

## A Case Study on Punjab National Bank Scam

(Is it only a scam or failure of the combined banking system?)

Dr. Meda Srinivasa Rao  
Professor, KL Business School,  
Koneru Lakshmaiah Education  
Foundation,  
Vaddeswaram,  
Andhra Pradesh-522502

Dr. B. Kishore Babu  
Professor, KL Business School  
Koneru Lakshmaiah Education  
Foundation  
Vaddeswaram,  
Andhra Pradesh-522502

### Abstract:

The “biggest bank loot scam in 70 years” in independent India happened in one of the largest Public Sector Bank that had trembled entire banking sector. Punjab National Bank (PNB) India’s second largest public sector bank released a disaster on Valentine's Day i.e. 14th February 2018 by revealing a scam of Rs.11,400 crore directed by one of the country's richest businessman of the diamond, Nirav Modi. He ranked 85th on Forbes’s 2017 list of India’s richest people. Nirav Modi had directed and executed the scam with the support of Deputy Manager of PNB Mumbai branch named Gokul Nath Shetty and clerk Manoj Kharat. Modi and his Uncle Mehul Choksi schemed with these two people. They had facilitated the issuance of unauthorized LOU (Letter of Undertaking) to Modi and his company without following an appropriate procedure. The post scam had impacted shares of PNB by evaporating the market capitalization value worth of Rs.8000 crore due to that the entire banking sector was under shocking waves. Whistleblower had transcribed to the Prime Minister’s Office (PMO) at 2016, notifying the government for the “biggest bank loot scam in 70 years” but no prompt action was taken by the government. The scam showed a disappointment on the part of PNB and regulatory bodies in strongly managing the risk, which gave the motivation to critically examine the PNB Scam.

**Key-words:** Punjab National Bank, Scam, Whistleblowing, Letter of Undertaking, Risk exposure, Market Capitalization

## **A Case Study on Punjab National Bank Scam**

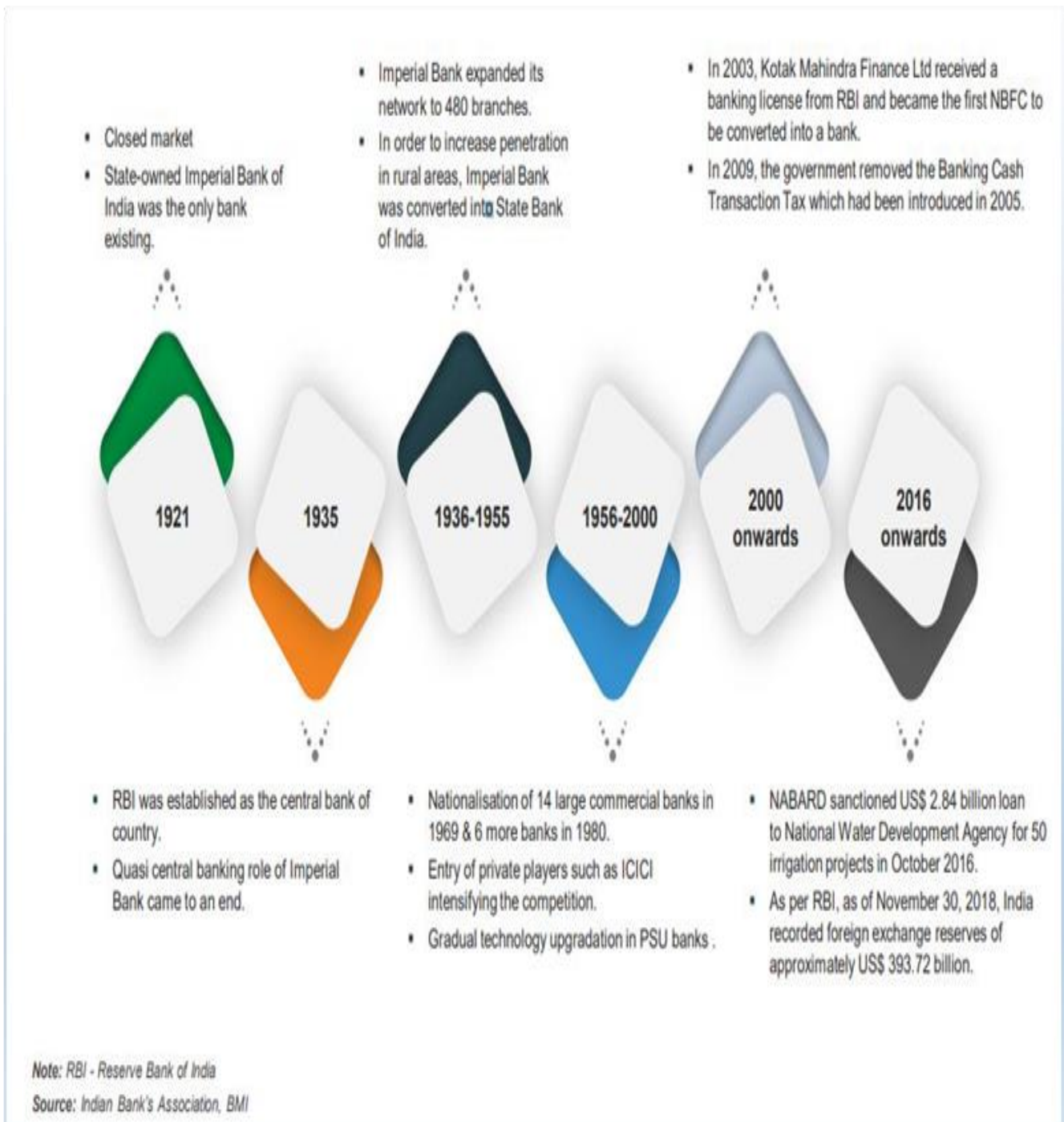
### **(Is it only a scam or failure of the combined banking system?)**

