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# INSIDER TRADING AS A CORPORATE CRIME IN INDIA: ASSESSING SEBI'S ENFORCEMENT MECHANISMS AND THE NEED FOR REFORM

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**Abstract**

Insider trading represents one of the most pernicious forms of corporate misconduct, undermining investor confidence and compromising the integrity of capital markets. In India, the regulatory framework governing insider trading has undergone a marked transformation from the SEBI (Prohibition of Insider Trading) Regulations, 1992 to the more structured 2015 Regulations and subsequent amendments. Complementing this, the Companies Act, 2013, through provisions on directors' duties, key managerial personnel responsibilities, and corporate disclosures, reinforces the obligation of fair dealing and transparency within companies.

Despite these progressive legal developments, enforcement continues to pose significant challenges. SEBI, as the principal enforcement authority, faces obstacles such as evidentiary limitations, complex corporate shareholding patterns, and difficulties in establishing intent and communication of unpublished price-sensitive information (UPSI). This paper critically examines insider trading as a corporate crime within the Indian securities law framework, focusing on SEBI's investigative and adjudicatory mechanisms. It analyses landmark cases such as Rakesh Agrawal v. SEBI, Reliance Industries Ltd. v. SEBI, and the Axis Bank Insider Trading Case, evaluating their implications for regulatory consistency and deterrence.

Further, the paper explores how weak corporate governance structures, inadequate compliance systems, and insufficient whistleblower protection dilute the preventive mechanisms envisaged under both SEBI regulations and the Companies Act, 2013. It concludes with reform-oriented suggestions strengthening SEBI's surveillance through technology integration, clarifying evidentiary standards, enhancing board-level accountability, and aligning India's insider trading framework with global best practices.

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## 1. Introduction

The integrity of financial markets forms the bedrock of economic stability and investor confidence. When this integrity is compromised by the misuse of confidential information for personal gain, it erodes both market fairness and public trust[2]. Insider tradingthe buying or selling of securities by individuals in possession of unpublished price-sensitive information (UPSI)is one of the most pernicious forms of corporate misconduct. As India's capital markets expand and technology revolutionizes trading, insider trading practices have become increasingly sophisticated, demanding a robust and transparent regulatory framework[3].

In India, insider trading has evolved from an ethical concern to a codified corporate crime carrying civil and criminal consequences. The Securities and Exchange Board of India (SEBI), established under the SEBI Act, 1992, plays a central role in regulating the securities market and protecting investors. Through the SEBI (Prohibition of Insider Trading) Regulations, 2015 (PIT Regulations), the regulator has sought to align India's standards with international best practices. Yet, despite repeated amendments and judicial scrutiny, enforcement challenges persist due to evidentiary difficulties, overlapping jurisdictions, and the increasing complexity of trading mechanisms.The regulatory journey against insider trading in India reflects the evolution of the capital market itself. The Sachar Committee Report (1979) and Patel Committee (1986) were instrumental in identifying insider trading as a systemic threat, leading to the first comprehensive regulations in 1992. Subsequent reforms in 2015 and 2019 broadened definitions of "insider," "connected person," and "UPSI," expanding the scope of accountability. These developments illustrate India's gradual transition toward a proactive, disclosure-driven regulatory regime[4].Complementing SEBI's framework, the Companies Act, 2013 reinforces the governance dimension of insider trading. Although Section 195 (now omitted) directly addressed insider trading, the Act continues to impose fiduciary duties on directors and officers to act in the best interests of shareholders. Coupled with the Companies (Prevention of Fraudulent and Unlawful Trades) Rules, 2015 and SEBI's Listing Obligations and Disclosure Requirements (LODR) Regulations, 2015, the

[2]taxguru_in & Anshika Aggarwal, Effectiveness of SEBI's Regulatory Mechanisms in Preventing Insider Trading, TAXGURU (Apr. 11, 2025), https://taxguru.in/sebi/html.
[3]Final_GRMEC_Book_14_09_2020.Pdf, https://www.icsi.edu/media/webmodules/(last visited Oct. 22, 2025).
[4]Garima Dhaka Sangwan, Insider Trading in Capital Market A Legal Perspective.

Act promotes transparency, timely disclosure, and ethical decision-makingvalues integral to corporate integrity[5].However, enforcement remains SEBI's Achilles' heel. Conviction rates for insider trading cases remain low due to the difficulty of proving a direct nexus between UPSI possession and trade execution. Reliance on circumstantial evidence and data analytics, though growing, still lags behind global counterparts such as the U.S. Securities and Exchange Commission (SEC). Moreover, procedural delays and jurisdictional overlaps between SEBI, the Ministry of Corporate Affairs (MCA), and the Serious Fraud Investigation Office (SFIO) undermine the deterrent effect of enforcement. The Adani-Hindenburg controversy (2023) reignited debates on SEBI's regulatory autonomy and its response time to market irregularities[6].Insider trading must, therefore, be viewed not merely as an economic offense but as a corporate crime that violates fiduciary trust and ethical accountability. It represents the misuse of privileged corporate information by individual'sdirectors, auditors, promoters, or intermediaries for illicit personal gain, distorting the level playing field essential to fair markets. The criminalization of insider trading serves both punitive and preventive functions: deterring unethical behaviour while reinforcing confidence in India's financial institutions[7].Technological advancement adds another dimension to the challenge. The rise of algorithmic trading, digital communication channels, and social media leaks enables rapid exploitation of UPSI, making detection increasingly complex. SEBI's Integrated Market Surveillance Platform (IMSP) seeks to monitor such activities through AI-based data analysis, but gaps remain in inter-agency coordination and cross-border enforcement[8].This paper examines insider trading in India as a corporate crime, focusing on SEBI's enforcement mechanisms and the need for reform. Through an analysis of key judicial decisions such as Hindustan Lever Ltd. v. SEBI (1998), Rakesh Agrawal v. SEBI (2003), and Balram Garg v. SEBI (2022)it assesses how jurisprudence has shaped liability and corporate accountability[9]. The discussion also evaluates the interplay between SEBI's powers and the Companies Act, 2013, highlighting areas where regulatory overlap impedes efficiency. Ultimately, it argues for reforms that strengthen SEBI's investigative capacity, enhance

[5]Vanshika Kapoor, Insider Trading under SEBI (Prohibition of Insider Trading) Regulation Act, IPLEADERS (Jan. 30, 2024), https://blog.ipleaders.in/

[6]Vyshnavi Epari, Shell Companies and Corporate Frauds: Legal Loopholes and Regulatory Response in India.

