CHAPTER-IV
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SECURITIES FRAUDS AND ROLE OF
THE JUDICIARY IN INDIA

1. Introduction

In the year 1991, liberalization of Indian economy started after economic crisis faced by the Government and it gave opportunity to the corporate sector to develop. Liberalization is a phenomenon that is almost widespread in the world today. While liberalization has led to substantial benefits in terms of increased transparency and side by side has given opportunities of corporate mis-governance. It has opened gate to securities frauds and diminished the shareholders faith in the market. Indian capital market history is full of frauds by the companies, brokers and other market participants. The main sufferer of the trauma is the shareholder of the securities. The regulators took several preventive measures and various reform committees were formed. Major securities frauds took place since 1991 and their mechanism is explained as under:

2. Major Indian securities frauds

A security fraud refers to using market conditions and privileged information available with few persons to manipulate the existing market conditions to derive gains from trading in securities. A security fraud involves manipulation of funds in the capital market, which could involve the usage of funds for extremely speculative purposes. It results in the monopolization of capital market, trading in shares with the money not used for their actual purpose etc. A security fraud normally has the following features as given below:

(a) Manipulation in share prices
(b) Monopoly in dealing with a huge number of shares of a company
(c) Money laundering or borrowing money to trade in securities but using the funds for unconnected purposes.

From the year 1991, Indian capital market faced few big market frauds including securities scams like Harshad Mehta scam, Ketan Parekh scam and IPO Scam etc. Apart from many regulatory measures, traders have been using the market conditions to manipulate the share prices and thereby practice fraud on innocent investors who lacks market information and investing expertise.

The mechanism of the different frauds in India and the brief history of the defaulter with market loss are explained as under:

2.1. Harshad Mehta fraud

Harshad Mehta (1954-2002) was an Indian stockbroker. He clutched headings of all newspapers for the well-known Bombay Stock Exchange securities fraud. He was born in a middle-class Jain family in Gujarat. He spent childhood in Mumbai with his father with small business. Again, from Mumbai his family relocated to Raipur in Chhattisgarh. He gave up his employment at The New India Assurance Company in 1980. In year 1981, he became a sub-broker for J.L. Shah and Nandalal Seth stockbrokers. He had gained significant understanding as a sub-broker and floated a new venture called Grow More Research and Asset Management Company Limited. By the year 1990, Mehta became a well-known in the Indian stock market. In year 1992, Mehta and his associates manipulated the market increase in the Bombay Stock Exchange. Mehta and his associates took the help

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of numerous legislative loopholes in the banking system to drain off funds from internal bank dealings. Afterward, Mehta and his associate purchased an enormous number of company shares at a premium of different industries. It increased the Sensex to rise good heights.

However, the exposure of Mehta fraud and his associate's manipulative approach had resulted banks to start demanding its own money back. It caused the Sensex to fall. Mehta was penalized with 72 criminal offences while over 600 civil action suits were filed against him. Mehta's prohibited manipulative methods of the stock market were come into light on April 23, 1992. The ready forward deal was the central method through which the Mehta fraud was conducted. The ready forward is fundamentally a secured short-term credit from one bank to another bank. In a ready-forward deal, the bank (borrower) in fact sells the securities to the bank (lender) and borrower buys them back from the lender at the end of the period of the loan at some extent to the higher price. The difference between prices stands for the interest on the loan borrowed from the lender. Throughout the Harshad Mehta fraud, few banks were involved the brokers and adopted the alternative settlement process of making delivery/payment through the broker. Specifically, the seller bank transfers the securities to the dealing broker who passes them on to the buyer bank. Similarly, the payment makes vice versa.

Mehta syndicate used Ready Forward deal with great achievement to mobilize money through banks. Mehta and his associates for manipulating the market used another instrument called the Bank Receipt. A Bank Receipt is a receiving for the money received by the selling bank. Also, it confirms the sale of securities and pledges to deliver the securities to the buyer. In the meantime, the buyer holds the securities in the seller's trust. On the other hand, upon the disclosure of the fraud, several banks found they were holding Bank Receipts of no value at all. Mehta had defrauded the
banks of a shocking Rs 4,000 crore in total\textsuperscript{330}. The Janakiraman Committee constituted by Reserve bank of India in 1992 placed the full disclosure of the banking system at Rs. 3542 crores. Mehta, whose technique of loans with no security was accounted for Rs. 1439 crores from the whole amount of fraud\textsuperscript{331}.

The Reserve Bank of India asserted that the fraud came into light in connection of its inquiry of insider-trading in Government securities on March 1992. The Reserve Bank of India directed the State Bank of India to provide a record of its securities holdings on March 31, 1992. Therefore, State Bank of India, had to bring together its investment account with the Subsidiary General Ledger (i.e. the ledger in which the Public debt office maintains these accounts) balances reported by the Public debt Office. The Subsidiary General Ledger reflected to be Rs. 1171 crores in place of Rs. 1745 crores as per SBI's books. It showed banking transactions with Mehta and his associates for which State Bank of India had neither delivered securities nor Bank Receipts. In conclusion, amount of Rs. 649 crores was payable from Harshad Mehta. The State Bank of India at the appointed time asked Mehta to send the securities or to reimburse the money.

On the other hand, Mehta had taken money two times from the National Housing Bank just like from the State Bank of India. It created the National Housing Bank with a total exposure of over Rs. 1200 crores including past Rs. 700 crores and a new exposure of Rs. 500 crores. The National Housing Bank was supported by the Reserve Bank of India. It has recovered the largest part of the money from the banks. The instantaneous shock of the Mehta fraud was resulted into a sudden fall in the share prices. The market index knocks down from 4500 points to 2500 points resulted total loss of Rs. 1.0 lakh crores. The more possible explanation for the market collapse was the

\textsuperscript{331} ibid  

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Government reaction to the Mehta fraud. It circulated the Special Courts Ordinance with quite a lot of heavy punishment provisions related to the wrongdoers. The Ordinance had attached the property of all the accused and rejected all the transactions undertaken by them over the past one year. In view of the fact that the accused were working as stockbrokers in the market, the number of shares that had passed through their hands at some time contained by the last one year was massive. A legitimate share investor who had bought these tainted shares prior to the fraud broke out and found him being robbed with tainted shares. It had created a total fright in the Indian stock market. The most significant reason for the fall down in the market was the "tainted" shares and the Mehta fraud.

2.2. Ketan Parekh fraud

Ketan Parekh was a chartered accountant and ex-stockbroker based in Mumbai involved in technology stock fraud in the year 1999-2001. He was a well-known figure as the 'Bombay Bull' and had a good association with movie stars, politicians and even leading international businessman like Australian media tycoon Kerry Packer. He was the partner of Ketan Parekh in KPV ventures. The total net worth of the venture was 250-million dollar and venture capital fund were investing mainly in the new economy companies. The main companies in which Ketan Parekh held shares were Amitabh Bachchan Corporation limited, Mukta Arts, TIPS and Pritish Nandy Communication. In addition, he had shares in HFCL, Global Telesystems, Zee Telefilms, Crest Communications and Penta Media Graphics. The selection of these companies for investment was with the help of his investigation team, which identified high growth companies with small invested money.

Cooperative banks were enthusiastic to invest money with Parekh. While the listed companies tried to generate money from the stock market, companies sought the help of the brokers in raising the share prices. Ketan Parekh created a set of connections of brokers from smaller index such as the Allahabad Stock Exchange and the Calcutta Stock Exchange. In addition, share purchase in the names of a deprived community living in Mumbai had been used. At the time of Global Trust Bank merger with UTI Bank, Ketan Parekh had borrowed huge money from Global Trust Bank and rigged up its shares with the intention of revenue extensively. At the same time, the real sum that came into Parekh's pool in the structure of loan from Global Trust Bank was Rs. 250 crore.

In addition, Parekh had received Rs. 1,000-crore from the Madhavpura Mercantile Co-operative Bank as a loan although the Reserve Bank of India regulations stated that the highest sum a stockbroker could get as a loan was Rs.15-crore only. Accordingly, it was apparent that the Ketan Parekh's method of the function was to pump up shares of select companies in conspiracy with their promoters of the companies. A day after the presentation of the Union Budget on February 2001, an interest group of stock traders i.e. Shankar Sharma, Anand Rathi and Nirmal Bang placed sells order on K-10 stocks and compressed their overstated prices. Due to sell orders, Sensex went down.

The Government of India came into a major problem after the 176-point Sensex crash on March 1, 2001. It started panicking the stock markets and the investors. After the crash of the market, the Securities and Exchange Board of India has launched instantaneous investigations into the instability of stock markets. SEBI was also determined to examine the books of a number of brokers who were alleged of triggering the stock market crash. In the meantime, the Reserve Bank of India had probed a number of banks to provide the official data related to their capital market participation. The fear
spread all over the market and the Bombay Stock Exchange President Anand Rathi’s resignation accelerated the collapse of the market. Rathi had to resign because of many allegations that he had used some advantaged information, which contributed to the market crash. The Ketan Parekh fraud had started the discussion related to banks funding to the capital market operations and lending funds against collateral security. Fraud investigation pointed out the validity of dual control of co-operative banks.

In year 2001, Ketan Parekh was arrested by the police. He was also charged with defrauding Bank of India of about $30 million among other charges. The Ketan Parekh arrest was followed by yet another panic run in the market and the Sensex fell down by 147 points. By this time, the fraud had turned out to be the ‘talk of the nation,’ with the exhaustive media reporting and extraordinary public protest. It was concluded from the investigation that the purchase of KP puts jointly could not put away his selected company stocks from the downfall and the Global Trust Bank and the Madhavpura Cooperative were gone into bankruptcy. Ketan Parekh had used bank, promoter of listed company’s funds to manipulate the markets. After the investigation, the carry-forward system in trading known as ‘BADLA’ was banned.

2.3. C R Bhansali fraud

Bhansali was an intellectual person and born in a traders house in Calcutta. In 1980, Bhansali completed his Chartered Accountancy and acquired other degrees like ACS, Ph.D., and a diploma in Journalism. During his initial period, Bhansali was operating a financial consultancy firm named CRB Consultancy. As a result of Bhansali’s contacts, CRB Consultancy had immediately started to
manage the business of providing issue management services to small number of renowned companies in Calcutta. Bhansali discovered it not easy to find acknowledgment in Calcutta and then he moved to New Delhi to bond with foremost registrars of companies. In 1985, Bhansali established 'CRB Consultants' a private limited in New Delhi. The given name of the company was changed to CRB Capital Markets in 1992. Then, it was converted into a public limited company. The company presented a variety of services together with merchant banking, leasing and hire purchase, bill discounting, corporate funds management, etc.

On Bombay Stock Exchange and National Stock Exchange, CRB Capital was very lively in stock-broking. By January 1995, the company had collected over Rs. 176 crore from the people through fixed deposits, bonds and debentures. Bhansali had increased with the total income from Rs. 1.2 crore to Rs 103 crore in 1991-1995. CRBs joint collaboration with Daewoo Securities and Keystone Group met with practical accomplishment. In 1996, media reports concerning the frauds being committed by the CRB group was begun. The assembly of people opposite to Reserve Bank of India in 1997 was the primary most important expression of the anger against CRB.335

2.4. Dinesh Singhania fraud

Dinesh Singhania was the prime accused in the Rs. 120-cr Calcutta Stock Exchange fraud. In March 2001, when the fraud was exposed Singhania was the director of Calcutta Stock Exchange. SEBI's interim report on share frauds had widely mentioned Singhania connections with Ketan Parekh. A report was submitted to the Joint Parliamentary Committee in June 2001.336

Enquiry against the fraud revealed that the JVS Securities (P) Ltd. had executed 36 synchronized and matching trades in the shares of Ranbaxy Company. The percentage of matching trade transactions of the member to his total transactions in the share of Ranbaxy during the period under consideration was 8.11%. It was observed that the order of 3,65,900 shares out of a total of 6,39,873 shares i.e. 57.2% of the Broker were matched with the brokers who had dealt for the following entities connected or associated with Ketan Parekh group. Authority imposed an insignificant punishment of suspension of the certificate of registration for a period of seven days to a registered Broker of Calcutta Stock Exchange and National Stock Exchange.

2.5. Dinesh Dalmia fraud

In the year 1992, his company was known as a Square D Software Ltd and afterward in the year 1997 changed its name to DSQ Software. The Company was recognized globally for its service offerings in the area of mainframe and midrange computing, telecommunications, CAD etc. DSQ had remarkable international customers across the United States, Europe and Asia Pacific. It gave employment to 2000 people in the year 2000 and had reported revenues of 150 million dollars for the same year in the region. Hewitt Associates, a leading United States based human resources consultancy firm had evaluated the human resources capital of DSQ at 1 billion dollars.

Dinesh Dalmia was the managing director of DSQ Software Limited when the Central Bureau of Investigation arrested him for his participation in a stock fraud of Rs. 595 crore. Dinesh Dalmia group was consisted of DSQ Holdings Ltd, Hulda Properties and Trades Ltd, and Powerflow Holding and Trading Pvt. Ltd. Dalmia opted unlawful methods to make money through the partially paid shares of DSQ

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Software Ltd, in the name of a New Vision Investment Ltd. UK, and not allotted shares in the name of Dinesh Dalmia Technology Trust. Investigation has shown that 1.30 crore shares of DSQ Software Ltd had not been listed on any stock exchange. The company DSQ Software Ltd was established in the year of 1992 and its head office was in Chennai. It was a public listed Information Technology and software services consulting company, which was a good company in the 1990s.

The history of DSQ Software loss making company goes back to the year 2000, when the scrip had soared vertically from around Rs. 50 in January 2000 for an exceptional price of Rs. 907 by February 23, 2000. In March 2000, Dalmia made a preferential issue of 80,30,000 shares worth Rs. 220 crore to four overseas corporate bodies i.e. Deutsche Bank International, which was allotted 22 lakh shares, Societe Generale (11 lakh shares), Ajay Jhunjhunwala Finance Ltd. (30 lakh shares) and Greenfield Investments Ltd. (17.3 lakh shares). Authority exposed that the shares were allotted at Rs. 275 each, when the share price was over Rs. 800. The company acknowledged that 30% of the money were received in place of the preferential allotment and had not attempted to recover it. The authority found that two of the overseas corporate bodies, Ajay Jhunjhunwala Finance Ltd and Greenfield Investments were owned by Dalmia.

