irregularities including complaints involving CMDs/Executives in the Banks hitherto being investigated by CBI and that its independent status, powers and functioning should be ensured through an Act of Parliament.

Implementation of Recommendations

46. The Committee would like to emphasise that they attach the greatest importance to the implementation of the recommendations accepted by the Government. In respect of some of the recommendations banks have also been advised by the Government to implement strictly the recommendations of the Estimates Committee. They would, therefore, urge that Government should keep a close watch so as to ensure expeditious implementation of the recommendations accepted by them. In case where it is not possible to implement the recommendations in letter and spirit for any reason, the matter should be reported to the Committee with reasons for non-implementation.

47. The Committee desire that reply in respect of the recommendations contained in Chapter V of the Report may be finalised and final reply of the Government furnished to the Committee expeditiously.

CHAPTER II

RECOMMENDATIONS WHICH HAVE BEEN ACCEPTED BY THE GOVERNMENT

Recommendation (Sl. No. 2 para No. 1.32)

There is need to strengthen the vigilance system as well as internal Audit system in various banks in order to ensure that the frauds are detected at the earliest.

Reply of the Government

Recognising the need to tighten preventive vigilance in banks, RBI in September, 1991 reiterated its instructions on vigilance arrangements in banks. Similarly the Committee on frauds and malpractices in banks has also addressed itself to the strengthening of vigilance systems and also the internal audit system which helps in preventing the frauds. RBI have advised banks in August, 1992 to implement various recommendations of the above Committee which are expected to help them in prevention of frauds.

As regards, strengthening the internal Audit system, RBI have advised all scheduled commercial banks in October, 1993 to institute the system of concurrent Audit. In terms of these instructions, the concurrent Audit would cover *inter-alia*, the Head Office dealing with treasury functions viz. investments, funds management, bills rediscounting and foreign exchange business, all branch offices undertaking the above business, specialised activities like portfolio management, very large and exceptionally large branches, problem branches, etc. Banks have also been advised that the entire system of Audit, inspection and their follow up is properly documented and the performance of the integrated Audit system is reviewed from time to time.

The banks have also been advised by the Government of the above recommendations of the Estimates Committee for strict compliance.

[F. No. 3293/Vig/EC dated 7-9-1994]

Recommendation (Sl. No. 3 Para No. 1.33)

Senior officers in the banks should be made personally responsible for enforcing laid down procedures strictly and in case of failure they should be made accountable for any loss to the banks/Government.

Reply of the Government

Banks have been advised of the need to fix staff accountability for commission of serious irregularities, such as injudicious use of powers, gross negligence at different stages in appraisal of the credit proposal, laxity in post-disbursement supervision, etc. from time to time. Further, it was observed that although there is a practice of fixing staff accountability in banks many a time the question of staff accountability was examined by the banks only when the question of monetary loss and/or write off arose. It was also seen that deterrent punishment was not awarded. Further, the vigilance investigations in many cases were not generally comprehensive or effective particularly when senior officials and executives were involved and there was a tendency in such cases to shift the responsibility on to the lower level functionaries. RBI, therefore, issued detailed guidelines in September 1991 covering aforesaid points and advising the banks to fix staff accountability at all the levels irrespective whether they are seniors or juniors for non-observance of the prescribed procedures and safeguards. It has also been mentioned in the above circular that the bank officials are trustees of public funds and negligence resulting in loss should be viewed seriously and deterrent punishment awarded. These guidelines have been reiterated again in August, 1992.

Recommendation (Sl. No. 4 Para No. 1.34)

The use of computer and modern technology in all banking operations should be enhanced after taking into confidence the staff unions.

Reply of the Government

In October, 1993, a settlement was signed between IBA and AIBEA, NCBE and INBEF on computerisation in the banking industry. In terms of this settlement, the banks will be able to fully computerise 2500 to 3000 branches in urban and metropolitan centres as per the recommendations of the Rangarajan Committee. All the restrictive clauses of previous settlements have been removed. The settlement provides for single window concept at branches, networking within branches, networking among branches, terminals at customer locations and enquiry terminals for valued customers in the banking hall, automated teller machines—bank-wise and pool basis, note counting machines, signature verification equipment, passbook, bank draft printers etc., and communication and data transfer systems between banks by use of latest communication facilities available under BANK NET, INET, SWIFT, PSDN etc. Under the settlement the banks will be able to use the modern technology for partial or full computerisation of branches and for installation of communication facilities. The settlement also provides that as a result of computerisation

there will be no retrenchment of staff but suitable redeployment may be made in the same city or town. With the implementation of the terms of settlement, the banks will be using computers and modern technology freely for the banking operations.

The banks have also been advised by the Government to implement the recommendations of the Estimates Committee.

(F. No. 3293/Vig/EC dated 7-9-1994)

Recommendation (Sl. No. 5 Para No. 1.35)

The Advance Portfolio is a highly fraud prone area. Frauds in this area could be possible in active connivance with concerned officials. So, preventive action should be taken immediately after the fraud comes to light or as soon as the recovery becomes irregular.

Reply of the Government

We concur with the views expressed by the Estimates Committee that advance portfolio is highly fraud prone area. The Committee on frauds and malpractices in banks have made exhaustive observations/recommendations in this regard. The report of the Committee has been made available to banks for implementation of its recommendations in this regard in August 1992 and progress of implementation is being monitored by RBI. RBI also takes various steps such as circulating *modus operandi* of ingenious frauds, issue of caution advices where the borrowers have defrauded the banks, advising the banks to take corrective steps to prevent the frauds, and consider staff accountability at all the levels.

Government have also advised the banks to implement the above recommendation of the Estimates Committee.

(F. No. 3293/Vig/EC dated 7-9-1994)

Recommendation [Sl. No. 7 Para No. 2.72(ii)]

Sensitive paper, protectograph machines for writing drafts, M.T., T.T., etc. should be used without any exception.

Reply of the Government

RBI had issued instruction to banks in 1977 that amounts on drafts/M.T.s may be written by protectograph machines or pinpoint typewriters or similar/other suitable devices to minimise the chances of their being chemically altered. RBI have again reiterated these instructions in August, 1992 for implementation of these instructions and most of the banks have reportedly implemented the suggestion.

(F. No. 3293/Vig/EC dated 7-9-1994)

Recommendation [Sl. No. 7, Para 2.72 (iii)]

Verification of instruments under ultra-violet rays in all branches should be introduced forthwith.

Reply of the Government

In order to ensure that the incidents of frauds by making material alterations are minimised, the banks were advised by RBI in 1977 to exercise extra care while paying the drafts for large amounts and for their examination under ultra-violet ray lamps. The banks have been advised by RBI in August 1992 to invariably scrutinise the cheques/drafts especially for large amounts, under ultra-violet ray lamps besides observing other safeguards. The banks have informed that this practice is obtaining at most of the branches and steps are under way to implement it at the remaining branches. RBI is again taking up with the banks to ensure that use of ultra-violet ray lamps is made at all the branches.

(F. No. 3293/Vig/EC dated 7-9-1994)

Recommendation [Sl. No. 7, Para No. 2.72(iv)]

Writing of day book and daily tallying should be done as a rule and should not be left unbalanced. Branch Manager should be held responsible for any lapse in this regard.

Reply of the Government

In terms of the extant instructions, the day books are required to be written and tallied on the same day and the position is monitored by the Branch Manager/Divisional Managers. Being in-charge of the branch/division, the respective Branch Manager/Divisional Manager are accountable for non-balancing of the books. The banks have also been advised of the above recommendation of the Estimates Committee.

(F.No.3/2/93Vig/EC dated 7.9.1994)

Recommendation [Sl. No. 7, Para No. 2.72 (vi)]

The differences arising out of non-balancing of day book and transferred to suspense account should not be left unbalanced for long. The entries proposed to be transferred to suspense account should be checked by an officer before these are actually transferred to suspense account.

Reply of the Government

The practice of transferring difference arising out of non-balancing of day book to "suspense account" is not proper. RBI in their instructions issued to the banks in 1977, had advised Banks that the branches should send periodical statements of Suspense items specifying reasons for non-adjustment for large and long outstanding items. Further, all debit vouchers (whether involving an original entry or reversal of a credit entry) should be signed by Branch Manager or an Officer specifically authorised for this purpose by the Branch Manager. This implies that every entry in Suspense Account has to be raised with the knowledge of the Branch Manager.

RBI have advised the banks in August, 1992 that the difference arising

out of non-balancing of books should not be allowed to be transferred to suspense account as a matter of routine and that the internal inspector/regional/zonal managers while on inspection/branch visit, should scrutinise the suspense account and give specific instructions for early reversal of entries.

(F. No. 3/2/93/Vig/EC dated 7.9.1994)

Recommendation [Sl. No. 7, Para No. 2.72(vii)]

Blank drafts, cheques and other important documents/instruments should be kept in safe custody under dual control. In no case these documents should be allowed to remain on the table after banking hours are over.

Reply of the Government

RBI have been impressing upon banks the need for keeping the blank drafts/cheque forms, mail transfer forms, in safe custody. RBI reiterated the instructions in August 1992 advising the banks that blank draft and mail transfer forms should be treated as security items and usual precautions for such instruments as regards their custody and issue, should be exercised.

Government have also advised the banks to implement strictly the above recommendation of the Estimates Committee.

(F.No. 3/2/93/Vig/EC dated 7.9.1994)

Recommendation [Sl. Nos. 8 and 9 Para Nos. 2.78 and 2.79)]

The Committee recommend that arrears in inter-branch reconciliation of accounts, which is a highly fraud prone area and causes delay in detection of frauds, should be given topmost priority and the entries reconciled as per time schedule suggested by the Working Group.

The position of reconciliation should be reviewed quarterly and corrective measures taken including departmental action against delinquent officials. In no circumstances, entries should be allowed to remain unbalanced beyond one year.

Reply of the Government

After the recommendations of the Working Group on inter-branch reconciliation were conveyed to banks in April 1993, quarterly progress reports are being obtained by RBI. Banks were advised to clear all entries pertaining to the period 1989-90 and earlier years by June 1993. It may be mentioned that out of 28 public sector banks, 7 banks (*viz.* State Bank of India, State Bank of Patiala, State Bank of Saurashtra, Allahabad Bank, Corporation Bank, Oriental Bank of Commerce and Union Bank of India), have achieved the target. RBI is following-up with other banks. As regards the corrective measures taken including departmental action against delinquent officials, it may be mentioned that banks have already been advised that punitive action should be taken against the concerned

staff who consistently violate or ignore the laid down procedures. As for Estimates Committee's suggestions not to allow banks to keep entries unadjusted beyond a period of one year, it may be added that RBI have, advised the banks that from 1993-94 onwards no bank would be permitted to keep entries unadjusted for more than six months.

