



## LEGAL THREATS IN THE DIGITAL BANKING SECTOR

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### **Abstract**

*Digital banking has a lot of benefits that add value to customer satisfaction in terms of better service quality, and at the same time enable banks to gain a competitive advantage over other competitors. However, more attention towards digital banking security is required and needed against fraudulent behavior because the lack of control over security makes digital banking still untrusted for many tills today. This paper presents security issues related to digital banking along with the characteristics and challenges of digital banking fraud. Different types of attacks, some fraud detection strategies, and some prevention methods used by electronic banks are also presented in this paper. An expert opinion method was used to rank different models and techniques in security. Results indicated that the most effective model is “Transaction Monitoring” and the worst models based on respondents’ opinions are “Virtual Keyboards”, “Browser Protection”, and “Device Identification”.*

**Keywords:** *Digital banking, Digital money, Legal threats.*

### **Introduction**

The electronic finance system aims to provide customers with easy access to banking services for customers. Both banks and customers stand to benefit from the introduction of electronic banking schemes since the bank can offer its services at a much lower cost, while the customer can access the services from any location at any time. Indeed, these benefits can obviate the need for branches or tellers altogether, resulting in the emergence of so-called virtual banks, which conduct business electronically.

Money is an important commodity to all alike. And all commercial transactions involve money. It is the single thing that all mankind is interested in most acutely. This is what motivates a person to exert himself and excel in his vocations. The assurance that his labour shall be rewarded justly in monetary terms is the crux of all industrious activities. Unless one is a philanthropist with no interest in material benefits.

The traditional dimensions of banking are quickly disappearing with virtual reality digital banking. Ever since the Internet has facilitated the conduct of transactions and commerce on the Net, the nature of businesses has changed, the banking conditions are changed, the variety of products available is unlimited and the quality of products improved due to stiff competition from rival banking businesses and the services offered by the e-banking unlimited. With this has arisen the problem of the currency in which a transaction is to be conducted the exchange rates that are to be applicable in case of a transaction online etc.

The need for digital money is thus justified to indicate that traditional forms of money are unsuited for transactions on the net. Digital cash brings benefits as well as problems. One major advantage of digital cash is its increased efficiency opening new opportunities, especially for small businesses.

In this scenario, digital cash would be nothing more than a convenient transaction method such as a credit card. Digital cash’s very transnationality has the potential to cause conflict between digital space

and nation-states. If digital cash spreads successfully in the next century, its history may be written as a transcript of economic battles between nation-states.

### **Digital Banking in India – Guidelines**

India is no stranger to the regulation of E-Commerce. As the use of Internet banking increases the necessity for regulation arises. Accordingly, RBI has set certain standards for regulation. They are categorized as:

- Technology and Security Standards
- Legal Issues
- Regulatory and Supervisory Issues.

As regards Technology issues, the security of transactions conducted on the Net is the main issue. The measures to be adopted by banks are all centered around this point. Having a security policy with an information systems officer and an Information Technology Division with Dual key Encryption for transactions being implemented, data protection, with user ids passwords, smart cards, and other biometric technologies, firewalls for databases with real-time security alerts, etc. are some of the measures suggested for secure Internet Transactions.

From a legal perspective, the existing regulatory framework over banks will also be extended to Internet banking. In India, the Information Technology Act, of 2000, in Section 3(2) provides for a particular technology (viz., the asymmetric crypto system and hash function) to authenticate electronic records. Any other method used by banks for authentication should be recognized as a source of legal risk. Under the present regime, there is an obligation on banks to maintain the secrecy and confidentiality of customers' accounts.

In the Internet banking scenario, the risk of banks not meeting the above obligation is high on account of several factors. Despite all reasonable precautions, banks may be exposed to enhanced risk of liability to customers on account of breach of secrecy, denial of service, etc., because of hacking/ other technological failures. The banks should, therefore, institute adequate risk control measures to manage such risks.

### **Regulating Digital Transactions - Impact of Digital Money on Various Agencies**

'Digital money' encompasses stored-value cards based on chips, plus technology-based payment mechanisms. It's set to have substantial impacts on the financial services industry, plus flow-on effects on society as a whole. Depending on a whole host of factors, these may be evolutionary, or utterly revolutionary.