By the September 2000, DSQ Biotech’s shares were rolling down and Dalmia was required to transfer of shares to the different stockbrokers. The National Share Depository dematerialized shares were allotted to overseas corporate bodies i.e. Greenfield and Ajay Jhunjhunwala Finance Ltd. In seven days, the shares were transferred to DSQ Holdings. Of these stockbrokers, five well-known brokerage firms were delivered physical share certificates leading a direct trail to DSQ Holdings and confirming that Dalmia was distributing the share allotted to two overseas corporate bodies on a
preferential basis. The DSQ Biotech’s account book was required to replicate the receiving of money for the preferential allotment. Dalmia followed simple trick to circulate his funds. In Calcutta, he opened 13 accounts at the Bhowanipur branch of the Indian Overseas Branch with the involvement of its officials, paying the minimum Rs 2,500 and cheque-book for every account.

Afterward, he moved funds from the DSQ Company to each of these companies with the help of accounts in the same branch. After investigation, documents on hand demonstrated that money was transferred to the following companies: Square ‘D’ Distillers (Rs. 20 crore), Le Pierre Securities (Rs. 20.63 crore), Square ‘D’ Polymers (Rs. 21 crore), Prime Info systems (Rs.43.79 crore), Beezy Hardware & Software Pvt. Ltd (Rs.12.15 crore), Tarang InfoTech (Rs. 18.31 crore) etc. All of these companies were then involved in a sequence of bank transactions with each other to conceal their track. They routed the money turn around to DSQ Biotech with the help of companies with names such as Continental, Uniforge and Athena connected to Dalmia.

In the meantime, the stock exchanges, where the DSQ Biotech scrip was listed remained clueless about these details. The National Stock Exchange had suspended the share since June 27, 2001 for disobedience with exchange listing rules. The stock price was then down to Rs 28. The National Stock Exchange records shown that at the end of March 2002, the promoter holding was down to 6.75 per cent in September(2001) to March (2002) to 2.2%. Simultaneously, the public holding was increased from 71% to 78 % and the rest part was with private corporate bodies. The company had changed the name of the organization to Origin Agrostar and extended its accounting period by three months to December 2002. In the meantime, it had announced a restructuring of the company with the approval of shareholders and change of the registered office. Dalmia simple manipulation of the equity capital of his companies shows that the
surveillance structure i.e. listing agreement of stock exchanges seems
to collapse without problems if a company is bold enough to give
erroneous and unfinished information to the exchanges and
regulators\textsuperscript{338}.

In the year 2006, Dalmia was arrested for various fraud charges
in Delhi. It is believed that Dalmia went to the United States for the
period of 2003 to 2006 to set up his existence in the Business Process
Outsourcing market by setting up businesses using different names
and business deals. He had been identified in 2006 by the Federal
Bureau of Investigation in the United States on multiple charges of
fraud. During the year 2005, DSQ Software was functionally hidden
as per the trading information submitted to the stock exchange. As
per Bombay Stock Exchange records, the public holding in DSQ
Software was more than 70\% and equity capital more than 300
million. The majority of investigations were in relationship with DSQ
Software known as his main company. He is offender of making an
unsolved preferential allotment, incorrectly declared the merger with
Fortuna Technologies of San Jose, USA, secretly sold off his main
company to the Scandent group and had regularly ramped up its
stock prices\textsuperscript{339}.

2.6. Abdul Karim Telgi fraud

The fake stamp racket involving Abdul Karim Telgi was exposed
in 2000. The loss is estimated to be Rs. 171.33 crore, it was initially
pegged to be Rs.30,000 crore, which was later clarified by the Central
Bureau of Investigation as an exaggerated figure. In year 1994, Abdul
Karim Telgi had acquired a stamp paper license from the Indian
Government and began printing fake stamp papers. Telgi bribed to get
into the Government security press in Nasik and bought special
machines to print fake stamp papers. Telgi's connections spread

\textsuperscript{338} ibid
print.php?storyId=67192 (Assessed on 12-02-2014)
across 13 states involving 176 offices, 1,000 employees and 123 bank accounts in 18 cities.

Telgi’s method of fraud involved cleaning cancelled stamp papers with chemicals and makes them look as good as new. With the help of their connection again he sold them in the market. In addition, he had taken advantage of officials at the Security Press in Nasik, where stamp papers were printed. With their involvement, he had used Government equipment to produce stamp paper. Then, he ultimately bought machinery and started printing on his own. The sales executives would move towards the corporations such as Indian Oil or the Life Insurance Corporation and offered them discounts of upto 5% to make the deal attractive. Actually, Telgi got a connection with politicians through their links. He never made excessive business deals. After reaching an agreement for the circulation of stamps, he used to offer them a condition for nationwide contract for business deal. Clearly, he was sufficiently intelligent to defend himself as he frequently taped all his conversations.

2.7. Unit Trust of India fraud

A Parliament Act in 1964 established Unit Trust of India, to channelize the nation’s savings via mutual fund schemes. The purpose of the establishment of the Unit Trust of India was to raise capital from the market, which was not very easy for the companies because of the public being very traditional and not ready to take risks. Up to the year 2001, Unit Trust India was administrating funds worth Rs. 64,250 crore. It was with the help of 92 saving schemes such as US-64, Unit Linked Insurance Plan, and Monthly Income Plan.

Unit Trust of India introduced its first scheme known as the Unit Scheme-1964, popularly known as “US-64”. Reserve Bank of India, Financial Institutions, Life Insurance Corporation, State Bank of India and other scheduled banks including few foreign banks contributed Rs. five crores as an initial funding to the Scheme. The scheme was an open-ended, with attractive feature of income and tax benefits. After the first year of the scheme, US-64 collected Rs. 19 crore and gave 6.1% dividend to the investors. It was more than prevailing bank deposit interest rates of 3.75 - 6%\textsuperscript{341}.

In the late 1990s, US-64 had come out as an illustration for portfolio mismanagement. In the year 1998, Unit Trust of India chairman P.S. Subramanyam announced that the deposits of US-64 had converted into loss by Rs. 1098 crore. Instantly after the statement, the Bombay Stock Exchange Sensex fell down by 224 points. After a few time, again the Sensex went down further by 40 points and ended in 22-month low. It was mainly because of selling pressure from Foreign Institutional Investors. This was widely believed to have reflected the adverse market sentiments about US-64. The worried investors of the scheme started to redeem US-64 units worth Rs. 580 crore. There was extensive fear all over the nation with concentrated media reporting.

The former Unit Trust of India chairman P S Subramanyam and two executive directors M Kapur and S K Basu and a stockbroker Rakesh G Mehta, were arrested in connection with the 'Unit Trust of India scam'. Unit Trust of India had purchased 40,000 shares of Cyberspace before September 25, 2000 for about Rs. 3.33 crore from Rakesh Mehta when there were no buyers for the scrip. The market price was around Rs. 830. The CBI said it was the conspiracy of these four people which resulted in the loss of Rs. 32 crore. Subramanyam, Kapur and Basu had changed their stance on an investment advice of the equities research cell of Unit Trust of India. The promoter of

\textsuperscript{341} The US-64 Controversy. available at: http://icmринdia.org/casesudies/catalogue/Finance/FINC003.htm (Assessed on 01-05-2013)
Cyberspace Infosys, Arvind Johari was arrested in connection with the case. The officials were paid Rs. 50 lakh by Cyberspace to promote its shares. He also received Rs. 1.18 crore from the company through a fraud route for possible rigging the Cyberspace counter.

2.8. Sanjay Agarwal fraud

The Home Trade Company owned by Sanjay Agarwal had created waves in the market with celebrity endorsements. On the other hand, Sanjay Agarwal's finance portal had been just a blanket to conceal his deals. He created a huge amount of Rs. 600 crore from more than twenty-five cooperative banks in the country by the fraud. The Government securities fraud of 2001 was coming into light when the Reserve Bank of India investigated the books of account of a few cooperative banks tracing abnormal actions in the money market. Cooperative banks and brokers participated in the conspiracy to make simple money at the expense of the hard-earned savings of millions of Indians. In this case, even the Public Provident Fund was very much affected. Nearly, Rs. 92 crore was misplaced from the Seamen's Provident Fund. Sanjay Agarwal (CEO of the Home Trade), Ketan Sheth (a broker), Nand kishore Trivedi and Baluchan Rai (a Hong Kong-based Non-Resident Indian) were at the back of the Home Trade fraud.

On January 16, 1997, when the Sensex moved by over 330 points within an hour, Lloyds Brokerage firm and his players were putting orders at quick speed. An investigation by Securities and Exchange Board of India found that Agarwal's firm was the main trader on that day. It was alleged that stock prices had been rigged. After investigation by the Securities and Exchange Board of India, a show-cause notice was served to Lloyds Brokerage. While the proceedings were on, EDTV bought out the management control of Lloyds Brokerage for a piffling Rs.1.50 a share and renamed it as new

\[142\] ibid
one named as Euro-Asian Securities. Surprisingly, SEBI granted its clearance to the modification in management, even though the firm was being alleged for a grave charge.

Afterward Euro-Asian Securities offered its shares to the public at Rs.50 per share and raised Rs.30 crore out of the public issue. A huge portion of the public issue was cleaned up by few immediately i.e. 42 shareholders holding more than 97 percent of the company's equity. The company failed to list on the Bombay Stock Exchange and went for the Pune Stock Exchange. However, lightly trade in the stock showed but the company's share price remained good. Investigation has revealed that a group of brokers was trading among themselves. No regulator was concerned to ensure on whose behalf these brokers were trading. In mid-2000, The Home Trade company shares hit a high price of Rs. 890. Agarwal was desperate to get Home Trade listed on the BSE and the NSE for the alleged reason of manipulating the share price. Possibly, he was looking for an appropriate time to offload a portion of his share in Home Trade and to make a profit.

However, his plans went wrong when both the stock exchanges rejected the listing of the company. Interestingly, BSE had cleared the listing on April 19 but had revoked it after one week of acceptance. One explanation for this was that approximately 99 percent of Home Trade's revenue i.e. Rs.67 crore, in 2000-2001 came from between the group share transfers only. The fraud was exposed because of Home Trade internal dealings on behalf of certain cooperative banks. Agarwal took money from almost twenty banks to purchase Government securities for the company and subsequently sold the similar securities to other cooperative banks.

The banks were provided only photocopies of the certificates so they never suspected of anything about the company dealings. Investigators reveal that in September 2001, Agarwal bought Government securities worth Rs.55 crore for Pune-based Sadguru Jangli Maharaja Cooperative Bank and gave it a photocopy of the
certificates. These securities were then allegedly resold to the Nagpur District Central Cooperative Bank. Although Home Trade ostensibly bought Government securities worth several hundred crores of rupees, only a fraction were delivered to the banks.\(^3\)

2.9. **Yes Bank IPO fraud**

As soon as the Securities Exchange Board of India was in progress to scrutinize IPOs launched over the period of 2003-05. It was found that few bodies had illegitimately received IPO shares held in reserve for retail applicants through thousands of benami demat accounts. Then they moved the shares to their financiers, who sold on the first day of listing. They build extra capital gains from the price dissimilarity between the IPO and the listing price. Every application for an IPO is qualified for allotment in the retail investors’ category, which has to be inside a cut-off figure. In Yes bank IPO case, financiers and market players were illegally transferred these retail investors' shares into benami demats.

In 2005, when Yes Bank launched its initial public offering the fraud came into light. Through Bharat Overseas Bank branches, Roopalben Panchal had opened more than a few fake demat accounts. Subsequently with the fake demat accounts he collected money on the shares allotted. Roopalben Panchal of India Bulls Securities was the architect of the fraud. Investigation has revealed that once demat accounts obtained these shares, the fabricated demat holders transferred them to alleged financiers. Panchal was found to be managing almost 15,000 fake demat accounts. On the first day of listing, the alleged financiers sold all received shares and collected huge profits between the IPO price and the listing price. The planned exploitation was occurred in the primary market before the IPOs

entered the stock market. Direct Participants used retail applicant's shares for collecting illegal price benefits in the stock market.\(^{344}\)

### 2.10. Vaswani IPO fraud

The Securities and Exchange Board of India rejected the listing of Vaswani Industries Limited's shares on the two known stock exchanges i.e. Bombay Stock Exchange and the National Stock Exchange. It was after complaints by investors. They claimed large-scale withdrawal and rejections in the issue. Vaswani Industries Limited and Ashika Capital Limited were ordered to give the withdrawal option to Retail Institutional Investors and Non-Institutional Investors.

"A detailed investigations shall be initiated into the matter...The investigation shall be expeditiously completed within a period of 30 days, so that a decision on the listing application by the stock exchanges can be taken within the statuary time limit provided under the Companies Act,"

First time SEBI had stopped a listing of IPO after allotment of shares to different investors. On the abnormalities of the Vaswani Industries Limited Initial Public Offering, SEBI had recommended the stock exchanges to withhold the listing of securities until further instructions. On April 29, 2011, Vaswani Industries Limited came up with an Initial Public Offering through a 100% Book Building Process for 10 million equity shares with a face value of Rs. 10, in the price band of Rs. 45 to Rs. 49. Various stock market analysts like MLR Securities evaluated the fundamentals of the company and suggested to keep away from the issue, citing the small size of operations, weak

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fundamentals, expensive valuations and the company is very costly with regard to equal companies like Godawari Power and MSP Steel & Power.

Vaswani Industries Limited settled its plant in Raipur, Chhattisgarh, India, in the year 2003. It was the holding company of the Vaswani Group of Industries. In addition, it was involved in the incorporated production of Sponge Iron, Steel Billets and captive power generation. Vaswani Industries Limited manufactured sponge iron at coal-based and gas-based plants. Vaswani Industries Limited steel plant was completely incorporated with original machinery. From 2008 to 2010, Vaswani Industries Limited could not accomplish its manufacturing capacity of sponge iron and steel billets. In the financial year 2009, total of the company revenue was 1509.25 million, it declined to Rs. 985.15 million during the financial year 2010, and profit comes to 36.82 million from 40.89 million. The subscription rate of the IPO was raised on the first day to the total 0.95 times together with 0.10 time of the Retail Individual Investor\(^{345}\) category. The IPO was subscribed by 1.26 times on the second day of the IPO subscription and rose to 4.16 times. The non-institutional Investor overstated the subscription. The eight-syndicate members overstated the subscription 11.29 times. They manipulated the price of the IPO and exit from the market before closing the IPO subscription.

