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Insider Trading: A Reality of Indian Security Market

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Insider trading is a very conspicuous crime these days, this article reviews what insider trading is and its regulations in India. The article also examines laws regulating Insider trading in India i.e. SEBI (Securities and exchange board act), Companies Act 2013. Moving further this research also examines some landmark cases like Hindustan Lever Limited v. SEBI and many more. Then paper takes a look at preventive means and obligations of a company, which SEBI has mentioned in Prohibition of Insider trading Regulation, 2015. The research further tells about the regulation on insider trading is effective or no because the data shows insider trading cases are rising year by year and maybe the SEBI must change the way of investigation. Finally, the research concludes the Article by giving not only some appreciation to the Indian government for enacting prohibition of insider regulation but also some suggestions to bring some changes to curb these loopholes in regulation.

Keywords: *insider trading, SEBI, securities market, regulations.*

INTRODUCTION

The security market is just like any other market with the main function of buying and selling. The major difference is that it is a market where the trading is done in terms of securities. Securities are fungible and negotiable financial instruments that have legal standing. They are issued by either a company or the government itself. There are different types of securities such as debentures, shares, warrants, derivatives, etc. The securities market of India has great importance in the Indian economy and it did not happen overnight. "Though the historical records relating to securities market in India is meager and obscure, there is evidence to indicate that the loan securities of the East Indian Company used to be traded towards the close of the 18th century. By the 1830s, the trading in shares of banks started. The trader by the name of broker emerged in 1830 when 6 persons called themselves sharebrokers. This number grew gradually. Till 1850, they traded in shares of banks and securities of the East India Company in Mumbai under a sprawling Banyan Tree in front of the Town Hall, which is now in the Horniman Circle Park".[1] Since then the securities market has been growing. Our country has experienced a number of regulations and changes in the securities market and now it is completely under the control of the central government. However, there is still darkness beneath the lamp.

Insider trading is the theft of relevant & confidential information and abusing it for personal benefits. It is an offence where the offender might not be the same but the victims are the same every single time i.e. the innocent citizens of our country. Most people are not well aware of this offence as it might be the case that they do not commit it intentionally. But intentional or not, it is a severe offence. The concept of insider trading is taken into consideration since the very concept of security exchanges is prevalent in the world.

"The first case of insider trading was seen in the 1940s when, the Thomas Committee Report in 1948 cited instances of directors, agents, officers, auditors possessing strategic information regarding economic conditions of the company regarding the size of the dividends to be declared, or of the issue of bonus shares or the awaiting conclusion of a favourable contract prior to public disclosure."[2] When such cases started coming up to notice of the government; it decided to make strict regulations of the companies and financial institutions in order to prohibit the practice of insider trading. The government then constituted an autonomous body

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[1] 'SEBI | A Historical Perspective of the Securities Market Reforms' (*SEBI*, 2004) <https://www.sebi.gov.in/media/speeches/mar-2004/a-historical-perspective-of-the-securities-market-reforms_2882.html> accessed 11 July 2021

[2] 'Report on the Regulation of Stock Exchanges' (*SEBI,* 1948) <http://www.sebi.gov.in/History/HistoryReport1948.pdf> accessed 11 July 2021

i.e. SEBI (Securities and Exchange Board of India) under the SEBI Act, 1992. The basic function of SEBI is to protect the interest of investors, promote trading and regulate the securities market. Another statute that has the provision for insider trading is the Companies Act, 2013 (amended one). Even after all these regulations and penalties provided by law, we have seen a number of cases of insider trading in the Indian securities market. The companies are under obligation to take care of certain things which could prevent these practices. The reality is insider trading is prominent in our securities market and is happening every single day. There are very few cases that came into notice of SEBI. The truth is just like any other offence, unless reported nothing is an offence.

DEFINING INSIDER TRADING

Ever since the stock market has established in India people have treated it as a wager and have tried a number of unethical ways to make money out of it. There were a number of frauds happening in the securities market and the one on which regulatory bodies keep an eagle eye is Insider trading; an offence that incurs a hefty amount of penalty and even imprisonment. The securities market is a fair play only when all the investors have the same information (information does not mean experience or knowledge about news). But when a person who has additional information which is not public, misuses it for his own benefit, it amounts to insider trading. The person who commits insider trading is known as an 'insider'. Here are some important definitions are given by different authorities.

