UPSURGE OF CUSTOMERS’ TRANSACTIONS FRAUDS IN KENYA

A CASE OF KENYAN FINANCIAL INSTITUTIONS

BY

NJERI WAITIMU

UNITED STATES INTERNATIONAL UNIVERSITY

SUMMER, 2014
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NJERI WAITIMU

A Research Report Presented to the School of Business in Partial Fulfilment of the Requirement for the Degree of Executive Masters in Organizational Development (EMOD)

UNITED STATES INTERNATIONAL UNIVERSITY

SUMMER, 2014
STUDENTS DECLARATION

I, the undersigned, declare that this is my original work and has not been submitted to any other college, institution or university other than the United States International University in Nairobi for academic credit

Signed: ___________________________  Date: ___________________________

Njeri Waitimu (ID 640348)

This research report has been presented for examination with my approval as the designated supervisor.

Signed: ___________________________  Date: ___________________________

Prof. Francis Wambalaba

Signed: ___________________________  Date: ___________________________

Dean, School of Business

Signed: ___________________________  Date: ___________________________

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ABSTRACT

The purpose of this study was to determine the factors leading to the current upsurge of customers’ transactions frauds in Kenya and the plausible mitigation strategies and/or causes of action. The research questions the study sought to answer were: How were the current regulatory and legal systems contributing to the threat of customers’ transactions fraud? How were banks and customers alike contributing to the threat of customer transactions fraud? What were the plausible mitigation strategies and/or causes of actions to deter or possibly eliminate fraud? To answer these questions, the study utilized a survey research design using a quantitative methodology. The population of the study was drawn from 132 employees drawn from various management levels of various banks. The sample size of the study was 50 acquired using a multistage sampling design. Data for the study was collected using a questionnaire administered by the researcher. Collected data was cleaned, edited and coded into SPSS vs. 20 and MS-Excel spread sheets for analysis. Analyzed data was presented using tables and figures.

This study found that fraud in most financial institutions was average ranging between 4 – 10 fraud incidences in every four years in the respective institutions. In addition, the study found that, although not all were fully carried out or fully successful in certain instances for one reason or another, institutions endeavored to a large extent to put in place fraud prevention strategies such as know your customers (KYC) for the detection and prevention of fraud. Legal and regulatory factors driving fraud in the banking industry identified by this study were slow hearing and determination of cases, low fines in courts which suspects afforded hence paid and were therefore free, inability by financial institutions to prosecute fraud cases especially those located outside the country, complex nature of fraud cases thus inhibiting investigation and prosecution, perpetration through corporate bodies as conduits for frauds, short jail terms, corruption and lack of sufficient evidence in most fraud cases.

Banks’ employees and customers contributed to fraud in the banking industry. This study further found that employees with authorized access to operating systems especially those at officer levels drove fraud in banks. On the other hand, customer accounts opened with banks,
presentation by imposters of customers’ original and genuine documents were all modes used to conduct fraudulent activities and finally, employees and customers colluded to defraud the banks.

Mitigation strategies and/or causes of action identified as successful in this study include: strengthening of internal controls, undertaking background checks on employees, introducing a central fraud department, provision of referees by employees, tracking of employees’ actions, undertaking sensitization trainings to employees and customers by the banks, regulatory authorities and the industry body. Assistance by local investigative bodies in the arrest of suspected fraudsters enhanced prevention of fraud in the banking industry locally.

This study concluded that the legal and regulatory framework is a major driver of fraud in the banking industry across Kenyan Banks. The legal and regulatory framework perpetuates fraud through slow justice systems, low fines and penalties, corruption and bribery and too much complexity in the laws and terms used in fraud. Further, the laws of Kenya are also not sufficient to cover all types of fraud perpetrated within banks. Employees as well as customers are also major drivers of fraud hence fraud is externally as well as internally driven. Finally, this study concludes that strengthening of internal control systems is the most important factor of reducing and mitigating fraud in banking institutions.

This study recommends that there is urgent need for review of the policy and regulatory environment/framework guiding the prosecution of fraud cases. Further, a separate judicial department specifically for the prosecution of banking fraud cases is essential. Banks should on the other hand adopt modern and best practices in employment and human resource management and continuous review of banks internal control systems, laid down procedures and policies is key. Finally, banking sector stakeholders should congregate and make joint efforts to create awareness, education and sensitization to employees and customers on fraud, fraud prevention and avoidance.
ACKNOWLEDGEMENT

It would be erroneous to attribute the completion of this research report to any one individual or to myself. On the contrary, this project report is the product of various individuals who played both indirect and direct roles to its successful completion. Although this space may not be enough to enumerate all individuals by name, it is my hope that this acknowledgement and a sincere Word of Thank you would suffice to all who played one role or the other, including the overwhelming support, in this project.

However, I specifically give gratitude to God the Almighty for each blessing each day and throughout this project and whose grace made the success of this project possible.

My Supervisor, Prof. Francis Wambalaba who was also extremely instrumental from the onset of this project as a mere shell up to its successful completion through his constructive criticism, words of encouragement, views, suggestions and most importantly his patience with my weaknesses. I could never ask for anyone better. May the Lord bless him abundantly in his endeavours of imparting knowledge to others.

To friends who supported through constructive criticism of weaknesses in the draft questionnaires during pilot tests, particularly Dr. Naomi Mangatu, and further all respondents who accepted and patiently made time in their busy schedules to complete and respond to the final questionnaires I am most grateful and without your input and sacrifice, this report would never have been a success.

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            May God Bless you abundantly
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<tr>
<td>ACCA</td>
<td>Association of Certified Chartered Accountants</td>
</tr>
<tr>
<td>ACFE</td>
<td>Association of Certified Fraud Examiners</td>
</tr>
<tr>
<td>AICPA</td>
<td>American Institute of Certified Public Accountants</td>
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<tr>
<td>CBK</td>
<td>Central Bank of Kenya</td>
</tr>
<tr>
<td>CICA</td>
<td>Canadian Institute of Chartered Accountants</td>
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<tr>
<td>CID</td>
<td>Criminal Investigations Department</td>
</tr>
<tr>
<td>CIMA</td>
<td>Chartered Institute of Management Accountants</td>
</tr>
<tr>
<td>COSO</td>
<td>Organizations of the Tread way Commission</td>
</tr>
<tr>
<td>IFAC</td>
<td>International Federation of Accountants</td>
</tr>
<tr>
<td>IIA</td>
<td>Institute of Internal Auditors</td>
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<tr>
<td>IT</td>
<td>Information Technology</td>
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<tr>
<td>PwC</td>
<td>Price water Coopers</td>
</tr>
<tr>
<td>SEC</td>
<td>US Securities and Exchange Commission</td>
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<td>SPSS</td>
<td>Statistical Package for Social Sciences</td>
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CHAPTER 1

1.0 INTRODUCTION

1.1 Background of the Study

The banking industry in Kenya has seen a recent increase in fraud at an alarming level, committed by internal and external forces. This has led to huge financial losses and loss of customer and investor confidence in the institutions and the industry. Thus, it was noted that, in today’s hi-tech society, personal security has become of the utmost importance for consumers as the rise in identity theft and financial fraud becomes more prevalent. Financial institutions are at the forefront of these attacks as criminals target consumer accounts and cash supplies (Welch, 2009). The level of fraud in the banking sector and the amount of losses incurred as a result cannot be over emphasised. This is shown in Appendix II.

The prevalent fraudulent acts and practices in the banking industry in Kenya are similar to those noted by, Owolabi (2010), who set out the several types of fraudulent practices in the Nigerian industry. These include use of fake cheques and dividend warrants, issuing of unauthorized loans, posting of fake credits, defacing of cheques and defalcating, fraudulent transfers and withdrawals, loss of money to armed thieves and outright stealing of money. Fraud is committed either internally or externally or both. Gathungu (2013), noted that, cybercrime can be committed by parties within the bank, on their own volition or in liaison with external parties. Internal fraud on the one hand is committed by parties within the bank, on their own volition or in liaison with external parties.

Pan, Seow, Suwardy and Gay (2011) noted that fraud have become a major meeting point for all financial service providers. Indeed, the world is increasingly experiencing increase in the number of fraud cases regardless of the perpetrators. As the world embraces technology and discards traditional models of business the threat and risk of fraud has increased (Tchankova, 2002). Furthermore, a working environment characterized by dissatisfied employees with far
superior technology skills than their supervisors/supiors have only added to accelerate the rate and frequency of fraud related cases in the financial sector (Pan et al., 2011).

Across Africa, fraud in the financial sector has grown tremendously (CIMA, 2009: Kingsley, 2012). Banks in Africa are experiencing huge pressure from fraudsters and cyber thieves attempting to steal, siphon or manipulate banking records. The high fraud growth rate in Africa has been attributed to weak internal control systems, poor supervision, poor training, poor employee remuneration and lack of experience (Kingsley, 2012).

The East African region has not been spared of increased fraud. According to the PriceWater Coopers report (PwC) (2011), fraud has risen from a peripheral issue for banks and other financial institutions to a top three issue that managers and supervisors are having to deal with especially in the East African region. In a study on 33 banks across Kenya, Zambia, Rwanda, Zambia and Uganda, fraud was identified as the major factor influencing risk management decisions and strategies for financial institutions (PwC, 2011).

In Kenya fraud especially in the banking industry has grown steeply over the last few years. According to the Central Bank of Kenya (CBK), fraud has grown of the last few years and has led to billions in losses for banks in Kenya (CBK, 2012). In addition, the CBK noted that in the year 2012 over 36 fraud cases were reported to the Cyber Crimes Unit and Bank Fraud department of the Kenya Police Service and only 16 had been successfully investigated and prosecuted (CBK, 2013: CID, 2013). The major forms of fraud in the country are: card frauds, insider, electronic and cheque frauds that were to be given keen focus (CBK, 2012).

According to, Woerner (2013:4), “On almost any given day you can find a news story about an employee who has gone bad and committed fraud or damaged an organization. Insider threat is a timeless problem. It’s always been there and it always will be there.” Similarly, Hedayatti (2012), highlighted that it is important for management in the organisation to appreciate that despite new technology-based techniques, more than 70% of identity theft is carried out by insiders. Banks are dealing with the public’s money and hence it is important that staff exercise great care and diligence in handling the bank’s transactions. The recent rise in bank frauds therefore requires tightening of security measures. A strong system of internal
control is the most efficient way of fraud prevention. The banks should increase their efforts in sensitising all concerned parties on the need for security in the organisations so as to fight fraud (Khanna & Arora, 2009). Further, fraud has a ripple effect. Besides affecting the victim bank and customer, it has an effect on other entities and ultimately the society at large. When a party ignores fraud, the aggrieved party passes on the danger of fraud to another party.

Wilhelm (2004), noted that “fraud losses are frequently part of an economic externality. An economic externality is present when one business takes actions or refrains from acting and, as a result, passes on, imposes, or facilitates costs upon another business. An example from the internal fraud perspective would be when a financial institution decides not to facilitate law enforcement’s arrest and prosecution of a staff member who stole from them. As a result of their decisions, the ex-staff member may very well obtain employment at another financial institution and commit the same crime again.” Wilhelm (2004), further noted that the costs emanating from the frauds are passed on to society through increased customer inconvenience, costs related to loss of opportunity, unnecessarily high prices and criminal activities funded by the fraudulent gains. As such for successful mitigation or prevention of fraud it should be done both within the organisation and together with external key players.

Accordingly, “Fraud risk identification may include gathering external information from regulatory bodies (e.g. securities commissions), industry sources (e.g. law societies), key guidance setting groups (e.g. Cadbury, King Report and The Committee of Sponsoring Organizations of the Tread way Commission (COSO)), and professional organizations (e.g., The Institute of Internal Auditors (IIA), the American Institute of Certified Public Accountants (AICPA), the Association of Certified Fraud Examiners (ACFE), the Canadian Institute of Chartered Accountants (CICA), The CICA Alliance for Excellence in Investigative and Forensic Accounting, The Association of Certified Chartered Accountants (ACCA),and the International Federation of Accountants (IFAC). Internal sources for identifying fraud risks should include interviews and brainstorming with personnel representing a broad spectrum of activities within the organization, review of whistle-blower complaints, and analytical procedures)” (IIA, 2013; AICPA, 2013). Ordinarily, thieves
attempt to circumvent security systems through other people. Therefore carrying out public awareness education through internal and external training is key (Hedayatti, 2012). Fraud has an effect on customer loyalty and the security or perceived security by customers of their funds determines the institution’s customer base. Hoffman (2012), stresses the importance of fraud prevention for retail banks and shows that although preventing fraud is key to saving economically on operating costs, its prevention and proper communication thereof is a good mode of improving bank-customer relationship and ultimately maintain customer loyalty. As a result, (Vasiu, Warren and Mackay, 2003), noted that the potential consequences of fraud for organisations can be strategic, legal, financial or operational and therefore combatting it is an important issue for organisations.

![Pyramid of potential consequences of fraud for organizations](image)

**Figure 1.1: Pyramid of potential consequences of fraud for organizations**
Source: (Vasiu, Warren and Mackay, 2003)

External fraud on the other hand is committed by parties outside the bank on their own volition or in liaison with parties within the institution. These external parties may be the
banks’ customers or not. Mechanisms must therefore be put in place or those in place improved to prevent and deter perpetrators from committing fraud.

1.2 Statement of the Problem

Despite the existence of internal control mechanisms, regulations and regulators alike and a judicial system, the threat of fraud in customer transactions in the banking industry posed by internal and external parties has seen an upward rise as opposed to a decline. Fraud in the transfers and withdrawals of money held by banks, particularly through electronic fraud, has led to huge financial losses to the affected banks, customers and the industry as a whole.

Usman and Shah (2013), noted that with the growth of electronic banking services and its expected dominance in the near future, some of the known factors that are key to dealing with the serious problem of security must be addressed. Fraudsters continue to get smarter and the industry has to keep up with them. Although banks in Kenya have always experienced fraud since their existence, the banking industry in Kenya has seen a rise in financial fraud perpetrated by both internal and external parties. This research project therefore aims at determining and finding strategies to mitigate if not eliminate customer transactions fraud in its entirety. As highlighted by Owolabi, bank failures are as ancient as the banking business itself. Despite the fundamental roles it plays in economic development, its failures are similarly increasing. On the other hand due to the constant need for money and the growth in technology know-how, it is impossible to eliminate fraud in its entirety in the banking industry. Vasiu and Warren and Mackay (2003), noted that fraud is one of the biggest threats today. While no one knows the exact level of fraud, not a day passes without discovery by the media of a fraud or a suspected fraud.