The Vaswani Industries Limited did not produce interest at the commencement but increased the IPO subscriptions by the closing date because of the overstated price of the IPO. The non-institutional investors cancelled all overstated price applications. The subscription of the issue dropped to 1.28 times. Then, more shares were allotted to the retail investors. Retail investors filed complaint to the SEBI regarding the irregularities in the subscription. On investigation, it was revealed that syndicate members cheated both retail and non-\(^{345}\) Section-2(ze) of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009
institutional investors by overstated price. Further, the syndicate had not submitted the bank cheque to receive the allotted shares and formed 63.92% of the total issue. Karvy stock broking and rikhav securities limited played major role in the over stated price movement. In addition, the Bajaj Consultants Private limited raised 10% demand of the subscription. They made demand of 42.86% of the whole IPO under non-institutional category. Likewise, Ashok Stock Broking Limited constituting 18.36% exists from all IPO bids after the closing of the IPO.

In the list of major misleaders, Finvest Private Limited, a holding company of Rikhav securities limited subscribed 18.65% of the IPO size. To overstate the price, they financed 187 retail investors of different categories for bidding of shares. The total number of the shares was 762,960 shares. They also bid for 285, 600 shares with help Manba Broking Services Private Limited. Heavy orders attracted to the non-institutional investor to bid more in the IPO bidding and inflated the price of the IPO. Then, syndicate cancelled all the orders. SEBI in its preventive measures directed bankers to block IPO bidding collected money in interest generating account. They also directed merchant banker to provide an exit option to the investor if the subscription went below the 90% of the total issue. It was alleged that the Vaswani management was involved in the overstated price.

2.11. Satyam fraud

Satyam Computer Services Limited is well known in the Indian outsourced information Technology services industry. The company was started with a total number of 20 employees and changed into global leader. It was formed in the year 1987 by Mr. Ramalinga Raju and the head office was in Hyderabad. The services offered by the company included software development, system integration, and consulting services. The company's rapid growth and aggressive expansion led to a series of financial irregularities, which came to light in 2009. It was discovered that the company had been inflating its revenue by manipulating financial statements. The fraud resulted in significant financial losses for investors and a loss of trust in the company. The case highlighted the importance of strong internal controls and ethical business practices. The company eventually went into bankruptcy, and Mr. Raju was found guilty of fraud and served a prison sentence.

company were IT and business process outsourcing services spanning various sectors.

In an official letter to the Satyam Computers Limited Board of Directors, Mr. Satyam unveiled about his manipulation activity of company accounts. Mr. Raju revealed in his official statement that he overstated assets on an account balance sheet by $1.47 billion. In his declaration it was admitted that Corporation has approximately $1.04 billion in bank loans and cash was not a real figure. He also tainted the liabilities of the company and overstated financial earnings by using his private computer. He falsely presented the profit of the company and revenues generated by the Satyam in each quarter. He fallacious the bank accounts to increase the balance sheet with amounts that did not exist.

He misrepresented the statement of income with the help of interest returns from the false accounts created by him. He also opened 6000 false salary accounts to relocate company's money. In the process of manipulation, he deposited salary with the help of fake customer identities and invoice to manipulate the revenue. He was also helped by the head of the audit department to forge the resolution passed by the Board. During the inquiry, it was revealed that the money that the company raised through American Depository Receipts in the United States not at all revealed in the balance sheets of the company.

As of December 2008, Satyam had an entire market capitalization of $3.2 billion dollars. Satyam had planned to purchase 51% venture in Maytas Infrastructure Limited for $300 million. It was a leading infrastructure development, construction and project management company. He had total 37% stake in the infrastructure company. The total turnover of the company was $350 million and a net profit of $20 million. Raju's also had a 35% share in Maytas

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Properties. It was another real-estate investment firm. In April, 2008 Satyam published IFRS audited financial and became the first Indian company which published IFRS audited financial. On December 16, 2008, the Satyam Board of directors and five independent directors had approved the suggestion to buy the stake in Maytas Infrastructure and Maytas Properties. Both were owned by family members of Raju, as entirely owned subsidiary for $1.6 billion. The directors of the company went forward with the resolution without the approval of shareholders. The pronouncement of purchase was upturned by the company after investors sold the stock and exposed action in opposition to the management of the company and was followed by the law-suits filed in the United States challenging Maytas deal. The World Bank barred Company from performing trade for eight years. It was because of erroneous payments to employees of the company and failure to provide information sought on invoices. Also, four independent directors of the company quit the Satyam board. SEBI ordered promoters to reveal pledged shares to the stock exchange.

DSP Merrill Lynch finished its venture with the company after it found financial irregularities. On 7 January 2009, Ramalinga Raju resigned after informing board members and the Securities and Exchange Board of India that Satyam’s accounts had been falsified. Raju also confessed that Satyam’s balance sheet of September 30, 2008, contained the following irregularities as under:

(a) inflated figures for cash and bank balances of US $1.04 billion vs. US $1.1 billion reflected in the books

(b) an accrued interest of US $77.46 million which was non-existent; 3) an understated liability of US $253.38 million on account of funds was arranged by himself

(c) an overstated debtors’ position of US $100.94 million vs. US $546.11 million in the books
The fraud took place to divert company funds for four purposes i.e. real-estate investment, keep high earnings per share, raise executive compensation, and make huge profits by selling stake at inflated prices. The gap in the balance sheet had arisen entirely because of inflated profits over a long period starting in April 1999. This gap reached uncontrollable proportions as company operations grew drastically and each effort to reduce the gap became unsuccessful. The aborted Maytas acquisition deal was the last attempt to fill the fabricated assets with real ones. But the investor of the company thinking it was an effort to drain off capital out of Satyam Company in which the Raju family held a small stake to firms i.e. Maytas properties the family held tightly. Raju revealed fraud because the financial gap between “actual” profit and “book” profit got widened every year. With the purpose of close of this gap, he had to buy Maytas Infrastructure and Maytas Properties. In this way, “fictitious” profits could be absorbed through a “self-dealing” process. The auditors, bankers, and SEBI were all blamed for their role in the accounting fraud.

The investigation that followed the exposure of the fraud has resulted to charges against numerous different groups of people involved with Satyam Company. Indian authorities arrested Mr. Raju, B. Ramu Raju (former managing director), Srinivas Vdlamani (head of internal audit), and its Chief Financial Officer. There were also numerous civil charges filed in the U.S. against Satyam by the holders of its ADRs. The investigation also implicated several Indian politicians. The main victims of the Satyam fraud were employees, clients, shareholders, bankers and Indian Government.

2.12. Preventive measures by the SEBI after frauds

SEBI suspended brokers those who were acting as director and other office bearer of BSE. It also imposed an additional 10% volatility

\[ \text{ibid} \]
margin on A-group securities to reduce insider trading. In addition, margins on all deferral products Automated Lending and Borrowing Mechanism (ALBM) and Borrowing and Lending of Securities Scheme (BLESS) schemes, volatility margins on net outstanding sale positions of FIIs, financial institutions, banks and Mutual funds. In year 2001, SEBI restricted naked short sales in the market.

Another restriction imposed by the SEBI on the brokers was decrease the gross exposure limit for brokers to 10 times the base capital for National Stock Exchange and 15 times for other stock exchanges. For settle process, rolling cycle was made mandatory. On liquidity-front, allowed banks to offer collateralized lending only through BSE and NSE. Regulator established trade guarantee fund to guarantee all transactions. After Ketan Parekh fraud, SEBI cut short trading cycle from a week to a day and Badla Transaction were banned in the market to stop the speculation in the securities. Forward trading in the form of exchange traded derivatives introduced by the legislation in place of the Badla transactions.

After Bhansali scam, SEBI served notice to near about 120 merchant bankers and many mutual funds were banned to float mutual fund scheme in the market. For market irregularities, the regulator fined Morgan Stanley mutual fund. Many Mumbai officials involved in the fraud were suspended by the SEBI.

3. **Major committees constituted on capital market reforms (2012-2013)**

During the year 2012-13, SEBI has constituted eight committees for the proper functioning of the securities market. These committees were working on the proper functioning of the market intermediaries. The summarized major objectives of the committees are as under:
3.1. Technical advisory committee

The committee was constituted on 6 November 2012 to recommend measures for changes and improvements in the market structure in view of the technological changes. It was to advise SEBI to frame appropriate policies arising out of technological advancements in areas like Wireless Trading, Co-location, Algorithmic Trading, Smart Order Routing and Application Programming Interface. In addition, objective was to set standards for Disaster Recovery Plan and Business Continuity Plan of the market infrastructure institution.

3.2. Depository system review committee

The depository system review committee was formed on 5 December 2012, for the overall assessment and adequacy of the existing depository framework. It was to identifying areas for continuous improvement of systems, procedures, practices and to make recommendations. Further, it was to identify systemically important market infrastructure providers, institutions, depository participants and their interlinkages. Also, it is to suggest safeguards to prevent single point failures and denial of depository service. It was constituted to review the existing system of inspection by depositories and suggest changes for strengthen monitoring and oversight of depository participants.

3.3. High Level Committee for reviewing the SEBI (Prohibition of Insider Trading) Regulations, 1992

The High Level Committee for reviewing the SEBI (Prohibition of Insider Trading) Regulations, 1992 was constituted on 26 April, 2013. It was formed with the objective to review the SEBI (Prohibition of Insider Trading) Regulations, 1992 and to suggest suitable recommendations for amendments as the committee considers necessary.
3.4. Risk management review committee

The risk management review committee was constituted on 12 September 2013 to review the risk management framework for the cash and derivatives segment. It was constituted to recommend changes if required in the risk management and margin system. The objective was to recommend changes in the regulatory framework related to risk management for the cash, derivatives segment and to consider and suggest measures in reducing transmission of risk from other market segments. Further, it was to review the investor protection measure in the stock exchanges related to risk management.

3.5 SEBI Committee on Disclosures and Accounting Standards (SCODA)

SEBI Committee on Disclosures and Accounting Standards was constituted originally in 2006. It was reconstituted in 2013 for following reasons:

1. To advise SEBI on issues related to the disclosure requirements in the Offer Documents, Application Forms, advertisements and in any other mode of mass communication used by the issuer for protecting the interests of the investors improving the overall efficiency of the market.

2. To advise SEBI on the issues related to the continuous disclosure requirements pertaining to listing of equity or debt of an issuer.

3. To advise SEBI on the matters related to disclosure requirements of the intermediaries registered with SEBI.

4. To review the continuous disclosure requirements of listed companies, disclosures valuation methods and standard norms for Intermediaries operating in the Capital Market.
5. To advise SEBI on the issues for addressing the operational and systemic risks, if any, in the primary securities market.

6. To ensure smooth implementation of accounting standards, statements, guidance notes and studies evolved from the Institute of Chartered Accountants of India (ICAI).

3.6 Corporate Bonds and Securitization Advisory Committee (CoBoSAC)

Corporate Bonds and Securitization Advisory Committee was constituted in year 2013 under the chairmanship of Smt Shyamala Gopinath for following reasons:

i. To advise SEBI on the issues related to the development of the Corporate Bond Market and the market for securitized instruments in India

ii. To advise SEBI on the implementation of the recommendations of the High Level Committee on Corporate Bonds and Securitization

iii. To advise SEBI on the removal of regulatory hurdles under its purview and advice on issues which need to be taken up with other regulators.

iv. To facilitate coordination among Securities and Exchange Board of India, Reserve Bank of India, Insurance Regulatory and Development Authority, Pension Fund Regulatory Development Authority and concerned departments of Government of India on development and policy issues.

v. To advise SEBI on the issues for addressing the operational and systemic risks, if any, in the market for corporate bonds and securitized instruments.
3.7 **Committee on Clearing Corporations**

The committee on Clearing Corporations was constituted under the chairmanship of Mr. K. V. Kamath for:

1. Overall assessment and adequacy of the existing depository framework and identify areas for review.
2. Identifying areas for the continuous improvement of clearing systems, procedures, practices and make recommendations thereof.
3. To identify the systemically important market infrastructure providers, institutions, depository participants and their Inter-linkages. It was to suggest safeguards to prevent single point failures and denial of depository service.
4. To review the existing system of inspection by the depositories and suggest changes for strengthening, monitoring and oversight of depository participants.

It is submitted that none of these committees has submitted report so far in the year 2012-13.

4. **Committees reports on shareholder protection**

For the protection of shareholder protection, different committees were constituted by the SEBI. The committees recommended suggestions and amendments which are summarized as under:

4.1. **Disclosure to public by intermediaries (DIPIN)**

Disclosure by Market Intermediaries is one of the cornerstones for ensuring transparency, fair play in the securities market and for empowering investors to take informed decisions regarding their
dealings with such intermediaries. Such disclosures should include most of the relevant details about the background, history, business practices and overall conduct of the intermediaries.

Keeping the above objectives in view, SEBI proposes on 13 Jan 2004, the creation of a Central Electronic Database entitled “Disclosure to Public by Intermediaries (DIPIN). It is proposed to cover the information about all the intermediaries registered with SEBI in the database. The database can be accessed on-line by all users and will be updated at frequent intervals so that the information is available on an almost real time basis.

4.2. Report of the group on reduction of demat charges

Demat charges related data was collected, analyzed and discussed by the group. On the basis of discussion, the following recommendations were made on 27 January 2004:

4.2.1. Transaction charges

Small investors should be charged based on ad-valerom only.

4.2.2. Custody charges

Since companies have derived largest part of the benefits accrued because of dematerialization, it is proposed that the companies may be advised to pay onetime fee to the depository concerned at the rate of 0.1 per cent of the market cap of that particular company on the existing lines or based on the number of post issue shares. In case of new companies, it may be worked out on the basis of the post-issue paid up capital or the number of post issue shares, as mentioned in the prospectus. The same may be implemented in a phased and time bound manner. Further, charges like account maintenance and demat charges should not be levied on small investors at all by the DPs.
4.2.3. Account closure charges

As long as the investor is desired to shift his account from one
DP to another DP, the investor may be permitted to close his account
with the existing depository participant without any transaction
charges or other incidental charges. The account closure charges may
be collected if it is going out of the demat environment.

4.3. Review Committee on SEBI (Underwriters) Rules and
Regulations, 1993

The Committee recommends that there should be no separate
code of conduct for underwriters. Instead of it, a common code of
conduct for all financial intermediaries may be suitably drafted and
adopted.

