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Comparative Analysis of Investigation Imposed by SEBI on Price Rigging and Insider Trading

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Abstract
The insider trading regulations of the year 2019 entirely replaced the regulations of the year 2015 and created an entirely new legal framework. Price rigging is an illegal act of forming bubbles which can burst anytime. A group of person agreed to simultaneously buy and sell stocks in circulation in bulk quantity which aggressively inflates the price. The new regulations introduced various restrictions and exceptions to the practice of insider trading and rejuvenated the whole meaning of insider trading in our country. From the analysis of insider trading for the past 2 financial year (FY) 2018-19 and 2019-20, Security Exchange Board of India has caught 119 cases of insider trading, which is higher than the number of cases detected by Security Exchange Board of India in any of the previous years since its inception. The paper analyses the reasons for violation of insider trading and the quantum of penalty imposed for violation of Insider Trading Regulation norms. Also analyze the year wise investigative cases taken and completed by the SEBI on violation of insider trading, market manipulation and price rigging. The analysis and findings will helps to the future research on insider trading and helps to the strict implementation of new regulation.
Key Words: *Price Rigging, Insider Trading, SEBI, UPSI.*

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1. Introduction

Trends in investigations by the market regulator Security Exchange Board of India suggest that stock price rigging has declined and is at its lowest in the past decade. As the trend shows, insider trading is increasing rapidly. SEBI caught 119 cases of insider trading in 2019 and 2020, the highest ever. Market operators opined that price rigging could still be rampant in derivatives market, with the use of social-media and other modes of rumour mongering, as there are no restrictions in this segment. Section 12A(d) of the SEBI prohibits insider trading while Section 15(G)provides a penalty of a amount ranging between ten lakhs to 25 crore rupees of a penalty of a sum which is 3 times the amount of profit made, whichever is higher. Price rigging is a systematic scheme run by high frequency traders and brokers in order to make profits from the panic of common people. It is an illegal action that occurs when parties conspire to fix or inflate prices to achieve higher profits at the cost of the consumer.

SEBI made an investigation about unprecedented number of alleged insider trading violations in the financial year 2019.Security Exchange Board of India's intense surveillance measures and the various circuit filters that it has imposed have checked price rigging in the cash segment. Maintenance of a digital data base for the listed companies becomes essential which have pushed up the companies to comply with the requirement. The activities of the companies sometimes violate insider trading norms. Hence an attempt made by the researcher to analyze the reasons for violation of insider trading norms, penalty imposed by SEBI and compare the investigation into market manipulation, price rigging and insider trading.

2. Statement of the Problem

Insider trading is done by companies insiders or firms closely linked to the company management or promoters. Security Exchange Board of India's insider trading investigation revolves around unpublished price sensitive information and its possession by firms that have traded in the stock and their linkages. In FY 2019-20, Security Exchange Board of India found only 35 cases of stock 'price rigging', which normally involves artificial demand, supply trades to change price. It is the very lower detection rate since at least 2008. The main contention against 'insider trading' is that it is unfair and discourages common people who participate in markets, making it more difficult for the companies to raise capital.

The laws have just gotten strict guidelines with every new legal statute. This has gone onto show us that the authorities consider this improper behavior as vital issue and have tried implementing new and strict statutes to curb it. With this behavior of the government authorities, it means they take this issue seriously and any violation of the laws in this specific area will be dealt with serious consequences. Therefore, it is crucial for every person dealing in stock trading to be aware of these restrictions and exceptions as laid down in the legal statute and indulge in legal in the future.

3. Review of Literature

Kiran Kabtta Somvanshi in an article in Economic Times stated that, Security Exchange Board of India made an investigation about unprecedented number of alleged insider trading violations in financial year 2019 and found that the market regulator, Securities and Exchange Board of India has identified Insider Trading is emerging to be one of the most crucially scrutinized cases of violations. An increase in the scrutiny of alleged cases of violations of insider trading regulation is revealed from the data of the regulator's annual reports for the last five years.

Palak Shah an expert of business line writer, pointed out that, as per Security Exchange Board of India's insider-trading norms, maintenance of digital data base for listed companies becomes essential which have pushed up the companies to comply with the requirement and therefore there is a rush for compliance-related software in the market

Sures P Iyengar, Sated in Business line that, Tree House Education Promoters conducted the proposed merger and the information pertaining to it was price sensitive information possessed by certain people connected with the company. Director and promoters had interaction between them and are not able to justify their indulgence in selling of shares of the company, further it was concluded that the same was done under the influence of unpublished price sensitive information. When directors and promoters were found involved in insider trading, the regulator has been stringently consistent about debarment with heavy monetary penalty.