(F. No. 3293/Vig/EC dated 7-9-1994)

Recommendation [Sl. No. 10, Para No. 2.82 (i to v)]

(i) The areas which have been agreed upon and where operations could be put through should be computerised without any further delay.

(ii) The Staff unions should be persuaded to appreciate the importance of mechanisation and computerisation and not to insist upon a restrictive use of computers at least in reconciliation, clearing houses and other sensitive areas which are highly fraud-prone.

(iii) The management should assure the Staff unions that there will not be any retrenchment and the services of surplus staff will be utilised in a better manner.

(iv) The recommendations of the Rangarajan Committee, Narasimham Committee and others on the computerisation and automation with which the Government is in agreement, should be taken up with the unions and some acceptable solution should be worked out.

(v) Large and exceptionally large branches and branches at business centres/strategic locations as also those transacting foreign exchanges should be fully computerised at the earliest.

Reply of the Government

In October, 1993, a settlement has been signed between Indian Banks' Association (IBA) and All Indian Bank Employees' Association (AIBEA), National Confederation of Bank Employees (NCBE) and Indian National Bank Employees' Federation (INBEF) on computerisation in the Banking industry. In terms of this settlement, the banks will be able to fully computerise 2500 to 3000 branches in urban metropolitan centres as per the recommendations of the Rangarajan Committee. All restrictive clauses of the previous settlements have been removed. The settlement allows banks to make use of the computers not only for reconciliation of accounts and clearing house operations but for any purpose which the bank deems appropriate. The settlement provides for single window concept of branches, net working within branches, net working among branches, terminals at customer locations and enquiry terminals for valued customers in the banking hall, automated teller machines - Bank-wise and pool basis, note counting machines, signature verification equipment, passbook, bank draft printers etc., and communication and data transfer systems between banks by use of latest communication facilities available under BANK NET, INET, SWIFT, PSDN etc. Under the settlement of banks will be able to use the modern technology for partial or full computerisation of branches

and for installation of communication facilities. The settlement also provides that as a result of computerisation there will be no retrenchment of staff but suitable re-deployment may be made in the same city or town. It has been reported by IBA that the Rangarajan Committee and Narasimham Committee have been taken into account while arriving at the settlement.

Further as per the settlement all the branches in metropolitan and urban centres having voucher load of more than 750 vouchers per day are eligible for computerisation alongwith such other branches not strictly fulfilling this criteria but catering to specialised business functions like foreign exchange, merchant banking, small scale industries etc. are also specifically provided for computerisation under the settlement.

(F. No. 3/2/93/Vig/EC dated 7.9.1994)

Recommendation [Sl. No. 11, Para 283 (i to iv)]

The Committee being well aware of the risks involved in computerisation, also recommend:

(i) The operational personnel and supervisory staff should be given vigorous training before they are put to such job.

(ii) Apart from periodical training, steps should be taken to keep them abreast with the changes and developments in this technology from time to time.

(iii) Periodical review of programming by supervisory staff to locate and set right any logical error.

(iv) Restricted access to control rooms to minimise their misuse by unscrupulous elements.

Reply of the Government

The importance of training, *inter-alia*, in the area of computerisation is recognised.

The banks have been advised by the Govt. to implement the recommendation of the Estimates Committee.

(F. No. 3/2/93/Vig/EC dated 7.9.1994)

Recommendation (Sl. No. 12, Para 2.86)

The Committee emphasise the need for enforcement and strict compliance of laid down system and procedures for prevention of frauds in foreign exchange business. Any deviation from the procedure should be dealt with severely.

Recommendation (Sl. No. 13, Para No. 2.87)

Reconciliation of nostro accounts should be carried out regularly to detect fictitious transactions.

Reply of the Government

In order to enable the banks to fully appreciate the need for introducing a comprehensive system of control covering various aspects of foreign exchanges business, RBI issued a comprehensive set of guidelines in June 1981.

As a part of its regular supervisory function the RBI also audits/inspects the foreign exchange transactions to verify whether there has been compliance of their rules/procedures without violation of FERA and report to the Enforcement Directorate and also in case where the Enforcement Directorate requires specific intelligence/information of the violation of FERA through nostro accounts, the matter is further investigated by the Enforcement Directorate for penal action under FERA is taken whenever offences are established.

The Banks have been advised by the Govt. to implement the recommendation of Estimates Committee in this regard.

(F.No. 3/2/93/Vig/EC dated : 7.9.1994)

Recommendation [Sl. No. 14, Para No. 2.91 (i to iv)]

All loan applications should be scrutinised on merits and examined critically under the laid down norms without succumbing to any kind of pressure leaving little scope for inadequacy. The officials scrutinising the credit proposals should be technically trained enough to scrutinise the loan applications properly and only sound and viable proposals should be entertained. Sponsoring agencies should be impressed upon to send the loan applications at regular intervals through the year and not in one bunch at the fag end of the financial year.

(ii) Proper credit appraisal must be done taking into account all factors like borrowers's financial position, his capacity to pay back the loan, viability of project, and other safeguards as laid down in the manual.

(iii) Post sanction follow up like inspection physical verification of stock, actual value of stock, proper documentation etc., should be done regularly.

(iv) Monthly statements should be based on factual verification. Monthly, as well as random inspection should also be carried out. Any irregularity, if found, should be dealt with promptly and higher authorities informed accordingly.

Reply of the Government

In the matter of appraisal of loan proposals, post sanction follow up, monitoring of accounts, recovery etc. RBI has issued instructions/guidelines from time to time. The instructions have been reiterated to nationalised banks by RBI in August 1992. RBI is monitoring implementation of their instructions. As regards avoiding bunching of applications under IRDP, RBI have since advised all the scheduled commercial banks that

achievement of quarterly targets may be reviewed periodically in forums like BLBC/BLCC/DCC/SLBC, etc. to ensure that bunching of loan applications is avoided.

(F.No. 3/293/2Vig/EC date 7.9.1994)

Recommendation [Sl. No. 14, Para No. 2.91(V)]

As soon as the recovery becomes irregular the matter should be taken up immediately. No laxity in the matter should be allowed.

Reply of the Government

The Asset classification system introduced by banks enables them to assess the quality of individual advances for the purpose of effective monitoring of the accounts and initiating timely follow-up measures for their recovery and thereby protecting bank's interest. The system helps the banks to identify the accounts as soon as there is shift from one category to another. The banks monitor such accounts closely when the recovery becomes irregular.

Government have also advised the banks to implement the recommendations of the Estimates Committee.

(F.No. 3/293/Vig/EC dated 7.9.1994)

Recommendation [Sl. No. 14, Para No. 2.91(vii)]

In the light of experience gained, a uniform 'not too rigid' detailed lending policy should be formulated with internal loan review department.

Reply of the Government

For every important area of work, the banks have their own operational manual, including the one for advances portfolio. RBI also have been issuing necessary guidelines from time to time. Recently, the Ghosh Committee on frauds and malpractices in banks has dealt with the subject extensively and recommended that there should be a formal written lending policy for each bank approved by its Board of Directors. The policy should further be amplified through operational manuals and implemented/administered by the concerned functionaries in letter and spirit. Further, the Committee has also recommended setting up of internal loan review department at different levels to evaluate the quality of credit portfolio for early detection of problem loans and notification to appropriate management levels. RBI have advised the banks to implement the observations/suggestions of the Ghosh Committee in August, 1992. All nationalised banks have also entered into agreements with RBI in terms of which commitments have been obtained from the banks relating to their performance in certain key areas. In terms of these agreements, the banks are required to evolve operational policies including loan policy.

(F.No. 3/293/Vig/EC dated 7.9.1994)

Recommendation [Sl. No. 14, Para No. 2.91(viii)]

The securities charged to the Banks should be properly scrutinised, evaluated and verified from time to time.

Reply of the Government

Time and again, RBI has been impressing upon banks about the need for proper appraisal of the loan proposals and effective post-sanction supervision. These include, *inter-alia*, proper verification, scrutiny and evaluation of security charged. The banks have been advised in April, 1992 that periodical stock statements should be obtained in respect of goods hypothecated and properly scrutinised and the stock hypothecated/pledged to the banks should be subjected to surprise inspections at irregular intervals. Further, arrangements should be made with outside expert agency for physical verification/evaluation of stock, etc. Most of the banks have reported that they have implemented the above instruction of RBI.

Government have also advised the banks to implement strictly the above recommendation of the Estimates Committee.

(F.No. 3293/Vig/EC dated 7.9.1994)

Recommendation [Sl. No. 14, Para No. 2.91(ix)]

Banks should satisfy themselves that a borrower does not get multiple finance for the same security.

Reply of the Government

The banks have been advised by the Government to implement this recommendation of the Estimates Committee scrupulously.

(F.No. 3293/Vig/EC dated 7.9.1994)

Recommendation [Sl. No. 14, Para No. 2.91(x)]

Insurance cover should be renewed well in time.

Reply of the Government

The need for ensuring safety of goods charged to banks has all along been stressed by Reserve Bank of India. Proper insurance cover is also required to be obtained by banks. The banks also take care that the insurance covers are renewed in time. During the course of periodical audit/inspections, the aspect relating to renewal of insurance covers is looked into.

The recommendation of Estimates Committee has also been communicated to the banks for strict implementation.

(F.No. 3293/Vig/EC dated 7.9.1994)

Recommendation (Sl. No. 15, Para No. 2.92)

As regards unauthorised removal of hypothecated goods, the Committee recommend that the officials detailed for supervision and submission of

stock statements should be instructed to report the matter to higher authorities about any unauthorised activity found during their inspection. And if they fail to report the matter, they should be held responsible for any loss to the bank.

Reply of the Government

Apart from the instructions/guidelines issued by Reserve Bank of India from time to time, banks have their own guidelines and manual instructions in terms of which banks have arrangements to get the stocks hypothecated/pledged with them, verified/checked and evaluated by an official authorised in this behalf. Reserve Bank of India have reiterated the instructions to banks.

Generally the officials detailed for supervision and submission of stock statements have to report to the higher authorities any irregularity observed during their inspection. Failure on their part in this regard has to be dealt with by banks as per their rules/regulations and necessary action taken against such delinquent officials. The recommendation of the Estimates Committee has also been communicated to the banks for strict compliance.

(F.No. 3293/Vig/ EC dated 7.9.1994)

Recommendation (Sl. No. 16, Para No. 2.93)

All credit facilities granted to known unscrupulous borrowers should be stopped forthwith.

