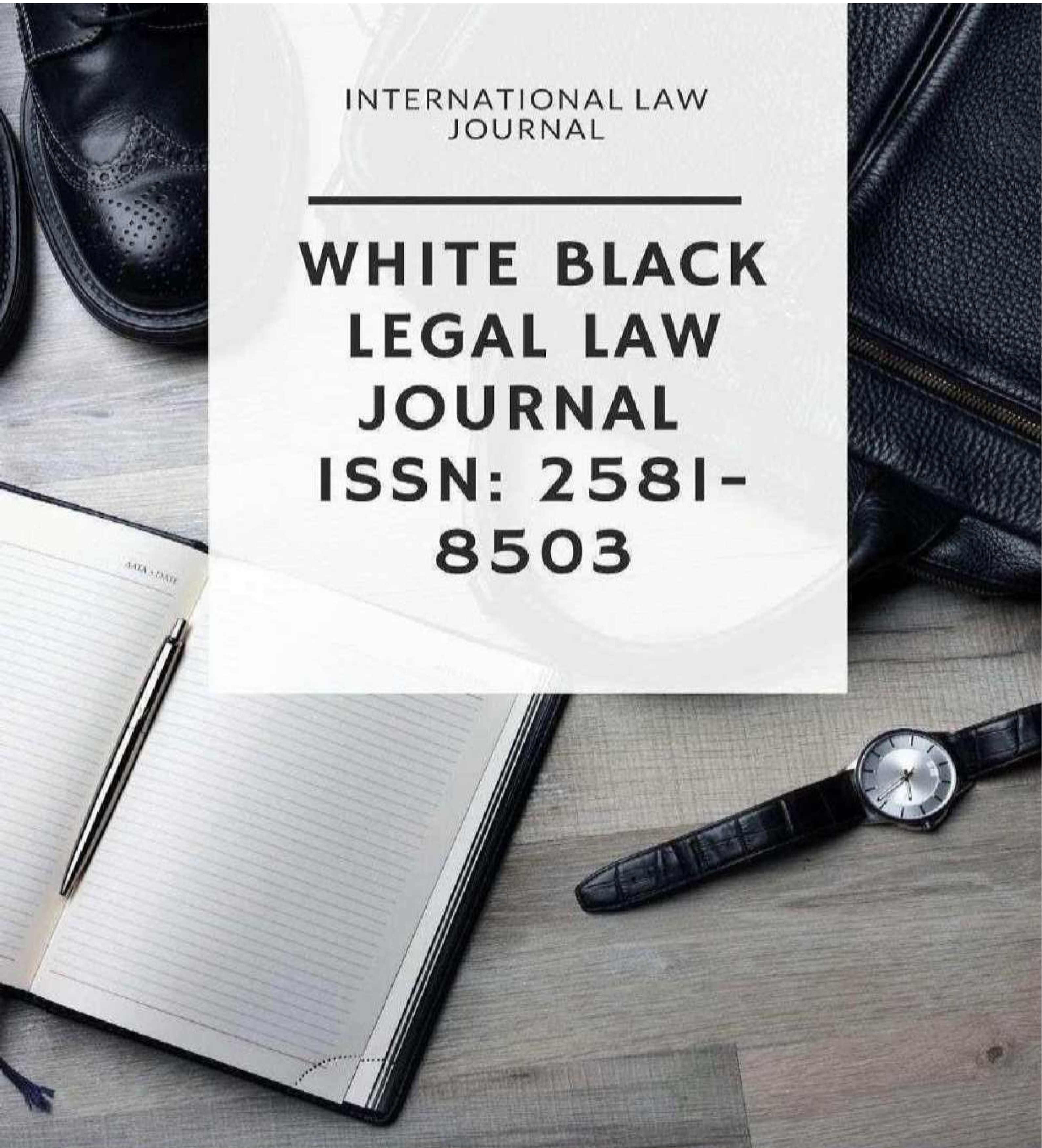

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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