1.3 Purpose of the Study

The purpose of the study was to determine the factors leading to the current upsurge of customers’ transactions related fraud in Kenya and the mitigation strategies and/or causes of action.
1.4 Research Questions

1.4.1 How were the current regulatory and legal systems contributing to customers’ transactions fraud?

1.4.2 How were banks and customers contributing to customers’ transaction fraud?

1.4.3 What were the plausible mitigation strategies and causes of action to deter or possibly eliminate fraud?

1.5 Importance of the Study

This research is important to all the players in the banking industry who comprise:

1.5.1 Banks:
With this research, banks will be in a position to determine the factors contributing to the recent rise in fraud, on their part and on the part of external parties.

Banks will also be in a position to critically review the current measures and systems in place in relation to the changing world, for purposes of reducing or avoiding fraud hence reducing heavy financial losses to the institutions.

1.5.2 Regulators:
This study will assist regulators determine the oversights and ignored areas in the banking industry in the area of fraud regulation, internal and external to the regulator, that have led to the upsurge in customers’ transactions related fraud in banks.

1.5.3 Law Makers and Members of the Judicial System
The judicial system in Kenya needs to understand and appreciate the new financial products and services offered by the banking industry, operations of the banks and the challenges faced by the banking industry. This study therefore highlights in detail the shortcomings on the part of the law makers and the judicial system in understanding the above, their impact on customers’ transactions related fraud in the banking industry and the actions required in deterring this crime of fraud. The study further highlights the shortcomings and challenges
occasioned by the current laws in fighting fraud and amendments requiring action in view of the reality on the ground.

1.5.4 Customers
Banks’ customers play a part in the perpetration of fraud, either as perpetrators or victims. This study determines the extent to which the banks’ customers play such part in fraud. The study further reviews the roles they should play in the mitigation or prevention of the fraud.

1.5.5 Society
The society which suffers from the effects of fraud, economically, both at an individual and societal level will highly benefit from this study by gaining knowledge on the effects of fraud on the society whether as victim or not and the roles it ought to play in combatting fraud.

1.6 Scope of the Study
The study was conducted within Nairobi during the months of March and April, 2014 using a population of 134 bank employees at managerial level. Fifty of the employees were selected as the sample size using a multi stage sampling technique. Limitations of this study included: limited geographical coverage as the study was carried out in the city of Nairobi. This limited the validity of the findings of this study. However, to overcome this study, the researcher utilized a sample size that was drawn from across all the banking institutions in the county. Furthermore, Nairobi being the financial hub of the country, all the banking institutions had a presence in the county.

Unavailability of senior members of the judiciary due to their busy schedules who were best placed to clarify any ambiguities or clear gaps in the study on the judiciary’s contribution to the threat of fraud and inaccessibility to court rulings and judgements due to delay in online updating and difficulties in locating fraud related court files at the registries were also a main challenge faced in the research. Data access challenges from employees were also encountered. However to overcome this challenge, the research was undertaken during spring in view of the availability of the bank employees, it being the beginning of the calendar year, prior to proceeding on annual leave ordinarily taken thereafter by most employees.
1.7 Definition of Terms

1.7.1 Fraud

Intentional act or omission designed to deceive others, resulting in the victim suffering a loss and/or the perpetrator achieving a gain (The Institute of Internal Auditors, The American Institute of Certified Public Accountants and The Association of Certified Fraud Examiners, 2013).

1.7.2 Fraudulent

Acts including intentional deception, false and material representation, concealment or non-disclosure of a material fact or misleading conduct, device or contrivance that results in loss and injury to the institution with an intended gain to the officer of the institution or to a customer of the institution (The Banking Act, Kenya Law Reports, 2010, Section 2(1)).

1.7.3 Identity Fraud

This fraud includes making a false claim using someone else’s name, as well as creating an entirely new and fictitious identity (The Benefits Agency, 1995). Unauthorized obtaining of others confidential information in order to misuse it (Hedayatti, 2012).

1.8 Chapter Summary

This Chapter covered the background of the study on fraud, the statement problem covering customer transactions fraud, scope of the study and the research questions of this study. It further covered the importance of the study to various people. The next Chapter 2 reviews existing literature by various authors on fraud and their proposed mitigation strategies and/or causes of action to be taken. Chapter 3 covers the research methodology used in the study, comprising the research design, population, sampling design, data collection methods, the research procedures and the data analysis methods. Chapter 4 presents the findings and results of data collected and analysed. Chapter five discusses the findings, provides conclusions and recommendations for the study.
CHAPTER 2

2.0 LITERATURE REVIEW

2.1 Introduction

This Chapter reviews existing literature on fraud focusing on customers’ transactions fraud in the banking industry in Kenya and the mitigation strategies and/or causes of action. Although the research focuses on the above, the review also takes into consideration literature on fraud in other areas, industries and other jurisdictions and the mitigation strategies. The review focuses on three research questions, namely; How are the current regulatory and legal systems contributing to the threat of customers’ transactions fraud? How are banks and customers alike contributing to the threat of customer transactions fraud? What are the plausible mitigation strategies and/or causes of action to deter or possibly eliminate fraud?

2.2 Regulatory and Legal Systems as Contributories to Perpetration of Fraud

2.1.1 Poor Legal Frameworks and Systems

Notwithstanding new types of fraud and areas it can happen, in 250 years there does not appear to be any major reforms despite the presence of regulatory and legislative acts and the coming into place of new counter-powers, of which the press is only the visible tip (Blanque, 2003). Similarly, while looking at the path European institutions take since the adoption of the early treaties so as to combat fraud and its inevitable effects, Nikodem (2002), concluded that, unless further reforms are made, it becomes obvious at a closer look that the puzzle still misses its basic pieces: punitive powers and a harmonised legal framework for Europe. Hence in the view of, Nikodem, in their absence there are major questions about transparency and legality of, and political/legal responsibility for anti-fraud actions. In view of increased technology know how and globalization, rather than rely on laws that did not take these aspects into consideration, the relevant bodies must enact new laws to counter the changing times. Fletcher (2007), found that for example regulations specific to the internet should be in place which will play an important role in combating cyberspace fraud. Hence, the legal
frameworks in managing fraud should clearly outline the responsibility of financial institutions in fighting fraud. In their findings, Reisig and Holtfreter (2007), observed that less than one-half of respondents reported they had either “a great deal” or “quite a bit” of confidence in legal authorities. On the hand however in their research on people’s confidence in the police, the levels of confidence expressed by respondents were noticeably lower.

Despite the current increase of electronic fraud, there are hardly any strong legal frameworks or legislation that recognises this. Legislation that is applicable to electronic monetary values is still young and does not deal with all the problems arising hence instead dependence is currently on the terms and conditions upon which the electronic values are made. Thus until firm principles are made in this area, system users must keenly review the allocations to risk in their legal documentation in respect of each functioning system (Kreltszheim, 1999). Moreover, Xanthaki (2010), concluded of fraud against the European Union that there is need to learn from the inadequacies and move towards positive effects through synchronisation of the regulatory frameworks of the European Anti-Fraud Office. Should this not be done then not only will a small portion of the fraud be detected but also, a smaller number will be investigated, prosecuted and successfully declared. Globalisation has led to cross border fraud where the offenders carry out the fraud while in one country against the victims in another country as seen in Figure 2.1.

![Figure 2.1: The Globalized Nature of Mass Marketing Fraud](image)

Source: Button (2011)
Thus, as noted by, Button (2011), the challenges encountered in the law enforcement leads to ease in cross border fraud perpetration which is made worse by the fact that this crime is not a priority for the police and other policing bodies.

Even in the few cross-border fraud related cases that authorities successfully investigate and apprehend the offenders successfully prosecuting and obtaining fair sentencing is hampered by difficulties in getting witnesses. There are various weaknesses in the global infrastructure in place to fight cross-border fraud. These include: fragmentation of bodies at the national and international level with little co-ordination and resources, differences in effectiveness in combatting cross-border fraud and in levels of investigation, prosecution and penalties meted out (Button,2003).

2.1.2 Duration of Determination of Fraud – Related Offences

The lengthy proceedings that take months or years which cause professional burdens and personal strain for lay people consequently lead to undesired effects in white-collar crime proceedings (Huber 2003). Similarly, the punitive decisions are not as abrupt and/or immediate, from when the necessary authority makes them. Wright (2006), rightly noted that prosecution of many fraud-related offences fail because the lengthy investigation and trial process takes a toll on the mental health of some defendants, who cannot then be tried at all.

2.1.3 Judicial System and Fraud Complexity and Challenges

It is common knowledge that the legal process is an area not well understood, if at all, by the common man, whether as victim or defendant. In acknowledging the complex nature of fraud including to those in authority and required to deal with this crime, Perri and Brody (2011), highlighted the fact that the failures by US Securities and Exchange Commission (SEC) are a sign of various linked problems, which include a culture that does not encourage examining frauds that appear difficult when they in fact may not be difficult and advocates who do not have know-how of the securities industry so as to understand how the frauds they are charged to prevent actually take place. Wright (2006), on the other hand noted that the mountains of documentary evidence produced can hide the key issue of dishonesty. Presentation of
complicated facts and very many documents to a jury made up lay people can unnecessarily contribute to the lengthy trial of the case and a proposal is made that an alternative tribunal, without a jury made of common people, may do away with most of the factors that contribute to the failure of major fraud trials.

It was similarly highlighted that a number of contradicting and technical and complex offences of dishonesty should be done away with and replaced with a simpler and understandable offence dealing with fraudulent conduct and, if done, will likely provide a much more straightforward platform and framework for prosecutors and the defence (Kiernan and Scanlan, 2003). Reisig and Holtfreter, found and were hence of the view that, for effectiveness of authorities’ responses to consumer fraud, victims must make the fraud on them known to legal authorities. Evidence available on consumer reporting behavior indicates, however, that most fraud victims do not report their ordeals to authorities. Consumer confidence in legal authorities’ ability to deal with fraud is a key issue determining whether complaints will be filed or not. Huber (2006), highlighted the view that lay people are likely not to understand economic processes, accountancy linkages and other facts reviewed during white-collar crime proceedings. Further, criminal control of white collar crime by legislative authorities has always been and is likely to be a challenge due to its structure and characteristics features; avoiding guilty verdicts through reliance on gaps in legislation; commission of offences by corporate bodies whereas the existing criminal law is directed against and shaped for individuals; evidence difficulties by the prosecution and non-deterrence punitive actions on the defendant who instead take them as economic costs that they can afford etc.

These are serious limitations to social control by the current criminal legislation. Another hurdle in combatting bank fraud is the extrinsic web of both insiders and outsiders involved in committing the bank fraud. For example, despite its tough penalties, the Chinese legal system has not automatically made the fight against bank fraud effective. This stems from the fact that law, its enforcement and punishment is not certain or predictable, it is not carried out consistently to deter fraudsters. Further political, ideological and legal differences are a hindrance to China bringing to justice criminals in other jurisdictions. Similarly, unless there
is expertise in investigations the investigators if comprising of ordinary police may not know whether a suspected offence is a bank fraud or not (Cheng and Ma, 2009). Despite the enormous losses incurred by institutions through fraud, Levi (2010), rightly found that indeed fraud-related cases do not attract severe penalties where the victim is an organisation and in circumstances where there is no systemic risk notwithstanding the rise in such frauds and the economic advantage to the offender.

2.2 Banks and Customers as Perpetrators of Fraud
2.2.1 Collusion by Banks’ Personnel with Fraudsters

With the recent trends of employee reduction, restructuring and corporate layoffs, organizations have a very dynamic workforce, often without much loyalty to the employer. This environment plays a role for computer-related crime and fraud by employees (Haugen and Selin, 1999). Thus, institutions’ employees play a major role as perpetrators of fraud either directly or indirectly. Usman and Shah (2013), highlighted the fact that, indicators of collaboration between bank employees and fraudsters is a concern. They further underscored the fact that this presents a real threat as the employees have direct access to banking systems and customers’ details and records. Collusion involves any kind of explicit or implicit agreement between two or more persons to perpetrate a fraud, whether the accomplice is internal or external to the victim organization (Peltier-Rivest and Lanoue, 2012).

On the other hand, Peltier-Rivest (2009), further expounded on this, in that being in a position of authority and having accomplices both increase the chance to commit fraud by enabling the perpetrator to more easily override, or circumvent, the organization’s internal controls. As a result the losses to the organisation, effected by employees are huge in view of the non-detection of the employees’ perpetration of the fraud for a long period. The results in the Table below, undertaken by Peltier-Rivest (2009), as cited by Peltier-Rivest and Lanoue, found that, the median fraud loss is C$187,500 per case while the mean loss is C$1,142,494, equivalent to a median loss of C$535 per employee and a mean loss of C$71,895 per employee. The results further found that, a single case of occupational fraud is also equivalent to a median loss of 0.3 percent of annual sales and a mean loss of 9 percent of
These results clearly illustrate the negative economic consequences of occupational fraud for victim organizations and the large illegal benefits reaped by perpetrators.

### Table 2.1: Mean and Median Fraud Losses

<table>
<thead>
<tr>
<th>Fraud Loss</th>
<th>Median</th>
<th>Mean</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fraud loss per case (C$)</td>
<td>187,500 *</td>
<td>1,142,494 * *</td>
</tr>
<tr>
<td>Fraud loss per employee (C$)</td>
<td>535 *</td>
<td>71,895 * *</td>
</tr>
<tr>
<td>Fraud loss per C$ sale</td>
<td>0.003 *</td>
<td>0.09 * *</td>
</tr>
</tbody>
</table>

Notes: *Using a signed rank test, the median loss is statistically greater than zero at p level # 0.05;

* * using a t-test, the mean loss is statistically greater than zero at p level # 0.05

Source: Peltier-Rivest (2009)

Peltier-Rivest (2009), thus concluded that the perpetrator’s position as employee, manager, executive/owner; gender, level of education and the presence of accomplices affect losses incurred through fraud when reviewed separately. However, the perpetrator’s position and collusion with others are a major importance when controlling for the potential link and relation amongst explanatory factors. Individuals commit fraud for various reasons. In reviewing the factors leading to fraud, Woerner (2013), noted that “unlike the early times when the incentive to commit fraud was mainly financial, now there are many other reasons why a person may bypass security or commit fraud. In the early days of IT, hackers wanted fame or were just curious to see if they could pull off an exploit. These days the motive may be revenge against the company or an employee. Pressure to get the job done no matter what may cause someone to skirt security. Therefore, I postulate that there is a new fraud model to consider. To commit fraud, or any other improper action, a person needs the following three elements: access, knowledge/ability and intent” (p. 4).