Reply of the Government

In terms of existing instructions, the banks make discreet enquiries about the credit worthiness and credentials of the borrowers before processing any loan proposal. Indian Banks Association (IBA) also circulates amongst its member banks the particulars/information regarding unscrupulous borrowers to caution them. In cases of serious irregularities coming to the notice of RBI, the banks are advised to make a detailed and indepth enquiries before granting/renewing any credit facility to the borrowers who have defrauded the banks.

(F. No. 3293/Vig/EC dated 7-9-1994)

Recommendation [Sl. No. 19, Para No. 2.98(iii)]

The Committee, therefore, recommend that

- (i) The banks should move very cautiously while refinancing a sick industry. They should first satisfy themselves about the viability of industry before resorting to revival package.
- (ii) A close monitoring by the operating agency should be undertaken and the RBI informed about the same from time to time.

- (iii) No concessions/reliefs beyond the parameters stipulated by RBI should be extended to sick industries under rehabilitation package.

Reply of the Government

(i) When unit becomes sick, the financing bank's confidence in it is badly shaken and the bank will be very cautious in parting with further funds. According to the extent guidelines of the Reserve Bank of India, only such of the units as are found to be commercially viable are taken up by banks and financial institutions for their rehabilitation. Thus, viability is the main criterion for revival of sick/weak units.

(ii) The banks and financial institutions have been advised that a definite time-frame for compliance of the rehabilitation package by each of the agencies should be clearly spelt out in consultation with those agencies and should be given in the draft package submitted to the Board for Industrial and Financial Reconstruction(BIFR). A Nodal Monitoring Agency (lead institution or the lead bank) should be designated for monitoring the implementation of the rehabilitation package by all agencies. The Nodal Monitoring Agency would have the responsibility of preparing implementation report every half year which will be forwarded to the BIFR and each of the banks/designate an officer who will monitor the compliance of the rehabilitation package by the bank. It will be the responsibility of the Compliance Officer to ensure that there is no delay on the part of the bank in adhering to the time schedule stipulated for fulfilling its obligation under the rehabilitation package. Status reports are required to be submitted periodically by banks/operating agencies to BIFR for necessary action.

Recommendation [Sl. No. 20, Para No. 2.135(ii)]

Bank should move fast and get all the records under its control in order to minimise the chances of tampering with or destroying the records.

Reply of the Government

We concur with the recommendation that as soon as a fraud or irregularity comes to notice, the bank should get all the records under its control in order to minimise the chances of tampering with or destroying them. The vigilance Manual contains instructions for safe custody of records/evidence to guard against tampering/destruction of records at the time or preliminary enquiry. Further employees whose continuance in office is likely to prejudice investigation/inquiry are placed under suspension or transferred to a post outside to disable them from tampering with witness or documents. The recommendation of the Estimates Committee has been communicated to the banks for strict compliance.

(F.No. 3/2/93/Vig/CE dated 7.9.1994)

Recommendation [Sl. No. 20, Para No. 2.135(v)]

Disciplinary action should be taken invariably for any kind of laxity or negligence shown in the observation of laid down procedures.

Reply of the Government

RBI, through various circulars/guidelines, have been insisting upon banks for strict observance/adherence to all the laid down procedures and any deviation therefrom/laxity or negligence shown in observance thereof is to be dealt with accordingly depending upon the gravity/seriousness of alleged act of misconduct/malpractice, etc.

The banks have also been advised by the Government to implement the above recommendation of the Estimates Committee.

(F. No. 3/293/Vig/CE dated, 7.9.1994)

Recommendation [Sl. No. 20, Para No. 2.135 (vi)]

Where CBI enquiry is warranted, banks should keep a copy of the records for parallel departmental enquiry.

Reply of the Government

RBI vide its circular letter dated 31st May 1990 had drawn attention of the Public Sector Banks to paragraph 28.2 of Chapter XIII of Vol. I of the Vigilance Manual and impressed upon them the need to hold simultaneous departmental proceedings in cases where charges are serious and the evidence is strong enough. Further the banks were advised that where the allegations are of both types (i.e. Criminal Offence and others to be enquired into departmentally) the charges should be segregated for initiating departmental action on those which are not covered by CBI/Police investigations and action should be taken without waiting for the outcome of criminal proceedings. In view of the instructions to conduct parallel departmental enquiry the banks are required to keep copies of records for such departmental enquiry.

(F.No. 3/2/93/Vig/CE dated 7.9.1994)

Recommendation [Sl. No. 20, Para No. 2.135 (vii)]

In cases of complicity or proved negligence is involved, lenient view should not be taken by allowing the delinquent officials to resign or to retire.

Reply of the Government

Government/RBI has always been concerned about the tendency on the part of banks to gloss over the staff accountability aspect of irregularities, malpractices, etc. Necessary guidelines have been issued from time to time emphasising need for appropriate action. Further, Sub-regulation 3(i) of regulation 20 of Officers' Service Regulations (of Public Sector Banks) provides that an officer against whom disciplinary proceedings are pending shall not leave/discontinue or resign from his service in the bank without

the prior approval in writing of Competent Authority and any notice or resignation given by such an officer before or during the disciplinary proceedings shall not take effect unless it is accepted by the Competent Authority.

Similarly, under regulation 3(iii), an officer against whom disciplinary proceedings are pending will cease to be in service from the date of superannuation but shall not be allowed to retire. Such officer is not entitled to payment of retirement benefits till the proceedings are completed and order is passed thereon, except of course his own contribution to Contributory Provident Fund (CPF).

It will thus be observed that necessary guidelines are already in existence under which the banks have to take deterrent action against the delinquent officials. The provisions of Officers Service Regulations also serve as supplement.

(F.No. 3293/Vig/CE dated 7.9.1994)

Recommendation [Sl. No. 21, Para No. 2.142 (ii)]

An independent agency should be engaged to investigate the contents of the complaint/irregularity.

Reply of the Government

The above recommendation relates to complaints received against the CMDs and Executives of banks. The complaints received against CMDs/Executives are investigated through RBI's regional offices. RBI has been vested with the powers of inspection of the banks and over years it has developed necessary expertise. However, where it is felt necessary to get any account probed into by special auditors, RBI appoints such auditors under Section 30(1-B) of Banking Regulation Act, 1949. Further, in cases of frauds or serious irregularities of complex nature involving multiple agencies (and involving CMDs/top executives) the matter is probed into with the help of CBI. In case of involvement of only lower functionaries in such frauds/irregularities of complex nature, RBI/Govt. advises the bank to report the matter to CBI. A proposal to set up Special Bureau of Frauds on the lines of Special Fraud Office of U.K. is under consideration of RBI/Government.

(F.No. 3293/Vig/CE dated 7.9.1994)

Recommendation [Sl. No. 21, Para No. 2.142 (vi)]

Vigilance investigation should be very comprehensive and effective. In no circumstances responsibility should be shifted on lower level functionaries in cases when senior officials and executive are involved.

Reply of the Government

RBI have been emphasising the need for comprehensive and effective investigation and further that there should not be any attempt to shift the responsibility on the lower officials. Similar guidelines were also issued by RBI in September 1991.

Thus the banks have been suitably advised about vigilance investigations and fixing the staff accountability properly.

(F.No. 3293/Vig./CE dated 7.9.1994)

Recommendation [Sl. No. 21, Para No. 2.142 (vii)]

In cases of the offenders who have left service or retired all necessary steps should be taken for legal action to punish them.

Reply of the Government

When acts of misconduct/irregularity/fraud^t come to light after the retirement of any bank officials/offenders the banks can file criminal case against such retired person to recover the loss suffered by the bank. The banks have also been advised to implement the above recommendation of the Estimates Committee.

(F.No. 3293/Vig./CE dated 7.9.1994)

Recommendation (Sl. No. 22, Para No. 2.143)

In no circumstances, any kind of facility credit, overdawal etc. should be granted on oral and telephonic instructions.

Reply of the Government

We concur with the recommendation that any kind of facility, credit, overdawal etc. should not be granted on oral and telephonic instructions. The banks have been advised by RBI that while dealing with the frauds in advances port-folio, the management of banks should issue strict instructions to the officials at various levels to desist from the unhealthy practice of granting of advances beyond their discretionary powers or by oral or telephonic instructions.

(F.No. 3293/Vig./CE dated 7.9.1994)

Recommendation (Sl. No. 23, Para No. 2.145)

In connection with maintaining surveillance the Committee recommend that all the banks should prepare 'Agreed List' and exchange the same with CBI for maintaining clandestine surveillance. They also stress the need for maintaining surveillance on officers of doubtful integrity. The present arrangement for not posting them in sensitive areas and giving them independent charge should be continued.

Reply of the Government

RBI in their instructions regarding vigilance arrangements in banks in September, 1991 had, *inter-alia*, advised the banks to meticulously follow the practice of preparation of 'Agreed List' and also to maintain proper surveillance on officers on the 'Agreed List' apart from not considering them for posting to sensitive areas, etc. Further, the Committee on frauds and malpractices in banks recommended preparation of 'Agreed List'. This was also circulated among banks by RBI in August, 1992 for their information and guidance. Normally, the banks exchange such lists with CBI. However, there might be some instances wherein banks might not have exchanged the 'Agreed List' with CBI as observed by the Estimates Committee. The recommendation of the Committee has been advised to the banks for strict compliance.

(F.No. 3/293/Vig./EC dated 7.9.1994)

Recommendation (Sl. No. 27, Para No. 2.151)

The transfer policy should be strictly adhered to. However, as far as possible mid-session transfers should not be resorted to in order to avoid criticism/inconvenience to bank officials.

Reply of the Government

Every bank has its own laid down transfer policy Reserve Bank of India have also emphasised the need for transfer of staff. Normally, these transfers are not made mid-session. It is possible that there can be some stray incidents of mid-session transfers due to administrative exigencies. The above recommendation of the Estimates Committee has been advised to the banks for strict implementation.

(F.No. 3/2/93/Vig/EC dated 7.9.1994)

Recommendation [Sl. No. 28, Para No. 3.67(v)]

To improve the quality of inspection/audit, persons with adequate qualification, experience and of proven integrity should be posted in inspection and audit department.

Reply of the Government

Reserve Bank of India have been impressing upon the banks the need for improving the quality of audits and inspections by posting officials having sufficient experience and exposure and with proven integrity. The banks have also been advised by the Govt. to implement strictly the above recommendation of the Estimates Committee.

