



# INBA VIEWPOINT

India's No. 1 Portal for Legal News  
November 2019 VOLUME - 6

## White Collar Crime Survey

By Indian National Bar Association



Indian National Bar Association, 8/11, Jangpura extension, New Delhi-110014

**Web:** <https://www.indianbarassociation.org> **Email:** [contact@indianbarassociation.org](mailto:contact@indianbarassociation.org) **Contact:** 011- 49036141

## **DISCLAIMER**

Indian National Bar Association (INBA) has exercised due care and diligence in preparing this report. However, the publication has been prepared for general guidance on matters of interest only and does not constitute professional advice. You should not act upon the information contained in this report without obtaining specific professional advice. No representation or warranty (express or implied) is given as to the accuracy or completeness of the information contained in this report, and, to the extent permitted by law of the land. INBA does not accept or assume any liability, responsibility or duty of care for any consequences either on your behalf or anyone else acting, or refraining to act, in reliance on the information contained in this publication or for any decision based on it. Readers are encouraged to inform all concerned about any inaccuracies or to provide additional information for future editions.

### **White-Collar Crime Survey**

**Edition**

**First, 2019**

**All Rights Reserved**

## FORWARD



**Mr. Kaviraj Singh**  
Secretary General  
Indian National Bar Association

With the modernization of crimes as we know it, there has been a worrying trend which threatens to globally cripple the economy - alarming increase in white collar crimes and economic offences. Admittedly, white collar crimes are highly rampant in the third world countries and therefore by no mean a new phenomenon. White collar crimes find their footing in history upon intersection of business and the law, and its interaction with innovation, moral discourse and public perception, as well as the changing nature of state policies over the centuries. Thus, it won't be out of the way to say that it took a long time for law to recognise this kind of malice act under the umbrella of crime, because people who committed white collar crimes were not perceived as "typical criminals" who engaged in theft, manslaughter, or murder. Rather, there was the impression that white collar crimes were in fact victimless and not as damaging to society as offences like robbery.

In some countries, white collar criminals can still expect much lower sentences than other type of criminals. Thus, on one hand where it can cause serious damage to companies, it was not considered under the ambit of "Traditional or Conventional Crimes". The recent initiatives undertaken by our policymakers which range from amendments to be introduced to the Companies Act 2013, an altogether fresh take on insolvency enforced through insolvency and Bankruptcy code, proposed amendments to Indian Penal Code to introduction to Fugitive Economic Offenders Act, 2018 are some of the commendable steps which can aid in mitigating such crimes which threaten to cripple our economy.

The following initiative was taken up by Indian National Bar Association (INBA) to present a premier handbook on white collar crimes to serve the legal community. I sincerely thank the editorial team headed by Ms. Babita Sharma, Editor-in-Chief and Ms. Bhawana Gandhi, Advisor, student section, INBA. I also thank research team headed by Ms. Palak Arora , chairperson , student section, INBA and researchers Ms. Arushi sethi , Ms. Avni Agarwal & Mr. Akshaye Ahuja.

The survey is added extension to serve as a detailed guide for understanding various contours of white collar crimes. This includes the motives of people committing white collar crimes and as to the essentials of the same. It cannot be ignored that with the advent of technology and growth of education, white collar crimes are on the rise, and therefore it's high time that such effective and pro active measures are developed to tackle the same.

## KEY MESSAGE



### Advocate Vinakshi Kadan Singh

Senior Advisor  
INBA

White-collar crimes are big global concerns and is increasing at an alarming rate. The white-collar crimes which are common to the Indian Trade and Business World are hoardings, profiteering and black marketing. Violation of foreign exchange regulations and import and export laws are frequently resorted for the sake of huge profits. Through the survey, INBA aims to address the menace of white-collar crimes and discuss its impact: economic, social, and psychological. White-collar crimes are not just crimes against the society but also infringe the directive principles of state policies and basic human rights. Every individual has the right to livelihood and concentration of wealth in the hands of a few is violative of fundamental statehood principles.

***"WHITE-COLLAR CRIMES ARE NOT NEW INDIA JUST THAT THEY ARE DIFFERENT AND DIFFICULT TO BE SEIZED. IT REQUIRES MORE VIGILANCE."***





---

**Everything You Need to Know About White-Collar Crimes: A Survey**

---



---

*“The practitioners of evil, the hoarders, the profiteers, the blackmarketeers and speculators are the worst enemies of our society. They have to be dealt with sternly, however well placed important and influential they may be; if we acquiesce in wrongdoing, people will lose faith in us”*

- Dr Radhakrishnan

---

By- INDIAN NATIONAL BAR ASSOCIATION

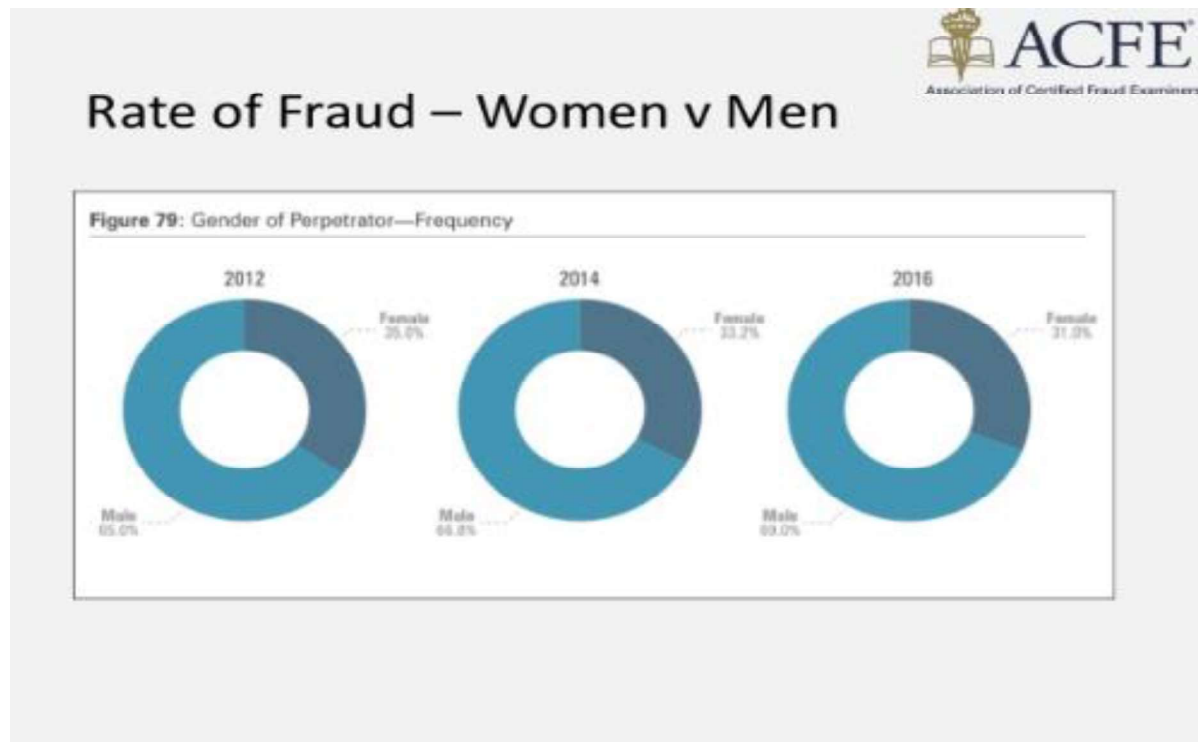
# Contents

<b>Chapter 1: Introduction to White-Collar Crimes .....</b>	<b>2</b>
<b>Chapter 2: Emergence of White-Collar Crimes in India .....</b>	<b>5</b>
<b>Chapter 3: Reasons for the Growth of White-Collar Crimes.....</b>	<b>8</b>
<b>Chapter 4- Types of White-Collar Crimes .....</b>	<b>10</b>
<b>Chapter 5- Effects of White-Collar Crimes.....</b>	<b>16</b>
<b>Chapter 6- Are White-Collar Crimes Accidental or Pre-meditated?.....</b>	<b>17</b>
<b>Chapter 7- Analysis of the Survey .....</b>	<b>18</b>
<b>Chapter 8- Measures to Curb White-Collar Crimes .....</b>	<b>33</b>
<b>Chapter 9: Legislation against White-Collar Crimes in India.....</b>	<b>38</b>

# Chapter 1: Introduction to White-Collar Crimes

White collar crimes are those which are linked with people of high stature and are distinct from traditional crimes in the sense that there is a principle element of breach of trust by carrying out unethical business practices cultivated by motivation to gain financially. It is the offenders' position that accords upon them the opportunity to perpetrate such crimes.

The law of crimes has always been deemed to be the most interesting branch of jurisprudence. Everyone loves to talk about it- be it legal professionals or citizens. However, our attitude toward white-collar crime is a slightly skewed. While on one hand it undoubtedly does fascinate us: Why do well-paid professionals commit it—on their own, with colleagues, or as part of an organization-wide collaboration? However, on the other hand, it is not everyone's cup of tea: Complicated financial schemes are genuinely difficult to understand, and the perpetrators and victims are often unclear. Who suffers when a company shifts numbers around on a spreadsheet? Who is to be blamed when it has thousands of employees and layers of bureaucracy? The fact of the matter is in the time we stand today wherein 3,766 incidents of frauds were detected in FY19, a 15 percent spike from a year ago, while the losses incurred saw an 80 percent rise from the last year , it is imperative to gain a deep knowledge into the world of white collar crimes.



The term 'white collar crime' was initially coined by Criminologist and Sociologist Edwin H. Sutherland was not in any particular vacuum but was based on 'criminaloid concept' which was initially put in use by E.A. Ross (1907) in Sin and Society. Ross employed this concept by shifting focus on businessmen who divulged in such harmful acts under the veil of respectability. Ross was of the view that the 'criminaloids' are perhaps the most potent danger to the society resulting in huge loss while claiming to be virtuous.