### 2.2.2 Poor Fraud Risk Mismanagement and Controls

Banks despite being the custodians of customers’ funds, allow themselves through their structures, to contribute to fraud. Rasmussen, stated that “financial service organisations are
often in disarray when it comes to having consistent processes and technologies for managing fraud investigations and loss (Woerner, 2013 p. 7). Rasmussen, further noted that the confusion is a result of: Fragmentation: Financial Service Organisations often don't have a one platform to manage organisation-wide investigations, frauds, incidents, issues, events, complaints and/or loss. Inconsistency: The organisation has a variety of methods ranging from the informal to the formal. Under-utilisation of technology: There is limited adoption of technology by the organisation to manage the process of investigating the fraud.

How organisations undertake their enterprise risk processes plays a vital role in preventing fraud. Hence, Alon and Dwyer (2010), highlighted the importance of organisations' auditors having an effective approach to carrying out fraud risk assessments as a group to ensure that risks are not overlooked while brainstorming and that all inputs are taken into account in the organisation's risk profile. Organisations' risk assessors should endeavour to have and utilize decision aids in their brainstorming sessions. Alon and Dwyer, further found that groups that make use of decision aids which include, checklists, audit programs and expert systems and which contain fraud risk factors are likely to make better quality decisions and are more effective even if the reliance is not often. The generally set down values in an entity will determine the extent to which an organisation will fall prey to fraudsters. As affirmed by Glover and Aono (1995), an alternative approach is based on the premise that corporate culture and industry traits significantly influence the likelihood for fraud to occur. Similarly, the nature of the organisations' systems in place determine its ability to prevent fraud or not. For example a complex Information Technology system aids the committing of fraud and complicates the investigation (Picard, 2009)

Fraud does not occur in seclusion and there are tell-tales and signs of fraud that corporates should not ignore to control fraud. Conway (2004) noted that any transaction or explanation that does not add up, failure to follow policy or procedure, or any conflicts of interest between the investigator and suspect may be a legitimate fraud sign. Organisations' inadvertently or inadvertently allow fraud against them to go undetected by; not having in place internal personnel to specifically prevent and detect fraud, not putting in place corporate overseers of the organisations' fraud programs, absence of fraud risk-related
management goals and rules, underestimating the risk of fraud, ignoring of large - impact frauds that appear remote, not identifying or appreciating cost-related costs, absence of fraud-risk management techniques in the business processes, internal controls-business misfit (Bishop, 2004). Organisations should not underestimate the importance of investing in controls to fight fraud. As highlighted by Bishop, in view of the returns made from such investments prevention is worth the economic sacrifice which ultimately saves the entity and its officers both time and money. Guo and Hu (2012), found that besides relying only on the outdated customer-based account signature, organisations must give employees signature systems to keep track of negative activities. Reviewing of organisations’ policies is also recommended to decrease fraudulent activities.

2.2.3 Customers as Contributories

As far as fraud is concerned, customers may play a part either as victim or as the perpetrators of the crime. As victims, the customers may lose their documents, which are then used to commit fraud. This loss, according to Hedayatti (2012), stems from various scenarios including political and economic reasons which prompt people to move illegally from one country to another leading to both identity theft and identity fraud. Similarly, potential fraud victims encourage fraud when they don’t carry out due diligence checks and procure a neutral third party’s opinion to reduce affinity fraud. In affinity fraud trust is built with the intended victim based on shared affiliations or characteristics including age, race, religion, ethnicity and professional designations, amongst others with a bid to exploit their trust for economic gain (Perri and Brody, 2012). Further, according to Gilbert and Archer (2012) fake identities are used to carry out identity-related fraud on financial and credit accounts which is carried out through new and existing accounts.

On the other hand customers as contributories to the commission of fraud was noted by, Payne (2006), who highlighted witness problems in investigations. These will arise as long as victims are unable or unwilling to co-operate in giving evidence required to determine that a crime has been committed. The types of witnesses that pose challenges to investigations include cognitively impaired witnesses, innocent recipients and colluding recipients.
Generally in some areas e.g. China some fraudsters commit it because some crimes are accepted by society as ways of retirement preparation by employees and keep up with their peers’ financial spending. This culture would be difficult to comprehend for any foreigner or foreign organization as a reason for perpetration of fraud. Thus to avoid losses perpetrated by fraudsters and ensure success, prior to an organization entering a market and incurring costs they should carry out their due diligence and understand the culture and way of life of the society and the individuals (Brody and Luo, 2009). This therefore, according to, Watson (2003), means that where perpetrators commit fraud because they did not realize it was wrong, rather than judge them harshly and on the basis that ignorance of the law is no defense, consideration should instead be given to the fact that it may be an act generally acceptable in the offender’s culture, society and not considered an offence.

2.3 Mitigation Strategies and/or Causes of Action in Customers’ Transactions Fraud

Increase of fraud in customers’ transactions has not been on the increase because the industry players have done nothing about it, but because with the changing times, the advance in technology and skill, those measures already in place require improvement. This was well put by, Usman and Shah, when they noted that, there is still need for more studies to specify the main areas requiring improvement.

2.3.1 Stringent Controls, Fraud Platforms and Employee Reviews

In emphasising the importance of good control systems, AICPA (1987), as cited by Haugen and Selin (1999), describes internal controls as the primary defense against fraud. An internal control system has four broad objectives: (1) to safeguard assets of the firm; (2) to ensure the accuracy and reliability of accounting records and information; (3) to promote efficiency in the firm's operations; and (4) to measure compliance with management's prescribed policies and procedures. Similarly, if you can reduce a user’s access/authority or increase the controls (which requires the attacker have more knowledge), then you reduce the risk (Woerner, 2013 p.5). Institutions, as custodians, have the ultimate responsibility in detecting and fighting fraud. According to, Khanna and Arora (2009), a good internal control system and good employment practices stops frauds and reduce losses. They further noted
that there is more to be done in implementation by organisations of various internal control mechanisms. This, in the view of, Khanna and Arora, indicate that lack of training, overworked employees, competition, low levels put in place for compliance policies and procedures e.g., by Reserve bank of India, to stop frauds, are the main reasons for bank frauds. The banks should take the rising indicators of bank frauds seriously and ensure that there is no laxity in their internal control mechanism. The nature of an institution's control system plays a big role in the level of fraud committed in the institution. Haugen and Selin (1999), noted that if organisations do not know what their employees do and little attention is given to their internal control systems, fraud will be perpetrated by those working in the company having access to the assets and systems. The losses incurred are always more when computers are used by employees in carrying out a fraud. Therefore, computer controls and other internal controls are very important in order to protect business assets. The people tasked with the everyday running of the organisation's operations cannot afford to be ignorant of the gaps in their structures that may contribute to the commission of fraud. As such, as highlighted by, Haugen and Selin (1999), the management in all organizations need to know and understand their internal control system, and ensure it has sufficient checks and balances to prevent perpetration of fraudulent acts by employees.

All organisations are in the present times threatened by both external and internal threats to the safety and security of their data and information. Therefore, it is imperative that management understand the effects of fraud and ways of protecting the organization. Notwithstanding the various methods used by institutions in carrying out checks on employees, the ultimate document defining the relationship parties' obligations is often overlooked. Araujo (2009), was of the view that, employer-employee contracts are efficient to fight fraud when the type of the employee as determined by their readiness to handle fraud prevention is known by the manager. If the employee's private details are not available to the manager, then the employment contract in place is inadequate due to the problem of hidden information which leads to a moral danger. Being main culprits in the commission of fraud, organisations must start investing in modes of carrying out checks on employees as emphasised by, Brody (2010), of the importance by institutions to invest resources upfront to gather information of a possible candidate and avoid incurring major losses thereafter for a
hiring error. Ultimately, hiring safe, honest and qualified employees is one of the most important decisions that an organization should make. Therefore all available resources should be utilised to ensure that the right employee is hired.

Institutions, being very large and comprising different functional units, should have one common point of reference of fraud related matters, which enables it keep track of the level of fraud in the organisation. This was expounded by, Rasmussen, who noted that a one-organisation approach provides incident information across the organisation’s business units, processes and relationships. It enables the organisation keep detailed investigation history and audit trails, manage the investigations’ processes, link fraud incidents to remediation procedures, and point out trends to keep track of similarities and relationships in investigations. This eventually enables the organization to know and understand all of its mitigation and prevention requirements. When organisations are not clear in their definition of fraud they will not be in a position to disseminate information that will be uniformly understood by all concerned parties, to know the extent of the problem in order to the amount of and key areas to deploy resources to effectively solve it (Vasiu, Warren and Mackay, 2003).

The Fraud Management Lifecycle is dynamic, evolving, and adaptive. The eight stages are: Deterrence, Prevention, Detection, Mitigation, Analysis, Policy, Investigation, and Prosecution. Effective fraud management requires a balance in the competing and complementary actions within the Fraud Management Lifecycle (Wilhelm). All these actions must be taken by the institution in each fraud case. Thus to successfully control and minimise the kind of strategy used will depend on the organisational environment (Holtfreter, 2004).

2.3.2 Fraud Education

It is imperative that the banking industry takes steps in sensitizing not only their employees on fraud deterrence, if not prevention, but also their customers and the general public. Wright, highlighted the need for increased fraud awareness education to members of the public and sensitisation of the need for increased on public-private partnerships to assist in combatting economic crime. According to, Hedayatti (2012), social environment and factors
such as habits and interaction through social networks have major effects on identity theft. The level of people's knowledge about social networks and such people's role in protecting privacy is important in the society especially in the current digital times. Although institutions and people try to protect their privacy, confidential data and personal information through various security mechanisms, the improved social engineering techniques are real and may remain as the most effective access technique to obtain private and confidential information. This could not be further from the truth.

Customers should and must play a part in avoiding falling prey to fraudulent practices. A link was found between customer familiarity with and knowledge about fraud prevention measures and the quality of organisation-customer relationships as seen through the level of satisfaction, trust, and commitment. Such quality of customer relationships, in turn, is positively associated with customer loyalty to the organisation as seen through the level of the wish by customers to continue their relationship with and buy other products across the board from their bank (Hoffmann and Birnbrich, 2012). In fighting fraud, Usman and Shah, opined that besides technology, there are other factors that need to be considered such as internal controls, customer education and staff education etc. On the necessity to include the society in the fight against fraud, Reisig and Holtfreter (2007), highlighted the need, for example in Florida, for public education aimed at also educating the young and the professionals on the potential dangers of consumer fraud, as well as existing government channels available to in the event of fraud.

2.3.3 Review of the Legal Process

The necessity to urgently address the inadequacy of the current legal frameworks was reiterated by, Wehinger (2012), when he noted that restoring investor confidence in the system may require having new approaches by reviewing the incentives, rules and regulations in place for the financial sector. Wehinger (2012), further highlighted that, regulatory reforms need to take into consideration market forces, ensure a good balance between penalties (whose enforcement need to be improved) and rewards, and also establish a good relationship between risk-taking and return for that. Despite its sensitivity and
advances in the mode of effecting it, there is no specific law on fraud. Instead it is lumped under other crimes of theft. Wright, (2003) suggested that there should be a general offence specific to fraud. Although different cases are peculiar in their own way, the prosecution proceedings process and the duration thereof should be reconsidered. However, the risks of hastening the process must be weighed to ensure justice is served for the parties involved. Wright, rightly noted that over trimming of a case merely to shorten the trial period may remove the important elements of the case. This is sometimes an indicator of lack of effective management of the trial process. By having experts listen to and determine fraud related cases, the chances of failure of the fraud related cases are minimised.

Wright (2006), opined that, tribunals sitting alone as opposed with sitting with juries made up of lay people can shorten the trial process without necessarily reducing public confidence in the criminal justice system in fraud - related class of cases. There is also need to amend the existing local legislation so as to protect customers who, as depositors, are severely affected as victims of fraud. For example, the Consumer Protection Act (Kenya Law Reports, 2010), appears to restrict itself to providing, for the protection of the consumer, prevent unfair trade practices in consumer transactions and to provide for matters connected with and incidental thereto. On the other hand, to the extent that, The Proceeds of Crime and Anti Money Laundering Act, (Kenya Law Reports, 2010), provides that the Financial Reporting Centre shall receive and analyse reports of unusual or suspicious transactions made by reporting institution it appears this legislation is only open to reports made by institutions as corporate bodies to the exclusion of other individuals including customers. In view of the different tactics used by the fraudsters in different scenarios of fraud, regulators should play a bigger role in the fight against fraud. Because the public’s view of the legitimacy of legal authorities influence whether or not crime will be reported, improving public confidence in the authorities is an important step. In particular, legal authorities must come up with strategies to get to such consumers with low levels of confidence in them (Reisig and Holtfreter, 2007).

Whether fraud in an organisation is committed by a junior employee or not, the principal officers ought to appreciate that they bear the ultimate responsibility for fraud actions perpetrated in their organisation.
Amoah (2013), noted that the greater the punitive action meted out on an accused organisation, the more likely the top management of the organisation is considered as being reckless in facilitating the alleged fraud. In view of the fact that the size of the legal penalty may be commensurate to the seriousness or otherwise of the alleged fraud, the finding of a link between the size of the legal punitive actions and the timing of top management turnover is vital hence need for boards to quickly fire fraud-tainted management when fraud allegations are more serious and the economic loss to shareholder wealth huge. Therefore the legal system and boards of directors must review the current punitive rationales and measures taken in the event of a fraud. Ghosh and Bhageri (2006), confirmed this, in that it becomes therefore important that for a sound banking system, stability of the financial system and safety of the customers assets, to put in place a more effective and detailed legislation that would foresee and prevent the occurrence of such large-value frauds. In his findings, Wehinger (2012), noted that there was also a need for regulators to be more proactive, to take into account issues of governance and regulation - compliance cost and also to address challenges of regulatory gaps. Although co-ordination of regulatory reforms so as ensure a level playing field is vital some leeway for specific circumstances should be allowed hence one rigid approach should not be strictly used for the different circumstances. Further strong regulatory macro as well as micro-supervision that detect fraud related risks early on were found to be important complements to the regulation. Similarly in view of the level of globalization and the increase of cross border transactions, cooperation between countries and all institutions should be given the urgent attention it requires. This was emphasized by, Button (2012), who noted that for any meaningful effects a new international body must be put in place.