(F.No. 3/2/93/Vig/EC dated 7.9.1994)

Recommendation [Sl. No. 28, Para No. 3.67(vi)]

Periodicity of audit/inspection of all the branches should be maintained.

Reply of the Government

The banks have been advised by RBI in 1992 that the periodicity of the internal audit of the branches should be atleast once in every 12 months. Further during the course of inspections conducted by Reserve Bank of India, the aspects regarding periodicity, coverage, etc. of the audits/inspection conducted by the banks is commented upon.

(F.No. 3/2/93/Vig/EC dated 7.9.1994)

Recommendation [Sl. No. 28, Para No. 3.67(vii)]

There should be a mechanism to ensure that inspection reports are followed scrupulously.

Reply of the Government

Every bank has its own Inspection and Audit Department which is entrusted with the conduct of inspection/audit of the branches as also the follow-up of the reports. The position in this regard is also monitored by

the Regional/Zonal/Head Office of the bank. There is thus a well set mechanism for follow-up of inspection/audit reports is to be periodically reviewed by audit Committee constituted by the Board of Directors of each bank. The banks have also been advised by Government to ensure that the above recommendation of the Estimates Committee is implemented.

[F.No. 3/2/93/Vig./EC dated 7.9.1994]

Recommendation Sl. No. 28, Para No. 3.71)

Although various control mechanisms exist in banks like statutory audit, internal audit, snap inspection, vigilance cell experience has shown that the same are not effective. The Committee recommend that urgent steps need to be taken to strengthen these mechanisms and to make them more effective.

Reply of the Government

There is no denying the need to strengthen the various control mechanisms in banks to prevent the frauds. Detailed guidelines on this aspect have been issued to banks even before nationalisation. Reserve Bank of India have again reiterated these instructions on various topics, such as, different types of audits, vigilance arrangements etc. The above recommendation of the Estimates Committee has been advised to the banks for implementation.

[F.No. 3/2/93/Vig./EC dated 7.9.1994]

Recommendation (Sl. No. 33, Para No. 3.78)

The Committee expect that the advice of the Vigilance Cell would be given care while awarding the punishment to delinquent officials and less punishment should be awarded only after consultation with Vigilance Authority.

Reply of the Government

The banks have set up their vigilance machinery as envisaged in by the Vigilance Manual. The recommendations of the CVO/CVC are generally accepted in the vigilance cases. While the authority to determine the quantum of punishment lies with the disciplinary authority, the recommendations of the Vigilance Cell/CVC and other relevant factors are taken into account while awarding the punishment.

[F.No. 3/2/93/Vig./EC dated 7.9.1994]

Recommendation (Sl. No. 34, Para No. 3.82)

While banks may continue to enjoy autonomy in their operation, there should be greater control of Reserve Bank of India on their functioning so as to ensure healthy growth of financial sector in the country. The Reserve Bank should not rest content with the issue of Circulars but should also ensure that these are actually followed in practice and deterrent action taken against the delinquent banks.

Reply of the Government

RBI as the central bank of the country has been entrusted with responsibility of having control over the banks for healthy growth of financial sector in the country. In order to discharge this duty RBI issues guidelines to banks through circulars to the banks. RBI ensure that these guidelines are observed by the banks by calling for periodical returns and carrying out periodical inspections. Recently compliance officers have been appointed in all public sector banks as nodal agency to coordinate and ensure that important instructions of the RBI and Government are complied with. Banks have also been advised to get compliance in certain key areas certified by the statutory auditors. Whenever involvement of staff is observed in any case of fraud or irregularity, RBI insists that staff accountability is fixed and appropriate action taken against delinquent staff.

(F.No. 3/2/93/Vig./EC dated 7.9.1994)

Recommendation (Sl. No. 35, Para No. 3.83)

Reserve Bank of India should exercise more effective control over the banks and bring about changes in service regulations rendering staff accountability more effective.

Reply of the Government

RBI has been exercising effective control over banks by means of on-sight inspections and off-sight surveillance under the provisions of the Banking Regulation Act, 1949 and various other statutes. Further, RBI has been from time to time insisting upon banks to have staff accountability angle examined in cases of irregularities/misconduct/frauds, etc. RBI vide its Circular dated 5th September, 1991 on "Vigilance arrangements in banks" has expressed its concern about disquieting aspect of tendency on the part of banks to gloss over the staff accountability angle in irregularities, malpractices, etc. Banks have been advised to make more effective use of staff accountability as a tool of preventive vigilance. The Committee on frauds and malpractices has also made certain observations/suggestions on staff accountability. The report of the Committee has been circulated amongst banks for their information and implementation. Further as a sequel to the announcement made by the Hon'ble Finance Minister in the Parliament on 8th July, 1992 the process of setting up of a Board for Financial Supervision (BFS) under the aegis of the RBI has started.

RBI have already set up a separate Department viz. Department of Supervision with effect from 22nd December, 1993 with functional responsibilities of supervision over banking system to start with.

(F.No. 3/2/93/Vig./EC dated 7.9.1994)

Recommendation (Sl. No. 36, Para No. 3.84)

The Committee urge the Government to impress upon RBI to carry out snap inspections whenever they come across with any irregularity in the

accounting and Balance Sheet of any of the banks, so that it may serve as deterrent.

Reply of the Government

In addition to the regular inspections of banks being carried out, RBI also undertake surprise inspections of selected work areas of bank functioning which in the opinion of RBI require immediate/instant scrutiny/examination. For example, RBI had an occasion to conduct a snap inspection of the erstwhile New Bank of India (NBI) on noticing an irregularity in the accounting and balance sheet prepared by the bank. Such snap inspections will be undertaken by RBI whenever any irregularity which may require quick scrutiny/examination come to notice.

(F.No. 3/2/93/Vig./EC dated 7.9.1994)

Recommendation (Sl. No. 37, Para No. 3.85)

RBI should circulate modus operandi of all the ingenious cases of frauds suggesting necessary safeguards.

Reply of the Government

The recommendation is accepted. RBI do circulate the modus operandi, whenever any ingenious method is adopted by any individual/company to defraud any bank and advise them to be careful of such cases.

(F.No. 3/2/93/Vig./EC dated 7.9.1994)

Recommendation (Sl. No. 39, Para No. 4.30)

As the CBI is entrusted with a number of functions and investigations there is an imperative need to set up a separate Division in CBI for investigation into fraud cases more or less on the lines of Serious Fraud Office of U.K. As investigation into bank fraud cases required thorough knowledge of various banking operations it is desirable that persons appointed in this Special Division should be acquainted with the banking procedures and legal provisions relating to banking industry.

Reply of the Government

This recommendation is also connected with the functions and investigations entrusted to Central Bureau of Investigation (CBI). The CBI is having its Banking Unit at New Delhi to look into the offences relating to banks. The Committee on frauds and malpractices in banks while taking cognizance of increasing number of bank frauds have recommended setting up of such Banking Units at Bombay, Calcutta and Madras besides the one which is presently functioning at New Delhi. This recommendation of the Committee is under examination of Government of India. A proposal to set up a Special Bureau of Frauds on the lines of Serious Fraud Office of the United Kingdom is under consideration of RBI/Government.

(F.No. 3/2/93/Vig./EC dated 7.9.1994)

Recommendation (Sl. No. 40, Para No. 4.31)

Relevant documents and records should be made available by the banks to the CBI to ensure speedy investigation, as any delay in this regard not only hampers investigation but also provides opportunity to the defaulters to tamper with or destroy the records. Disciplinary proceedings against delinquent officials should invariably be initiated simultaneously by segregating the charges and preparing authentic copies of the records.

Reply of the Government

The banks generally extend all possible co-operation to outside agencies like police/CBI in the matter of making available the relevant documents/records to investigating agencies with a view to ensuring speedy investigations etc.

As regards initiation of parallel departmental proceedings by segregating charges the RBI *vide* its circular letter dated 31st May, 1990 had drawn attention of the Public Sector banks to paragraph 28.2 of Chapter XIII of Vol. I of the Vigilance Manual and impressed upon them the need to hold simultaneous departmental proceedings in cases where charges are serious and the evidence is strong enough. Further the banks were advised that where the allegations are both types (i.e. a criminal offence and others to be enquired into departmentally) the charges should be segregated for initiating departmental action on those which are not covered by CBI/police investigations and action should be taken without waiting for the outcome of criminal proceedings.

(F.No. 3/2/93/Vig./EC dated 7.9.1994)

Recommendation (Sl. No. 42, Para No. 4.33)

The proposed Division of the Bureau should be empowered to investigate cases against high functionaries of the banks. Nobody should be kept out of the purview of Law inspite of his status.

Reply of the Government

Proposal to set up an agency (Bureau) on the lines of "The Serious Frauds Office" in the United Kingdom is under consideration of RBI and Government.

(F.No. 3/2/93/Vig./EC dated 7.9.1994)

Recommendation (Sl. No. 45, Para No. 4.36)

Diversion of funds and multiple finance against the same security as well as tampering with the security, removal of goods hypothecated with the banks should be made cognisable offence, punishable under the Law.

Reply of the Government

The Ghosh Committee on frauds and malpractices in banks has observed that "Removal of goods under hypothecation and disposal thereof or any breach of trust/intentional violation of the terms of sanction, diversion of funds, bogus financial position and valuation, false declaration for raising funds should be made a cognisable offence and banks should be allowed to

proceed for these type of breach of trust". This issue is under consideration in consultation with the Home Ministry.

(F.No. 3/2 /93/Vig./EC dated 7.9.1994)

Recommendation (Sl. No. 48, Para No. 4.39)

The frauds committed by the banking sector as a whole besides the nationalised banks have been a matter of grave concern. All necessary steps should be urgently taken to stop the corrupt practices by foreign banks. If necessary suitable legislation may be made in this regard.

Reply of the Government

The growing incidence of frauds both in the number and nature as also the amount involved therein has been a matter of concern for Government. RBI has been issuing instructions from time to time to the banks to ensure that the incidence of frauds is minimised. In the context of growing incidence of frauds, the RBI, at the instance of Government of India had set up a High Level Committee to enquire into various aspects relating to frauds and malpractices in banks under the Chairmanship of Shri A. Ghosh, former Dy. Governor of RBI. The recommendations of the above Committee were conveyed to the banks for implementation in August 1992. The banks have also reported that most of the recommendations of the Committee have been implemented. The foreign banks have also been advised to implement the recommendations of the Committee to the extent applicable to them and the position in this regard is being closely monitored by the RBI.