5. SEBI initiatives on market practices (2012-2013)

During the year 2012-13, the SEBI has started preventive
measures on the market malpractices by the companies, stock
brokers and individuals. These initiatives of the SEBI are summarized
as under:

1. Securities and Exchange Board of India has introduced an
online system to minimize the redressal time for investor complaints.
It received over 28 lakhs investor grievances in the year 2012. It was
concluded by the SEBI that the mishandling of Power of Attorney does
not fall in the category of investigation. Securities and Exchange
Board of India in 2010 had consented that implementation of Power of
Attorney by the client is not necessary. It is only an alternative
available to the client. In addition, the client can revoke the Power of
Attorney executed by the client in favour of a stockbroker at any
time\textsuperscript{350}.

\textsuperscript{350} Sebi got 28 lakh investor complaints last fiscal, available at: www.rediff.com/business/report/sebi-got-28-lakh-
investor-complaints-lastfiscal/20121220.htm (Assessed on 01-05-2013)
2. Securities and Exchange Board of India imposed total penalty of Rs 5.75 lakh on two brokerage companies related to an investigation into the affairs of the previous Bank of Rajasthan and its promoters. The brokerage firms named RR Chokhani Stock Brokers Pvt Ltd. and Angel Broking Pvt Ltd. had supposedly done stock-trading for a few clients connected to the promoters of Bank of Rajasthan and acknowledged sum for the trades from entities other than their clients. The subject is connected to SEBI's investigation into the dealings of Bank of Rajasthan for the time 2007-2009. Throughout the period, the shareholding of the promoters of Bank of Rajasthan with their Persons Acting in concert had increased from 46.80 to 63.15 percent between 2007-2009. The Bank of Rajasthan promoters alongside with their Persons Acting in concert enlarged their shareholdings by means of obtaining shares on the stock market. SEBI found that few of them including RR Chokhani Stock Brokers and Angel Broking traded for a number of clients associated to the promoters of Bank of Rajasthan. They acknowledged payment for the stock trades from persons other than their customers. Therefore, they were infringing the rules on stockbroker and sub broker regulations.\(^{351}\)

3. Securities and Exchange Board of India has reserved seven trading bodies from the securities market for pampering in unfair trade practices in the market. The disqualified bodies' names are Chandra Financial Services, Kundan Leasing & Finvest, Jay Investrade and Maruti Securities. SEBI has revealed that these bodies were caught up in circular-trading of shares of five companies. The name of the companies was Temptation Foods, Bang Overseas, Confidence Petroleum India, Cals Refineries and Shree Precoated Steels. SEBI has revealed the connection among few bodies trading in five scrips in the form of off-market transactions along with

synchronized deals. All these transactions happened between August 2007 and February 2009.352

4. SEBI has revoked the stockbroker Jayantilal Khandwala & Sons for one month for the reason of fraudulent and unfair trade practices in Rama Multi-Tech Ltd. shares. The stockbroker had done deceitful, manipulative and unjust market activities. They have been neglectful in observation and fulfillment of the legal obligation in its business as a stockbroker. For the duration of the inquiry period, the stockbroker had purchased 12.47 lakh shares and sold 17.18 lakh shares of the company. Supplementary, the broker dealing on behalf of its common clients with Khandwala Finance Ltd formed false volume in the share and falsely enlarged the price of the shares353.

5. SEBI has forced a penalty of one lakh each on two senior executives of GHCL Ltd. for involving in deceitful stock-trading in the company's shares. It was found that the promoter entities of GHCL Ltd. and the top officials conspired to represent exaggerated shareholding to the exchanges. It has then been acknowledged by the GHCL that the periodical disclosures about the promoter holding were incorrect. It was incorrect for eight quarters from March 2007 to December 14, 2008354.

6. SEBI imposed penalty of three lakh on Manisha Mardia for indulging in fraudulent trading practices in shares of Asian Star Company Ltd (ASCL). The Securities and Exchange Board of India has alleged that Manisha was engaged in circular-trading with other stockbrokers and investors. SEBI suspected that Manisha had coordinated stock trading in ASCL through brokers. As per SEBI, the

objective of Manisha was to generate false volume in the scrip of ASCL
and to manipulate the price of the scrip.\(^{355}\)

7. The Securities and Exchange Board of India has suspended the
registration of Alka Securities Ltd. for two years. It was alleged that
the stockbroker was engaged into multiple compliance defaults and
violations of broker’s norms. They had traded on behalf of two new
clients named Anna Adhikarao Gaikwad and Jayant Shah in the year
2010 on the National Stock Exchange and neglected restriction
imposed by the SEBI.\(^{356}\)

8. SEBI has restricted Chief Managing Director Arun Jain of
Polaris Software Labs from stock-market for a period of two years. He
was involved in insider-trading in the company’s shares. After proper
investigation, the company had suspended the planned purchase of
Data Inc company in the second week of September 2000 and
informed the concerned stock exchanges on September 30, 2000.
Based on ‘unpublished information’ by Arun Jain, he dealt in 15,080
shares of the company for Polaris Holding Private Ltd. Jain made
unreasonable gains to the tune of Rs 27.26 lakh. For the duration of
the relevant time, Polaris Holding Private Ltd. was among the
promoter’s bodies of Polaris Software Labs. In addition, Jain was one
of the directors of Polaris Holding Private Ltd.\(^{357}\)

9. Securities and Exchange Board of India has forced an overall
penalty of Rs 4.5 crore on three promoters of Platinum Corporation
Ltd. It was for wrongdoings in the shares of the company. Platinum
Corporation Ltd. had made assured false, misleading corporate
announcements. Subsequently, the shares of the company jumped in
July-September 2005. The three promoters might have gained Rs. 80


lakh each by divesting 40 lakhs shares each to the investors. It was through their fraudulent and manipulative conduct. SEBI had imposed a total fine of Rs. 10.50 lakh on these promoters for avoiding various norms. It included norms related to insider trading in acquiring shares\textsuperscript{358}.

10. Securities and Exchange Board of India fined a penalty of two lakh on PMJ Properties Pvt. Ltd for illegally trading in the securities market as an unregistered sub-broker. Securities and Exchange Board of India penalized PMJ Properties for neglecting stockbroker norms\textsuperscript{359}.

11. Securities and Exchange Board of India fined Rs 10 lakh on a Jitendra Harjivandas Securities for making easy fraudulent trade in shares of Betala Global Securities Ltd. The stockbroker was involved in circular trades with other stockbrokers and clients. In addition, the stockbroker has not shown high standards of integrity and fairness as well as failed to act with due skill, care and diligence in the conduct of the business\textsuperscript{360}.

12. Mr. Krishna Yannam was indulged in the fraudulent trading practice in the shares of Clutch Auto Ltd. He was involved in circular trades and had carried out fraudulent and manipulative trades. It created artificial volumes and affected the price of the share. Investigation revealed that Clutch Auto's scrip opened at Rs 99.25 on May 7, 2010 and went to Rs 206 on November 19, 2010. Again, come to a low of Rs 59.50 on December 09, 2010 and closed at Rs 85.65 on January 31, 2011\textsuperscript{361}.

\textsuperscript{358} SEBI imposes Rs 4.5 crore fine on Platinum Corp promoters, available at: http://www.moneylife.in/article/sebi-imposes-rs45-crore-fine-on-platinum-corp-promoters/28781.html (Assessed on 01-10-2013)


13. Securities and Exchange Board of India has fined of ten lakhs on Ess Ess Intermediaries for fraudulent stock-trading of Adani Exports Ltd. During the year 2004-05, shares had observed huge spurt in volumes and fluctuations in price. Securities and Exchange Board of India had observed that few bodies through conspiracy with the stockbrokers and clients, dealt in the shares of the company that resulted false volumes in the scrip362.

14. Securities and Exchange Board of India banned Ram Kaashyap Investments and one of its promoters from the securities market for a period of two years. It was related to fraudulent trade practices in the year 2010 related to his own company and information related to the rights issue. Securities and Exchange Board of India observed that the company had covered fundamental information from disclosure and made misleading disclosures related its rights issue in year 2010363.

15. Securities and Exchange Board of India imposed seven lakhs fine on four individuals for fraudulent trading practices in the shares of Empower Industries India Ltd. Tandel and three individuals named Suryavanshi, Gajera and D'Souza were part of the Group along with the Promoter-Director, Devang Master. They made transactions in the market leading to a rise in the volume of the scrip364.

16. SEBI imposed two lakh fifty thousand fine on Tropical Securities and Investment for its failure to fulfill with the disclosure norms for shareholding while buying stock of Prudential Pharmaceuticals Ltd. Tropical Securities and Investment had obtained seven lakh shares of Prudential Pharmaceuticals Ltd. from Clip Securities i.e. 13.59 % stake in the company365.

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17. Securities and Exchange Board of India has imposed a penalty of one lakh on Bilcare's Chief Managing Director Mohan H. Bhandari for the fault to put forward a mandatory report on the subject of his acquisition of the company's shares. Bhandari had acquired 5.60 lakh shares representing 17.6% of the company. As a result of the acquisition, the shareholding of Bhandari increased 22.43% in September 5, 2003. As per acquisition norms, an acquirer is required to put forward a report about the share acquisition to SEBI within twenty-one days of the transaction. Subsequently, the person is allowed to apply 15% or more of the voting rights in the company. On the other hand, Bhandari failed to put forward the report.

18. SEBI fined of Rs. 12 lakhs on Roselabs Industries Ltd. for not redressing investor complaints in a predetermined time and not submitting action taken details to the regulator. From the year 1999, 24 grievances were pending against Roselabs Industries. Also, time of 15 days to solve the complaints given by the regulator to the company. On the other hand, Roselabs Industries had not provided the information sought nor attended the meeting.

19. The registration of a Samir K Chotai as a stockbroker for involving in illegal trading activities has been terminated by the Securities and Exchange Board of India. He has failed to execute its duties as per the code of conduct for sub-brokers in the Broker Regulations. He had executed trade transactions outside the trading system provided by BSE.

20. SEBI has fined Rs 50,000 on Erstwhile Concurrent (India) Infrastructure for giving wrong disclosures connected to the shareholding of promoters. It had found that the company submitted erroneous and deceptive details with the BSE related to the

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shareholding of two promoters. The names were K. Nirmala and K. Nirupama for the quarter ended March 2011. The shareholding pattern of the company falsely represented that Nirmala held 28.35 lakh scrips or 6.58 % holding in the company in place of 26.35 lakh shares. Likewise, in case of Nirupama, 17 lakh shares were invoked on March 17, 2011 and March 18, 2011 and her holding fallen to 12.43 lakh shares or 2.98%. On the other hand, the shareholding pattern of the company for the quarter ending March 2011 had disclosed 17 lakh shares to be full and her shareholding to be 29.43 lakh shares or 6.84 % stake, which was incorrect.

21. SEBI has charged a fine of two lakhs on promoter A. B. Satyavas Reddy of Bartronics India's for violating disclosure norms by the regulator. It was found that in an off-market transaction as a pledge, promoter Reddy had moved about four lakh shares of the company to Raghu Daripalli on January 13, 2009. It was at the appeal of Bistrolia Asia Inc towards short-term loan of three months instead of funds. On the other hand, Bistrolia Asia Inc could not return the pledge shares to promoter Reddy. Consequently, on April 20, 2009, transaction related to the pledge share was made into sale and consideration was determined at Rs. 3.28 Crore. However, for the all activities, it was required to file disclosures.

22. The Securities and Exchange Board of India has imposed a fine of five lakh on Rotomac Global. It was for a fault not to make a public declaration on the subject of its stake purchase in Flawless Diamonds India Ltd. Rotomac Global had obtained forty lakh shares in Flawless Diamonds India Ltd from four entities on October 30 and 31, 2009.

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23. SEBI barred Ram Kaashyap Investments and one promoter from the market for a time of two years for falsified practices relating to its rights issue in the year 2010. The company had hidden fundamental information and made deceptive disclosures related to the right issues. There were a number of complaints from the investors on the subject of non-receipt of their Composite Application Forms. Ram Kaashyap Investments had not received the minimum subscription in the rights issue. Afterward, SEBI directed the lead manager to advise the company to repay the application money to the shareholders.\(^{372}\)

24. SEBI has charged a penalty of Rs. 17 lakh on five entities for not providing details regarding alleged manipulation in trading of shares of Murli Industries Ltd. The Investigation Authority of the market regulator sought the information. Five different entities were Dhanesh Capital Services, Fortune Commodeal, Namokar Consultants, Sunayana Commercial, Sanskar Trade-Link. In this regard, the regulator had asked them to provide information that could help in the investigation. The entities have admitted to trading in shares of the dummy firms\(^{373}\).

25. SEBI has fined Rs 2.5 lakh on SPS Share Brokers as the stockbroker failed to disclose its shareholding details in Prudential Pharmaceuticals Ltd. within a predetermined time. The stockbroker had bought 6 lakh shares on own account and 2.75 lakh shares of the Prudential Pharmaceuticals Ltd on behalf of its clients. In 2001, SPS Share Brokers total was 8.75 lakh shares or 16.98 percent of the total paid up capital of Prudential Pharmaceuticals Ltd. On the other hand, the stockbroker did not act in accordance with SEBI's guidelines


relating to its share acquisition details Prudential Pharmaceuticals Ltd. within four working days to the concerned stock exchanges.\(^\text{374}\)

26. The Capital market regulator has fined Rs. 20 lakh on one Biren Kantilal Shah. In 2005, he was alleged in fraudulent trade practices in IPOs of Suzlon Energy and Infrastructure Development Finance Co Ltd. Shah acted as a main operator and was involved in the format of bending of shares in the Initial Public Offers. Shah had involved in deceitful and manipulative activities. In addition, he employed deceptive device and scheme to bend the shares held in reserve for retail individual investors in the previously mentioned two IPOs with the intention to deceive retail individual investors.\(^\text{375}\)

27. SEBI has fined a penalty of more than fifty lakhs on eleven companies for failing to solve investor problems. In the current 2012-2013, the supervisory body fined twelve lakhs on Roselabs Industries. In addition, has imposed a penalty of Rs. 6.80 lakh on Sabero Organics Gujarat and penalty of 5 lakh on Kanel Oil & Export Industries. Adding to the list of penalized firms, SEBI fined ten lakhs on Earnest Healthcare and five lakhs on Lohia Polyesters and Gujarat Filaments each. A company is not capable to begin an action for redressal of investor grievances within seven days of receiving in SCORES, the regulator could take essential actions.\(^\text{376}\)

28. SEBI banned Dilip Pendse (ex-Managing Director of Tata Finance) for two years from the Indian stock market. He was involved in fraudulent and unfair trade practices in four firms including TELCO and Infosys more than ten years ago. In year 2002, Tata Finance filed complaint that few illegal carry forward trades in shares


of Himachal Futuristic Corp, Tata Engineering and Locomotive Company Ltd took place in the direction of Pendse in 2001.

