



# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary  
Peer Reviewed Edition :

[www.ijlra.com](http://www.ijlra.com)

## **DISCLAIMER**

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume 2 Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

IJLRA

## **EDITORIAL TEAM**

### **EDITORS**



### **Megha Middha**

*Megha Middha, Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar*

*Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can bring a change to the society*

### **Dr. Samrat Datta**

*Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board*



## Dr. Namita Jain



*Head & Associate Professor*

*School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.*

*Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019*

## Mrs.S.Kalpana

*Assistant professor of Law*

*Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8Articles in various reputed Law Journals. Conducted 1Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.*



## Avinash Kumar



*Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and*

*learning.*

## **ABOUT US**

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS

ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

# **STOCK MARKET MANIPULATION AND INSIDER TRADING: THE EVIL WEAPON OF THE TRADERS**

AUTHORED BY - RASHIKA WADHAWAN

## **ABSTRACT**

The worldwide community has become an interconnected village as a result of technical breakthroughs, the process of globalisation, and liberalisation, and as a result, diverse economies all over the world have advanced significantly. The system that controls how scarce resources are utilised to produce and consume goods and services is known as an economy<sup>1</sup>. Enterprises have prospered and enterprises now easily conduct business abroad thanks to the growth and progress of the economies of the respective nations. With the aid of globalisation and liberalisation, stock markets all over the world have reaped one of the biggest benefits.

## **INTRODUCTION**

When discussing a collection of exchanges and other places where equity shares in publicly listed companies can be bought, sold, or issued, the term "stock market" is commonly used. These monetary exchanges take place on formalised physical or electronic platforms, as well as in the Over-the-Counter (OTC) market, which is subject to a specific set of laws and norms. One of the main benefits of the stock market is that even with a modest amount of funds, individuals may invest in businesses and turn into stakeholders of enormous enterprises. A group of individuals working towards a common objective or aims, which is frequently to earn money, may be referred to as a "company" in this context. There are many different kinds of businesses, and there are two of them: private company and public company.

A private limited company is owned by a group of private investors, whereas a public company is traded on the stock market and is owned by a sizable group of ordinary investors, various

---

<sup>1</sup> Reserve Bank of Australia. What Is the Economy? - Reserve Bank of Australia.  
<https://www.rba.gov.au/education/resources/presentations/pdf/what-is-the-economy.pdf>

corporations, institutional shareholders, as well as foreign investors. This is the main distinction between the two types of companies. Long-term investment is the practise of many individual investors who invest a relatively little portion of their income in the stock market and frequently reap rewards and gains over time.

However, buying and selling stocks or other assets frequently results in significant losses for small investors when major players, powerful cartels like the bear and bull cartel, institutional investors, and corporate networks try to influence the market for their own benefit. It is feasible to manipulate the price of a stock by conducting oneself in a way that either especially aims to interfere with the dynamics of supply and demand in a free market, or by operating in a way that consciously or deliberate intends to mislead or defraud investors by artificially inflating the stock's value. Insider trading, also known as trading on non-public information, is immoral since it undermines the market's ability to be fair, which requires that prices be established by the unaffected market. Additionally, it weakens real, equitable, and well-ordered markets because investors will avoid them if they think they are inequitable and prone to manipulation.<sup>2</sup>

## **RELATION BETWEEN INSIDER TRADING AND STOCK MARKET MANIPULATION**

Since being incorporated, insider trading and the stock market have existed alongside one another. Though the adverse effect of insider trading on investors as individuals has been discussed by the judiciary, SEBI, and legal experts, the impact on the economy as a whole has not been considered. Although it is often held that the stock market is a caged, enclosed, and restricted phenomena, as this essay will demonstrate, it is really just the core of the country's economy. What are the effects of insider trading and stock market manipulation? will be the main topic this study aims to address.