(F.No. 3/2/93/Vig./EC dated 7.9.1994)

CHAPTER III

RECOMMENDATIONS WHICH THE COMMITTEE DO NOT DESIRE TO PURSUE IN VIEW OF GOVERNMENT'S REPLIES

Recommendation [Sl. No. 7, Para No. 2.72 (v)]

Proper record of inward/outward instruments should be maintained on day-to-day basis leaving little scope for loss/destruction/tampering with the instruments. For this purpose, incoming and outgoing instruments should be serially numbered and entered into the registers at dak stage.

Reply of the Government

Instruments sent out from the bank are recorded in outward registers as per the systems evolved by different banks. As far as inward instruments are concerned, some are received in ordinary mail, some in the registered mail, some through the courier and the rest on the counter, especially the local cheques for clearing. Numbering such instruments serially may not be feasible. However, banks have a system of inwarding to ensure the safety and record of disposal of the instruments received.

(F.No. 3/2/93/Vig./EC dated 7.9.1994)

Recommendation [Sl. No. 7, Para No. 2.72 (viii)]

In the case of M.T./T.T. as per the recommendation of the Working Group on Consumer Service in Banks (Talwar Committee), banks cannot refuse payment of drafts for want of advice. The Committee recommend that some procedures should be worked out in such a way that the payment could be made only either on receipt of relative advice or confirmation through telex/telegram/telephone/fax or any such accepted practice.

Reply of the Government

In terms of the existing instructions the banks have been advised to exercise due care while paying drafts etc. specially in the absence of receipt of the relative advice from the drawee branch. The genuineness of the instrument and account holder/payee should be verified. The demand drafts should be verified under ultra violet ray lamps to safeguard against chemical alteration before payment thereof. The banks have also been advised that in case of drafts if relative advice has not been received and there is doubt about genuineness of the payee, the drawee office should seek confirmation over telephone/telex/telegram/fax etc. The banks have been advised in 1992 not to pay demand drafts on the basis of introduction letters. Thus there are sufficient safeguards against fraudulent encashment

of drafts under the existing system. However, it may not be practicable/feasible for banks to seek confirmation over telephone/telex/fax etc. in every case, wherein relative advices have not been received at payee branch/bank.

(F.No. 3/2/93/Vig./EC dated 7.9.1994)

Recommendation [Sl. No. 14, Para) No. 2.91 (vi)]

Health Code should be prescribed for all kinds of loans. Whenever there is a change in the health code, the matter should be reported to higher ups for review.

Reply of the Government

Reserve Bank of India (RBI) have issued instructions in April, 1992 regarding classification and provisioning to be made by the banks for their loan assets. In terms of these instructions, loan assets of the banks are to be classified into 4 groups as under:—

Standard Assets: Standard asset is one which does not disclose any problems and which does not carry more than normal risk attached to the business.

Sub-Standard Assets: Sub-standard asset is one which has been classified as non-performing asset (NPA) for a period not exceeding 2 years. Such an asset will have well defined credit weaknesses that jeopardise the liquidation of debt and are characterised by the distinct possibility that the bank will sustain some loss if deficiencies are not corrected.

Doubtful Assets: Doubtful asset is one which has remained NPA for a period exceeding two years.

Loss Assets: A loss asset is one where loss has been identified by the bank or internal or external auditor or the RBI but the amount has not been written off, wholly or partly. RBI have also stipulated the quantum of provisions to be made against sub-standard assets, doubtful assets and loss assets.

With the introduction of the above system classification of assets, mandatory Health Code System prescribed in 1985 has been dispensed with.

(F. No. 3/2/93/Vig./EC dated 7.9.1994)

Recommendation (Sl. No. 18, Para No. 2.96)

The Committee do not agree with the Ministry on the question of Parliamentary right to information and are of the candid view that being the law making body, Parliament has every right to have information regarding financial position and health of the banks. Though the Committee do not wish to suggest scrutiny of the individual accounts by Committees of Parliament, they would like these Committees to have powers to scrutinize the banks as a whole with a view to know the areas of weaknesses and suggest corrective measures.

Reply of the Government

The functioning of public sector banks is scrutinized by Parliament in various ways. The annual reports of the public sector banks are laid on the Table of each House of Parliament. A consolidated report on the working of the public sector banks is also laid annually by the Government in both the Houses of Parliament which gives an overview of their performance. Different aspects of the working of the banks are also raised in both the Houses of Parliament through Questions, Calling Attention Motion, etc. The functioning of banks particularly the public sector banks comes within the purview of various Committees of the Houses of Parliament such as the Estimates Committee, Committee on Subordinate Legislation, Committee on Welfare of SC and ST, Committee on Papers laid on the Table of Rajya Sabha, Committee on Implementation of Official Languages which review various facets of the operations of the banks. The Consultative Committee of the Ministry of Finance is also a forum where issues relating to banks are discussed. The Standing Committee of Finance which includes Members of Rajya Sabha and Lok Sabha-consideres Demands for Grants, examines Bills referred to it by the Chairman, Rajya Sabha/Speaker, Lok Sabha, annual report of the Ministry and also the national basic long term policy documents presented to the House if referred by the Chairman, Rajya Sabha/Speaker, Lok Sabha. Thus, considerable Parliamentary control over the functioning of the banks already exists and various opportunities exist for the concern of the Members of Parliament to be expressed and discussed.

(F.No.3/2/93/Vig./EC dated 7.9.1994)

Recommendation [Sl. No. 19 Para No. 2.98 (iii)]

The banks have been advised that they should adhere to the stipulated parameters for extension of reliefs, concessions under a rehabilitation package and any reliefs/concessions beyond the parameters should be extended only in cases where it is deemed absolutely necessary. These would include the cases where there are good prospects of revival of the unit within a reasonable period of time with some further reliefs/concessions because of good export potential for the products manufactured and the cost of setting up of a similar new unit is disproportionately high as compared to the cost of revival of the existing unit, and substantial assistance/reliefs are provided by Central Government/State Government and sacrifices made by labour for the revival of the unit. In all cases of rehabilitation packages, the 'right of recompense' is invariably stipulated in the sanction letter by banks.

(F.No. 3/2/93/Vig./CE dated 7.9.1994)

Recommendation [Sl. No. 20, Para No. 2.135 (I)]

As soon as a fraud or any irregularity comes to notice, the suspected official(s) should be rendered innocuous the same day.

Reply of the Government

RBI, in September 1991 have already advised all the public sector banks to exercise sufficient care/caution while recording confidential reports/performance appraisals from vigilance angle. Further, the need for preparation of "Agreed List" as per laid down procedures has been impressed upon the banks. The banks have been instructed to maintain proper surveillance on officers of doubtful integrity and those who are on the "Agreed List". The persons with doubtful integrity and those appearing in the "Agreed List" are not to be considered for posting to sensitive posts. RBI have also advised banks to introduce a system for weeding out undesirable elements.

(F.No. 3/2/93/Vig./CE dated 7.9.1994)

Recommendation [Sl. No. 20, Para No. 2.135 (iii)]

Delinquent officials found guilty should be awarded deterrent punishment including imprisonment.

Reply of the Government

Banks have been advised from time to time that whenever they come across any act of misconduct/involvement of officials/staff members in corrupt practices, frauds etc. the banks should take urgent steps to hold departmental enquiry/report the matter to Police/CBI for investigation, etc. In September 1991, RBI have conveyed their concern about the disquieting aspect noticed about the tendency on the part of the banks to gloss over the staff accountability angle of irregularities, malpractices, etc. and about the point that no deterrent punishment is awarded by the banks.

While the banks have been advised to award deterrent punishment to their delinquent officials, it is for the judicial authorities to award the punishment of imprisonment to the guilty officials.

(F.No. 3/2/93/Vig./CE dated 7.9.1994)

Recommendation [Sl. No. 20, Para No. 2.135 (iv)]

A system of group accountability should be evolved i.e. all personnel—operational and officers connected with the area of fraud should be held responsible for irregularity/frauds and awarded suitable punishment.

Reply of the Government

At present banks fix accountability on staff for irregularities, frauds, etc. on person to person basis. If collusion among some employees/officers is detected in any operational area then all employees involved have to be proceeded against individually (separately) or even jointly.

As regards awarding punishment, RBI has always been impressing upon banks to complete the proceedings against delinquent staff members expeditiously and to award punishment commensurate with the misconduct/irregularity. RBI have again stressed the need for expeditious completion of proceedings and award of deterrent punishment to the delinquent staff of the banks.

(F.No. 3/2/93/Vig./EC dated 7.9.1994)

Recommendation No. [Sl. No. 21, Para No. 2.142 (iii)]

Discretionary powers should either be dispensed with or in case these are utilized in the exigency of the circumstances, the executives using such powers should take full responsibility for any irregularity.

Reply of the Government

The exigencies of business may occasionally require use of discretion by the officials. However, as per the extant guidelines, the officers/executives who use such discretion are required to seek post-facto approval from the Competent Authority at the earliest. The official not obtaining such approval are held responsible for such lapses.

The aspect of seeking post-facto approval for discretionary powers used in excess of delegated authority is also seen and commented upon in the internal inspection/audit reports on the bank and also in RBI inspection reports for necessary follow-up action.

(F.No. 3/2/93/Vig./CE dated 7.9.1994)

Recommendation [Sl. No. 21, Para No. 2.142 (viii)]

Fact sheet should be circulated to other banks for information.

Reply of the Government

It may not be proper to circulate fact sheets in respect of all the fraud cases/serious irregularities among other banks. However, RBI circulates the modus operandi, whenever any ingenious method is adopted by any individual/company to defraud any bank.

(F. No. 3/2/93/Vig./CE dated 7.9.1994)

Recommendation (Sl. No. 24, Para No. 2.147)

The Committee therefore recommend that after completion of 30 years of service or attaining the age of 50 years, the continuance of officials in services should be reviewed in all the banks and persons having doubtful integrity/record should be compulsorily retired.

Reply of the Government

Regulation 19 of Officers Service Regulations (for Public Sector Banks) provides that the age of retirement of an officer employee shall be determined by the Board in accordance with the guidelines issued by the Govt. from time to time.

Provided that the bank may, at its discretion on review by the Special Committee/Special Committees as provided herein after in sub-regulation (2) retire an officer employee on or at any time after the completion of 30 years of total service as an officer employee or otherwise whichever is earlier.

Further, Regulation 20(1) (a) of the revised Regulation 20 of Officers' Service Regulations 1979/1982 circulated to Public Sector Banks in April, 1992 stipulates that subject to Regulation 1(B) where the Bank is satisfied

that the performance of an Officer is unsatisfactory or inadequate or there is a bonafide suspicion about his integrity or his retention in the bank's service would be prejudicial to the interests of the bank, and where it is not possible or expedient to proceed against him as per the disciplinary procedure, the bank may terminate his service on giving him three months' notice or emoluments in lieu thereof in accordance with the guidelines issued by the Government from time to time.

