



Newsletter

# Sharp View

January 2024

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TANNAN**

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# January 2024

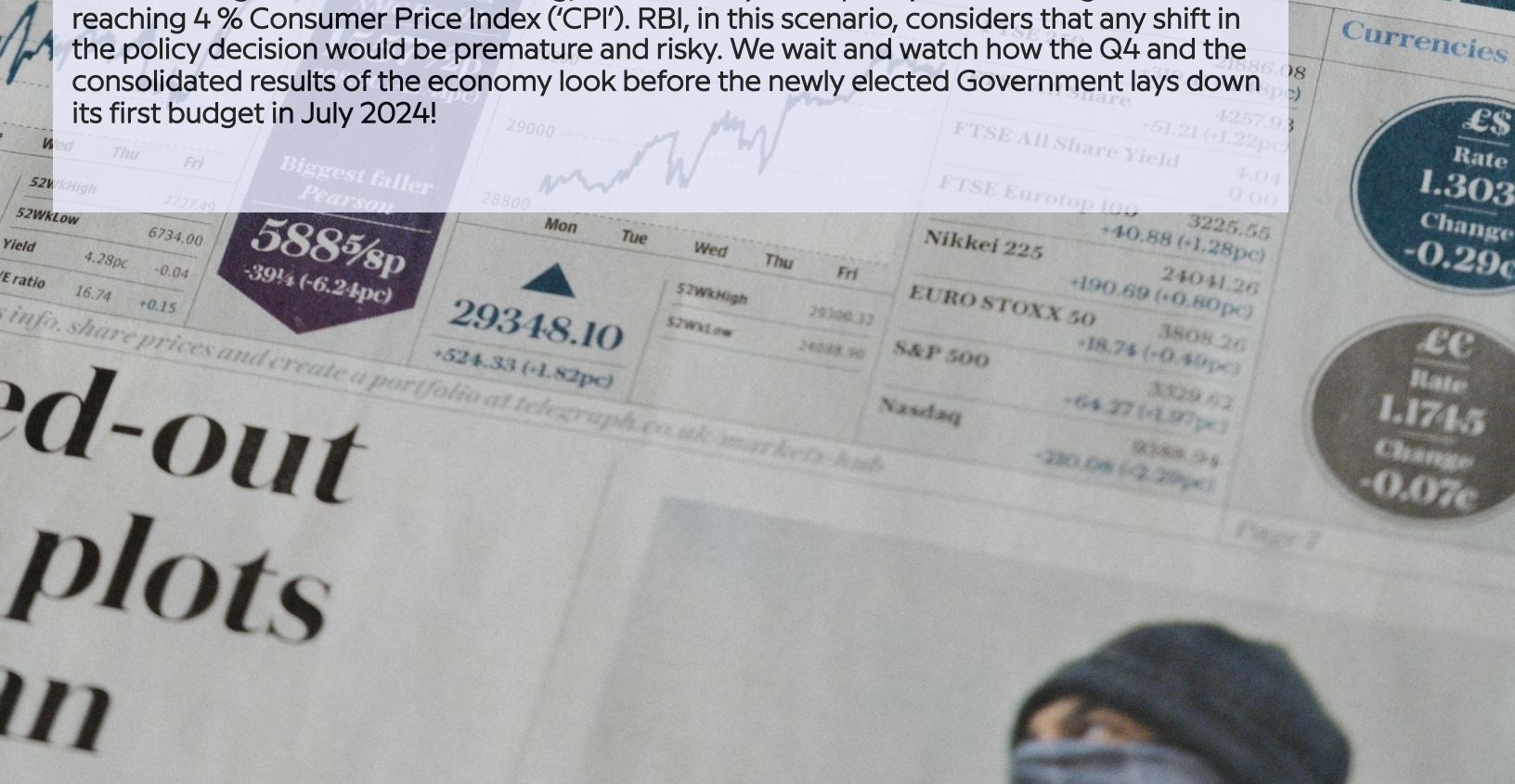
January marks the beginning of 'Uttarayan' and probably the last month to experience the cool period of the winter season. By now, we have completed three quarters of FY 2023-24 and let's take a quick snapshot of the economic situation compiled by the Reserve Bank of India ('RBI') in its various releases.

