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Preface

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ROLE OF SEBI IN PROTECTING INVESTORS IN THE INDIAN SECURITIES MARKET

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ABSTRACT:

The Securities and Exchange Board of India ("SEBI") was created because investors in India's securities market had been left exposed to fraud, manipulation and weak disclosure, and the statute that gave it legal personality directs it, in its opening operative provision, to protect the interests of investors in securities. This article examines how SEBI performs that mandate. It traces the institution's evolution from a non-statutory body of 1988 to a statutory regulator with powers that combine rule-making, investigation and adjudication; analyses the three principal ways in which it protects investors, namely ex ante regulation of issuers and intermediaries, the policing of fraud, manipulation and insider trading, and ex post grievance redress and education; and examines the enforcement and appellate structure that gives those protections their bite. Judicial decisions, in particular those on SEBI's jurisdiction, the standard of proof in securities fraud and the nature of civil penalty, are used to show how courts have shaped the regulator's role. The article then turns to contemporary challenges, including large retail losses in equity derivatives, the supervision of sophisticated high-frequency trading, unregistered financial influencers, the slow pace of enforcement and recovery, due-process concerns arising from the concentration of functions, and questions of institutional accountability, and it considers how the proposed Securities Markets Code, 2025 would alter the framework. It concludes that SEBI's record is one of substantial institutional strength combined with persistent gaps between rule and outcome, and proposes reforms directed at those gaps. The article states the law as understood in October 2026.

KEYWORDS: SEBI; investor protection; securities regulation; insider trading; market manipulation; Securities Appellate Tribunal; Securities Markets Code, 2025

I. INTRODUCTION

Securities markets run on trust in a particular, and particularly fragile, sense. An investor who buys a share or a unit of a mutual fund cannot inspect the business, audit the accounts or verify the promoter's statements; she relies on disclosure, on the honesty of intermediaries and on the integrity of the trading process. Because issuers, insiders and intermediaries typically know more than investors do, the opportunities for misconduct are structural, and the loss of trust that follows misconduct can extend beyond the individual investor to the capacity of the market to raise capital at all. Securities regulation exists to manage this asymmetry. In India that function is performed principally by SEBI.

The importance of the task has grown with the changing profile of the investor base. The Indian market was once the preserve of a relatively small class of investors, but participation by households has broadened considerably in the last decade, assisted by electronic trading, dematerialisation, digital onboarding and the spread of low-cost brokerage. Wider participation brings capital to firms and gives households access to financial assets, but it also brings into the market large numbers of investors who have little experience, limited financial literacy and a high susceptibility to misleading promotion. The effect is that investor protection is now a mass concern and not a niche one.

The statutory mandate is clear. Section 11(1) of the Securities and Exchange Board of India Act, 1992 ("SEBI Act") provides that it shall be the duty of the Board to protect the interests of investors in securities and to promote the development of, and to regulate, the securities market, by such measures as it thinks fit.[1] The sentence places investor protection first among SEBI's duties and gives the Board a wide discretion over the means. Whether the means chosen have in fact protected investors is the question this article addresses.

The article proceeds as follows. Part II traces the institutional history of SEBI and the crises that shaped it. Part III analyses the statutory mandate and the institutional design of the regulator. Parts IV to VI examine the three channels through which SEBI protects investors: the regulation of entry, disclosure and intermediaries before harm occurs; the policing of fraud, manipulation and insider trading; and the redress of grievances and the education of investors after or alongside harm. Part VII considers enforcement and adjudication, and Part VIII examines the contribution of the courts. Part IX identifies the contemporary challenges, Part X offers a brief comparative perspective, Part XI offers recommendations, and Part XII

[1]Securities and Exchange Board of India Act, 1992, No. 15, Acts of Parliament, 1992, § 11(1) (India) [hereinafter SEBI Act].

concludes. The method is doctrinal, and draws on the statute, SEBI's regulations and circulars, judicial decisions, and SEBI's own published studies and orders.

II. THE MAKING OF AN INVESTOR-PROTECTION REGULATOR

A. THE PRE-1992 FRAMEWORK

Before SEBI, the regulation of the Indian securities market was divided between several authorities and statutes. The Capital Issues (Control) Act, 1947 required companies to obtain the consent of the Controller of Capital Issues before raising capital, and the Controller determined the quantum and, often, the price of issues.[2] The Securities Contracts (Regulation) Act, 1956 ("SCRA") regulated stock exchanges and trading in securities, with supervisory powers vested in the Central Government.[3] The Companies Act regulated disclosure in prospectuses. The system was one of administrative control over issues, and it did not systematically address the conduct of intermediaries or the integrity of secondary market trading. The Government established SEBI in April 1988 as a non-statutory body, but without statutory powers it was unable to enforce its views against the market participants it was meant to supervise.

B. THE 1992 TURNING POINT

The securities scam of 1992 exposed the weakness of this arrangement. Funds of banks were diverted, through irregular inter-bank transactions in government securities, into the equity market, where they inflated prices to an unsustainable level, and the subsequent collapse inflicted heavy losses on investors and exposed the absence of an authority with the mandate and the powers to prevent the abuse. The response came in the form of the SEBI Act, 1992, which conferred statutory status on SEBI with effect from 30 January 1992 and gave it the duty quoted above, together with powers over stock exchanges, intermediaries, mutual funds, and market practices. The Capital Issues (Control) Act was repealed and the Controller of Capital Issues was dispensed with, which marked a transition from approval-based control of issues to disclosure-based regulation, under which the regulator does not say whether an issue is a good one but insists that investors have the information with which to judge for themselves.

