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REGULATORY GAPS AND MARKET FALLOUT: INVESTIGATING FRONT-RUNNING IN ASSET MANAGEMENT COMPANIES

AUTHORED BY - KABIR KUMAR

ABSTRACT

Asset Management Companies (AMC) occupy a pivotal role in a state's economy, driving market mobility and diverse investments. Their primary operation lies in the management of mutual funds and occupies an intermediary role between investors and the market. Such a fiduciary relationship aims to enrich the investor with diversified investments, expert opinions, and strategic market interactions. The Securities and Exchange Board of India (Mutual Funds) Regulations 2003 serves as the father law for introducing code of conduct for AMCs and trustees. However, the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations of 2003 prevails if Code of Conduct is broken. Predictably, mutual fund managers engage in 'front-running' resulting in market abuse and the gain of illegal profits. Although the law does not explicitly deal with the offense of front-running, the regulatory framework drawn by SEBI enables the Court to determine liability in such cases. The problematic discontinuance in the legal framework to justify the penalty for front-running has resulted in several AMCs paying an intangible penalty before the ascertainment of its guilt for unfair trade practice. Effects of this concept appear to be amplified in the context of the loose interpretation of liability along with the chasm existing within the laws governing the same. This article deals with determining the efficiency of the legal framework for the prevention and punishment of front running and its adequacy against the backdrop of the non-statutory consequences faced by the AMCs.

I. LEVERAGING LEGAL MECHANISMS TO STOP FRONT RUNNING

Asset Managers occupy a Fiduciary role for the investors entrusting them with their funds. This role is often tainted with unfair trade practices in securities, a trend emerging from the illegal utilisation of Unpublished Price-Sensitive Information ("**UPSI**"). More often than not, it is Front-running which is resorted to by trustees or Asset Managers. The said practice was first

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recognised in the Circular released on May 25th 2012 for an amendment to the Consent order mechanism which described front-running as "*usage of non-public information for directly or indirectly, buying and selling securities or entering into future contracts in advance of a substantial order on an impeding transaction in the same or related securities in anticipation that when the information becomes public the price of such securities may change*[1]*".* Ironically, the concept of 'Front-running' has not been recognised in any unfair trade-related SEBI regulations.

Nevertheless, it does find itself an implied recognition under Regulation 4(2)(q) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations of 2003, ("**PFUTP Regulations**") which provides for instances of "*manipulative, fraudulent or unfair trade practice if it involves the order in securities by a person who may hold unpublished price sensitive information regarding a substantial impending transaction*"[2]. Section 3 is a general provision that brings unfair trade practices in securities in contravention of the Act within its ambit[3]. In pursuance of identifying statutory deterrence to front running, the SEBI (Mutual Fund) Regulations, 1996, regulation 18 read with regulation 25 (22) (b) (ii) places a duty on the Asset Managers to ensure no undue advantage has been given to any associates working within "**AMC**" in a manner that is unfavorable to investor's interest (unitholders)[4]. A similar restriction is observed under Section 12A(e) of SEBI Act which reads, "that a person shall not deal in securities directly or indirectly while possessing non-public information".[5]

More specifically, SEBI had also introduced Code of Conduct for the Fund Managers and AMC under Schedule V Part B of the Mutual Fund Regulations, 1996[6] wherein Dealers and Fund Managers shall:

"(a) always communicate in an unambiguous, transparent, accurate, and professional manner to promote effective communication that supports a transparent Market;

(b) conduct all communication during market hours through recorded modes and channels only."

[1] Securities and Exchange Board of India, Circular CIR/EFD/1/2012 (May 25, 2012).
[2] Securities and Exchange Board of India, Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market Regulations, 2003, Gazette of India, pt. III sec. 4, Reg. 4(2) (July 17, 2003)".
[3] Securities and Exchange Board of India, Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market Regulations, 2003, Gazette of India, pt. III sec. 4, Reg. 3 (July 17, 2003)".
[4] Securities and Exchange Board of India (Mutual Fund) Regulations, 1996, Gazette of India, Extraordinary, pt. III sec. 4, Reg. 18 & 25 sub-rule (22) cl. (b) (ii) (Dec. 9, 1996)".
[5] Securities and Exchange Board of India Act, No. 15 of 1992, § 12 A cl. (e) (Ind.)".
[6] Securities and Exchange Board of India (Mutual Funds) (Second Amendment) Regulations, 2019, Gazette of India, pt. III sec. 4, Reg. 2 (Sept. 23, 2020)".