Remote, paperless, and instantaneously executed authorization of funds transfer, in the form of "wiring" money from one account to another, has been around at the wholesale level following the introduction of the electric-based transaction. What is called nation electronic funds transfer or NEFT, wherein an individual accesses the payment system using a debit card reader or a personal computer, basically bringing the wiring of money down to the level of the retail transaction.

Payment is the ultimate step in any transaction. A book to be bought, a car to be made, a meal to be served, or a distance to be traveled. All involve this final step of payment. Because everything has a price, and for any transaction to be complete legally this price has to be paid. Of course, there are things, which do not have a price and are free for anyone to enjoy, like the sunshine, or the air etc. But these are

not subjects of any commerce. Once they enter this sphere, they too may have a price. All contracts have the stipulation of a valid consideration for the contract to be complete. This is an indispensable part of a valid contract. Having thus established that payments are a necessary part of everyday commercial transactions, it becomes necessary to recognize the various modes of payments that are in use. There are principally four modes of payment: (a) Cash (b) Cheque (c) Credit Cards and (d) Electronic Fund Transfers

These are all modes of payment as are prevalent today. For modes of payment to reach this advanced stage, the concept of money and the kinds of money have undergone a series of changes.

### Legal Threats and Role of RBI - Transition to Digital Currency

At present digital money as a means of exchange is being developed by many firms, banks, and governments. Its use is still restricted to market niches and on the Internet an extensive use of it shortly is foreseeable. The economic consequences of digital cash and its implications from the view of economics. In recent years, several proposals for electronic cash have appeared in digital space and are already in use. The economic consequences of these transactions have not yet been fully examined.

To some observers, one important economic consequence of electronic cash is the free issue of private currency by commercial banks or other non-firms. However, if we look at the history of money, it is not easy to make privately issued currency credible in the eyes and wallets of the public. The most important characteristic of digital cash is its transnationality. Digital cash does not recognize national borders. It is not controlled by any central bank of any nation-state. The unprecedented efficiency of international payments with digital cash may indeed increase the instability of the global monetary system.

**Table-I: Awareness of Frauds and Secured Banking**

S.No	Awareness of Frauds	Frequency	Percentage
1	Yes	58	58%
2	No	27	27%
3	Can't Say	15	15%
<b>Total</b>		<b>100</b>	<b>100</b>

Source: Computed from Primary data

Figure-I





## **The Legal Framework for EFTs**

There are many legal issues in electronic transactions but the principal issues which are regarding user confidence in conducting transactions electronically and which could be remedied by appropriate law reform are as follows:

### **a) Doubts as to the Legal Efficacy of Electronic Records and Electronic Authentication**

Preferably, electronic records and electronic authentication should be as effective as written messages and manual signatures, including for contract formation. This means that they should:

- satisfy legal form requirements for writing, signature, and originals;
- be admissible in evidence; and
- satisfy statutory record retention requirements.

### **b) Uncertainty of Application of Existing Legal Rules**

This includes the time and place of receipt of electronic messages.

### **c) Risk of Fraud and Error in Electronic Messages**

This is sometimes described as the 'non-repudiation' issue. As in paper-based transactions conducted at a distance, there are risks that a message has not been sent by the apparent sender, that the message may have been altered in transit, and that the apparent sender therefore may repudiate the message, leading to loss if the message has been relied upon by a recipient. The technical management of these risks requires a technical means to reliably authenticate the sender's identity and the sender's intent to approve or otherwise associate himself or herself with the message content and guarantee message integrity. The same legal mechanisms will operate for electronic transactions and, in some law reform models, are supplemented by new legal rules.

## **Conclusion**

In a country like India, as actuarial trust domains become more differentiated, filling many niches that heretofore could not be envisioned, the total system will still be able to manage these interacting complex identity sets efficiently. Digital certificates, digital signatures, private certificate authorities, and increasingly capable actuarial evaluation and scoring systems will easily manage complexity at lower costs than is possible today.

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