[2]Capital Issues (Control) Act, 1947, No. 29, Acts of Parliament, 1947 (India) (repealed in 1992).
[3]Securities Contracts (Regulation) Act, 1956, No. 42, Acts of Parliament, 1956 (India) [hereinafter SCRA].

C. CRISES AND LEGISLATIVE RESPONSE

The history of the regulator since 1992 is a history of crises followed by expansions of power. The market manipulation episode of 2000-2001, associated with the broker Ketan Parekh, and the distress of the Unit Trust of India in 2001 demonstrated the vulnerability of retail investors to manipulation and to the failure of a large institution. The confession by the chairman of Satyam Computer Services in January 2009 that the company's accounts had been falsified over many years showed that disclosure-based regulation depends upon the reliability of the disclosures, and led to attention to corporate governance, auditor responsibility and the role of independent directors.

The Sahara cases of 2011-2012, discussed below, led to an important expansion. In part in response to that experience, and following the judgment of the Supreme Court upholding SEBI's jurisdiction over the Sahara companies' issue of optionally fully convertible debentures to the public, Parliament enacted the Securities Laws (Amendment) Act, 2014.[4] The amendment strengthened SEBI's investigative and enforcement powers and introduced a statutory definition of collective investment schemes, reflecting the lesson that unregistered pooled investment schemes can inflict enormous losses on unsophisticated investors. In 2015, the Forward Markets Commission was merged into SEBI, extending the regulator's remit to commodity derivatives markets.

D. THE PRESENT MOMENT

The current phase is one of consolidation. In December 2025 the Government introduced the Securities Markets Code, 2025 in the Lok Sabha, a Bill that seeks to repeal and replace the SEBI Act, the SCRA and the Depositories Act, 1996 with a single code.[5] The Bill was referred to the Standing Committee on Finance, which presented its report on 23 July 2026, broadly endorsing the Code while seeking stronger checks on the regulator's expanded powers.[6] As far as the writer is aware, the Code had not been enacted at the time of writing, and this article accordingly treats the SEBI Act as the operative statute while noting the proposed changes at the points where they are relevant.

[4]Securities Laws (Amendment) Act, 2014 (India). The 2014 amendments, among other things, defined collective investment schemes, empowered SEBI to attach assets and to seek call data records in specified circumstances, enlarged penalties and authorised the establishment of special courts.

[5]The Securities Markets Code, 2025, Bill No. 200 of 2025 (India) (introduced in the Lok Sabha on Dec. 18, 2025); see PRS Legislative Research, *Bill Summary: The Securities Markets Code, 2025* (2025).

[6]PRS Legislative Research, *Standing Committee Report Summary: The Securities Markets Code, 2025* (July 23, 2026).

III. THE STATUTORY MANDATE AND INSTITUTIONAL DESIGN

A. A TRIPARTITE REGULATOR

SEBI is an unusual institution in that it combines functions that the constitutional tradition ordinarily separates. It makes subordinate legislation, in the form of regulations under section 30; it investigates and enforces, through its powers of inspection, investigation and directions; and it adjudicates, through its whole-time members and adjudicating officers.[7] The justification for this combination is expertise and speed: securities markets are technically complex, move quickly, and require a regulator capable of responding within days to developments that a court or legislature could address only after months or years. The cost is the risk that the same body will frame the rule, decide whether it has been broken and impose the sanction. The statutory response to that risk is the right of appeal to the Securities Appellate Tribunal and, from it, to the Supreme Court, which Part VII discusses.

B. THE BREADTH OF SECTION 11

Section 11(1) states the duty; section 11(2) lists measures that the Board may take, including regulating the business of stock exchanges and other securities markets, registering and regulating intermediaries, regulating mutual funds and collective investment schemes, prohibiting fraudulent and unfair trade practices, prohibiting insider trading, regulating substantial acquisition of shares and takeovers, promoting investor education and training of intermediaries, and calling for information from and conducting inquiries, inspections and audits of market participants.[8] Section 11(4) and section 11B empower the Board to issue directions to protect investors, including directions restraining persons from accessing the securities market, prohibiting them from buying, selling or dealing in securities, and requiring them to disgorge unlawful gains, and section 11D authorises cease-and-desist orders.[9] The Supreme Court has recognised that the breadth of these powers is deliberate. In *Clariant International Ltd. v. Securities and Exchange Board of India*, the Court upheld the Board's authority to act under section 11 to protect investors in a takeover context and read the provision in the light of its protective purpose.[10]

[7]SEBI Act, §§ 11, 11B, 11C, 15I, 30.
[8]SEBI Act, § 11(2).
[9]SEBI Act, §§ 11(4), 11B, 11D.
[10]*Clariant Int'l Ltd. v. Sec. & Exch. Bd. of India*, (2004) 8 S.C.C. 524 (India).