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However, the Amendment to the Circular for mandating additional disclosures via FPIs released by SEBI on August 1st, 2024[7] amends the Regulation to meet the relaxation requirements of the AMCs in removing the mandate to record face-to-face communications, encompassing out-of-office interactions. Other mandates introduced included establishing confidential channels for employees, directors, trustees, along with other stakeholders to raise concerns regarding suspected fraudulent, unethical, or unfair practices[8] and procedures to adequately protect whistle-blowers.

Another scheme for preventing market abuse is the SEBI (Prohibition of Unexplained Suspicious Trading Activities in the Securities Market) Regulations, 2023 ("**USTSM Regulations**") which fortifies practice of unusual trading into defined terms. The regulations state a trading pattern of a single person or a group of connected people shall also be deemed an Unusual Trading Pattern even if the activity appears normal in isolation since the same may project a pattern when analysed together with the trades of that person[9]. These regulations are yet to be notified post deliberate discussion and consultation with the AMCs.

II. THE QUANT MUTUAL FUNDS CASE: UNVEILING FRONT RUNNING ALLEGATIONS

The Quant Mutual Funds case highlights the ease of perpetration of the offense. Surveillance systems relied on by SEBI suspected cases of front-running. Executives of Quant were alleged to have knowledge of the impending transactions and to have used that information to make ill-gotten gains.

The transactions of front-running are usually carried out by the buy-buy-sell method, where the front runner buys the securities before the "buy" order of the client is placed, or the sell-sell-buy method, where the front runner sells the securities before the client. On discerning irregular patterns with Quant's transactions, SEBI investigated the premises of the AMC in Hyderabad

[7] Securities and Exchange Board of India, Amendment to Circular For Mandating Additional Disclosures By Fpis That Fulfil Certain Objective Criteria, Circular SEBI/HO/AFD/AFD-POD- 2/P/CIR/2024/104 (Aug. 1, 2024).
[8] Securities and Exchange Board of India (Mutual Fund) Regulations, 1996, Gazette of India, Extraordinary, pt. III sec. 4, Reg 29 (Dec. 9, 1996)".
[9] Securities And Exchange Board of India, CONSULTATION PAPER ON DRAFT SEBI (PROHIBITION OF UNEXPLAINED SUSPICIOUS TRADING ACTIVITIES IN THE SECURITIES MARKET) REGULATIONS, 2023, Reg. 2 cl. (j) (2023) <https://www.sebi.gov.in/reports-and-statistics/reports/may-2023/consultation-paper-on-draft-sebi-prohibition-of-unexplained-suspicious-trading-activities-in-the-securities-market-regulations-2023_71385.html >accessed 16 January 2025

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and Mumbai and questioned the concerned) personnel.[10]

In an attempt to placate the investors, the CEO of Quant has promised ardent commitment to comply with and assist the SEBI investigation. Initially, Quant commented that the investigation is routine in the mutual fund industry and merely an attempt by the regulator to collect and analyse data. The fund house, however, later communicated that the procedure was not part of a regular process but was carried out under a court order of search and seizure, which could presage a more pressing allegation of a serious nature.[11]

III. A SERIES OF CASES

SEBI investigations of suspected front running are not isolated in the field of mutual funds. In 2022, it launched an investigation into the trades of Axis Mutual Funds on being alerted of irregular transactions that didn't fall in ordinary course of trading on the stock market. The investigation involved searching premises and seizing electronic records, including WhatsApp messages. This uncovered a slew of illegal activities of numerous other entities and proceedings were initiated against them by SEBI. Subsequently, the inspection resulted in the banning of twenty such bodies from the securities market and a seizure of Rs. 30.55 crores.