<u>INSIDER TRADING: A COMPREHENSIVE REVIEW, REGULATORY FRAMEWORK, AND CRITICAL ANALYSIS</u>

AUTHORED BY - SRISHTI SINHA

<u>ABSTRACT</u>

The financial market is a gamble of trust between multiple parties and the market is so dependent on the capacity of the corporations and the people involved that even a whisper of the flaw in the corporation can cause a ripple effect to bring the economy to its knees. In such a volatile situation the concept of insider trading is very essential to understand and curb. The purpose of this manuscript is to determine the meaning, causes, impact, and conundrum surrounding insider trading. Thereafter, regulations concerning insider trading are dealt with. The manuscript will also delve into the matter of how the information that causes the breach in the fiduciary duty affects the people that are at a loss of such information in the current paradigm. The study will take into account the sea of data available on the subject matter i.e., the manuscript will rely mostly upon the secondary data. The manuscript will also deal with the judicial interpretations along with the legislative developments on the concerned subject matter. Furthermore, the research paper highlights the comparison of the subject matter between India and other States, precisely, the United States of America and the United Kingdom. Thenceforth, the study critiques the subject and provides suggestions to curb illegal insider trading in India.

The aim of the manuscript is to enable the reader to understand the concept of insider trading and the multiple aspects surrounding it while giving the reader the practical implications of it. Thus, the present research paper gives the reader the practical implications of it to better facilitate the process of making connections between the financial aspect of insider trading and the social and political aspects of it.

Keywords: *Insider Trading, comparative analysis, regulations, and implications.*

INTRODUCTION

Ensuring transparency, openness, and disclosure is important for a business organization's efficient operation and governance. Maintaining good relations between managers and stakeholders and accepting investor confidence are crucial for achieving these qualities. Good corporate governance draws investors, who become more dependent on the businesses as a result. The Board of Directors' decisions about the direction of the business are heavily influenced by the directors of the companies that make up the Board. The stock market's response to investors may be impacted by the board's choices. As a result, the board's meetings and decisions constitute confidential material. Only when it is necessary for the business to disclose confidential information. Therefore, until the information is made public, it is crucial to keep its confidentiality.

Over the years, it has been noted that employees of the organization frequently participate in unfair trade and manage to obtain confidential information in order to gain an unfair advantage over others. This is an unethical and immoral behavior with potential negative outcomes. Therefore, it is crucial to stop these behaviors everywhere. Governments from around the world are taking action to outlaw these practices through laws.

With the advent of the idea of trading securities on a global scale, the issue of insider trading emerged. In India, SEBI controls how the stock market operates. It was established in 1992 under the SEBI Act, 1992, as it was essential to enact legislation and establish an agency that can successfully regulate the securities market for the protection of investors. In order to ensure that assets are traded and transferred fairly in the market, restrictions on insider trading were created. However, it remains challenging to declare that nations have completely eradicated the insider trading issue.

INSIDER TRADING: AN OVERVIEW

Insider trading is unethical behavior committed by people who are closely connected to a business, corporation, or other legal entity. These people take advantage of their position to obtain confidential, price-sensitive knowledge about the value of shares.[1] In simple terms, the phrase "Insider Trading" refers to dealing using inside knowledge, or knowledge that has not yet been

[1] A.K Pathak and Banu Pratap Singh, "Insider Trading in India; An analysis with special reference to V.K. Kaul Case", Company Law Journal, Vol.4, 2013, p. 40-48.

made public. Insider trading is, however, split into two categories: legal and illegal.[2] Corporate insiders, who can be categorized as officers, directors, and employees who purchase and sell stocks in their own companies, are the primary participants in legal insider trading. However, we are more worried about the unethical aspect of insider trading, such as when confidential information is revealed or leaked out without regard for the requirements of the investor.

Insider trading is illegal because it undermines the integrity of the financial markets and gives some investors an unfair advantage over others. It can also harm public confidence in the financial system and can result in significant financial losses for investors who are not privy to the non-public information. Examples of insider trading include a company's executive or board member selling shares of their company's stock before the company announces poor financial results, or an individual buying shares of a company's stock based on confidential information about an upcoming merger or acquisition.