#### **Introduction**

The year 2019 is witnessing global economic slowdown as per global estimates. The majority of the super-giant economies are in recession mode, which includes like China's economy is at 6.4%, economy of the USA at 2.7 %, Germany at 2.2%, and Japan at 1.3% (Source: The Economic Times Survey) however, at the same time World Bank estimates that the Indian Economy will be at 7.3%. The major reason for the growth of Indian Economy lies in 2 parameters that are, its Consumption & Investment capacity. Also "Ease of Doing Business" report 2018 was really a source for confidence building to the Indian Investment community and also for FDI inflow to India. India's rank moved up from 100<sup>th</sup> rank to 77<sup>th</sup> rank which is an encouraging indicator for the global investment community in general. The catalysts which have enabled this growth story of India are a demographic dividend, reformation in the policies, political stability, the scope for investment in infra industry, domestic demand enforced by huge middle-income group families, GST's implication and bank's recapitalization. India has outperformed on the global platform and has been pioneering in the growth story majorly due to its sound and conservative banking policies and practices. But even though India rides high on a strong banking system, cannot ignore the deadly scams in banking which have shocked the banking sector. These scams have a widespread disastrous effect on the common people and expose the loopholes of the system.

#### **Indian Banking Industry at a glance**

According to Bhasin, M. L. (2016) Banking is the backbone of the country's financial system & the growth of a nation can be understood from the financial stability of country's system; as finance is the blood which outstands the quality of an Economy. 1969 was the crucial year as 14 private sector banks got nationalized. The second round of nationalization started in the year 1981 by nationalizing six private sector banks whose nationwide deposits were above Rs. 2 billion. The scenario of the banking industry got reformed from the year 1991- the era of Liberalization, Privatization, and Globalization. International trades have replaced the traditional line of business Privatization, and Globalization. International trades have replaced the traditional line of business activities. And this could only be possible by the medium of the modernized banking system. Basel norms have been implemented in the Indian banking Industry from the year 1999, with a view to supervising the banking regulations with regard to capital risk, market risk, and the operational risk.