- Economic activity exhibited buoyancy in Q2 of 2023-24 aided by strong domestic demand.
- Gross domestic product ('GDP') posted a robust growth of 7% in Q2 of 2023-24, driven by investment and government consumption.
- The combined index of eight core industries increased by more than 12% in October 2023 as compared to the Index of October 2022. These were: Cement, Coal, Crude Oil, Electricity, Fertilizers, Natural Gas, Refinery Products and Steel.
- Foreign portfolio investment ('FPI') flows saw a significant increase in 2023-24 with net FPI inflows of US\$ 24.9 billion (upto 6th December 2023) as against net outflows in the preceding two years.
- To support the aspirational growth of the Indian economy, RBI has been at the forefront to create world-class financial infrastructure, e.g. state-of-the-art payments system, introduction to central bank digital currency ('CBDC'), RBI innovation hub, regulatory sandbox to provide a platform for start-ups, fintech and other entities and so on.

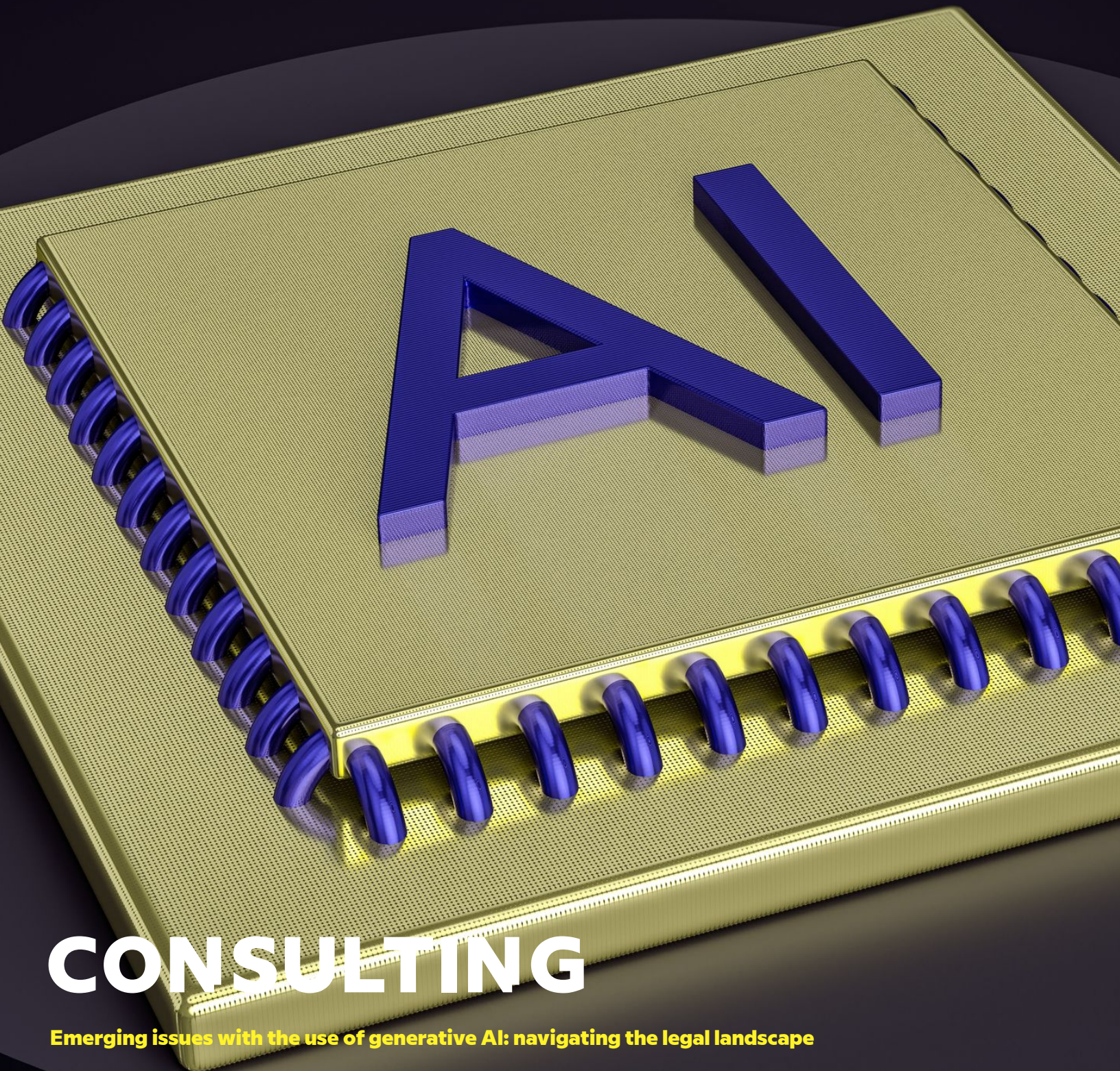
Further, the enhancement in the UPI transaction limit to INR 5 lakh per transaction to hospitals and educations institutions will benefit the customers.