[7]Manupatra, insider trading : behind closed doors, https://articles.manupatra.com/article-details?id=undefined&ifile=undefined (last visited Oct. 22, 2025).

[8]Law School Policy Review, Market Surveillance by SEBI: Catching up to Technology, LAW SCHOOL POLICY REVIEW (Aug. 19, 2020), https://lawschoolpolicyreview.com/2020/08/19/.

[9]Rachit Garg, Five Landmark Cases on Insider Trading, IPLEADERS (Sept. 15, 2021), https://blog.ipleaders.in/.

coordination, and integrate global best practices to ensure an ethical, transparent, and investor-friendly securities market.

**2. Legal and Regulatory Framework Governing Insider Trading in India**

The legal regulation of insider trading in India has evolved gradually, shaped by both domestic market developments and global financial influences. In the initial decades following independence, India's capital markets were relatively underdeveloped and lacked specialized mechanisms to deal with sophisticated securities violations. The Companies Act, 1956 did not contain any express provision addressing insider trading, though it imposed broad fiduciary duties upon company directors and officers to act in good faith and in the best interests of the company. As corporate ownership patterns diversified and stock markets gained momentum, instances of unfair trading practices and market manipulation highlighted the need for targeted regulatory intervention[10].The Sachar Committee Report (1979) was the first formal acknowledgment of insider trading as a systemic issue undermining investor trust. The Committee emphasized the necessity of transparency in corporate disclosures and suggested penal measures against persons misusing confidential information. Subsequently, the Patel Committee Report (1986) recommended the introduction of explicit legal provisions to deter insider trading, aligning Indian practices with those prevalent in advanced jurisdictions such as the United States and the United Kingdom. These recommendations led to the establishment of a statutory market regulator and the formulation of insider trading regulations under its purview[11].The creation of the Securities and Exchange Board of India (SEBI) in 1988 (as a non-statutory body) and its subsequent empowerment under the SEBI Act, 1992, marked a watershed moment in India's financial regulation. SEBI was vested with wide-ranging powers to protect investor interests, regulate the securities market, and prohibit unfair trade practices. Insider trading, recognized as one of the gravest forms of market abuse, became a primary focus of SEBI's regulatory agenda. The SEBI (Insider Trading) Regulations, 1992 represented India's first comprehensive attempt to define and prohibit insider trading. However, ambiguities in interpretation and limited enforcement experience hindered their effectiveness. This necessitated several revisions culminating in the SEBI (Prohibition of Insider Trading) Regulations, 2015, which today serve as the cornerstone of India's insider trading regime.

[10](PDF) INSIDER TRADING, REGULATORY ADVANCEMENT AND REGULATOR ACTIVISM IN INDIA, RESEARCHGATE (2025), https://www.researchgate.net/publication/376520333.

[11]Sakshi Rewaria, An Analysis of Insider Trading in India.

### 2.1 The SEBI Act, 1992: Empowering Market Enforcement

The SEBI Act, 1992 provides the statutory foundation for regulating securities markets in India. Section 11(1) mandates SEBI to protect the interests of investors and promote the development of the securities market. Sub-section (2)(g) explicitly authorizes SEBI "to prohibit insider trading in securities," while Section 11C grants investigative powers enabling the Board to summon persons, inspect records, and seize documents[12].

Under Section 15G, insider trading attracts significant monetary penalties up to ₹25 crore or three times the amount of profits made, whichever is higher. Further, Section 24 empowers SEBI to initiate criminal prosecution for insider trading, which may result in imprisonment up to ten years. The Securities Appellate Tribunal (SAT) and the Supreme Court provide appellate oversight, ensuring procedural fairness and judicial review[13].Thus, the SEBI Act serves as both the legislative backbone and enforcement engine of India's insider trading framework. Its broad mandate has enabled SEBI to respond dynamically to emerging challenges ranging from algorithmic trading to complex corporate structures that conceal beneficial ownership.

### 2.2 The SEBI (Prohibition of Insider Trading) Regulations, 2015

The SEBI (Prohibition of Insider Trading) Regulations, 2015 replaced the outdated 1992 rules and were framed based on the recommendations of the Justice N.K. Sodhi Committee Report (2013). The primary objective was to rationalize the regulatory framework, clarify key definitions, and ensure consistency with international best practices, such as those adopted by the U.S. Securities and Exchange Commission (SEC) and the U.K. Financial Conduct Authority (FCA). The 2015 Regulations marked a significant shift from a reactive enforcement approach to a preventive and compliance-oriented system[14].

One of the key elements of the 2015 Regulations is the broadened scope of the term "insider." Regulation 2(g) defines an insider expansively to include both "connected persons" and any individual who is in possession of unpublished price-sensitive information (UPSI), even temporarily. This approach aligns with international standards, emphasizing access to

[12]Manupatra, Capital Market - Prohibition of Insider Trading - Role of Professionals, https://articles.manupatra.com/article-details?id=undefined&ifile=undefined (last visited Oct. 23, 2025).

[13]Bhumika Indulia, SEBI (Prohibition of Insider Trading) Regulations, 2015: An Understanding of Insider Trading Regulations in India and Major Obstacles in Its Implementation, SCC TIMES (Sept. 14, 2023), https://www.scconline.com/blog/post/2023/09/14/.

