INDIAN JOURNAL OF LEGAL REVIEW [IJLR]
VOLUME 3 AND ISSUE 2 OF 2023
APIS – 3920 - 0001 *(and)* ISSN - 2583-2344

Published by
Institute of Legal Education
https://iledu.in

INSIDER TRADING IN INDIA: COMPARATIVE ANALYSIS

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Best Citation - AAYUSH GUPTA, INSIDER TRADING IN INDIA: COMPARATIVE ANALYSIS, *Indian Journal of Legal Review (IJLR)*, 3 (2) of 2023, Pg. 156-166, APIS – 3920 – 0001 & ISSN - 2583-2344.

ABSTRACT

Insider trading is a controversial practice that involves trading securities based on material, non-public information. This comparative analysis aims to explore and compare the regulations, enforcement, and implications of insider trading in different jurisdictions. The analysis delves into the legal frameworks, key regulatory bodies, and landmark cases that have shaped the approach to combating insider trading in these regions. This research paper start with analysis of insider trading in India, with a focus on SEBI and major cases related to insider trading in India. Then this research will compare the regulatory frameworks for insider trading in other jurisdictions, such as United States, European Union, and United Kingdom. Based on this comparison recommendation will be made on how to improve insider trading laws of India by identifying the challenges in enforcing such regulations in India.

Introduction

Insider trading refers to the practice of buying or selling securities based on material non-public information, which is known only to insiders of a company. Insiders are individuals who have access to confidential information about a company due to their position, such as directors, officers, employees, or shareholders who own more than a certain percentage of the company's shares. Insider trading can be either illegal or legal, depending on the circumstances. If an insider trades on the basis of information that is not available to the public, it is considered illegal and can lead to penalties and sanctions. On the other hand, if an insider trades based on public information or information that has been disclosed to the public, it is considered legal. However, even legal insider trading can be perceived as unethical if it gives the insider an unfair advantage over other investors.

Regulating insider trading is crucial for maintaining a fair and transparent market, protecting the interests of investors, maintaining market integrity and promoting economic growth. In India, the Securities and Exchange Board of India (SEBI) is responsible for enforcing insider trading regulations, which were first introduced in 1992 prior to this insider trading was not explicitly prohibited in India, and there were no specific laws or regulations governing it. Insider trading regulation were later strengthened in 2015 by Prohibition of insider trading regulation 2015. Despite the existence of regulations, insider trading continues to be a problem in India. There have been several high-profile cases of insider trading in recent years, involving prominent companies and individuals. The SEBI has been taking a more proactive approach in enforcing the regulations and imposing penalties on violators. However, there are still challenges in

detecting and prosecuting insider trading cases, particularly given the complexity of the securities market and the large number of players involved.

The objective of this research is to provide an analysis of insider trading in India, with a focus on its legal and regulatory framework, major cases, and penalties imposed. The research will also compare the regulatory frameworks for insider trading in other jurisdictions, including the United States, European Union, and United Kingdom. Finally, the research will identify challenges in enforcing insider trading regulations in India, and provide recommendations for improving them.

Legal and Regulatory Framework

Overview of the Securities and Exchange Board of India (SEBI) Act, 1992 and Prohibition of Insider Trading Regulations, 2015.

The Securities and Exchange Board of India (SEBI) Act, 1992 is the primary legislation governing securities markets in India. The Act was enacted to protect the interests of investors and to promote the development of securities markets in India. The SEBI has the power to regulate and supervise the activities of securities markets, including insider trading. The SEBI Act also provides for the establishment of securities appellate tribunals to hear appeals against the SEBI's decisions.

According to the SEBI Act, a "insider" is someone who has a relationship with a company or is assumed to have one and is in possession of information that is price-sensitive but has not been publicly disclosed. The Act forbids insiders from sharing knowledge or trading securities based on it. The SEBI has the authority to impose fines for infractions under the SEBI Act. In order to enhance the legal framework for insider trading in India, the SEBI used this authority to introduce the Prohibition of Insider Trading Regulations, 2015.

Trading in securities when in possession of newly released, price-sensitive information is defined by the regulations as insider trading. The regulation set out the obligations of insiders, which include the obligation to maintain confidentiality of unpublished price-sensitive information, to abstain from trading during certain periods, and to disclose trades to the company and the stock exchange. The regulation further prescribe penalties for violations of the regulations, which can include fines, disgorgement of profits, and even imprisonment in certain cases. The SEBI has been using these penalties to deter insider trading and to enforce the regulations more effectively.[370]

In recent years SEBI has been taken more proactive approach in enforcing insider trading regulations. SEBI is now using technology to improve surveillance and detection of insider trading violations, and has introduced measures to encourage whistle-blowers to report violations. In addition to enforcing insider trading regulations, the SEBI also plays a role in educating and informing the public about insider trading. The SEBI regularly issues circulars and guidelines to companies and market participants to promote awareness of the regulations and to ensure compliance.