The International Monetary Fund ('IMF') in its October 2023 'World Economic Outlook' projected the global growth for 2023 at 3% and the same for the advanced economies at 1.5%. India's growth is projected to remain strong, at 6.3 % in both 2023 and 2024 which is more than the global growth as well as that in 'emerging and developing Asian countries.'

Overall, the GDP growth is expected to remain resilient and financial conditions appear stable. Though inflation is moderating, the economy is still pretty far from its goal of reaching 4 % Consumer Price Index ('CPI'). RBI, in this scenario, considers that any shift in the policy decision would be premature and risky. We wait and watch how the Q4 and the consolidated results of the economy look before the newly elected Government lays down its first budget in July 2024!







# CONSULTING

## **Emerging issues with the use of generative AI: navigating the legal landscape**

Generative artificial intelligence ('AI') refers to a class of AI systems capable of creating new content such as text, images, and music, however, the use of generative AI raises a host of legal issues and concerns that need careful consideration. Ms. Abhilasha (Vadodara office) discusses various such legal challenges faced in the practical use of AI.



## Emerging issues with the use of generative AI: navigating the legal landscape

### Introduction

Generative Artificial Intelligence (AI) has rapidly evolved, promising innovative solutions across various industries. From content creation and language generation to image synthesis and code writing, generative AI has showcased its potential. However, as this technology continues to advance, legal concerns have begun to surface. This article delves into the evolving legal complexities linked to the utilization of generative AI, shedding light on the hurdles and prospects that await in the future.

### Understanding generative AI

Generative AI refers to a class of artificial intelligence systems that can generate new content, often indistinguishable from human-created content. These systems are trained on large datasets and employ deep learning techniques to produce text, images, music, and more. While the capabilities of generative AI are impressive, they raise a host of legal issues and concerns that need careful consideration.

### Intellectual property and copyright concerns

One of the primary legal challenges surrounding generative AI pertains to intellectual property and copyright issues. As these systems generate content, questions arise about the ownership of the output. In traditional creative works, copyright protection is granted to the human creator. However, when AI is involved, determining authorship becomes complex.

In many jurisdictions, copyright laws are designed with a human creator in mind, leading to uncertainties regarding the protection and enforcement of AI-generated content. Who owns the rights to a piece of music composed by a generative AI system? Can an AI-generated article be copyrighted, and if so, who holds the copyright? Addressing these questions is crucial for the legal framework to catch up with technological advancements.

### Liability and accountability

Generative AI systems operate based on complex algorithms, and their outputs can sometimes be unpredictable. This unpredictability raises concerns about liability and accountability when AI-generated content causes harm or infringes on rights. For instance, if an AI-generated news article contains false information that harms a person's reputation, who bears responsibility?

Establishing a clear framework for liability is essential to protect individuals and entities from potential legal consequences. This includes defining the responsibilities of AI developers, users, and the AI itself. It prompts a discussion on the need for regulatory measures that allocate accountability and establish guidelines for ethical AI use.