C. COMPOSITION, INDEPENDENCE AND ACCOUNTABILITY

The Board consists of a Chairman, members nominated by the Central Government and the Reserve Bank of India, and whole-time members, of whom there must be at least three.[11] The Chairman and other members are appointed by the Central Government, which also retains powers of supersession in specified circumstances and to give directions on questions of policy.[12] The degree of independence of SEBI from the executive is therefore a matter of statutory design and of convention, and not an absolute guarantee. Accountability is provided through several channels: regulations must be laid before Parliament, SEBI's accounts are audited and its annual report is placed before Parliament, and its orders are subject to appeal.[13] The Standing Committee on the Securities Markets Code has itself said that the expansion of SEBI's powers calls for corresponding checks, which indicates that the adequacy of existing accountability mechanisms is a live question.

D. WHO IS THE "INVESTOR"?

A regulator charged with protecting investors must decide whom it is protecting. The SEBI Act uses the term without a precise definition, and in practice the protection extends to every category of person who invests in securities, but its intensity varies. SEBI's regulatory architecture, particularly in the areas of disclosure suitability and product access, differentiates between retail investors, qualified institutional buyers, accredited investors and other categories. Retail investors receive the most extensive protections because they are least able to protect themselves, and because their losses carry the greatest social cost. The question of calibration, which is to say how far the regulator should shield retail investors from the consequences of risky choices, runs through the contemporary debates considered in Part IX.

IV. PROTECTION BEFORE HARM: ENTRY, DISCLOSURE AND INTERMEDIARY REGULATION

A. THE PRIMARY MARKET

The first line of investor protection is the regulation of the offering of securities to the public. The SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 govern public issues and rights issues, and prescribe eligibility conditions for issuers, minimum disclosure in

[11]SEBI Act, § 4.
[12]SEBI Act, §§ 4, 16, 17.
[13]SEBI Act, §§ 31, 18-19.

the offer document, the role of merchant bankers who must carry out due diligence, the allocation of shares to different categories of investors, and the conditions of listing.[14] The offer document is filed with SEBI, which examines it and may call for changes before an issue is made, although SEBI does not approve the merits of the issue.

The disclosure-based model finds its legal reinforcement in the Companies Act, 2013, which imposes civil and criminal liability for misstatements in prospectuses and for fraudulently inducing persons to invest.[15] The combination of regulatory scrutiny and private liability is intended to give issuers and their advisers a strong incentive to ensure that offer documents are accurate. The role of the merchant banker, who certifies that due diligence has been done, is central to this system, and SEBI has repeatedly taken action against merchant bankers whose diligence has proved inadequate.

B. CONTINUOUS DISCLOSURE AND GOVERNANCE OF LISTED COMPANIES

Investor protection does not end at the time of listing. The SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 ("LODR Regulations") require listed entities to disclose price-sensitive information and other material events promptly, to publish periodic financial results, to maintain boards with a prescribed proportion of independent directors, to constitute audit and other committees, and to obtain approval for material related-party transactions.[16] The related-party provisions are particularly significant because the diversion of company resources to entities controlled by promoters is one of the most common forms of investor harm in the Indian market, as cases of diversion of funds from listed companies attest. The regulatory logic is that timely and accurate disclosure allows the market to price risk and enables minority shareholders to take action, while good governance reduces the risk of abuse at source.

A related set of protections is found in the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, which require an acquirer who crosses specified thresholds to make an open offer to the remaining shareholders on prescribed pricing terms, thereby giving minority shareholders an exit when control changes hands.[17]

[14]Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018 (India).
[15]Companies Act, 2013, No. 18, Acts of Parliament, 2013, §§ 34-36, 447 (India).
[16]Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 (India) [hereinafter LODR Regulations].
[17]Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (India).

C. INTERMEDIARIES AND COLLECTIVE VEHICLES

Investors rarely deal with the market directly. They deal through brokers, depository participants, investment advisers, research analysts, credit rating agencies and mutual funds, and the quality of protection depends on the standards of those intermediaries. Section 12 of the SEBI Act requires intermediaries to be registered and to comply with the conditions of registration, and SEBI has prescribed regulations for each category dealing with capital adequacy, conduct, segregation of client assets and disclosure of conflicts.[18] The regulations on investment advisers and research analysts address the risk that advice may be biased by the adviser's commercial interest, and require registration, qualifications, disclosure of conflicts and, in the case of investment advisers, a fiduciary standard towards clients.[19]

Mutual funds illustrate the protective approach to collective vehicles. The SEBI (Mutual Funds) Regulations, 1996 require separation between the sponsor, the trust and the asset management company, mandate disclosure of portfolio and expenses, cap expense ratios, require standardised categorisation of schemes so that investors can compare like with like, and require a risk label on each scheme.[20] The underlying idea is that for the ordinary investor, comparison is the principal tool of protection, and that the regulator should make comparison possible.

The protection of client assets held by intermediaries is a separate and equally important concern. A broker holds client money and securities in trust and may not use them for its own purposes. The point was driven home by SEBI's action in 2019 against Karvy Stock Broking, which had been found to have pledged clients' securities without authorisation to raise funds for its own group, to the detriment of the clients concerned. The episode led SEBI to overhaul the mechanism by which clients' securities are pledged as margin, replacing the earlier practice with a system in which clients' securities remain in their own demat accounts and are pledged through the depositories on the client's specific authorisation.