29. SEBI has fined Rs 7.50 lakh on V. S. Sundaraman for performing as a sub-broker in support of different bodies without being registered for the sub-broker. Investigation revealed that there were enormous off-market transfers of securities from the demat account of Sundaraman to approximately sixty-five bodies having unlike demat addresses and vice versa during 2005-2008. Sundaraman was getting shares in his account from the bodies through off-market transfers. He was selling credited shares in the market on their own behalf.

30. SEBI banned SGI Research & Analysis and seven promoters of the company from the capital market for the next ten years. It was for deceiving two lakh investors. Regulator instructed to the bodies to refund Rs 1,500 crore with interest. The promoter and director of SGI had collected more than Rs 1,500 crore from two lakh investors and had gone along with his entire work force. They issued preference shares of Rs 10 each at a premium of Rs 1,500 per share. Also, false promises were made to the investor related to the price of the shares after listing and approval by the SEBI.

31. SEBI fined Rs. 1.50 lakh on GMR Holdings for alleged non-compliance with mandatory disclosure norms related to acquisition of shares of GMR Industries way back in the year 2000. GMR Investments and Varalakshmi Investment bought the shares of GMR Industries. For not providing necessary disclosures, Securities and Exchange Board of India has fined one lakh on GMR Holdings and fifty thousand for no disclosures within the fixed time as stated by the

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disclosure norms. All shares were transferred to the GMR holdings through preferential shares.

32. SEBI fined ten lakhs on Balwinder Singh for deceitful transactions in shares of company Ind-Swift Laboratories. Singh had involved in executing fabricated trades in the shares of the company from 2010 to 2011. Singh owned Gogia Investments, a registered sub-broker of Kotak Securities at National Stock Exchange and Bombay Stock Exchange. He traded in the shares of Ind-Swift Laboratories through three brokers. He used Kotak Securities at Bombay Stock Exchange and National Stock Exchange.

33. Brooks Laboratories and five senior executives banned from contributing in the securities market. It was for nonconformity with initial public offer disclosure norms. IPO of Brooks Laboratories was relocated to a variety of entities with a possible reason of diversion of funds. It was found that Brooks Laboratories had not given information in the draft prospectus with respect to the result to gain Inter Corporate Deposits.

34. SEBI imposed penalties on the Gillette India Ltd promoters for not meeting the rule that all listed private companies must have a minimum 25% owned by public shareholders. Gillette India promoters will be denied voting rights and dividends for those shares that exceed the 75% ownership limit by the shareholding pattern norms. Gillette India promoters holds near about 89% of the companies. It includes 75.9% possessed by Procter & Gamble Co.

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35. SEBI has fined Rs. 1.50 lakh on one director Satyanand of DFM Foods Ltd for violating disclosure and insider trading norms. Satyanand had bought 4,209 shares of DFM Foods at about Rs 5.26 lakhs in February, 2011 and sold 5,000 shares of the company worth Rs. 14.09 lakh in October, 2011. In addition, he failed to make essential mandatory disclosures to the BSE. Supplementary, he had violated the Code of Conduct for Prevention of Insider Trading for listed companies.

36. SEBI has banned Mascon Information Technologies Ltd for two years from the securities market for fraudulent trade practices. Mascon Information Technologies Ltd offloaded a huge quantity of shares to bodies associated with the Ketan Parekh. They also sold the shares to the certain Overseas Corporate Bodies and created artificial volumes in the scrip of Mascon Global, which was promoted by Mascon Information Technologies Ltd. The bodies were Panther Invesstrade, Panther Fincap and Management Services, Classic Credit, Saimangal Invest Trade and Luminant Investments.

37. SEBI banned Indiabulls Securities Sidharth Daga from dealing in stock market for five years for falsified trading in Aurobindo Pharma shares. Investigation revealed that a Relationship Manager Abhijit Sen of Indiabulls Securities had provided the password of trading account of Arunava Chakraborty to Daga. Daga had then fraudulently placed orders from the trading account of Chakraborty in shares of Aurobindo Pharma.

38. Securities and Exchange Board of India has fined Rs. 25 lakh on Jitendra Kumar Sharma equity dealer of Central Bank of India and his wife Vibha Sharma for engaging in fraudulent trading. Jitendra Sharma an equity dealer for the bank accustomed to place trade...
orders for the public sector bank with the brokers Kaviraj Securities and Trust line Securities. Vibha Sharma, wife of the accused, trade through stockbroker Eureka Stock & Share Broking Services. Investigation revealed that Vibha Sharma transaction of sell matched fully with buy trades of Central Bank of India. Earlier placing the orders for Central Bank of India, shares were bought in the demat account of wife and sold to match the orders of the bank. Both received unjustified trade profits at the expense of Central Bank of India.

39. SEBI has fined forty-eight lakhs on Shadilal Chopra for non-compliance with the SEBI orders to pull out unlawful gains made throughout fraudulent dealings in Initial Public Offering of Atlanta Ltd. The amount was to be paid within 45 days with the interest. However, Chopra failed to act in accordance with the SEBI directions. The punishment sum includes simple interest at the rate of 15 per cent per annum and also imposed a penalty of Rs. 10 lakh for the non-compliance with the directions issued by it to pay the disgorgement amount. The regulator is positively making efforts to minimize the market abuse. During the year 2012-13, many committees are formed for checking market like irregularities related to the demat charges, depositories and brokers. In addition, regulators are exercising their powers to curb the problem of the market frauds. In the same financial year, SEBI as a regulator slapped charges against defaulting companies. These defaulting companies were involved in the unfair trade practices in the market.

6. Judicial verdicts on shareholder protection

Indian judiciary pronounced various judgments on the protection of the shareholders and role of the intermediaries. The

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major focus of the judicial verdicts is to reflect the approach of the judiciary on the protection of the shareholder. The major judicial verdicts on the protection of the shareholder by the Supreme Court of India, subordinate courts and tribunals are as under:

1. **Srikanata Data v. Venkateshwara Real Estate Enterprise (P) Ltd.**

   In this case, it was held by the court that the word ‘member’ under Section-2(27) of the Companies Act, 1956 means ‘shareholder’ excepting a person who is a bearer of a share warrant of the company. It was held that where register does not incorporate name of all share certificates holders, they could exercise rights as members.

2. **N Narayanan v. Adjudicating Officer, SEBI**

   The Apex court of India held that SEBI has to deal severely with all listed companies and their directors involving in illegal practices like manipulative and deceptive devices, insider trading etc. Otherwise, they will be weakening in their responsibility to encourage arranged and strong enlargement of the Indian Securities market. The main purpose of the penalty is to make the people of the nation realize that economic offence is a grave offense and will have an effect on economic growth if not cured. It also slows the inflow of foreign investment by foreign investors. The judiciary pronounced that message should reach that our country will not accept “market abuse” and that the “Rule of Law” governs us. SEBI has a responsibility to defend investors, individual against using opportunities offered by instantaneous conditions like insider information etc.

   The Apex court further observed that all categories of media carry main duty not to give the wrong impression to the public in

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389 (1990) 68 Comp. Cas. 216 (Kar)
390 N. Satyaprasad Rao and others v. V.L. N Sastry & others (1988) 64 Comp.Cas.492
391 2013 Indlaw SC 269
predicting the market. However, a media comment on a company's position in the market with a view to get an advantage from a position in the market would count as market abuse. It has a duty and obligation to protect investors.


The Supreme Court of India held that a merchant banker is the eyes and ears of the regulator. Its responsibility is to make sure that the corporate entity utilizing its services are acting in accordance with the laid down norms and in case of violation, bring the violation to the notice of the regulator for appropriate action. It is in the context that the code of conduct for merchant bankers prescribes that a merchant banker shall, at all times exercise due diligence, ensure proper care and exercise independent professional judgment.

4. Ritesh Agarwal and another v. Securities and Exchange Board of India and Others

The Apex court has observed that the public issue by the promoters of Ritesh Polyster Ltd. was a fraud with an intention to defraud investors. Therefore, it would be appropriate to pass a direction under Section-11B of the SEBI Act, 1992 as a remedial measure. The Apex court also directed the promoters to buy-back the shares from the allottees, shareholders offering an amount at which the shares were issued i.e. Rs. 15/- per share if the shares are fully paid or @ Rs. 7.50 per share if the shares are partly paid. It is directed to delist Ritesh Polyster Ltd. from the stock exchanges. Further, it was added that SEBI Act, 1992 was enacted to provide for the establishment of a Board to protect the interests of investors in

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393 2012 Indlaw SAT 97
394 2008 Indlaw SC 989

253
5. **Karvy Stock Broking Limited v. Securities and Exchange Board of India**

The Apex court held that the primary function and duty of the board is to protect the interest of the investors in securities and to regulate the securities market. The Apex court clearly stated that even though the inquiries considered by the Act may be held under a different set of provisions but their object is the same viz. to help the Board to promote the development, to regulate the securities market and protect the interests of investors. Further, the inquiry under Section-11 of the SEBI Act, 1992 was held by the Board to find out what measures it needs to take to protect the interests of the investors and what steps it needs to take to promote the development of and to regulate the securities market. Similarly, the inquiry, which the Board is required to make or causes to be made under Section-11B of SEBI Act, is to find out what directions should be issued to an intermediary or any person associated with the securities market or to a company in respect of matters referred to in Section- 11A of SEBI Act, 1992.


In this case, the Central Information Commission pronounced judgment that the only exclusion on the publication or circulation of any general meeting of a company is at the discretion of the Company itself. It was observed by the Commission that Appellant under the

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396 2007 Indlaw SAT 1. Appeal No. 75 of 2007

397 2011 Indlaw CIC 818. Case No. CIC/SS/A/2011/000340

254
provisions of the Right to Information Act, 2000 has a right to inquire about the records of minutes of meetings of the Company. The Appellant will have to pay the necessary operating cost for getting such records in accordance with the Right to Information Act, 2000. The question of publication of minutes of the meetings at the expenditure of the Company does not even arise in the first place.

7. **Sahara India Real Estate Corporation Ltd. and Ors. v. Securities and Exchange Board of India and Anr.**

The Apex court held that Disclosure of Investor Protection Guidelines, 2005 had statutory force since they were framed by SEBI in the exercise of its powers conferred on it. Under Sections-11 and 11A of SEBI Act, 1992 powers had been conferred on SEBI to protect interests of investors in securities and regulate the issue of prospectus, offer documents or advertisement soliciting money through the issue of a prospectus. Further, it was observed that Appellant conveniently omitted reference to SEBI in declaration given in the prospectus. Therefore, appellants issued Optionally Fully Convertible Debentures in contravention of DIP Guidelines, Issue of Capital Disclosure Requirement 2009, notification and overlooked statutory requirements stipulated in Section-73(1) of the Companies Act, 1956.

8. **Bennett Coleman & Co. & Ors v. Union of India & Ors**

The Bank Nationalization case has established the view that the fundamental rights of shareholders as citizens are not lost when they associate to form a company. When their fundamental rights as shareholders are impaired by State action their rights as shareholders are protected. The reason is that the shareholders' rights are equal and necessarily affected if the rights of the company are affected.

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399 1973 SCR (2) 757
400 Rustom Cavasjee Cooper v Union Of India 1970 AIR 564. 1970 SCR (3) 530
9. Rajahmundry Electric Supply Corporation Ltd. v. A. Nageswara Rao

It was held by the Apex court that where nothing more is established than that the directors have misappropriated the funds of the Company, an order for winding up would not be just or equitable because such an order will must operate harshly on the rights of the shareholders. However, it will be done only addition to such misconduct, circumstances exist which render it desirable in the interests of the shareholders that the Company should be wound up.

10. Dipak Kumar Jayantilal Shah v. The Atul Products Ltd

It was held by the Company Law Board that there is no prohibition under the Companies Act, 1956 or any other Act for holding share certificate below marketable lots. The provision of law will override the provision of the Article of Association of the company. The Board has directed that in pursuant to the provisions of Section-111 of the Companies Act, 1956, the company ought to have registered the transfer of shares effected in one of the four transfer deeds which was first considered by the company. In addition, the company will register the transfer of shares in the transfer form first considered by the board of directors within 10 days. It is quite clear that there is no prohibition under the Companies Act, 1956 or any other Act for holding share certificates below market lot. The provisions of the law will override the provisions of the articles of association or of the listing agreement. In these circumstances, the plea taken by the company is contrary to the provisions of Section-23A of the Securities Contracts (Regulation) Act, 1956 and cannot be accepted.

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401 1956 AIR 213, 1955 SCR (2)1066
402 1992 Indlaw CLB 29, 1995 (82) CC 603

In this case, it was held that the rights of shareholder to transfer his share are always subject to the provisions in Article of Association. It must be exercised with the approval of the Board of Directors.

12. Raymond Synthetics Ltd. v. Union of India

It was held by the Apex court that the provisions of Section-73(2A) of the Companies Act, 1956 regarding oversubscribed amount of the investors were absolute in nature and once the company fails to repay the excess amount within the grace period there was no escape from the payment of interest irrespective of the circumstances. It was pointed out that the Section-73(2A) of the Companies Act, 1956 places a statutory obligation on the company and its directors to pay interest on the amount of subscription money, which is not refunded to the subscribers within the prescribed period. It was observed by the court that the provision does not allow even consideration of administrative difficulty or inconvenience as a good ground for waiving of interest payable on the amount of refund for the period of default.

Once the company shares are allotted and allotment is communicated to the shareholder, the director has no power to release the shareholder by cancelling the allotment and not even on the ground that the shares had been taken under a mistake. A share of a company in the hands of a shareholder signifies a bundle of rights and obligations.

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403 (1992) 73 Comp. Cas. 150 (Ker).
406 Karachi Oil Products Ltd. v. Kumar Shree Narendra Singh ji AIR 1950 Bom. 149
407 Viswanath v. East India Distilleries (1957) 27 Comp. Cas 175. AIR 1957 Mad 341

257
13. **The Industrial Credit and Investment Corporation of India (ICICI) v. H.V. Jayaram**

In this case, the appellant lodges a criminal complaint for non-delivery of share certificate alleging that the company has committed the crime under Section-113(2) of the Companies Act, 1956.