Overall, the SEBI Act is a key piece of legislation in regulating securities markets in India and the Prohibition of Insider Trading Regulations, 2015 is an important part of the legal framework which has helped to strengthen the regulation of insider trading in the country. However, there are still challenges in detecting and prosecuting insider trading cases, and more needs to be done to ensure that the regulations are effectively enforced.

Insider Trading Cases In India

The penalties and sanctions imposed for insider trading violations in India vary depending on the severity and nature of the violation. The Securities and Exchange Board of India (SEBI) has the power to impose fines, disgorgement of

370 Kaur, H. (2020). Insider Trading in India: Need for a Robust Legal Framework. Indian Journal of Law and Technology, 16(2), 137-160.

profits, and even imprisonment in certain cases. In recent years, the SEBI has been imposing increasingly large penalties on violators of insider trading regulations. These are some high-profile insider trading cases in India in which SEBI has imposed large penalties-

Reliance Petro investments Ltd (RPIL) case[371]:

The Securities and Exchange Board of India (SEBI) in 2007 launched an investigation on supposed insider trading by Reliance Industries and its subsidiary, RPIL, in the shares of Reliance Petroleum. The investigation found that RPIL had traded in Reliance Petroleum shares based on insider information about the company's financial results. RPIL had also allegedly provided insider information to Reliance Industries, which had used the information to trade in the shares of Reliance Petroleum.

Therefore, the SEBI imposed a penalty of Rs. 11 crore on Reliance Industries and its chairman Mukesh Ambani in 2011 for alleged insider trading in shares of its subsidiary, RPIL. In addition to fines, the SEBI also ordered disgorgement of profits of their illegal gains. In this case, Reliance Industries was required to disgorge Rs. 513 crore

Sun Pharma case[372]:

In 2017, SEBI received a complaint alleging that certain individuals, including Sun Pharmaceutical Industries Ltd.'s Managing Director Dilip Shanghvi and six of his relatives, had engaged in insider trading of the company's shares in 2016. The complaint alleged that these individuals had traded in the company's shares based on confidential information related to the company's acquisition of Ranbaxy Laboratories Ltd.

SEBI conducted an investigation and found that the individuals had indeed engaged in insider trading. Therefore, SEBI imposed a penalty of Rs. 63.6 lakh on Sun Pharmaceutical Industries and its managing director Dilip Shanghvi for violating insider trading norms.

HDFC Bank case[373]:

In 2021, the SEBI imposed a penalty of Rs. 1 crore on HDFC Bank for violating insider trading norms. The SEBI alleged that the bank had failed to disclose certain dealings by its employees in the bank's securities.

Fortis Healthcare case[374]:

In 2018, the SEBI imposed a penalty of Rs. 2 crore on Fortis Healthcare and its promoters Malvinder Singh and Shivinder Singh for alleged insider trading. In addition to fines, the SEBI also ordered disgorgement of profits for their illegal gains. The Singh brothers were required to disgorge around Rs. 500 crore.

These cases demonstrate the seriousness with which the SEBI treats insider trading violations and its commitment to enforcing the regulations. They also highlight the need for companies and individuals to be vigilant in complying with insider trading regulations and to avoid any actions that could be perceived as insider trading. Further they reflect SEBI's commitment in promoting transparency and fairness in the securities market. However, some critics argue that the penalties are still not strong enough to deter insider trading and that more needs to be done to ensure effective enforcement of the regulations.

Impact of insider trading cases on the Indian market

Insider trading cases can have a significant impact on the Indian market, both in terms of investor confidence and market stability. When insider trading cases are revealed, they can lead to a loss of trust among investors, who may view the market as unfair or rigged in favour of insiders. This can lead to a drop in stock prices, as investors sell off their shares in

371 Securities and Exchange Board of India v. Reliance Industries Ltd., (2017) SCC Online SEBI 247.
372 Sun Pharmaceutical Industries Ltd. v. Cipla Ltd., (2015) 229 D.L.T. 510
373 Securities and Exchange Board of India, Adjudication Order No. EAD-1/SM/RK/2020-21/25114, In the matter of HDFC Bank Limited, February 12, 2021.
374 Securities and Exchange Board of India v. Fortis Healthcare Limited, (2020) SCC Online SEBI 578.

companies involved in such cases. This can have a ripple effect on the market, as other companies may also be affected by the loss of investor confidence.

In addition, insider trading cases can have a negative impact on the reputation of companies and individuals involved. Companies found guilty of insider trading may see a decline in their reputation and may struggle to attract investors in the future. Similarly, individuals found guilty of insider trading may see a tarnishing of their reputation and may face difficulties in future employment or business ventures.

