Indian Insider Trading

Dr.AshishVardhan K, M.VijayaRaju, K.V.PeddiRaju
Associate.Professor[1],Assistant.Professor[2,3]
CSE DEPARTMENT
Swarnandhra College of Engineering & Technology, Narsapuram-534275.

ABSTRACT
This research paper delves into the critical issue of insider trading within India's securities markets and evaluates the effectiveness of the Securities and Exchange Board of India (SEBI) regulations, specifically the SEBI (Prohibition of Insider Trading) Regulations of 2015. Insider trading's profound impact on market integrity and investor trust is highlighted, with a focus on the transition from the earlier 1992 regulations to more recent 2015 regulations. These rules are intended to address the shortcomings of the prior ones and reduce the likelihood of insider trading. Indian company legislation mandates the creation of a yearly account that summarizes the business's financial results for the previous year. It also mandates that the business disclose its assets and obligations at the conclusion of each bookkeeping period. To guarantee accountability in the business's administration, this has been made available. This meeting is held to monitor and evaluate the operations of the business. Nonetheless, some data is known to the employers of the business straightforwardly or who are generally associated with it before it is really disclosed. For instance, a chartered accountant audits the company's financial data; business directors make decisions; etc. Because they have access to this price-sensitive, unpublished information, those associated with the companies are in a better position than those who do not. insider trading, one of the most severe charges in the securities market, is the result of such a transaction. Considering this, the current study paper provides a critical analysis of SEBI's 2015 insider trading regulations and examines the concept of insider trading in India. The study also underscores the significance of annual reporting and discloser requirements imposed by Indian company legislation, which plays a crucial role in transparency and accountability. Furthermore, it examines the susceptibility of individuals associated with companies to access sensitive, price-sensitive information and the consequent risk of insider trading. Through case studies, the paper illustrates real-world examples of insider trading in India and its regulatory challenges. Ultimately, the study aims to provide insights into the current state of insider trading regulations in India and suggests areas for improvement to strengthen market integrity and investor protection.

Keywords:SEC, Securities and Exchange Board of India, Rules, Insider

I. INTRODUCTION

This study paper's introduction takes us on a captivating journey into the fascinating world of insider trading, a phenomena that has mesmerized financial markets throughout the globe. At the outset, it draws attention to two watershed points in the development of insider trading debate. A detailed look into the matter was initiated in 1992 when a senior member of the Bombay Stock Exchange made the audacious assertion that insider trading was the most prevalent kind of trading in India. U.S. Securities and Exchange Commission (SEC) Chairman Arthur Levitt made it clear in 1998 that insider trading is unacceptable in any just and law-abiding economy [1].

Insider trading, the central idea, is further explored throughout the story. This article defines insider trading as an individual's acquisition or sale of publicly listed firm stocks while having links to the company's management. The most important thing is that these people use private, non-public information that might significantly affect the stock price of the firm. While individuals with inside knowledge may benefit financially from this covert conduct, stockholders who are ignorant of the privileged information are put at serious risk because of the damage it might do to their interests. As the global scene for insider trading legislation takes shape, the US's trailblazing position becomes more apparent. Notably, the United States was the pioneering country to officially approve insider trading control measures. The world saw this move as a challenge to the idea that having access to private information for one's own gain was a sign of power and success, which first shocked many. Even in countries like the UK, where "the crime of being something in the city" was satirically called such a thing in 1973, public perception changed over time, leading to the need for regulatory actions.

"Efficiency" and "fairness" are fundamentally at odds with one another in insider trading debate. Allowing people with different degrees of knowledge about a company's operations to trade its publicly listed assets is fundamentally unjust, as the report highlights. When insiders utilize their special, price-sensitive knowledge to their benefit or to their detriment, the information asymmetry may lead to huge economic gaps. As a result, outside of the US, several other countries have passed legislation to limit insider trading. There is recognition of India's distinct position in relation to insider trading legislation on a worldwide scale. When it came to the damaging consequences of insider trading on public shareholder rights, financial markets, and corporate governance, the country was an early adopter. The first moves towards regulating insider trading in India were taken in 1948 by a committee headed by Mr. P.J. Thomas, which is where this recognition originates from.

Moving on, the story delves into the regulatory environment in India, with a focus on the Securities and Exchange Board of India

(SEBI). In particular, it draws attention to the SEBI (prohibition of insider trading) Regulations of 1992 and the SEBI act of 1992, two crucial statutes controlling insider trading in India.