(F.No. 3/2/93/Vig./EC dated 7.9.1994)

Recommendation (Sl. No. 25, Para No. 2.149)

The Committee recommend that alert and vigilance staff who have foiled the attempted frauds should be rewarded monetarily suitably alongwith appreciation letter/noting in C.R. which should be taken into account at the time of consideration of promotion.

Reply of the Government

In the context of the above recommendation we feel that while there can be appreciation for alert and vigilant staff who foil the attempted fraud, it is felt that it will be in the fitness of things to leave the issue of monetary reward/issuing of letters of appreciation/noting in Confidential Report (CR) in the case of such employees to the discretion of the management of the concerned banks. It may, therefore not be necessary to frame any rules/regulations in this regard. The banks management may decide as to how to show its appreciation to the concerned staff depending upon the circumstances of each case.

(F.No. 3/2/93/Vig./EC dated 7.9.1994)

Recommendation (Sl. No. 26, Para No. 2.150)

They also recommend that RBI should consider the feasibility of having a special type of forms for use by the staff without mentioning their names etc. for reporting the frauds/misdeeds of higher ups in order to give them immunity from vindictive action from the management. All such complaints should be investigated by Special task forces to be created under the charge of RBI. Strict watch should be kept on the sudden change in life style of bank employees as well as their antecedents properly verified at the time of recruitment.

Reply of the Government

Govt./RBI takes cognizance of the complaints received from any source against the officials of the banks. The complaints against CMDs/EDs are investigated by RBI through its Regional offices/by appointing Special auditors under Section 30(1B) of B.R. Act, 1949, wherever necessary. Many a times the Unions/Associations of the banks report the frauds/serious irregularities involving the higher ups. At times the employees of the banks also report such cases anonymously and there is no possibility of the management taking vindictive action in such cases. It is felt that when such ready-made forms are made available at branch and other level the facility might be misused by disgruntled staff members/members of public.

Further, the banks have been advised by RBI to evolve a system under which an employee coming across an irregular practice in any operational areas should be made responsible to report the same to higher authorities for remedial action.

As regards creation of a Special Task Force, it may be added that RBI is already having a Special Investigation Cell which deals with the complaints against the top executives of the banks (Viz. EDs/CMDs).

As for the verification of antecedents of candidates before appointment in banks the RBI had issued necessary instructions in 1972 to the banks. These instructions were again reiterated in August, 1992. Further, in 1982 the banks were advised to keep a watch on such of the staff members who are having a life style/living beyond the known sources of their income. The instructions again formed part of RBI's detailed circular issued in september, 1991 on vigilance arrangements in banks.

(F.No. 3/2/93/Vig./EC dated 7.9.1994)

Recommendation [Sl. No. 28, Para No. 3.67 (i)]

A Uniform Internal Audit System with Uniform terminology applicable equally to all the banks should be evolved.

Reply of the Government

The banks have their own internal audit system and they had issued their own guidelines. At present broad uniformity exists in the banks in regard to operation of internal audit. However, minor variations exist, depending on the organisational structure of the banks.

(F.No. 3/2/93/Vig./EC dated 7.9.1994)

Recommendation [Sl. No. 28, Para No. 3.67 (ii)]

The Internal audit should be independent from the management control for their fair and impartial inspection and reporting. Their reporting should be at Board level.

Reply of the Government

Keeping in view the need for setting up a machinery which oversees and provides direction to the internal audit/inspection function in banks in order to ensure and enhance its effectiveness as a management tool. RBI in April, 1994 have advised all commercial banks to constitute Audit Committee of the Board of Directors comprising the Chairman and Executive Director of the bank and three other Directors, one or more of such Directors being Chartered Accountants or having experience in management, finance, accountancy and audit, systems, etc. The areas which should receive the attention of the Audit Committee of the Board shall include the following:—

(a) Different types of inspections/audits conducted within the bank, their periodicity and scheduling, coverage and quality to ensure an effective internal audit function.

(b) Review of the follow-up action on the reports, particularly of unsatisfactory branches, specialised branches and branches classified by the bank as Extra Large Branches (ELBs)

(c) Compliance with the inspection/audit reports of the RBI and reports of Statutory Auditors including long form Audit Reports.

(d) Accountability for unsatisfactory compliance of inspection reports, delay in compliance and non-rectification of deficiencies,

(e) Omissions on the part of inspecting Officials to detect serious irregularities (which come to light later.)

(f) Periodical review of the accounting policies/systems in their bank with a view to ensuring greater transparency in the bank's accounts and adequacy of accounting controls. (F.No. 3/2/93/Vig./EC dated 7.9.1994)

Recommendation (Sl. No. 28, Para No. 3.67 (iii))

Inspectors/Auditors should be made accountable for not detecting or reporting the lapses/deviations from the laid down systems and procedures noticed during the course of inspection/audit.

Reply of the Government

For the purpose of internal audit/inspection the banks have been advised to post staff of sufficient seniority of proven integrity and with adequate exposure to various work areas.

The auditors/inspectors are required to comment upon the irregularities/malpractices/omissions/commissions and also non-adherence to laid down systems and procedures. It may not be possible for auditors/inspectors to scrutinise each and every transaction in view of their multiplicity. However, if any serious irregularity is detected by the bank during the period for which audit/inspection has already been done, the concerned auditors/inspectors could be asked to explain lapses on their part and banks advised to take necessary action depending upon the seriousness of the lapses. (F.No. 3/2/93/Vig./EC dated 7.9.1994)

Recommendation [Sl. No. 28, Para No. 3.67 (iv)]

There should not be overlapping of inspection audit and various types of audit should be clubbed, and their areas of operation should be defined clearly.

Reply of the Government

Presently various types of audit are prevalent in banks, eg. internal audit, revenue audit, spot audit, concurrent audit etc. Besides there is a provision for statutory audit of banks in the Banking Regulation Act, 1949/Bank Nationalisation Act/State Bank of India Act/State Bank of India (Associates Banks) Act. The scope and purposes of these audits are different. For example, revenue audit is meant for unearthing leakage of income while concurrent audit is for timely detection of irregularities in

adherence to systems and procedures. The scope of each audit has been clearly defined; and a such, the possibility of overlapping of various audits as far as coverage is concerned is minimal.

However, the banks have been advised by the Govt. to take necessary action in this area in the light of the above recommendation of the Estimates Committee.

(F.No. 3/2/93/Vig./EC dated 7.9.1994)

Recommendation [Sl.No. 28, Para No. 3.67 (vii)]

Supervisory Board as announced in Parliament should be set up at an early date.

Reply of the Government

As a sequel to the announcement made by the Finance Minister in Parliament on 8th July, 1992, the process of setting up of a Board for financial Supervision under the aegis of Reserve Bank of India was started. Reserve Bank of India have framed necessary Regulations. In terms of the provisions of Reserve Bank of India Act, previous sanction of the Central Government to these Regulations has also been conveyed. Reserve Bank of India will now be able to set up the Board for financial Supervision at an early date. This Board when set up would exercise integrated supervision not merely over the banking system but also over the financial institutions, non-banking financial intermediaries and other para-banking financial institutions.

(F.No. 3/2/93/Vig./EC dated 7.9.1994)

Recommendation (Sl. No. 30, Para No. 3.72)

While the audit by Statutory auditors viz. Chartered Accountants might continue, there is need for Comptroller and auditor General to be closely associated with the audit of banks. The persistent stand of the Government that it will violate confidentiality of relationship between banks and customer is not convincing.

Reply of the Government

The audit of public sector banks is conducted by outside statutory auditors who are appointed by the banks concerned with the approval of RBI. The section of central statutory auditors is made by a Committee viz. Sanding committee on Bank Audit, which has been functioning for several years. The members of SAC include representatives of RBI, Ministry of finance, C & AG and NABARD. SAC identifies the list of chartered accountants from a panel obtained from C&AG.

Reserve Bank of India in consultation with Government have made the following changes in the audit system of various banks for improving the same:—

(i) It has been decided that the auditors will ordinarily continue for a period of four years and even though their formal appointment shall be on an annual basis, it would be understood that subject to the audit firm

performing its function satisfactory its appointment would automatically continue upto a maximum period of four years.

(ii) The statutory auditors, as a part of their functions, would now be required to verify compliance of SLR norms under Section 24 of the Banking Regulation Act on 12 odd days in different months spread over the entire year. In addition, auditors are required to report directly to RBI on serious irregularities which require immediate attention.

(iii) RBI have introduced a system of concurrent audit in the major branches of all the commercial banks.

(iv) The Institute of Chartered Accountants of India have, in March, 1994, brought out a set of working guidelines and principles to be followed by bank auditors and these guidelines cover the scope of audit.

2. In addition to the above measures which have already been introduced, the Board for financial Supervision proposed to be set up by the RBI will function with the assistance of the Department of Supervision dealing with banks, financial institutions, non-banking financial companies and resource management services. It would also determine the criteria for appointment of auditors, appoint statutory and special auditors and assess external audit performance.

3. The RBI has also taken necessary steps for setting up of an Audit Committee of the Board of Directors (ACB) of all commercial banks for overseeing the internal audit function in banks. This apex audit committee will look into different types of audit conducted within the bank, their periodicity as well as quality and follow up action on the reports regarding performance of unsatisfactory branches.

4. In the present procedure, the list of auditors is obtained from the C&AG, whose representative is also on the Standing Audit Committee. Taking note of the changes which have been brought about in the system of audit in banks, as well as the formation of the Board for Financial Supervision which has audit follow up as one of its functions, Government are the view that the audit system has been improved considerably and the Board for Financial Supervision would increasingly play an important role in further strengthening of audit.

(F.No. 3/2/93/Vig./EC dated 7.9.1994)

Recommendation (Sl. No. 31, Para N. 3.73)

There is a need for greater transparency in the Final Accounts and Balance Sheets of various banks. The Final Accounts should give clear picture and position regarding frauds and bad and doubtful debts.

Reply of the Government

The Committee constituted by RBI to consider Final Accounts of banks recommended the revision of Formats of Balance Sheet and Profit and Loss Account for the Sake of uniformity in the presentation of accounts and having regard to the need for disclosure of adequate information in

the published accounts. Revised formats have been introduced commencing from the year ending 31st March 1992. The formats consist of summary versions of balance sheet and profit & loss account, supported by schedules. The Committee has also indicated the coverage and contents of the various items in the balance sheet and profit & loss account and has prepared necessary guidelines for compiling the final accounts so prepared by different banks be on uniform, standardised basis. Banks have been advised that in order to bring the true financial position of banks to appointed focus and enable users of financial statements to study and have a meaningful comparison of their positions, the banks should disclose the accounting policies regarding key areas of operations at one place along with notes on accounts in their financial statements.