Sutherland preferred to define white-collar crime as "crime committed by a person of respectability and high social status in the course of his occupation.", while Marshall Clinard defined white-collar crime as "a violation of the law committed primarily by groups such as businessmen, professional men, and politicians in connection with their occupations". Paul Tappan defined it as "White collar crime is a special type of solitary professional criminality. It involves real violation of criminal law systematically or repeated by business, professional and clerical workers in addition to their occupation". Moreover, Sir Walter Reckless said "White collar crime represents the offences of businessmen who are in position to determine the policies and activities of business". Frank Hartung defines white-collar crime as a "violation of law regarding business which is committed for a firm by a firm or its agents in the conduct of its business".

The question remains why do these seemingly rich professionals betray the trust they are endowed with which culminates in their journey from the C-suite to a prison cell. Over the years, people have offered all sorts of explanations: deviant nature, the "bad apple" theory, physical characteristics, poor self-control, lack of empathy, brain chemistry, psychopathy, peer pressure.

Eugene Soltes, a professor at Harvard Business School, conducted extensive interviews with white-collar criminals. The central finding behind his research, is that white-collar criminals rarely pause to think about the outcomes or potential victims of their misdemeanors. Consider these revealing quotations from his interviews: "I never once thought about the costs versus the rewards" (insider trading); "I know this is going to sound bizarre, but when I was signing the documents, I didn't think of that as lying" (fraud); and "I never thought about the consequences...because I didn't think I was doing anything blatantly wrong" (insider trading). To address this blatant lack of self-reflection, Soltes delves into the psychology of decision making within organizations. In example after example, Soltes beautifully chalks out that white-collar crimes tend to result when the "routine un-remarkableness" of everyday actions lets them slip through the perpetrators' moral filters.



The loss to society from white collar crimes is much greater than the predatory ones because such huge financial scams threaten to cripple the economic stability by eroding the trust of people. After the Harshad Mehta scam, citizens were left in turmoil and were wary to invest in stock market of India. Such is the situation now that PMC Bank has unfurled- depositors are questioning the very fundamental of banking-savings, after all what is the use of saving if at the end some rich businessman will plot with few bank officials and erode it all away. It is time Government realizes if it continues to function the way it is, it might not have anything to govern because after all how many more scams would we quietly digest? It might be high-time to stop testing the patience of a nation, if united, can create huge ripples.

## Chapter 2: Emergence of White-Collar Crimes in India

The earliest known case of white-collar crime dates back to the 15th century in England. There has been a case widely known as the Carrier's case of 1473, wherein the agent who had been entrusted to transport wool attempted to steal some of it for himself. It was during such celebrated case that the Star Chamber and Exchequer Chamber of the English Court of Law adopted the 'breaking bulk' doctrine. However, with the astonishingly rapid growth of industrial capitalism, the jurisprudence of crime came to be based on coercion and robbery. It was the Dutch Marxist, William Bonger who first put forth the contention that criminal the attitude amongst the working class under capitalism develops due to the prevailing conditions of misery while the criminal attitude develops among the bourgeoisie from the avarice fostered when capitalism strives. Such contention saw success in United States of America in 1890, when Congress passed the Sherman Antitrust Act which took the initiative to make the monopolistic trade illegal- a move which came to be replicated by other industrialized countries like Great Britain.

While we try to comprehend how white-collar crimes emerged in India, we need to give due consideration our history. It is an undeniable truth that commission of crime has increased exponentially ever since human beings began to live together. A few kinds of crime are now deemed to be old while with the changing dynamic of our everyday lives, many new forms of crime continue to take shape in the deviant minds of the society. The concept of white-collar crime is definitely not a new phenomenon. There have numerous references to such crimes since the Vedic period in India's ancient and medieval literature. Manu who is often accorded the title of being India's great law-giver, held the view it was age when 'dharma' prevailed in perfection but later 'adharma' progressed gradually which naturally gave way to tendencies such as robbery, wrongdoing and fraud.

Corruption might just be one of the species of white-collar crimes but it has always been the most talked about in all spheres- social, economic and political even though not much stringent steps/actions have been taken to curb this wide spread menace. The Indian Penal Code, 1860 is perhaps the earliest and most comprehensive codified criminal law of India. It specifically does not mention the word 'white-collar crimes' but deals with many offences which are closely linked to white collar crimes such as bribery and corruption, counterfeiting of coins and government stamps, of offences relating to weights and measures, offences relating to adulteration of food stuffs and drugs, misappropriation of public property and criminal breach of trust, cheating , forgery and offences relating to documents and counterfeiting of currency.

The reason for such rapid growth in white collar crime in recent decades is often attributed to the fast-developing economy and industrial growth. The *Santhanam Committee Report* drew a lucid picture of white-collar crimes committed by people belonging to higher social status. It includes businessmen, industrialists, contractors, suppliers and not surprisingly corrupt public officials. The Reports of the *Vivin Bose Commission of Inquiry* which looked into the affairs of Dalmia Jain group of companies (1963) sought to draw attention to how industrialists often indulge themselves in white collar crimes such as forgery, fraud, falsification of accounts, tampering with records for personal gains and tax evasion etc. Similar observations were made by Hon'ble Justice M.C Chagla while dealing with the case of business tycoon Mundhra who wanted to build up an industrial empire using dubious means. There were as many as 124 prosecutions against the business magnate and companies owned or controlled by him between 1958 to 1960 and as many as 113 of them resulted into conviction. With the backdrop and scams like that of Satyam scam, fleeing Vijay Mallaya, 2G scams and many more, it was in 2018 that the Government of India passed Fugitive Economic Offenders Act, 2018

Moreover, recent developments in technology, especially in the closing years of the 20th century, have opened up new dimensions for deviants to further white-collar crimes. According to the changing dynamics of white-collar crime in India, the Central Bureau of Investigation (CBI) has found a total of 6,533 cases of corruption over the last 10 years, of which 517 cases have been recorded over the last two years. Statistics showed a trading value of 4,000 crores using fake or duplicate PAN cards. With 999 cases registered, Maharashtra saw a dramatic increase in the number of online cases. The study also said that approximately 3.2 million people have lost their card details, which were stolen from the Bank ATMs. In the light of such staggering numbers, it is safe to say India is well within the grip of White-Collar Crimes.

White-collar crime has a significant impact on corporate India. Now, more than ever before, fraudsters are driven by ambition and financial gain, exhibiting deviant or exploitative conduct. Some of the new trends are as follows:

- Innovative forms for kickbacks and favors
- The average age of fraudsters is dropping- which might be the biggest cause of worry since it is the very future of the country who is willingly joining the dark side of crime.
- Increasing incidents of informants reporting bribery or other misconduct

- Software expansion to avoid detection, for instance, utilising instant messaging or social media networks instead of emails

A new variety of white-collar crimes, commonly referred to as cyber-crimes, has exponentially increased. Such crimes have become a global issue for law enforcement agencies. Due to the specific nature of such crimes, they can be carried out without a physical presence - anonymously and sitting far from victims. Cyber criminals have a huge advantage: they can use computer technology to cause damage to people economically and reputation without the risk of being caught or apprehended. In India, cyber-crimes affect the sectors of banking and economy, energy and telecommunications, transportation, trade industry, etc. India's white-collar crime trend poses a threat to the country's economic development.

## **Chapter 3: Reasons for the Growth of White-Collar Crimes**

The general perception amongst the people about white-collar crimes is that they are only committed out of greed, competition and lack of economic instability. Although the above stated factors indeed form the major reasons behind the growth of these crimes in India, there are number of other reasons too:

### **1. Competition**

‘Survival of the fittest’ is the main panacea for competition followed in the market. It implies that in a battle to succeed, there will always be a competition between the people, and only the best who is able to adapt to the conditions shall survive. White-collar crimes usually eventuate out of the same intent. To win, they do not mind committing crimes like forgery, bribery and frauds. It is often seen that professionals are monetarily compensated and elevated in the organisation for short-term superlative profits. To maximize their performance in competition to others, some don’t even hesitate to proceed to circumvent the existing laws. People who are involved in such crimes are smaller in number, higher in hierarchy, and losses incurred are huge.

### **2. Technology**

With the advancement of technology, white-collar crimes have become a global phenomenon and increasing at a tremendous pace in India too. The proliferation of personal computers and smartphones have further aggravated this problem as the use of these not just results in the generation of many more ideas, but also gives open opportunities to the people residing in any corner of the world to commit these crimes

### **3. Rationalisation**

As the nature of these crimes is different from the traditional ones, people fail to define and understand them. This leads to offenders committing the crimes and later convincing themselves that the actions performed by them are not criminal in nature. Many stock traders engaged in insider trading view it as a victimless crime and does not see who is being cheated. Salespeople bribing their

clients feel they are doing their job by putting the deal together, while not harming anyone.

#### **4. Work environment**

Work environments can elicit both- good or bad behavior out of individuals. The environmental indicators like poorly designed job incentives or management nonchalance toward ethics can tempt individuals to behave very differently when faced with ethical choices. Consequently, certain individuals succumb to such temptations and compromise on their ethical values, leading to criminal acts. Rarely, is there a direct order to break the law.

#### **5. Access to Information**

The availability of important sensitive information of individuals such as bank details, investments, passwords, etc. on their smartphones and laptops can provoke the criminal minds to use the data for their own benefit. The target for such white-collar criminals can be rich people/organisations like banks, casinos and financial firms where a huge amount of money flow daily. Hackers can thus steal access codes, retina images, and other information that can easily fool biometric systems and manipulate it further for personal gains.