The appellant who did not receive the share certificate filled a complaint against the company in Bangalore. The company opposes the complaint on the ground that the registered office is not located at Bangalore. Hence, they argued that no cause of action arises in Bangalore on the decision on the case. The Karnataka High Court upheld the Company’s argument. The petitioner filed the case in the Supreme Court.

The Apex court upheld the decision of the High Court and by the joint reading of the Section-53 and 113 of the Companies Act, 1956 held that the share certificate must be delivered by the registered post or either deliver the share certificate personally.

14. **R Mercantiles Private Limited, Kolkata; (2) Imtihan Commercial Private Limited, Kolkata v. Securities and Exchange Board of India, Mumbai**

The Securities Appellate Tribunal ruled that the adjudicating officer of Securities and Exchange Board of India was justified in imposing penalty of Rs.40 lakhs and Rs.13.50 lakhs respectively on each of appellants herein on the ground that appellants have violated Section-12A (d) and Section-12A (e) of the Securities and Exchange Board of India Act, 1992 and Regulation 3(i) of the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992. Appellant were responsible for disclosing the price sensitive information to the public before the announcement of the offer.

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408 (1998) 94Com Cases 409 (Kant)
409 2013 Indlaw SAT 62
In this case, a show cause notice by the SEBI dated September 7, 2012 was issued to the Appellant alleging violation of the provisions of Regulation-13(6) of the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992. After conducting certain investigations, SEBI had found that the Managing Director of the company had dealt with the shares of the company as an investor between February 28, 2011 and April 11, 2011. He had purchased 81,389 shares for a total value of Rs.189,154 and sold 72,889 shares during the said period. In the process, the provisions of Regulation-13(6) of Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992 violated since the company failed to inform the relevant stock exchange i.e. Bombay Stock Exchange. The Appellant Company had admittedly not made disclosures to the stock exchange under a belief that since the requisition made was less than 2%, by the Managing Director and it was not required to disclose the same to the stock exchange as per the provisions of Regulation-13(2) of Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992.

It was held by the court on a comparative reading of the provisions of Regulation-13(2) and 13(6) that the Appellant Company must disclose the acquisition of shares by their Managing Director even if it is below 2%. Timely disclosures are to be made to stock exchanges, whether by companies or their personnel. It is important for the smooth functioning of any securities market and also for the Regulator to keep a track over such developments through the stock exchanges for regulating the market.
16. *Fresenius Kabi Oncology Limited, Haryana v. Securities and Exchange Board of India, Mumbai*\(^{411}\)

In this case, the Appellant is a public limited company incorporated under the Companies Act, 1956. Its shares are listed on the Bombay Stock Exchange Limited and the National Stock Exchange of India Limited. Fresenius Kabi (Singapore) Pte. Ltd. ("FKSL") is the Appellant's promoter company holding 81% of the total paid up share capital in the Appellant Company.

Brief facts of the appeal are that the public shareholding in the Appellant was 10% as opposed to the mandatory requirement of 25% which has been prescribed by the Securities Contracts (Regulation) Rules, 1957. In order to achieve minimum public shareholding, FKSL's board of directors on May 30, 2012 decided to issue the offer for sale. This was done on October 12, 2012 after seeking and receiving the required approvals from the Foreign Investment Promotion Board. The Appellant decided to launch the offer for sale in 2 tranches of 7.5% each. On October 12, 2012 when the offer for sale was issued, it was issued with an option to sell an extra 1.5% of the Appellant's shares if the OFS was received well in the capital market. As it turned out, the Appellant ended up divesting its shareholding by 9% and consequently, FKSL's shareholding in the Appellant was reduced to 81%.

Next, the Appellant decided to undertake voluntary delisting and by letter dated April 16, 2013. FKSL proposed to launch a delisting offer to its public shareholders to acquire the entire public shareholding of the Appellant, i.e. 19% of the Appellant's capital as per the Delisting Regulations, 2009. The result of the resolution through postal ballot was sent to the Respondent vide letter dated May 25, 2013 and on the same day the information was communicated to the two stock exchanges concerned. Further, approvals for delisting was sought from the BSE and NSE, as

\(^{411}\) 2013 Indlaw SAT 34
mandated by Regulation-8(1) (c) of the Delisting Regulations. But, order dated June 4, 2013 was passed by the Respondent forbidding FKSL and the Appellant from accessing the securities market for not complying with the mandatory minimum public shareholding requirement.

It was held by the tribunal that if delisting is in the ordinary course of business, then there is no reason for imposing conditions for delisting of securities. It was appeared to the tribunal that impugned direction had been issued by the SEBI on the basis of certain complaints which are yet to be investigated. Therefore, instead of fulfilling minimum public shareholding requirement under Securities Contracts (Regulation) Rules, 1957, since delisting of shares under SEBI (Delisting of Equity Shares) Regulations, 2009 have been sought for valid and genuine reasons. As per tribunal, SEBI while permitting delisting was not justified in directing that the promoters' shareholding prior to Offer for Sale, that is shareholding at 90% instead of 81%, should be taken into consideration for the purpose of delisting of shares.

17. Dipak J. Panchal, Ahmedabad v. Securities and Exchange Board of India, Mumbai412

In this case, SEBI started investigation on the receipt of information regarding alleged abuse and misuse of the Initial Public Offering allotment process by Panchal family. During the preliminary analysis of buying, selling and dealing in the shares allotted through Initial Public Offerings in the year 2003, 2004 and 2005, it was revealed that certain entities opened a large number of demat accounts in fictitious/benami names. These entities acquired shares of those companies allotted in the Initial Public Offerings by making a large number of applications of small value so as to make them eligible for allotment under the retail individual investor category. The

412 2012 Indlaw SAT 113
strategy adopted was that subsequent to the receipt of the IPO allotment, these fictitious/benami allottees transferred the shares to their principals called the 'key operators' who controlled their accounts. Then, key operators transferred most of the shares to the 'financiers' who had made available funds for executing the game plan. In a booming market, the financiers sold most of these shares on the first day of listing or soon thereafter thereby making profit out of the price difference between the issue price and the listing/sale price.

The appellants were the members of the Panchal family including Ms. Roopalben N. Panchal, Mr. Bhargav Ranchodlal Panchal, Ms. Hina Bhargav Panchal, Mr. Arjav Nareshbhai Panchal. The members of the Panchal group, along with Karvy Stock-broking Ltd. and certain other entities were involved as key operators in the scheme/arrangement of cornering shares under the category reserved for retail individual investors. It was alleged that the appellants are closely related to other members of the Panchal group. They held joint demat and bank accounts with them and shared the same address.

The Panchal group opened bank accounts in their own names with the Bharat Overseas Bank, Ahmadabad Branch and Indian Overseas Bank, Thaltej Branch, Ahmadabad. A large number of fictitious names were then added to these bank accounts which were subsequently used for opening thousands of demat accounts. One such bank account was opened in the name of Devangi Panchal with the Bharat Overseas Bank. On the basis of this bank account, 297 demat accounts were opened. Another bank account was opened in the name of Dipak Panchal and this account was used for opening 3,450 demat accounts. The demat accounts were opened in various devious combinations of names and surnames. The group is alleged to have created bank introduction letters for thousands of fictitious names and based on such introduction letters as proof of identity and address, the afferent demat accounts were opened.
The particulars mentioned in almost all these accounts were alleged to be either of the appellants or other members of the Panchal group and all these accounts were in some way or the other related to the bank account of at least one member of the Panchal group. These bank accounts were also used to avail of finance for IPOs from the banks and other financiers also. The appellants and other entities of the Panchal group made thousands of IPO applications in the retail individual category. It was revealed by the investigation that some entities of the Panchal group opened afferent accounts, some used them for making applications in the retail category of IPOs, some helped in the transfer of shares to financiers and some disposed of the shares. All of them did not play the same role but they complimented one or the other in executing the game plan.

During the investigation, it was observed that the appellants are part of the Panchal group. Afferent demat accounts were used by members of the Panchal group to make applications in various IPOs. The applications were made on the basis of loans taken from the two banks or Karvy in the name of the afferent bank account holders or other demat account holders. Loans were also raised by members of the Panchal group from private financiers. On allotment of shares, these shares were transferred from the afferent accounts to the accounts of the Panchal group who further transferred the shares either in the demat accounts of the financiers or other members of the Panchal group including the appellants. The appellants then sold these shares and made a substantial profit.

It was further observed by the court that appellants was indulged in fraudulent, manipulative activities and employed deceptive devise to corner the shares reserved for retail individual investors in the IPOs to defraud the retail individual investors and breach the integrity of the market, but also violation of the provisions of Section-12A (a), (b) and (c) and Regulation-3 (a), (b), (c) and (d) and 4(1) of the Securities and Exchange Board of India (Prohibition of

18. **Arun Kumar Agrawal v. CPIO, Securities and Exchange Board of India, Mumbai**

The Appellant had sought a variety of information in four separate Right to Information applications relating to the SEBI investigation into the allegations of insider-trading and short sale of shares of the Reliance Petroleum in 2007 by the Reliance Industries Ltd. He had also sought some information regarding the consent order cases filed by the Reliance Industries Ltd. and other entities for the offence under SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003. In one case, he wanted to get copies of the assets and liabilities returns filed by the Chairman of SEBI. In yet another case, he had sought the details of all the entities involved in the short sale of shares. In all these cases, the Central Public Information Officer (CPIO) had not disclosed any information by claiming that (a) the quasi-judicial proceedings were in progress and (b) the desired information was exempt in terms of sub section 1(d), (h), (e), (g) and (j) of Section-8 of the Right to Information Act, 2005.

It was held that the demand of the Appellant that the disclosure of this information would serve a larger public interest is correct. If as a regulator, SEBI took cognizance of allegations of any breach of law, rules or regulations by one or more entities for unlawful private gain, the information generated in the process of its investigation needs to be disclosed in the public domain. Such disclosure would keep the general public informed and educated about the risks they may confront in making investments in the market. It would also prevent many entities from adopting shortcuts to make profit through unlawful means.

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413 2012 Indlaw CIC 783
It was held that sub section-1(d) of Right to Information Act, 2005 clearly provides that even information in the nature of commercial confidence or trade secret or intellectual property could be disclosed if the larger public interest warrants the disclosure of such information. Sub-section 1(h) of Right to Information Act, 2005 is not simply attracted in the case because the investigation is already over. Therefore, it was held that these two items of information should be disclosed (a) in the public interest and (b) not being covered by any exemption provision.

19. **MAN Industries (India) Limited v. Securities and Exchange Board of India, Mumbai**

In this case, the appellant was guilty of failure to close the trading window during the period when unpublished price sensitive information was available and delay in making disclosure of price sensitive information. The appellant is a listed company engaged in the manufacture and exports of steel pipes. The shares of the appellant are listed on the Bombay Stock Exchange and National Stock Exchange Limited. The appellant lodged a complaint with the Board against irregularities committed by Shri J.C. Mansukhani, vice chairman and managing director of the company. The complaint was related to insider trading and violation of the relevant code of conduct. On receipt of the complaint the Board sought periodical information and clarifications from the appellant. A show cause notice was issued by the adjudicating officer on May 11, 2011 to the appellant.

The adjudicating officer found that the appellant had failed to close the trading window during the period when unpublished price sensitive information was available. The adjudicating officer held the view that the appellant bagged substantial orders of contracts during the period August 6, 2010 to September 7, 2010. It was observed that the above period the trading window should be closed. The second

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414 2012 Indlaw SAT 21

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allegation was related to failure to furnish timely disclosures of bagging of orders worth about Rs. 1200 crores from domestic and international market.

According to the adjudicating officer the appellant received the orders on August 30, 2010 whereas the information was made public only on September 7, 2010. On the other hand, the facts of the case show that the order has almost crystallized and the communication is in the nature of a confirmation of the order. As already observed, the receipt of the order in the present case has been accepted by the appellant as price sensitive information. Since, the appellant has received the communication regarding the bagging of the order subject to compliance with certain formalities the appellant was duty bound to make the disclosure as on August 15, 2010. The appellant had failed to disclose about bagging of order. The disclosure was made only on September 7, 2010. It was held by the tribunal that there is a clear violation of Clause-2 of Schedule II of Regulation-12(2) of Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992.

20. **Bhavesh Pabari v. Securities and Exchange Board of India, Mumbai**

In this case, the appellant has been found guilty of violating the provisions of Regulation-4 of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulation, 2003, Regulation-7 of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 and Regulation-13 of the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992. The appellant is an investor carrying on trading and investment in equity shares of different companies through its brokers. The Board carried out investigations into the trading of the scrip of Gemstone
Investments Limited (the company) for the period August 2006 to August 2008. It was noticed by the Board that the promoter group of the company, which was holding 69.65 per cent of the total share capital of the company during the quarter ending June 30, 2006 had reduced its shareholding in the company to 1.22 per cent by the end of quarter June 30, 2006.

The appellant was a member of the Narendra Ganatra group and helped them to off-load their stakes in the company at a higher price. It was done by indulging in circular and synchronized trades and also by entering into a reversal of trades thereby creating artificial volumes and misleading appearance of trading in the scrip which resulted in the increase of the price of the scrip. Therefore, it was held by the tribunal that the appellant acted in collusion with others and created artificial volumes in the market. He had influenced the price of the scrip by placing, executing a large number of buy orders at a price higher than the last traded price and indulged in unfair trade practices.