V. PROTECTION OF MARKET INTEGRITY: FRAUD, MANIPULATION AND INSIDER TRADING

A. FRAUD AND MARKET MANIPULATION

Section 12A of the SEBI Act prohibits the use of manipulative and deceptive devices in

[18]SEBI Act, § 12.
[19]Securities and Exchange Board of India (Investment Advisers) Regulations, 2013 (India); Securities and Exchange Board of India (Research Analysts) Regulations, 2014 (India).
[20]Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 (India).

connection with the issue, purchase or sale of securities, any act or course of business operating as a fraud or deceit upon any person, and insider trading.[21] The detailed prohibitions are in the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 ("PFUTP Regulations"), which define fraud broadly to include any act, expression, omission or concealment committed to induce another to deal in securities, and list practices such as price manipulation, circular trading, dissemination of false or misleading information, and front-running.[22] The breadth of the definition reflects the reality that manipulation takes new forms as markets evolve, and that an enumerated list of prohibited acts would always lag behind the methods of those who wish to evade it.

The proof of manipulation is difficult, because the defendant's intent must usually be inferred from patterns of trading. The Supreme Court addressed the standard in *Kishore R. Ajmera v. Securities and Exchange Board of India,* explaining that in securities fraud cases the test is the preponderance of probabilities, that proof may be inferential and drawn from the conduct of the parties and the circumstances, and that suspicion alone does not suffice.[23] The approach gives the regulator the evidentiary room it requires, while preserving the principle that findings must rest on material and not on conjecture.

Fraud is not confined to trading. The falsification of a listed company's accounts is a fraud on every investor who relies on them, and the PFUTP Regulations reach the dissemination of false financial information as well as the manipulation of prices. The Satyam episode also brought the gatekeepers into focus. In 2018 SEBI restrained the network firms of Satyam's auditors from certifying the accounts of listed companies for a period of two years, a measure that reflected the view that auditors, as well as managers, are part of the machinery of investor protection. The decision was contested in appellate proceedings, which illustrates the recurrent tension between the regulator's protective instinct and the procedural rights of those it sanctions.

B. INSIDER TRADING

Insider trading is the paradigm of the informational unfairness that securities regulation targets. The SEBI (Prohibition of Insider Trading) Regulations, 2015, which replaced an earlier set of regulations of 1992 following the recommendations of an expert committee, prohibit trading

[21]SEBI Act, § 12A.
[22]Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003, regs. 3-4 (India) [hereinafter PFUTP Regulations].
[23]*Kishore R. Ajmera v. Sec. & Exch. Bd. of India*, (2016) 6 S.C.C. 368 (India).

by an insider while in possession of unpublished price sensitive information and prohibit the communication of such information except in furtherance of legitimate purposes.[24] The Regulations adopt a broad definition of insider that extends beyond directors and officers to any person who is connected with the company or who has access to unpublished price sensitive information, and they require listed companies to maintain codes of conduct, trading windows and structured digital databases of persons with access to such information. A statutory informant mechanism, introduced in 2019, offers a monetary reward to persons who provide original information about insider trading, in recognition of the fact that detection depends on insiders prepared to come forward.

The sanctions are severe. Insider trading attracts a penalty under section 15G of up to Rs. 25 crore or three times the profits made, whichever is higher, and section 24 provides for imprisonment of up to ten years or a fine of up to Rs. 25 crore, or both, for specified contraventions.[25] The same scale of penalty applies to fraudulent and unfair trade practices under section 15HA.[26]

C. TAKEOVER PROTECTION AND RELATED SAFEGUARDS

The protection of minority shareholders in change-of-control transactions, discussed above, is complemented by the regulation of buy-backs, delisting and the pricing of preferential allotments. These instruments address a recurring risk in the Indian market, where concentrated promoter shareholding gives controlling shareholders the opportunity to extract private benefits at the expense of the minority. The Companies Act supplements the securities regulations through remedies for oppression and mismanagement, and through the provision for class actions by groups of shareholders and depositors.[27]

VI. PROTECTION AFTER HARM: GRIEVANCE REDRESS, COMPENSATION AND EDUCATION

A. COMPLAINT HANDLING

Even a well-designed system of ex ante regulation produces disputes, and the quality of investor protection depends on how quickly and fairly they are resolved. SEBI launched its

[24]Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015 (India) [hereinafter PIT Regulations].
[25]SEBI Act, §§ 15G, 24.
[26]SEBI Act, § 15HA.
[27]Companies Act, 2013, §§ 241, 245 (India).

centralised web-based complaints system, SCORES, in 2011, through which investors can lodge complaints against listed companies and registered intermediaries and track their progress. In April 2024 SEBI introduced an enhanced version, SCORES 2.0, designed to shorten timelines by requiring entities to respond within a prescribed period, to provide for automatic routing and escalation to designated bodies, and to allow SEBI to review the outcome.[28]

SEBI has also introduced an online dispute resolution mechanism for the securities market in 2023, which provides a common platform for conciliation and arbitration of disputes between investors and listed companies or intermediaries, as an alternative to protracted litigation.[29] The effectiveness of such mechanisms depends on whether investors use them and whether the entities comply with their outcomes, and both are matters to be tested over time.

B. COMPENSATION FUNDS AND INVESTOR PROTECTION FUNDS

Stock exchanges maintain investor protection funds and settlement guarantee funds that compensate investors, subject to limits, when a trading member defaults, and the SEBI (Investor Protection and Education Fund) Regulations, 2009 provide for a fund, financed in part from penalties and other receipts, for investor education and protection.[30] The Companies Act separately provides for an Investor Education and Protection Fund to which unclaimed dividends and matured deposits are transferred, with a mechanism by which investors may claim their money.[31] These funds do not compensate investors for market losses, which are the ordinary risk of investing, but they cushion investors against specific kinds of failure, such as a broker's default, that investors cannot reasonably guard against.