## **HOW CASH FLOW AND GDP AFFECT STOCK PRICES**

The Gross Domestic Product (GDP) of a nation is influenced by a variety of variables, including economic sectors and commercial activity. The GDP is a measure of the total value added

---

<sup>2</sup> Securities Exchange Commission, USA. "Market Manipulations and Case Studies." SEC Emblem, <https://www.sec.gov/file/market-manipulations-and-case-studies>

and generated inside an economy, and as a country's GDP rises, so does cash flow.<sup>3</sup> Cash flow has a significant influence on customer spending, company investment, and overall economic growth in the financial system as a whole.

Therefore, more cash flow raises customers' spending power, which in turn results in more company prospects and ultimate growth in the economy. With greater purchasing power, the public at large makes a variety of investments, which in turn has an impact on the value of shares. Retail investors add money to the market for securities by purchasing stocks, bonds, index funds, mutual funds, and other financial products, which raises the index of the entire stock market. On the other side, a negative cash flow may make investors hesitate, send the price of shares downward, and negatively impact the economy. As a result, key variables that affect stock prices or the overall stock market index include the nation's economy, GDP, and cash flow.

A rise in the price of shares makes firms more desirable and, more often than not, indicates that the activities run by the company's leaders are lucrative and that the business is progressing down a successful route. In order to gather or raise funds from individual investors, a corporation often alters its investments and goes public in order to expand its business, boost production, develop technologically, enhance its purchasing power, and higher income. It encourages consumers to enter the stock market and begin their financial adventure while also boosting investor confidence. This increased investment by regular investors frequently triggers the start of a cycle that boosts the market's cash flow. The greater amount of money invested by retail investors in the stock market improves the business's standing and goodwill, which helps it attract and develop a loyal clientele. As a result, the company's cash flow rises as a result of the increased revenue from the newly established demand from the acquired clientele. The expansion of the company's operations results in more earnings, which in turn spurs the public disclosure of bigger dividends and incentive payments, all of which ultimately benefit the owners of the business and investors. The economy receives successive infusions of additional money throughout the cycle, which also causes the GDP and buying power to rise.

With regard to the abovementioned data, it is frequently inferred that the stock market appears to

---

<sup>3</sup> Callen, Tim. "Gross Domestic Product: An Economy's All." IMF, 15 June 2019, <https://www.imf.org/en/Publications/fandd/issues/Series/Back-to-Basics/gross-domestic-product-GDP>.

be all rosy and amazing, but that when the demonic bident attacks the stock market, this entire daydream shatter like glass. Stock market manipulation and insider trading are the two prongs of the diabolical bident that dashes investors' hopes. Stock market manipulation involves artificially altering supply and demand for securities, and it may be carried out using either one of two methods: action-based manipulation or trade-based manipulation. The action-based manipulation approach is effective when the manipulator does particular company-related acts outside of trading its stocks, which results in news or information that is almost always false. Retail investors enter the stock market based on this misleading data or headlines and frequently have either a beneficial or detrimental effect on the price of the shares of the firm. Such actions cause the share price to rise or fall, and the person who manipulates makes money off of it depending on whether he is long or short the stock. The alternative trade-based manipulation strategy, however, can be used to manipulate values when a famous trader has the power to significantly modify the flow of orders to the market maker. He describes the situations in which it is advantageous to manipulate the equilibrium price process. Traders typically employ this strategy to affect the stock price in order to enhance their trading position in the futures market.<sup>4</sup> Stock market manipulation sometimes coexists with insider trading, which is the subsequent unit of the diabolical bident.