Sandeep Parekh, founder, FinSec Law Advisors, states that 'Insider trading' is relatively easy to prove since only possession of UPSI needs to be shown. In price rigging cases, intent must be proved. Regulators do not have infinite resources, so they have to choose their battles and decide what is more serious.

T.S. Viswanathan stated that the legitimate expectations were added wherein such disclosure in ordinary course of business to partners, collaborators, etc. would fall under the exception. However, under regulation 2(B) it also states that any such person to whom the UPSI is disclosed to for legitimate purpose like lawyers, accountants, partners, etc. from that point will fall under the definition of insider and hence all the prohibition of the regulation would also apply to them too.

4. Objectives of the Study

To analyse the reasons and quantum of penalty imposed by SEBI for share price rigging and insider trading.

To analyse the trends of investigative cases newly filed and completed on price rigging and insider trading.

5. Method of Data Collection

This study is based on secondary data. The number of investigative cases filed and completed by SEBI on insider trading and price rigging from the year 2010-11 to 2019-20.

6. Analysis and Interpretation

Price rigging happens when a group of people or businesses agree to set the price for something. It is not legal because it interferes with the natural. Market forces of supply and demand leads harms to consumers by inhibiting competition. Traders with inside information might secretly work together on trades to get advantage from the 'inside information'. Similarly, sellers might inflate the price of an asset to realize more profits.

Insider trading based on important non-public information is illegal. Thus, it is very clear from this discussion that the laws restricting the 'practice of insider trading' have evolved to a great extent from its onset.

Regulation 3(1) of the Security Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015 lays down the first prohibition on 'insider trading' and states that no insider shall communicate any 'unpublished price sensitive information' relating to a company to any person. The term *any person* also included other insider of the company as well. Thus, it states that a person who is in possession of UPSI should neither communicate such 'unpublished price sensitive information' to outsiders nor insider people. However, it also carves an exception and states that such disclosure of information may be permitted in cases where such transfer of information is made for 'legitimate purposes, performance of duties or discharge of legal obligations'.

Table 1 shows the list of investigative cases filed by SEBI regarding price rigging and insider trading as well as the year wise list of investigative cases completed.

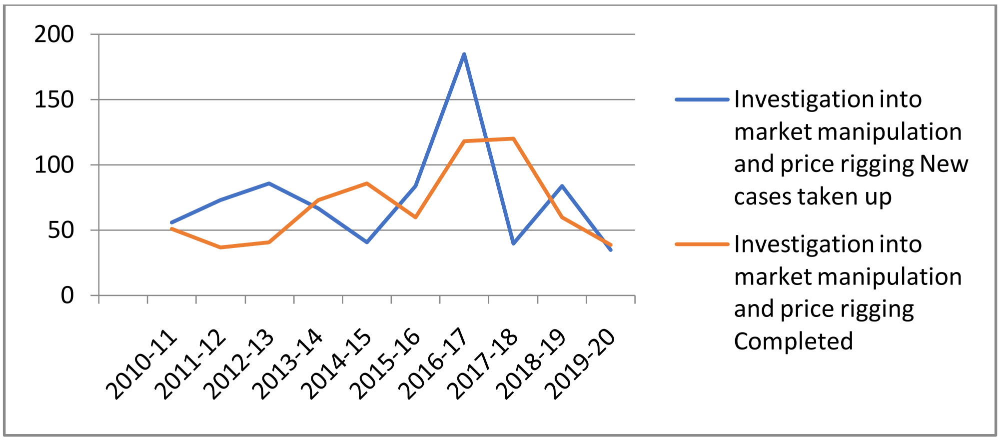
Table I
Year wise investigation into price rigging and insider trading

Investigation into market manipulation and price rigging			**Investigation into insider trading**		
year	**New cases taken up**	**Completed**	**year**	**New cases taken up**	**Completed**
2010-11	56	51	2010-11	28	15
2011-12	73	37	2011-12	24	21
2012-13	86	41	2012-13	11	14
2013-14	67	73	2013-14	13	13
2014-15	41	86	2014-15	10	15
2015-16	84	60	2015-16	12	20
2016-17	185	118	2016-17	34	15
2017-18	40	120	2017-18	15	6
2018-19	84	60	2018-19	70	19
2019-20	35	39	2019-20	49	57

Source: SEBI Website

6(a). Investigation into Market Manipulation and Price Rigging
The following graph shows that the number of cases taken up for investigation regarding market manipulation and price rigging and the number of cases completed investigation.