C. INVESTOR EDUCATION AND THE INVESTOR CHARTER

Section 11(2) recognises investor education as a function of the Board. Investor education is intended to enable investors to protect themselves, and SEBI conducts awareness programmes, publishes educational material, and supports institutions engaged in financial literacy. SEBI has also issued an Investor Charter, setting out the rights and responsibilities of investors and the service standards that intermediaries must meet. The Securities Markets Code, 2025

[28]Securities and Exchange Board of India, Circular on Revamped Investor Grievance Redressal Mechanism (SCORES 2.0) (2024) (India). The circular should be consulted for the exact timelines and escalation levels.
[29]Securities and Exchange Board of India, Master Circular for Online Resolution of Disputes in the Indian Securities Market (2023) (India).
[30]Securities and Exchange Board of India (Investor Protection and Education Fund) Regulations, 2009 (India).
[31]Companies Act, 2013, § 125 (India).

proposes to give the Investor Charter a statutory footing, which would convert what is presently a regulatory expectation into a legal obligation.[32]

VII. ENFORCEMENT AND ADJUDICATION

A. INVESTIGATIVE AND PREVENTIVE POWERS

Rules protect investors only if breaches are detected and sanctioned. SEBI has statutory powers to inspect the books of intermediaries and listed entities, to investigate, to summon witnesses and documents, and, since the 2014 amendments, to seek call data records and to authorise search and seizure with the permission of a magistrate in specified circumstances.[33] It may issue interim directions, which restrain a person from accessing the market, or impound the alleged gains, pending the completion of proceedings, and section 11D authorises cease-and-desist orders. These powers are central because the regulatory objective in many cases is to stop the harm quickly, and a final adjudication that comes years later cannot reverse harm that has already been done.

Markets are also cross-border, and manipulation does not respect jurisdictional lines. SEBI is a signatory to the Multilateral Memorandum of Understanding of the International Organization of Securities Commissions, which allows securities regulators to request and share information, including bank, brokerage and beneficial-ownership records, in the course of investigations.[34] Cooperation of this kind is increasingly important as foreign portfolio investors and offshore entities account for a significant share of trading in Indian securities, and the regulator's ability to investigate them depends in part on the willingness of foreign counterparts to assist.

B. PENALTIES AND PROSECUTION

The SEBI Act provides a range of civil penalties in sections 15A to 15HB, which cover failure to furnish information, failure to redress investor grievances, insider trading, fraudulent and unfair trade practices, and a residual penalty of up to Rs. 1 crore for contraventions that are not specifically provided for.[35] Penalties are imposed by adjudicating officers after notice and hearing.[36] The Act also provides for criminal prosecution under section 24, and, following the

[32]PRS Legislative Research, *Brief: The Securities Markets Code, 2025* (July 20, 2026).
[33]SEBI Act, §§ 11, 11C.
[34]International Organization of Securities Commissions, Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (2002, as amended).
[35]SEBI Act, §§ 15A-15HB.
[36]SEBI Act, § 15I.

2014 amendments, for special courts under section 26A to try offences under the Act.[37] The Supreme Court held in *Securities and Exchange Board of India v. Shriram Mutual Fund* that the penalty provisions of the Act are civil in character, so that mens rea is not an essential element of the contravention and a penalty may be imposed once the breach of the statutory obligation is established.[38] This is an important doctrinal underpinning for the regulator, since a requirement of proof of intent for every civil penalty would render the enforcement of disclosure and compliance obligations nearly impossible.

C. SETTLEMENT, DISGORGEMENT AND RECOVERY

Section 15JB, inserted in 2014, allows a person against whom proceedings are pending to settle the proceedings by paying a settlement amount and complying with other terms, without admitting or denying the findings, and the SEBI (Settlement Proceedings) Regulations, 2018 provide the procedure.[39] Settlement allows the regulator to resolve cases quickly and to conserve resources, but it has attracted the criticism that it may allow wrongdoers to buy peace, and the design of the settlement terms, particularly the extent to which investors are compensated, is therefore important.

Orders of disgorgement, which require wrongdoers to surrender their unlawful gains, are intended to deprive the wrongdoer of the profit and, in the best case, to return it to the harmed investors. The recovery of amounts due under SEBI's orders is provided for in section 28A, which authorises the attachment and sale of property, the attachment of bank accounts and, in the last resort, the arrest and detention of defaulters.[40] The practical difficulty, discussed in Part IX, is that orders are of value only to the extent that they are enforced.

D. APPEALS AND JUDICIAL OVERSIGHT

Orders of SEBI and of its adjudicating officers are appealable to the Securities Appellate Tribunal ("SAT"), constituted under section 15K, and appeals from SAT lie to the Supreme Court on questions of law.[41] SAT, which was established in the mid-1990s, has a substantial role in correcting the regulator's errors of fact, law and procedure, and it has in many cases set aside or modified SEBI's orders on grounds such as want of natural justice, lack of evidence

[37]SEBI Act, §§ 24, 26A.
[38]*Chairman, Sec. & Exch. Bd. of India v. Shriram Mut. Fund*, (2006) 5 S.C.C. 361 (India).
[39]SEBI Act, § 15JB; Securities and Exchange Board of India (Settlement Proceedings) Regulations, 2018 (India).
[40]SEBI Act, § 28A.
[41]SEBI Act, §§ 15K, 15T, 15Y, 15Z.

or disproportionate penalty. The existence of this appellate structure responds to the concern, noted in Part III, about the combination of functions in a single regulator, and the quality of SAT's work is accordingly important to the legitimacy of the system as a whole.