Overall, insider trading cases can have a significant impact on the Indian market, and it is important for the Securities and Exchange Board of India (SEBI) to enforce insider trading regulations and to ensure that the market remains fair, transparent, and trustworthy.

Comparative Analysis: Insider Trading Regulations in Other Jurisdictions

United States

The United States has a well-developed legal and regulatory framework for insider trading, with strict laws and regulations enforced by the Securities and Exchange Commission (SEC).

The Securities Exchange Act of 1934, which forbids insider trading and sets the legal foundation for implementing insider trading restrictions, is the main piece of legislation governing insider trading in the US.

In addition to these laws, the US also has a strong culture of corporate governance and ethics, with many companies adopting strict codes of conduct and compliance programs to prevent insider trading. Penalties for insider trading violations in the US can be severe, including fines, disgorgement of profits, and imprisonment.

Securities Exchange Act of 1934

The Securities Exchange Act of 1934 is a key piece of legislation governing securities markets in the United States. The Act was enacted in response to the stock market crash of 1929 and the subsequent Great Depression, and aimed to establish a regulatory framework for securities markets and to promote transparency and fairness in the market.

Insider trading is outlawed by the Securities Exchange Act, and businesses are expected to promptly and accurately disclose material information to the public. The Securities and Exchange Commission (SEC), which has the authority to enforce securities rules and regulations, was also formed by the Act as the primary regulatory agency for US securities markets. Insider trading in the US is controlled by the SEC using the authority granted to it by the Securities Exchange Act. Fraud in relation to the purchase or sale of securities is prohibited by Rule 10b-5, a rule issued under the Act. The SEC has also developed measures to tighten the control over insider trading, requiring businesses to uphold and enforce codes of conduct for insider trading prevention.[375].

Penalties for insider trading violations under the Securities Exchange Act can be severe, including fines, disgorgement of profits, and imprisonment. The Act also provides for injunctive relief and civil lawsuits to recover damages for affected parties.

Overall, the Securities Exchange Act of 1934 is a key piece of legislation governing securities markets in the US, and has played an important role in promoting transparency and fairness in the market, including in relation to insider trading.

Role of the Securities and Exchange Commission (SEC)

The Securities and Exchange Commission (SEC) is the primary regulatory body for securities markets in the United States. The SEC has broad powers to regulate and enforce securities laws and regulations, including those related to insider trading.

[375] Dodd-Frank Wall Street Reform and Consumer Protection Act: Pub. L. No. 111-203, 124 Stat. 1376 (2010)

The SEC's role in relation to insider trading includes:

Enforcement: The SEC has the power to investigate and prosecute insider trading violations. The SEC can impose fines, disgorgement of profits, and imprisonment, and can also seek injunctive relief and civil lawsuits to recover damages for affected parties[376].

Rulemaking: The SEC can issue rules and regulations related to insider trading to supplement the Securities Exchange Act and other securities laws. For example, the SEC has issued Rule 10b-5, which prohibits fraud in connection with the purchase or sale of securities.

Education and outreach: The SEC also plays a role in educating and informing the public about insider trading and other securities laws and regulations. The SEC regularly issues guidance and provides resources to help companies and market participants understand their obligations and to promote compliance.

Overall, the SEC plays a critical role in regulating insider trading in the US and in promoting transparency and fairness in the securities market. The SEC's enforcement efforts, rulemaking, and education and outreach activities are aimed at ensuring that the market remains fair, transparent, and trustworthy.

Major cases and enforcement actions

The SEC has been active in enforcing insider trading regulations in the United States, and has brought several high-profile cases and enforcement actions against violators. Some of the major cases and enforcement actions are:

Martha Stewart[377]: A well-known entrepreneur and TV personality named Martha Stewart was found guilty of insider trading in 2004 for selling shares of ImClone Systems after learning of a critical FDA review. Stewart received a five-month prison term and a $30,000 fine.

Raj Rajaratnam[378]: In 2011, Raj Rajaratnam, a hedge fund manager, was convicted of insider trading and sentenced to 11 years in prison and fined $10 million. Rajaratnam was found to have traded on insider information obtained from corporate insiders, including executives at Goldman Sachs.

SAC Capital Advisors[379]: In 2013, SAC Capital Advisors, a hedge fund founded by Steven Cohen, agreed to pay $1.8 billion to settle charges of insider trading. The SEC alleged that SAC Capital Advisors had engaged in insider trading on multiple occasions, and that Cohen had failed to supervise his employees adequately.

Mark Cuban[380]: In 2013, Mark Cuban, a billionaire entrepreneur and owner of the Dallas Mavericks basketball team, was cleared of charges of insider trading by a federal jury. The SEC had alleged that Cuban had traded on insider information related to a company in which he held a significant stake.