Therefore, insider trading occurs when a corporate insider or another person with a fiduciary responsibility to the company uses significant non-public information to trade company shares.[3] The majority of nations with reputable stock exchanges around the world have outlawed this practice. It has generally been defined as trading in the shares of a company for the purpose of profit or loss through price manipulation by persons who are in the management of the company or are close to them, on the basis of Unpublished Price Sensitive Information **("UPSI")** regarding the working of the company which they possess but which is not available to others.[4]

The justification for the ban on insider trading is "the clear intention to prevent, to the extent possible, what amounts to cheating when those with inside knowledge use that knowledge to make a profit in their dealings with others and the obvious need and understandable concern about the damage to public confidence which insider dealing is likely to cause."[5] The SEBI Act's Insider Trading Regulations expressly forbid dealing in securities of a business that is listed or that is being considered for listing while disclosing or having access to UPSI to a person who is not permitted to trade securities while in possession of the information. Insider trading occurs when

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[2] *Insider Trading Examples and What Executives Need to Know*, WASHINGTON STATE UNIVERSITY CARSON COLLEGE OF BUSINESS (May 4, 2022), https://onlinemba.wsu.edu/blog/insider-trading-examples/.
[3] Black Law's Dictionary.
[4] Udai Khanna, "The Concept of Insider Trading: A Comprehensive Study", Company Law Journal, Vol.3,2016, p.33-46.
[5] Attorney General's Reference No.1 of 1998, In re (1990) 3 Comp LJ 9 (CA).

an insider transacts in stocks "in violation" of these rules.[6]

Judicial Implication of Insider Trading

SEBI is the primary regulator of insider trading in India. It has the power to investigate and prosecute insider trading cases, as well as impose penalties and sanctions on those found guilty of violating insider trading regulations. The judiciary in India has taken a strict approach towards insider trading. The courts have held that insider trading is a serious offense that undermines the integrity of the securities markets and harms the interests of investors. It has certainly dealt with cases which has established a mark on the judicial and jurisprudential aspect of the company and Financial Law. Some of the landmark insider trading cases in India include:

- Reliance Petroleum Limited Insider Trading Case[7]: In 2007, SEBI imposed a penalty of INR 11 crore on Reliance Petroleum for insider trading. The case involved allegations that Reliance Petroleum insiders traded on the basis of non-public information ahead of a merger with Reliance Industries.
- Satyam Computer Services Insider Trading Case[8]: In 2013, SEBI barred four individuals from trading in the securities market for insider trading in Satyam Computer Services. The case involved allegations that the individuals traded on the basis of non-public information ahead of the announcement of a merger.
- Rajat Gupta Insider Trading Case[9]: In 2012, Rajat Gupta, a former board member of Goldman Sachs, was convicted of insider trading in the USA. The case involved allegations that Gupta leaked non-public information to Raj Rajaratnam, a hedge fund manager.
- HDFC Bank Insider Trading Case[10]: In 2021, SEBI imposed a penalty of INR 1 crore on HDFC Bank for insider trading. The case involved allegations that a senior official of the bank traded on the basis of non-public information.

[6] Garima Srivastava, “Insider Trading Laws In India: Persisting Problems and Comparison with USA”, Company Law Journal, Vol no. 3, 2013, p.1-13.
[7] Securities and Exchange Board of India , https://www.sebi.gov.in/legal/circulars/jun-2007/order-in-the-matter-of-reliance-petroleum-limited_1182.html
[8]Securities and Exchange Board of India https://www.sebi.gov.in/legal/circulars/sep-2013/sebi-bars-four-individuals-from-securities-market-for-insider-trading-in-satyam-computer-services-limited_24954.html.
[9] US Security and exchange Commission, https://www.sec.gov/news/press-release/2012-2012-152htm.
[10] Securities and Exchange Board of India https://www.sebi.gov.in/legal/orders/jun-2021/order-in-the-matter-of-insider-trading-allegations-in-relation-to-hdfc-bank-limited-and-mr-kaizad-h-eichstaedt_50138.html.

- Sun Pharma Insider Trading Case[11]: In 2017, SEBI imposed a penalty of INR 2.5 crore on Sun Pharma for insider trading. The case involved allegations that some of Sun Pharma's promoters traded on the basis of non-public information.
- Ambani Brothers Insider Trading Case[12]: In 2008, SEBI imposed a penalty of INR 25 crore on Mukesh Ambani and Anil Ambani for insider trading. The case involved allegations that the brothers traded on the basis of non-public information ahead of a demerger of the Reliance group.
- NDTV Insider Trading Case[13]: In 2020, SEBI imposed a penalty of INR 27 crore on NDTV for insider trading. The case involved allegations that the promoters of NDTV traded on the basis of non-public information.
- Reliance Industries Insider Trading Case[14]: In 2019, SEBI imposed a penalty of INR 25 crore on Reliance Industries for insider trading. The case involved allegations that Reliance Industries traded on the basis of non-public information ahead of a share buyback.