## Emerging issues with the use of generative AI: navigating the legal landscape

### Privacy implications

Generative AI often relies on extensive datasets, including personal information, to train its models. The use of such data introduces privacy concerns, especially when AI systems generate content that may reveal sensitive information about individuals. Striking a balance between leveraging data for training purposes and protecting individual privacy is crucial.

E.g. The AI training process enables the model to learn and adjust its internal parameters, allowing it to make predictions, recognize patterns, or generate desired outputs. Regulators may require organisations to adhere to strict data protection laws, obtain explicit consent before collecting and using personal information, and implement robust security measures to prevent unauthorized access to sensitive data.

### Ethical considerations in AI

Beyond legal frameworks, the ethical implications of generative AI usage are significant. Questions about bias in training data like historical disparities, the potential for discriminatory outputs, and the societal impact of AI-generated content underscore the need for ethical guidelines.

Addressing these concerns requires collaboration between technologists, policymakers, and other stakeholders to establish ethical principles governing the development and deployment of generative AI. Ensuring fairness, transparency, and accountability should be at the forefront of ethical considerations in the realm of AI.

### Regulatory responses

Governments and regulatory bodies worldwide are grappling with the need to update existing laws to accommodate the rapid advancements in AI technology. Some jurisdictions have already taken steps to address specific aspects of generative AI. For example, the European Union's General Data Protection Regulation ('GDPR') encompasses principles that are relevant to AI and data privacy.

In India, there are no specific laws or regulations that solely address AI. However, there are a few existing laws and regulations that may have an impact on AI technologies and their applications.

- Information Technology Act, 2000:** The Information Technology Act, 2000 (IT Act) is the primary legislation governing electronic transactions and digital communication in India. Some provisions of the IT Act, such as Sections 43A, 66 and 66B, may be applicable to AI technologies in cases of data breaches, unauthorized access, or computer-related offenses.
- Digital Personal Data Protection Act, 2023:** The Act regulates the collection, storage, processing, and transfer of personal data, which may be relevant to AI systems that rely on personal data.
- Competition Act, 2002:** The Competition Act, 2002 regulates anti-competitive practices in India. AI technologies and algorithms that enable anti-competitive practices or abuse of market dominance may come under scrutiny by the Competition Commission of India (CCI).
- Intellectual Property Laws:** Patents, copyrights, and other forms of intellectual property protection may apply to AI-related inventions and creations. The Patent Act, 1970 and the Copyright Act, 1957, provide legal protection for inventions and original works respectively.

# Consulting

## Emerging issues with the use of generative AI: navigating the legal landscape

However, a comprehensive and cohesive regulatory approach to generative AI is still in the early stages of development. Harmonizing international regulations and creating a standardized framework will be essential to facilitate responsible and ethical AI development and use.