"The Patel Committee in India in 1986 defined insider trading as the trading in the shares of a company by the person who is in the management of the company or are close to them on the basis of undisclosed price sensitive information regarding the working of the company, which they possess but which is not available to others. [3]

SEBI has defined Insider under SEBI (Prohibition of Insider Trading) (Amendment) Regulations, 2008, where it states that insider means any person who is either a connected person or is in possession of or having access to unpublished price sensitive information.

[3] Nishith M Desai and Krishna A Allavaru, 'Insider Trading: A Comparative Study' (*Nishith Desai*, 1997) <https://www.nishithdesai.com/fileadmin/user_upload/pdfs/Associates_Insider_Trading_-_A_Comparative_Study.pdf> accessed 15 July 2021

Therefore, it includes persons connected on the basis of being in any contractual, fiduciary, or employment relationship that allows such person access to unpublished price-sensitive information (UPSI).[4] Justice Sodhi Committee seeks to clearly define the expression trading in order to distinguish it from the wider expression dealing. Trading means the acquisition and disposal of securities. Hence, creating security over the shares of a company would not amount to trading in those securities.[5]

As per Section 195 of Companies Act, 2013, insider trading means an act of subscribing, buying, selling, dealing, or agreeing to buy, sell or deal in any securities by any director or key managerial personnel or any other officer of a company either as principal or agent if he is reasonably expected to have access to any non-public price-sensitive information in respect of securities of a company.[6] This section prohibits directors or key managerial personnel of a company from engaging in insider trading."[7]When the information which was used to trade in a particular share was not public then it would be considered insider trading. Even if the person is not using the information himself but still transfers the same to another person, it would still come under insider trading. Most of the time in India, the family members or the close relatives of company employees and officers are also seen as insiders. But this is known to almost all the officials of the company so what they do is, they do not trade on their own, rather they ask someone else to trade and share the profits with him. The person would buy the shares at a lower price and would successfully sell them at a much higher price due to certain information which tells him that the price of shares would shoot. There can be different situations related to this.

Imagine a person is an employee of a company and got sensitive information about the shares. He tells his father about the same and his father transfers the same to another person. Now, this transfer of information is also illegal even if the person is not using it but just passing it. All three of them can be held liable for insider trading.

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[4] 'Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992

[5] Jerry Williamson, 'The Know-All of Insider Trading – Decades of Corruptive Prevention' (*Academike*, 2015) <https://www.lawctopus.com/academike/know-insider-trading-decades-corruptive-prevention/> accessed 14 July 2021

[6] Companies Act 2013, s 195

[7] *Ibid*

Now, what happens in a situation when a person overhears price-sensitive information in a coffee shop while the employees of a company were discussing it? If the person goes and makes a profit out of that information would the employees be liable for insider trading or that individual would be liable? Neither of them, because firstly it is hard to prove it secondly and most importantly he has no connection with the employees. A disinvestment plan is established between a company's employee and his or her broker. His goal was to sell his share in the business at regular times over the course of a year, according to the plan. After nine months, the employee is provided with some significant non-public knowledge that he or she may use. If the shares are retained by the employee, he would suffer a financial loss, according to the relevant information. In this situation, as long as the employee can demonstrate that his transactions were part of a pre-existing strategy, he will be exonerated of the insider trading accusations against him.[8]

There can be other situations too but in most of the cases comes under these three categories. Here we understood that for being prosecuted under insider trading a person may not be an official from the company, it can possibly be anyone (near to officials) who has sensitive information which can certainly benefit him. In these cases, government officials are no exception. Even if that particular information was intended to be public and before that someone from the company abuses it, he/she would still be held for insider trading.