A Financial Institution, as defined by the Banking Act, means, “a company, other than a bank, which carries on, or proposes to carry on, financial business and includes any other company which the Minister may, by notice in the Gazette, declare to be a financial institution” (Section 2 (1). In view of this, in fighting fraud, focus should not only be on the traditional bank as known by the man on the street, because, as noted by, Wehinger (2012), non-banking sectors and fictitious banks are now key and will therefore require enhanced regulatory checks. The concern on unregulated areas that in one way or the other contribute
to commission of fraud was noted by, Salu (2004), that another issue that should be considered for regulation is stricter control on the operations of cyber cafes. This has also been specifically noted in, The Prudential Guidelines (2013), that the rapid growth in telephone, mobile and internet banking has added a new dimension to banking risks including the verification of identity, unlicensed deposit taking and tax evasion and opens up new mechanisms for fraud and money laundering because its use is unregulated (section 5.6.7.1).

2.4 Chapter Summary

This Chapter has reviewed and set out the various existing literature on perpetration of fraud while carrying out transactions. The literature agrees that indeed, the threat of fraud is more real than ever, considering the increase in technological know-how and globalisation. Further, it is the view of most scholars that institutions must review their internal control mechanisms and carrying out substantial and continuous checks on their employees. However, despite existing literature highlighting required measures in the judicial and regulatory process, it appears scholars have overlooked the complexity of fraud as a crime by assuming judges, magistrates and other regulators understand fraud. Hence, the need to train the various authorities in the administrative, judicial and regulatory areas on technical aspects of carrying out fraud has not been covered.

Similarly, despite the advent of globalisation and trans-border transactions, which has in one way or the other led to the increase in fraud related transactions, there does not appear to be a lot of literature covering the urgent need for a common international body, with jurisdiction in all countries, specifically dealing with fraudulent transactions and to which the aggrieved organisations can escalate their case to in a bid to recover stolen money. There is therefore need for further research covering the gaps in the existing literature on the above areas.

The next chapter, Chapter 3, covers the research methodology used in the study, comprising the research design, population, sampling design, data collection methods, the research procedures and the data analysis methods.
CHAPTER 3

3.0 RESEARCH METHODOLOGY

3.1 Introduction

This Chapter highlights the research design, the population, the sampling frame, sampling technique, sample size methods of data collection, research procedures and the data analysis methods.

3.2 Research Design

As defined by, Mugenda and Mugenda (2003), "Research design is the overall plan for how to obtain answers to the questions being studied." This study will take the survey form in view of the size of the population. Similarly, according to Kelley, Clark, Brown and Sitzia (2003), "the term 'Survey' is used in a number of ways, but generally refers to the selection relatively large sample of people from a determined population (the population of interest this is the wider group of people in whom the researcher is interested in a particular study followed by the collection of a relatively small amount of data from those individuals." Guy (1994), on the other hand defines the survey methodology as a methods grouping that emphasize quantitative analysis, under which data for many different organizations are collected through various modes including mail questionnaires, telephone interviews, published statistics, after which the said data are analysed using statistical techniques. Through the study of a sample that represents the different organizations, the survey methodology thereby seeks to establish relationships that are similar across the different organizations thereby offering generalizable statements about the object of study.

The research questions this study sought to answer touching on fraud, involved collection of data from a large population comprising of employees from many and large financial institutions, customers, court officers and experts in organisations which in one way or another were linked to financial institutions. In view of the amount of information from different case studies, the survey research design adequately met the research goals. As noted
by, Janes (2001), ñsurveys can do a good job of describing a large population, getting good, reliable answers, to the same set of questions by all respondents.ô

3.3 Population and Sampling Design

3.3.1 Population

A population refers to the full set of the different cases from which a sample is drawn (Saunders, Lewis and Thornhill, 2003). Similarly, Sekaran (2003), defines a population as the people, events, groups and/or other things that the researcher has an interest and wishes to investigate. As the choice of the population being studied depends to a large extent on the nature of the research question, for purposes of this research and answering the various aspects of the research questions, the population was made up of cases comprising bank employees at manager level.

3.3.2 Sampling Design

Gill and Johnson (2010), highlighted that all surveys are concerned with identifying the ñresearch populationô which will provide all the information necessary for answering the original research question. Often it is impractical to involve all members of this population ñthus selecting who participates in a survey is a crucial issue. Thus, the selected respondents are the sample, who will be representative of the population.

3.3.2.1 Sampling Frame

A sampling frame is a list of entities, individuals or otherwise from which the sample is actually drawn and comprises a full and updated list of population members only (Cooper and Schindler, 2003). Similarly, Gill and Johnson (2010) noted that, ñthe sampling frame is a list of members of the research population from which a sample may be drawn. The first step therefore in selecting who participates in a survey is selecting a sampling frame.ô Considering the cases representing the population were from different institutions within the banking industry hence different backgrounds, the origin of the respective lists differed. The sampling frame for the quantitative research was based on the list of bank employees at
manager level known to and obtained by the researcher. The sampling frame of the study was 132 as shown below.

Table 3.1: Sampling Frame

<table>
<thead>
<tr>
<th>Population</th>
<th>Population Size</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bank employees located at Head Office</td>
<td>85</td>
</tr>
<tr>
<td>Bank employees located at the branches</td>
<td>47</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>132</strong></td>
</tr>
</tbody>
</table>

3.3.2.2 Sampling Technique

There are various sampling techniques which can be selected by the researcher based on the researcher’s project requirements, objectives and the amount of funding available (Cooper and Schindler, 2003). Accordingly, Mugenda and Mugenda (2003), highlighted that once a decision is made on the sample size, a procedure of determining the cases to be included in the sample must be put in place. This research was quantitative in nature and used a multi stage sampling technique combining the clustered sampling method and convenience sampling.

The first sampling technique was cluster sampling, which according to, Hussey & Hussey (1997), involves making a random selection from a sampling frame listing groups of units rather than individual units. Every individual belonging to the selected groups is then interviewed or examined. A list of all the bank employees at manager level were obtained and the employees grouped into head office and branch locations employees to ease the collection of the data and in view of the different duties carried out by these groups. A sample of cases within the selected population in the two groups i.e. branch offices and headquarters that was representative of the two groups was utilised for the research.

The second sampling method used in the research was convenience sampling, which according to Saunders, Lewis & Thornhill (2003), is also known as haphazard sampling and involves haphazardly picking those subjects that are easiest to obtain for the researcher.
sample. Mugenda and Mugenda (2003) similarly defined this sampling method as, “selecting cases or units of observation as they become available to the researcher. It is also referred to as ‘volunteer sampling’ or ‘accidental sampling’.” Tansey (2007), noted that the key advantage of convenience sampling as a sampling method is its convenience as it does not have strict rules on the modes of selection and further in view of selection of the sample being in whatever way that is easiest to the researcher. Convenience technique was used to the extent that the researcher gave consideration that these respondents could give the information depending on their availability and also on their own free will. These respondents were those known to the researcher hence necessitating use of convenience sampling.

3.3.2.3 Sample Size
Sample size is highlighted by Hussey and Hussey, as a question of deciding how accurate you want your results to be and how confident you want to be in that answer. You will also need some indication of the anticipated response, possibly taken from previous studies or a pilot survey you have conducted yourself. The correct size of the sample depends on the precision needed from the estimate. Precision refers to the size of the estimating interval when determination is required of the estimate of a population parameter (Ghauri and Gronhaug, 2010).

To ensure valid representation of the population, the sample size for the quantitative research, was taken into consideration that data was collected from a minimum number of 30 respondents or 5% of the total population, whichever was higher, consideration was also given that some of the respondents would not revert with their questionnaires hence an allowance of 20 additional respondents was given.
Table 3.2: Sample Size

<table>
<thead>
<tr>
<th>Population</th>
<th>Population Size</th>
<th>Sample</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bank employees located at Head Office</td>
<td>85</td>
<td>40</td>
</tr>
<tr>
<td>Bank employees located at the branches</td>
<td>47</td>
<td>10</td>
</tr>
<tr>
<td>TOTAL</td>
<td>132</td>
<td>50</td>
</tr>
</tbody>
</table>

3.4 Data Collection Methods
In view of the different institutional internal environments of the sample, primary data was collected in one main form, being through questionnaires to the cases. Mugenda and Mugenda (2003), defines primary data as "the data observed or collected directly from first-hand experience." Questionnaires comprise tools in research in which the respondents answer similar questions in a given order. Through the questionnaire, the researcher is able to obtain the respondents' feelings, beliefs, experiences, perceptions or attitudes (Mugenda and Mugenda, 2003).

Questionnaires were self-administered and collected from the bank employees. The questionnaires comprised of four sections representing questions on respondent's profile, legal and regulatory factors, customers and employee's factors and mitigation strategies and causes of action. Questions in the questionnaire included closed questions. However, the study utilized likert scaling in the questionnaire to measure the perception of respondents. To ensure anonymity and confidentiality in the questionnaire, no personal information or data was requested by the researcher in the questionnaire.

3.5 Research Procedures
As highlighted by Gill and Johnson (2010), whether it is intended to use a postal questionnaire, email or an interviewer administered schedule it is always important to begin fieldwork by conducting a pilot study. In essence, pilot research is a trial run-through to test the research design with a subsample of respondents who have characteristics similar to those identifiable in the main sample to be surveyed.
For purposes of collecting date for the quantitative research, questionnaires were developed and disseminated to a few respondents on a trial basis to determine to ensure the same were conclusive and unambiguous for data collection. The researcher then disseminated the questionnaires in the final form to the respondents with clear instruction on the mode of completion of the same and the proposed timelines.

3.6 Data Analysis Methods

To analyse and interpret data, raw data collected was inspected, cleaned and coded by giving the data numerals. As noted by, Saunders, Lewis and Thornhill (2003), coding enables the fast input of the collected data and with minimal errors. Further, it also makes subsequent analysis particularly that requiring re-coding of data to create new variables, more meaningful. Once coded, the researcher was in a position to analyse the data using Statistical Package for Social Sciences (SPSS) vs. 20. Analysis was done for measures of means, modes, percentages and frequency distributions. Cross tabulations were also used in data analysis. Analysed data was presented using tables and figures.

To interpret the data findings, principles of Morris (2008) were utilized. According to, Morris “whatever elaborate analysis you are planning on doing, the first priority when you have all your results should be to summarise them in such a way that you begin to see what the interesting features of the data are. Upon summarisation of the data, the researcher will be able to find the mode or frequencies, the mean or average and also the median. The most common value in a distribution gives us a clue to the typical value for the distribution as a whole. The technical name for this most common value is the mode and it is very easy to see, either by looking at a histogram or by inspecting the frequency table to find the highest frequency, whereabouts it occurs. As further highlighted by, Morris, the median is the middle value of the arranged data in order of size.

3.7 Chapter Summary

This chapter reviewed the research design, the population, sampling frame, sampling technique, sample size methods of data collection, research procedures and the data analysis
methods used in this research. This study takes the survey form in view of the size of the population.

The population comprises bank employees and the sampling frame for the quantitative research was based on the list of bank employees at manager level known to and also obtained by the researcher. Questionnaires were the data collection methods while SPSS was used for data analysis. The next chapter, Chapter 4 sets outs the results and findings of data collected in this chapter on each of the research questions. Chapter 5 sets outs the researcher’s summary of findings, discussions and conclusions on each of the research questions. Further, chapter 5 presents recommendations for practice and further studies.
CHAPTER FOUR

4.0 RESULTS AND FINDINGS

4.1 Introduction

The purpose of this study was to investigate the factors leading to the upsurge in customers’ transaction fraud cases in Kenya and the plausible mitigation strategies and/or causes of action. To achieve this goal, the study collected data from employees in banks who have daily interactions with customers and have the responsibility to identify and prevent fraud cases. In total, 49 respondents out of the 50 respondents provided complete data while one of the respondents returned a questionnaire with errors and gaps rendering it invalid. This represents a 98% response rate which is considered adequate for validity and reliability of the findings. Questionnaires used in the study were manually distributed and collected.

4.2 Respondents Profile

This section presents the profile of all the respondents in the study.

4.2.1 Industry/ Sector

This study utilized respondents from the banking sector. All the respondents included in the study indicated that they worked in the banking industry though in different organizations. This is consistent with the objectives of the study which seeks to investigate the cases of customer frauds which is prevalent in the banking sector.

4.2.2 Fraud in Financial Institutions

To enhance the validity of data collected in this study, the study sought to include employees who had long term experience in the banking sector. As a consequence, majority of the respondents (45%) had been working in the banking industry for the long term (above 8 years). In addition, 16% of the respondents had been working in the banking sector in the medium term (4 ÷ 7 years) while 39% had worked in the banking sector in the short term (less than 3 years). This is as shown in Figure 4.1 below.
4.2.3 Fraud in Financial Institutions

According to respondents in this study, fraud in financial institutions was average. This is implied by 55% of the respondents, who indicated that it was average, 33% indicated that it was low while 12% indicated that it was above average. This is as shown in Table 4.1 below. This implies that there may have been attempted frauds but which may not have been successfully carried out to conclusion for one reason or the other.

**Table 4.1: Fraud Prevalence in the Financial Industry**

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low</td>
<td>16</td>
<td>33</td>
</tr>
<tr>
<td>Average</td>
<td>27</td>
<td>55</td>
</tr>
<tr>
<td>Above average</td>
<td>6</td>
<td>12</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>49</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>
4.2.4 Fraud Incidents

Respondents in the study were requested to indicate the number of fraud incidents they had witnessed over the last four years. Forty nine percent of the respondents indicated they had witnessed more than 10 frauds, 54% indicated they had witnessed between 6 ÷ 10 frauds while 24% indicated they had witnessed 1 ÷ 5 frauds as shown in Figure 4.2 below. This implies that fraud incidents are at an average level in most financial institutions with less than 2 fraud incidents per year. Consideration is also given to the fact that this study has shown that investigation and/or prosecution of certain frauds hardly take off due to their complex nature hence the respondents may not be aware of their existence. On the other hand, it may also imply that there may have been attempted frauds but which may not have been successfully carried out to conclusion for one reason or the other.