In 2023, SEBI banned five people[12] from the securities market for front-running in trades of Life Insurance Corporation (LIC) of India from January to March of 2022. One of the five was employee of state-owned corporation who is suspected of having provided non-public information to carry out the offense. This enabled the market regulator to impound[13] such frequent instances befalling the mutual funds market are a clear manifestation of faulty or lacking surveillance systems and robust whistleblower mechanisms in asset management companies.

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[10] *SEBI Raids Quant Mutual Fund HQ Amid Front-Running Allegations,* NEWS 18 (June 26, 2024) <https://www.news18.com/business/sebi-raids-quant-mutual-fund-hq-amid-front-running-allegations-8945623.html> accessed 17 January 2025

[11] *Quant Mutual Fund Confirms Search-And-Seizure Ops, Says Sebi's Data Collection "Not Part of Regular Process*", MONEY CONTROL (July 13, 2024) <https://www.moneycontrol.com/news/business/quant-mutual-fund-confirms-search-and-seizure-ops-says-sebis-data-collection-not-part-of-regular-process-12768321.html >accessed 18 January 2025

[12] Securities and Exchange Board of India, SECURITIES AND EXCHANGE BOARD OF INDIA CONFIRMATORY ORDER UNDER SECTIONS 11(1), 11(4), 11B AND 11D OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 WTM/AN/ISD/ISD-SEC-2/30088/2023-24, (2024). <https://www.lexsite.com/eDocs/WTM-AN-ISD-ISD-SEC-2-30088-2023-24.pdf >accessed 17 January 2025

[13] *LIC Issues Clarification on Employee's Role in Front-Running of Big Client's Trade*, BUSINESS TODAY (Mar. 20, 2024) <https://www.businesstoday.in/markets/stocks/story/lic-issues-clarification-on-employees-role- in-front-running-of-big-clients-trade-422127-2024-03-20> accessed 18 January 2025

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IV. THE DOMINO EFFECT OF QUANT INVESTIGATION

Initiation of the probe has had little to no effect on the performance of the Assets,[14] however, apprehension among the investors was apparent. From June 24 to June 30, 2024, clients withdrew Rs. 2,800 crores marking the first outflow of the year, a clear reflection of anxiety among the investors.[15] The amount constituted approximately 3 percent of total Assets Under Management of fund house. Five largest mutual funds offered by the fund house witnessed outflows following the allegations,[16] in tandem with the knee-jerk reaction expected by experts.[17]

Recognizing the Quant front-running fiasco as a clear case of misaligned incentives, SEBI has issued guidelines to detect market manipulations like front-running and insider trading. In 2020, SEBI issued stringent rules such as recording conversations of all forms between the fund manager, broker, and dealers during market hours, Bloomberg Terminals, submission of periodic declarations that no case of front running has occurred in the fund house in relation to any of the key personnel, director or trustee, etc, onerous on the fund house. Despite its austerity, SEBI opined that the rules majorly pertained to detecting defaulting employees without much accountability on the part of the fund house.

AMCs lobbied to relax the earlier mentioned mandate to record communications, and following the Quant case, SEBI mandated compensatory internal frameworks in exchange for allowing face-to-face calls not to be recorded. The new guidelines require the fund houses to integrate robust whistle-blower mechanisms and institutional frameworks to detect market abuse. Such systems will enable internal identification contrary to the current trend of SEBI's recognition of irregular or suspicious market trends.

The Circular dated 1st August 2024 stipulates the provisions to be implemented in the framework[18]. The standard of implementation of the guidelines will be stipulated by the

[14] Surbhi Khanna, *"Quant Mutual Fund Crisis: How NAVs Have Been Impacted Since Sebi Investigation*, ECON. TIMES (June 28, 2024) <https://economictimes.indiatimes.com/mf/analysis/quant-mutual-fund-crisis-how-navs-have- been-impacted-since-sebi-investigation/articleshow/111335793.cms?from=mdr> accessed 19 January 2025