[14]Dheeresh Kumaar Dwivedi, INSIDER TRADING REGULATIONS, 2015 – DOOMED TO FAILURE? (2015).

information rather than formal designation or title[15].The definition of UPSI under Regulation 2(n) identifies it as information that is not generally available, which, if made public, is likely to materially affect the price of securities. Examples include financial results, dividend declarations, mergers and acquisitions, changes in key managerial personnel, or major expansion plans. By focusing on the materiality of information, this definition mirrors similar principles in U.S. securities law[16].The Regulations strictly prohibit communication and trading of UPSI. Regulation 3 bars insiders from communicating or procuring UPSI, except for legitimate purposes or under legal obligations. Regulation 4 forbids trading while in possession of UPSI, establishing a strict liability standard, although defences are available for pre-scheduled trading plans or demonstrable lack of knowledge. These provisions reinforce accountability and deter opportunistic trading[17].The introduction of trading plans under Regulation 5 allows insiders to formulate pre-approved trading schedules. These plans must be disclosed publicly and approved in advance, thereby enabling legitimate transactions while reducing the risk of allegations of insider trading. This mechanism provides a structured avenue for compliance without hindering lawful trading activities[18].Enhanced disclosure and compliance requirements are provided under Regulations 6 to 9. Promoters, directors, and key managerial personnel are required to report transactions exceeding prescribed thresholds, promoting transparency and allowing SEBI to monitor trading patterns in real time. These requirements ensure that all market participants operate on a level playing field[19].The Regulations also mandate institutional mechanisms, including a Code of Conduct and a Code of Fair Disclosure for listed companies. These codes govern trading by employees and connected persons, ensuring proper management of access to UPSI at the organizational level and operationalizing compliance within corporate structures[20]. Lastly, the 2019 amendments to the Regulations introduced digital surveillance and record-keeping obligations. Companies must maintain a digital database of all persons with whom UPSI is shared, along with audit

[15]Abhirami-Arya.Pdf, https://thelawbrigade.com/wp-content/uploads/2019/05/Abhirami-Arya.pdf (last visited Oct. 23, 2025).
[16]Unpublished Price Sensitive Information (UPSI)- Why and How Need to Keep It Safe, https://taxguru.in/sebi/.html (last visited Oct. 23, 2025).
[17]Diganth Raj Sehgal, Legitimate Defences for Trading by an Insider under the PIT Regulations, 2015, IPLEADERS (Apr. 6, 2021), https://blog.ipleaders.in/.
[18]Bhumika Indulia, SEBI (Prohibition of Insider Trading) Regulations, 2015: An Understanding of Insider Trading Regulations in India and Major Obstacles in Its Implementation, SCC TIMES (Sept. 14, 2023), https://www.scconline.com/blog/post/2023/09/14/.
[19]Taxmann, [Analysis] Key Amendments to SEBI (LODR) Regulations | Enhancing Corporate Governance and Transparency, TAXMANN BLOG (Dec. 20, 2024), https://www.taxmann.com/post/blog/.
[20]Microsoft Word - Code of Conduct for Securities of NSDL_final, https://nsdl.co.in/downloadables/pdf/(last visited Oct. 23, 2025).

trails and justification for the information exchange. This reflects SEBI's move toward a technology-driven compliance model, enhancing monitoring and preventive oversight.Inthe Prohibition of Insider Trading Regulations, 2015 represent a paradigm shift in insider trading governance in India, transforming the system from reactive enforcement to a proactive, preventive, and compliance-focused framework.

**2.3 The Companies Act, 2013 and Its Intersection with SEBI Regulations**

Although insider trading primarily falls under SEBI's jurisdiction, the Companies Act, 2013 plays a complementary role by embedding principles of corporate governance and accountability into the broader legal framework. The Act promotes transparency, ethical conduct, and fiduciary responsibility, all of which serve as effective deterrents against insider misconduct and reinforce the objectives of SEBI's regulations[21].Section 195 of the Companies Act, 2013, initially prohibited insider trading by company directors and key managerial personnel, prescribing penalties including imprisonment up to five years or fines of up to ₹25 crore. However, this section was omitted in 2017 to avoid jurisdictional overlap with SEBI's Prohibition of Insider Trading Regulations, 2015. Despite its removal, the underlying principles continue to influence enforcement through other governance-related provisions, ensuring that fiduciary and ethical duties remain central to corporate oversight[22].

Several provisions of the Companies Act, 2013, are particularly relevant in the context of insider trading: Section 166Fiduciary Duties of Directors: This section obliges directors to act honestly, in good faith, and for proper purposes. Misusing confidential corporate information for personal gain constitutes a breach of these duties and can attract civil or criminal consequences. Sections 129 & 134Financial Reporting Integrity: These provisions mandate accurate and truthful financial disclosures, reinforcing the transparency required to minimize opportunities for information asymmetry and insider advantage. Section 447 Fraudulent Conduct: The Act's expanded definition of "fraud" includes acts of deception or concealment. Insider trading, when it involves such fraudulent activities, can thus be prosecuted under company law as an act of corporate fraud. Section 212Serious Fraud Investigation Office (SFIO): This provision facilitates inter-agency coordination between SEBI and the SFIO in cases were insider trading overlaps with other corporate frauds, enhancing enforcement efficiency. Schedule IV Code for Independent Directors: This schedule encourages

[21]Manupatra, INSIDER TRADING : BEHIND CLOSED DOORS, https://articles.manupatra.com/article-details?id=undefined&ifile=undefined (last visited Oct. 23, 2025).

[22]SEBI'S Rigorous Punishment for Violation of Insider Trading Regulations - An Eye Opener, https://www.taxmann.com (last visited Oct. 23, 2025).

independent oversight, ensuring directors exercise judgment free from conflicts of interest, thus preventing misuse of price-sensitive information.In essence, the Companies Act, 2013 establishes ethical and fiduciary foundations that strengthen SEBI's regulatory oversight[23]. Together, these frameworks form a twin-layered system: SEBI ensures market integrity through regulatory enforcement, while the Companies Act reinforces corporate responsibility, ethical governance, and accountability at the organizational level.Judicial decisions have played a crucial role in refining the scope and interpretation of insider trading in India. Over the years, courts and tribunals have established principles that balance investor protection with the rights of alleged insiders, shaping the enforcement landscape[24].In Hindustan Lever Ltd. v. SEBI (1998), one of the earliest cases addressing insider trading, SEBI alleged that Hindustan Lever Ltd. traded in shares of Brooke Bond Lipton prior to a merger announcement. Although the order was ultimately set aside, the case established the foundational principle that timing and access to unpublished price-sensitive information (UPSI) are critical determinants of liability.