#### **6. Greed**

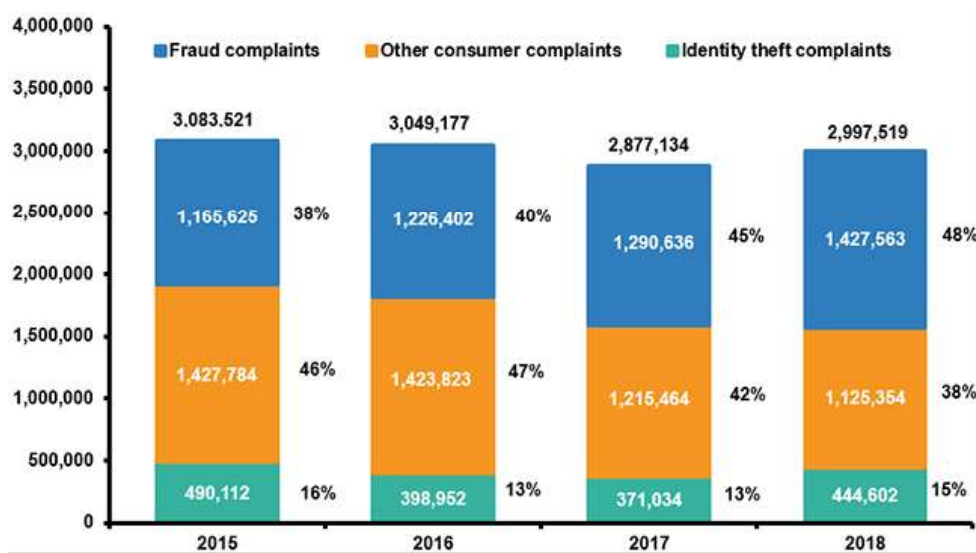
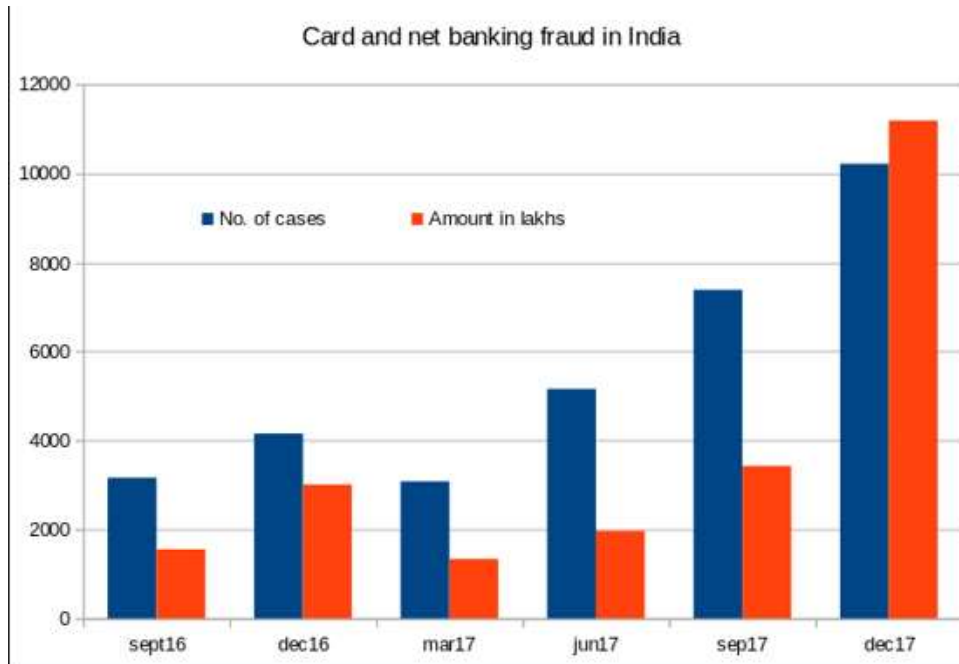
Human beings are greedy by nature, as rightly quoted by the father of modern political philosophy, Machiavelli. He also said that a man can sooner and easily forget the death of his father than the loss of his inheritance. The same holds true for the people who intend to commit any type of white-collar crime. Else, why will a man who is financially secure and belongs to high social status commit such crimes? It is this vice- greed which can make a person aim for the things that has no limit.

## Chapter 4- Types of White-Collar Crimes

White-collar crimes are indeed diverse in nature. Some of the white-collar crimes which have emerged are:

### **1. Bank Fraud**

Fraud is a crime that aims to mislead and gain inappropriate advantages. Bank frauds are financial scams. It is made through false representations by fraudulent companies. It also involves handling negotiable instruments such as check bouncing, securities, bank deposits etc. Bank fraud is concerned with the general public as banks and the Governments have a relationship of trust. It is the most prevalent type of white-collar crime as well as a corporate crime. This affects both the public and the country's Government. Despite having a strong regulator, the financial services sector has emerged as the most susceptible sector to fraud. The misuse of technology in the banking sector includes use of banking access for overpayments to vendors or self-bank account, sharing of potential confidential information and misuse of the company's technology resources for unauthorized activities, which includes conflicting business relationship. Moreover, providing services on mobile and social media platforms with limited knowledge of the security requirements, poses lot of threats to customers as well as the financial institutions. Given the weaknesses in Indian law enforcement system regarding the investigation and prosecution of fraudsters and ever-increasing social pressure to get rich quickly, fraud remains a constant danger to businesses. The confidence of international investors and domestic entrepreneurs has been low in the last two years, thanks to the various scams that have come to light during this period.



## 2. Bribery

Bribery is a very common type of white-collar crime. In bribery, we give the individual money or goods in exchange for a favour. Bribery is in simple words when a man gives money to the other person who has authority. It is done to insist on something or discourage something from being done.



### 3. Cyber-crime

Cybercrime is the crime of 'computer networks'. With the rapid increase in technology advancement, there is also a rapid increase in technology-related crime. It is directly or indirectly committed against the victim to damage his image physically or mentally using the internet and other technical sources. Cybercrime is deemed to be a threat to nations security and financial status of the person. The only law dealing with cyber-crime offences in India is the Information Technology Act, 2000.

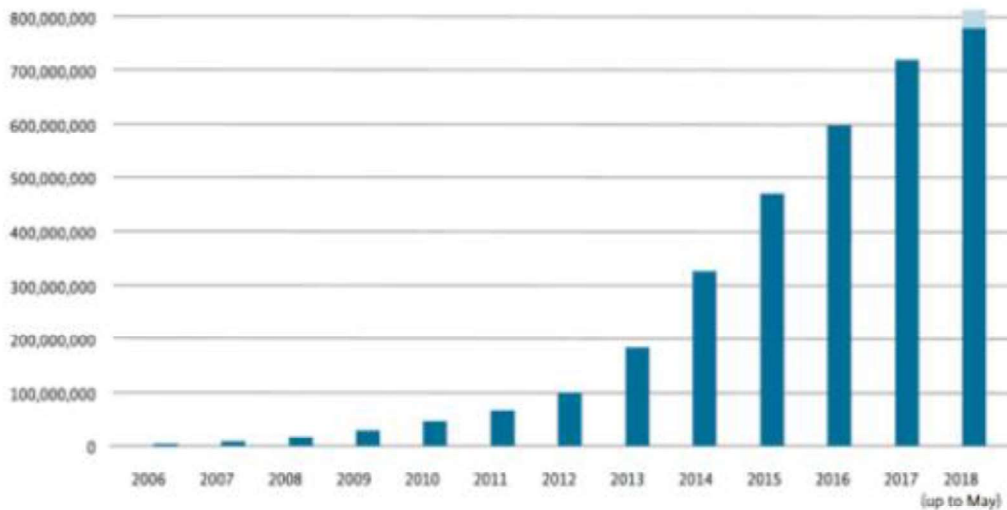


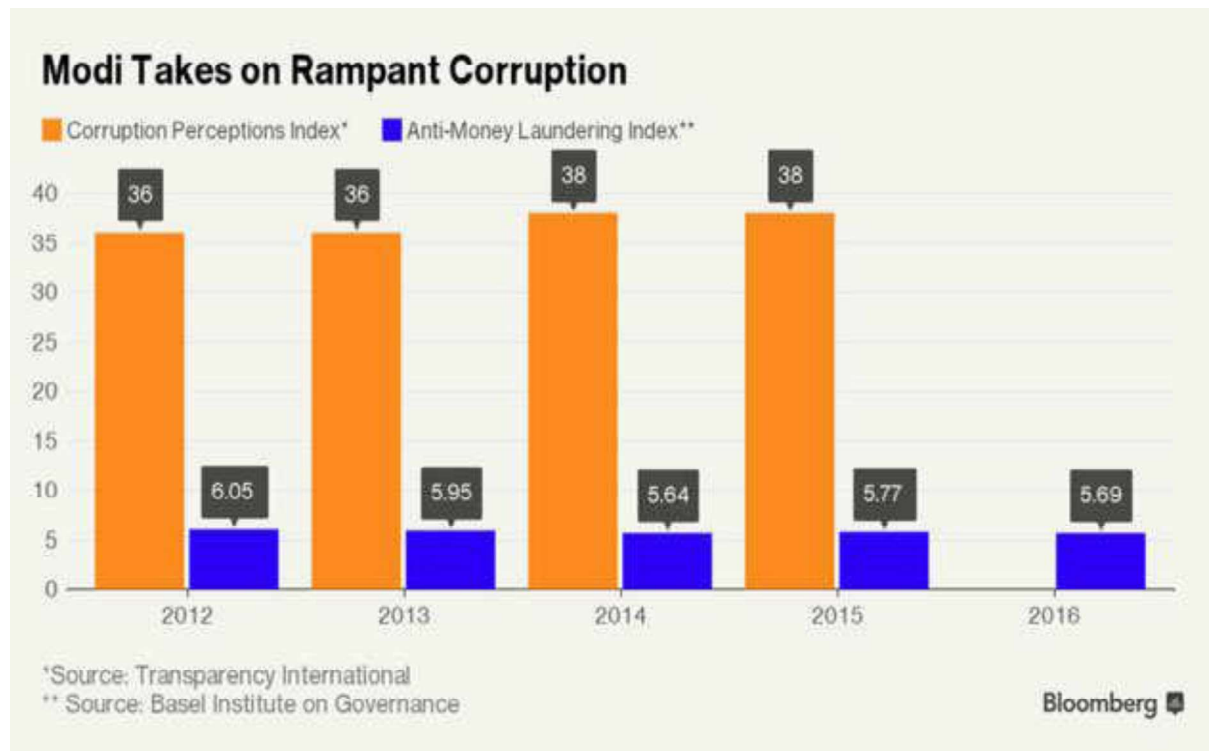
Figure 12 Known malware (2018 up to May), source AV-Test

### 4. Money Laundering

Money laundering is a crime wherein criminals try to mask the identity of the money. In such crime, criminals attempt to cover up the original ownership of the money and the source since it is usually obtained illegally. Money laundering means showing the illegal money as legal. Money laundering is specified in accordance with Section 3 of the 2002 Money Laundering Act.