Figure 4.2: Fraud Incidents
4.2.5 Fraud Prevention Success

Most financial institutions have had above average performance in prevention of fraud cases. This is according to 49% of the respondents to this study who indicated that most financial institutions had above average performance. In addition, 31% of the respondents indicated that financial institutions had average performance, 4% indicated that it was low while 16% indicated that it was very high. This is as shown in Table 4.2 below. This implies that there may have been attempted frauds but which may not have been successfully carried out to conclusion due to the controls in place in an institution.

Table 4.2: Fraud Prevention Success

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>Average</td>
<td>15</td>
<td>31</td>
</tr>
<tr>
<td>Above average</td>
<td>24</td>
<td>49</td>
</tr>
<tr>
<td>Very high</td>
<td>8</td>
<td>16</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>49</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

4.2.6 Fraud Prevention Measures

The applications of fraud prevention measures in financial institutions such as know your customer (KYC), although not fully carried out or fully successful in certain instances for one reason or another, they were to a large extent reasonably in place for prevention in fraud cases. This is implied from the findings of the study which show that 53% of the respondents thought their fraud prevention measures were adequate, 39% indicated they were very thorough while 8% indicated that they were basic. This findings show that, although not all were fully carried out or fully successful, for one reason or the other, various institutions endeavored to a large extent to carry out KYC due diligences so as to detect and prevent of fraud as shown in Figure 4.3 below.
4.3 Legal and Regulatory Framework

This section provides the findings of the study in respect of how the legal and regulatory framework contributes or leads to an increase in the number of customers’ transactions related fraud in Kenya.

4.3.1 Heard and Determined Cases

Thirty seven percent of the respondents to this study strongly disagreed that fraud related cases involving the financial institution had been heard and determined in the past one year. In addition, 20% of the respondents disagreed, 24% agreed, 14% strongly agreed while 4% indicated that it was not applicable. These findings imply that to most respondents, fraud related cases had not been heard and determined within one year. This implies slow justice which leads to an increase in fraud cases due to delayed cases.
Table 4.3: Heard and Determined Cases

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strongly Disagree</td>
<td>18</td>
<td>37</td>
</tr>
<tr>
<td>Disagree</td>
<td>10</td>
<td>20</td>
</tr>
<tr>
<td>Agree</td>
<td>12</td>
<td>24</td>
</tr>
<tr>
<td>Strongly Agree</td>
<td>7</td>
<td>14</td>
</tr>
<tr>
<td>Not Applicable</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>49</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

4.3.2 Fines in Court

Low fines are contributors of fraud in banks. This study found that to most respondents the fraud suspects in their financial institutions had been able to pay their court fines and were therefore free. This is according to 24% and 45% of the respondents who strongly agreed and agreed that courts of law set low fines which suspects were able to pay. On the other hand, 8% of the respondents strongly disagreed and disagreed for each while 14% indicated that it was not applicable. The respondents indicating not applicable could be referring to the use of other alternative measures for fraud prosecution such as dismissals or fraud suspects who were never arrested.

Figure 4.4: Fines in Court
4.3.3  Risk and Operation Department Inclusion in Contract Review

The study sought to examine whether the risk and operations departments were involved in the review of legal documents including contracts that involve banking systems and processes. Fifty one percent of the respondents strongly agreed and 37% agreed. This implies that in most financial institutions the Risk and Operation departments were involved in contract review. Nevertheless, 4% and 8% of the respondents disagreed and strongly disagreed respectively as revealed in Table 4.4. This could mean that where included, the inclusion of these departments is only related to determining the suitability or otherwise of the operational aspects of the contracts.

Table 4.4: Risk and Operation Department in Contract Review

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strongly Disagree</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>Disagree</td>
<td>4</td>
<td>8</td>
</tr>
<tr>
<td>Agree</td>
<td>18</td>
<td>37</td>
</tr>
<tr>
<td>Strongly Agree</td>
<td>25</td>
<td>51</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>49</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

4.3.4  Prosecution of Offenders

Most financial institutions in Kenya have not been able to prosecute fraud perpetrators located outside the country. This is according to 24% and 29% of the respondents who strongly disagreed and disagreed, respectively. On the other hand, 8% and 4% of the respondents agreed and strongly agreed as shown in Figure 4.5 below. This implies that most financial institutions in Kenya have not been able to prosecute fraud cases perpetrated outside Kenya. Furthermore, the high proportion of respondents indicating not applicable could be a sign of higher local fraud over international fraud.
4.3.5 **Knowledge of Laws**

Most respondents were aware of the laws that specifically relate to internet fraud. According to 45% of the respondents they were aware of the laws and 14% strongly agreed. On the other hand, 33% disagreed and 4% strongly disagreed that they were aware of the specific laws relating to internet fraud. Four percent of the respondents indicated that it was not applicable. However, a sizeable proportion of employees were not aware. This is illustrated in Table 4.5 below. This implies that most respondents are likely to be aware of laws related to theft of funds and made conclusions that these specifically relate to internet fraud.

**Table 4.5: Knowledge of Laws**

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strongly Disagree</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>Disagree</td>
<td>16</td>
<td>33</td>
</tr>
<tr>
<td>Agree</td>
<td>22</td>
<td>45</td>
</tr>
<tr>
<td>Strongly Agree</td>
<td>7</td>
<td>14</td>
</tr>
<tr>
<td>Not Applicable</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>49</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>
4.3.6 Assistance of Law Reinforcement Agencies

According to most respondents in this study, law reinforcement agencies assisted the institutions in recovering funds lost through fraud carried out from outside the border. This is according to 10% and 37% of the respondents who strongly agreed and agreed respectively. On the other hand, 12% and 24% strongly disagreed and agreed that law reinforcement agencies aided in recovery of funds from fraud outside the country. Sixteen percent of the respondents indicated that it was not applicable. These are a likely implication that respondents believe and/or expect that financial institutions receive assistance from law reinforcement agencies in recovering funds across borders similar to that given in loss of funds perpetrated locally.

![Figure 4.6: Law Reinforcement Agencies Assistance](image)

4.3.7 Lawyers Attendance in Court Cases

In most financial institutions, lawyers and witnesses were the only attendants of fraud cases in courts of law. This is according to 55% and 4% of the respondents who agreed and strongly agreed that lawyers and witnesses were the attendants in court cases for fraud related cases. On the other hand, 4% and 37% of the respondents strongly disagreed and disagreed
respectively. This is as shown in Table 4.6 below. This implies that, save for lawyers and witnesses to the fraud, no one else within the institutions is involved in the fraud related cases.

**Table 4.6: Attendance of Court Cases**

<table>
<thead>
<tr>
<th>Response</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strongly Disagree</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>Disagree</td>
<td>18</td>
<td>37</td>
</tr>
<tr>
<td>Agree</td>
<td>27</td>
<td>55</td>
</tr>
<tr>
<td>Strongly Agree</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>49</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

4.3.8 **Understanding of Legal Documents**

Fifty three percent and 8% of the respondents in this study agreed and strongly agreed that they were able to understand the legal documents in all fraud related cases in the institutions. On the other hand, 8% and 24% strongly disagreed and disagreed as shown in Figure 4.7 below. Six percent of the respondents indicated that it was not applicable. This is as shown in Figure 4.7 below. This is a likely indication that, most respondents in the financial institutions are likely to know the documents within their institutions that would be required for presentation in a fraud case but interpretation would be a challenge for them. Alternatively, it could be an implication that the documents perceived to be legal documents are those that the respondents have access to including the policies and procedures.
4.3.9 Complexity of Fraud Cases

Respondents to this study were asked whether they were aware of suspected fraudsters who had not been tried at all in courts due to complexity of the fraud cases even to investigators. Four percent of the respondents disagreed, 16% disagreed, 37% agreed, 20% strongly agreed and 22% indicated that it was not applicable. The findings imply that there is a huge presence of unprosecuted cases due to the complexity of laws and fraud cases even to investigators. However, the huge proportion of respondents (22%) indicating not applicable could be an indicator of low usage of courts as avenues for prosecution of fraud or out of court settlements between the parties based on the circumstances.

Figure 4.7: Understanding of Legal Documents
Table 4.7: Complexity of Fraud Cases

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strongly Disagree</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>Disagree</td>
<td>8</td>
<td>16</td>
</tr>
<tr>
<td>Agree</td>
<td>18</td>
<td>37</td>
</tr>
<tr>
<td>Strongly Disagree</td>
<td>10</td>
<td>20</td>
</tr>
<tr>
<td>Not Applicable</td>
<td>11</td>
<td>22</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>49</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

4.3.10 Corporate Bodies as Perpetrators of Fraud

Corporate bodies have been used to perpetrate fraud cases in financial institutions. This is according to 45% of the respondents who agreed and 27% who strongly disagreed. Nevertheless, 4% and 16% of the respondents strongly disagreed and disagreed respectively. Eight percent of the respondents however indicated that it was not applicable. This is as shown in Figure 4.8 below:

![Figure 4.8: Corporate Bodies in Fraud](image)

Figure 4.8: Corporate Bodies in Fraud
4.3.11 Number of Fraud Cases Heard to Completion

According to 20% of the respondents to this study, there had been zero fraud related cases fully heard and determined in a court of law in the last four years. Forty five percent of the respondents indicated that the number of cases were between 1 and 4, 12% indicated it was between 5 and 8 while 22% indicated that they were more than 9. These findings imply there is a slow determination of fraud cases in Kenyan courts.

Table 4.8: Number of Fraud Cases

<table>
<thead>
<tr>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>10</td>
</tr>
<tr>
<td>1 - 4</td>
<td>22</td>
</tr>
<tr>
<td>5 - 8</td>
<td>6</td>
</tr>
<tr>
<td>More than 9</td>
<td>11</td>
</tr>
<tr>
<td>Total</td>
<td>49</td>
</tr>
</tbody>
</table>

4.3.12 Highest Court

Majority (59%) of the respondents indicated that the highest court that has heard and determined fraud related cases were the high courts. Further, 37% indicated that it was the magistrate’s court while 4% indicated that it was the Court of Appeal. This is as shown in Figure 4.9 below. These findings are a clear indication that the respondents may not fully understand the judicial system in Kenya, an indicator of its complexity, in view of the legal reality that, save for any appeals, the highest courts mandated in the first instance to hear and determine fraud related cases are actually the magistrates' courts.
4.3.13 Courts in Enhancing Fraud

Respondents were requested to identify how the judicial system has encouraged the perpetration of fraud in Kenya. According 43% of the respondents the judicial system encouraged perpetration of fraud through long durations to complete prosecution, 29% indicated that it was through low fines, 13% indicated that it was through short jail periods, 12% indicated that it was through setting free of suspects while 2% indicated that it was through other factors such as corruption, bribery and lack of sufficient evidence. This is as shown in Table 4.9 below.

Table 4.9: Courts as Enhancers of Fraud

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Long Durations</td>
<td>36</td>
<td>43</td>
</tr>
<tr>
<td>Low fines</td>
<td>24</td>
<td>29</td>
</tr>
<tr>
<td>Short Jail periods</td>
<td>11</td>
<td>13</td>
</tr>
<tr>
<td>Setting free of suspects</td>
<td>10</td>
<td>12</td>
</tr>
<tr>
<td>Others</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>83</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>
4.4 Banks and Customers in Fraud

This section presents the findings of the study in regard to how bank employees and customers act as perpetrators of fraud.

4.4.1 Outside Perpetrators

Four percent of the respondents strongly disagreed that all fraud related cases in the financial institution were perpetrated by outsiders, 35% of the respondents disagreed, 29% agreed and 33% disagreed as shown in Figure 4.10 below. These findings imply that equal number of respondents agreed and disagreed that fraud cases were perpetrated by outsiders. This is to show that fraud in financial institutions was perpetrated by outsiders as well as insiders.

![Figure 4.10: Outside Perpetrators of Fraud](image)

4.4.2 Employees with Authorized Access

Employees with authorized access to institutions operating systems were central to fraud related cases in most financial institutions. This is implied from the findings of this study which show that 55% and 29% of the respondents agreed and strongly agreed that employees with authorized access to the operating system were suspects in fraud related cases. Nevertheless, 16% of the respondents disagreed. This is as shown in Table 4.10 below.
Table 4.10: Employees with Access

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Disagree</td>
<td>8</td>
<td>16</td>
</tr>
<tr>
<td>Agree</td>
<td>27</td>
<td>55</td>
</tr>
<tr>
<td>Strongly Agree</td>
<td>14</td>
<td>29</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>49</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

4.4.3 Central Fraud Department

Most financial institutions have a central fraud department with the responsibility of handling fraud related incidents throughout the institution. This is according to 37% and 55% of the respondents who agreed and strongly agreed that central fraud departments were present in the financial institutions. On the other side, 4% for each of the respondents disagreed and strongly disagreed as shown in Figure 4.11 below.

![Central Fraud Department](image)

Figure 4.11: Central Fraud Department
4.4.4 Operating Systems Use and Understanding

Most operating systems used in financial institutions across Kenya are easy to use and understand. This is according to 45% and 22% of the respondents who agreed and strongly agreed that the institutions operating system was easy to use and understand. On the other hand, 8% and 24% of the respondents strongly disagreed and disagreed respectively. These findings imply that though to most employees, the operating system was easy to use and understand a significant proportion of the respondents did not find it easy to use and understand. This is as shown in Figure 4.12 below.

![Figure 4.12: Easy to Use and Understand Operating System](image)

4.4.5 Enterprise Risk Management

Respondents were asked whether the enterprise risk management processes in the institution were effective in fraud prevention. Eight percent of the respondents strongly disagreed, 24% disagreed, 45% agreed and 22% strongly agreed. This shows that enterprise risk management processes and systems were effective tools for fraud management and prevention in financial institutions across Kenya.
### Table 4.11: Enterprise Risk Management

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strongly Disagree</td>
<td>4</td>
<td>8</td>
</tr>
<tr>
<td>Disagree</td>
<td>12</td>
<td>24</td>
</tr>
<tr>
<td>Agree</td>
<td>22</td>
<td>45</td>
</tr>
<tr>
<td>Strongly Agree</td>
<td>11</td>
<td>22</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>49</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

#### 4.4.6 Tracking of Suspicous Activities

In virtually all financial institutions, there were employees dedicated to keep track of suspicious activities on bank accounts held with the institutions. This is deduced from the findings of the study which show 51% and 45% of the respondents strongly agreeing and agreeing that financial institutions had employees dedicated to track suspicious activities on bank accounts. Only 4% of the respondents disagreed as shown in Figure 4.13 below.