In Rakesh Agrawal v. SEBI (2003), the Securities Appellate Tribunal (SAT) emphasized that mere possession of UPSI is insufficient for conviction; it must be demonstrated that the information was actively used for trading purposes. This case introduced an intent-based approach, ensuring that enforcement is fair while still deterring misuse of confidential information. The case of Chandrakala v. SEBI (2012) further reinforced SEBI's authority by upholding the regulator's power to rely on circumstantial evidence. Recognizing that direct proof of information transfer is rarely available in insider trading cases, the judgment allowed for a more pragmatic approach to establishing violations without compromising due process. More recently, in Balram Garg v. SEBI (2022), the Delhi High Court reiterated that SEBI must establish a causal nexus between the possession of UPSI and trading behaviour. The judgment highlighted the evidentiary rigor required for fair enforcement, emphasizing that both regulatory objectives and the rights of alleged offenders must be respected. Through these landmark judgments, the Indian judiciary has progressively developed a nuanced, evidence-based interpretation of insider trading laws. Collectively, these decisions protect investor interests while ensuring procedural fairness for alleged insiders, contributing to a balanced and credible regulatory framework.

[23]Harmonization of Insider Trading Norms and the Companies Act, INDIACORPLAW (Jan. 31, 2018), https://indiacorplaw.in/2018/01/31/.

[24]Girjesh Shukla, <p>Insider Trading: Contours of Liability and Judicial Approach</P> (Dec. 5, 2023), https://papers.ssrn.com/abstract=5446577.

### 2.4 Comparative and Global Perspectives

Globally, insider trading is treated as a serious corporate crime and a fundamental breach of market integrity. The U.S. Securities Exchange Act of 1934, enforced by the Securities and Exchange Commission (SEC), serves as the model for most jurisdictions. The SEC follows a strict liability regime combined with powerful investigative tools, including wiretaps, whistleblower programs, and data analytics for market surveillance. Convictions often lead to substantial fines and imprisonment, creating strong deterrence[25].In the United Kingdom, the Criminal Justice Act, 1993 and Financial Services and Markets Act, 2000 (FSMA) criminalize insider dealing and market abuse. The Financial Conduct Authority (FCA) focuses on both criminal and civil remedies, ensuring flexibility in enforcement[26].India's approach, while comprehensive, faces challenges due to limited forensic capacity, slow adjudication, and restricted inter-agency data sharing. However, SEBI's alignment with the International Organization of Securities Commissions (IOSCO) standards and the adoption of advanced market surveillance systems signal a commitment to improving enforcement capacity[27].India's insider trading regime represents a sophisticated synthesis of legislative, regulatory, and judicial elements. The SEBI Act provides the statutory foundation, the PIT Regulations operationalize the prohibition, and the Companies Act embeds governance-based accountability. Together, they form an integrated architecture that aspires to balance market freedom with investor protection[28].Yet, despite this robust framework, the persistent gap between regulation and enforcement underscores the need for systemic reform. As insider trading grows more technologically complex and globally networked, SEBI must continuously refine its surveillance, expand inter-agency collaboration, and enhance penalties to deter sophisticated offenders. The following section critically examines these enforcement mechanisms and highlights the structural challenges that impede their effectiveness.

## 3. SEBI's Enforcement Mechanisms and Challenges

The enforcement of insider trading laws in India primarily rests on the shoulders of the Securities and Exchange Board of India (SEBI) a regulator vested with extensive powers

[25](PDF) The Legal Implications of Insider Trading and Market Manipulation: How Corporate Governance Can Mitigate Legal Risks and Promote Fairness, https://www.researchgate.net/publication/388658763 (last visited Oct. 23, 2025).
[26]Insider Dealing and Market Abuse – What You Need to Know, https://www.bcl.com/news/ (last visited Oct. 23, 2025).
[27]Parvejur Rahman & Sagufta Mehnaz, International Journal for Multidisciplinary Research (IJFMR), SSRN ELECTRON. J. (2024), https://www.ssrn.com/abstract=5054029.
[28]Drishti, Insider Trading and Corporate Governance in India: Evaluating Sebi's Efficacy and the Need for Reform (Apr. 7, 2025), https://papers.ssrn.com/abstract=5436815.

under the SEBI Act, 1992. SEBI's enforcement framework represents a delicate balance between preventive regulation, deterrent punishment, and market confidence-building. However, the nature of insider trading often concealed, data-driven, and reliant on circumstantial evidence makes enforcement a complex task[29].While the legislative framework against insider trading is robust, the efficacy of SEBI's enforcement mechanisms continues to face scrutiny. Critics often point to the low conviction rate, procedural delays, and limited forensic infrastructure as indicators of systemic inefficiency. Yet, it is equally important to recognize that SEBI has made significant strides in strengthening investigative capabilities, digital surveillance, and cross-agency collaboration, positioning itself closer to global standards[30].

### 3.1 Investigative Powers under the SEBI Act

The SEBI Act, 1992 confers broad investigative authority on the Board to ensure effective market regulation. Section 11C empowers SEBI to order investigations into cases where it suspects insider trading or other market abuses[31]. Under this provision, SEBI can:

- Summon individuals and compel them to produce records or information.
- Inspect books of accounts, trading logs, or digital data of market intermediaries.
- Examine witnesses and seize documents that may constitute evidence.

These powers are complemented by Section 15-I, which authorizes SEBI to adjudicate penalties through an Adjudicating Officer (AO). Furthermore, SEBI can initiate criminal prosecution under Section 24, seeking imprisonment of up to ten years, although such cases are comparatively rare due to the evidentiary burden of proving guilt beyond reasonable doubt.

The investigative process typically begins with market surveillance alerts generated by SEBI's technology systems. Upon detecting abnormal trading patterns such as unusual price movements prior to major corporate announcements SEBI may issue a show-cause notice, followed by inquiry and adjudication. Depending on the gravity of the violation, SEBI may

[29]IJLLR Journal, Sebi's Enforcement Powers And Mechanisms, IJLLR JOURNAL (Apr. 30, 2025), https://www.ijllr.com/post/.

[30]Jyoti Hegdekatte, THE EFFECTIVENESS OF SEBI'S MEASURES IN PREVENTING MARKET MANIPULATION, 3 (2016).

[31]India: A Deep Dive into SEBI and Related Legislation Amid Insider Trading and Market Manipulation Investigations, LEXOLOGY (Dec. 7, 2023), https://www.lexology.com/library/detail.aspx?g=1abb4705-c62f-41bd-9ab9-5f4512e9639c.

impose monetary penalties, issue cease-and-desist orders, or bar individuals from accessing the securities market[32].