The Banking Sector reached its momentum due to the introduction of the CORE (Centralized Online Real-time Exchange) banking system. Prior to the implementation of CORE Banking System, there were various difficulties and a huge waste of time, money & energy. With the help of technology the banking system has been sounder today and has brought the accelerations in the international trade and business a lot. The Indian banking system consists of 27 public sector banks, 21 private sector banks, 49 foreign banks, 56 regional rural banks, 1,562 urban co-operative banks and 94,384 rural cooperative banks and the cooperative credit institutions are also the part of the banking system. A most recent and important development in the banking industry is the development of payment and

small banks. RBI has recently given approval to 11 payment banks of which 6 payment banks are currently in operation. Another crucial development in the system was the consolidation of Public Sector Banks, in this direction SBI is in the forefront with merging of five of its associates and Bhartiya Mahila Bank in 2017. Further, the recent initiative by NDA government another important consolidation is the merger of Dena Bank and Vijaya Bank with Bank of Baroda. Based on the above backdrop banking industry moving upfront one side whereas another side question of transparency and accountability by observing recent Punjab National Bank Scam on Letter of Credit. Therefore, the need arose to understand the loopholes of the banking system which has led to disastrous frauds and what should be the Whistle Blower's role?

### **Punjab National Bank (PNB) at a glance**

Punjab National Bank (India's first Swadeshi Bank) started its operations on 1895 from Lahore with an authorized capital of Rs. 2 lakh and working capital of Rs. 20,000. The bank was managed by Indians with Indian capital. During 1900 PNB opened its first branch outside Lahore in India. The bank officials decided to shift the corporate office from Lahore to New Delhi from 31<sup>st</sup> March, 1947. Along with 13 major commercial banks PNB also became nationalized on 1969. PNB opened a branch in London in 1978, after that it acquired Hindustan Commercial Bank Limited in 1988, In 1993 PNB took over New Bank of India. In the year 2003 it took over Nedungadi Bank in Kerala. PNB has merged 7 banks during its long back history and competed successfully with its corporate mission "creating value for all its customers, investors and employees for being the first choice for all stakeholders". From the year 2004, PNB had flourished internationally. It opened a branch in Kabul, Dubai, Nepal in the year 2004. In 2006 it opened branch in UK, Hong Kong, in the year 2009 Bhutan got its office, in the year 2011 it opened office in Sydney. In the year 2012 PNB signed agreement with US based life insurance company MetLife. However, year 2018, was evil for PNB as it got detected with biggest bank loot scam of Rs. 11,400 crore and wiped out its market capitalization of Rs. 8,000 crore as well as lost the faith of its customers and investors. Therefore, PNB established a vigil mechanism, whistleblower policy and no person has been denied access to the audit committee after the scam. PNB has created a special team called 'Mission Parivartan' to facilitate the determination of requirement of change and to boost the confidence of the shareholders and customers.

## **Banking and Financial Service Industry (BFSI) Scams - A glance in India**

Cases of The business tycoon of India, Mr. Harshad Mehta has looted Rs. 4000 crore from the banking sector through the technique of Ready Forward Deal and the fake bank receipt. Mr. Ketan Parekh got arrested for a scam of Rs 137 crore. He used the tool of discounting a pay-order which is deemed to be issued by one bank at another bank to raise money for trading in shares. As stated in their study by Pradhan, P. K., & Bai, M. G. (2018) Mr. Vijay Malya who has been accused of money laundering fraud of Rs. 9000 Crore, Mehul Chokshi's Geentanjali Scam of Rs. 6000 Crores and the diamond star Mr. Nirav Modi has been alleged for Rs. 11,400 Crores scam through Punjab National Bank are observant to understand the same. Upadhyay, D. (2019) says in his study about Various tools of financial crimes, which includes - Ponzy scheme, Money Laundering, Round tripping under FEMA Violations, LoU (Letter of Understanding) scam, LoC (Letter of Credit) scam; Loan Scam; Bank Scam. Further, the interdependency of the global financial system and increased regularity of cross-border transactions means banks are exposed more than ever to criminal activity, while the revival of regulatory bodies' rules has fostered a stimulating legislative environment. All these cases motivate to understand the essence of banking frauds, financial scams, and its effect on the Indian economy. This Scam does not happen suddenly in a short span of time. It happened gradually and steadily over a period of time. But the question arises whether is there anyone who would be monitoring, objecting or sensitizing the conduct of banking systems and processes? These are called the Whistleblowers.

