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The Comparative Study of Insider Trading

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ABSTRACT

The practice of insider trading is rapidly gaining prominence in tandem with the evolving landscape of our corporate era. In light of the flourishing presence of social media platforms, the realm of insider trading regulation has undergone a transformative evolution in recent years. The advent of technological advancements in the realm of information dissemination and market access has undeniably catalyzed the emergence of novel market structures, alongside innovative approaches to market manipulation. Unsurprisingly, individuals with privileged access exploit these lenient regulations to partake in the illicit practice of insider trading. The individuals provide directives to the company, urging the acquisition and disposition of shares at favorable prices, with the aim of augmenting the worth of their personal ownership interests It is imperative to acknowledge that the practice of unfair trading entails significant repercussions for investors, as it surreptitiously redistributes value from public investors to those with privileged access. The prevailing circumstances necessitate urgent measures to address the pervasive occurrence of white-collar offenses, particularly insider trading, and the consequential mispricing of equity markets prior to their listing on the securities exchange. It is imperative that effective control mechanisms be promptly implemented to rectify this situation. The present article delves into the intricate aspects surrounding the legal ramifications of insider trading, as they have evolved within the jurisdictions of the United States, the United Kingdom, and India. The article proceeds to conduct a thorough analysis of the comparative facets pertaining to the regulatory mechanism. The author endeavors to proffer a recommendation aimed at mitigating the pernicious phenomenon prevalent within the corporate realm.

Keywords: *Corporate Governance, Insider, Insider Trading, UK, USA, India.*

I. INTRODUCTION

Corporate ethics encompasses the fundamental ethical principles that govern the intricate realm of corporate dilemmas. It encompasses a wide array of matters and considerations that we encounter within the realm of the corporate epoch. Ethics pertains to the acquisition of discernment regarding moral rectitude or impropriety, and we advocate for the pursuit of the

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former as a judicious course of action.[3] In the present-day context, the matters of ethics and ethical conduct have become increasingly entrenched within the global corporate sphere. In the wake of the downfall of a corporate behemoth such as Satyam, precipitated by its unscrupulous conduct and deficient corporate oversight, the general populace is increasingly beset by apprehension regarding the actions undertaken by establishments under the guise of advancement, and the manner in which they manipulate the sentiments of investors**.** There are other instances that, like Satyam, show how businesses behave dishonestly in terms of rivalry and expansion on a worldwide scale. good yields, etc. It should be mentioned that in January 2012, the UK FSA[4] found US hedge fund manager David Einhorn and his hedge fund, Greenlight Capital Inc., guilty of using asymmetric information and assessed $11.6 million in civil penalties against them.[5] It should be mentioned that in January 2012, the UK FSA found US hedge fund manager David Einhorn and his hedge fund, Greenlight Capital Inc., guilty of using asymmetric information and assessed $11.6 million in civil penalties against them.[6] The author wishes to emphasize, while examining the objectives of corporate ethics, that employees must be given the resources they need to cope with moral complexity in the workplace. Before action, one must consider and be aware of ethical implications. Even managerial choices have a significant influence on ethics.

Corporate governance is an additional phenomenon that has emerged within the corporate era, driven by the pursuit of economic expansion. It elucidates the manner in which the diverse constituencies that delineate the operational scope of business enterprise services are catered to by corporations.[7] Effective corporate governance plays a pivotal role in augmenting both financial gains and the esteemed standing of an organization. It signifies the stakeholder nexus employed to ascertain and govern an organization's strategic trajectory and efficacy. It involves the implementation of optimal managerial strategies, unwavering commitment to legal compliance, and adherence to ethical principles in order to efficiently allocate and manage capital. Additionally, it encompasses the fulfillment of social obligations towards all stakeholders over an extended period of time. Fairness, integrity, and accountability constitute fundamental pillars of sound corporate governance principles. The two constituent components

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[3] Dr. Mridula Goel & Ms. Preeti E. Ramanathan, *Business Ethics and Corporate Social Responsibility – Is there a Dividing Line*? 11. Procedia Econ. Financ.49-59(2014)
[4] Financial Services Authority
[5] Prashant Kumar & DR. Mohammad Anees, *Problem of Insider Trading in Indian Capital Market- A Literature Review*,5 IRJMST 41,2014
[6] Aparna Ravi, *Insider Trading and the Risks of Due Diligence Access, The Reform Decade: Corporate and Commercial Law in India*, Chapter 29, 130.
[7] Vedant Shukla, *Corporate Governance at Crossroads*, 8, (2007)

of corporate governance encompass, primarily, the establishment of enduring associations that entail the meticulous oversight and equilibrium of power, the provision of inducements to managers, and the facilitation of effective communication channels between management entities and investors.[8]