### 3.2 Integrated Market Surveillance and Technological Tools

In an era of digital trading, insider trading often involves complex communication networks and indirect beneficiaries. Recognizing this, SEBI has modernized its monitoring mechanisms through the Integrated Market Surveillance System (IMSS) and Data Warehousing and Business Intelligence System (DWBIS)[33].These platforms collect and analyse large volumes of trading data across exchanges to identify patterns of coordinated trading, sudden spikes, or unusual volumes before significant corporate disclosures. SEBI also collaborates with stock exchanges like NSE and BSE, which are mandated to conduct real-time surveillance and report suspicious transactions.Furthermore, SEBI's adoption of Artificial Intelligence (AI) and Big Data analytics has enhanced its ability to detect insider trading in complex environments. The use of digital footprints, call data records, and email correspondence allows SEBI to build circumstantial evidence connecting insiders with traders. This transition toward technology-assisted investigation represents a major reform in SEBI's enforcement strategy, moving from manual investigation to predictive surveillance[34].However, despite these advancements, SEBI faces significant challenges in accessing data located overseas or encrypted through digital platforms, limiting its capacity to pursue cross-border violations or cases involving foreign institutional investors.

### 3.3 Penalties and Sanctions

SEBI's enforcement actions are supported by a graded system of penalties that aim to balance deterrence with fairness. Under Section 15G of the SEBI Act, any person found guilty of insider trading may face a penalty of up to ₹25 crore or three times the profit made, whichever is higher[35]. In addition, SEBI can:

- Debar individuals from holding directorship positions or accessing the securities market.
- Issue disgorgement orders requiring the return of unlawful gains.
- Initiate criminal prosecution, leading to imprisonment of up to ten years.

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[32]Bhumika Indulia, SEBI's Powers to Investigate: A Primer on Section 11-C of the SEBI Act, 1992, SCC TIMES (July 22, 2024), https://www.scconline.com/blog/post/2024/07/22/experts-corner/.

[33]IJLLR Journal, Strengthening Surveillance: SEBI's Approach To Insider Trading In The Digital Era, IJLLR JOURNAL (Feb. 28, 2025), https://www.ijllr.com/post/.

[34]SEBI's Insider Trading Combat: Navigating the Terrain of the Structured Digital Database, HTTPS://WWW.TAXMANN.COM,https://www.taxmann.com/research/company-and-sebi/top-story/last visited Oct. 23, 2025).

[35]LegalMantra, Legal Mantra - Thinking Ahead. Legal Mantra, LEGAL MANTRA, http://localhost/legal_mantra/ (last visited Oct. 23, 2025).

- Impose administrative sanctions such as suspension of trading licenses or cancellation of registration for intermediaries.

The Securities Appellate Tribunal (SAT) serves as the appellate body for reviewing SEBI's orders. SAT's role ensures that SEBI's actions are subject to judicial scrutiny, thereby reinforcing procedural fairness and preventing regulatory overreach. While SEBI's penalty regime is stringent in theory, practical challenges often dilute its deterrent effect. Monetary penalties, though substantial, are sometimes perceived as insufficient relative to the profits made from insider trading. Moreover, delays in investigation and adjudication mean that enforcement actions are often concluded years after the violation, weakening their impact on market behaviour. A study of SEBI's recent enforcement actions reveals both progress and persisting gaps in implementation. In Rakesh Agrawal v. SEBI (2003), the Securities Appellate Tribunal (SAT) overturned SEBI's penalty, emphasizing the need to prove that UPSI was intentionally used for trading. The decision underscored the evidentiary burden in insider trading cases and highlighted the importance of distinguishing between mere possession and misuse of sensitive information. Similarly, the Deep Industries Ltd. Case (2010) showcased SEBI's reliance on trading pattern analysis to infer access to UPSI, even in the absence of direct communication evidence, demonstrating the regulator's evolving investigative techniques. The Hindustan Lever Ltd. Case (1998) was a milestone in defining UPSI, illustrating how the timing of transactions relative to public disclosures can form the core of SEBI's circumstantial case.More recent judgments continue to shape enforcement trends. In Balram Garg v. SEBI (2022), the Delhi High Court emphasized that SEBI must establish a clear causal nexus between possession of UPSI and the trade, setting a high evidentiary threshold. While SEBI's approach has evolved from reactive, complaint-based mechanisms to proactive market surveillance, judicial insistence on strong evidentiary links often results in reduced penalties or overturned orders. This tension between regulatory intent and judicial scrutiny has led scholars to describe SEBI's enforcement as "regulatory underreach despite statutory overbreadth," highlighting the need for reforms that balance effective deterrence with due process protections[36].

### 3.4 Structural and Procedural Challenges

Despite commendable progress in market regulation, SEBI's enforcement mechanisms continue to face multiple institutional and practical challenges. One of the foremost issues is

[36]Bhumika Indulia, Delineating the Scope and Nature of Disgorgement Under Securities Law, SCC TIMES (June 24, 2024), https://www.scconline.com/blog/post/2024/06/24/.

evidentiary difficulty. Insider trading is inherently covert, often involving private communications or proxy traders. Establishing a direct link between possession of unpublished price-sensitive information (UPSI) and trading intent remains SEBI's greatest challenge. Moreover, the lack of robust whistleblower protection, unlike the U.S. SEC system, restricts access to crucial insider information that could support enforcement actions[37].

Another significant challenge is the delay in adjudication. Lengthy investigations and appeals often undermine the deterrent effect of enforcement. In several cases, SEBI's final orders are delivered years after the alleged violation, reducing both public scrutiny and the punitive impact on offenders. Compounding this is the overlap of jurisdictions between SEBI, the Ministry of Corporate Affairs (MCA), and the Serious Fraud Investigation Office (SFIO). Such overlaps often create regulatory duplication or ambiguity, particularly when insider trading intersects with corporate fraud or accounting manipulation[38].Technological advancement has also introduced new complexities. With the rise of algorithmic, high-frequency, and cross-border trading platforms, SEBI's traditional surveillance tools struggle to detect sophisticated forms of insider activity. While AI-based analytics are being adopted, limitations in human expertise, inter-agency data sharing, and technological integration continue to impede effective monitoring[39].Furthermore, inadequate deterrence remains a pressing concern. Monetary penalties, though substantial, are sometimes viewed by wealthy corporate insiders as a manageable cost of business. The relative infrequency of criminal prosecutions also diminishes the perception of insider trading as a serious corporate crime, weakening the overall regulatory impact[40].Lastly, lack of investor awareness limits SEBI's enforcement reach. Many retail investors remain unaware of the mechanisms to report suspected insider trading or the role of SEBI's whistleblower and grievance systems. This gap restricts the regulator's access to ground-level intelligence that could be critical in identifying and preventing insider trading.