II. HISTORYOFINSIDERTRADING ININDIA

When the Indian value market peaked in 1990, Mehta was a household name. Substantial shares were bought by him. He showed particular interest in the shares of Related Concrete Organization (ACC), India's largest concrete producer; as a result, the scalawag increased the share price of ACC by 4400% on the stock market, from 200 to 9000 (about). Economic liberalization preceded the Harshad Mehta scam, which happened after the Indian stock market was computerized [2]. Consequently, the badla system came to an end, and the stock market became digital and shares went digital as well. There are 47 extremely significant roles held by common customers, such as Damayanti Group, which made all of its decisions at Harshad Mehta's Nariman Point headquarters. This includes Sterlite, BPL, and Videocon. There was a skewed market for certain stocks since the market's equilibrium was upset. With the money they received from the hawala price increases, Damyanti Group increased their holdings in carry forward, paid margins, and made more cash purchases on the Bombay Stock Exchange (BSE) and the National Stock Exchange (NSE). Additionally, they used the badla system to lead offer deals and create money via bought shares. It came to light that Harshad Mehta and Damayanti Group used several middlemen in their dealings and had very concentrated stock ownership. There was a correlation between this position and almost 40% of Sterlite's workforce. The firm and its executives, Shri Anil Aggarwal, ShriTarun Jain, and ShriShashikant, were sued after SEBI barred Sterlite Industries from the capital market for two years. The Securities Appellate Tribunal (SAT) reversed SEBI's ruling in 2002, to the contrary. Those who had put their faith in authorities to protect the market were the ones who felt the effects the most, while BPL and Videocon were free to do as they pleased. Many investors came dangerously close to going bankrupt as a result of the stock market panic that followed AnandRathi's departure as president of the Bombay Stock Exchange (BSE). Following his training with Harshad Mehta, Ketan Parekh was restricted from trading on Indian stock exchanges until 2017 after being found guilty of a fraud in 2001. Also in 2008, he was given a two-year jail term. According to Aiyer(2003), a member of the Joint Parliamentary Council (JPC), the Ketan Parekh scandal caused the March–April 2001 collapse of the Indian stock market. The financial markets did not fully recover for nearly two years after the swindle, which included several banks, businesses, and brokers, took advantage of every loophole that the government and regulators created. Ketan Parekh was able to pull off its deceitful scheme because of a web of connections between banks, agents, and companies that wanted to damage the credibility of the market. Both the Calcutta Stock Exchange payment problem and the abuse of the Mauritius route for stock market investments were the main reasons for this disaster. An independent member of Ranbaxy Laboratories Ltd.'s non-executive committee, Mr. V.K. Kaul, was subject to legal proceedings by SEBI in 2012 on allegations of insider trading [3].

Satyam Computers' demise was caused by fraud perpetrated by its managing director and CEO, Mr. RamalingamRaju. Despite continuing debt collection actions, the AP High Court permitted the merger of Satyam Computers. The Indian judicial system and SEBI focused on Harshad Mehta and KetanPareek, although no large corporations were significantly impacted by insider trading claims in India. While Galleon Management's founder and managing general partner, Raj Rajaratnam, had access to sensitive material, the US government proceeded to punish Rajat Gupta, a director of many firms, for this crime. In what was perhaps the biggest insider trading case in U.S. history, the two defendants were convicted and sent to jail after trading on the secret knowledge. Also, while they were operating the firm, the promoters of Enron were heavily fined for insider trading.

INSIDERTRADINGANDITSREGULATIONIN INDIA

In recent years, India's financial services industry has grown at a rate that rivals that of the world's fastest-growing economies. However, a rise in financial misconduct, such as insider trading, has accompanied this trend.
The term "insider trading" refers to the illegal practice of trading in sensitive information that has legal safeguards. This major transgression undermines the integrity of the protections markets and provides insiders with an unfair edge over other financial supporters.
An extensive administrative framework has been put in place to prevent insider trading in India. Regarding insider trading, the Securities and Exchange Board of India (SEBI) has issued many rules; it is the primary regulator of India's protections markets.

Notable among these rules is the SEBI Regulations, 2015, which defines insider trading and makes it illegal for insiders to engage in it. A person is considered an insider if they have exceptional access to material, non-public information about their employer as a result of their position or job duties.
Also, when financial results are announced, for example, insiders are expected to disclose any assets they may have in the company's securities and refrain from trading those securities during certain times.

Along with its regulatory framework, SEBI keeps a close eye on insider trading laws and conducts investigations into any suspicions of insider trading via its dedicated insider trading section. If someone is found to be engaging in insider trading, Sebimay punish them criminally and civilly. Insider trading continues to be an issue in India, despite the securities and exchange board of India's (SEBI) regulatory efforts and strong enforcement. Executives, workers, and other insiders of publicly listed companies have been the subjects of high-profile insider trading cases in recent years. Insider trading may be difficult to detect, which is a difficulty when trying to prohibit it. Since insider trading often occurs in secrecy, it might be difficult to collect proof of it. The intricacy and difficulty of interpreting countrywide change policies is another issue. Many people in the market, even insiders, may get confused as a result of this. Regardless of the obstacles, SEBI has achieved significant strides in combating insider trading in India. There is a robust system of regulations, and SEBI cracks down on insider trading in the video display business. The prevention of insider trading and the education of market participants on insider trading rules are both pressing issues that need more attention.