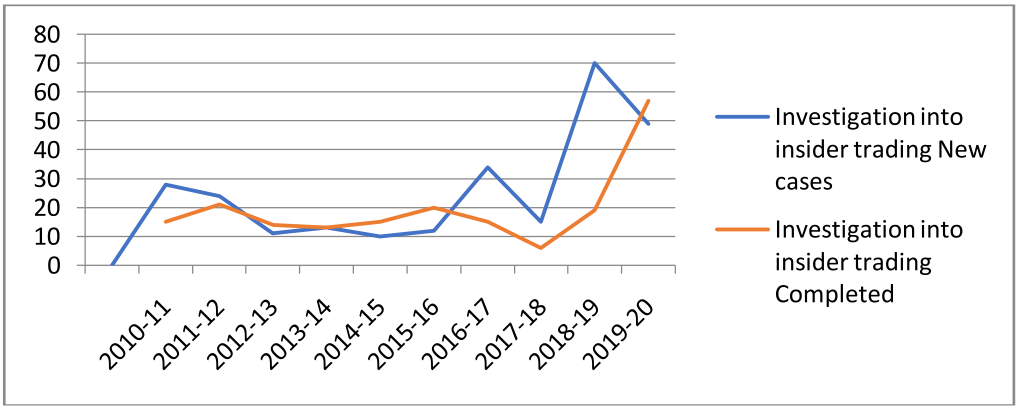
Graph I
Year wise Investigative cases taken up and completed



6(b). Investigation into Insider Trading

The following graph shows that the number of cases taken up for investigation regarding insider trading and the number of cases completed investigation.

Graph II
Year wise Investigative cases taken up and completed



The highest number of insider trading investigation cases Security Exchange Board of India detected was 34 in the year 2016-17, which has jumped to 70 in the year 2018-19 and 49 in the year 2019-20. 'Insider trading' is done by company insiders or entities closely linked to the company management or promoters. Moreover, 35 cases taken up for investigation were related to market illegal practices and 'price rigging' while issues related to 'manipulation and takeovers' cases accounted for four cases.

A total of 161 new cases were taken up for investigation by Security Exchange Board of India in year 2019-20 a decline of 17 %as compared to the preceding financial year, as per the regulator's latest annual report. The cases were related to alleged violation of securities law, including market manipulation and price rigging.

In 2019-20, there were 161 new cases taken up for investigation and 170 cases were completed in comparison to 194 new cases taken up and 110 cases completed in 2018-19," The other left out 73 cases pertained to other violations of securities laws. In 2019-20, Security Exchange Board of India initiated enforcement actions in 218 cases and it disposed off 151 cases. At the closing of March 31, 2020, 376 cases were pending for action.

7. Penalties Imposed by Security Exchange Board of India on Violation of Insider Trading Regulation

Security Exchange Board of India slapped a fine of over Rs 18 crore on 35 entities for indulging in circular trading and share price manipulation in the matter of Octant Interactive Technologies Ltd (OTIL), now known as Swarnajyothi Agrotech & power.

Among the 35 entities, Giriraj Kishore Agarwal, Tanu Giriraj Kishore Agarwal were fined Rs 3 crore and Rs 2 crore respectively. Keystone Stock Financial Ltd, Indra Pratap Giriraj Singh, Jitendra Chandrabhan Singh, Alliance intermediaries and Network, VRP Financial Servies Pvt Ltd were slapped a fine of Rs 1 crore each. The remaining entities were fined between Rs 25 lakh to Rs. 55 lakh.

SEBI imposed penalty totaling Rs. 35 lakhs on two persons for trading in share of Spicejet on the basis of unpublished price sensitive information related to financial results. The official failed to abide by the code of conduct prescribed for insider trading. SEBI has levied a fine of Rs.23 lakhs on Shreejesh Harindranath and 12 lakh on his brother Sandeep A. C.

SEBI fined Titan company employee for violating insider trading norms Rs. 2 lakhs on Thekeveedu V. alexander.

SEBI levied fine on Rs. 1.05 crore on Indiabulls Venture on violation of prohibition of insider trading norms by trading in firm's scrip while in possession of Unpublished Price Sensitive Information (UPSI) when the trading window ought to have been closed.

SEBI slapped a fine on Rs. 32 crore on Kirloskar Brother for Insider Trading on failure to maintain Due Diligence.

SEBI fined Rs. 10 lakhs on former Satyam Computers Officials for insider trading.

SEBI imposed Rs. 9 lakhs of penalty on Biocon for the delay in disclosure of insider trading.

SEBI levied a penalty of Rs. 28 lakhs on Tree House Education Promoters for indulging in insider trading during the company merger.

8. Conclusion

SEBI's insider trading investigation revolves around unpublished price sensitive information and its possession by entities that have traded in the shares and their linkages. Insider trader has been an unavoidable in the market. The rumours and informal messages related to stocks are spread lead some benefits and impact to the investors. The insider trading bill regulation for the year 2019 must curb the leakage of information and protect the investors. SEBI should take steps to protect the investors' confidence through regulation amendment.

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