They do their job in such a way that even the investigative agencies are not able to trace the real source of the money. This is how individuals who spend their black money in the capital market succeed in transforming black money into legal wealth.

Typically, the criminals place the black money using banking channels, and move from banking institutions to other banking institutions in order to layer the money and disguise its origin then pay to buy something in order to integrate black money into financial system.



## 5. Tax Evasion

Tax evasion, also known as tax fraud, is the purposeful failure to pay taxes due. The term covers all those who earn income, do not report it or conceal the earnings by falsifying a return or supporting documents. It is true, nobody wants to pay more tax than their fair share, hence, taxpayers often try to find ways to reduce their tax liabilities to the Government. This means intentionally failing to pay or underpay your fair share of taxes, and it may take multiple forms. Tax evasion is a common activity related to the informal economy. The tax evasion offense is punishable in accordance with Chapter XXII of the Income Tax Act, 1961, which may impose a heavy fine or even send you to prison.

## 6. Forgery

Oscar Wilde said, "Imitation is the most genuine type of flattery." but if an artist attempts to transmit the imitation as the real thing, it is called forgery. Forgery refers to the counterfeiting of checks or securities intended to defraud the other individual. It also involves a false document, signature, or other imitation of a value object used for the purpose of deceiving another. It is very popular in the company's accounting department, where the clerks and employees make false reports and run away with the company's money causing the company to lose.

## **7. Insider Trading**

Insider trading is characterized as a malpractice in which a company's individuals, who because of their jobs, have exposure to the otherwise non-public information that can be crucial to making investment decisions. Insider trading is an unfair practice in which other stakeholders are extremely disadvantaged due to the lack of valuable non-public insider information.

## **8. Counterfeiting**

Counterfeiting is a criminal act specified in section 28 of the Indian Penal Code, 1860, where something real is imitated to steal, damage or replace the original work of someone. It makes it easier to make profits from illegal transactions and to mislead a person who believes that the portrayal is real and that the imitated work is of greater value. Counterfeit products contain fake logos and brand names, and harmful chemicals have also been found in some products that lead to the death of the consumer.

## **9. Extortion**

Extortion is an offence wherein one party forces another party to pay for money, or property, or services, it is said to have committed extortion. It is a white-collar crime because an individual can take advantage of his official right and use his higher position in the company to force another person to give money or transfer assets for providing services.

## **10. Hawala Trading**

Hawala is a way to transfer money without moving the money. Hawala is an alternative transfer channel outside conventional banking systems. Transactions between hawala agents without promissory notes are made because the system is strongly based on confidence and the book balance of hawala agents. Hawala originated from South Asia in the 8th century and is nowadays commonly used as an alternative means of transferring funds, particularly in the Islamic community. In comparison to the traditional method of cross-border transactions via bank transfers, money transfers to HAWALA are performed via a network of hawala dealers or hawala dealers. Hawala promotes money flow between poor countries where it is too expensive or difficult to access formal banking.

## **11. Ponzi Scheme**

A Ponzi scheme is a fraudulent investment scam that promises high return rates for investors with little risk. Through acquiring new investors, the Ponzi scheme produces returns for early investors. This is like a pyramid scheme because both are focused on the use of funds from new investors to pay for the earlier supporters. Companies that engage in Ponzi Schemes are all about attracting new customers to make investments. The schemes are focused on a steady flow of new investments to ensure that older investors continue to benefit. The plan falls apart when the flow runs out.

## Chapter 5- Effects of White-Collar Crimes

### *Effect on the Company*

The negative effects that white-collar crimes have on a company are massive. Losses incurred by the company due to one deviant employee in connivance with or without an outsider can have a direct and exponential impact on the overall profitability of the company. Moreover, once the information spreads to the public domain, it can tarnish the reputation of the company in the long-term which is difficult to quantify, and eventually may even force it to close.

### *Effect on Customers*

Everyone prefers to purchase products from a company which has a friendly trading environment. Customers do not like getting into any trouble with the legal authority. Thus, when any business is in the midst of any such crime situations and investigations, it creates uncertainty in the mind of the customer. A section of customers may become hesitant in dealing with the company for the fear of getting into unnecessary trouble. Consequently, they start looking for alternative options available in the market.

### *Effect on Society*

White-collar crimes have high financial impact on the society as well. When a company shuts down or is under any kind of investigation due to a criminal act, there are job losses at all levels, drop in stock prices eroding the capital of its shareholders, and loss of confidence in the financial system. We have many examples spread across all major businesses which have resulted in the above.

## Chapter 6- Are White-Collar Crimes Accidental or Pre-meditated?

It is true that most of the white-collar crimes are pre-meditated i.e. there is proper planning involved before it is executed. It is well planned, the targets, marketing theme and even the strategies are well defined in advance. The geographical spread and finances for the criminal activity too are taken care of in order to facilitate proper implementation.

The famous Kotler's principle of 4 P is practiced and implemented in such cases- in order to deceive the customers, accumulate their target money and then proceed to exit quickly.

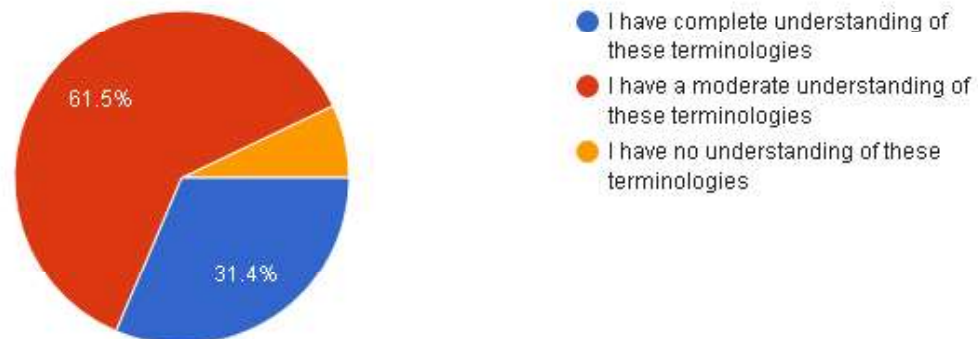
- **P1-Product-** Identification of which product to launch in the fraudulent scheme.
- **P2-Price-** Identification of the price for the product which needs to be sold to the target audience.
- **P3-Placement-** Identification of the deemed gullible target population for the product.
- **P4-Promotion-** Identification of the marketing strategy aimed to attract such gullible customers to invest/ purchase their products.

That being said, it cannot be ignored that some of the crimes do accidentally get classified as white-collar crimes since they tend to meet the technical definitions, but there is an element of genuity in the purpose of the business. Though efforts are made to succeed but somehow the results fail to achieve the profitability mark and end up making losses due to some wrong business decisions. Hence, they are not able to honor the commitment with the creditors and customers, which consequently leads to premature closure of businesses. However, such crimes are less frequent in both number and volume.

## Chapter 7- Analysis of the Survey

### 1. Do you understand the difference between white collar crimes, corporate crimes, occupational crimes and blue-collar crimes?

156 responses



All white collar crimes, corporate crimes, occupational crimes and blue collar crimes are committed for financial benefit. While white collar crimes and blue collar crimes are committed by persons in their individual capacity with the purpose of achieving personal or financial gain; corporate crimes are committed by persons either for or on behalf of the company they work for, with the purpose of financially benefiting the company or its shareholders.

White collar crimes and blue collar crimes are also distinct in nature. Both are divided by social class. While white collar crimes are usually considered to be committed by men of higher social class, blue collar crimes are considered to be committed by men of lower social class.

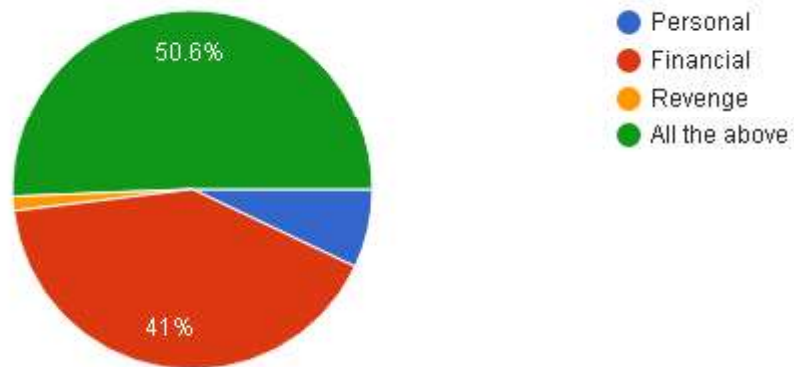
As far as occupational crimes are concerned, they are usually understood to be synonymous to white collar crimes, however, it can be perceived as an abuse of structural system in a workplace leading to a white collar crime.

Out of the data collected by the sample it is observed that majority of the people have a clear understanding of the basic differences between white collar crimes, occupational crimes, corporate crimes and blue collar crimes. This observation indicates that the audience is well aware with the existence of

such criminal activities in society and is warned against people who commit such crimes. The above given pie chart indicates the same.