VIII. JUDICIAL PERSPECTIVES ON SEBI'S ROLE

The Supreme Court's decisions have shaped the regulator in several ways that bear directly on investor protection. Four themes stand out.

Jurisdiction over public offerings. In *Sahara India Real Estate Corp. Ltd. v. Securities and Exchange Board of India*, the Supreme Court upheld SEBI's jurisdiction over the issue of optionally fully convertible debentures by two unlisted Sahara companies to a very large number of investors, found that the issue was a public issue that did not comply with the applicable requirements, and directed the companies to refund approximately Rs. 24,000 crore to investors with interest at 15 per cent.[42] The decision confirmed that SEBI's protective mandate extends to unlisted public companies that raise money from the public, and that the form of the instrument will not defeat the regulator's jurisdiction. It also revealed the limits of regulatory power, because the refund process was long and contentious and the Court had to supervise compliance through contempt proceedings. The episode is a reminder that a judgment in favour of investors is not the same as money in their hands.

The nature of civil penalty. Shriram Mutual Fund, discussed above, established that civil penalties under the Act do not require proof of intent, which gives the regulator an effective tool against technical and negligent breaches of investor-protection obligations.

The standard of proof. Kishore Ajmera, also discussed above, allows the regulator to prove manipulation by inference on the preponderance of probabilities, while insisting that findings rest on material and not on suspicion.

The investor's remedy. In *Morgan Stanley Mutual Fund v. Kartick Das*, the Supreme Court held that a person who applies for securities in a public issue is not a consumer of the issuer's services before allotment for the purposes of the consumer protection statute then in force.[43] The decision illustrates that, at least at the stage of application and allotment, the primary remedy for investors lies not in private litigation but in the regulatory system, which makes the regulator's performance all the more important.

[42] *Sahara India Real Estate Corp. Ltd. v. Sec. & Exch. Bd. of India*, (2013) 1 S.C.C. 1 (India) (decided Aug. 31, 2012).
[43] *Morgan Stanley Mut. Fund v. Kartick Das*, (1994) 4 S.C.C. 225 (India).

Together these decisions show a judicial approach that is generally supportive of a strong regulator, tempered by insistence on evidence and fair procedure. That balance is the one that investors, and the market, need.

IX. CONTEMPORARY CHALLENGES

A. RETAIL LOSSES IN EQUITY DERIVATIVES

The most striking contemporary evidence of the limits of investor protection is the experience of individual traders in equity futures and options. A study published by SEBI in September 2024 found that about 93 per cent of individual traders in the segment had incurred losses over the three years from FY22 to FY24, with aggregate losses exceeding Rs. 1.8 lakh crore.[44] A follow-up study found that 91 per cent of individual traders incurred net losses in FY25. SEBI's most recent studies, released on 20 August 2026, found that 87.7 per cent of individual traders incurred net losses in FY26, with aggregate net losses of about Rs. 91,685 crore, lower than the roughly Rs. 1.12 lakh crore recorded for FY25, while the number of active individual traders fell from about 98.1 lakh to about 78.6 lakh.[45]

These figures present a paradox for the investor-protection mandate. They show that a large majority of individual traders lose money, which is consistent with the structural disadvantage of retail participants against better-resourced counterparties. They also show that SEBI's measures, which since October 2024 have included a larger minimum contract size, upfront collection of option premiums, the rationalisation of weekly expiries and tighter monitoring of position limits, have coincided with a reduction in participation and in aggregate losses, although the proportion of individual traders who lose money has remained very high.[46] The regulator has chosen to act through restrictions on product design and access instead of prohibiting the product, and the lasting loss rate suggests that the protection offered by such measures is partial.

The case raises a policy question that is as much philosophical as legal: whether investor protection should extend to protecting investors from their own choices. A paternalistic response would restrict access to the product, and a libertarian response would rely on disclosure and education. SEBI's approach, which is to raise the cost and friction of

[44]Securities and Exchange Board of India, *Study on Analysis of Profit and Loss of Individual Traders Dealing in Equity F&O Segment* (Sept. 2024) (India).
[45]Securities and Exchange Board of India, Press Release No. 50/2026 (Aug. 20, 2026) (India) (releasing studies on the profitability and trading behaviour of individual traders in the equity derivatives segment for FY25-FY26).
[46]Securities and Exchange Board of India, Measures to Strengthen Equity Index Derivatives Framework (Oct. 1, 2024) (India).

participation while publishing data intended to inform investors, is a middle path, and the statistics suggest that it has so far had modest success.