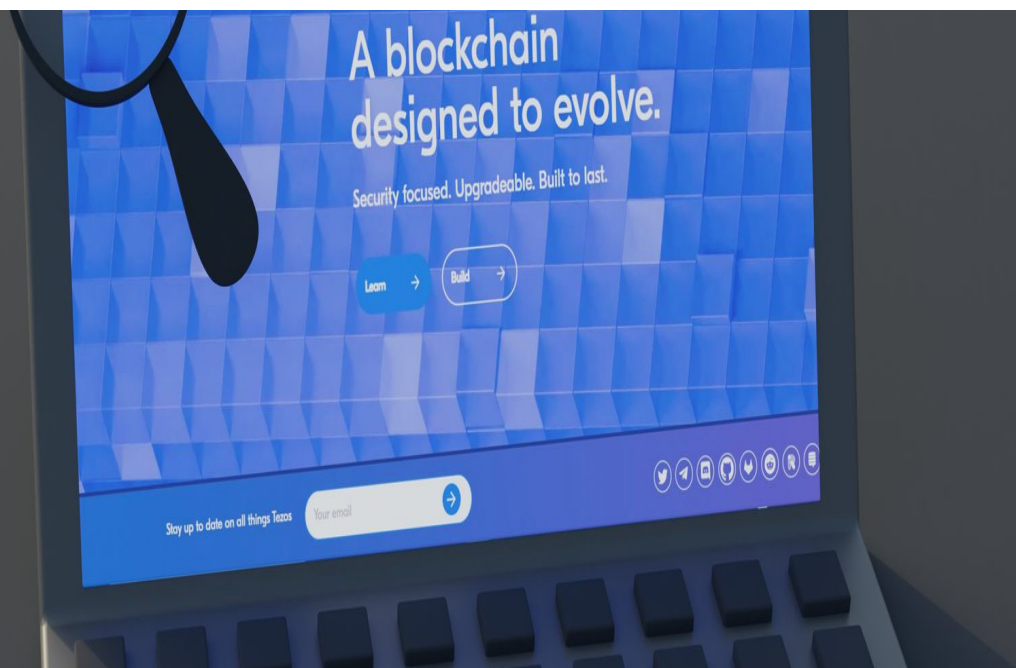
### Transparency and explainability

The inner workings of generative AI models often resemble black boxes (lack of transparency in understanding how these systems operate and arrive at specific outputs), making it challenging to understand how these systems arrive at specific outputs. This lack of transparency raises concerns about accountability and fairness, particularly in high-stakes applications like healthcare, finance, and criminal justice.

Efforts to improve transparency and explainability in AI systems are gaining traction. As legal systems adapt to the challenges posed by generative AI, requirements for developers to disclose information about model training, decision-making processes, and potential biases may become more common.

### Conclusion

Generative AI holds immense promise for innovation and efficiency across various industries. However, the legal landscape surrounding its use is still evolving. Intellectual property and copyright concerns, liability and accountability issues, privacy implications, ethical considerations, regulatory responses, and the push for transparency and explainability all contribute to the complex tapestry of generative AI's legal challenges. As society continues to grapple with these issues, collaboration among stakeholders—including legal experts, policymakers, technologists, is crucial. Balancing innovation with legal and ethical safeguards will be key to unlocking the full potential of generative AI while mitigating risks and ensuring a fair and responsible future for this transformative technology.





# GRC

## Data analytics in forensic audit

Data analytics in a forensic audit involves an examination of financial transactions by using the organisational data that is available, captured and analysed by the forensic auditor to conclude whether a fraud has taken place. Ms. Riddhi Shah (Vadodara office) presents various aspects of the subject like the need of forensic audit, data analytics in forensic audit, its usefulness in such audit along with various techniques employed in conducting the audit.

## Data analytics in forensic audit

### What is a forensic audit?

#### A forensic audit is an

- Examination of a company's financial records to derive evidence which can be used in a court of law or legal proceeding.
- Application of accounting, auditing, and investigative skills to uncover financial fraud, misconduct, or irregularities.

### Need of Forensic audit

Forensic audit is required where there is a suspicion or possible threat or fraud being/likely to have occurred. Fraud can be of a financial nature like misappropriation or embezzlement of funds or there can also be situations involving legal actions of litigation, e.g. insolvency and bankruptcy.

- The Association of Certified Fraud Examiners ('ACFE') 2022 report estimates that the average organization loses 5% of its annual revenue to fraud each year, causing a median loss of \$117,000 before detection.
- The ACFE's edition of Occupational Fraud: A Report to the Nations points out that auditors rarely find fraud — internal audit detects fraud 16% of the time, while external audit identifies it in only 4% of cases.

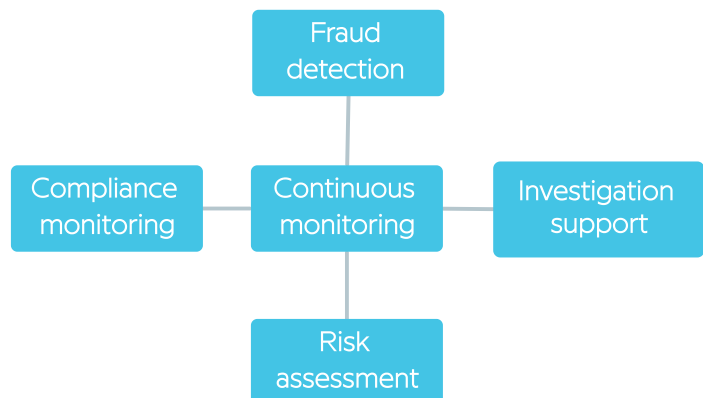
### Data analytics in a forensic audit

Data analytics in a forensic audit involves an examination of financial transactions to conclude whether or not a fraud has taken place. Data used in organisations at various levels is captured, examined and analysed by the forensic auditors using artificial intelligence and AI tools to conclude whether the transactions are done with a motive to deceive or perpetrate fraud or otherwise.