REGULATIONS OF INSIDER TRADING

As mentioned earlier the issue of insider trading is prevalent since the formation of securities markets. The first country that made the legislation against insider trading in the USA. India was also not late to recognize the detrimental effects of insider trading. Hence, a regulatory body named the Securities and Exchange Board of India was constituted after the landmark case TISCO case of 1992. "In this case, the profit of TISCO for the first half of the financial year 1992-93 fell to Rs. 50.22 crore in comparison to the profit of Rs. 278.16 crore for the financial year 1991-92. Before the announcement of the half-yearly results, there was intense activity in

[8] Aron Almeida, 'Famous Insider Trading Cases in India Archives' (*Trade Brains*, 2020) <https://tradebrains.in/tag/famous-insider-trading-cases-in-india/> accessed 14 July 2021

the trading of shares between October 22, 1992, and October 29, 1992. However, the SENSEX saw a decline of 8.3% during the same period. The insiders who had the knowledge of the same had manipulated the market to make short sales. Small investors were hit badly. Due to the absence of insider trading regulations in India, it was not possible to investigate the case."[9]

SEBI(SECURITIES AND EXCHANGE BOARD ACT) - THE REGULATORY BODY

SEBI is a statutory body that ensures proper corporate governance in the Indian securities market. The Power and functions of the Board are defined under section 11 of the SEBI act. Under section 11 boards must have to protect the interest of investors in securities and promote the development of, and regulate the securities market, by such measures as it thinks fit. Section 12A of the Securities and Exchange Board of India Act, 1992 prohibits insider trading, violation of section 12A attracts civil penalty under section 15 G that is:

"Not less than 10lakh and it can be extended to 25 crores or three times the amount of profits made out of insider trading".

Under Section 11(c) of the act, the board has the authority to conduct an investigation if the board has reasonable grounds to believe that securities transactions are being conducted in a manner detrimental to investors or the securities market; or any intermediary or person associated with the securities market has violated any of the provisions of this Act or the rules or regulations made thereunder. The Board may, under section 11(2A), take steps to examine any book, register, or other document or record of any listed public business or a public firm.

SEBI (PROHIBITION OF INSIDER TRADING) REGULATION

On the recommendation of the Sodhi committee report, SEBI introduced the SEBI (Prohibition of Insider Trading) Regulations, 2015. This new regulation replaced the earlier regulation of insider trading in India. It came into force on 15th May 2015; applies to not only listed companies but also the companies that are proposed to be listed on a recognised stock change.

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[9] Kumar Gourav, 'Role of SEBI in Curbing Insider Trading in India - An Analysis' (*iPleaders*, 2018) <https://blog.ipleaders.in/sebi-insider-trading-offences/> accessed 15 July 2021

The Regulation has 5 chapters and 2 schedules and 12 regulations Chapter I deals with definitions of connected person, insider, price-sensitive information, etc. chapter II dealt with communication or procurement of unpublished price-sensitive information and trading plans, etc. chapter III talks about the disclosures to be made by the companies while trading its securities by insiders. Chapter IV dealt with the Code of Fair Disclosure followed by the Code of Conduct. Chapter V contains miscellaneous provisions. This new regulation is stricter in terms of punishment and a stronger legal enforcement framework in order to prevent insider trading. The regulation has given vast definitions of an insider, connected persons, trading, unpublished price sensitive information, etc. which helps SEBI to make a better analysis while making a decision. The Act says that a 'Connected person' is "any person who is or has during the six months before the concerned act been associated with a company, directly or indirectly, in any capacity including by reason of frequent communication with its officers or by being in any contractual, fiduciary or employment relationship or by being a director, officer or an employee of the company or holds any position including a professional or business relationship between himself and the company whether temporary or permanent, that allows such person, directly or indirectly, access to unpublished price sensitive information or is reasonably expected to allow such access".

The most striking feature of this regulation is that it has increased the work of compliance officers to report all classes of people and have a check on their respective activities. It not only seeks to curb dealing in securities but also seeks to curb communication or counselling about securities by the insiders. Another most important feature is Regulation 6 which mandates the disclosure (both initial and continuous) of trading by insiders or members of the company and other connected persons at regular intervals.