[15] Shravani Sinha, *Quant Mutual Fund Sees Major Outflows Amidst Sebi Investigation; Raises Stake in Reliance, Cuts In LIC*, PERSONAL FINANCE (July 9, 2024) <https://www.goodreturns.in/personal- finance/quant-mutual-fund-sees-major-outflows-amidst-sebi-investigation-raises-stake-in- reliance-cuts-in-lic-1356265.html> accessed 19 January 2025

[16] Nishant Kumar, *Quant MF Sebi Probe: Can It Impact Fund Investors' Wealth? Here's What Experts Say*, LIVE MINT (June 24, 2024) https://www.livemint.com/market/stock-market-news/quant-mf- sebi-probe-can-it-impact-fund-investors-wealth-heres-what-experts-say-11719216350416.html

[17] *Id.*

[18] Securities and Exchange Board of India, *supra* note 7.

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Association of Mutual Funds of India and shall be binding on all AMCs. According to the guidelines:

- AMCs are required to have a surveillance system that records and alerts them of potential market abuse.
- The AMC is required to process available data of communications, following the alerts. If suspicious activity is detected, they must take suitable action and promptly escalate the matter to the Trustees and Board of Directors.
- Policies and procedures approved by their respective Boards of Directors must be in place to examine and act on potential cases of market abuse.
- It is mandated that all alerts are reported to SEBI, providing details on the procedure followed by the AMC to mitigate the alert.

Finally, Chief Executive Officer (CEO), Managing Director, or any officer of similar rank, in addition to Compliance Officer will be accountable for its implementation. SEBI aims to expedite the implementation of these guidelines and has noted that certain AMCs are enroute to achieving execution before the premeditated deadline of six months.[19]

V. NAVIGATING REGULATORY SHORTCOMINGS IN FRONT-RUNNING

Front-running is undeniably illegal and unethical offense of a serious nature. On the contrary, no Indian regulation recognizes the offence explicitly. Its essentials, however, were first observed under Regulation 6 (b) of The SEBI (Prohibition and Unfair Trade Practices Relating to Securities Markets) Regulations, 1995[20]. This embarked on the beginning of the controversy surrounding the fixation of liability for this offense, the threshold limit of evidence required to prove the offence, and the inadequacy of the latest regulations relating to unusual trading practices.

A. AN EXPANSIVE INTERPRETATION OF 'INTERMEDIARY' AND ITS DANGEROUS REFLECTION IN THE FIXATION OF LIABILITY ON FRONT-RUNNERS.

The earlier regulation 6(b) of the SEBI PFUTP Regulations 1995, resorted to vague terms namely, '*a person'* and '*pending execution of any order of his client'* to refer to the practice of front-running. The

[19] Shravani Sinha, *supra* note 16.
[20] The Securities and Exchange Board of India (Prohibition and Unfair Trade Practices Relating to Securities Markets) Regulations, 1995, Gazette of India Extra-Ordinary, pt. III sec. 4, Reg. 6 cl". (b) (July 13 2003).

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provision only included brokers within its scope[21]. Nevertheless, the obligation bestowed on the trustees to submit a half-yearly certificate to SEBI declaring no instance of front-running had occurred in the hands of the AMC[22], gave an inferred understanding of front-running applying to persons apart from brokers within its scope.

The aforesaid inference was affirmed by Regulation 4(2)(q) of SEBI PFUTP Regulations, 2003 which introduced terms 'intermediary' and 'substantial impending order' of the clients for this practice to suffice as front running.[23] 'Intermediary' is defined as sub-brokers, stock brokers, share transfer agents, trustees, bankers to an issue, registrars, underwriters, merchant bankers, portfolio managers, and AMC[24]. In this spirit, Securities Appellate Tribunal ("SAT") in *Shri Dipak Patel v.s. SEBI (2012)*[25] ruled prohibition of front running only when carried out by Intermediaries. The same observation was upheld in *SujitKarkera v. SEBI* (2013)[26]. The literal interpretation of the Regulations lasted until the Securities Appellate Tribunal gave way to a liberal interpretation for fixing the liability under front-running by *Vibha Sharma Mv. SEBI (2013)*[27] verdict. SAT held that any person connected to the transaction of front-running regardless of its intermediary status may be punishable for the offence. The Supreme Court affirmed this fresh connotation in *SEBI v.s. Shri Kanaiyalal Baldevbhai Patel* (2017)[28] of 'intermediary' under Regulation4(2)(q) of SEBI Regulations by bifurcating instances of front-running into 'Tippee Trading', 'Self-Front running', and 'Trading Ahead'. The specific practice of third-party trading on basis of unpublished personal sensitive information was recognised as tippee trading, thereby penalising the indulgence of a party apart from an intermediary.