![Figure 4.13: Tracking of Suspicious Activities](image-url)
4.4.7 Auditors Teamwork

Auditors in most financial institutions undertook their activities/audits as teams rather than individually. This is deduced from 41% and 43% of the respondents who agreed and disagreed, respectively, that auditors in the financial institutions undertook audits as teams rather than individually. On the other hand, 16% of the respondents disagreed. This is as shown in Table 4.12 below.

Table 4.12: Auditors Teamwork

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Disagree</td>
<td>8</td>
<td>16</td>
</tr>
<tr>
<td>Agree</td>
<td>20</td>
<td>41</td>
</tr>
<tr>
<td>Strongly Agree</td>
<td>21</td>
<td>43</td>
</tr>
<tr>
<td>Total</td>
<td>49</td>
<td>100</td>
</tr>
</tbody>
</table>

4.4.8 Audit Items

While carrying audits, the auditors in most financial institutions had preset items which they specifically audited rather than carrying out general audits. This is according to 53% and 27% of the respondents who agreed and strongly agreed. This implies that fraud could be concealed considering not all items were audited. Nevertheless, in 20% of the respondents’ institutions, auditors undertook general audits. These findings imply that the identification of frauds could be harder in most financial institutions considering not all items were included in the audits.
Bank accounts opened by customers were used to perpetrate fraud in the institution. This is according to 51% of the respondents who agreed and 29% of the respondents who strongly agreed. On the other hand, 16% of the respondents disagreed that bank accounts were used to perpetrate fraud in financial institutions. In addition, 4% of the respondents indicated that it was not applicable. This is as shown in Table 4.13.

### Table 4.13: Use of Accounts for Fraud

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Disagree</td>
<td>8</td>
<td>16</td>
</tr>
<tr>
<td>Agree</td>
<td>25</td>
<td>51</td>
</tr>
<tr>
<td>Strongly Agree</td>
<td>14</td>
<td>29</td>
</tr>
<tr>
<td>Not Applicable</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>49</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

**4.4.10 Imposters’ use of Genuine Documents**

The use of genuine documents by imposters to commit fraud was prevalent in most financial institutions. This is according to 59% and 24% of the respondents who agreed and strongly
agreed that imposters used genuine documents to commit fraud. Four percent of the respondents strongly disagreed while 12% of the respondents indicated that it was not applicable. This is shown in Figure 4.15.

![Figure 4.15: Imposters use of Genuine Documents](image)

### 4.4.11 Cooperation between Customers and Bank

This study sought to examine whether customers who were victims of fraud cooperated with financial institutions investigation. According to 59% and 20% of the respondents customers cooperated with banks while 4% and 16% of the respondents strongly disagreed and disagreed that customers cooperated with banks. These findings imply that some customers cooperated with banks to investigate cases of fraud.

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strongly Disagree</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>Disagree</td>
<td>8</td>
<td>16</td>
</tr>
<tr>
<td>Agree</td>
<td>29</td>
<td>59</td>
</tr>
<tr>
<td>Strongly Agree</td>
<td>10</td>
<td>20</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>49</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>
4.4.12 Employee Dismissals
This study sought to investigate the rate of employee dismissal in the institutions. According to 27% of the respondents it was low, 20% indicated it was average, 24% indicated it was above average and 29% indicated that it was very high.

![Pie chart showing the rate of employee dismissals.](image)

Figure 4.16: Employee Dismissal

4.4.13 Grade of Employees
According to this study, employees within the Officers grade were mainly involved in fraud cases. This is according to 58% of the respondents. Fifteen percent of the respondents indicated that it was junior administrative assistances, 17% indicated that it was managers and 9% indicated it was senior managers. This is as shown in Table 4.15 below.

<table>
<thead>
<tr>
<th>Grade of Employees</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Junior Administrative Assistants</td>
<td>10</td>
<td>15</td>
</tr>
<tr>
<td>Officers</td>
<td>38</td>
<td>58</td>
</tr>
<tr>
<td>Managers</td>
<td>11</td>
<td>17</td>
</tr>
<tr>
<td>Senior Managers</td>
<td>6</td>
<td>9</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>65</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>
4.4.14 Fraud Factors

Factors contributing to fraud in financial institutions were dissatisfied employees, weak internal controls and collusion with customers. This is according to 29% of the employees who identified weak internal controls, 47% identified dissatisfied employees and 25% indicated collusion with customers. This is as shown in Figure 4.17 below.

Figure 4.17: Factors Leading to Fraud

4.4.15 Society

The society has contributed to fraud in financial institutions through ignorance on the seriousness of fraud as a crime. This is according to 55% of the respondents. In addition, failure to surrender suspected fraudsters was identified by 37% of the respondents while other factors such as: lack of knowledge, fear and protection of fraudsters was identified by 8% of the respondents. This is as shown in Table 4.16 below.

Table 4.16: Society and Fraud

<table>
<thead>
<tr>
<th>Factors</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Failure to surrender fraudsters</td>
<td>18</td>
<td>37</td>
</tr>
<tr>
<td>Ignorance of seriousness of fraud</td>
<td>27</td>
<td>55</td>
</tr>
<tr>
<td>Others</td>
<td>4</td>
<td>8</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>49</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>
4.5 Causes of Action in Transactions’ Fraud

This section identifies the mitigation strategies and/or causes of action that financial institutions can take to reduce, deter or possibly eliminate fraud.

4.5.1 Provision of Referees

This study found that as a mitigation strategy, most banks required that all employees provide referees prior to being employed. This is according to 29% and 67% of the respondents who agreed and strongly agreed that most financial institutions required employees to provide referees. However, 4% of the respondents strongly disagreed as shown in Figure 4.18 below. This implies that although to a large extent most institutions required provision of referees by employees, either this was not seriously put into action or not considered a priority or alternatively some employees were not required to give referees at all.

![Figure 4.18: Provision of Referees](image)

4.5.2 Independent Background Checks

Most financial institutions undertook independent background checks on its employees. This is validated by 37% and 47% of the respondents who agreed and strongly disagreed that
institutions undertook independent background checks on its employees. However, 16% of the respondents disagreed as shown in Table 4.17 below. This may be an indicator that some institutions were not too keen on carrying out background checks provided referees were given or provides the employee passed the competency tests.

Table 4.17: Independent Background Checks

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Disagree</td>
<td>8</td>
<td>16</td>
</tr>
<tr>
<td>Agree</td>
<td>18</td>
<td>37</td>
</tr>
<tr>
<td>Strongly Agree</td>
<td>23</td>
<td>47</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>49</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

4.5.3 Technology Systems

Fifty one percent of the respondents agreed and 37% strongly agreed that the technology system in use in most organizations allowed employees to access customers' accounts. However, 8% and 4% of the respondents strongly disagreed and disagreed respectively. This implies that in most technology systems, institutions allowed some employees access to the respective institutions' customer accounts.

Figure 4.19: Technology Systems
4.5.4 Tracking of Employees Actions
Most financial institutions had systems to keep track of employees' activities at each interval when using systems. This is validated by 51% of the respondents who agreed and 37% who strongly agreed. On the other hand, 8% and 4% of the respondents strongly disagreed and disagreed as shown in Table 4.18 below. This may imply that tracking of employees' activities in the institutions relate to determining the whereabouts of employees at any particular time within the institutions' premises and not necessarily the specific tasks being done by an employee while using the systems.

Table 4.18: Tracking of Employees Actions

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percentage</th>
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</thead>
<tbody>
<tr>
<td>Disagree</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>Agree</td>
<td>32</td>
<td>65</td>
</tr>
<tr>
<td>Strongly Agree</td>
<td>15</td>
<td>31</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>49</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

4.5.5 Sensitization of Trainings
Fifty three percent of the respondents agreed that the institutions undertook sensitization trainings to employees on how to detect and prevent fraud. In addition, 31% of the respondents strongly agreed while 16% disagreed. This findings show that financial institutions undertook sensitization trainings of employees on detection, avoidance and prevention of fraud.
4.5.6 Laid Down Policies and Procedures

Fifty three percent and 35% of the respondents agreed and strongly agreed that financial institutions had laid down policies and procedures to combat fraud. On the other hand, 4% and 8% of the respondents strongly disagreed and disagreed, respectively, that financial institutions did not have laid down policies and procedures. This findings show that most financial institutions had laid down policies and procedures for detection and prevention of fraud.

Table 4.19: Laid Down Policies and Procedures

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strongly Disagree</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>Disagree</td>
<td>4</td>
<td>8</td>
</tr>
<tr>
<td>Agree</td>
<td>26</td>
<td>53</td>
</tr>
<tr>
<td>Strongly Agree</td>
<td>17</td>
<td>35</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>49</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>
4.5.7 Sensitization of Customers on Fraud Prevention

Most financial institutions undertook sensitization programs for its customers on how to avoid fraud. This is deduced from 53% and 18% of the respondents who agreed and strongly agreed. Nevertheless, 8% and 16% of the respondents strongly disagreed and disagreed respectively. Four percent of the respondents indicated that it was not applicable. This is a likely implication that sensitization may be done to particular customers and only when the fraud is already perpetrated against the respective customers but as a measure to avoid a repeat of the fraud against the customer.

![Figure 4.21: Sensitization of Customers on Fraud Prevention](image)

4.5.8 Public Awareness Programs

According to 53% and 14% of the respondents to this study, the banking industry carried out public awareness programs on fraud and fraud prevention. On the other hand, 16% and 12% of the respondents disagreed and strongly disagreed that the banking industry undertook public awareness on fraud and fraud prevention as shown in Table 4.20 below. This findings show that the banking industry generally undertakes public awareness on fraud prevention but nevertheless the programs may not be frequent and/or are undertaken through unpopular mechanisms hence lack of awareness of their existence.
Table 4.20: Public Awareness Programs

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strongly Disagree</td>
<td>8</td>
<td>16</td>
</tr>
<tr>
<td>Disagree</td>
<td>6</td>
<td>12</td>
</tr>
<tr>
<td>Agree</td>
<td>26</td>
<td>53</td>
</tr>
<tr>
<td>Strongly Agree</td>
<td>7</td>
<td>14</td>
</tr>
<tr>
<td>Not Applicable</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>49</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

4.5.9 Sufficiency of Laws and Regulations

The respondents to this study were asked their opinion on the sufficiency of the current legal and regulatory processes, rules and regulations in covering the frauds in financial institutions i.e. did the legal and regulatory framework cover all types of fraud? 16% and 16% of the respondents disagreed and strongly disagreed, respectively, 51% of the respondents agreed and 12% strongly agreed. These findings may imply that the respondents are of the view that there are laws and regulations covering theft which is more or less what fraud entails. There may however not be specifically fraud related laws in place or the respondents may not be aware of these hence a certain level of disagreeing.
4.5.10 Public Awareness Programs by Regulators
The authorities/regulations in the financial sector did not undertake public awareness programs to customers on fraud prevention. This is deduced from the findings of the study which show that 8% and 45% of the respondents disagreed that the regulatory undertook public awareness. Nevertheless, 35% and 8% of the respondents strongly agreed as shown in Table 4.21 below.

Table 4.21: Public Awareness by Regulators

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strongly Disagree</td>
<td>4</td>
<td>8</td>
</tr>
<tr>
<td>Disagree</td>
<td>22</td>
<td>45</td>
</tr>
<tr>
<td>Agree</td>
<td>17</td>
<td>35</td>
</tr>
<tr>
<td>Strongly Agree</td>
<td>4</td>
<td>8</td>
</tr>
<tr>
<td>Not Applicable</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>49</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

4.5.11 Impromptu Audit Checks by Regulators
Four percent of the respondents to this study strongly disagreed that the regulator of the financial institution carried out impromptu audit checks on the institutions without prior notice. Further, 37% of the respondents disagree, 35% agreed while 8% strongly agreed as shown in Figure 4.23 below. This findings show that while some respondents are aware of audit checks by regulators others were not. This could be substantiated due to the use of employees from various job cadres and experience level. On the hand it may be conclusive proof that, save in the events of whistle blowing or suspected malpractices against an institution, the regulator(s) and the institution otherwise mutually make prior arrangements between them for any scheduled audit checks.
4.5.12 International Body Assistance

Forty one percent of the respondents agreed that most financial institutions received assistance from international bodies to apprehend fraudsters outside the Kenya borders and repatriate back funds. Though the findings imply that majority of the banks received aid, a sizeable population of study also indicated that they did not receive any international assistance and may be an indication that the assistance is extended to a larger extent mainly to local fraud.

Table 4.22: International Body Fraud Assistance

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strongly Disagree</td>
<td>8</td>
<td>16</td>
</tr>
<tr>
<td>Disagree</td>
<td>14</td>
<td>29</td>
</tr>
<tr>
<td>Agree</td>
<td>20</td>
<td>41</td>
</tr>
<tr>
<td>Strongly Agree</td>
<td>3</td>
<td>6</td>
</tr>
<tr>
<td>Not Applicable</td>
<td>4</td>
<td>8</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>49</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>
4.5.13 CBK Regulation
Forty four percent of the respondents strongly disagreed that any institution in Kenya, even though not a bank, that receive or extend funds and/or financial services is regulated by the Central Bank. These findings show that not all such institutions are so regulated.

![Pie chart showing responses to CBK Regulation of Financial Service Providers]

Figure 4.24: CBK Regulation of Financial Service Providers

4.6 Chapter Summary
This chapter presents the findings of the study. The study found that legal and regulatory factors including lengthy duration in making judgments, low fines, complexity of fraud investigation and lack of assistance by reinforcement agencies were major drivers of fraud. Employees with access to the systems, employees at officer grade, collusion between staff and customers amongst others also contributed to fraud perpetration.

Nevertheless, the study found that inclusion of risk and operation departments in contracts review, independent background checks, impromptu checks, international investigation aid, regulation, establishment of central fraud departments, amongst others, were some of the fraud management and mitigation strategies.

Chapter five discusses the findings presented, presents conclusions and recommendations of the study.
CHAPTER FIVE

5.0 DISCUSSIONS, CONCLUSIONS & RECOMMENDATIONS

5.1 Introduction

The final chapter of the research report presents the summary of findings, discussion of results, conclusions of the study and recommendations for practice and policy. In addition, the chapter makes recommendations for further studies.