### 3.5 Reforms and Strengthening SEBI's Enforcement Regime

[37](PDF) Insider Trading in India – Regulatory Enforcement, https://www.researchgate.net/publication/31252016(last visited Oct. 23, 2025).
[38](PDF) The Role Of Sfio In Combating Corporate Frauds In India: A Critical Analysis - With Brief Insights Into Green-Washing Practices, RESEARCHGATE (2025),https://www.researchgate.net/publication/395371815.
[39](PDF) Jane Street Case Marks a Turning Point in SEBI's Index Governance Strategy, https://www.researchgate.net/publication/393446953(last visited Oct. 23, 2025).
[40]Michael Duffy, Insider Trading: Addressing the Continuing Problems of Proof (Jan. 1, 2009), https://papers.ssrn.com/abstract=3192201.

To bridge existing enforcement gaps, scholars and policy bodies have proposed several reforms aimed at enhancing SEBI's institutional capacity and legal effectiveness. A key recommendation is the enhancement of surveillance infrastructure. Expanding SEBI's Integrated Market Surveillance System and establishing real-time linkages with the Income Tax Department, Enforcement Directorate, and SFIO could create a unified financial intelligence framework, enabling quicker detection and intervention in suspicious trading activities[41].Given the global nature of many insider trading schemes, cross-border cooperation is also critical. Strengthening SEBI's collaboration with foreign regulators under IOSCO's Multilateral Memorandum of Understanding (MMoU) can facilitate data sharing and the collection of evidence across jurisdictions, addressing challenges posed by international trading networks[42].Criminalization and deterrence measures form another pillar of reform. Increasing the frequency of criminal prosecutions under Section 24 of the SEBI Act, modelled on the U.S. SEC's coordination with the Department of Justice, could significantly enhance the perception of insider trading as a serious corporate crime and reinforce deterrence against repeat offenders[43].Enhancing whistleblower protection and incentivization is equally important. India could adopt incentivized whistleblower programs, allowing individuals to report insider trading with confidentiality and monetary rewards, similar to provisions under the U.S. Dodd-Frank Act, 2010, thereby improving access to crucial information for enforcement[44].The adoption of integrated data analytics is another recommended reform. Establishing a centralized data repository that integrates information from depositories, exchanges, and banks could enable SEBI to detect coordinated trading patterns more effectively, thereby strengthening preventive oversight[45].Capacity building and human resource development are essential for effective enforcement. SEBI must invest in specialized training for investigators, financial analysts, and data scientists to enhance the analytical sophistication of enforcement operations and keep pace with complex trading

[41]SFIO Fraud Warning: SFIO Developing Early Warning System to Detect Corporate Frauds - The Economic Times, https://economictimes.indiatimes.com/news/economy/policy/articleshow/58808767.cms?from=mdr (last visited Oct. 23, 2025).

[42](PDF) Cross-Border Cooperation between Securities Regulators, https://www.researchgate.net/publication/344624432(last visited Oct. 23, 2025).

[43]Kaushik Das & Anita Sable, Insider Trading: A Comparative Analysis of the Regulatory Models of India with the US and the UK.

[44](PDF) CORPORATE WHISTLEBLOWING/VIGIL MECHANISM IN INDIA: A STRONG TOOL FOR DETECTION AND DETERRENCE OF INSIDER TRADING, https://www.researchgate.net/publication/339677426(last visited Oct. 23, 2025).

[45]SEBI Using Big Data to Catch Insider Trading Violators - Angel One, https://www.angelone.in/news/market-updates/(last visited Oct. 23, 2025).

mechanisms[46].Finally, improving the timeliness of adjudication is crucial. Establishing fast-track benches for insider trading cases within SEBI and the Securities Appellate Tribunal (SAT) could accelerate case disposal, ensuring that enforcement actions are both swift and credible, and restoring investor confidence in the regulatory framework.

### 3.6 Comparative Insight: Learning from Global Enforcement Models

A comparative look at international regimes reveals that effective enforcement is not merely a function of law but of institutional culture and capacity.The U.S. SEC combines administrative penalties with criminal prosecution, relying heavily on whistleblower reports and surveillance technology. The FCA (UK) adopts a flexible enforcement approach, settling cases through civil penalties or criminal trials depending on gravity.India's SEBI, while empowered with similar legal tools, operates within a more constrained resource environment. The absence of plea bargains, limited staff, and procedural rigidity restrict its agility. Nevertheless, SEBI's increasing reliance on technology and inter-agency collaboration reflects a trajectory toward convergence with global enforcement standards.SEBI's enforcement mechanisms are the backbone of India's insider trading regulation, reflecting a blend of statutory authority, technological innovation, and judicial oversight. While SEBI has evolved into a capable and assertive regulator, its enforcement record remains mixed due to structural, procedural, and evidentiary hurdles.A reform-oriented approach, combining technological modernization, cross-border cooperation, and stronger criminal deterrence, is essential to reinforce SEBI's credibility and restore investor confidence. Ultimately, the success of India's insider trading regime depends not merely on the existence of laws but on the timely, transparent, and consistent enforcement of those laws ensuring that corporate power is exercised with integrity and accountability[47].

## 4. The Need for Reform and Policy Recommendations

Despite the existence of a comprehensive legal and regulatory frameworkencompassing the SEBI (Prohibition of Insider Trading) Regulations, 2015, the SEBI Act, 1992, and relevant provisions under the Companies Act, 2013 insider trading continues to challenge the integrity of India's capital markets. The persistence of such offences reveals the gap between legal formalism and practical enforcement. While SEBI's proactive efforts in strengthening surveillance and penalizing offenders are commendable, enforcement remains constrained by

[46]Background-Material-on-Sustainability-Business-Responsibility-Sustainability-Reporting-BRSR-Revised-Edition-2024.Pdf, https://sustainability.icai.org/wp-content/uploads/2025/06/24.pdf (last visited Oct. 23, 2025).
[47]Regulation And Analysis of the Concept of Insider Trading, (Sept. 11, 2024), https://www.lawctopus.com/academike/.

systemic inefficiencies, procedural delays, and evidentiary difficulties[48].Therefore, a re-examination of India's insider trading regime is essential not merely to punish violators but to ensure that corporate governance, transparency, and investor protection are placed at the centre of securities regulation. The following section outlines key areas where reform is both necessary and feasible, combining insights from comparative jurisprudence, regulatory theory, and contemporary market dynamics.