## 2. What is the possible motivation for white collar crime?

156 responses



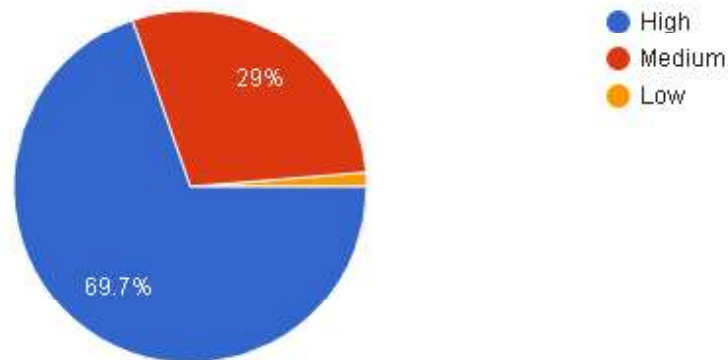
As per Investopedia, white collar crimes are non-violent crimes committed for the purpose of achieving financial gain. The definition does not include any aspect of revenge or personal gain rather financial gain is the only source of motivation for white collar crimes.

However, the data collected in the survey shows otherwise. Majority of the people believe that the term “white collar crime” includes revenge and personal gain. This indicates that people are not clear with the term “white collar crime” and believe that personal gain and revenge are the possible indicators of motivation. While 41% of the people show positive understanding of the concept, the majority of the people lack basic understanding of the said term.



## What is the social status of a person typically involved in white collar crimes?

155 responses

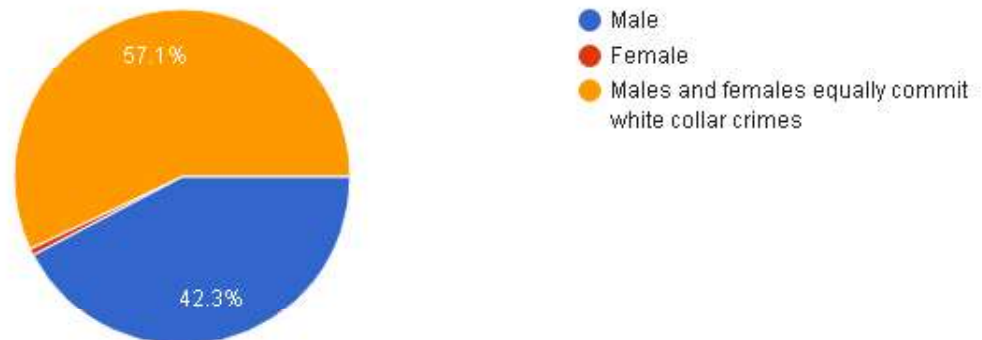


Edwin Sutherland (renowned sociologist) coined the term “white collar crime” for the first time in 1949. According to him white collar crimes refer to “crime committed by a person of respectability and high social status in the course of their occupation”. The following definition clearly states that the social status of a person typically involved in committing white collar crimes must be higher. In case the social status of a person committing a crime of a similar nature is considered low, it will be considered as a “blue collar crime”.

The responses received show that the majority of the people have clear knowledge as to what classes of persons commit a white collar crime. This pie chart above indicates a positive shift.

#### 4. Who commits a white-collar crime more?

156 responses

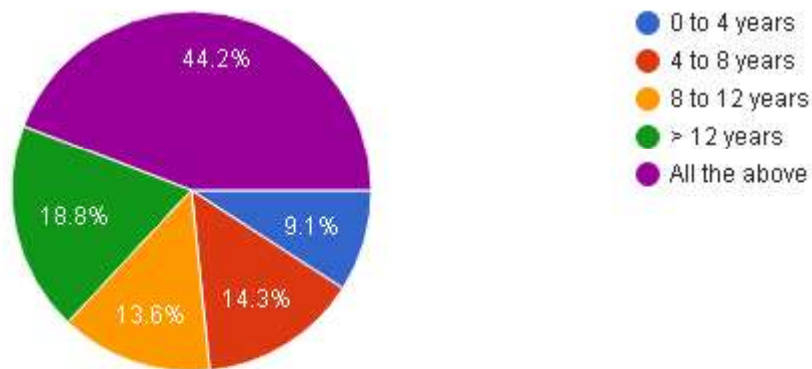


As far as Edwin Sutherland's definition of white collar crimes is goes, the white collar crime in question must be committed by a "person" irrespective whether the person is a male or a female. The question as to "Who commits a white collar crime more frequently, whether a male or a female or both in equal capacity?" cannot be decided on the basis of gender. Factors such as the ratio of female employees to male employees in organizational structures, their sense of risk aversion or willingness and personality traits must be taken into consideration before analyzing which gender commits white collar crimes more frequently.

As far as the observation in the survey is concerned, majority people are of the opinion that both men and women commit white collar crimes equally in society. This observation indicates that people believe that irrespective of the gender, it is the personality trait of a person or the risk willingness of a person that decides whether or not a person is prone to commit the act or not. While on the other hand a strong opinion of 42% people also think that males commit more white collar crimes more than females. This opinion however can be based on the imbalanced ratio of more male employees than female employees in organizational structures.

## 5. What is the experience level of the white-collar criminal?

154 responses

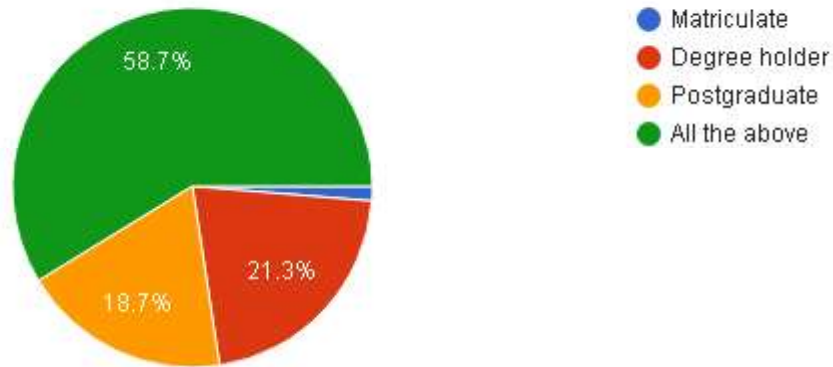


Years of experience put forth into practice cannot be judged as an indicator in defining whether a person is a white collar criminal or not. As long as the person committing a white collar criminal is a person of respectability and hosts a high social status; committing the non-violent offence during the course of his/her occupation, the said person will be considered as a white collar criminal. A person need not have years of experience to carry out such an offence as long as he has the willingness to risk it for personal financial gain.

The pie chart shows that majority of the people believe that irrespective of the experience level, any person who hosts a high social class and commits the offence during the course of his occupation for the purpose of personal financial gain can be considered as a white collar criminal. This shows that the majority of the audience is aware of what constitutes a white collar criminal.

## 6. What is the education level of the white-collar criminals?

155 responses

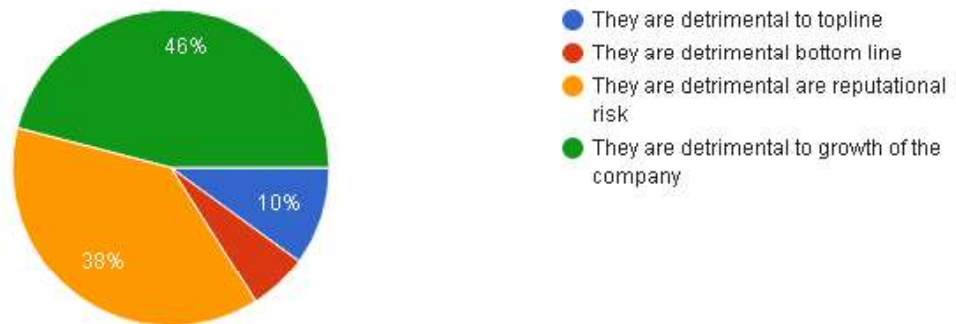


White collar crimes are most prevalent in health, education, legal profession, commerce and trade sectors. Most of the people employed in these trades are professionals requiring a bare minimum of a matriculate. In medical, educational and even the legal field, the same person might even be expected to host a minimum of an undergraduate degree before enrolling his or herself in their respective field. What education level must a person constitute to be a white collar criminal completely depends on the minimum education requirement in that respective field one is enrolling into. However one can clearly say that the basic requirement of a white collar criminal is at least a matriculate or a degree holder as long as he or she is enrolled as a professional in his or her respective field.

As per the findings in the survey majority of the people believe that white collar criminals can be any person irrespective of their education in society, provided that the person maintains high repute and commits the non violence offence during the course of his occupation.

## 7. What is the impact of white-collar criminals in an organization?

150 responses

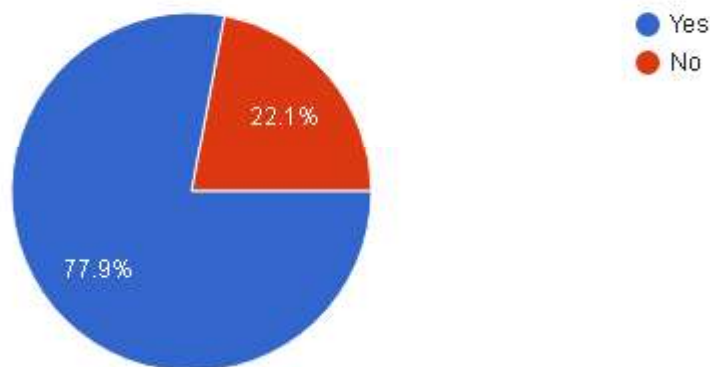


White collar crimes are committed due financial motives and personal gains and can create a huge amount of problems for any business. Crimes like Theft, embezzlement, extortion and other white collar crimes have direct impacts on overall profits. *The Association of Certified Fraud Examiners estimates that fraud alone reduces the average business' yearly profits by approximately five percent.* Therefore it is important to prevent such crimes from occurring as they are detrimental to growth of the company.

The survey provided above also suggests and supports that the impact of white collar crimes in an organization is highest in terms of the detrimental impact it has on a company's growth leading at 46% as compared to the other areas of its negative effects.