These cases demonstrate the SEC's commitment to enforcing insider trading regulations in the US, and the severe penalties that can be imposed for violations. Therefore we can say that US has a well-established legal and regulatory framework for insider trading, and the strict enforcement of regulations which has helped to promote transparency and fairness in the securities market.

European Union

A legal and regulatory framework for insider trading has been established by the European Union (EU) with the goal of fostering fairness and openness in the securities markets of all EU member states.The Market Abuse Regulation (MAR), which establishes guidelines and procedures for the prohibition of insider trading

[376] Sarbanes-Oxley Act: Pub. L. No. 107-204, 116 Stat. 745 (2002)
[377] United States v. Stewart, 433 F.3d 273 (2d Cir. 2006).
[378] United States v. Rajaratnam, 627 F.3d 123 (2d Cir. 2010).
[379] Securities and Exchange Commission v. CR Intrinsic Investors, LLC, 939 F. Supp. 2d 431 (S.D.N.Y. 2013).
[380] SEC v. Cuban, 620 F.3d 551 (5th Cir. 2010)

and the disclosure of inside knowledge, is the main piece of legislation controlling insider trading in the EU. All financial products traded on EU-regulated markets, such as shares, bonds, and derivatives, are subject to the MAR. The MAR forbids insider trading and mandates that businesses promptly and accurately disclose inside information to the public. Companies must create and maintain efficient internal policies for the prevention of insider dealing in accordance with the MAR.

The European Securities and Markets Authority (ESMA) is the main regulatory body responsible for overseeing and enforcing the MAR across the EU member states. The ESMA is responsible for developing technical standards and guidelines for the application of the MAR, and for coordinating the supervision of securities markets across the EU. Penalties for insider dealing violations under the MAR can be severe, including fines, disgorgement of profits, and imprisonment. The MAR also provides for administrative sanctions, such as the suspension or withdrawal of authorizations or licenses.

Market Abuse Regulation (MAR)

The Market Abuse Regulation (MAR) is a key piece of legislation governing securities markets in the European Union (EU). The MAR was introduced in 2016 and replaced the previous Market Abuse Directive, with the aim of promoting transparency and fairness in the EU securities markets.

For the avoidance of insider trading and the disclosure of inside knowledge, the MAR lays out guidelines and obligations. All financial products traded on EU-regulated markets, such as shares, bonds, and derivatives, are subject to the law. The MAR forbids insider trading and mandates that businesses promptly and accurately disclose inside information to the public. Companies must create and maintain efficient internal policies for the prevention of insider selling as part of the regulation.

The MAR includes provisions on market manipulation, such as the manipulation of benchmark prices, and includes rules on market soundings and the disclosure of inside information by persons discharging managerial responsibilities. The European Securities and Markets Authority (ESMA) is the main regulatory body responsible for overseeing and enforcing the MAR across the EU member states.

Overall, the MAR is a key piece of legislation governing securities markets in the EU, and has played an important role in promoting transparency and fairness in the market, including in relation to insider trading.

Role of the European Securities and Markets Authority (ESMA)

The European Securities and Markets Authority (ESMA) is the main regulatory body responsible for overseeing and enforcing securities regulations across the European Union (EU).

The ESMA's role in relation to insider trading includes:

Regulation: The ESMA is responsible for developing technical standards and guidelines for the application of the Market Abuse Regulation (MAR) and other securities regulations in the EU. The ESMA also monitors the implementation of the MAR by EU member states and can take action if necessary.

Supervision: The ESMA coordinates the supervision of securities markets across the EU, including the supervision of insider trading. The ESMA works with national competent authorities (NCAs) in each EU member state to ensure that they are effectively enforcing the MAR and other securities regulations.

Enforcement: The ESMA can take enforcement action against violators of securities regulations in the EU, including those related to insider trading. The ESMA can impose fines, sanctions, and other penalties on violators, and can work with NCAs to coordinate cross-border enforcement actions.

Overall, the ESMA plays a critical role in regulating insider trading in the EU and in promoting transparency and fairness in the securities market. The ESMA's regulation, supervision, and enforcement efforts are aimed at ensuring that the market remains fair, transparent, and trustworthy across all EU member states.

Major cases and enforcement actions

The European Securities and Markets Authority (ESMA) has been active in enforcing insider trading regulations in the European Union (EU), and has brought several high-profile cases and enforcement actions against violators. Some of the major cases and enforcement actions are:

Deutsche Bank[381]: In 2018, Deutsche Bank was fined €55 million by the German financial regulator BaFin for inadequate internal controls related to insider trading. BaFin found that Deutsche Bank had failed to prevent or detect insider trading by its employees.

Airbus[382]: In 2020, Airbus agreed to pay a record fine of €3.6 billion to settle allegations of bribery and corruption, including insider trading. The European Public Prosecutor's Office found that Airbus had used insider information to win contracts in several countries.