B. SOPHISTICATED TRADING AND MARKET MANIPULATION

A second challenge is the supervision of trading by sophisticated, well-capitalised participants. On 3 July 2025 SEBI issued an interim order against the Jane Street group, alleging that it had manipulated the Bank Nifty index through a pattern of trading across the cash and derivatives markets, directing it to cease trading in the Indian securities market and impounding approximately Rs. 4,844 crore of alleged unlawful gains.[47] The firm denied the allegation, described its activity as index arbitrage, deposited the impounded amount in escrow and, as reported, was permitted to resume trading while the proceedings continued. The merits of the allegations are for adjudication, and this article expresses no view on them. The relevance of the case to investor protection lies in what it demonstrates about the regulator's willingness and capacity to examine complex derivative strategies, and about the importance of surveillance technology capable of detecting patterns across segments. The legal significance of the case will depend on how the questions of proof and of the boundary between legitimate arbitrage and manipulation are resolved in the proceedings and on appeal.

C. UNREGISTERED ADVICE AND DIGITAL MISINFORMATION

The third challenge is the migration of investment advice to social media and messaging platforms, where unregistered persons, often described as financial influencers, promote products and give stock recommendations to large audiences without the registration, qualifications or conflict disclosures required of registered advisers and research analysts. The harm is aggravated by the use of messaging groups to promote particular stocks, followed by sell-offs by the promoters, a pattern of "pump and dump" manipulation that disproportionately affects small-cap and SME-listed securities. SEBI has responded by restricting the association of regulated entities with unregistered influencers, by taking enforcement action against unregistered advisory and training platforms, and by issuing public cautions. The enforcement challenge is considerable, because of the volume of online content, the use of anonymous accounts and the jurisdictional reach of platforms, and effective responses will require cooperation with the platforms and with other agencies.

A related concern arises in the small and medium enterprise segment of the market, where

[47] Securities and Exchange Board of India, Interim Order in the Matter of Jane Street Group (July 3, 2025) (India).

thinly traded securities, modest disclosure expectations and aggressive online promotion create conditions in which prices can be driven up artificially and investors who buy at the peak bear the loss. SEBI has tightened the eligibility, disclosure and use-of-proceeds norms for SME public issues in recent years, and has taken action in cases of suspected manipulation, but the segment illustrates a recurring pattern: a lightly regulated corner of the market attracts retail participation faster than the safeguards can be built.

D. SPEED OF ENFORCEMENT AND THE GAP BETWEEN ORDERS AND RECOVERIES

A fourth challenge is the time that enforcement takes. Investigations of complex cases may run for years, adjudication and appeal add further time, and by the time a final order is made the wrongdoer may have dissipated the gains. The difficulty of recovery is a consequence. The Sahara refund process, which was supervised by the Supreme Court and yet proceeded slowly, is the most conspicuous example, but the problem is general: an order that cannot be enforced does not protect investors, however correct it may be. As the Bill is presently drafted, it prescribes a period for the completion of investigations, with provision for extension on recorded reasons. Whether these provisions will make a practical difference will depend on resources and on implementation.

E. DUE PROCESS AND THE CONCENTRATION OF FUNCTIONS

The fifth challenge is the one that emerges from the regulator's combination of functions. The more powers SEBI has to act against alleged wrongdoers without a prior hearing, such as interim orders restraining market access and impounding gains, the greater is the importance of procedural safeguards. SAT's record of setting aside orders for violations of natural justice indicates that the risk is not merely theoretical. The Securities Markets Code, 2025 proposes, among other changes, the decriminalisation of some minor violations, a shift to civil penalties calibrated to unlawful gains or losses, and limits on the age of contraventions that can be investigated, and each of these changes is intended in part to improve proportionality and fairness.[48] The balance to be struck is delicate, because limits on the regulator's powers that are too tight will deprive investors of protection, while limits that are too loose will expose market participants to arbitrary action.

[48]PRS Legislative Research, *supra* note 32 (see the Brief's account of the Code's proposals on civil penalties, decriminalisation and limitation on inspections).

F. GOVERNANCE AND ACCOUNTABILITY OF THE REGULATOR

A sixth challenge concerns the accountability of the regulator. A body charged with protecting investors from conflicts of interest must itself be seen to be free of such conflicts. The statute already requires members of the Board who are directors of companies to disclose their interests in matters before the Board, and the Code contains provisions on the conflict of interest of Board members. The Standing Committee's call for stronger checks on the regulator in the Code reflects the principle that the credibility of the regulator rests on transparency about how its decisions are made and on the means by which its conduct can be examined. Public trust in the market cannot be higher than public trust in the regulator.

G. FINANCIAL LITERACY AND THE LIMITS OF DISCLOSURE

The last challenge is the one that is hardest to solve with regulation. The disclosure-based approach assumes that investors read, understand and act upon information, but many retail investors do not. A risk label is useful only to an investor who reads it, a disclosure document is useful only to an investor who understands it, and a warning is useful only to an investor who heeds it. The persistent high loss rates in derivatives trading, despite repeated warnings, suggest that the limits of disclosure have been reached for at least some categories of investor, and that investor education must be made more effective, or that product access must be more carefully controlled.

X. A COMPARATIVE PERSPECTIVE

A comparison with the United States Securities and Exchange Commission is useful, although the legal and market contexts differ. The Commission describes its mission as protecting investors, maintaining fair, orderly and efficient markets and facilitating capital formation, a formulation that, like section 11(1) of the SEBI Act, pairs protection with market development. Three features of the American system are of particular interest to the Indian debate.