## 8. Is Ponzi scheme a white collar-crime?

145 responses



Ponzi schemes are white collar crimes committed for the purpose of maximizing personal financial gain. The originator of a ponzi scheme raises money from the market by promising investors huge dividends on their investments. He then raises more money from the market and pays himself and the former investors promising new investors greater dividends on their investments. By using the same technique over and over again the originator creates excitement in the market thereby motivating large number of investors to his scheme. Once the scheme becomes too big it collapses upon itself and the originator runs away with everybody's money.

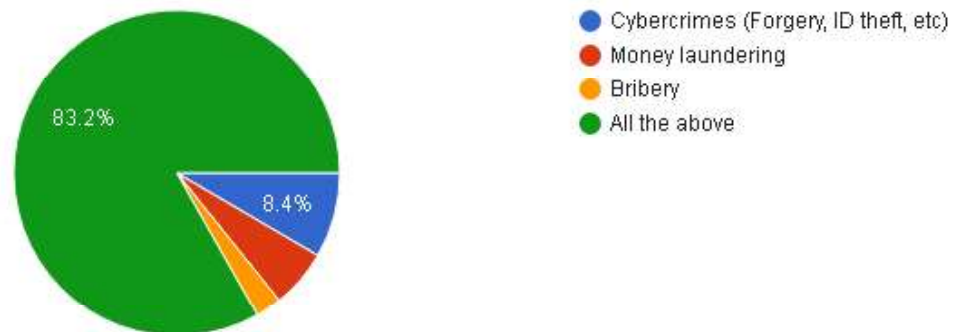
Basically Ponzi schemes are also white collar crimes. One, because they share the same common objective; personal financial gain, two, because the originator of the Ponzi scheme like the white collar criminal maintains a high social class in order to attract more and more investors to his investment fraud and three, the crimes committed are non-violent and committed during the course of his/her occupation.

Having being understood the concept of a Ponzi scheme and how it functions, it can be considered that a Ponzi scheme is nothing less than a type of an investment fraud committed by a white collar criminal with the objective of maximizing his personal financial gain. Furthermore the American law also considers Ponzi schemes as a white collar crime ever since the Jeffrey Skilling and Enron Scandal under the Sarbanes Oxley Act of 2002, which was passed by the United States Congress and signed in to law by President George.W. Bush.

As per the data collected in the survey a promising 77.9% people believe that Ponzi schemes are none other than white collar crimes. While 22.1% people hold a separate opinion, the majority show positive understanding of the concept.

#### 9. What are the methodologies adopted by White collar criminals?

155 responses



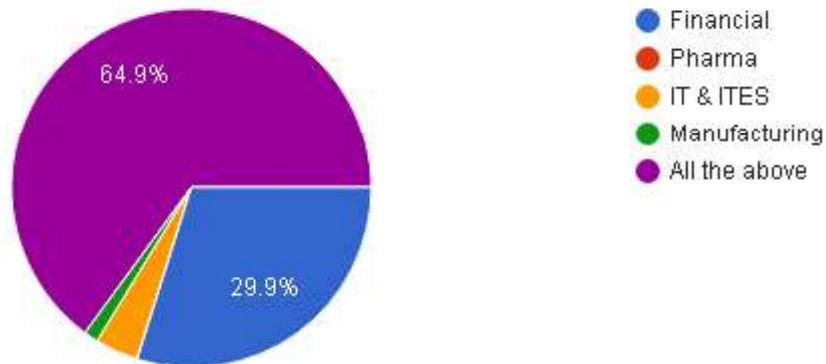
White collar crimes are committed with the intention of achieving personal financial gain. Whether they are committed through cybercrime or money laundering or even bribery, if the end result is personal financial gain, incoming from a non-violent crime committed by a person of high social class, the said offence is a white collar crime.

Due to advanced technology, an increasing cause of white collar crimes owes to cyber crimes. This type of crime involves collecting credit card numbers and personal identifying information by using computer technology. It also includes sophisticated attacks in order to discover classified information, even the making of viruses that infect vulnerable computers can send spam or perform other tasks that may help generate funds. Bribery allows the perpetrator to provide financial inputs to a person in position of power to make arrangements that benefit the former or others. In a similar way, money laundering involves the act of filtering illegally obtained money to make it appear as legitimate money. All acts whether cybercrimes or money laundering or bribery, all result in personal financial gain, claiming to be different forms or methodologies adopted by white collar criminals to satisfy their need of financial gains.

According to the survey provided above, white collar criminals adopt all of the above (bribery, cybercrime and money laundering) as methodologies thus leading with 83.2% in the data given above.

## 10. What are the industry types most affected by white collar crimes?

154 responses



All industry types, whether Financial, Pharma, IT or manufacturing are effected by white collar crimes. In the Finance industry white collar crimes may include securities fraud, embezzlement of money, corporate fraud, money laundering, and tax evasions and so on. Even credit card frauds and insurance frauds can be cited as strong white collar crimes that are prevalent in the Financial Industry. The Harsh Mehta case and the Satyam case are good examples of white collar crimes committed in the Finance Industry in India.

The Pharma Industry is also home to few serious white collar crimes. With rise in competition the Pharmaceutical Industry has become home to various white collar crimes such as red flag and fraudulent schemes, accounting sale of expired inventory, involvement in commercial bribery against supply of medicines to government institutions and hospitals, sale of unprescribed drugs in grey markets, fictitious sales and so on.

The IT sector has also become a host for various white collar crimes. Cybercrimes or computer crimes committed for the purpose of achieving personal financial gain or financial advantage over another person can lead to committing of a white collar crime. Examples of white collar crimes in the IT sector may include hoax mail, gaining unauthorized access into another person's computer, stealing or copying of data from another person's computer, tampering or destroying a person's computer, etc for the purpose of achieving financial benefit can be considered as white collar crimes.

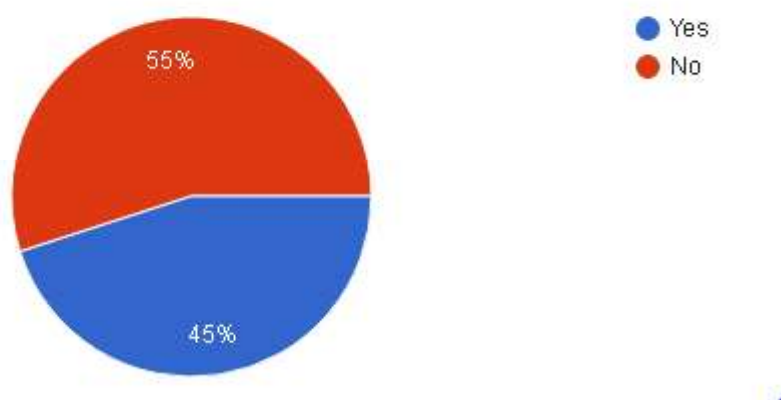


The manufacturing industry is also home to white collar crimes. The Volkswagen Emissions scam is a great example of a white collar crime in the manufacturing sector.

As per the data collected in the survey majority people believe that white collar crimes are prevalent in all types of industries whether Financial, Pharma, IT or manufacturing supporting the statements given above.

### 11. Are white collar crimes more prevalent in family owned businesses?

151 responses

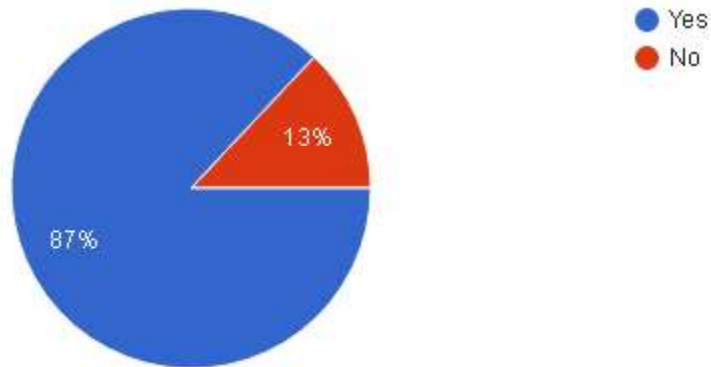


White collar crimes are committed with the motive of personal gain. The presence of this deviant behavior is prevalent in both family owned business and otherwise. According to a research published in **Fraud and Corruption: A Convenience Perspective** By Petter Gottschalk, it is said that if rewards and practices are unfair towards the non-family executives in family owned business due to greater familial trust and importance of family centric priorities as suggested by a research then given a motive and willingness, the organizational opportunity to commit and conceal financial crime can be greater in family owned businesses due to heightened trust. However the book also states that increased social interactions may make non-family executives to feel like family enjoying greater trust that in-turn reduces the willingness to commit crimes.

The survey provided above states that 55% believe that white collar crimes in family owned businesses are not more prevalent as compared to the 45% who believe the opposite. Hence it can be suggested that if given the purpose and willingness to commit crimes due to “second class treatment” of non-family executives in family owned businesses only then the prevalence can be higher

## 12. Are white collar crimes responsible for collapse of business houses?

154 responses

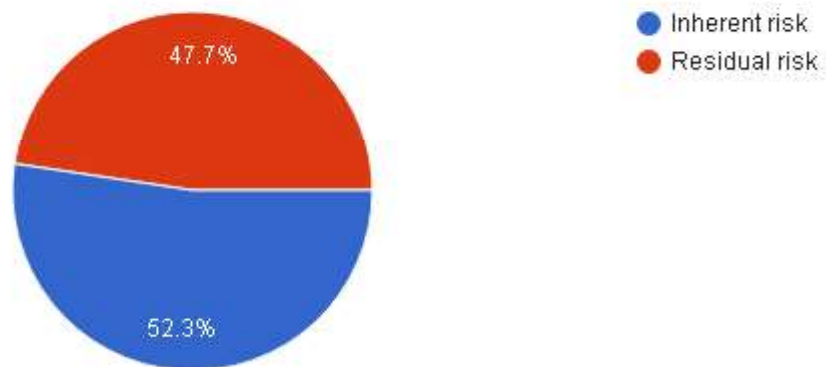


White collar crimes can cause huge loss to companies and business houses. Soon after a business house or a company is convicted of hosting a white collar crime they immediately are affected by reputational loss. Once a company is affected by reputational loss the demand for its products in the market decreases severely. Also since the company has suffered a financial loss the only form of recovery becomes to increase the price of the commodity it is selling. Since the company has suffered a reputational loss and has also increased the prices of its commodities, the demand for its product diminishes severely and it becomes nearly impossible for the company to derive profits thereby finding it difficult to repay its loans and employees, ultimately falling to ruins.