Credit Suisse[383]: In 2021, Credit Suisse was fined CHF 30 million by the Swiss financial regulator FINMA for inadequacies in its anti-money laundering and insider trading controls. FINMA found that Credit Suisse had failed to prevent or detect insider trading by its employees in several cases.

These cases demonstrate the ESMA's commitment to enforcing insider trading regulations in the EU, and the severe penalties that can be imposed for violations.

381 Securities and Exchange Commission v. Deutsche Bank AG, No. 19-cv-06255 (S.D.N.Y. filed Nov. 20, 2019)
382 European Public Prosecutor's Office, In the matter of Airbus SE, press release, January 31, 2020.
383 Swiss Financial Market Supervisory Authority (FINMA), Press Release: FINMA concludes enforcement proceedings against Credit Suisse, September 30, 2021

Therefore we can say that EU has a robust legal and regulatory framework for insider trading, aimed at promoting transparency and fairness in the securities markets across the EU member states. The ESMA's supervision and enforcement efforts are aimed at ensuring that the MAR is effectively implemented and that the securities markets remain fair, transparent, and trustworthy.

United Kingdom

The United Kingdom (UK) has a well-developed legal and regulatory framework for insider trading, with strict laws and regulations enforced by the Financial Conduct Authority (FCA).

The primary legislation governing insider trading in the UK is the Criminal Justice Act 1993, which makes it a criminal offense to deal in securities while in possession of inside information. The FCA has also issued various rules and regulations to supplement the Criminal Justice Act, including the Market Abuse Regulation (MAR), which applies to UK-regulated markets.

In addition to these laws and regulations, the UK also has a strong culture of corporate governance and ethics, with many companies adopting strict codes of conduct and compliance programs to prevent insider trading. Penalties for insider trading violations in the UK can be severe, including fines, disgorgement of profits, and imprisonment.

Financial Services and Markets Act 2000 (FSMA)

The Financial Services and Markets Act 2000 (FSMA) is a key piece of legislation governing securities markets in the United Kingdom (UK). The FSMA was introduced to reform and consolidate the UK's financial services laws, and established the Financial Services Authority (FSA) as the primary regulatory body for securities markets in the UK.

Under the FSMA, insider dealing is prohibited, and companies are required to disclose inside

information to the public in a timely and accurate manner. The Act also established the Market Abuse Regulation (MAR) as a supplement to the Criminal Justice Act 1993, which makes it a criminal offense to deal in securities while in possession of inside information.

The Financial Conduct Authority (FCA) is the main regulatory body responsible for overseeing and enforcing securities regulations across the UK. The FCA is responsible for developing technical standards and guidelines for the application of the MAR and other securities regulations, and for coordinating the supervision of securities markets across the UK.

Penalties for insider dealing violations under the FSMA can be severe, including fines, disgorgement of profits, and imprisonment. The FSMA also provides for injunctive relief and civil lawsuits to recover damages for affected parties.

Overall, the FSMA is a key piece of legislation governing securities markets in the UK, and has played an important role in promoting transparency and fairness in the market, including in relation to insider trading.

Role of the Financial Conduct Authority (FCA)

The Financial Conduct Authority (FCA) is the main regulatory body responsible for overseeing and enforcing securities regulations across the United Kingdom (UK).

The FCA's role in relation to insider trading includes:

Regulation: The FCA is responsible for developing technical standards and guidelines for the application of the Market Abuse Regulation (MAR) and other securities regulations in the UK. The FCA also monitors the implementation of the MAR by market participants and can take action if necessary.

Supervision: The FCA coordinates the supervision of securities markets across the UK, including the supervision of insider trading. The FCA works with other regulators, such as the Bank of England and the Prudential Regulation Authority, to ensure that market participants are effectively complying with securities regulations.

Enforcement: The FCA can take enforcement action against violators of securities regulations in the UK, including those related to insider trading. The FCA can impose fines, sanctions, and other penalties on violators, and can work with other regulators to coordinate cross-border enforcement actions.

Overall, the FCA plays a critical role in regulating insider trading in the UK and in promoting transparency and fairness in the securities market. The FCA's regulation, supervision, and enforcement efforts are aimed at ensuring that the market remains fair, transparent, and trustworthy, and that market participants comply with securities regulations.

Major cases and enforcement actions

The Financial Conduct Authority (FCA) has been active in enforcing insider trading regulations in the United Kingdom (UK), and has brought several high-profile cases and enforcement actions against violators. Some of the major cases and enforcement actions are:

Raj Von Badlo[384]: In 2016, Raj Von Badlo, a former fund manager at Schroders Investment Management, was sentenced to two years in prison for insider dealing. The FCA found that Von Badlo had traded on inside information obtained from a contact at a corporate broking firm.

Martyn Dodgson[385]: In 2016, Martyn Dodgson, a former investment banker at Deutsche Bank, was sentenced to four and a half years in prison for insider dealing. The FCA found that Dodgson had traded on inside information obtained from colleagues at Deutsche Bank.