The role of data analysis in a forensic audit can thus be summarised as

- Examining and analysing large volumes of data.
- Application of advanced analytical techniques and tools for detecting, investigating, and preventing financial fraud, and misconduct.
- It involves leveraging data from financial records, transactional data, and employee data to uncover patterns, anomalies, and relationships that may indicate fraudulent activities or noncompliance with laws.

Key objectives of data analytics in forensic audit





## Data analytics in forensic audit

### Key aspects of data analytics in forensic audit

- Data collection and acquisition
- Data cleansing and preparation
- Data exploration and profiling
- Link analysis
- Trend analysis
- Benford's Law analysis
- Data visualization
- Statistical analysis
- Data mining and machine learning

### Types and techniques of data analysis in forensic audit

1. **Benford's Law analysis:** Statistical principle that states that certain leading digits occur more frequently in naturally occurring numerical datasets.
2. **Trend analysis:**
  - Examining changes in financial data over time
  - Identifying abnormal trends, sudden fluctuations, or unusual patterns that may indicate revenue manipulation or asset misappropriation.
3. **Ratio analysis:**
  - Calculating & analyzing financial ratios to assess the financial performance and stability of an organization.
  - Identifying anomalies or deviations from industry norms
4. **Statistical analysis:**  
Regression analysis, hypothesis testing, clustering, or classification models  
Identifying relationships, assess significance, or classify data based on specific criteria.
5. **Data visualization:**  
Employing charts, graphs, and dashboards to present complex financial data in a visual and easily understandable format.
6. **Link analysis:**
  - To uncover relationships and connections between entities, transactions, or events.
  - To identify hidden connections, potential collusion, or complex money trails.
7. **Network analysis:** Examining transactional networks, communication networks, or social networks to identify suspicious nodes or clusters.

## Data analytics in forensic audit

### 8. Data mining and pattern recognition:

Employing algorithms such as association rule mining, cluster analysis, or anomaly detection to uncover hidden patterns or outliers.

### 9. Forensic data analytics:

- Combining data analysis techniques with investigative skills to identify and investigate financial irregularities.
- It also involves leveraging advanced tools and technologies to process and analyze large volumes of data efficiently.

### How data analysis is useful in forensic audit?

Data analysis is immensely valuable in forensic audit for several reasons:

- Detection of anomalies
- Identification of patterns and trends
- Uncovering hidden connections
- Identification of red flags
- Focus on high-risk areas
- Evidence gathering
- Efficient data processing

### How data analytics will be the future of forensic audit?

Manual methods and sampling techniques got replaced with the advancements in technology. Here's how data analytics will shape the future of forensic audit:

- Improved efficiency
- Enhanced accuracy
- Fraud detection and prevention
- Data visualization
- Continuous monitoring
- Integration with AI and automation