The Committee had recommended for a greater transparency and accordingly, provisions and contingencies will appear as a conglomerate item on the expenditure side. (F.No. 3/2/93/Vig./EC dated 7.9.1994)

Recommendation (Sl. No. 32, Para No. 3.77)

Keeping in view the benefits derived from having both the departments and Vigilance and Inspection & Audit under the head, the Committee suggest that the system may be introduced in all the public sector banks.

Reply of the Government

It is always desirable to place both Audit and Inspection department and the Vigilance Department under one head. This helps in better coordination and in obtaining source information for launching vigilance proceedings. Presently barring exceptional cases where it is not possible for the CVOs to shoulder dual responsibilities due to large volume and pressure of work such as in case of SBI, the CVOs are entrusted with the functions of inspection and audit Departments. (F.No. 3/2/93/Vig./EC dated 7.9.1994)

Recommendation (Sl. No. 38, Para No. 3.80)

RBI should consider the proposal of bringing the overseas branches of all Indian banks under an umbrella corporation.

Reply of the Government

The question of rationalising and restructuring the overseas operations of Indian public sector banks by setting up a new bank to take over the existing branches network of the public sector banks was considered by the Reserve Bank of India. The Narasimham Committee on the Financial Sector Reforms had *inter-alia* recommended that besides State Bank of India, whose overseas operations need to be strengthened, other Indian banks having a substantial number of branches in major international financial centres and centres having strong ethnic Indian presence could set up one or more subsidiaries abroad. Reserve Bank of India after examination have come to the conclusion that while rationalisation of the overseas branches of Indian banks is imperative, the solution does not lie

in the setting up of a new bank for bringing all the overseas branches under an umbrella corporation. RBI have taken a number of measures in the last few years to strengthen the systems and operations of the overseas branches in the areas of-

- (a) Personnel policy;
- (b) Prudential norms (viz. Single borrower and group borrower lending limits, guidelines for country exposure limits, prudential norms in regard to mismatches in currencies and open foreign exchange positions, etc.);
- (c) reinforcing internal and supervisory controls (viz. introduction of detailed returns to be used by banks as Management Information System, introduction of review notes to be submitted by banks to their Boards on problem credits and large borrower exposures, etc.);
- (d) promoting co-operation and consultations amongst our banks operating abroad;
- (e) introduction of the system of portfolio inspections of International Divisions in India of banks having overseas operations;
- (f) closure of non-viable branches;
- (g) periodical discussions by Reserve Bank with International Division of banks, etc.

(F. No. 3/2/93/Vig/EC dated 7.9.1994)

Recommendation (Sl. No. 41, Para No. 4.32)

It must be ensured that CBI is entrusted with powers to proceed against the offenders under prevention of Corruption Act expeditiously and there should be no legal requirement to obtain the consent of the State Government in this regard. If required, necessary amendments in the relevant Law may be effected.

Reply of the Government

The Central Bureau of Investigation is constituted under the Government of India, Ministry of Home Affairs Resolution dated the 1st April, 1963. The investigation work is done through S.P.E. Wing of the C.B.I. which derives its Police powers from the Delhi Special Police Establishment Act, 1946 to enquire and to investigate into certain specified offences or classes of offences pertaining to corruption and other kinds of malpractices involving public servants with a view to bringing them to book. Section 3 of the Act provides that Central Government may, by notification in the official gazette, specify the offences or class of offences which are to be investigated by the Special Police Establishment.

The Delhi Special Police Establishment Act, 1946 was amended in 1952 to enlarge its scope and to make it possible for the SPE to investigate

offences involving employees of statutory corporations and other similar bodies in the proper administration of which Central Government was concerned, particularly from the financial point of view.

The Special Police Establishment enjoys with the respective State Police force concurrent powers of investigation and prosecution under the Criminal Procedure Code. However, to avoid duplication of effort, an administrative arrangement has been arrived at with the State Governments according to which:

- (a) cases which substantially and essentially concern Central Government employees or the affairs of the Central Government, even though involving certain State Government employees, are to be investigated by the S.P.E. The State Police is, however, kept informed of such cases and will render necessary assistance to the Special Police Establishment during investigation;
- (b) cases which substantially and essentially involve State Government employees or relate to the affairs of a State Government, even though involving certain Central Government employees are investigated by the State police. The SPE is informed of such cases and it extends assistance to the State Police during investigation, if necessary. When the investigation made by the State Police authorities in such cases involves a Central Government employees, request for sanction for prosecution of the competent authority of the Central Government will be routed through the Special Police Establishment.

The question where amendments in the Laws are required was examined in consultation with Department of Personnel and Training. Deptt. of Personnel have pointed out that public order and police under the existing scheme of division of powers between the Centre and States under the Constitution of India are State subject (entries No. 1 and 2 of the List-II of the 7th Schedule of the Constitution of India). Under the present scheme of things, therefore, the investigation of cases by CBI or by any other National Agency can proceed only with the specific consent of the State Government concerned. In view of this legal/constitutional position the requirement of obtaining consent of the State Government will need to continue.

(F. No. 3/2/93/Vig/EC dated 7.9.1994)

Recommendation (Sl. No. 43, Para No. 4.34)

Necessary sanction/permission may be accorded to CBI within a period of one month for initiation prosecution/trial in the courts of Law.

Reply of the Government

Instructions have been issued to banks to ensure that there is no delay in issue of sanction for prosecution and in case of any differences of opinion with CBI the advise of CVC should be obtained for resolving the

difference. However, under the Prevention of Corruption Act the Sanctioning Authority has been vested with absolute discretion in granting or withholding sanction and if the facts placed before it are not sufficient to enable it to exercise its discretion properly it may ask for more details resulting in delay in issue of sanction for prosecution.

(F. No. 3/2/93/Vig/EC dated 7.9.1994)

Recommendation (Sl. No. 47, Para No. 4 38)

The Police investigations are unduly delayed and help the alleged offenders to get scot free. There should be a mechanism found out to gear up the Police investigation with time bound urgency.

Reply of the Government

Some of the prominent factors responsible for delay in investigations in bank fraud cases have been attributed to delay in linking defrauded money with the transactions and assets raised by the culprits. Time taken for investigations/verification of documents in foreign countries, non-availability of original documents particularly relating to foreign branches, delay in obtaining expert opinion on questioned documents due to non-availability of experts, shortage of investigating officers those trained in investigation in bank fraud cases in State CID as well as CBI, examination of voluminous documents/large number of transactions. CBI have taken several measures to cut down delays in investigation cases, some of which are as under:-

- (i) A new Cell, called Bank Securities Cell has been setup to investigate frauds in the transactions of Government securities. This Cell will in future be utilised to investigate cases of other Bank frauds of serious nature.
- (ii) The CBI takes the assistance of financial experts viz. senior bank officers, Chartered Accountants and officers dealing with accounting of Government Revenue for examination of complicated fraud cases.
- (iii) Instructions have been issued to furnish documents required by the investigating agency expeditiously.

It is expected that these measures would impart a sense of urgency to the investigations by the CBI/Police.

(F. No. 3/2/93/Vig/EC dated 7.9.1994)

CHAPTER IV

RECOMMENDATIONS IN RESPECT OF WHICH GOVERNMENT'S REPLIES HAVE NOT BEEN ACCEPTED BY THE COMMITTEE

Recommendation (Sl. No. 1, Para No. 1.31)

As the problem of frauds and forgeries in nationalised banks have assumed serious proportions and the Ministry of Finance/RBI should issue necessary comprehensive guidelines and ensure their effective implementation for prevention of frauds.

Reply of the Government

Reserve Bank of India & Government have always considered the growing incidence of frauds in banks as a cause of concern.

It has been the endeavour of the Govt./RBI to prevent recurrence of frauds and forgeries in banks. Circulars/guidelines have been issued from time to time. In the context of growing incidence of frauds and malpractices, RBI at the instance of Government of India had, set up a high level Committee under the Chairmanship of Shri A. Ghosh, the then Deputy Governor, in 1991 to enquire into various aspects relating to frauds and malpractices (hereinafter referred to as Committee on frauds and malpractices). The Committee has highlighted certain critical areas in the operational fields of the banks which are prone to frauds and has also recommended certain precautions to be taken by the banks to avoid perpetration of frauds. The banks have been advised in August, 1992 to implement most of these recommendations and report progress in implementation of the same to the RBI. The progress is being closely monitored by RBI.

(F. No. 3/2/93/Vig/EC dated 7.9.1994)

Recommendation Sl. No. 7, Para No. 2.72 (ix)]

Payments against uncleared cheques should not be made as a matter of policy.

Reply of the Government

The banks generally do not make payments against uncleared cheques as a matter of policy. However at times the banks allow such payments to their prime customers. Reserve Bank of India had prescribed a number of safeguards to be followed by the banks. These are as under:—

(a) The limits against clearing cheques should be sanctioned only in respect of prime customers. Even in such cases it should be allowed on a

temporary basis. The extent and the need for such limits should be subjected to a thorough scrutiny/apraisal, before allowing on a regular basis and subjected to periodical review.

(b) Drawings should normally be confined to bank drafts, Govt. cheques and to a limited extent third party cheques in which case after ascertaining their market standing and genuineness of the transaction. Drawings against cheques of allied/sister concerns or other cheques of accommodation nature should not be permitted.

(c) The Branch Managers should use their discretionary powers in this regard very sparingly that too in respect of respectable customers after recording it in a separate register such as overdraft passing register. Such uncleared effects within the discretionary powers/beyond discretionary powers even if squared on the same day should be reported to the controlling office for information/confirmation. The internal inspectors should specifically look into this aspect and furnish specific comments. Any failure on their part should be viewed seriously and suitable action taken against them.

(d) In respect of cases where the limit against uncleared effects is not sanctioned to constituents the banks may afford credit to the constituents accounts for the cheques deposited by them on the same day Reserve Bank credits the banks' accounts in settlement of the clearing. However, the banks should ensure that withdrawals against such clearing instruments should be allowed only after the fate thereof is known i.e., consistent with the time prescribed by Clearing House for return of the unpaid instruments.

(e) Certain banks have a practice of issuing Banker's cheques against instruments deposited in clearing. Banks should stop this practice if still in vogue.