### **Whistleblowing and its significance**

Dhawan, S., & Mokha, A. K. (2017) has stated in his article about whistleblowing, It is a recent addition but an old phenomenon. Whistleblowing is an act of spotting out misconducts leading to harmful effects. There have been many ways of defining whistleblowing in the literature. In common man's language whistleblowing is complaining about the fault that one has observed. But to stand against the system requires high courage, will power and high regards of public interest. Even the Whistleblower Protection Act of 2011 was implemented finally in May 2014. It's clear that whistleblowers remain a crucial tool in the fight against financial and economic crimes, but the multiple pressures that exist can prevent them from speaking out. Whistleblowing will continue to be a vital component of good corporate governance but will only exist if such individuals have reason to believe that they will be protected should they speak out.

**Indian Experience – Punjab National Bank recent scam**

PNB India's second largest public sector bank released a disaster on Valentine's Day i.e. 14th February 2018 by revealing a scam of Rs.11,400 crore directed by one of the country's richest businessman of the diamond, Nirav Modi. He is 85th on Forbes's 2017 list of India's richest people. Nirav Modi had directed and executed the scam with the support of Deputy Manager of PNB Mumbai branch named Gokulnath Shetty and clerk Manoj Kharat. Modi and his Uncle Mehul Choksi schemed with these two people. They had facilitated the issuance of unauthorized LOU (Letter of Undertaking) to Modi and his company without following an appropriate procedure. The LOU is an instrument used to meet short term credit requirement of a customer of the bank. Under LOU bank allows the customer to raise the money from foreign branch of another Indian bank. PNB has not followed the prescribed procedure for the issuance of LOU to its customer Nirav Modi and encouraged the scam to take place. The post scam has impacted shares of PNB by evaporating its market capitalization value. (Annexure: 2 review on PNB Market Capitalization from April 2016 to April 2019) due to that the entire banking sector was under shocking waves. (Annexure: 1 the risk exposure of different banks as a result of PNB Scam). Whistleblower Mr. Hari Prasad had transcribed to the Prime Minister's Office (PMO) in 2016, notifying the government for the "biggest bank loot scam in 70 years" in independent India but no prompt action was taken by the government. The scam shows a disappointment on part of PNB and regulatory bodies in strongly managing the risk.

**Evolution of Punjab National Bank scam**

*January 29, 2018:* Punjab National Bank (PNB) complained to the police department that the two of its staff members were helping Nirav Modi and Mehul Choksi to be unauthorized and cheating with the bank for Rs. 2.81 billion.

*February 5, 2018:* CBI convened a meeting and undertook the Inquiry. As well as the bank told the SEBI that it has been inquiring the crime

*February 14, 2018:* PNB announces fraud of Rs. 11400 crore of money and additionally foreign banks also declared that money was being given to Modi in an unapproved way by PNB staff.

*February 15, 2018:* The CEO of PNB, calling on a press conference on the next day, announced that the PNB has started operations with regulators, agencies and other banks. According to the CBI report that before the admission of the complainant against PNB, Mehul has disappeared.

*February 16, 2018:* CBI investigated around 20 retailing locations of Gitanjali Group after the complaint filed against Mehul Choksi. PNB has given a positive statement about hoping of recovery of loss within a period of six months. By looking into the risk exposure data of different banks like Union Bank of India nearly about \$300 million, State Bank of India nearly about \$212 million, UCO Bank about \$412 million, Allahabad Bank reported its credit exposure to the fraud is about \$367 million. Reserve Bank of India announced the requirement of tight supervisory action.

*February 17, 2018:* CBI issues arrest warrant against the two employees of PNB and executive of Nirav Modi's group who were involved in a scam. Enforcement Directorate (ED) seizes diamonds, gold, and jewelry from Nirav Modi's home and offices worth Rs.56.74 billion.