COMPANIES ACT, 2013

The Companies act 2013 is an act on Indian company law; it regulates the incorporation of the company. The act replaced the Companies act 1956. The 2013 Act has 29 chapters and 470 sections. The 2013 act has section 2 which contains a total of 94 definitions which provides better clarity and it also has 37 new definitions compare to the 1956 legislation.

INSIDER TRADING IN COMPANIES ACT, 2013

Section 195 of the Act of 2013 dealt with the prohibition of insider trading of securities. The Prior act of 1956 did not include the provision of insider trading. "Insider trading" means an act of buying or selling any securities by any director or any person who is reasonably expected to have access to any price-sensitive non-public information in respect of securities of the company.

PUNISHMENT UNDER COMPANIES ACT 2013

If any person contravenes the provisions of this section, he shall be punishable with imprisonment for a term which may extend to five years or with a fine which shall not be less than five lakh rupees but which may extend to twenty-five crore rupees or three times the amount of profits made out of insider trading, whichever is higher, or with both.

SOME CASE LAWS

1. **Dilip Pendse v SEBI**

"Dilip was MD of NIshkalpa, a wholly-owned subsidiary of TATA finance ltd. (TFL). As of March 31st, 201 Nishkalpa made a loss of 79.37crores.and Dilip had access to this unpublished information. This information was to be made public only a month later. And within the span of one month Dilip told his wife about this price-sensitive info, his wife sold her 2,90,000 shares and she also sold a company that was controlled by his wife and father-in-law. SEBI charged DilipPendse for insider trading."

2. **Hindustan Lever Limited v SEBI**

"Hindustan Lever Limited purchased 8 lakh shares of BBLIL from UTI on March 25, 1996. And this purchase was made just 2 weeks before the official announcement for a merger Of HLL and BBLIL. After investigation it was HLL was found an insider under Section 2(e) of the 1992 Regulations. SEBI held that, since, HLL and BBLIL were subsidiaries of the same London-based Unilever, and were effectively under the same management; HLL and its directors had prior knowledge of the merger. Thus HLL was covered under the definition of an insider as above defined."[10]

3. Rakesh Aggarwal v SEBI

This is one of the landmark judgements on this issue. In this case, "it was given that Rakesh Agrawal was the managing director of ABS Company Pvt. Ltd. The ABS Company was in negotiation with Bayer A.G. which was based in Germany. Rakesh Agrawal thus had access to unpublished information of Bayer's company. It was alleged by the SEBI that the brother-in-law of Rakesh Agrawal, Mr. I P Kedia, had purchased some shares from ABS and tendered the shares to Bayer in the open offer." This resulted in substantial gains by the ABS Company. After Bayer company overtook the ABS Company. The 51% of shares that were acquired by the Bayer Company were not public, thus ABS was an insider. Therefore the appellant acted in insider trading and acted in violation of regulations 3 and 4 of the SEBI act.[11] Shri Rakesh Agrawal deposit Rs.34,00,000 with Investor Protection Funds of Stock Exchange, Mumbai, and NSE (in equal proportion i.e. Rs.17,00,000 in each exchange) to compensate any investor which may make any claim subsequently. Any investor who is aggrieved with the sale of shares of ABS Industries to Mr. I.P. Kediafrom September 9, to October 1, 1996, can approach SEBI within 15 days of this order.[12]

4. Indiabulls Case

This case is one of the latest case laws which is related to insider trading. In this case, the executive director of Indiabulls was accused of making Rs. 87 lakhs unlawfully by trading in Indiabulls when they had access to unpublished secret information of sale of land and property privately which is the subsidiary of Indiabulls venture limited. According to the regulator, the executive director of the Indiabulls venture limited was in the management committee of the Indiabulls, therefore she was an insider and her husband too was an insider. These unlawful gains were made in the year from 2017-19. The SEBI ordered that strict

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[10] Kumar Gourav (n 9)
[11] Kumar Gourav (n 9)
[12] *Rakesh Aggarwal v SEBI* (2004) 1 Comp LJ 193 SAT, (2004) 49 SCL 351 SAT

criminal action be taken against the IVF and both the executive director of the company and her husband have to impound Rs. 87.4 lakhs both jointly and severally. It was further directed that no debts shall be made without the prior permission of SEBI.[13]