III. DISCUSSION

In the 1940s, India experienced its first instance of insider trading. In 1948, a number of cases were brought to light by the report of the Importation Committee, which was headed by P.J. Thomas. In these cases, individuals such as directors, officers, agents, and accountants were found to have been in possession of confidential information regarding the company's financial status. As a result, they were able to declare dividends, issue bonus shares, or enter into a lucrative contract before disclosure.

A separate registry disclosing the acquisitions and sales of directors' shares was also proposed by the Bhabha Committee in 1952. According to the committee's recommendations, the "Companies Act of 1956" gained "Sections 307 and 308" attachments. According to the "Companies Amendment Act, 1960," the Manager of the Company is now required to disclose their ownership interests in the company, as "Section 308" mandates that directors and those presumed to be directors disclose such interests, and "Section 307" requires companies to keep a register to track the shares that directors owned in the company.

According to the Sacher Committee's 1978 report, India needs stricter regulations to prevent one party from getting an unfair advantage in a transaction by gaining access to price-sensitive information.

Trading shares based on secret, price-sensitive knowledge that is not disclosed to the public is considered insider trading, according to the 1986 report of the Patel Committee, headed by "G. S. Patel," which offers a solid definition of the term. Furthermore, it was proposed that the Securities and Exchange Commission Act of 1956 be revised so that the stock exchanges may impose stringent laws against insider trading.

Furthermore, in 1989, the "AbidHussain Committee" recommended that SEBI impose tougher laws to prevent insider trading and that the crime should be subject to both criminal and civil law.

In 2022, the SEBI Regulations, 1992 were revised in response to the necessity for strong legislation to punish those involved in unfair financial market abuses.

Theproblem mustbeinvestigated

When individuals with access to non-public information trade stocks unethically, this is called insider trading. Insider trading is still a problem in India's financial markets, despite the country's many legal changes aimed at preventing it. "Criminals are becoming smarter and do not leave traces in traditional channels," the agency said. Because of this, the agency has to come up with new methods to make them pay.

The first step in insider trading is the gathering of "unpublished price sensitive information" (UPSI), which is then shared with a small number of people so that they may take unfair advantage of knowledge that would otherwise be unavailable. At the same time as investors are being given greater flexibility and knowledge to trade in the financial markets, the number of breaches is presently expanding significantly.

This demonstrates that SEBI has made an effort to cope with the problem by enacting rules and regulations that penalize those who seek to get an unfair advantage by taking advantage of gaps in government reforms.

The rules that govern insider trading have evolved over the years. Commencing on April 1, 2019, the SEBI (Prohibition of Insider Trading) Regulations, 2015 superseded the SEBI (Prohibition of Insider Trading) Regulations, 1992. Sebi revised the rules on December 31, 2018, to address a number of issues, including:

1. These revisions addressed the disclosure of certain individuals who were previously not required by the Regulations to reveal their access to "UPSI." These individuals included workers and others with ties to the company.

The word "legitimate purposes" was made more clear in order to avoid regulations from being breached.

3. A few of unclear passages in the text were also cleared out, which helped put market participants at ease regarding certain measures.

Plus, the authorities now have more tools at their disposal to combat "insider trading" because to a new regulation that went into force on December 26, 2019. Financial incentives to the clue to strengthen the clue's structure for social event data and protection against bosses' exploitation of representatives as sources to the division are both components of this assistance.

Despite these efforts, insider trading continued at a high rate among many significant firms and enterprises. Ambit Capital was one of these, and on December 13, the company paid Rs. 6 Crores to settle with SEBI. In a case that was similar to this one, Crisil Ltd., the tepee imposed a fine of 2 crores rupees in October 2019 in compliance with an order from the SEBI.

To address the problem of insider trading, it is not enough to simply notify the public or impose new legislation. This is due to the fact that serious measures are needed in every jurisdiction to detect and punish insider trading. To avoid misconduct and further the common good, the true test is how to enforce the rules. A major obstacle to avoiding insider trading is the unlawful release of secret information via many channels, one of which is social media. This kind of behavior is unjust since it uses private information for the advantage of a few people while the rest of us pay the price.