7. **Actions taken by the SEBI (2012-13)**

SEBI has power to take suitable enforcement actions like adjudication, directions etc. as provided under the law where development in redressal of investor grievances is not adequate. Accordingly, directions under Section-11B/11 (4) (b) of SEBI Act, 1992 were passed in the year 2012-13 against the four companies and its directors debarring them from accessing the securities market and from buying, selling or dealing in securities directly or indirectly till all the investor grievances against the company are resolved by them. The companies are as under:
Table 4.1

<table>
<thead>
<tr>
<th>Year</th>
<th>Sl.No.</th>
<th>Name of the company</th>
<th>Date of order</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012-13</td>
<td>1</td>
<td>ShuMa Data Technics Ltd</td>
<td>13/4/2012</td>
</tr>
<tr>
<td></td>
<td>2</td>
<td>Top Telemedia Limited</td>
<td>10/8/2012</td>
</tr>
<tr>
<td></td>
<td>3</td>
<td>International Hometex Ltd.</td>
<td>10/8/2012</td>
</tr>
<tr>
<td></td>
<td>4</td>
<td>Alpine Industries Ltd.</td>
<td>12/7/2012</td>
</tr>
<tr>
<td>2011-12</td>
<td>1</td>
<td>Aashi Industries Ltd</td>
<td>7/4/2011</td>
</tr>
<tr>
<td></td>
<td>2</td>
<td>AEC Enterprises Limited</td>
<td>7/4/2011</td>
</tr>
<tr>
<td></td>
<td>3</td>
<td>Dhamendra Industries Ltd</td>
<td>7/4/2011</td>
</tr>
<tr>
<td></td>
<td>4</td>
<td>Dhamendra Overseas Ltd</td>
<td>7/4/2011</td>
</tr>
<tr>
<td></td>
<td>5</td>
<td>Enkay Texfood Industries Ltd</td>
<td>6/7/2011</td>
</tr>
<tr>
<td></td>
<td>6</td>
<td>Kaleidoscope Films Ltd. (Formerly known as Gujarat Incatel Telecommunications Ltd. &amp; Gujarat Investment Castings Ltd.)</td>
<td>26/5/2011</td>
</tr>
<tr>
<td></td>
<td>7</td>
<td>Solid Carbide Tools Ltd</td>
<td>8/4/2011</td>
</tr>
</tbody>
</table>

Source: SEBI Website

In addition to above safety measures, SEBI has imposed monetary penalty under Section-15C of SEBI Act, 1992 against the following companies through adjudication proceedings for their failure to redress investor grievances (Table 4.1 and 4.2):

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416 http://www.sebi.gov.in/sebiweb/home/list/4/25/0/0/Public-Notices (Assessed on 03-12-2013)
417 If any listed company or any person who is registered as an intermediary, after having been called upon by the Board in writing, to redress the grievances of investors, fails to redress such grievances within the time specified by the Board, such company or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.
### Table 4.2

<table>
<thead>
<tr>
<th>Year</th>
<th>Sl.No.</th>
<th>Name of the company</th>
<th>Penalty amount</th>
<th>Date of the adjudication order</th>
</tr>
</thead>
<tbody>
<tr>
<td>April 2013- till date</td>
<td>1</td>
<td>Dhampure Specialty Sugars Ltd</td>
<td>10,000</td>
<td>10/04/2013</td>
</tr>
<tr>
<td></td>
<td>2</td>
<td>Usha (India) Ltd</td>
<td>26,33,000</td>
<td>18/04/2013</td>
</tr>
<tr>
<td></td>
<td>3</td>
<td>Universal Office Automation Ltd</td>
<td>10,000</td>
<td>29/04/2013</td>
</tr>
<tr>
<td>2012-13</td>
<td>1</td>
<td>Raj Irrigation pipes &amp; fittings Ltd</td>
<td>75,000</td>
<td>31/05/2012</td>
</tr>
<tr>
<td></td>
<td>2</td>
<td>Satguru Agro Industries Ltd</td>
<td>2,00,000</td>
<td>28/06/2012</td>
</tr>
<tr>
<td></td>
<td>3</td>
<td>Simco Industries Ltd</td>
<td>1,50,000</td>
<td>29/06/2012</td>
</tr>
<tr>
<td></td>
<td>4</td>
<td>Jord Engineers India Ltd</td>
<td>2,00,000</td>
<td>28/06/2012</td>
</tr>
<tr>
<td></td>
<td>5</td>
<td>Gujarat Aqua Industries Ltd</td>
<td>10,000</td>
<td>9/10/2012</td>
</tr>
<tr>
<td></td>
<td>6</td>
<td>Gujarat Filaments Ltd</td>
<td>5,00,000</td>
<td>9/10/2012</td>
</tr>
<tr>
<td></td>
<td>7</td>
<td>Earnest Healthcare Ltd</td>
<td>10,00,000</td>
<td>12/11/2012</td>
</tr>
<tr>
<td></td>
<td>8</td>
<td>Lohia Polyesters Ltd</td>
<td>5,00,000</td>
<td>20/11/2012</td>
</tr>
<tr>
<td></td>
<td>9</td>
<td>Kanel Oil &amp; Export Industries Ltd</td>
<td>5,00,000 (Reduced to Rs. 2,00,000 by SAT)</td>
<td>6/12/2012</td>
</tr>
<tr>
<td></td>
<td>10</td>
<td>Sabero Organics Gujarat Ltd</td>
<td>Resolved all pending complaints and paid Rs. 6,80,000 under consent. (Order dated 29/11/2012)</td>
<td>NA</td>
</tr>
<tr>
<td></td>
<td>11</td>
<td>Roselabs Industries Ltd</td>
<td>12,00,000</td>
<td>10/12/2012</td>
</tr>
</tbody>
</table>

**Source:** SEBI website[^19]

During the year 2012-13, inspections were completed by the SEBI related to 51 depository participants, 16 merchant bankers, 5 credit rating agencies, 10 debenture trustees and 17 Register To Issue & Share Transfer Agent. The total number of inspections conducted by SEBI rose from 30 in year 2011-12 to 99 in 2012-13 (Table 4.3). Special focus is given on follow-up action after the inspections so that corrective steps are taken by the intermediaries.

[^19]: [http://www.sebi.gov.in/sebiweb/home/list/4/25/0/0/Public-Notices (Assessed on 03-12-2013)]
Table 4.3

Inspection of other Market Intermediaries

(Number)

<table>
<thead>
<tr>
<th>Particulars</th>
<th>2011-12</th>
<th>2012-2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Debenture Trustee</td>
<td>3</td>
<td>10</td>
</tr>
<tr>
<td>Registrar to Issue and Share Transfer Agent</td>
<td>2</td>
<td>17</td>
</tr>
<tr>
<td>(RTI&amp;STA)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Merchant Banker</td>
<td>7</td>
<td>16</td>
</tr>
<tr>
<td>Depository Participant</td>
<td>13</td>
<td>51</td>
</tr>
<tr>
<td>Credit Rating Agency</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>Total</td>
<td>30</td>
<td>99</td>
</tr>
</tbody>
</table>

Source: SEBI Annual Report 2012-13

During the financial year 2012-13, the total number of cases in which National Stock Exchange initiated a preliminary examination and investigation was 85 in numbers. Likewise, Bombay Stock Exchange initiated a preliminary examination and investigation in 885 cases. Apart from the above, during the financial year 2012-13 National Stock Exchange also shifted 336 scrips to trade to trade segment and Bombay Stock Exchange shifted 1,151 scrips to trade to trade segment. In this segment scrip are traded and settled through mandatory delivery and no netting off positions are allowed. Further, with a view to dampen the amplitude of prices, scrips shifted to trade to trade segment attract applicable circuit filters. The National Stock Exchange has reduced circuit filter in 693 cases and in 1,652 cases by the Bombay Stock Exchange. Further, National Stock Exchange and Bombay Stock Exchange verified 94 and 100 rumors respectively (Table 4.4). MCX-SX has not initiated any such action during financial 2012-13 but shifted one scrip from rolling settlement to trade to trade segment and reduced circuit filters in 41 cases (Table 4.4).
Table 4.4
Surveillance Actions during 2012-13

<table>
<thead>
<tr>
<th>Nature of Action</th>
<th>NSE</th>
<th>BSE</th>
<th>MCX-SX</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>Scrips shifted to Trade to Trade segment</td>
<td>336</td>
<td>1,151</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>(311)</td>
<td>(1,053)</td>
<td>(Na)</td>
</tr>
<tr>
<td>No. of scrips in which price bands were imposed</td>
<td>693</td>
<td>1,652</td>
<td>41</td>
</tr>
<tr>
<td>(2 percent, 5 percent &amp; 10 percent)</td>
<td>(613)</td>
<td>(885)</td>
<td>(Na)</td>
</tr>
<tr>
<td>Preliminary Investigations taken up</td>
<td>85</td>
<td>885</td>
<td>Nil</td>
</tr>
<tr>
<td></td>
<td>(116)</td>
<td>(914)</td>
<td>(Na)</td>
</tr>
<tr>
<td>Rumours verified</td>
<td>94</td>
<td>100</td>
<td>Nil</td>
</tr>
<tr>
<td></td>
<td>(104)</td>
<td>(115)</td>
<td>(Na)</td>
</tr>
</tbody>
</table>

* Note: Figures in parentheses pertains to 2011-12

Source: SEBI Annual Report 2012-13

Since 1992-93, SEBI has undertaken 1,772 investigation cases. In 1,539 cases, investigations have been completed by the SEBI. During the year 2012-13, total number of cases taken up for the investigation by the SEBI was 155 and out of which 119 cases were completed (Chart 4.1 and Table 4.5).

Chart 4.1
Investigation of Cases

Source: SEBI Annual Report 2012-13
### Table 4.5
Investigation by SEBI

<table>
<thead>
<tr>
<th>Year</th>
<th>Cases Taken up for Investigation</th>
<th>Cases Completed</th>
</tr>
</thead>
<tbody>
<tr>
<td>1992-93</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>1993-94</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>1994-95</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>1995-96</td>
<td>60</td>
<td>18</td>
</tr>
<tr>
<td>1996-97</td>
<td>122</td>
<td>55</td>
</tr>
<tr>
<td>1997-98</td>
<td>53</td>
<td>46</td>
</tr>
<tr>
<td>1998-99</td>
<td>55</td>
<td>60</td>
</tr>
<tr>
<td>1999-00</td>
<td>56</td>
<td>57</td>
</tr>
<tr>
<td>2000-01</td>
<td>68</td>
<td>46</td>
</tr>
<tr>
<td>2001-02</td>
<td>111</td>
<td>29</td>
</tr>
<tr>
<td>2002-03</td>
<td>125</td>
<td>106</td>
</tr>
<tr>
<td>2003-04</td>
<td>121</td>
<td>152</td>
</tr>
<tr>
<td>2004-05</td>
<td>130</td>
<td>179</td>
</tr>
<tr>
<td>2005-06</td>
<td>159</td>
<td>81</td>
</tr>
<tr>
<td>2006-07</td>
<td>120</td>
<td>102</td>
</tr>
<tr>
<td>2007-08</td>
<td>25</td>
<td>169</td>
</tr>
<tr>
<td>2008-09</td>
<td>76</td>
<td>83</td>
</tr>
<tr>
<td>2009-10</td>
<td>71</td>
<td>74</td>
</tr>
<tr>
<td>2010-11</td>
<td>104</td>
<td>82</td>
</tr>
<tr>
<td>2011-12</td>
<td>154</td>
<td>74</td>
</tr>
<tr>
<td>2012-13</td>
<td>155</td>
<td>119</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>1772</strong></td>
<td><strong>1539</strong></td>
</tr>
</tbody>
</table>

**Source:** SEBI Annual Report 2012-13

During the year 2012-13, about 55 percent of the cases completed related to manipulation issues and 34 percent of the cases completed related to market manipulation and price rigging charges. Other cases were related to insider trading, takeovers etc. In the year 2012-13, total number of cases related to the market manipulation and price rigging charges completed by the SEBI were 41 and issues related to manipulation were 52. Total 14 cases of insider trading were resolved (Chart 4.2 and Table 4.6).
Chart 4.2

Nature of Investigation taken up (2012-2013)

Source: SEBI Annual Report 2012-13

Table 4.6

<table>
<thead>
<tr>
<th>Particulars</th>
<th>Investigations Taken up</th>
<th>Investigations Completed</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2011-12</td>
<td>2012-13</td>
</tr>
<tr>
<td>Market manipulation and price rigging</td>
<td>73</td>
<td>86</td>
</tr>
<tr>
<td>&quot;Issue&quot; related manipulation</td>
<td>35</td>
<td>43</td>
</tr>
<tr>
<td>Insider trading</td>
<td>24</td>
<td>11</td>
</tr>
<tr>
<td>Takeovers</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Miscellaneous</td>
<td>20</td>
<td>12</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>154</td>
<td>155</td>
</tr>
</tbody>
</table>

Source: SEBI Annual Report 2012-13
Chart 4.3
Investigation completed (2012-2013)

Source: SEBI Annual Report 2012-13

Table 4.7
Types of Regulatory Action taken during 2012-2013

<table>
<thead>
<tr>
<th>Particulars</th>
<th>Number of Entities</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Suspension</td>
<td>31</td>
</tr>
<tr>
<td>2. Warning issued</td>
<td>9</td>
</tr>
<tr>
<td>3. Prohibitive directions issued under Section 11 of SEBI Act (other than consent orders)</td>
<td>168</td>
</tr>
<tr>
<td>4. Cancellation</td>
<td>3</td>
</tr>
<tr>
<td>5. Adjudication orders passed</td>
<td>485</td>
</tr>
<tr>
<td>6. Administrative warning / warning letter issued</td>
<td>31</td>
</tr>
<tr>
<td>7. Deficiency observations issued</td>
<td>14</td>
</tr>
<tr>
<td>8. Advice letter issued</td>
<td>23</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>764</strong></td>
</tr>
</tbody>
</table>

Source: SEBI Annual Report 2012-13
During the year 2012-13, 168 prohibitive directions were issued by the SEBI under Section-11 of SEBI Act, 1992. The total number of suspensions of entities was 31 and warning letter to 9 entities was issued by the SEBI. Total 485 adjudication orders and cancellation of 3 entities were passed in the year 2012-13. The number of administrative warning and the letter was 31 and advice letter issued were 23 by the SEBI (Table 4.7 and Chart 4.4).

Table 4.8
Status of Investor grievances received and redressed

<table>
<thead>
<tr>
<th>Financial Year</th>
<th>Grievances Received</th>
<th>Grievances Redressed</th>
<th>Pending Actionable Grievances*</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Year-wise</td>
<td>Cumulative</td>
<td>Year-wise</td>
</tr>
<tr>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>2009-10</td>
<td>32,335</td>
<td>27,06,895</td>
<td>42,742</td>
</tr>
<tr>
<td>2010-11</td>
<td>56,670</td>
<td>27,63,565</td>
<td>66,552</td>
</tr>
<tr>
<td>2011-12</td>
<td>46,548</td>
<td>28,10,113</td>
<td>53,841</td>
</tr>
<tr>
<td>2012-13</td>
<td>42,411</td>
<td>28,52,524</td>
<td>54,852</td>
</tr>
</tbody>
</table>

* excludes complaints against whom regulatory actions are initiated. Further, the above data does not include complaints received by SEBI in the matter of Sahara OFCDs.