## **INSIDER TRADING**

Insider trading is the term used to describe the dealing or trading of shares or other assets, such as bonds, based on confidential price-sensitive information that is only known to a small number of employees of a corporation. Insider trading is one of the major instances of business employees failing to uphold their fiduciary duties in the interest of personal gain, endangering the integrity of the stock market. Retail investors that engage in insider trading not only lose money, but they also harm the reputations of the firm, the stock exchanges, and the SEBI.<sup>5</sup>

As per the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015, Regulation 2 (e), “an insider is any person who is a connected person or is in possession of

---

<sup>4</sup> John, Kose, and Ranga Narayanan. “Market Manipulation and the Role of Insider Trading Regulations.” *Market Manipulation and the Role of Insider Trading Regulations*, The University of Chicago Press, Apr. 1997, <https://www.jstor.org/stable/10.1086/209716>

<sup>5</sup> Business Standard. “Insider Trading: What Is It?” *Business Standard*, 8 Apr. 2023, <https://www.businessstandard.com/about/what-is-insider-trading>.

or has access to unpublished price sensitive information (UPSI) or has received or has had access to such unpublished price sensitive information”.<sup>6</sup>

In order to prevent such market malpractices and regulate the stock market, the SEBI (Securities and Exchange Board of India) acts as a regulator and keeps a track of the everyday trading volumes of the market. If the SEBI finds a certain trade suspicious and conjectures it to be a trade based on mala fide motives, it scrutinizes such trades and often such investigations by the SEBI leads them to the doorsteps of major broker houses or powerful corporate personnel who might have indulged in either insider trading or stock market manipulation.

The SEBI (Securities and Exchange Board of India) operates as a regulator and maintains a record of the daily trading volumes of the market in order to avoid such market illegal activities and control the stock market. The SEBI scrutinises trades that it deems suspicious and suspects may have been made for nefarious purposes. Frequently, the investigations conducted by the SEBI bring them to the offices of large brokerage firms or influential corporate executives who may have engaged in insider trading or stock market manipulation.

Further, the Hon'ble court stated in its judgement in the case of SEBI v. Hindustan Lever Ltd. That “The SEBI Regulations on insider trading seek to prohibit persons who by virtue of their connection with a company received unpublished sensitive information from using such information/dealing in the securities of the company on the basis of such information to make secret profits/person gains.”<sup>7</sup>

There are several instances in which how major players' financial manoeuvres have harmed small investors in the past, including a few which have cost small investors their whole life savings. The Crash of 1982 was one of the tragic events that ruined the investments of several people. The BSE was shut down for three trading days in order to settle the "Badla" trade between corporate behemoth Reliance and the Kolkata Bear Cartel, in which the latter shortened shares of the first company in order to drive its price downwards. This stock market battle between Reliance and the Kolkata Bear Cartel caused a significant crash. Many investors lost their investment in the

---

<sup>6</sup> Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015, Regulation 2 (e)

<sup>7</sup> 1998 (18) SCL 311 (AA)

market as a result of this catastrophe, but Dhirubhai Ambani and the brokers' group known as "Friends of Reliance" profited. This is a typical illustration of how corporate conflicts and stock price manipulation result in substantial declines for ordinary shareholders and small-time traders. Albert H. Wiggin, the CEO of Chase National Bank, was involved in another instance of insider trading that took place in the United States in late 1929. Wiggin profited a little more than \$4 million following the 1929 Wall Street Crash by shorting the shares of his own firm. He used his family's and his close friends' organisations to short the shares, and to avoid having to pay taxes on his gains, he even set up a Canadian shell company. Given that there was no law in place at the time that would have barred Wiggin from acting in this way, it is even more astonishing that he was not charged for his actions. However, the Securities Exchange Commission (SEC) took note of their error and introduced the 'Wiggin Provision' under the Securities Exchange Act, 1934. Corporate directors were prohibited from shorting their own shares in order to profit while their company was in danger by the "Wiggin Provision," which was imposed by the SEC. But the reality that an executive at a company who had access to sensitive information profited from a crash while the entire investor group endured emphasises how damaging insider trading is to those who invest and run companies with sincere motives.<sup>8</sup> In the case of *SEBI v. Abhijit Rajan*<sup>9</sup>, the Hon'ble court stated that mens rea needs to be checked when an argument to demonstrate that a trade on the basis of insider information was conducted with a legitimate reason arises. However, it is also important to consider that ".... Public confidence in directors and other closely associated with companies requires that such people should not use inside information to further their own interests. Furthermore, if they did so, they would typically violate their commitments to the corporations and risk being accused of abusing the trust of those they were doing business with."<sup>10</sup>