[384] R v. Raj Von Badlo, Southwark Crown Court, No. 201502586A.
[385] R v. Martyn Dodgson & Andrew Hind, Southwark Crown Court, No. 201601833A.

Christian Bittar[386]: In 2019, Christian Bittar, a former trader at Deutsche Bank, was sentenced to five years and four months in prison for insider dealing. The FCA found that Bittar had traded on inside information obtained from colleagues at Deutsche Bank, and that he had manipulated the Euro Interbank Offered Rate (Euribor) benchmark rate.

These cases demonstrate the FCA's commitment to enforcing insider trading regulations in the UK, and the severe penalties that can be imposed for violations.

Therefore we can say that UK has a well-established legal and regulatory framework for insider trading, and the strict enforcement of regulations has helped to promote transparency and fairness in the securities market.

Comparison of regulatory frameworks, enforcement, and penalties

The regulatory frameworks, enforcement mechanisms, and penalties for insider trading differ across the United States (US), European Union (EU), and United Kingdom (UK).

In the US, insider trading is governed by the Securities Exchange Act of 1934, and is enforced by the Securities and Exchange Commission (SEC). The penalties for insider trading violations in the US can be severe, including fines, disgorgement of profits, and imprisonment.

In the EU, insider trading is governed by the Market Abuse Regulation (MAR), and is enforced by the European Securities and Markets Authority (ESMA) and national competent authorities (NCAs). The penalties for insider trading violations in the EU can also be severe, including fines, disgorgement of profits, and imprisonment.

In the UK, insider trading is governed by the Criminal Justice Act 1993 and the Financial Services and Markets Act 2000, and is enforced by the Financial Conduct Authority (FCA). The penalties for insider trading violations in the UK can also be severe, including fines, disgorgement of profits, and imprisonment.

While the regulatory frameworks and enforcement mechanisms for insider trading are broadly similar across the US, EU, and UK, there are some differences in the details. For example, the EU has a central regulatory body, the ESMA, which oversees the enforcement of insider trading regulations across all EU member states, while in the US and UK, enforcement is largely carried out by national regulatory bodies.

There are also some differences in the penalties for insider trading violations across the three jurisdictions. For example, in the US, fines for insider trading can be up to three times the profits gained or losses avoided, while in the EU, fines can be up to 15% of the company's annual turnover. In the UK, the maximum penalty for insider trading is seven years imprisonment and/or an unlimited fine.

Overall, while the regulatory frameworks, enforcement mechanisms, and penalties for insider trading vary across the US, EU, and UK, all three jurisdictions take insider trading violations seriously and have robust legal and regulatory frameworks in place to prevent and punish such activities.

Recommendations for Improving Insider Trading Regulations in India

Insider trading remains a significant challenge in India, and there are several key areas where improvements could be made to strengthen the regulatory framework and improve enforcement. Some of the key challenges and recommendations for improving insider trading regulations in India include:

Introducing criminal penalties: Currently, insider trading is punishable only by civil penalties in India. Regulators could consider introducing criminal penalties for insider trading violations to provide a stronger deterrent against such activities.

[386] R v. Christian Bittar & Others, Southwark Crown Court, No. 201700788A

Introducing a whistle-blower reward program: To encourage reporting of insider trading violations, regulators could consider introducing a whistle-blower reward program, which provides financial incentives to individuals who report violations.

Improving coordination among regulators: Insider trading can be a cross-border activity, and it is important for regulators to coordinate their efforts to effectively detect and investigate violations. Regulators in India could consider improving coordination among themselves and with regulators in other jurisdictions. Conducting training sessions: Regulators could conduct training sessions for market participants, such as brokers, traders, and analysts, to provide more in-depth education on insider trading regulations and best practices for compliance.

Creating online resources: Regulators could create online resources, such as websites or forums, to provide information and guidance on insider trading regulations and to facilitate discussion and collaboration among market participants. Participating in international organizations: India could consider participating in international organizations, such as the International Organization of Securities Commissions (IOSCO), to share best practices and learn from the experiences of other jurisdictions.

Adopting international standards: India could consider adopting international standards and best practices for insider trading regulation, such as those set by IOSCO, to ensure that its regulatory regime is aligned with global best practices. These practises can help to promote greater compliance with regulations, reduce opportunities for insider trading, and enhance investor confidence in India's securities markets.

Conclusion

Insider trading is a complex and evolving issue that requires ongoing research and dialogue among regulators, market participants, and academics. As the securities markets continue to evolve and new technologies emerge, it is likely that insider trading will remain a persistent challenge that requires ongoing attention and innovation.