Source: SEBI Annual Report 2012-13
SEBI has received 42,411 complaints and 54,852 grievances cumulatively as compared to 46,548 grievances received and 53,841 grievances resolved in the year 2011-12 (Table 4.8). As on March 31, 2013, there were 11,410 complaints pending for resolution as compared to 23,725 pending grievances cumulative as on March 31, 2012. The net reduction in pending complaints has been 12,315 in 2012-13 as compared to 4,928 in 2011-12.

In the year 2012-13, penalty was imposed on ten industries for their failure to redress the investor grievance. The maximum penalty of 10 lakhs was imposed on Earnest Healthcare Ltd. and minimum of seventy-fifty thousand was imposed on Raj Irrigation pipes & fittings Ltd. (Table 4.9)

Table 4.9
Companies penalized for their failure to redress the investor grievance

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Name of the Company</th>
<th>Penalty Amount (₹)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Kanel Oil &amp; Export Industries Ltd.</td>
<td>2,00,000</td>
</tr>
<tr>
<td>2</td>
<td>Roselabs Industries Ltd.</td>
<td>12,00,000</td>
</tr>
<tr>
<td>3</td>
<td>Satguru Agro Industries Ltd.</td>
<td>200000</td>
</tr>
<tr>
<td>4</td>
<td>Simco industries Ltd.</td>
<td>150000</td>
</tr>
<tr>
<td>5</td>
<td>Jord Engineers India Ltd.</td>
<td>200000</td>
</tr>
<tr>
<td>6</td>
<td>Raj Irrigation pipes &amp; fittings Ltd.</td>
<td>75000</td>
</tr>
<tr>
<td>7</td>
<td>Earnest Healthcare Ltd.</td>
<td>10,00,000</td>
</tr>
<tr>
<td>8</td>
<td>Gujarat Aqua Industries Ltd.</td>
<td>10000</td>
</tr>
<tr>
<td>9</td>
<td>Gujarat Filaments Ltd.</td>
<td>500000</td>
</tr>
<tr>
<td>10</td>
<td>Lohia Polyester Ltd.</td>
<td>500000</td>
</tr>
</tbody>
</table>

Source: SEBI Annual Report 2012-13
### Table 4.10

**Age-wise Analysis of enforcement Actions-under Section-11, 11b, 11d SEBI Act, 1992 as on March 31, 2013**

<table>
<thead>
<tr>
<th>Year</th>
<th>No. of Actions Initiated</th>
<th>Number of Actions Disposed</th>
<th>Aggregate Disposal Pending Cases</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1995-96</td>
<td></td>
<td>1999-00</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>2001-02</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>2003-04</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>2005-06</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>2007-08</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>2009-10</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>2011-12</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Total</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Year</th>
<th>2000-01</th>
<th>2002-03</th>
<th>2004-05</th>
<th>2006-07</th>
<th>2008-09</th>
</tr>
</thead>
<tbody>
<tr>
<td>1995-96</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>1996-97</td>
<td>3</td>
<td>3</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>1997-98</td>
<td>85</td>
<td>6</td>
<td>15</td>
<td>9</td>
<td>34</td>
</tr>
<tr>
<td>1998-99</td>
<td>51</td>
<td>9</td>
<td>26</td>
<td>7</td>
<td>14</td>
</tr>
<tr>
<td>1999-00</td>
<td>83</td>
<td>13</td>
<td>12</td>
<td>10</td>
<td>20</td>
</tr>
<tr>
<td>2000-01</td>
<td>461</td>
<td>269</td>
<td>18</td>
<td>45</td>
<td>49</td>
</tr>
<tr>
<td>2001-02</td>
<td>441</td>
<td>390</td>
<td>32</td>
<td>12</td>
<td>1</td>
</tr>
<tr>
<td>2002-03</td>
<td>321</td>
<td>38</td>
<td>74</td>
<td>20</td>
<td>8</td>
</tr>
<tr>
<td>2003-04</td>
<td>713</td>
<td>30</td>
<td>135</td>
<td>45</td>
<td>94</td>
</tr>
<tr>
<td>2004-05</td>
<td>322</td>
<td>2</td>
<td>38</td>
<td>39</td>
<td>168</td>
</tr>
<tr>
<td>2005-06</td>
<td>196</td>
<td>1</td>
<td>12</td>
<td>31</td>
<td>45</td>
</tr>
<tr>
<td>2006-07</td>
<td>402</td>
<td>34</td>
<td>67</td>
<td>65</td>
<td>119</td>
</tr>
<tr>
<td>2007-08</td>
<td>374</td>
<td>38</td>
<td>75</td>
<td>61</td>
<td>61</td>
</tr>
<tr>
<td>2008-09</td>
<td>75</td>
<td>8</td>
<td>44</td>
<td>33</td>
<td>0</td>
</tr>
<tr>
<td>2009-10</td>
<td>376</td>
<td>30</td>
<td>69</td>
<td>114</td>
<td>45</td>
</tr>
<tr>
<td>2010-11</td>
<td>346</td>
<td>30</td>
<td>87</td>
<td>37</td>
<td>154</td>
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<tr>
<td>2011-12</td>
<td>348</td>
<td>10</td>
<td>35</td>
<td>45</td>
<td>303</td>
</tr>
<tr>
<td>2012-13</td>
<td>314</td>
<td>10</td>
<td>10</td>
<td>174</td>
<td>3328</td>
</tr>
</tbody>
</table>

**Source:** SEBI Annual Report 2012-13

Under Section-11,11B of SEBI Act, 1992, SEBI may issue directions or prohibitive orders such as debarment from accessing the securities market or not to deal in securities. In the year 2012-13, 142 cases under Section-11,11B were disposed by SEBI. In the same financial year, 184 fresh cases under the provision of law were initiated by SEBI. The cumulative pending cases as on March 31, 2013 were 1,016.
Table 4.11
Age-wise Analysis of enforcement Actions-Enquiry Proceeding on March 31, 2013

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
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<th></th>
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<th></th>
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<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1995-96</td>
<td>8</td>
<td>5</td>
<td>7</td>
<td>2</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
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<td>0</td>
<td>0</td>
<td>2399</td>
</tr>
<tr>
<td>1996-97</td>
<td>20</td>
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<td>2</td>
<td>7</td>
<td>0</td>
<td>0</td>
<td>0</td>
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<td>0</td>
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<td>0</td>
<td>0</td>
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<td>0</td>
<td>278</td>
</tr>
<tr>
<td>1997-98</td>
<td>66</td>
<td>3</td>
<td>46</td>
<td>116</td>
<td>12</td>
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<td>0</td>
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</table>

Source: SEBI Annual Report 2012-13

In the financial year 2012-13, after the due completion of the enquiry proceedings by the SEBI 36 cases were completed. In the same financial year, 27 fresh cases were taken up where enquiry proceedings are being followed. The cumulative pending cases as on March 31, 2013 stands at 174. (Table 4.11)
Table 4.12
Prosecutions Launched

<table>
<thead>
<tr>
<th>Year</th>
<th>No. of cases in which prosecution has been launched</th>
<th>No. of persons/entities against whom prosecution has been launched</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Up to and including 1995-96</td>
<td>9</td>
<td>67</td>
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<td>1996 - 1997</td>
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<td>1997 - 1998</td>
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<td>2004 - 2005</td>
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<td>2007 - 2008</td>
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<td>2011 - 2012</td>
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<td>60</td>
</tr>
<tr>
<td>2012 - 2013</td>
<td>75</td>
<td>150</td>
</tr>
<tr>
<td>Total</td>
<td>1,250</td>
<td>5,702</td>
</tr>
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</table>

Source: SEBI Annual Report 2012-13

During the period of 2012-13, total number of 75 prosecution cases was launched against 150 persons and entities as compared to 29 prosecutions launched against 60 persons and entities in the year 2011-12. (Table 4.12)
### Table 4.13
Region wise data on Prosecution Cases as on March 31, 2013

<table>
<thead>
<tr>
<th>Region</th>
<th>Number of Cases</th>
<th>Exemption Percentage of Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2</td>
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</tr>
<tr>
<td>Head Office / Western Region</td>
<td>709</td>
<td>56.7</td>
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<tr>
<td>Northern Region</td>
<td>346</td>
<td>27.7</td>
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<td>Southern Region</td>
<td>96</td>
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<td>Eastern Region</td>
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<td>7.9</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>1,250</strong></td>
<td><strong>100.0</strong></td>
</tr>
</tbody>
</table>

**Source:** SEBI Annual Report 2012-13

As per the data collected from the SEBI annual report of year 2012-13, the highest number of prosecutions was launched in Head office and Western Region (709) and by Northern Region (346). Eastern region has the lowest in number (99). (Table 4.13)

### 8. Arbitration and Investor Grievance Redressal Mechanism

1. SEBI has decided to give monetary relief to investors to streamline the investor grievance redressal mechanism at different stock exchanges and to make it more effective from the angle of investor protection. During the time of redressal proceedings, claims up to Rs.10 lakh will be provided from the Investor Protection Fund of the Stock Exchange to the aggrieved person. Few major features are as under:

   a) It has been decided to empower the Investor Grievance Redressal Committee (IGRC) in the stock exchange to look into the admissibility of claims in addition to conciliation
process. IGRC on conclusion of the proceedings may ascertain the claim amount admissible to the investor, which the stock exchange shall block from the deposit of the concerned member. If the complaint is not resolved through conciliation process, Stock Exchange shall give a time of 7 days to the Member from the date of signing of IGRC directions, to inform the Stock Exchange whether the Member intends to pursue the next level of resolution i.e. arbitration or not. If member not opted for arbitration, payment will be released after 7 days.

b) If Member opts for arbitration proceedings and the claim value admissible to the investor is not more than Rs. 10 lakh, the monetary relief from the Investor Protection Fund (IPF) would be given to the investor as mentioned below:

i. 50% of the admissible claim value or Rs. 0.75 lakh, whichever is less, shall be released to the investor from IPF of the Stock Exchange.

ii. In case the arbitration award is in favour of the investor and the Member opts for appellate arbitration then a positive difference of 50% of the amount mentioned in the arbitration award or Rs. 1.5 lac, whichever is less and the amount already released to the investor at clause (i) above, shall be released to the investor from IPF of the Stock Exchange.

iii. In case the appellate arbitration award is in favour of the investor and the Member opts for making an application under Section-34 of the Arbitration and Conciliation Act, 1996 to set aside the appellate arbitration award, then a positive difference of 75% of the amount determined in the appellate
arbitration award or Rs. 2 lakhs, whichever is less and the amount already released to the investor at clause (i) and (ii) above, shall be released to the investor from the Investor Protection Fund of the Stock Exchange.

2. In order to address the complaints regarding 'unauthorised trades', the Stock Exchanges have been advised to ensure that the contract note issued by the member for transactions owing to non-compliance of margin calls would bear a remark specifying the same and the Member would maintain a verifiable record of having made such margin calls.

3. Stock Exchanges have been asked to set up facilitation desks at all investor service centres which would inter-alia also assist investors in obtaining documents/details from Stock Exchanges wherever so required for making application to IGRC and filing arbitration.

4. To reduce the burden of such investors, the amount payable by the investor for appellate arbitration has been reduced from Rs.30,000/- to Rs.10,000/-.

8.1 Complaint against stock brokers and depository participants

Capital market investors can file their problems with the stock exchanges or depositories, if they are not satisfy with the solution of their problems from depository participants, stock brokers or listed companies. Investor can file complaint related to the intermediary or listed companies in any office of the NSE or BSE at different locations. Investor Grievance Redressal Committees (IGRCs) or Regional Investor Complaints Resolution Committees (RICRC) by the stock exchanges act as a mediator between the disputed parties to resolve their

problems. There is a specific form available for the aggrieved party to narrate their grievance to the committees. In case, parties failed to agree on the committee decision the mechanism of arbitration can be adopted by the aggrieved party. It must be under the rules, bye-laws and regulations of the respective stock exchange or depository.

8.2 Procedure of lodge complaint in SCORES

For the investor's grievances in the capital market, an online complaint filling mechanism has been started by the SEBI. The complainant can register his complaint by filing complaint registration form which contains investor's personal details and problem. In the process of complaint filing few necessary information related to the investor is mandatory like name, address for correspondence, State, email address of investor. After submitting investor's details, submit the complaint category, entity name, nature of complaint. On complete filing of complaint details, portal gives unique registration number to the complainant. An email related to the receiving of the complaint with complaint registration number will also be sent to the complainant.

8.3 Types of Complaints not handled by SEBI

There are few limitations related to the SEBI jurisdiction in case of handling of complaints by the investors. SEBI has no jurisdiction on certain types of complaints which are as under:

(a) Complaints against unlisted, delisted, wound up, liquidated or sick companies.

(b) Complaints that are sub-judice (relating to cases which are under consideration by court of law, quasi-judicial proceedings etc.)

(c) Complaints falling under the purview of other regulatory bodies viz. Reserve Bank of India, Insurance Regulatory and
Development Authority, The Pension Fund Regulatory and Development Authority, Competition Commission of India, Forward Markets Commission, etc.,

(d) Complaints under the purview of other ministries viz., Ministry of Corporate Affairs, etc.

8.4 Types of complaints handled by SEBI

The complaints arising out of activities that are covered under SEBI Act, 1992, Securities Contract Regulation Act, 1956, Depositories Act, 1996 and Rules and Regulations made there under and provisions that are covered under Section 55A of the Companies Act, 1956 are handled by SEBI. Complaint against all intermediaries and the listed company is handled by the SEBI. With the help of separate department, SEBI keeps a close watch on the market irregularities. In case of violation in trading process, SEBI as a regulating body take necessary actions.

8.5 SEBI limitations in dealing with complaints

SEBI as a regulatory body cannot adjudicate any complaint as a judge or arbitrator. If a complaint is resolved by the SEBI and the defaulting body denies the solution then aggrieved party has to exercise securities and other laws protection. Investor has to seek resolution on their own with the help of courts or arbitration. In any case, SEBI do not personally represent any complainant.

The most important purpose was to explain the mechanism of the frauds in the Indian capital market and the role of the regulator in controlling the problem of market manipulation and protection of shareholder. Indian judiciary is continuously working on the capital market frauds and the protection of shareholders. During the year 2012-13, many committees were formed by the SEBI to enhance the functioning of intermediaries and transparency in share dealings.
SEBI also adopts different easy mechanism to resolve the investor grievances like SCORE, arbitration etc. To make Indian capital market transparent and investor friendly, SEBI as a market regulator is taking all reasonable care and precautions.