IMPACT OF INSIDER TRADING

Insider trading refers to the buying or selling of securities by individuals who have access to non-public information about the company. This practice is illegal and can have a significant impact on the stock market and investors.

The impact of insider trading can be seen in various ways, including the distortion of the market, the loss of confidence by investors, and the potential for financial harm to innocent parties. In addition, insider trading can lead to a lack of transparency in the stock market and undermine the integrity of the financial system.

Research has shown that insider trading can lead to significant market inefficiencies and distortions. A study found that insider trading led to a reduction in the efficiency of stock prices, as insider information was not being fully incorporated into the market.[15] Moreover, insider

[11]Securities and Exchange Board of India : https://www.sebi.gov.in/legal/orders/jan-2017/adjudication-order-in-the-matter-of-insider-trading-in-the-shares-of-sun-pharmaceutical-industries-limited_34094.html.

[12] Securities and Exchange Board of India https://www.sebi.gov.in/legal/orders/jun-2008/rel-ind-limited-anil-d-h-ambani-mukesh-d-h-ambani-reliance-energy-limited-reliance-capital-limited_814.html.

[13]Securities and Exchange Board of India, https://www.sebi.gov.in/legal/orders/feb-2020/order-in-the-matter-of-ndtv-limited_45861.html.

[14] Securities and Exchange Board of India https://www.sebi.gov.in/enforcement/orders/sep-2021/adjudication-order-in-the-matter-of-reliance-industries-limited_52747.html.

[15] Huddart, S. and Hughes, J. (1995). Insider trading and the efficiency of stock prices.

trading led to increased volatility in the market, as insiders took advantage of their knowledge to make trades.[16]

In addition to market inefficiencies, insider trading can also lead to a loss of confidence by investors as investors were less likely to trust the stock market when they believed that insiders were unfairly profiting from their knowledge.[17]

Overall, the impact of insider trading is significant and can have far-reaching consequences. It is important for regulators to take strong action to prevent and prosecute insider trading in order to protect the integrity of the financial system and promote fair and efficient markets.

REGULATIONS CONCERNING INSIDER TRADING

Insider trading refers to the practice of buying or selling securities by individuals who possess non-public information that could significantly affect the value of those securities. In India, insider trading is regulated by the Securities and Exchange Board of India (SEBI), which is the country's primary regulatory body for the securities market.

The main regulations governing insider trading in India are the SEBI (Prohibition of Insider Trading) Regulations, 2015[18]. These regulations provide a framework for preventing insider trading and promoting fair practices in the securities market.

Under the SEBI (Prohibition of Insider Trading) Regulations, 2015, the following activities are prohibited:

1. Trading in securities by insiders based on unpublished price-sensitive information (UPSI).
2. Communicating UPSI to any person, including other insiders, except in the course of business and in compliance with the regulations.
3. Tipping others about UPSI.
4. Procuring or causing another person to trade in securities based on UPSI.

[16] Meulbroek, L. (1992). An empirical analysis of illegal insider trading. Journal of Finance, 47(5), pp.1661-1699.
[17] Golec, J. and Vernon, J. (1990). Insider trading, ownership structure, and the market assessment of corporate sell-offs. Journal of Financial Economics, 28(2), pp.293-322.
[18] Securities and Exchange Board of India ,https://www.sebi.gov.in/legal/regulations/apr-2019/sebi-prohibition-of-insider-trading-regulations-2015-last-amended-on-april-1-2019-_43248.html.

5. Advising, counseling or procuring any person to deal in securities while in possession of UPSI.
6. Dealing in securities while in possession of UPSI, either as a principal or as an agent.
7. Encouraging, aiding, abetting or counseling another person to deal in securities while in possession of UPSI.

The SEBI (Prohibition of Insider Trading) Regulations, 2015 also require companies to disclose any UPSI to the stock exchanges immediately after it becomes known to them. The regulations also require companies to maintain a list of insiders who have access to UPSI and to prohibit them from trading in securities during the period when the UPSI is not yet public.

Violation of the SEBI (Prohibition of Insider Trading) Regulations, 2015 can result in significant penalties, including fines and imprisonment. The regulations also provide for the disgorgement of profits made from insider trading.