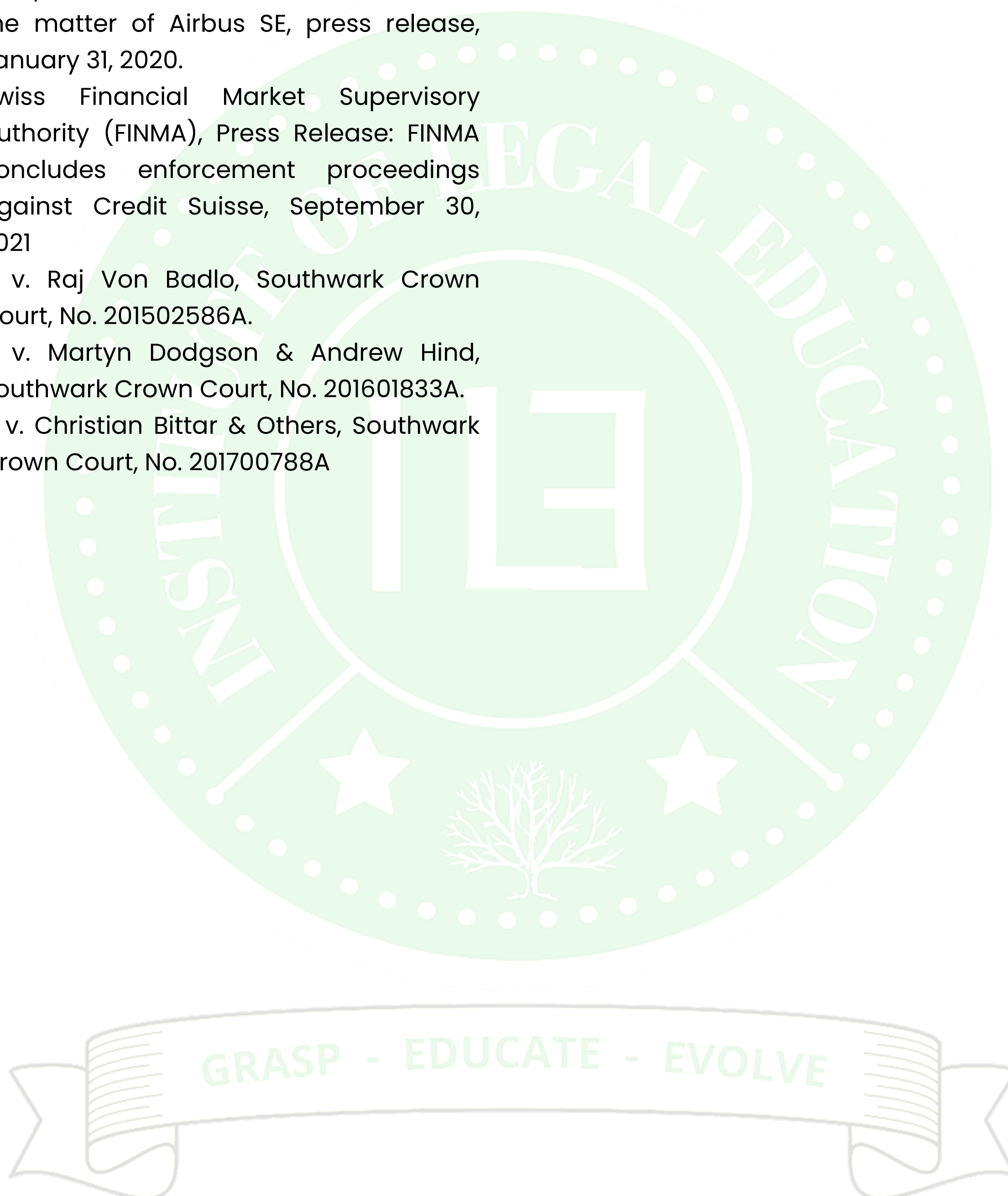
There is a need for ongoing research to identify new trends and patterns in insider trading, evaluate the effectiveness of regulatory approaches, and identify best practices for prevention and detection. Additionally, ongoing dialogue among stakeholders can help to promote greater understanding of the challenges and opportunities in addressing insider trading and to identify areas for collaboration and improvement.

By continuing to engage in research and dialogue, stakeholders can work together to promote greater transparency and fairness in securities markets, enhance investor confidence, and promote economic growth and development

Bibliography

1. Kaur, H. (2020). Insider Trading in India: Need for a Robust Legal Framework. Indian Journal of Law and Technology, 16(2), 137-160.
2. Securities and Exchange Board of India v. Reliance Industries Ltd., (2017) SCC Online SEBI 247
3. Sun Pharmaceutical Industries Ltd. v. Cipla Ltd., (2015) 229 D.L.T. 510
4. Securities and Exchange Board of India, Adjudication Order No. EAD-1/SM/RK/2020-21/25114, In the matter of HDFC Bank Limited, February 12, 2021.
5. Securities and Exchange Board of India v. Fortis Healthcare Limited, (2020) SCC Online SEBI 578.
6. Dodd-Frank Wall Street Reform and Consumer Protection Act: Pub. L. No. 111-203, 124 Stat. 1376 (2010)
7. Sarbanes-Oxley Act: Pub. L. No. 107-204, 116 Stat. 745 (2002)
8. United States v. Stewart, 433 F.3d 273 (2d Cir. 2006).
9. United States v. Rajaratnam, 627 F.3d 123 (2d Cir. 2010).