### 4.1 Strengthening the Legal Framework

#### 4.1.1 Harmonization with the Companies Act, 2013

The Companies Act, 2013 provides an important link between corporate governance and securities regulation. Provisions such as Section 195 (prohibition of insider trading) — though omitted in 2018 to avoid duplication — originally sought to criminalize insider trading within corporate structures. Its repeal, however, has left a regulatory vacuum regarding internal corporate liability and board-level accountability[49].

To address this gap, reforms could include:

- Reintroducing a corporate governance clause in the Companies Act mandating internal codes of conduct against insider trading, linked to the duties of directors under Section 166 (fiduciary obligations).
- Making it mandatory for company boards and audit committees to disclose UPSI-handling protocols in annual reports.
- Integrating SEBI's regulations with MCA's compliance framework, ensuring that both internal company misconduct and market-level violations are addressed cohesively.

Such convergence would strengthen internal compliance culture while reducing the fragmentation of corporate and securities law enforcement.

#### 4.1.2 Refining the Definition of "Insider" and "UPSI"

Although the 2015 Regulations adopt a comprehensive definition of "insider" covering connected persons and those in possession of UPSI ambiguities persist, particularly concerning indirect communication and informal networks.In an era of social media and digital trading, UPSI may spread through encrypted messaging platforms, family members, or professional intermediaries, making its detection and proof increasingly complex.Hence, SEBI should:

[48]Insider_Trading_Regulations_-_A_Primer.Pdf, https://www.nishithdesai.com/(last visited Oct. 23, 2025).
[49]Insider Trading in India: Regulations and Controlling Authority - iPleaders, https://blog.ipleaders.in/ (last visited Oct. 23, 2025).

- Expand the definition of "connected persons" to include digital and social media intermediaries who may transmit UPSI.
- Clarify that the burden of proof in insider trading cases involves establishing reasonable inference rather than absolute certainty, in line with civil standard of preponderance of probabilities.
- Introduce specific guidance on what constitutes "legitimate purpose" for sharing UPSI under Regulation 3(2B) to prevent misuse of exceptions.

### 4.2 Enhancing SEBI's Institutional Capacity

#### 4.2.1 Specialized Insider Trading Division

Given the technical nature of insider trading offences, SEBI should establish a Special Insider Trading Enforcement Division staffed with experts in financial analytics, forensic accounting, data science, and digital forensics.This division could operate semi-autonomously within SEBI, ensuring faster case assessment, evidence gathering, and coordination with the Securities Appellate Tribunal (SAT).A specialized division would reduce case backlog and enable consistent interpretation of insider trading norms currently dispersed across multiple departments.

#### 4.2.2 Whistleblower Protection and Incentivization

One of the most significant gaps in India's enforcement framework is the absence of a robust whistleblower mechanism in the securities market. While the Companies Act, 2013 (Section 177(9)) mandates certain companies to establish vigil mechanisms, it does not extend protection or rewards for individuals reporting insider trading[50].Learning from the U.S. Dodd-Frank Act (2010), which institutionalized the SEC Whistleblower Program, SEBI could adopt a similar model by:

- Establishing a confidential reporting system for insider trading violations.
- Providing financial incentives (e.g., a small percentage of the disgorged profits) to whistleblowers whose information leads to successful enforcement.
- Ensuring statutory protection against retaliation or termination for whistleblowers under securities law.

Such measures would democratize enforcement by transforming investors and employees into active participants in maintaining market integrity.

#### 4.2.3 Faster Adjudication and Dedicated Tribunal Benches

[50]Prasilla Salvi Tirkey, Whistleblower Protections in Corporate Law: Legal Remedies and Challenges in India.

Delays in adjudication remain one of the most serious impediments to SEBI's enforcement credibility. Complex cases often take several years to resolve, reducing both deterrence and investor confidence[51].To address this:

- Dedicated fast-track benches within SAT and SEBI's adjudication wing could be constituted exclusively for insider trading cases.
- Time-bound investigation and appeal timelines (e.g., completion within 18 months) should be legislatively prescribed.
- Encouraging consent mechanisms and settlement orders for minor violations can expedite resolution while freeing SEBI's resources for serious offences.

These procedural reforms would align SEBI's enforcement pace with global standards, ensuring that justice is both swift and credible.

### 4.3 Leveraging Technology and Cross-Border Collaboration

#### 4.3.1 Digital Forensics and AI-Driven Surveillance

The future of insider trading enforcement lies in technology. With trading increasingly algorithmic and decentralized, traditional surveillance is insufficient.SEBI must further develop its Artificial Intelligence (AI) and Machine Learning (ML) frameworks to identify abnormal trading patterns, suspicious correlations, and cross-account linkages across time zones[52].Enhanced digital forensicsincluding blockchain analysis, IP tracking, and metadata extraction can help identify the true beneficiaries of illegal trades.Moreover, SEBI's collaboration with the Financial Intelligence Unit (FIU), Enforcement Directorate (ED), and Income Tax Department can facilitate access to financial trails that often reveal hidden insider networks[53].

#### 4.3.2 International Cooperation and Information Sharing

In a globalized securities market, insider trading often transcends borders. Transactions executed through offshore accounts, foreign institutional investors (FIIs), or shell companies require transnational coordination.SEBI's participation in IOSCO's Multilateral Memorandum of Understanding (MMoU) provides a legal basis for data exchange with

[51]Sourabh Sharma, Challenges Against SEBI Orders in SAT Jump 50% in 2024 - NiftyTrader, NIFTYTRADER NEWS (Apr. 2, 2025), https://www.niftytrader.in/content/.

[52](PDF) AI-driven surveillance and blockchain integration for insider trading detection: a regulatory framework for sebi, RESEARCHGATE (2025), https://www.researchgate.net/publication/389710186.