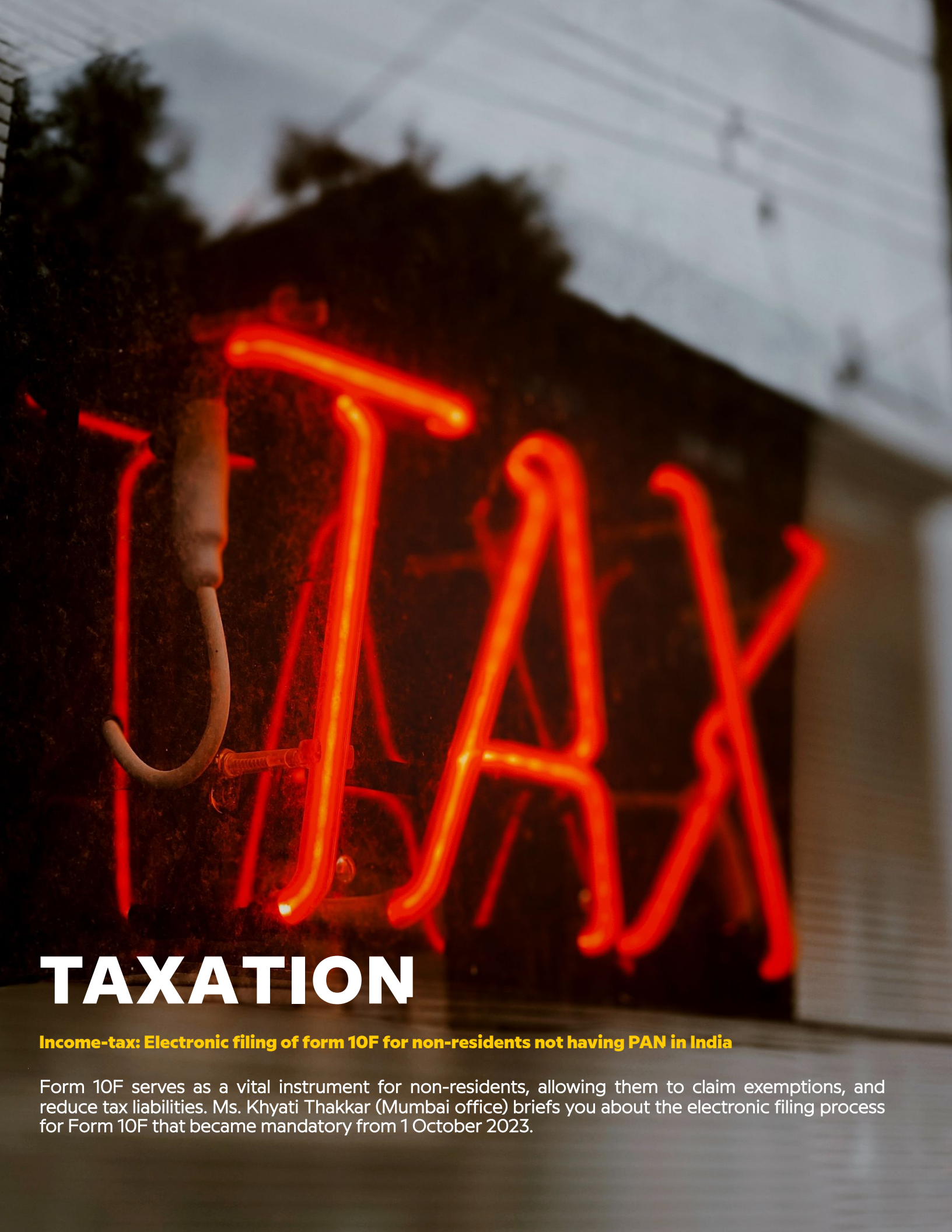


## Data analytics in forensic audit

### Conclusion

The evolving landscape of forensic audit is increasingly intertwined with the transformative power of data analytics. This investigative process, centered on scrutinizing financial records for legal evidence, is now heavily reliant on advanced analytics and artificial intelligence. The imperative for a forensic audit arises in the presence of suspicions or potential financial malfeasance, with data analytics serving key objectives such as fraud detection, investigation support, risk assessment, compliance monitoring, and continuous monitoring. Various critical aspects of data analytics, spanning data collection, cleansing, exploration, and profiling, alongside techniques like Benford's Law analysis and network analysis, enhance the effectiveness of forensic audits. Data analysis proves instrumental in detecting anomalies, identifying patterns, uncovering connections, and focusing on high-risk areas, ensuring efficient evidence gathering. Looking ahead, the future of forensic audit is marked by the replacement of manual methods with technology-driven approaches, promising improved efficiency, enhanced accuracy, robust fraud detection, advanced data visualization, continuous monitoring, and increased integration with artificial intelligence and automation. In the face of evolving threats, the indispensable role of data analytics in forensic audit is poised to play a critical role in safeguarding the integrity and transparency of financial systems.