5.2 Summary of Findings

The purpose of this study was to determine the factors leading to the current upsurge of customers’ transaction frauds in Kenya and the plausible mitigation strategies and/or causes of action. The research questions the study sought to answer were: How were the current regulatory and legal systems contributing to fraud? How were the bank employees and customers contributing to fraud? What were the plausible mitigation strategies and/or causes of actions to deter or possibly eliminate fraud? To answer these questions, the study utilized a survey research design using a quantitative methodology. The population of the study was drawn from 132 employees drawn from various management levels of various banks. The sample size of the study was 50 acquired using a multistage sampling design. Data for the study was collected using a questionnaire self-administered by the researcher. Collected data was cleaned, edited and coded into SPSS vs. 20 and MS-Excel spread sheets for analysis. Analyzed data was presented using tables and figures.

This study found that fraud in most financial institutions was average ranging between 4 ÷ 10 fraud incidences in every four years. In addition, the study found that, although not fully successful in certain instances for one reason or another, fraud prevention strategies such as know your customers were to a large extent reasonably in place for the detection and prevention of fraud. Legal and regulatory factors driving fraud in the banking industry identified by this study were slow hearing and determination of cases, low fines in courts which suspects were able to afford hence paid and were therefore free, inability by financial
institutions to prosecute and/or pursue prosecution of fraud cases especially those located outside the country, complexity of fraud cases thus inhibiting investigation and prosecution, use of corporate bodies as conduits for frauds, short jail terms, corruption and lack of sufficient evidence in most fraud cases. Nevertheless, the inclusion of risk and operation departments in contracts review, knowledge of fraud laws and assistance by regulatory authorities contribute to reduction of the level of fraud in financial institutions.

Banks employees and customers contributed to fraud in the banking industry. Employees with authorized access to operating systems, especially those of officer levels, drove fraud in banks. On the other hand, customer accounts opened with banks, presentation by imposters of customers’ original and genuine documents were all modes used to conduct fraudulent activities and finally, employees and customers colluded to defraud the banks. Mitigation strategies identified as successful in this study include: strengthening of internal controls, undertaking background checks on employees, introducing a central fraud department, provision of referees by employee, tracking of employees actions, undertaking sensitization trainings to employees and customers by the banks, regulatory authorities and the industry body. Assistance by local investigative bodies enhanced prevention of fraud in the banking industry locally.

5.3 Discussion of Results

This section presents a detailed discussion of the findings of the study. The findings are discussed in view of other findings as presented in chapter two.

5.3.1 Legal and Regulatory Framework

Lagged reforms and growth in the legal and regulatory environment has been credited as the major driver of fraud across many countries (Blaque, 2003). Similarly, this study found that the legal and regulatory framework has contributed to fraud in the banking industry through various channels/avenues. Key among the channels which the legal and regulatory framework contribute to fraud include: slow hearing and determination of cases, low fines in courts which suspects paid and were therefore free, inability by financial institutions to
prosecute fraud cases especially those located outside the country, complexity of fraud cases thus inhibiting investigation and prosecution, use of corporate bodies as conduits for frauds, short jail terms, corruption and lack of sufficient evidence in most fraud cases. In addition, the study found that the inadequacy of the regulatory laws especially in coverage contributed to fraud i.e. the regulatory laws on fraud did not cover all types of fraud. Similar to the findings of this study, Reisig & Hiktfreter (2007) noted that the regulatory and legal framework in the European Union contributed to fraud in the banking industry due to laxity of the agencies, low confidence in the regulatory regimes, lack of laws on various types of fraud especially electronic fraud and lack of transparency, integrity and legality of actions of the legal systems. These findings were noted by Kreltszheim (1999), Nikodem (2002) and Blaque (2003).

The lack of sufficient laws to cover fraud incidents has been cited as a major challenge in reducing fraud (and thus enhances fraud) across various countries. In Kenya, this study identifies that the existing legal and regulatory framework has not been sufficient to cover all types and kinds of fraud. Kreltszheim (1999) on the other hand noted that despite the increase of electronic fraud, there are hardly any strong legal frameworks or legislation that recognises this. Legislation that is applicable to electronic monetary values is still young and does not deal with all the problems arising hence instead dependence is currently on the terms and conditions upon which the electronic values are made. Thus until firm principles are made in this area, system users must keenly review the allocations to risk in their legal documentation in respect of each functioning system. This led to the conclusion by Xanthaki (2010) that there was need to identify inadequacies in the regulatory framework and move towards synchronization of the regulatory framework.

Huber (2003) and Wright (2006) noted that the time taken to determine and hear cases has been contributing to white collar crimes especially where legal proceedings take months or years to hear and determine. Further, they noted that prosecution of many fraud-related offences fail because the lengthy investigation and trial process takes a toll on the mental health of some defendants, who cannot then be tried at all. These findings are in consensus
with the findings of this study that lengthy court proceedings often encourage fraud in the banking sector.

The Judicial sector has also been faulted as a major driver of fraud in the banking industry. According to this study, low fines by the judicial systems, setting free of suspects, corruption, complexity of fraud cases and high level evidence requirements are some of the judicial sector related factors driving fraud in the banking industry. Similarly, Perri and Brody (2011) and Wright (2006) had similar conclusions in their studies. Wright (2006) specifically noted that the mountains of documentary evidence produced can hide the key issue of dishonesty in fraud cases while presentation of complicated facts and very many documents to a jury made up lay people led to many suspects being let free. Levi (2010) and Cheng and Ma (2009) provided literature that similar to that of this study. According to their studies conducted in the European Union and China respectively, they found that the lack of severe penalties by courts and lack of international as well as local support to investigate, prosecute and repatriate fraudulent funds has led to an increase in the levels of frauds in the banking industry. This is similar to the findings of this study.

5.3.2 Banks and Customers in Fraud

Banks and customers have driven fraud in banks across the world. Reduction in employees ethics, commitment and loyalty has been a result of employee reduction, restructuring and corporate layoffs (Haugen and Selin, 1999). Indeed, as noted in this study, employees work in cahoots with customers and outsiders to perpetuate fraud in the banking sector especially those with access to the customer’s records and those at officers’ grade level. This is similar to the findings of Usman and Shah (2013) who noted that indicators of collaboration between bank employees and fraudsters have increased. They further underscored the fact that this presents a real threat as the employees have direct access to banking systems and customers’ details and records.

This study further found that employees and as customers of banks are increasingly colluding to commit fraud. Essentially, this study found that fraud in the banks is internal as well as external driven. Similarly, Peltier-Rivist and Lanoue (2012) noted that collusion involves
any kind of explicit or implicit agreement between two or more persons to perpetrate a fraud, whether the accomplice is internal or external to the victim organization. To further expound on the role of employees in driving fraud in the banking industry, Peltier-Rivest (209) note that being in a position of authority and having accomplices both increase the chance to commit fraud by enabling the perpetrator to more easily override, or circumvent, the organization’s internal controls. This is consistent with the findings of this study which identified high ranking employees (officers) and those with access to customer records and transactions as most likely to engage in fraudulent activities. Despite the presence of a central fraud department and effective enterprises risk management systems and processes in most banks, this study found that there was a lack of fraud management systems and controls across major banks. This includes, weak internal controls, poor audit practices i.e. use of specified items rather than general audits, weak systems and technologies and collusion between employees and customers. This is consistent with the arguments of Alon and Dwyer (2010) who noted that banks’ structures, systems and processes are often drivers of fraud. According to Alon and Dwyer (2010) it is important for auditors in financial institutions to have an effective approach to carrying out fraud risk assessments as a group to ensure that risks are not overlooked while brainstorming and that all inputs are taken into account in the organisation’s risk profile. Organisations’ risk assessors should endeavour to have and utilize decision aids in their brainstorming sessions.

Alon and Dwyer, further found that groups that make use of decision aids which include, checklists, audit programs and expert systems and which contain fraud risk factors are likely to make better quality decisions and are more effective even if the reliance is not often. The generally set down values in an entity will determine the extent to which an organisation will fall prey to fraudsters. As affirmed by Glover and Aono (1995), an alternative approach is based on the premise that corporate culture and industry traits significantly influence the likelihood for fraud to occur. Similarly, the nature of the organisation’s systems in place determine its ability to prevent fraud or not. For example a complex Information Technology system aids the committing of fraud and complicates the investigation (Picard, 2009). Similar to the findings of this study Conway (2004) noted that financial institutions should track the activities of their employees as well as suspicious activities on banks to control and manage
fraud in the banks. According to Conway, any transaction or explanation that does not add up, failure to follow policy or procedure, or any conflicts of interest between the investigator and suspect may be a legitimate fraud sign. Essentially, Conway (2004) argued that banks must develop and implement policies on fraud detection and prevention. This includes by having dedicated employees to track suspicious activities, having system checks and having laid down policies and practices. Bishop (2004), Guo and Hu (2012) similarly argued that institutions advertently or inadvertently allow fraud against them to go undetected by; not having in place internal personnel to specifically prevent and detect fraud, not putting in place corporate overseers of the organisations’ fraud programs, absence of fraud risk-related management goals and rules, underestimating the risk of fraud, ignoring of large-impact frauds that appear remote, not identifying or appreciating cost-related costs, absence of fraud-risk management techniques in the business processes, internal controls-business misfit. The society has also been a major contributor of fraud in the banking industry. This is according to this study, Perri and Brody, (2012), Gilbert and Archer (2012), Hedayatti (2012) and Payne (2006). The reluctance of the society to provide witnesses against fraudsters, protection of fraudsters or mere ignorance of fraud activities by the society have been major drivers of fraud in the banking industry (Brody & Luo, 2009; Watson, 2003)

5.3.3 Causes of Action in Customers’ Transactions Fraud

There are various strategies and causes of actions that banking institutions can take to reduce fraud in the institutions. However, the effectiveness of the strategies and actions differ from one institution to the other. According to Haugen and Selin (1999) the imposition of stringent controls, fraud platforms and employee reviews are some of the strategies that institutions can use to reduce fraud. Furthermore Khanna and Arora (2009) found that implementation of good internal control systems and employment practices is critical in addressing fraud in the banking industry. This is similar to the findings of this study that the implementation of human resource management practices such as having employees provide references, undertaking independent background checks on employees and reducing the access of employees on the technology platform as some of the plausible actions to reduce transaction frauds in the banking system. This is summed up by the conclusions of Brody
(2010) who noted that ultimately, hiring safe, honest and qualified employees is one of the most important decisions that an organization should make. Therefore all available resources should be utilised to ensure that the right employee is hired. Haugen and Selin (1999), noted that if organisations do not know what their employees do and little attention is given to their internal control systems, fraud will be perpetrated by those working in the company having access to the assets and systems.

Review of employee activities by dedicated employees, implementation of a strong central fraud management unit and establishment of policies and procedures is important in the fight against fraud. This is according to this study which is consistent with the findings of Visu et al., (2003) who noted that institutions, being very large and comprising different functional units, should have one common point of reference of fraud related matters, which enables it to keep track of the level of fraud in the organisation. This was expounded by, Rasmussen, who noted that a one-organisation approach provides incident information across the organisation's business units, processes and relationships. It enables the organisation keep detailed investigation history and audit trails, manage the investigations' processes, link fraud incidents to remediation procedures, and point out trends to keep track of similarities and relationships in investigations. Education, training and sensitization are also important factors towards the fight against fraud in banking institutions. Education, training and sensitization should be carried out by the industry lobby group, individual institutions and the regulatory whether in conjunction or independently. The training should be undertaken on employees as well as customers.

This is similar to the conclusions of Holtfreter (2004) who noted that it is imperative that the banking industry takes steps in sensitizing not only their employees on fraud deterrence, if not prevention, but also their customers and the general public. Wright (2006), highlighted the need for increased fraud awareness education to members of the public and sensitisation of the need for increased on public-private partnerships to assist in combatting economic crime. According to, Hedayatti (2012), social environment and factors such as habits and interaction through social networks have major effects on identity theft. The level of peoples' knowledge about social networks and such people's role in protecting privacy is important in
the society especially in the current digital times. Education and training is very critical in the fight against fraud. According to Hoffmann and Birnbich (2012) there is link between customer familiarity with and knowledge about fraud prevention measures and the quality of organisation-customer relationships as seen through the level of satisfaction, trust, and commitment. Such quality of customer relationships, in turn, is positively associated with customer loyalty to the organisation as seen through the level of the wish by customers to continue their relationship with and buy other products across the board from their bank. Usman and Shah (2013) also advocated for training and education as important strategies in the fight against fraud.

Finally, in the fight against fraud, there is a need to include non-banking sectors and institutions in the regulatory regime. Furthermore there is a need to review the existing framework of legal provisions to capture evolutions and developments in the banking industry (Salu, 2004: Prudential Guidelines, 2013).

5.4 Conclusions of the Study

This section presents the conclusions of the study.

5.4.1 Legal and Regulatory Framework

This study concludes that the legal and regulatory framework is a major driver of fraud in the banking industry across Kenyan banks. The legal and regulatory framework perpetuates fraud through slow justice systems, low fines and penalties, corruption and bribery and too much complexity in the laws and terms used in fraud. The laws of Kenya are also not sufficient to cover all types of fraud and fraudulent activities and thus they promote or drive fraud in the banking industry. Specifically, the laws of Kenya inhibit the inclusion of international bodies and organizations to aid in the prosecution and apprehension of fraudsters located outside the country due to provisions, requirements and reluctance of authorities to collaborate in fraud investigation.
5.4.2 Banks and Customers in Fraud

Fraud in the banking industry is driven by internal as well as external participants. Internal participants include employees of the banks especially those with access to the institutional systems and those at the middle management levels. On the other hand, customers drive fraud in the banking industry through ignorance and lack of awareness. Furthermore, customer accounts have been used to perpetuate fraud in the banking industry. In addition, this study concludes that there has been increased collusion between employees and customers of banks to commit fraud. Nevertheless, a large number of customers is receptive and collaborative with the banks’ efforts to investigate and identify fraudsters who perpetrate fraud against them.

5.4.3 Causes of Action in Customers’ Transactions Fraud

There are various actions that banks can take to reduce the levels of fraud in the banking sector. Some of the plausible mitigation strategies and/or causes of action against fraud include: establishment and strengthening of the central fraud management departments, strengthening of internal controls, policies and procedures, deploying a fraud enterprise management system and adoption of best practices in human resource management and employment practices. To reduce transaction fraud, this study concludes that awareness creation, education and training is very critical. Banks, bank lobby groups and the Central Bank of Kenya should create awareness through sensitization programs to employees as well as customers of banks to reduce the levels of fraud in the banking industry.