RATIONAL BEHIND REGULATIONS OF INSIDER TRADING IN INDIA

India is one of the fasted growing countries in the world and as faster it moves ahead in the race there can be more financial crimes coming into the picture. One of the most rampant crimes is insider trading. Insider trading was not always seen as a crime, in-fact in one of the judgments it was observed that it is more like a perk for the members of the company. While commencing his speech at a seminar in 1992, a former president of Bombay Stock Exchange mentioned that "*There is no other kind of trading in India, but the insider variety. It is another matter that by the time the retail guys get the hot tip the real operator is already dumping their holdings*[14]". After that time with the suggestions of various committees a regulatory body was set up, different laws were enacted.

The rationale behind the prohibition of insider trading as quoted by Lord Lane in Attorney General's Reference No.1 of 1988 (1988) BCC 765 is

"*the obvious and understandable concern…about the damage to public confidence which insider dealing is likely to cause and the clear intention to prevent so far as possible what amounts to cheating when those with inside knowledge use that knowledge to make a profit in their dealing with others*". [15] The securities market is said to be smooth and investor-friendly when its own players provide a quality of service and maintain the integrity of the market. Financial crimes such as insider trading result in loss of the confidence of investors and sometimes its own players since only a few people who have the confidential information would use them directly to make profits and indirectly to befool other investors.

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[13] *Serah Njoki Karingithi v William P Barr* 140 S Ct 1106 (2020)

[14] Sucheta Dalal, 'Nabbing Insider Traders: Easier Said than Done' (*Sucheta Dalal Blog*, 2000) <http://www.suchetadalal.com/?id=b2f569ff-81f2-731e-492e821018d0&base=sub_sections_content&f> accessed 16 July 2021

[15] 'Insider Trading: Journey of Legal Framework to Check the Practice' (*Indian Law Watch*, 2021) <https://indianlawwatch.com/practice/insider-trading/> accessed 16 July 2021

The securities regulatory body of India i.e. SEBI has three basic objectives; *promote* the development of the securities market, *protect* the interest of the investor and *regulate* the securities market. Insider trading has a detrimental effect on all of them; it hampers the growth of the market, beats the confidence of the investor in the securities market, and impedes the proper regulation of the market as it is one of the loopholes in the regulation itself. Hence it was necessary for the Indian legislature to make laws and regulations, prohibiting the practice of insider trading.

CAN INSIDER TRADING BE LEGAL?

Insider trading is mostly seen as a negative concept but there a certain instances when insider trading can be legal. It has always been seen that the employees and other members of the company buy the stocks in the same company. Suppose there is an insider who plans to sell stocks of the company after their retirement for a specific period to earn returns. However, at a later date, he/she comes to possess UPSI. In this case, the trader may not be indulging in illegal insider trading, as they did not decide on selling their owned stocks based on the non-public information.[16] When the members of the company regularly report about its buying and selling of the securities in their own company to SEBI and do not use the information to misuse it, they cannot be held under the charge of illicit insider trading. Also when the members of the company trade in the securities of their own company based on the information given to the public, they cannot be made liable for insider trading.

PREVENTIVE MEANS AND OBLIGATIONS ON A COMPANY

SEBI has introduced various measures to prevent insider trading in India. Apart from that companies are instructed to follow a certain code of conduct in order to check on such breach of trust in the company. SEBI under Regulation 9 of Prohibition of Insider Trading Regulation, 2015, has mentioned minimum standards for code of conduct for the listed companies to regulate and monitor trading practices. The Board of directors is under the obligation to

[16] 'Insider Trading - Definition & Examples of Insider Trading' (*Groww*) <https://groww.in/p/insider-trading/> accessed 16 July 2021

ensure that there is a formulation of a code of conduct, governing trading by designated persons. There are some minimum standards for code of conduct:

- **Periodical Disclosure –** the companies are required to put a clause in their code of conduct under which the 'compliance officer' shall report to the board of directors at a certain frequency (not less than 1 year).
- **Chinese walls –** these are the artificial barriers in large firms and companies which prevent the flow of sensitive information between different departments. The code of conduct shall include these norms and mention who all are allowed/prevented to cross that wall.
- **Closure of Trading Window -** a trading window is basically a time period when the trading in securities is allowed. In a company when the compliance officer is of the view that a certain class of designated persons is in the possession of unpublished price sensitive information (UPSI), the trading window shall be closed. This class of persons and their respective relatives shall not be allowed to trade in securities during the closure of the trading
- window. The re-opening of the trading window in these cases depends upon the fact that whether the UPSI is now generally available or not, has to be determined by the compliance officer.
- **Provisions for designated persons -** Regulation 9(4) (iii) specifies that all promoters of listed companies and promoters who are individuals or investment companies for intermediaries or fiduciaries shall be included as the designated person.[17] This class of individual are required to provide essential information about them such as identifier authorised by the law. There shall be a specified period (not less than six months), when they are not allowed to execute a 'contra trade' (trading the same shares without paying for them).
- **Whistleblower policy –** the listed co. shall have such policy where and make its employees aware about the same. A whistleblower is a person who informs about the fraudulent trading practices in the company; makes them in the notice to the

[17] Groww (n 16)

authorities. There shall be a policy which protects such individuals and also give them reward for their courage and integrity.

SEBI has made some amendments in order to make these regulations stronger. Recently SEBI has decided to increase the reward given to the whistleblowers from 1 crore to 10 crore rupees. The move is expected to further bolster SEBI's arsenal in fighting insider trading cases. [18] SEBI has decided to include not only listed by unlisted companies. This would help SEBI to get good exposure to these companies and prevent them from committing such felonies. Apart from all the regulations made by the SEBI companies are under obligation to follow them and make sure that insider trading is curbed and prevented to a maximum extent. For doing that, companies should have an internal body or an in-house watchdog for handling such matters; there must be periodical disclosure of trading practices especially in the case of designated people and other intermediaries. Also, proper auditing must be done in order to confirm that the company is safe from any insider trading. The board of directors should make it clear that what information is legitimate and which information is against the law i.e. a transparent picture of definitions should be there in their respective code of conduct.

The company should educate its employees about crimes related to the security market so that employees and other intermediaries do not commit them unknowingly. However intention is not a relevant factor in determining insider trading but still, if people know about its consequences, the chances of them committing a felony would gradually decrease. Instead of relying upon the employees for providing clearance reports, the companies should take help from the software which can help them provide a better picture without any biases.
The company should take immediate actions against this crime otherwise when the dust settles; it would be the company that will be in the trouble with the insider.

ARE THESE REGULATIONS EFFECTIVE?

Despite the robust regulations of SEBI to prevent insider trading, the regulatory body fails to meet with the technical difficulties of proving insider trading. The charges of insider trading

[18] 'Sebi makes reward for Whistleblowers on Insider Trading more Attractive' (*The Economic Times*, 2021) <https://economictimes.indiatimes.com/markets/stocks/news/sebi-makes-reward-for-whistleblowers-on-insider-trading-more-attractive/articleshow/83953473.cms?from=mdr> accessed 19 July 2021

are mostly based on circumstantial bases hence it is quite difficult to prove the crime. Even if it is proven the chances of a proper prosecution are very less. It is time that SEBI changes the way it collects evidence and investigates.