# TAXATION

## **Income-tax: Electronic filing of form 10F for non-residents not having PAN in India**

Form 10F serves as a vital instrument for non-residents, allowing them to claim exemptions, and reduce tax liabilities. Ms. Khyati Thakkar (Mumbai office) briefs you about the electronic filing process for Form 10F that became mandatory from 1 October 2023.



# Taxation

## Income-tax: Electronic filing of form 10F for non-residents not having PAN in India

In the intricate landscape of international taxation, non-resident ('NR') taxpayers play a crucial role, especially in the Double Taxation Avoidance Agreements ('DTAA's). At the heart of this system lies Form 10F, a self-declaration tax form enabling NRs to claim benefits and legally avoid the Tax Deducted at Source (TDS) on payments originating from India.

### Understanding Form 10F: An essential for NRs

Form 10F is a lifeline for NRs receiving payments from India without a Permanent Account Number ('PAN'). The absence of a PAN necessitates the inclusion of NR's Tax Residency Certificate ('TRC') details, a prerequisite mandated by the DTAA. By filing Form 10F, NRs ensure that no TDS is made on payments accrued or received within India.

Under the DTAA, an NRI taxpayer having a TRC must have the following details: i) Name, ii) Address of the NRI taxpayer, iii) Tax Identification Number of a foreign country, iv) Status of the taxpayer (individual, firm etc.) and so on.

### Electronic filing mandate and relaxations

The Central Board of Direct Taxes ('CBDT'), through a notification on 16 July 2022, mandated the electronic filing of Form 10F. Acknowledging the challenges faced by non-residents in obtaining a PAN, solely for this purpose, CBDT introduced relaxations. Non-residents without a PAN were allowed to submit Form 10F in a self-certified manual format until 30 September 2023.

### Documents required for online form 10F filing before relaxation

To streamline the filing process, NRs need to compile a comprehensive set of documents, including PAN, proof of residential address, duration of residential status as stated in the TRC, taxpayer status proof, proof of nationality, TIN or any other unique tax identification number in the country of residence, and a digital signature certificate for authentication.

### Transition to electronic filing from 1 October 2023

Starting from 1 October 2023, non-residents are obligated to provide electronic Form 10F to avail themselves of DTAA benefits. The Income-tax department has introduced a new registration category for 'Non-residents not having a PAN and not required to have a PAN.'

### Steps for seamless electronic filing

- The non-resident can click on the 'Register' option on the e-filing portal, i.e., <https://www.incometax.gov.in/iec/foportal>
- Under the 'others' category, there is an option to choose 'non-residents not having a PAN and not required to have a PAN'.
- Basic details: Name, date of incorporation, tax identification number, and country of residence will need to be entered
- Key person details: Name, date of birth, tax identification number, and designation need to be provided
- The next step is to provide contact details: Primary and secondary mobile numbers and email IDs which will be verified through an OTPs, and postal address.

# Taxation

## Income-tax: Electronic filing of form 10F for non-residents not having PAN in India

- Lastly, the non-resident will need to upload certain attachments: ID proof, address proof, and a copy of the TRC. The ID and address proofs must be valid documents in the country of residence.

On successful verification of these details, the concerned NR will receive a user ID on the registered email ID, through which he/she can login on the Income Tax Portal, where Form 10F can be uploaded electronically.

### Consequences of non-compliance

Non-compliance with Form 10F requirements, as per the government's notification on July 16, 2022, leads to the withdrawal of DTAA benefits and a higher rate of TDS. An NRI taxpayer applying a reduced tax rate or claiming nil tax liability without filing the form risks being treated as an 'assessee in default,' making remittances and account maintenance challenging.

### Summing up: significance of form 10F

Form 10F serves as a vital instrument for NRs, allowing them to avoid dual taxation, claim exemptions, and reduce tax liabilities. Filing this form is not just a compliance requirement; it is a strategic move that empowers NRs to navigate through the complexities of international taxation successfully.





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