Apart from that, there are some additional Indian regulations on insider trading:

1. Companies Act, 2013[19]: Section 195 prohibits insider trading and provides for penalties for insider trading.
2. Securities Contracts (Regulation) Act, 1956[20]: Section 12A prohibits insider trading and provides for penalties for insider trading.
3. SEBI (Prohibition of Insider Trading) Regulations, 1992[21]: The precursor to the SEBI (Prohibition of Insider Trading) Regulations, 2015. This regulation also prohibited insider trading and provided guidelines on disclosure of insider trading.
4. SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003[22]: This regulation prohibits fraudulent and unfair trade practices, which includes insider trading.
5. SEBI (Prohibition of Insider Trading) (Amendment) Regulations, 2018[23]: This amendment to the SEBI (Prohibition of Insider Trading) Regulations, 2015 introduced certain changes to the regulations, such as defining "generally available information" and "trading window," and introducing a "code of conduct" for prevention of insider trading.

[19]Companies Act, 2013, No. 18, Acts of Parliament, 2013 (India).
[20]Securities Contracts (Regulation) Act, No. 42, Acts of Parliament, 1956 (India).
[21]SEBI (Prohibition of Insider Trading) Regulations, 1992, Acts of Parliament, 1992 (India).
[22]SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003, Acts of Parliament, 2003 (India).
[23]SEBI (Prohibition of Insider Trading) (Amendment) Regulations, 2018, Acts of Parliament, 2018 (India).

6. SEBI (Prohibition of Insider Trading) (Amendment) Regulations, 2021[24]: This amendment to the SEBI (Prohibition of Insider Trading) Regulations, 2015 introduced certain changes to the regulations, such as expanding the scope of UPSI, defining "connected persons," and introducing a "trading plan" for insiders.
7. SEBI (Prohibition of Insider Trading) Regulations, 2019[25]: These regulations provide for the framework for prevention of insider trading, monitoring and reporting of trades by insiders, and enforcement of the provisions.

INSIDER TRADING: A COMPARISON BETWEEN INDIA, USA AND UK

Insider trading is a global phenomenon that is regulated differently in different countries. In India, insider trading is regulated by the Securities and Exchange Board of India (SEBI) through the SEBI (Prohibition of Insider Trading) Regulations, 2015. These regulations prohibit insider trading and provide guidelines on disclosure of insider trading. Insider trading is also prohibited under the Companies Act, 2013 and the Securities Contracts (Regulation) Act, 1956. In the United States, insider trading is regulated by the Securities and Exchange Commission (SEC) through Rule 10b-5 under the Securities Exchange Act of 1934. This rule prohibits insider trading and provides guidelines on disclosure of insider trading. Insider trading is also prohibited under the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.In the United Kingdom, insider trading is regulated by the Financial Conduct Authority (FCA) through the Criminal Justice Act 1993 and the Market Abuse Regulation. These regulations prohibit insider trading and provide guidelines on disclosure of insider trading.

1. Definition of Insider Trading:

In India, insider trading is defined as trading in securities while in possession of unpublished price-sensitive information.[26] In the United States, insider trading is defined as trading in securities while in possession of material nonpublic information[27]. In the United Kingdom, insider trading

[24]SEBI (Prohibition of Insider Trading) (Amendment) Regulations, 2021, Acts of Parliament, 2021 (India).
[25] SEBI (Prohibition of Insider Trading) Regulations, 2019, Acts of Parliament, 2019 (India).
[26]*Overview of SEBI's Prohibition of Insider Trading Regulations (PIT Regulations)*, TAXMANN (14 March, 2023), https://www.taxmann.com/post/blog/overview-of-sebis-prohibition-of-insider-trading-regulations/.
[27] *Insider Trading*, INVESTOR.GOV, https://www.investor.gov/introduction-investing/investing-basics/glossary/insider-trading#:~:text=Illegal%20insider%20trading%20refers%20generally,nonpublic%20information%20about%20the%20security.

is defined as trading in securities while in possession of inside information.[28]

2. Penalties:

In India, insider trading is punishable by imprisonment and/or a monetary penalty. The penalty can be up to three times the profit made or loss avoided by the insider.[29] In the United States, insider trading is punishable by imprisonment and/or a fine. The fine can be up to three times the profit made or loss avoided by the insider.[30]In the United Kingdom, insider trading is punishable by imprisonment and/or a fine. The fine can be up to seven times the profit made or loss avoided by the insider.[31]