In short white collar crimes can be held responsible for collapse of business houses and companies. The same is also held by the majority opinion in the survey collected.

### 13. White collar crimes fall into one of the following?

149 responses



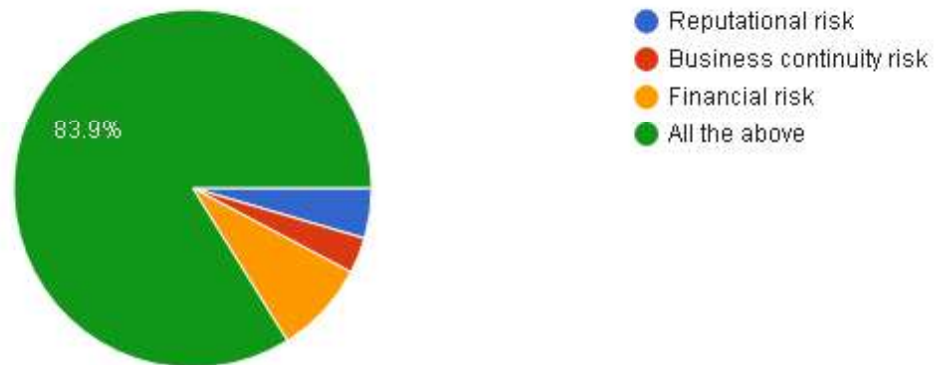
Inherent risk can be defined as the current level of risk that remains after accounting the current existing set of controls; while residual risk can be defined as the amount of risk that remains after additional control is applied.

White collar crimes can be considered as a residual risk rather than inherent risk given that a person who has the willingness to risk a white collar offence will still commit the white collar offence irrespective of the number of rules or controls surrounding him in his environment. Whether the existing level of control in the environment is stringent enough or not, a person willing to commit a white collar offence will commit a white collar offence as long as the element of risk willingness exists in him. Even after considerable efforts in law criminals all over the world still commit crime, In fact in certain cases where the laws and rules become more stringent, research suggests that crimes in such sectors also increase instead of showing a decrease.

Since the question is at hand is debatable, both opinions must be given equal weight age irrespective of the data collected in the survey. As far as the data collected is concerned there is not much of a difference between the two opinions of the audience. While the majority does consider white collar crimes as an inherent risk, many still consider it to be a residual risk.

#### 14. What is type of risk white collar crimes pose?

155 responses

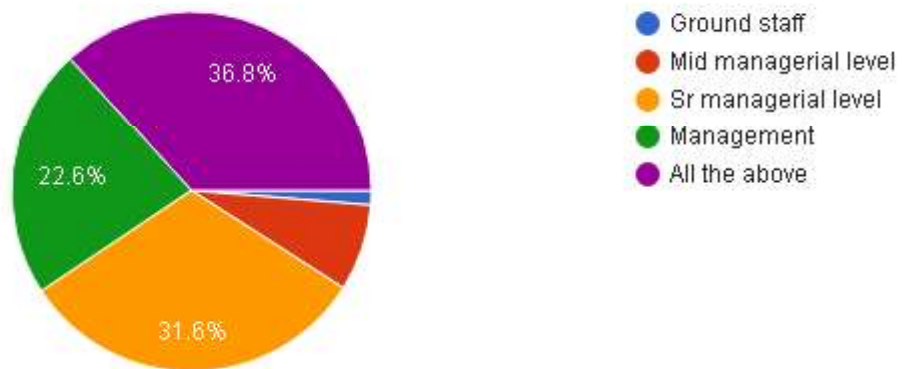


White collar crimes are committed with the aim of personal gains and can pose huge risks to the company who falls prey to them. The loss of profits coupled with the cost of fines can put a financial strain on the company's resources in the short term while harming the company long term and potentially even force it to close down. The ease of communication can easily spread information about a company if it is charged with white collar crime quickly making it public knowledge. The impacts of white collar crimes to a company ranging from the fines to the establishment of a full fledged scandal, could lead to the ruin of a company's reputation in the long run. Therefore a white collar crime suggests a range of risks to a company.

The survey provided above supports the above given statement by stating that white collar crimes pose all types of risks; reputational, business continuity and financial for a company therefore leading the data with 83.9%.

## 15. Who are typically involved in white collar crimes?

155 responses



According to Edwin Sutherland a white collar crime refers to a “crime committed by a person of respectability and high social status in the course of their occupation”. This definition clearly states that the person committing a white collar crime must be a person capable of attaining respect in society and must also confer to a high social class. While the aforesaid statement clearly points a finger to the senior management, one cannot simply blame them as white collar criminals judging them only by their position in an organization. In fact in a research article by Hazel Croall titled “Who is the white collar criminal” in the book “The British Journal of Criminology”, in an examination of a group of white collar criminals the offenders were basically small businessmen and employees in organizations assisting us into thinking that white collar criminals could also be mid-level managers or ground staff employees.

As far as the answer to this question is concerned, it can be humbly submitted that all members in an organization irrespective of their position in the company can be white collar criminals provided that they commit the non-violent offence during the course of their occupation. The same is reflected in the survey collected above.

## Chapter 8- Measures to Curb White-Collar Crimes

There is no one entity who can alone get rid of this public enemy#1. Laws alone cannot do anything if they are not enforced properly. Similarly, institutions/organisations alone cannot do anything if they do not have the support of the public. Most importantly, it is you and I- the general public who need to remain updated and vigilant in order to avoid being made a fool.

### Organisational Action

The organisations need to initiate certain actions in order to develop fear in a potential white-collar criminal from acting out and carrying on his nefarious activities. Such actions might turn out be extremely effective in acting as a deterrent to everyone.

#### **1. Employee Screening be made more strict**

The companies must vet their employee credentials and look for red flags which can be several- as fake certifications/provision of false information before onboarding. This assures the company about employee's honesty, morality and discipline towards work. In order to conclude integrity check of respective employees a feedback from previous employers on the grounds of ethics, unfair trade practices, continuous odd working hours, approach to a given task etc. can be a helpful practice. A comprehensive employee screening includes examination of recent bank statements / credit checks, attention to lifestyle and sudden changes in it. Thus, employee screening goes a long way in safeguarding the organisation from white-collar criminals. Moreover, such screening must go on till the person is employed with your organisation- this can help in nipping the bud.

#### **2. Introduce multi-level Verification System**

It is not a good idea to allow one employee to handle all contracts, financial transactions or fiscal management since this not only provokes him to indulge in malpractices but also provides him with ample resources to indulge in such provocation. Implementing a multi-level verification or checks and balances system can prove to be helpful in preventing white-collar crime within an organization. A thorough verification of any transaction or contract at multi-levels can identify dishonest and corrupt employees at an early stage and prevent occurrence of any major crimes. An organisation must determine its risk appetite and its willingness to tolerate high risk of white-collar crime basis its impact on regulators, reputation, consumer, service agreements, finances etc. Following the risk assessment, a

company can eliminate ties potential risky vendors, clients, individuals to reduce the organisation's risk, loss, and liability exposure.

### **3. Monitoring Activities of Employees**

White-collar crimes often involve the use of internet. In such scenarios, it becomes important to keep a close watch on the activities of your employees- but within the ambit of the law. An organisation can curb white-collar crimes to a certain extent if its employees are known of being monitored for their respective activities. Anti-money laundering transaction monitoring detection scenarios, monitoring compliance with money laundering regulations, undertaking appropriate due diligence on third parties, monitoring / reviewing the communication/training for employees must be done and be amended if needed. Technology is a proved key tool to monitor activities such as a model draws conclusions from uncategorized data to analyse and identify patterns and underlying structures and help to flag genuinely unusual behaviour that is potentially suspicious. The assistance of a software that helps in monitoring the websites, social media connections and activities can be used as an early-warning system to benefit your company in preventing white-collar crimes to a great extent.

### **4. Prioritise Internal Audit Function**

Internal auditors can be beneficial for the healthy working and operations of the company since these people have the knowledge of how the company works, they function as identifiers of fraudulent practices and other red flags. They act as first formal line of defence and thus can be viewed next to whistle blowers. Internal audit should be able to evaluate the effectiveness of all critical risk management functions, such as credit risk including the organisation's overall risk management function. This practice should also be able to evaluate governance at all levels of an organisation, including the senior management level, and within all service/sub-service lines and ensure the elimination of macro level risks. It should evaluate the adequacy and effectiveness of controls to respond to risks within the organisation's governance, operations, and information systems in achieving the organisation's strategic objectives.

### **5. Inventorying Equipment**

Inventorying equipment and supplies on a regular basis reduces the risk of theft. It is also a wise plan to keep a check on purchase orders against your inventory and implement a regular survey of the equipment and supplies owned by your business. A standardised inventorying equipment can always help an organisation to keep a regular check on asset movements, streamline your warehousing with location

management, maintain a consolidated asset database, track equipment utilization, automate procurement process to make the process more of a technology driven, which will help to reduce the high risk of theft and ill supply chain processes. An effective inventory management can also predetermine the threatening factors where your equipment is performing low for which one can develop risk management strategies and protect the business before a catastrophe happens.

## **6. Creating awareness among users**

With the advancement of computer and internet technology, most of the financial transactions are being performed online at an individual level. It is therefore important that public/user is educated about the need to take adequate precautions while performing the transactions to protect him from cyber-crimes. An organisation must ensure to spread awareness among the masses about sound governance, common laws governing corruption and accessibility to regulators and should not glorify the alleged crime between masses. Creating awareness is an old practice yet very effective, it can demonstrate the implication of white-collar crimes and also prevent them from happening. An organisation must encourage the whistleblowers and reward them in order to make a larger impact throughout so the offenders be aware that any of their unethical business practice will be blown at any point of time.