*February 20, 2018:*Effect of PNB scam has witnessed fall in the share price of PNB. The market capitalization was reduced. Finance Minister Arun Jetly and RBI made a statement about the omission in SWIFT interbank communication platform. Diamond star Nirav Modi and his lawyer denied about any financial crimes or offense. However, ED has investigated that Modi and Choksi routed the funds illegally through nearly 100 shell companies. More three officers of Nirav Modi Group taken into custody by CBI

*February 21, 2018:* CBI is taking into its custody many officers who were involved in the scam. The general manager of PNB, Mr. Rajesh Jindal was also one of the culprits. He served in his position from the year 2009 to 2011 in Mumbai branch where the scam took place.

*February 22, 2018:* ED has seized, redeemed and sealed many properties like shares and other securities, farmhouse, luxurious cars of Nirav Modi and his uncle Mehul Choksi.

*February 23, 2018:* The independent auditors have been appointed by Institute of Chartered Accountants of India (ICAI) initiate the investigation of PNB fraud. RBI announced the strict control in supervising the SWIFT system. The brand ambassador and super hit actress Priyanka Chopra announces terminating her contracts and ties with Nirav Modi's brand.

*February 24, 2018:* It was very much surprised when Mehul Choksi, the owner of Gitanjali groups writes a fake open letter to his employees regarding his innocence and opposing is arrest by CBI. ED has seized many movable and immovable properties of him

*February 27, 2018:* Bankruptcy has been filed by Jeweler Modi's firm Firestar Diamond in the United States.

*February 28, 2018:* The external and independent auditor has a crucial role in cross balancing the financial position of any company. However, in case of PNB scam the former auditor, M.K. Sharma was found the culprit and was responsible for manipulating entire audit system and practices at Mumbai's Brady house branch. CBI caught him and arrested him for his involvement in the scam.

*March 1, 2018:* Not only the external auditor but also the internal auditor of PNB Bishnubrata Mishra found guilty for the support in the happening of biggest scam. His service tenure was from the year 2011 to 2015. He was arrested by CBI.

*March 3, 2018:* As per the sources and investigating authorities PNB officials were given gold and diamond bribes for the successful implementation of scam.

*March 4, 2018:* CBI undertakes few more arrests - two former staffs of Modi's Firestar International, an auditor of Modi's group and a former director of one of Choksi's companies.

*March 6, 2018:* The Corporate Affairs Ministry asked the Serious Fraud Investigation Office (SFIO) to meet the MD and CEO of major lender banks like Axis Bank and ICICI Bank to probe the case. CBI arrested Vipul Chitalia, Vice President of Banking Operations of Gitanjali group.

*March 7, 2018:* SFIO officials meet CEO of Punjab National Bank Sunil Mehta.

*March 8, 2018:* Choksi blames probing activities of various agencies for mistreatment with him in the process of an ongoing investigation.

*June 2, 2018:* Red Corner Notice issued by Interpol against Nirav Modi for money laundering.

*June 26, 2018:* Mumbai Court issued an order against Nirav Modi and Mehul Choksi to be present before a court or be declared as fugitives according to the special Prevention of Money Laundering Act (PMLA)

*June 27, 2018:* The non-bailable warrant (NBW) issued against Mehul Choksi was taken in a special court and he is seeking cancellation of the same.

*June 28, 2018:* External Affairs Ministry said that India has requested various countries about denial of entry to Nirav Modi.

*August 3, 2018:* The Indian government requested UK authorities for the extradition of fugitive diamondaire Nirav Modi.

*August 20, 2018:* The Interpol UK informs Indian government about the presence of Nirav Modi, due to that CBI and Indian government requests Interpol to detain him.



*September 6, 2018:* Red Corner Notice (RCN) has been issued by Interpol against Mihir R Bhansali, an executive of the fugitive diamantaire Nirav Modi, in connection with the alleged USD 2 billion PNB money-laundering case.

*October 11, 2018:* Directorate of Revenue Intelligence (DRI) filed a case against Nirav Modi for evasion of customs duty on the import of diamonds and pearls. Therefore, Chief Judicial Magistrate of Surat has filed an order against escapee Nirav Modi

*November 6, 2018:* The Enforcement Directorate confers 11 properties worth over Rs 56 crores of absconder diamond jeweler Nirav Modi in Dubai in connection with its money-laundering investigation in the USD 2-billion Punjab National Bank (PNB) fraud case.