"According to the Annual Report of SEBI for the year 2016-17, Insider trading constituted 14% (34 cases) of the investigation taken up by the SEBI in the year 2016-17 as against 12 cases in the previous year. Insider trading is rampant and is increasing with each passing year. Also, as against 34 cases taken up for the investigation, only 15 were completed. It is, therefore, a matter of serious concern."[19]

REASONS FOR THE INEFFECTIVENESS ARE AS FOLLOWS

- **Less man-power -** According to the US Securities and Exchange Commission's (SEC) Annual Report (CY 2016), the SEC employs almost one employee for each listed firm. However, according to SEBI's Annual Report (FY 2017), SEBI seems to have one employee for every six listed businesses. The SEC has more than 15 times the number of personnel as SEBI in important departments such as Corporate Finance, which is responsible for determining the quality of financial statements of listed companies, among other things (477 versus 31). A lack of personnel may be the cause of insufficient investigation into insider trading. Good strength of staff in the SEBI can help in better vigilance. As of March 31, 2020, the total number of employees in various grades is 867[20] on the other hand SEC has around 4500 employees. Apart from a shortage of staff, SEBI also lacks a bunch of dexterous people who have specific skills in, data analysing, accounting, and legal expertise in every field, other academicians.
- **Power to tap phone calls** – since insider trading is a crime based on circumstantial evidence, it is necessary SEBI has the power to tap phone records and transcripts. Phone calls mostly tell us about the nexus between insider and its illicit information, which could eventually help SEBI to investigate in a proper manner. But the issue is SEBI has

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[19] Kirthana Singh, 'Insider Trading Laws in India in Comparison with the Laws in US and UK' (*Legal Services India*) <http://www.legalservicesindia.com/article/2567/Insider-Trading-laws-in-India-in-comparison-with-the-laws-in-US-and-UK.html> accessed 19 July 2021

[20] 'SEBI | Employee Profile in SEBI' (*SEBI*) <https://www.sebi.gov.in/department/human-resources-department-37/employee-profile-in-sebi.html> accessed 19 July 2021

no power to tap the phone calls. Soon after the Raj Rajaratnam Gupta, insider trading case became public, SEBI had approached the government of India for the power to tap phone calls for the suspected insider trading and other securities frauds. However, the government did not agree. [21] The government of India rejected SEBI's request on the ground that it can lead to abuse of power. Former chairman of SEBI has once mentioned that "The SEBI does not have the power to tap phones. It can only request call data records in suspicious cases. In India, only a few economic agencies like the Central Board of Direct Taxes have the power to tap phones."[22]

- **Applicability issue of SEBI regulation across the border** - under SEBI regulations there is no such rule that makes it applicable to extra territories. There is no specification regarding the applicability of this law to any outside national who has abused the information. This is something the government of India should consider because this could affect our economy in long term.
- **Other lacunas** – SEBI has never specified a time limit and procedure to investigate the matters of insider trading. Any peculiar deferral in the completion of examination may result in loss of key evidentiary material and gives the neckline committers a chance to affect the examination.[23]All these things need to be under consideration in order to improve our security market and regulatory body for the same. This shows us that these regulations enacted by the government of India have not proved to be exemplarily effective; there is still room for improvement. These reforms if taken care of can help the economy and legal system of the country to become more stable and strong.

[21] Partha Sinha, 'Insider Trading is Rampant on Dalal Street' (*The Economic Times*, 2012) <https://economictimes.indiatimes.com/insider-trading-is-rampant-on-dalal-street/articleshow/14222302.cms> accessed 20 July 2021

[22] UK Sinha, 'Stricter Disclosure Norms Soon for Research Analysts' (*The Indian Express*, 2015) <https://indianexpress.com/article/business/business-others/uk-sinha-stricter-disclosure-norms-soon-for-research-analysts/> accessed 20 July 2021

[23] Abhirami B and Arya Kuttan, 'Insider Trading Laws in India - Pertinence and Problems' (2018) 4 International Journal of Legal Developments and Allied Issues

CONCLUSION

India has done a fairly good job by introducing these regulations and a governing body like SEBI. Indian legislature should be appreciated for enacting a regulation like Prohibition of Insider Trading, Regulation, 2015; this regulation has to be the reason for better functioning of the Indian securities market as it prohibits one of the biggest felonies of the security market i.e. insider trading. But despite being a strict regulation it fails to meet the loopholes in the previous regulations. Since the current regulation does not suffice the need of current problems of the security market, it is suggested that the government should bring some drastic changes. If the cases of insider trading would go unnoticed, it would directly harm the interest of the investors and would also affect the sanctity of the Indian security market.