The first is the whistleblower programme established by the Dodd-Frank Act, which offers awards to individuals who provide original information leading to significant sanctions, calculated as a share of the monetary sanctions collected.[49] SEBI's informant mechanism for insider trading, introduced in 2019, follows the same logic but is narrower in scope. The second is the "fair fund" mechanism introduced by the Sarbanes-Oxley Act of 2002, under which civil

[49]Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, § 922 (2010) (codified at 15 U.S.C. § 78u-6) (U.S.).

penalties obtained from wrongdoers may be added to disgorged amounts and distributed to harmed investors, instead of being paid into the general treasury.[50] The principle that penalties should, where possible, be returned to the victims supports the argument, made in Part XI, for treating restitution as a priority.

The third is the constitutional challenge to in-house adjudication. In *SEC v. Jarkesy*, the United States Supreme Court held that the Seventh Amendment entitles a defendant to a jury trial where the Commission seeks civil penalties for securities fraud, which limits the Commission's ability to adjudicate such claims within the agency.[51] The Indian Constitution has no analogue to the Seventh Amendment, and the Indian system addresses the concern about combined functions through appeal to SAT and the Supreme Court. The American development nonetheless shows that the combination of investigative and adjudicative functions in a single regulator remains contested even in mature systems, and it lends weight to the Indian emphasis, in the proposed Code, on proportionality and on checks on the regulator's powers.

XI. RECOMMENDATIONS

The following proposals are intended to address the gaps between rule and outcome identified in this article.

Faster and more predictable enforcement. SEBI should publish, and the Code should where possible prescribe, indicative timelines for the stages of investigation and adjudication, together with the reporting of delays, so that delay becomes visible and accountable. Interim measures against continuing harm, such as those against unregistered advisers operating online, should be accompanied by prompt follow-up proceedings, so that interim orders do not become de facto final orders.

Recovery and restitution as a priority. The measure of enforcement should be not only the number of orders made but also the amounts recovered and returned to investors. SEBI should consider reporting recovery rates by category of order in its annual report, strengthening the coordination with other enforcement agencies for tracing and attaching assets, and ensuring that disgorged sums are directed first to compensating identifiable investors before being credited to the Investor Protection and Education Fund.

Calibrated access to complex products. Rather than treating all retail investors uniformly, SEBI should examine suitability-based access to high-risk products, informed by the data its own

[50]Sarbanes-Oxley Act of 2002, Pub. L. No. 107-204, § 308(a) (codified at 15 U.S.C. § 7246(a)) (U.S.).
[51]*SEC v. Jarkesy*, 603 U.S. 109 (2024) (U.S.).

studies provide on the characteristics of traders who persistently lose. Such an approach, which could include graduated limits, mandatory risk assessments or cooling-off periods for new participants, would target protection where the data indicate that it is most needed, without impairing access for informed participants.

A coherent regime for online advice. The regulatory perimeter around investment advice should be clear and enforceable in the digital environment, including through obligations on platforms to take down unregistered promotions on notice, through simplified registration for genuine educators who do not give personalised recommendations, and through coordination with the agencies responsible for cybercrime and consumer protection.

Strengthened appellate capacity. The appeal structure functions as a safeguard only if it is able to hear appeals promptly. The Government should ensure that SAT has adequate members and infrastructure, so that appeals are decided within a reasonable time, because delay at the appellate stage erodes the deterrent effect of enforcement and prolongs uncertainty for the persons concerned.

Transparency and accountability of the regulator. The regulator should publish reasoned summaries of significant interim orders, the data on which they are based and the outcomes of appeals. The Code's provisions on conflicts of interest and its checks on the regulator's powers should be implemented in ways that provide the public with the means of assessing how the regulator uses its powers.

Investor education that measures its own effect. Financial education programmes should be evaluated against behavioural outcomes, such as changes in participation and loss rates among targeted groups, and not merely against the number of programmes conducted. Education should be integrated with the points at which investors make decisions, for example at the stage of account opening or first access to a high-risk product.

XII. CONCLUSION

SEBI's duty to protect the interests of investors is the first among its statutory duties, and the regulator has built, over three decades, an institution that is in many respects equal to the task. It has the legal authority to make rules, to investigate, to restrain, to penalise and to compel disgorgement. It has developed detailed regimes for primary market disclosure, continuous disclosure, intermediaries, insider trading and takeovers, and it has set up mechanisms for grievance redress and investor education. The courts have, in the main, supported the regulator while insisting on evidence and fair procedure, and the appellate system provides a check on

error.

The weaknesses that remain are the weaknesses of implementation. The experience of retail traders in equity derivatives shows that regulatory measures do not always translate into better outcomes for those they are meant to protect. The time taken by investigation and adjudication, and the difficulty of recovering what is ordered, blunt the effect of enforcement. The online environment has created channels of misinformation that existing registration regimes do not easily reach. And the regulator's expanded powers raise legitimate questions about proportionality and accountability that the proposed Securities Markets Code, 2025 will have to answer.

Investor protection is, in the end, measured not by the length of the rulebook but by the experience of investors: by whether a retail investor can trust the information she is given, can obtain redress when she is wronged and can expect that those who defraud her will be stopped, penalised and made to return what they took. By that measure SEBI's task is unfinished. The reforms proposed in this article are directed at closing the distance between the protection that the law promises and the protection that investors receive, and it is in closing that distance that the credibility of the regulator and the depth of the market will be determined.

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