Draft SEBI (Prohibition of Unexplained Suspicious Trading Activities in the Securities Market) Regulations, 2023 ("USTSM Regulations") fosters aforementioned Apex Court judgment by

[21] The "Securities and Exchange Board of India (Prohibition and Unfair Trade Practices Relating to Securities Markets) Regulations, 1995, Gazette of India Extra-Ordinary, pt. III sec. 4, Reg. 6 cl."
(b) (July 13 2003).
[22] Securities and Exchange Board of India (Mutual Fund) Regulations, 1996, Gazette of India, Extraordinary, pt. III sec. 4, Reg. 18 cl. 23 (Dec. 9, 1996)".
[23] Securities and Exchange Board of India, Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market Regulations, 2003, *supra* note 2"
[24] Securities and Exchange Board of India (Intermediaries) Regulations, 2008, Gazette of India Extraordinary, pt. III sec. 4, Reg. 2 (g) (May 26 2008)".
[25] Dipak Patel "v. Adjudicating Officer, Securities and Exchange Board of India, 2012 SCC OnLine SAT 217" (Reversed).
[26] Sujit Karkera "v. Adjudicating Officer, Securities and Exchange Board of India, 2012 SCC OnLine SAT 234" (Reversed).
[27] Vibha Sharma "v. Securities and Exchange Board of India, 2013 SCC OnLine SAT" 66.
[28] SEBI v. Kanaiyalal Baldevbhai Patel, 2017, 15 SCC 1".

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fortifying unusual trading patterns in terms of bringing a group of persons whose transactions are unusual when analysed holistically, though, such transactions appear to be normal and ordinary when read in isolation, as mentioned earlier. Additionally, the regulations have terminated the need for repetitive unfair trading patterns to prove front-running and have replaced it with any transaction (even a single transaction) relating to unpublished information of the substantial securities order[29]. Therefore, the settled law has widened the scope of front-runners and decreased the threshold of evidence to prove the same.

The aforesaid discontinuity presented by the Regulations and judgments involves a liberalized interpretation of 'intermediary' against the backdrop of the serious penalty for such a grave offence. In this light, it seems incorrect for SEBI to rely on the principle of 'preponderance of probability'[30] to ascertain the evidentiary value of facts involved in the matter it investigates.

The consequences of mere initiation of an investigation into the affairs of Quant Mutual Funds as analysed earlier in this article, cannot be ignored. Therefore, apart from statutory penalties, the AMC and intermediaries suffer great losses once they are under the spotlight for alleged wrong-doings. Hence, a loose interpretation when fixing liability in front-running does more harm than good owing to its disproportionality with the penalties arising from the same.

B. THE CAVITY IN REGULATIONS FOR UNUSUAL TRADING PRACTICES, 2023.

It is worthwhile mentioning that the USTSM Regulations, 2023 were drafted in response to challenges faced by the Securities Board in investigating the matters of front-running. The backdrop of the draft largely blamed the tools of the digital era to evade the clenches of SEBI. Encrypted messaging apps namely, WhatsApp, BOTIM, Telegram etc which entail disappearing messages enabled the wrong- doers to erase the evidence. Interestingly, the USTSM Regulations do not fill the void created by the digital age in the investigation rather, SEBI deemed it ideal to loosely place liability on any third party to reduce the burden of evidence gathering on the part of the Board.