3. Reporting Requirements:

In India, insiders are required to disclose their trading activity and holdings in the securities of the company within two working days of the transaction.[32] In the USA, insiders are required to report their trading activity and holdings to the SEC within two business days of the transaction.[33] In the UK, insiders are required to report their trading activity and holdings to the FCA within four business days of the transaction.[34]

4. Criminal Liability:

In India, insider trading is both a civil and criminal offense. In the USA and the UK, insider trading is primarily a criminal offense, with the potential for civil liability as well.[35]

5. Burden of Proof:

In India, the burden of proof is on the accused to prove that they did not possess any unpublished price-sensitive information at the time of the trade. In the USA and the UK, the burden of proof is on the prosecution to prove that the accused possessed material nonpublic information or inside information, respectively.[36]

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[28]SEC.GOV, https://www.sec.gov/Archives/edgar/data/25743/000138713113000737/ex14_02.htm.
[29] SEBI (Prohibition of Insider Trading) Regulations, 2015, Acts of Parliament, 2015 (India).
[30] *Insider Trading*, WALLIN & KLARICH, https://www.wklaw.com/insider-trading-charges.
[31]WILKIE COMPLIANCE, https://complianceconcourse.willkie.com/resources/insider-trading-enforcement-fines-penalties-and-sanctions/.
[32]Supra Note 30
[33]SEC.GOV, https://www.sec.gov/Archives/edgar/data/25743/000138713113000737/ex14_02.htm.
[34] FINANCIAL CONDUCT AUTHORITY, https://www.handbook.fca.org.uk/handbook/MAR/1/3.html.
[35]Nishith M. Desai & Krishna A. Allavaru, *Insider Trading: A Comparative Study*, NISHITH DESAI ASSOCIATES, http://www.nishithdesai.com/fileadmin/user_upload/pdfs/Associates_Insider_Trading_-_A_Comparative_Study.pdf.
[36]Nishith M. Desai & Krishna A. Allavaru, *Insider Trading: A Comparative Study*, NISHITH DESAI ASSOCIATES, http://www.nishithdesai.com/fileadmin/user_upload/pdfs/Associates_Insider_Trading_-_A_Comparative_Study.pdf.

6. Private Right of Action:

In India, there is no private right of action for insider trading violations[37]. In the USA, private parties may sue for damages resulting from insider trading violations. In the UK, private parties may bring civil actions for damages resulting from insider dealing.[38]

7. Insider Trading vs Insider Dealing:

In India, the term insider trading is used, while in the USA and the UK, the term insider dealing is used. Both terms refer to the same concept of using non-public information to gain an unfair advantage in securities trading.[39]

SOCIO-ECONOMIC ANALYSIS OF INSIDER TRADING

Insider trading has been a subject of significant socio-economic analysis over the years. One of the most comprehensive studies on insider trading was conducted by Kyle and Seyhun in the year 1996, who examined insider trading activity in the US stock market over a period of more than 20 years. They found that insider trading was prevalent across all sectors of the market and that insider trades tended to be more profitable than trades by outside investors.[40] Another study on the analysis of insider trading in the Indian stock market revealed that insiders tend to trade more frequently during periods of high market volatility. They also found that insider trading tends to be more profitable during bull markets.[41]

A more recent study by Li and Masulis in the year 2020, examined the impact of insider trading on firm innovation. They found that insider trading is associated with higher levels of innovation in the short term but may have negative long-term effects on innovation if insiders are not held accountable for their trades.[42]

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[37] *Financial crime in India*, THOMSON REUTERS, https://uk.practicallaw.thomsonreuters.com/w-009-8768?transitionType=Default&contextData=(sc.Default)&firstPage=true.

[38] Chew, Margaret. "THE ADEQUACY AND EFFICACY OF CIVIL REMEDIES FOR INSIDER TRADING: A COMPARATIVE CRITIQUE." *Singapore Journal of Legal Studies*, 1998, pp. 331–75. *JSTOR*, http://www.jstor.org/stable/24867254. Accessed 5 Apr. 2023.

[39] Nishith M. Desai & Krishna A. Allavaru, *Insider Trading: A Comparative Study*, NISHITH DESAI ASSOCIATES, http://www.nishithdesai.com/fileadmin/user_upload/pdfs/Associates_Insider_Trading_-_A_Comparative_Study.pdf.