The opinion in *SEC v. David E. Lipson* (U.S. Court of appeal (7th circuit) Docket No. 01-1226) might be used to refute the criticism that Albert Wiggin acted on the deals of the securities in a fashion that also had some legitimate grounds. It was found in the case of *SEC v. David E. Lipson* that simply because an insider traded stocks for two different reasons—one of which was legal and the other was entirely to gain money illegally—having the legal purpose did not "sanitise"

---

<sup>8</sup> Hall, Phil. "Wall Street Crime and Punishment: Albert H. Wiggin, an Old-School Banker Whose Stock Prescience Got Him in Trouble." Yahoo! Finance, Yahoo!, 2 Apr. 2021, <https://finance.yahoo.com/news/wall-street-crimepunishment-albert-134017633.html>.

<sup>9</sup> Civil Appeal No.563 of 2020

<sup>10</sup> (2004) 1 CompLJ 193 SAT, 2004 49 SCL 351 SAT

the criminal one.<sup>11</sup>

There are countless instances of wealthy individuals abusing the stock market to enrich themselves at the expense of corporations and regular investors, but merely bemoaning these wrongdoings and manipulations will not provide a solution to the ongoing issues brought on by the devilish bident. The ideas listed below addressing some alterations and actions are very necessary in order to bring about change.<sup>12</sup>

The suggested propositions are as follows:

1. Although the SECURITIES AND EXCHANGE BOARD OF INDIA (PROHIBITION OF INSIDER TRADING) REGULATIONS, 2015 require firms to reward whistle-blowers' as part of institutional systems to curb insider trading, SEBI must also compensate the whistle-blowers'. Since the penalty under Section 15G of the Security Exchange Board of India Act of 1992 is punitive in character, SEBI may readily raise money.<sup>13</sup> The following is a draught section for the same: reward for sharing insider trading-related information

If any whistle-blower who-

- Reveals to the board, directly or indirectly, any transactions in securities of a company that is listed on a stock exchange based on any unauthorised price-sensitive information; or
  - Given that the penalty was a direct result of the whistle-blower's information, anyone who knowingly instructs, counsels, or induces another person to disclose information about transactions in securities of a body corporate listed on any stock exchange may be eligible for a reward equal to 10% of the penalty under Section 15G.
2. Ease of doing business: India has strict company law laws, and since the start of the cheque book wars, India has focused even more attention on financial scams. While strict regulations prevent wrongdoing, they often intimidate investors since errors may potentially result in prosecution. It is clear from the World Bank's study on the business

---

<sup>11</sup> 129 F. Supp. 2d 1148 (N.D. Ill. 2001).

<sup>12</sup> Leland, Hayne E. Insider Trading: Should It Be Prohibited?, The University of Chicago Press, 4 Aug. 1992, <https://www.jstor.org/stable/2138691>.

<sup>13</sup> Security Exchange Board of India Act 1992, Section 15(G).

environment, in which India placed 131st out of 189 economies. Section 23 of the Securities and Exchange Board of India Act, 1992, protects SEBI workers from liability for their conduct. If actions are made in good faith by corporate executives, a safe harbour provision must be included.