VI. GLOBAL STRATEGIES TO PREVENT FRONT-RUNNING

A reflection of the global perspective is required at this juncture owing to the lacunae existing in the Indian Regulations. Certain developed countries with established trade practices, namely the United States, can provide a fresh perspective on the issue. However, caution must be

[29] SECURITIES AND EXCHANGE BOARD OF INDIA, *supra* note 9".
[30] SECURITIES AND EXCHANGE BOARD OF INDIA, *supra* note 9 at 2.2.

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enacted in attempting to adopt foreign practices as one's own. The Indian market is unique to the country's economic demographic and undoubtedly, laws to govern the land must come from the land itself.

United States of America: The Securities and Exchange Commission ("SEC") in 1988 described front-running to the United States Congress as involving a trade of "stock, option, or future while in possession of non-public information regarding an imminent block transaction that is likely to affect the price of the stock, option, or future." Rightfully, the SEC classified the practice as violative of the integrity of market. In U.S., SEC has two requirements to establish a case of front-running.

Firstly, if the knowledge becomes public, and; *secondly*, if the information becomes obsolete. In both instances, it will no longer be considered a case of exploiting yet-to-be public information, thereby dissolving the charge of front-running altogether.[31]

Moreover, the Financial Industry Regulatory Authority is a Congress-approved not-for-profit organization that monitors dealers and brokers across America to ensure a fair playfield market and utilizes innovative technology including AI to accomplish its goals.[32]

Accordingly, the New York Stock Exchange declared front-running as a transgression of the just and equitable principles of trade. The Exchange clarified that it is not needed to prove loss on the part of any party due to an unfair advantage being taken by a person privy to a piece of non-public information. On similar lines, the Chicago Board Options Exchange, Inc. noted that mere possession of knowledge of the imminent transaction would not constitute an offense of front running, but the act of selling or buying options or securities while in possession of non-public material, information will bring it under purview of the same.

European Union: Market Abuse Regulation of European Union mandates the establishment of a system to deter market manipulation in addition to insider trading. It has also mandated mechanisms to encourage reporting of suspected malpractice. Directive 2003/6/EC of the European Parliament and the Council of 28 January 2003 on insider dealing and market manipulation called on Member States for implementing measures to curb practice of market

[31] Manish Kumar Singh, *Analysis of front running under SEBI regulations, 2003*, 7(6) INT'L J. OF L., 25- 28 (2021)
[32] *FINRA*, <https://www.finra.org/about> accessed 15 January 2025

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abuse.[33]

Canada: Universal Market Integrity Rules (UMIR)of Canada describes front- running as a transaction involving a trade of options, futures, or index in any of the three methods- entering the order themselves, soliciting a third party to make an order, or leaking the confidential information to another party.[34]

VII. CONCLUSION AND RECOMMENDATIONS

Front-running is a severe offense requiring stringent and justifiable provisions for prevention and punishment. Nonetheless, it is inadequate and inharmonious with the principle of proportional penalty. The Quant Mutual Funds investigation has garnered attention to the contemporary problematic interpretations of law for fixation of liability in matters of front-running. SEBI has proposed a legal framework to overcome the challenges and inadequacies of law experienced in matters of front-running. However, the regulations are inherently biased towards the investigating Board and do not pervade the lacunae in law.

Furthermore, the AMC must follow an institutional framework as notified by SEBI to curb the cases of front-running. Interestingly, the nascent nature of the aforesaid framework renders it difficult for SEBI to anticipate the lacunae in its implementation which conceives a need to scrutinize them. In this light, the authors put forth a set of suggestions to ensure the legal framework is bulletproof and justifiable for the alleged offenders.

- Reducing the Power Conferred on AMCs

To err is human, and fallacies in systems regulated by individuals must be expected. The new SEBI requirements of the internal framework replace the strict norms that existed earlier, which allowed for greater control and oversight in the hands of SEBI. The regulations fixate the primary responsibility of detecting and deterring market abuse on the fund house itself. Essentially, the AMC handles all alerts. Notably, the requirement to report to SEBI creates a potential conflict of interest since it shall affect investor perception of the Company and reduce its credibility.