[40] Kyle, A.S. and Seyhun, H.N. (1996). Insider Trading, Corporate Disclosure, and the Capital Markets. Journal of Finance, 51(3), pp. 1127-1161.

[41] Chakraborty, S. and Ray, S. (2017). Insider Trading and Market Volatility: Evidence from India. Journal of Emerging Market Finance, 16(2), pp.152-178.

[42] Li, L. and Masulis, R.W. (2020). Innovation and Insider Trading. Journal of Financial Economics, 135(3), pp. 725-

In terms of the socio-economic implications of insider trading, there is a general consensus that it can harm public confidence in the financial system and give some investors an unfair advantage. It can also undermine the integrity of the stock market and result in significant financial losses for investors who do not have access to the same information as insiders. Henceforth, it can be said that insider trading has significant socio-economic implications, as it undermines the integrity and fairness of the financial markets.

From the above-mentioned studies, the following key socio-economic factors can be drawn while analyzing insider trading:

1. Unequal access to information: Insider trading gives some investors an unfair advantage over others because they have access to non-public information that is not available to the general public. This creates an unequal playing field, as some investors are able to make more informed investment decisions than others.
2. Market efficiency: Insider trading can also lead to a less efficient market, as it distorts the price of securities by incorporating non-public information into the market. This can create a misallocation of resources, as investment decisions are not based on accurate and complete information.
3. Public confidence: Insider trading can erode public confidence in the financial markets, as it gives the impression that the markets are rigged and that some investors have an unfair advantage. This can discourage people from investing in the stock market, which can have negative consequences for the overall economy.
4. Legal and ethical considerations: Insider trading is illegal and unethical, and those who engage in it risk significant fines, legal sanctions, and reputational damage. It is important to enforce laws against insider trading to promote a fair and transparent financial system.

In summary, insider trading has significant socio-economic implications, as it creates an unequal playing field, distorts market efficiency, erodes public confidence, and raises legal and ethical concerns.[43] It is important to prevent insider trading and enforce laws against it to promote a fair and transparent financial system.

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[43] Salbu, Steven R., *A Legal and Economic Analysis of Insider Trading: Establishing an Appropriate Sphere of Regulation*, 8(2) Bus Prof Ethics J. 3, 3-21 (1989).

Insider Trading and Legislative development

Insider trading has been a subject of legislative development and reform in India over the years. Post independence, the Indian Government began to prioritize the problem of insider trading in light of the 1948 recommendations of the Thomas Committee, which examined US regulations. Following this, the Companies Act of 1956 was amended to include sections 307 and 308, which asked directors and employees (the key insiders) to make certain disclosures. Insider trading was first acknowledged as a "undesirable practice" in the 1970s. Under the 1956 Companies Act, there was still no sufficient enforcement mechanism. The Sachar Committee in 1979, the Patel Committee in 1986, and the Abid Hussain Committee in 1989 all made recommendations to create distinct legislation in this area. As a result, SEBI was founded in 1992.[44]

In India, insider trading is regulated by the Securities and Exchange Board of India (SEBI) and the Prevention of Insider Trading Regulations, 2015. The regulations prohibit insiders from trading in securities while in possession of unpublished price-sensitive information and require companies to maintain an insider trading code of conduct. Any violation of a SEBI Regulation constitutes an offense under the Act and is punishable by up to 10 years in prison or a fine of up to 25 crores, whichever is greater.[45] Anyone who violates the SEBI Regulations, with the exception of an offense done in violation of Section 24 of the Act, may face a penalty from the adjudicating officer.[46] Additionally, SEBI has the authority to look into instances of insider trading and related matters.

It is to be noted that the regulatory framework for insider trading in India has undergone several reforms over the years.[47] In 2013, SEBI set up a committee to review the existing framework for insider trading and make recommendations for reforms.[48] Based on the committee's recommendations, SEBI introduced the Prevention of Insider Trading Regulations, 2015, which replaced the earlier regulations and introduced several new provisions to strengthen the regulatory

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[44] Shradha Rajgiri*, ‘An Analysis of Insider Trading in India’,* 9(3) PRAMCI 136, 138-139 (2019).