The fact that SEBI is short on resources and authority to conduct basic investigations is another factor contributing to the low prosecution rate. The regulator also faces additional difficulties due to the lack of an appropriate organizational structure for dealing with insider trading accusations. After being formed in August 2017, the Vishwanathan group advised against giving SEBI access to phone records. This piece of wisdom holds true even now.

A new case shows that insider trading is still an issue in the Indian market, even though the regulator has been working to address it. One of India's most famous investors, Mr. RakeshJhunjhunwala, who goes by the name "India's Warren Buffett," is facing insider trading charges involving the Aptech Limited shares that he and his family possess. Along with MadhuJayakumar and Ramesh Damani, two members of the Aptech board of directors, the market supervisor is investigating other relatives who own stock. Jhunjhunwala is now worth an estimated Rs. 160 billion from his 24.24 percent shareholding in Aptech. Be advised that Aptech Limited has already been the subject of an inquiry by SEBI, which is now wrapping up its examination of the company's management of funds transferred via GDR [4].

Additionally, Mr. Jhunjhunwala was previously detained by SEBI for engaging in insider trading in Geometric, a subsidiary of HCL Technologies. In the end, Mr. Jhunjhunwala's readiness to give Rs 2.48 lakh settled the matter.

Methodsforbridgingthegapforimprovedissueresolution

Insider trading is a serious problem that undermines the integrity of the stock market and harms investors. It occurs when someonebuys or sells securities based on material non-public information. This information is not available to the general public and cangive the insider an unfair advantage. India has some of demanding situations in combating insider buying and selling. Oneundertaking is a lack of awareness of the problem. In May, traders or even some insiders are unaware of insider trading legalguidelines and rules. every other challenge is the problem in identifying and investigating cases of insider trading. internal tradersoften wartocovertheiractivities.

The Indian government and regulatory authorities have taken several steps to address those challenges. In latest years, SEBI hasaccelerated its attention on insider trading and imposed more difficult penalties on violators. SEBI has also added numerous newmeasuresto locateand investigateinsider trading,consistingofactual-timemarketmonitoring andinformation analysis.

- Training and awareness- SEBI and other stakeholders must continue to educate traders and insiders about internal legalguidelinesandrules.thiscouldbeexecutedviapublicawarenesscampaigns, trainingandseminars.
- Detection and investigation- SEBI and other legal guidelines enforcement agencies want to make investments extrasourcestodetectandinvestigatecasesofinsidertrading.Thisconsistsofhiringpersonnel,growingnewtechnologiesand participatingwithdifferentjurisdictions.
- Penalties- penalties for insider trading in India should be strengthened for deterrence. The government should alsoconsider introducingcriminalsanctionsfor insidertrading.
- Civil Liability- investors against the perpetrators. This would give investors anopportunity to seek compensation fortheir losses.

Apartfromtheserecommendations,thegovernmentofIndiaaregulatoryauthoritiesshouldalsoconsider thefollowing-

- A more proactive approach- instead of waiting for insider trading to occur and then taking action, SEBI should focusprimarily on preventing insider trading. This may include conducting proactive investigations and monitoring suspiciousbusiness.
- Improve cooperation with other jurisdiction: insider trading is a global problem and it is important for India to cooperatewithotherjurisdictionstoinvestigateandprosecuteinsidertraders.Thismayincludeinformationandintelligencesharing andmutual legal assistance.

IV. CONCLUSION

within the many contentious aspects of securities regulation, insider trading ranks high even within the economics and law subfields. For many reasons, insider trading is dishonest. Even if there are a lot of alternative options for the market that aren't as successful. On the other hand, most people say they're against insider trading because it's unfair; one of the greatest outcomes is that it reduces market efficiency. The huge amounts involved are no longer easy to deter, and the opacity of insider trading makes identification and conviction more difficult. All traders must have equal access to the benefits of participation in securities transactions, and this is the fundamental premise of the securities system. In other words, everyone in the investing public should be worried about the same market risks. It is no longer acceptable to dismiss as inevitable the inequalities that arise from uneven access to knowledge. Consequently, it is critical for markets to remain free from insider trading and other forms of fraud. Listed companies and other organizations are required by law to establish internal rules and procedures to prevent insider trading by directors, employees, partners, and others, as stated in the new legislation passed in 2002. Recent research has shown that insider trading laws are ineffective, hard to implement, and have a minimal impact on the stock market. Given the lack of prosecutions targeting insiders and the very low number of enforcement charges, this may be seen as evidence. In an effort to bolster homebuyers' confidence and entice the global investment network, officials in distant locations have begun to put a premium on cracking down on insider buying and selling. Unique courts may be established to expedite and effectively resolve issues.

V. REFERENCES

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[4] (2020, January 28): RakeshJhunjhunwala is being investigated by SEBI for possible insider trading in Aptech.