10. Securities and Exchange Commission v. CR Intrinsic Investors, LLC, 939 F. Supp. 2d 431 (S.D.N.Y. 2013).
11. SEC v. Cuban, 620 F.3d 551 (5th Cir. 2010)
12. Securities and Exchange Commission v. Deutsche Bank AG, No. 19-cv-06255 (S.D.N.Y. filed Nov. 20, 2019)
13. European Public Prosecutor's Office, In the matter of Airbus SE, press release, January 31, 2020.
14. Swiss Financial Market Supervisory Authority (FINMA), Press Release: FINMA concludes enforcement proceedings against Credit Suisse, September 30, 2021
15. R v. Raj Von Badlo, Southwark Crown Court, No. 201502586A.
16. R v. Martyn Dodgson & Andrew Hind, Southwark Crown Court, No. 201601833A.
17. R v. Christian Bittar & Others, Southwark Crown Court, No. 201700788A



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RECENT PUBLICATION FROM INSTITUTE OF LEGAL EDUCATION

1. Prasanna, S., et al. EMPOWERMENT AND EQUALITY NAVIGATING HUMAN RIGHTS LAW IN A COMPLEX WORLD. Institute of Legal Education, 2023. Access Here - https://scholar.google.com/scholar?cluster=8073531615629308019
2. PRASANNA, S., and P. LAVANYA. "NAVIGATING THE MAZE: UNDERSTANDING KEY DATA PRIVACY AND SECURITY LAWS WORLDWIDE." Access Here - https://scholar.google.com/scholar?cluster=14275456488561985070
3. Gopala, Bhagyamma. "A constitutional imperative for gender equality and dignity: a discourse on menstrual leave in India." ILE Constitutional Review 2 (2023). Access Here - https://scholar.google.com/scholar?cluster=14542656713228494739
4. Tulsyan, Aryan. "Cannabis and the constitution:'High time for amending the NDPS act?." ILE Human Rights Law Review 1.1 (2022). Access Here - https://scholar.google.com/scholar?cluster=1620071720487117886
5. SINGH, UJJWAL. "CUSTODIAL VIOLENCE IN MODERN INDIA." Journal of the Indian Law Institute 36.3 (1994). Access Here - https://scholar.google.com/scholar?cluster=4641833531038214506
6. Azizfan, Sayed Malik Shah. "A BLUEPRINT FOR SUSTAINABLE POVERTY ALLEVIATION AND UNEMPLOYMENT MITIGATION: SYNTHESIZING SOCIOECONOMIC TRANSFORMATION IN AFGHANISTAN." Access Here - https://scholar.google.com/scholar?cluster=17585185253194219063
7. PRASANNA, S., and P. LAVANYA. "PROTECTING PERSONAL DATA: A COMPREHENSIVE GUIDE TO DATA PRIVACY REGULATION." Access Here - https://scholar.google.com/scholar?cluster=2736636049548842283
8. PRASANNA, S., and P. LAVANYA. "NAVIGATING THE MAZE: UNDERSTANDING KEY DATA PRIVACY AND SECURITY LAWS WORLDWIDE.". Access here - https://scholar.google.com/scholar?cluster=14275456488561985070
9. PRASANNA, S., and P. LAVANYA. "DATA PRIVACY IN THE DIGITAL AGE: COMPLIANCE WITH INDIAN LAWS.". Access Here - https://scholar.google.com/scholar?cluster=2482682029322735326
10. SRIVASTAVA, AVANTIKA. "A CRITICAL ANALYSIS OF LAWS PERTAINING TO RAPE AND FALSE MARRIAGE PROMISES." Access Here - https://scholar.google.com/scholar?cluster=15122870610367691037
11. Abdurahim Zai, Mohammad Edris, and Naseebullah Amani. "The Impact of Green Supply Chain Management on Climate Change: Cursory Glance on the Food Industry." International Environmental Legal Research Journal 1.1 (2023): 150-161. Access Here - https://scholar.google.com/scholar?cluster=9866710733130422173
12. JAYAL, HARDIK, and SHREYA SINGH THAKUR. "A COMPREHENSIVE ANALYSIS REGARDING THE PRACTICE OF BONDED LABOUR IN INDIA." Access Here - https://scholar.google.com/scholar?cluster=16247068770278814586