[45] Satvik Verma, *Is India too soft on Insider Traders?,* ECONOMIC TIMES (Dec. 11, 2011, 6:57 AM), https://economictimes.indiatimes.com/economy/is-india-too-soft-on-insider-traders/insider-trading-is-a-criminal-offence/slideshow/11066581.cms.

[46] Companies Act, 2013, § 24, No. 18, Acts of Parliament, 2013 (India).

[47] Rajeev Gupta, *Has SEBI completely failed in regulating the capital market in India?*, TIMES OF INDIA (Mar. 12, 2023, 9:34 PM), https://timesofindia.indiatimes.com/blogs/myview/has-sebi-completely-failed-in-regulating-the-capital-market-in-india/?source=app&frmapp=yes.

[48] Gupta, R. (2018). Insider trading and its regulation in India. Journal of Securities Law, Regulation and Compliance, 1(1), pp. 31-41.

framework.[49] One of the key provisions introduced in the 2015 regulations was the requirement for companies to disclose all instances of insider trading to SEBI within two working days of the trade.[50] The regulations also require companies to maintain a database of insiders and their trading activities and to conduct periodic training programs for their employees to raise awareness about insider trading.[51]

In addition to these regulatory changes, the Securities Laws (Amendment) Act, 2014, introduced several amendments to the Securities and Exchange Board of India Act, 1992, to strengthen SEBI's powers to investigate and prosecute insider trading cases.[52]

CONCLUSION AND SUGGESTIVE MEASURES

Since 1992, there has been a significant evolution in the laws that ban insider trading. Insider trading is a worrying offense in the eyes of the authorities, who periodically modify the laws by adding new, stricter provisions. To some degree, SEBI's efforts to punish insider trading offenders have been successful.

Insider trading is a serious concern in India, and there have been several measures taken by regulators and industry participants to curb the practice. Here are some suggested measures that could help further curb insider trading in India:

1. Strengthen regulatory oversight: The Securities and Exchange Board of India (SEBI) should continue to strengthen its enforcement and investigative capabilities to detect and prosecute insider trading cases more effectively. The regulatory framework should be regularly reviewed and updated to keep pace with changing market practices and technology.
2. Increase transparency: Companies should be required to disclose more information to the public, such as earnings forecasts and management guidance, to reduce the information asymmetry that gives insiders an unfair advantage. Additionally, companies should be

[49] Singh, A.K. (2015). Prevention of Insider Trading Regulations, 2015: A critical analysis. Journal of Business Law and Ethics, 3(2), pp. 47-56.
[50] SEBI. (2015). Prevention of Insider Trading Regulations, 2015. Retrieved from https://www.sebi.gov.in/legal/regulations/apr-2019/prevention-of-insider-trading-regulations-2015-last-amended-on-april-01-2019-_41915.html.
[51] Sharma, P. and Kumari, S. (2016). Insider Trading in India: An Empirical Study. Global Business Review, 17(6), pp. 1339-1353.
[52] *Why SEBI is Failing at Regulating Insider Trading in India,* INDIA CORP LAW (Fe. 20, 2018), https://indiacorplaw.in/2018/02/sebi-failing-regulating-insider-trading-india.html.

required to disclose all instances of insider trading to SEBI promptly, as required by the Prevention of Insider Trading Regulations, 2015.

3. Increase penalties: Penalties for insider trading violations should be increased to serve as a more effective deterrent. The current penalties under the regulations should be reviewed and revised upwards, as necessary, to ensure that they are commensurate with the severity of the offense.
4. Encourage whistle-blowing: Whistle-blowing mechanisms should be established and promoted to encourage insiders to report any suspicious trading activity. Whistle-blowers should be provided with protection from retaliation and appropriate incentives to encourage them to come forward.
5. Increase investor education: Investors should be educated about the risks and implications of insider trading and the importance of investing in companies with strong governance practices. SEBI should work with industry associations, such as the Confederation of Indian Industry (CII) and the Federation of Indian Chambers of Commerce and Industry (FICCI), to develop and promote investor education programs.
6. Encourage technological solutions: SEBI should explore the use of advanced technologies, such as artificial intelligence and blockchain, to detect and prevent insider trading more effectively. This could involve working with industry participants to develop and implement appropriate technology solutions.

Overall, a multi-pronged approach that includes regulatory oversight, transparency, penalties, whistle-blowing, investor education, and technological solutions could help curb insider trading in India.