(f) To prevent misuse of cheque purchase facilities banks should introduce a system under which two officials should be authorised for purchase of cheques beyond certain limits.

(g) Any large returns should be carefully watched and reported. The limits if any sanctioned to such constituents should be cancelled forthwith.

These guidelines have again been reiterated by RBI in 1992.

(F. No. 3/2/93/Vig./EC dated 7.9.1994)

Recommendation [Sl. No. 21, Para No. 2.142(i)]

Since CMDs and Executives are the main functionaries of a Bank, any irregularity committed by them or any complaint received against them should be taken up immediately. If there is *prima facie* substance in the complaints, the concerned person should be asked to proceed on leave for fair and speedy investigation.

Reply of the Government

Complaints received from whatever source against CMDs and Executives of banks are invariably given due weightage by RBI and Government and such complaints are investigated through Reserve Bank of India wherever necessary. In cases where it is considered necessary in the public interest or in the interest of the banking company or its depositors so to do RBI appoint under provisions of Section 30 (1-B) of the Banking Regulation Act, 1949, special auditors to investigate such accounts. There is no provision of suspending CMDs/EDs. However, when *prima facie* case of serious irregularities is established against them the Government which is the appointing authority terminates his services prematurely. Cases involving irregularities of criminal nature are entrusted to RBI for investigation/prosecution.

(F. No. 3/2/93/Vig./EC dated 7.9.1994)

Recommendation [Sl. No. 21, Para No. 2.14(iv)]

When charges are substantiated, he should not be allowed to resign but action should be pursued vigorously and exemplary punishment given.

Reply of the Government

The complaints received against CMDs and top executives are investigated by Reserve Bank of India whenever considered necessary. The scrutiny notes/reports on misconduct/complaints/irregularities are examined thoroughly and the views of Reserve Bank of India are conveyed to Government for such action as is considered by the Government. In some cases, the terms of some of the top executives have been terminated before completion of their tenure by the Government.

Further, serious complaints of complex nature are investigated by Police/C.B.I. and the advice of the CVC is also obtained. Once the charges of serious irregularities is established against the Chairman/ED concerned, his tenure is terminated and if necessary prosecuted.

(F.No. 3/2/93/Vig/EC dated 7.9.1994)

Recommendation [Sl. No. 21, Para No. 2.142 (v)]

After the malafide has conclusively been proved apart from dismissal, criminal proceedings should invariably be initiated.

Reply of the Government

As per the present practice wherever there is case of malafide on the part of officer/employee a criminal complaint normally is lodged by the bank against such offenders. The decision in this regard is taken by the bank management.

(F.No. 3/2/93/Vig/EC dated 7.9.1994)

CHAPTER V

RECOMMENDATIONS IN RESPECT OF WHICH FINAL REPLIES OF GOVERNMENT ARE AWAITED

Recommendation (Sl. No. 6, Para No. 1.36)

Suitable measures be taken to complete investigations of all cases of fraud urgently. Report of investigation into cases involving Rs. 100 lakhs and above referred to in Annexure-II of the Report be furnished to the Committee within a period of six months.

Reply of the Government

In recommendation No. 1.36, the Estimates Committee have called for investigation reports in respect of 49 cases of major frauds in public sector banks as listed in Annexure-II of the Committee's report. The copies of the reports of investigation of the cases referred to in Annexure-II available with the banks have been obtained from the banks. It is observed that investigation by the CBI is still continuing in some of the cases. In a few cases, the investigations were conducted by the bank's internal vigilance machinery and in some cases investigations were conducted by the local police. There are also cases where frauds have occurred in overseas branches of public sector banks where investigations were conducted abroad by the investigation agency of the country concerned.

The investigation reports of CBI and others are confidential in nature. . . . The matter has been considered in the Banking Division. It is felt that since the investigation reports are confidential documents containing logical inferences drawn from evidence on record collected by the investigating agency and forms the basis of the decision to send the accused persons on trial, disclosure of the contents of the report would not only adversely affect the trial of the criminal case but also civil suits filed by the banks for recovery of dues pertaining to the case in question. (F.No. 3/2/93/Vig/EC dated 29.12.1994)

Recommendation [Sl. No. 7, Para No. 2.72(i)]

Since fraudulent withdrawal through opening of fictitious accounts is prevalent, the Committee recommend that "Introduction" for opening of the account in person should be made mandatory/compulsory. Independent confirmation of addresses of account holders in all cases and not only in doubtful cases should be done.

Reply of the Government

RBI has been emphasising the need for obtaining proper introduction while opening new deposit accounts. Detailed guidelines in this regard were issued in February, 1981. The instructions/guidelines regarding opening and conduct of deposit accounts were again brought to the notice of the banks by RBI on 18th November, 1993. RBI has also advised all the banks (except RRBs) to introduce, with effect from 1st January, 1994, the practice of obtaining photograph/s of depositor/s, account holder/s who are authorised to operate such new operative accounts in addition to obtaining 'Introduction' from the existing account holders.

RBI has been advised by the Govt. to consider issuing instructions to banks for implementing the recommendations of the Estimates Committee that independent confirmation of addresses of account holders in all cases should be done. (F.No. 3/2/93/Vig/EC dated 7.9.1994)

Recommendation (Sl. No. 17, Para No. 2.94)

Any tampering with stocks hypothecated to the banks should be made a cognizable offence.

Reply of the Government

The issue of making suitable amendments to the IPC in this regard has been taken up with the Ministry of Home Affairs who have advised that this proposal has been examined in consultation with Department of Legal Affairs. Ministry of Home Affairs is considering certain other important proposals for amendments to the I.P.C. Since it may not be possible to delink only the amendment to the I.P.C. for the purpose of making diversion of stocks hypothecated to banks as cognizable offence, the Ministry of Home Affairs have assured to expedite the process of comprehensive amendments to the I.P.C. including the one relating to fraudulent disposal of goods hypothecated to banks. (F.No. 3/2/93/Vig./EC dated 7.9.1994)

Recommendation (Sl. No. 44, Para No. 4.35)

As there are unusual delays in the Courts of Law in deciding the cases of bank frauds due to heavy burdens/pendency which in many Courts remain pending for more than 10 years, Special Courts/Tribunals should be set up to investigate economic offences. Any delay in awarding punishment to the guilty persons will dilute the intensity of crime and the very purpose for which action is initiated would be lost. Moreover the delay causes disappearance of the securities charged on the banks or there is considerable devaluation of such securities.

Reply of the Government

The issue of setting up special courts and to bring about legislative measures for immediate confiscation/freezing of assets, execution of decrees against delinquent borrowers/staff members is under examination by RBI and Government of India. (F.No. 3/2/93/Vig./EC dated 7.9.1994)

Recommendation (Sl. No. 46, Para No. 4.37)

The Tribunal may be empowered to confiscate/freeze immediately the assets of economic offenders including bank employees involved in frauds/misappropriation/embezzlement. For this purpose, necessary amendment in the relevant Act/Law may be made.

Reply of the Government

This recommendation was also considered by the Committee on frauds and malpractices in banks. It has been mentioned therein that after detection of frauds, the legal process even for criminal suits consumes lot of time before punishment is awarded to the miscreants. The very purpose of quickly bringing the culprits to book which will have demonstration effect on society is thus lost. The Committee had, therefore, emphasised need for special courts at all major centres for hearing bank cases. The legal process should also be made more simplified for immediate confiscation/freezing of assets, execution of decree against the delinquent borrowers/staff members. This recommendation of the Committee is under consideration of RBI and Government. (F.No. 3/2/93/Vig./EC dated 7.9.1994)

NEW DELHI;
21, April, 1995

DR. KRUPASINDHU BHOI,
Chairman,
Estimates Committee.

Vaisakha, 1917 (Saka)

APPENDIX I

Confidential

MINUTES OF SITTING OF THE ESTIMATES COMMITTEE (1994-95)

16th SITTING

The Committee sat on Wednesday, the 19th April, 1995 from 1100 hours to 1200 hours.

PRESENT

Shri Bhupinder Singh Hooda—*In the Chair*

MEMBERS

2. Shri B. Akber Pasha
3. Dr. Parshuram Gangwar
4. Shri Imchalemba
5. Shri Barelal Jatav
6. Shri Suraj Mandal
7. Shri Kabindra Purkayastha
8. Shri K.P. Reddaiah Yadav
9. Shri Rajnath Sonker Shastri
10. Shri K.D. Sultanpuri
11. Shri Lacta Umbrey

SECRETARIAT

1. Shri K.L. Narang — *Deputy Secretary*
2. Shri Raj Shekhar Sharma — *Under Secretary*
3. Shri S.B. Arora — *Committee Officer*

2. The Committee in the absence of the Chairman chose Shri Bhupinder Singh Hooda, to act as Chairman for that sitting under Rule 258(3) of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. The Committee considered the draft Report on action taken by the Government on the recommendations contained in the 34th Report of the Estimates Committee (10th Lok Sabha) on the Ministry of Finance (Department of Economic Affairs)—Prevention of Frauds in Nationalised Banks and adopted it.

4. xx xx xx xx

5. The Committee authorised the Chairman to finalise the above draft Report in the light of factual verification received from the

respective Ministries and also to make verbal and other consequential changes therein and present the same to Lok Sabha.

The Committee then adjourned.

APPENDIX II

(Vide introduction of the Report)

Analysis of Action Taken by Government on the 34th Report of Estimates Committee (Tenth Lok Sabha)

I. Total number of Recommendations	94
II. Recommendations which have been accepted by Government. (Sl. Nos. 2 to 5, 7(ii to iv, vi & vii), 8, 9, 10(i to v), 11(i to iv), 12, 13, 14 (i to v, vii to x) 15, 16, 19 (i & ii), 20(ii, v to vii), 21(ii, vi & vii), 22, 23, 27, 28(v, vi & viii), 29, 33 to 37, 39, 40, 42, 45, & 48)	
Total	59
Percentage	62.76%
III. Recommendations which the Committee do not desire to pursue in view of Government's replies. (Sl. Nos. 7(v & viii), 14(vi), 18, 19(iii), 20(i, iii & iv), 21(iii & viii), 24 to 26, 28(i to iv & vii), 30 31, 32, 38, 41, 43 & 47)	
Total	25
Percentage	26.60%
IV. Recommendations in respect of which Government's replies have not been accepted by the Committee. [Sl. Nos. 1, 7(ix), 21(i, iv & v)]	
Total	5
Percentage	5.32%
V. Recommendations in respect of which final replies of Government are still awaited. (Sl. Nos. 6, 7 (i), 17, 44 and 46)	
Total	5
Percentage	5.32%