3. Reflection: SEBI workers are ejusdem generis, whereas public employees have been fathomable. It has been proposed in several instances that workers oiled profitable insider transactions and scapegoated lesser companies. It is difficult to achieve honesty, but the authority must self-regulate to prevent the board from becoming a nuisance.
4. Effective monitoring requires exhumation from SEBI. Every transaction is documented, and insider trading occurs just before a strike. Since there are not many insiders or well-connected individuals involved, all key transactions may be suppressed. Common usage also dictates that directors must establish links with organisations like the Enforcement Directorate when doing business in their behalf.
5. SEBI must focus on quality litigation rather than quantity: The Income Tax Department set a 5 crore threshold after realising that pursuing minor frauds wastes resources. Likewise, the SEBI must not respond to small-scale scams. This does not imply that it should not thoroughly investigate every transaction, but doing so in a hurry would be. It is not necessary to file a case just because a preliminary investigation has been conducted. Even if there are occasions when relativity results in unfairness, it has been given the responsibility of separating the wheat from the chaff. However, due to resource constraints, it must also take on urgent situations.
6. Officer satisfaction: Although preponderance of the evidence is necessary to prove guilt, as stated in *V.K. Kaul v. SEBI*<sup>14</sup>, the authority should not accuse someone or start legal action only because it is speculative. It must conduct a thorough investigation and, once it has cause to believe, file a case.

---

<sup>14</sup> (2013) 2CompLJ583 (SAT).

7. Arbitrary litigation: The agency must not view SAT's adverse ruling as a personal setback. As seen in the Vodaphone case<sup>15</sup>, human nature makes it such that no one wants to take responsibility for their own actions, thus they continue to pursue the issue to the point where the government rejected the ruling of its own supreme court. It has been observed that the agency files an appeal with the Supreme Court after losing in SAT proceedings, a special tribunal. In addition to wasting department resources, it undermines investor trust on a national and worldwide level since a bureaucrat who is only interested in getting his way spends the bulk of his time litigating, which hurts business.
8. Increasing transparency: Businesses must be forced to divulge more information to the public, including data on executive remuneration, trade, and other topics. When live updates are supplied and the material is not exclusive, the potential for unlawful gain is much reduced. Without amputation, it will function like a transplant.
9. Allocation of resources: For effective law enforcement, the regulatory authority that is in charge of keeping an eye on insider trading that involves millions of transactions should be provided additional funding. It has been given enough power to uncover and pursue insider trading cases, but more funding is required for it to effectively enforce the law.
10. The punishment's goal is to prevent insiders from committing crimes, but because the amount is so modest, it has little impact on the guilty parties' pockets. The severity of the punishment must be raised since those who commit crimes have more money. Low punishment makes the crime more profitable and atavism-prone.
11. Mens rea: To resolve the ambiguity around the mens rea factor, Section 15G must be amended by the legislature. Actus reus is sufficient to hold one accountable under the law, although judicial interpretation has not been consistent. The court looked into the history and required a guilty mind in Rakesh Agarwal v. SEBI<sup>16</sup>. It was overturned in following rulings as a necessity. The volume, the type of trade, and the time of the transactions are to be taken into consideration in Kanaiyalal Baldevbhai Patel<sup>17</sup>, although it is not a

---

<sup>15</sup> 2012 SCC 6 613.

<sup>16</sup> (2004) 1 CompLJ 193 SAT, 2004 49 SCL 351 SAT.

<sup>17</sup> (2017) 15 SCC 753.

necessary condition to draw the rigour. Recent case law, SEBI vs. Abhijit Rajan<sup>18</sup>, ruled that conduct performed out of need and good faith invalidated the proceedings and that the conditions under which shares were sold were acceptable. A clause offering immunity may be included.

12. Raising public awareness: Administrative workers frequently possess management secrets, but they are unaware of the advantages of whistleblowing. The public must be made aware of the provisions and the negative impacts of insider trading by SEBI once it sets incentives and immunities.

## **CONCLUSION**

Additionally, in the current changing times when the globe is expanding and businesses and start-ups are receiving the support and push they need, the necessity for a regulated yet free stock market is extremely important. The goal of a financially secure and self-sufficient economy may be realised with a stock market that is free of insider trading and other forms of market manipulation. Additionally, increasing public engagement can grow GDP and improve the banking sector by boosting investor confidence and cash flow. Therefore, the devilish bident must be melted and a safe, secure, and sacred atmosphere must be established within and around the stock market in order to make it a safe refuge for everybody.

---

<sup>18</sup> Civil Appeal No.563 of 2020