## **7. Transparency**

Transparency in business is a key factor for most of the employees as driver of ethical business practices and also helps in creating a sustainable ethical framework across the organisation. A transparent approach to business can also eradicate the toxic culture and reflect the laws in place to prevent such crimes of syphoning funds, manipulating accounts, evasion of taxes etc. According to International Transparency Index, India has ranked 78 out of the 180 countries (as of 2018). This highlights a positive perception of transparency in the country, driven by factors such as new and improved regulations, greater enforcement activities, improved public awareness and the Government's initiatives to promote the country as an investment hub.

In addition to above, financial institutions like bank, stock exchanges etc. need to regularly advise their respective users about:

- Never clicking on untrusted/fake links while downloading or opening files, E-mails especially if it asks for personal details or banking information.
- Never sharing their passwords OTP etc. with outsiders.
- Changing of their passwords regularly.



- Use of a secure website (indicated by https:// and a security “lock” icon in the browser’s address bar) to browse, and especially when submitting sensitive information online, such as credit card details.
- Never using public, unsecured Wi-Fi for banking, shopping or entering personal information online.

### Governmental Action

The battle against financial fraud and malpractices has significantly intensified over recent years. In the face of such situation, it is imperative government takes proper measures.

#### **1. Enacting laws and regulations**

The Government of India has introduced various regulatory legislations, the breach of which amounts to white-collar criminality. Some of these legislations are: Essential Commodities Act 1955, the Industrial (Development and Regulation) Act, 1951, The Import and Exports (Control) Act, 1947, the Foreign Exchange (Regulation) Act, 1974, Companies Act, 1956, Prevention of Money Laundering Act, 2002, Benami Act, 1988, and Public Procurement Act, 2007. In order to tackle the computer-related white-collar crimes and provide legal recognition to the authentication of information exchanged in respect of commercial transactions, Information Technology Act, 2000 has also been enacted. However, this is a continuous process which needs to be upgraded with the advent of new methods adopted by the criminals. The Government needs to be pro-active in identifying these crimes and take timely action to bring new legislations accordingly.

#### **2. Implementing Strong Regulatory Policies**

Whereas enactment of stringent laws and regulations is the first step in curbing crime, ensuring strict and effective and timely implementation of the same only can bring a perceptible impact. The enforcement agencies of the Government like Central Bureau of Investigation, Enforcement Directorate, SEBI are some of the agencies to deal with the white-collar crimes. These agencies need to ensure that they have the requisite expertise to manage the technology-based crimes and their knowledge is upgraded on regular basis. In addition, the Central Vigilance Commission, which is apex agency of the Government to oversee the corruption in Government, also needs to monitor the working of the officials sitting at top positions to ensure transparency in the whole system.

#### **3. Proper Training of Investigating Officers**

It often happens that ageing officers are well experienced to understand the nature and techniques of white-collar crimes but are not able to utilise the technology for tracking the suspect due to lack of training. It is imperative to provide proper training to every investigating officer to be effective on ground and find out the truth without causing harm to the environment or its members.

#### **4. Strict Enforcement of Laws**

It is not just enough to have laws in place, but their enforcement too is of utmost importance to deracinate the occurrence of such crimes. Small number of fines and short period of imprisonments doesn't make it a good deterrent for the offenders to commit such crimes.

#### **5. Spreading Awareness**

The general public lacks awareness about such crimes and its subsequent laws and punishments to deter them. There is an immediate need to educate and keep the general public well-informed. The electronic and print media should be utilized in an effective way to spread awareness about white-collar crimes and the remedies they could seek in case they become victim of such crimes.

## **Chapter 9: Legislation against White-Collar Crimes in India**

The Indian Penal Code 1860 is perhaps the earliest and most comprehensive codified criminal law of India. It specifically does not mention the word 'white-collar crimes' but deals with many offences which are closely linked to white collar crimes such as bribery and corruption , counterfeiting of coins and government stamps , of offences relating to weights and measures , offences relating to adulteration of food stuffs and drugs , misappropriation of public property and criminal breach of trust , cheating , forgery and offences relating to documents and counterfeiting of currency.

### **Fraud**

**Section 447** of the Companies Act, 2013 provides punishment for fraud commission. This specifies that if a person is found guilty of a crime of theft, he will be imprisoned for a term of not less than six months, expanding to ten years. And he will also be subject to a fine that, in any event, should not be less than the amount involved in the crime and which could stretch to three times the amount involved in the fraud. In the case that the crime was conducted against the general public's interest, the prison term would not be shorter than three years.

### **False statement/Claim**

**Section 448** of the Companies Act, 2013 provides that: if a person deliberately makes a false claim, believing that it is false and intentionally omitting some material fact, knowing that it is true then he is liable for his misconduct. Such false statement can be created by return, report certification, financial statement, prospectus, statement or any other documents required for the reason stated in this Act or any rules made under it.

### **Money Laundering**

In the case of money laundering, the Indian government has taken many steps to address this problem. The Reserve Bank of India has given guidance under the rules of KYC (Know Your Customer) to be strictly implemented by the banks. Banks and financial companies are required to keep transaction records for a 10-year term.

### **CyberCrimes**

To counter computer-related crimes, the Information Technology Act, 2000 is implemented to provide legal recognition for the encryption of information shared in commercial transactions.

The punishment for the following offences is laid out in Sections 43 and 44 of the Information Technology Act:

- Introduction of viruses or malicious programmers.
- Unauthorised access and downloading files.
- Unauthorised copying of an extract from any data.
- Damage to computer system or computer network.
- Helping any person to facilitate unauthorised access to a computer.
- Denial of access to an authorised person to a computer system.

While the Information Technology Act does not dwell on cyber-crime as such, there are some clauses in this Act that deal with white collar crimes. Chapter XI deals with the offence of cyber-crime and chapter IX deals with penalties and adjudication of crime. Apart from this, many issues are unresolved due to lack of focus. Some of them are:

- Inapplicability
- Qualification for appointment as adjudicating officer not prescribed
- Definition of hacking
- No steps to curb internet piracy
- Lack of international cooperation
- Power of police to enter and search limited to public places
- Absence of guidelines for investigation of cyber-crime

### **Fugitive Economic Offenders Act, 2018**

With such backdrop and scams like that of Satyam scam, fleeing Vijay Mallaya, 2G scams and many more, it was in 2018 that the Government of India passed Fugitive Economic Offenders Act, 2018 which seeks to punish on economic offenders who commit white collar crime in India and flee to other country in order to escape from their

criminal liability and recuse themselves from the jurisdiction of Indian Courts. The Act provides provision which empowers the Government to confiscate any property of economic offender in India who flees to other country. It contains a variety of provisions including, but not limited to, declaration of a

"fugitive economic offender" in respect of a person, attachment of the property of such person and bar over civil claims. The statute defines 'fugitive economic offender' as any individual against whom a warrant for arrest in relation to a Scheduled Offence has been issued by any Court in India, who

(i) has left India so as to avoid criminal prosecution, or

(ii) being abroad, refuses to return to India to face criminal prosecution .

The Act also defines 'benami property' and provides it the same meaning as given under the Prohibition of Benami Property Transactions Act, 1988. This implies that this Act, 2018 applies to any property which is the subject matter of a benami transaction and also includes proceeds from such property. Further it also seeks to cover within its ambit the transactions which are in nature of benami transactions under the Prohibition of Benami Transactions Act, 1988. Such move is definitely welcome and might successfully curb white-collar crimes or atleast act as a deterrent to such criminal minds.

### **Enforcement agencies**

When India is moving steadily up the growth scale, enforcement agencies such as the Central Investigative Agency (CBI), Serious Fraud Investigation Office (SFIO), Enforcement Directorate (ED), Income Tax (IT), Department of Vigilance DFS of Ministry of Finance, SEBI, RBI and IRDA are duly motivated to improve their capabilities to meet the challenges of the changing scenario though reactive in nature.

These departments which are the eyes and ears of the Govt for combating white-collar criminals are trying to revamp their capabilities in terms of manpower, technical capabilities and the spear of their activities. They either thinking or some have already of the way forward to cope with the rise in white-collar crimes to defend the greater economic interest of various investors.

## **About this Survey**

This survey is conducted by Indian National Bar Association (INBA). This survey was rolled out to Law Firms, Media houses and corporate houses and the form of questions and answers were objective. The responses of the audience are then collated to have a better understating of the awareness level of white0ollar crimes.

INBA is focused on taking the Indian legal industry and its members to newer heights. Representing the entire legal ecosystem in India, NBA is dedicated to expanding its member's professional network and industry insight. When lawyers need to be heard, INBA is their voice. The association promotes members through programmes that focus on across to justice, human rights, anti-corruption, judicial reforms and more. INBA provides resources to help its members become better lawyers. Each year the association hosts or participates in events around the world. Existing INBA members contribute valuable insights and knowledge through various modes and means of expressions facilitated by INBA. They help broaden their member's perspective and exchange views through online forums and partnerships with best organisations.

# About AUTHORS

Research, Survey Analysis, Content Writing & Editing

- Mr. Kaviraj Singh, Secretary General, Indian National Bar Association
- Ms. Vinkashi Kadan, Advocate Supreme Court of India, Indian National Bar Association
- Ms. Babita Sharma, Editor-in-Chief, Indian National Bar Association
- Ms, Bhawna Gandhi, Advisor, Students, Section, INBA



INDIAN  
NATIONAL  
BAR  
ASSOCIATION



**INBA**  
**VIEWPOINT**

India's No. 1 Portal for Legal News  
November 2019 VOLUME - 6

- INBA HEAD OFFICE -

Indian National Bar Association  
8/11, First Floor, Shahi Hospital Road  
Jangpura Extension, Jangpura, New Delhi – 110014, India  
Phone: 011 – 49036141, Mobile: +91-9811992072, +91 -9971532995  
Email: [contact@indianbarassociation.org](mailto:contact@indianbarassociation.org)