5.5 Recommendations

5.5.1 Recommendations for Improvement

The study makes the following practice and policy recommendations for improvement.

5.5.1.1 Legal and Regulatory Framework

This study recommends that there is urgent need for review of the policy and regulatory environment/framework guiding the prosecution of fraud cases. The legal and regulatory
framework ought to be reviewed to make it more modern, inclusive of new forms of fraud and efficient in the discharge of justice. Furthermore, the proposed law should present stiffer penalties to fraudsters while providing for more cooperation between banking institutions, investigative bodies and international bodies in the fight against fraud.

Secondly, this study recommends that there should be a separate judicial structure for the prosecution of banking fraud cases. This department once in place ought to be staffed with employees specifically trained in fraud. This will reduce the challenges of complexity of terms and investigations. Furthermore, this will increase the efficiency and effectiveness of delivery of justice.

5.5.1.2 Banks and Customers in Fraud

There has been an increase in the collusion between banks employees and customers to commit fraud. As a consequence this study recommends that banks should undertake due diligence of employees to know them and adopt modern Human Resource Management and employment practices. In fact, the Know Your Customer (KYC) initiative should be extended to cover employees.

Secondly, this study recommends that banks should reduce the access of employees to the database to sufficient levels i.e. access of employees to the system should only be limited to the functions or roles of the employee and/or restricted to strictly on a need to know basis. Continuous review of customer and employee actions should also be implemented. This is especially to high risk customers or customers engaging in fraud. Furthermore, banks should undertake to share information on fraudulent employees and customers at the local and international level to identify and apprehend serial fraudsters.

5.5.1.3 Causes of Action in Transactions’ Fraud

There are various strategies that banks can use to reduce the levels of fraud in the banking industry. However, this study recommends the following strategies as key and critical to the reduction and control of fraud; Banks should review their internal control systems, laid down
procedures and policies. This will include the review of customer actions, checks and controls on employee actions, creation of employee/transaction audit trails, strengthening of fraud management systems and departments and continuous rotation of employees across various departments. Furthermore, the banks should undertake continuous audits rather than annual or partial audits.

Secondly, this study recommends that banking stakeholders should congregate and make joint efforts to create awareness, education and sensitization to employees and customers on fraud, fraud prevention and avoidance. This is in view of the importance of awareness creation and the levels of ignorance on fraud especially amongst customers and the general society. This will not only aid in reduction of fraud but also in prosecution of fraud cases in view of the fact that the ignorance of customers and the society was identified as a major inhibitor to prosecution of cases due to lack of witnesses.

To win the fight against fraud, this study recommends that there is need for intense cooperation between local financial institutions, international as well as local authorities to investigate and prosecute fraud. Furthermore, the regulators must be allowed to supervise other financial related institutions that may not be necessarily bearing in mind these other institutions are also not safe from use as conduits for fraud. Where not possible to gain supervisory powers, regulators should work together including with international fraud investigators and institutions to detect, report, investigate and prosecute fraud cases.

5.5.2 Recommendations for Further Studies

The following recommendations for further studies are made: Future studies should expand the sampling frame or case of the study. Rather than focus on fraud in the banking industry, future studies should be focused on other sectors of the financial industry e.g. the insurance, pensions and investments/stockbrokerage industries.

Secondly, future studies should be focused on the alternative channels for investigation and prosecution of fraud cases. This study found that the legal and regulatory framework inhibits the prosecution of fraud cases. Future studies should therefore investigate the alternative
strategies used by banks to deal with fraud cases other than judicial prosecution in court cases and the effectiveness of these actions in reducing fraud. This could also offer plausible explanations to some observations in this study hence respondents indicating not applicable to legal and regulatory factors in fraud.

Finally, this study recommends future studies on the effectiveness of international institutions, including investigators and courts of law across borders, in fraud investigation and prosecution. This study found that most financial institutions have attempted to initiate investigations and prosecution of fraud across the borders but do not appear to have been able to successfully prosecute. Does any international investigation and prosecution bear any benefit? What is the cost benefit analysis of international assistance offered by the machinery situated across borders in the investigation and prosecution? How effective is their international assistance in detecting, deterring and preventing fraud? This study would be relevant especially due to the increasingly globalization nature of fraud.
REFERENCES


Central Bank of Kenya (2013). Prudential Guidelines for Institutions licensed under the Banking Act, Section 5.6.7.1


APPENDIX I: QUESTIONNAIRE

QUESTIONNAIRE (BANK EMPLOYEES)

This is an academic research paper in partial fulfillment of the requirement of an EMOD degree at USIU. The research seeks to examine customer transactions frauds in Kenya. There shall be absolute confidentiality on all information collected, hence anonymity in completing the questionnaire is offered as an option. The questionnaire is divided into four sections. Please place a tick (✓) or insert your response in accordance with the instructions.

For any clarifications feel free to contact the undersigned:

Njeri Waitimu
Cell-phone number: 0721228313

Instructions
1. Please respond to all items in this questionnaire
2. Put a (✓) alongside the option that is most applicable to you or fill in the spaces provided.
3. You are strongly discouraged from writing your name in this questionnaire

SECTION A: RESPONDENT PROFILE

1. Which industry/sector are you in?
   □ Low
   □ Average
   □ Above Average
   □ Very High
   □ Not Applicable

2. How many years have you been an employee of your current employer?
   □ Low
   □ Average
   □ Above Average
   □ Very High
   □ Not Applicable

3. On a scale of 1 - 4 what is the rate of fraud in your financial institution? (Key: Not Applicable 1; Low - 2; Average - 3; Above Average 4; Very High - 5)
   □ Low
   □ Average
   □ Above Average
   □ Very High
   □ Not Applicable

4. How many fraud incidents did your institution witness in the last four years?
   □ 0 frauds
   □ 1 - 5 frauds
6. More than 10 frauds

5. On a scale of 1 - 5 how would you rate the success of your institution’s department/personnel responsible for fraud prevention? Key: Low - 1; Average - 2; Above Average - 3; Very High - 4)

   Low
   Average
   Above Average
   Very High

6. How would you generally describe fraud prevention measures and know your customer (KYC) processes in your institution?

   Limited
   Basic
   Adequate
   Very Thorough
   Non-existent

SECTION B: POOR AND COMPLEX LEGAL FRAMEWORKS, SYSTEMS AND PROCESSES AND CHALLENGES:

Please indicate whether you agree/disagree with the statements below concerning your institution by placing a (✓) for the answer which best reflects your opinion: (Key: Not Applicable (N/A) - 1; Strongly Disagree (SD) - 2; Disagree (D) - 3; Agree (A) - 4; Strongly Agree (SA) - 5;

<table>
<thead>
<tr>
<th>Activity</th>
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<tbody>
<tr>
<td></td>
</tr>
<tr>
<td>Threat to Fraud</td>
</tr>
<tr>
<td>SD</td>
</tr>
<tr>
<td>(7) Fraud related cases involving my institution have been heard and determined</td>
</tr>
</tbody>
</table>
within one year

(8) Some fraud suspects I have come across in my institution have been able to pay the fine(s) in court hence released

(9) In my institution’s review of Legal documents including contracts that involve banking system and processes, all stakeholders including Risk and Operations departments are involved

(10) My institution has prosecuted offenders who have perpetrated fraud from outside Kenya

(11) I know the laws that specifically relate to internet fraud

(12) Law enforcement agencies assist my institution in recovering funds lost through fraud carried out from outside the border.

(13) Other than witnesses, only lawyers in my institution otherwise attend the hearing and determination of fraud related cases

(14) In all the fraud related cases perpetrated in my institution, my colleagues and I were able to understand all the legal documents used.

(15) I am aware of suspected fraudsters who have not been tried at all in court because the frauds have been too complex for the investigators to link them to the fraud.
 Fraud in my institution has also been perpetrated through corporate bodies and names of corporate bodies besides individuals

17. In the last four years, the number of fraud-related cases in your institution fully heard and determined in a court of law were

0 □
1-4 □
5-8 □
More than 9 □

18. The highest court that has heard and determined fraud related cases perpetrated against your institution is

Magistrates Court □
High Court □
Court of Appeal □
Supreme Court □

19. The judicial system in Kenya has encouraged perpetration of fraud through:

Long durations to complete prosecution □
Low fines □
Short jail periods □
Setting free of suspects □
Other (specify)  ❋❋❋❋❋❋❋ ..
### SECTION C: BANKS AND CUSTOMERS AS PERPETRATORS AND VICTIMS OF FRAUD:

Please indicate whether you agree/disagree with the statements below concerning your institution by placing a (✓) for the answer which best reflects your opinion: (Key: Not Applicable (N/A) - 1; Strongly Disagree (SD) - 2; Disagree (D) - 3; Agree (A) - 4; Strongly Agree (SA) - 5;

<table>
<thead>
<tr>
<th>Activity</th>
<th>SD</th>
<th>D</th>
<th>A</th>
<th>SA</th>
<th>N/A</th>
</tr>
</thead>
<tbody>
<tr>
<td>(20) All the fraud-related cases in my institution have been perpetrated by outsiders assisted by suspected bank's employees</td>
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<td>(21) In the fraud-related cases suspected employees had authorized access to the institution's operating systems</td>
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<td>(22) My institution has a central fraud department responsible for handling fraud related incidents throughout the institution</td>
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<tr>
<td>(23) My institution's operating system is easy to use and understand</td>
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<td>(24) My institution's enterprise risk processes are effective for fraud prevention as a key threat</td>
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<tr>
<td>(25) My institution has employees dedicated to keep track of suspicious activities on bank</td>
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</tbody>
</table>
accounts held with the institution

(26) Auditors in my institution carry out audits as a team and never individually

(27) While carrying out audits, the auditors in my institution have pre-set items to specifically audit as opposed to carrying out a general audit

(28) Bank accounts opened by customers have been used to perpetrate fraud in my institution

(29) There has been fraud related cases that have been as a result of presentation to the institution of customers’ genuine documents by imposters

(30) Customers who have been victims of fraud co-operate with the institution in the investigations

31. On a scale of 1 – 4 what is the rate of employee dismissals in your institution (Key: Not Applicable – 1; Low - 2; Average - 3; Above Average - 4; Very High - 5)

<table>
<thead>
<tr>
<th>Rate</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low</td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Average</td>
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<tr>
<td>Above Average</td>
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<tr>
<td>Very High</td>
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<tr>
<td>Not Applicable</td>
<td></td>
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</tr>
</tbody>
</table>

32. In the fraud cases perpetrated against your institution the grade of employees involved in the perpetration of the fraud is:

<table>
<thead>
<tr>
<th>Grade</th>
<th>1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Junior administrative assistants</td>
<td></td>
</tr>
<tr>
<td>Officers</td>
<td></td>
</tr>
</tbody>
</table>
Managers □
Senior managers □

33. The major factors within the institution that have contributed to the perpetration of fraud are:
- Weak internal systems controls □
- Dissatisfied employees □
- Colluding customers □
- Other (specify) …………………………

34. The society has contributed to the perpetration of fraud through:
- Failure to surrender suspected fraudsters □
- Ignorance of the seriousness of fraud as a crime □
- Other (specify) …………………………
SECTION C: CAUSES OF ACTION IN TRANSACTIONS FRAUD:

Please indicate whether you agree/disagree with the statements below concerning your institution by placing a (✓) to the answer which best reflects your opinion: (Key: Not Applicable (N/A) - 1; Strongly Disagree (SD) - 2; Disagree (D) - 3; Agree (A) - 4; Strongly Agree (SA) - 5;

<table>
<thead>
<tr>
<th>Activity</th>
<th>SD</th>
<th>D</th>
<th>A</th>
<th>SA</th>
<th>N/A</th>
</tr>
</thead>
<tbody>
<tr>
<td>(35) My institution requires that all employees provide referees prior to being employed</td>
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<tr>
<td>(36) My institution independently carries out background checks on its employees</td>
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<tr>
<td>(55) The technology system in my institution allows some employees access to customers bank accounts</td>
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<tr>
<td>(37) My institution has a way of keeping track of what each employee does at any particular time when using its systems</td>
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<tr>
<td>(38) My institution carries out sensitization trainings to employees on how to detect, avoid and prevent fraud</td>
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</tr>
<tr>
<td>(39) My institution has laid down policies and procedures specifically to combat fraud</td>
<td></td>
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<td></td>
</tr>
<tr>
<td>(40) My institution sensitizes its customers on how to avoid fraud</td>
<td></td>
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</tr>
<tr>
<td>(41) The banking industry carries out public awareness programs on fraud and how to</td>
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</tbody>
</table>
avoid it

(42) The current legal and regulatory processes, rules and regulations are sufficient to cover the kind of fraud perpetrated in my institution

(43) Legal enforcement authorities carry out public awareness programs to customers on the authorities’ roles in fighting fraud

(44) My institution’s regulator carries out impromptu audit checks on the institution without prior notice

(45) There is an international body that has assisted my institution apprehend suspected fraudsters outside the borders and recover stolen funds back into the country

(46) Any institution in Kenya, even if not a bank, that offers financial services is regulated by Central Bank

47. Besides the mainstream banks in the industry other institutions offering financial services similar to those offered by your institution are:

Micro-finance institutions ☐
Co-operative societies ☐
Mobile companies ☐
Other (specify) é é é é é é é é é é
## APPENDIX II: FRAUD AND LOSS STATISTICS

<table>
<thead>
<tr>
<th>Industry</th>
<th>Annual Losses</th>
<th>Running Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Insurance Fraud</td>
<td>67 billion</td>
<td>67 billion</td>
</tr>
<tr>
<td>Telecommunications Fraud</td>
<td>150 billion</td>
<td>217 billion</td>
</tr>
<tr>
<td>Bank Fraud</td>
<td>1.2 billion</td>
<td>218.2 billion</td>
</tr>
<tr>
<td>Money Laundering</td>
<td>40 billion</td>
<td>258.2 billion</td>
</tr>
<tr>
<td>Internet fraud</td>
<td>5.7 billion</td>
<td>263.9 billion</td>
</tr>
<tr>
<td>Credit Card Fraud</td>
<td>1 Billion</td>
<td>264.9 billion</td>
</tr>
</tbody>
</table>

Source: (Wilhelm, 2004)