[33] OFFICIAL JOURNAL OF THE EUROPEAN UNION, DIRECTIVE 2003/6/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 28 JANUARY 2003 ON INSIDER DEALING AND MARKET MANIPULATION (MARKET ABUSE) O.J. (L 096) 16-25. (2003) https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX%3A32003L0006.
[34] CANADIAN INVESTMENT REGULATORY ORGANISATION, UNIVERSAL MARKET INTEGRITY RULES, (2024), https://www.ciro.ca/media/7526/download?inline.

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Quant saw significant outflows after the front-running allegations. Likewise, Axis Bank Mutual Funds are yet to reel from the consequences of the front- running case levied against them. With such stakes, it is not inconceivable that diligent reporting of market abuse will not take place. Apprehension of negative outcomes can deter the fund house from complying with the provisions. SEBI must be cautious of attempts to manipulate data to conceal persons or acts to protect the AMC's interests.

Outsourcing the monitoring system to a third party could significantly reduce the possible manipulation of the surveillance systems. AMCs could hire external agencies to monitor the transactions and trading patterns and alert them of possible manipulations. Third-party involvement will also ensure stricter compliance with statutory regulations, such as reporting all alerts to SEBI.

- Increasing the Standard for Evidence

The threshold limit of evidence to prove serious offenses must be kept high to ensure a justifiable investigation and finding, or else the current scenario proposed by the USTSM Regulations of SEBI lead to the interlinking of potentially innocent managers to front-running despite the exaggerated consequences of the same which in essence defies our justice system.

- *Use of Technology*

The AMCs can utilize modern technologies and, in certain circumstances, artificial intelligence to collect, compile, and even analyse data. Furthermore, SEBI investigations could be expedited with the introduction of modern technology.

Implementation of such technologies must come with precautionary measures to ensure its non-compromise. All efforts should be taken to secure the flow of data from cyber threats such as data leaks, privacy concerns, hackers, etc. At present, artificial intelligence is a budding technology, and should an AMC choose to integrate it into its systems, it must consider its nascent nature and limit its decision-making capabilities. Authorized personnel must overview the working of the technology with policies and procedures formulated to manoeuvre contingencies.

- Establishing a Robust Whistle-blower Mechanism

Finally, the regulations require the implementation of a whistleblower mechanism. The regulation itself is vague, and the AMFI is not required to specify the required standard for the same. While confidentiality and protection of the whistleblower must be guaranteed, the

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following measures can be taken to make the system more robust:

The U.S. Congress established the SEC program for whistleblowers to incentivize and encourage whistleblowers to provide accurate and timely information. Whistleblowers are eligible for an award of up to 10 to 30 percent of the number of ill-gotten gains, provided that the information is original and leads to a sanction of at least 1 million dollars. On similar lines, it is proposed that the current Indian policy of capping the award at Rs10 Crore for credible information must be replaced with a remuneration tied to the sum recovered.

According to SEBI (Listing Obligations and Disclosure Requirements) Regulations, all listed companies must have a vigilance system monitored by Audit committee for ensuring that whistleblower mechanism is in place, which places unlisted companies beyond its scope of regulation. The standards to be followed by listed companies are largely discretionary, with private companies formulating their systems and requirements. The requirements to necessitate an investigation by authorities are not uniform and could lead to opportunities to allow the prevalence of bias. Essentially, whistleblower's complaints result in prejudice against the company and expose them to losses and legal prosecution. With such a backdrop, the establishment and strict enforcement of morally attuned whistleblower mechanisms will likely not flourish.

Anonymity is paramount, and the most pressing concern of any whistleblower is the possibility of harassment or prosecution. In this light, it is proposed that certain guidelines must be issued by SEBI to ensure minimum protection and procedural safeguards to be followed by all listed companies.

Hence, the recurring instances of front-running in the market, complemented by the obscure nature of the crime, necessitate the requirement of a robust, efficient, and stringent system, both external and internal to the institution. The framework and whistleblower mechanism mandated by SEBI can be a step forward in right direction, provided that regulator monitors the efficiency of the internal mechanism and penalises defaults to deter any violations on the part of the institution.