*December 25, 2018:* Mehul Choksi denied the traveling of 41 hours to reach India. He, however, asked to be present over a video call.

*December 27, 2018:* British authorities informed India that escapee Nirav Modi is living in the UK.

*March 8, 2019:* As per the British daily reports, absconder Nirav Modi is living in London's West End in a posh 8 – million-pound apartment and doing a new business of diamond.

*March 9, 2019:* As per ED, the UK government has sent an extradition request of escapee diamantaire Nirav Modi to a UK court for further proceeding.

*March 18, 2019:* Westminster Court in London issues arrest warrant against fugitive Nirav Modi after the Indian government's request was forwarded to the court by UK Home Office.

*March 20, 2019:* Nirav Modi arrested in London after Westminster court issued an arrest warrant against the fugitive diamantaire.

*March 29, 2019:* The bail application by Nirav Modi has been rejected by London court.

### ➤ **Total mechanism supported and modus operandi of the PNB Scam**

1.	Generally, the procedure for the issuance of Letter Of Undertaking (LOU) is well prescribed .when any Indian company wants to have trade finance in a higher amount, the higher officials of the bank before the issuance of LOU checks the credibility and fixes upon the credit limit. However, nothing has been clear what exactly happened in the case of PNB.
2.	A SWIFT message is sent to the overseas branch by the three-layered process, involving the three officials – Maker, Verifier, and an Authorizer. Each one of them

	has different login ids and passwords. However, in Punjab National Banks the same person carried out all the functions so it was a clear cut wrong intention.
3.	The Core Banking (CBS) and SWIFT are interlinked to each other. CBS comprises of all the data of its customers, their transactions, history of transactions, etc. and as SWIFT is linked with CBS, automatically all the SWIFT data are recorded in CBS which can be accessed by regional managers, general managers and even for some big cases by top management. However, the persons who were involved in PNB scam had tactfully delinked SWIFT from CBS especially for the companies of Nirav Modi and Mehul Choksi letting other companies were connected through CBS and SWIFT route. So, intentionally funds were provided without any record and proof to the companies of Nirav Modi and Mehul Choksi.
4.	The linkage of CBS and SWIFT is very common and natural. All the banks have this kind of interlinking in the bank's IT system. Therefore, it is very strange in PNB that the Information technology department couldn't recognize the delinking of the system in some of the cases. This clearly indicates the convince or gross negligence
5.	Generally, the system generates a daily report of the massive amount sent through SWIFT. However the bank's vigilance division, fraud commission, internal and external auditor, any of them seem not to have noticed this in case of Modi and Choksi, Which is very suspicious.
6.	According to Mr. Rajnish Kumar, the chairman of SBI has clarified that in the banking industry higher officials are not to be retained for more than three years in his position. Some of the sensitive positions are monitored very tightly. However, in Punjab National Bank one of the personnel was employed in the same position for seven years and handled the transactions of Nirav Modi. So it is a clear cut violation of banking regulations of PNB.
7.	When any Letter of Undertaking (LOU) issued by the bank and accepted by another bank, accepting bank will give confirmation of acceptance to the issuing branch as well it is regional and zonal controlling offices. However, it is suspected whether accepting banks has given any confirmation, and if so why the confirmation receipt has not rung any alarm for PNB?