[53]Pallavi Rai & Chandra Shekhar, Artificial Intelligence in Financial Markets: Global Trends, Regulatory Challenges, and Comparative Analysis with India, 6 INT. J. RES. PUBL. REV. 5503 (2025).

foreign regulators[54]. However, SEBI could strengthen its international enforcement footprint by:

- Negotiating bilateral treaties with key financial centres (e.g., Singapore, London, Dubai) for evidence sharing.
- Establishing liaison units abroad to assist in tracing cross-border trades.
- Promoting mutual recognition of enforcement orders among partner jurisdictions.

Such initiatives would transform SEBI into a globally integrated regulator capable of combating sophisticated, international insider trading schemes.

### 4.4 Promoting Corporate Governance and Ethical Compliance

#### 4.4.1 Role of Boards and Compliance Officers

Corporate governance is the first line of defence against insider trading. The 2015 Regulations already require companies to appoint Compliance Officers responsible for monitoring trading by insiders and maintaining structured digital databases of UPSI[55].However, compliance remains largely procedural rather than substantive. Companies often treat compliance as a formality instead of embedding it within their ethical culture.Reform measures should include:Periodic SEBI audits of corporate compliance mechanisms, Mandatory annual certifications by Compliance Officers confirming the company's adherence to insider trading codes and Public disclosure of any breaches or disciplinary actions taken against employees or directors.

This would enhance accountability and ensure that insider trading prevention becomes an integral part of corporate ethics rather than a mere regulatory obligation.

#### 4.4.2 Investor Education and Market Awareness

A strong enforcement regime requires informed investors. SEBI should expand its Investor Protection and Education Fund (IPEF) to include awareness campaigns on insider trading its definition, consequences, and reporting mechanisms[56].Also, digital complaint portals and anonymous reporting interfaces could empower retail investors to assist SEBI in early detection. The inclusion of insider trading education in management and finance curricula would also contribute to a more ethically conscious corporate community.

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[54]-Manupatra, https://updates.manupatra.com/roundup/contentsummary.aspx?iid=35761 (last visited Oct. 23, 2025).

[55]SEBI (Prohibition of Insider Trading) Regulations, 2015: A Comprehensive Study, https://taxguru.in/sebi/(last visited Oct. 23, 2025).

[56]SEBI | Comprehensive Guidelines for Investor Protection Fund (IPF) and Investor Services Fund (ISF) for Stock Exchanges Having Commodity Derivatives Segment, https://www.sebi.gov.in/legal/circulars/may-2024/83718.html (last visited Oct. 23, 2025).

### 4.5 Comparative insights from Global Jurisdictions

An analysis of global enforcement practices provides significant lessons for strengthening India's insider trading regime. In the United States, the Securities and Exchange Commission (SEC) has achieved remarkable success through a dual-track enforcement model that combines civil penalties with criminal prosecutions under the Department of Justice. Its whistleblower incentive system and advanced surveillance technologies such as ATLAS and ARTEMIS enable early detection and robust deterrence. Similarly, the United Kingdom's Financial Conduct Authority (FCA) employs a risk-based supervision model under the Market Abuse Regulation (MAR), focusing on transparency through mandatory disclosure, maintenance of insider lists, and publicized sanctions. Australia's approach, under the Australian Securities and Investments Commission (ASIC), treats insider trading as a corporate crime, enabling the prosecution of both individuals and corporations for secondary liability. Drawing from these examples, SEBI could adopt a hybrid framework that integrates AI-driven market analytics, incentivized whistleblowing, and coordinated civil-criminal enforcement to build a proactive and credible deterrence mechanism[57].Insider trading reform in India must be seen not only as a regulatory necessity but as a moral and economic imperative essential to market fairness and investor confidence. Although India's legal framework through SEBI's PIT Regulations, 2015, and the Companies Act, 2013 is comprehensive, enforcement continues to be hindered by procedural delays, jurisdictional overlaps, and inadequate deterrence. To address these gaps, a multi-dimensional reform strategy is required, focusing on institutional strengthening of SEBI, greater corporate accountability, and the integration of technology-based surveillance tools. Moreover, aligning SEBI's regulatory powers with corporate governance duties under the Companies Act would ensure insider trading is treated as both a securities offence and a breach of fiduciary trust[58]. The future of India's securities market depends on transitioning from a rule-based to a principle-based enforcement culture one founded on ethics, transparency, and accountability, thereby fostering a fair, resilient, and globally credible financial ecosystem.

## 5. Conclusion and Recommendations

The regulation of insider trading in India has significantly evolved, with SEBI's PIT Regulations, 2015, the SEBI Act, 1992, and the Companies Act, 2013 providing a

[57]An Analysis of Insider Trading Regulations: A Comparative Study of India, USA & U.K. | International Journal of Law Management & Humanities, https://ijlmh.com/paper/(last visited Oct. 23, 2025).

[58](PDF) Insider Trading in India – Regulatory Enforcement, RESEARCHGATE (2025), https://www.researchgate.net/publication/312520161t.

comprehensive legal and corporate governance framework. Despite these robust laws, insider trading persists in sophisticated and covert forms, exposing limitations in enforcement, evidentiary challenges, procedural delays, and weak deterrence. Insider trading is not merely a market violation but a corporate crime that undermines fairness, investor trust, and market efficiency. A holistic approach combining SEBI's regulatory oversight, ethical corporate conduct, fiduciary accountability under the Companies Act, and investor awareness is essential to restore integrity and confidence in India's securities markets.

### 5.1 Recommendations

To strengthen enforcement, institutional integration between SEBI, the Ministry of Corporate Affairs, and the Serious Fraud Investigation Office should be established for seamless data sharing and joint investigations. SEBI could create a specialized Insider Trading Enforcement Division equipped with forensic accountants, data analysts, and AI experts, while implementing a statutory whistleblower program with confidentiality and incentives to improve intelligence gathering. Fast-track adjudication benches and proportionate penalties would enhance deterrence, and expanding AI-driven surveillance, blockchain analytics, and pattern-recognition systems could detect complex trading networks more effectively.

Corporate accountability should be reinforced through mandatory annual certifications of compliance with SEBI's insider trading codes and disclosure obligations, while investor education programs under SEBI's Investor Protection and Education Fund (IPEF) can promote ethical trading and vigilance among retail investors. Cross-border collaboration with foreign regulators via bilateral treaties and IOSCO networks can facilitate evidence collection and enforcement in international cases. These reforms collectively aim to create a responsive, technologically empowered, and ethically grounded regulatory ecosystem, ensuring that integrity is central to India's financial markets.