➤ **Different parties involved in the PNB Scam and their role**

PNB Officials	
Gokulnath Shetty	The ex-deputy manager of PNB had been found fault for the issuance of Letter Of Undertaking to Nirav Modi. The fraud has been started eight years ago.
Manoj Kharat	PNB had appointed Kharat as a single window operator in the year 2014 and he had been found convicted in the issue of unauthorized LOUs by using the SWIFT ID in favor of two banks in Sydney and in Belgium.
Companies	
M/s Solar Exports, M/s Stellar Diamonds, M/s Diamond R US	These three companies were routed for the unauthorized Letter of Undertaking. The proceeds of the crime were diverted to Nirav Modi and his relatives through these companies.
Individuals	
Jeweler Nirav Modi, his wife -Ami Modi, brother - Nishal Modi, sister -Purvi Modi and uncle -Mehul Choksi	The family members were equally held responsible for the PNB scam. His brother Nishal is a Belgian citizen, and his wife Ami is a U.S. citizen and his uncle and business partner Mehul Choksi is the Indian promoter of Gitanjali Jewelry chain.
Involving Agencies	
Enforcement Directorate (ED) CBI, Income Tax Department, SEBI, RBI	The investigative agencies have put great efforts in searching for the fraud. ED has seized many immovable properties of Nirav Modi under the prevention of Money Laundering Act. It has routed search on around 15 cities and 45 locations. CBI has also scrutinized the balance-sheet of India based subsidiaries of Gitanjali Group of Companies. The income tax department has also filed cases of black money against Nirav Modi. SEBI has issued a warning letter to PNB for delaying disclosure with respect to Nirav Modi Scam. RBI has a supervisory role but this role does not involve the audit of banks. It is the bank's internal control measure. However, RBI has issued a detailed document to PNB for strengthening internal control. RBI has imposed a penalty of Rs. 2 crore against the violation of SWIFT operating rules.

## Conclusion

Nirav Modi Scam had a huge impact not only on the Punjab National Bank and on the companies of Nirav Modi, but it had impacted the entire banking sector and the Indian economy. Therefore it is very much essential for the banks and the regulatory authority to ensure the non-repetition of the same. Therefore, to overcome these types of fraudulent behavior PNB has reinforced the practice of underwriting of credit.

NITI Aayog CEO Amitabh Kant asked PNB to stay determined, recognize gaps, recapitalize, resolve and reform. The process of reformation is required for sourcing, appraisal, processing and underwriting, documentation, disbursement, and recovery.

PNB had established a vigil mechanism, whistleblower policy and no person has been denied access to the audit committee after the scam.

PNB has created a special team called 'Mission Parivartan' to facilitate the determination of requirement of change.

Implementation of Fugitive Economic Offenders Act is also required to curb the fraudulent activities. The Fugitive Economic Offenders Bill tolerates a person to be declared as a fugitive economic offender (FEO) in the two cases: 1<sup>st</sup> case: If the amount of offense is more than Rs. 100 crore and an arrest warrant are issued against the offender. The 2<sup>nd</sup> case: In case an offender has left the country and refuses to return to face prosecution.

## Annexure: 1

### The risk exposure of different banks as a result of PNB Scam

PNB scam had not only affected Nirav Modi's company and Punjab National Bank but it had impacted the entire banking sector of India as a whole. Five banks were directly affected by this scam

Sr. No	Public Sector Banks	Credit Risk Exposure (cr)
1	UCO Bank	2635
2	Allahabad Bank	2400
3	Axis Bank	200
4	Union Bank	1920
5	SBI Bank	1360
<b>Source: Bloomberg Quint</b>		<b>Compiled by Authors</b>

Based on the risk exposure of respective stocks their stock values fall down in the market by Union Bank, Allahabad Bank, Axis Bank, SBI, UCO Bank at 8.5%, 11%, 4.4%, 5.75%, and 11.3% respectively.

## Annexure: 2

### Review on PNB Market Capitalization from April 2016 to April 2019

Month	Closing Price	No.of Shares	Market Capitalization (Cr)
Apr-16	87.1	18299179	1593858491
Sep-16	140.65	34368134	4833878047
Mar-17	150.7	16634404	2506804683
Sep-17	129.05	10035331	1295059466
Feb-18	101.35	111418089	11292223320
Mar-18	95.45	73638430	7028788144
Sep-18	59.75	50473304	3015779914
Apr-19	93.25	23529964	2194169143
<b>Source: bseindia.com</b>		<b>Compiled by Authors</b>	

The data from the above table reveals that shareholder's value of PNB drastically falls down from February 2018 to September 2018. Especially September 2018 loss of shareholder's value is abnormal. This may be due to the loss of an investor's confidence.

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