II. Insider trading

The term "insider trading" is typically associated with illicit conduct. It is a phenomenon that has garnered significant attention in recent years. Insider trading refers to the deliberate engagement in the purchase and sale of securities by an individual who possesses undisclosed, price-sensitive information, with the deliberate intent of securing an extraordinary financial gain and evading potential losses prior to the dissemination of such information to the general public. Classically, this occurrence transpires amidst individuals who maintain a close association with the organization. Henceforth, the act in question pertains to the acquisition or disposition of a financial instrument, conducted in violation of a fiduciary obligation or any other form of entrusted association, whilst being privy to significant, undisclosed information concerning the said instrument. Corporate insiders are granted the privilege of engaging in transactions involving the stock of their own corporation, although with the obligation to disclose such activities, in order to prevent the illicit utilization of undisclosed material information that could potentially impact the stock's value.[9] The Securities and Exchange Board of India (SEBI) has delineated a set of regulations pertaining to disclosure, with the aim of fostering investor confidence and augmenting transparency in the realm of securities trading. The perpetual debate surrounding the imperative nature of insider trading regulation persists, with its illegality and prohibition in numerous jurisdictions aimed at upholding equitable information dissemination among market participants and curbing the exploitation of outsiders by insiders.[10]

In recent times, an apparent trend has emerged wherein the incidence of illicit trading within corporate entities has exhibited a decline, while the occurrence of illicit trading outside said entities has demonstrated an upward trajectory[11]. This phenomenon signifies a noteworthy shift from the conventional practice of insider trading towards a novel manifestation termed as "outer insider trading." The illicit nature of this particular endeavor has attracted considerable attention, particularly in instances where inadvertent transgressions of boundaries have

[8] Dr. Suratha Kumar Das & Dr. Chitta Ranjan Mishra, *Corporate Governance*, 9, (1st ed. 2020)
[9] Anil Kumar Manchikatla &Rajesh H Acharya, *Insider trading in India-Regulatory Enforcement*, 24 J. Financ. Crime 48,49 (2017)
[10] Weihua Zhu, *Corporate Governance and Insider Trading Regulation Efficiency,* 4(2) Front. Bus. Res. China 306 (2010)
[11] *Id*

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occurred. The aforementioned menace engenders an inequitable state of affairs wherein an individual appropriates another's property devoid of their explicit consent, thereby reaping substantial financial gains. The aforementioned circumstance possesses the inherent capacity to engender a form of maltreatment that results in an inequitable treatment of the populace. The author vehemently opposes this particular practice. Initially, the author seeks to assert that the aforementioned action flagrantly violates the fiduciary obligation of the establishment.

Moreover, it is imperative to acknowledge that the phenomenon of asymmetric information confers exclusive advantages solely upon a select few individuals concealed within the corporate entity. Conversely, an opposing facet of this issue manifests in a particular segment of society grappling with precarious financial circumstances. The fundamental tenet of ensuring equitable access to information for the entirety of the populace is being violated. The author seeks to bring forth a matter of utmost significance, namely the imminent conflict of interest that shall undeniably impact the intricate relationship between innovators and shareholders. In this scenario, the informational resources of corporations will be disregarded in favor of the personal interests of those with privileged access. The lack of certainty in the market and the fluctuations in investor performance. It disrupts the very foundations of fairness principles, thereby engendering a scenario wherein the fundamental freedoms enshrined within said principles, notably the freedom from coercion, freedom from misrepresentation, and freedom from asymmetrical information, are all constrained. Notwithstanding these circumstances, it effectively suppresses the conceptualizations of the pertinent corporate domains.

The process of liberalization undertaken by India in 1991 yielded substantial capital market and regulatory reforms.[12] In the Indian context, during the initial months of 1992, we focused witness to a significant downturn in the stock market, an event that was designed by the actions of Harshad Mehta. This incident shed light on the critical matter of transparency, prompting the authorities in India to take proactive measures in the form of enforcing insider trading regulations.[13] The objective behind these regulations was to effectively govern and mitigate the risks associated with such illicit practices. The imperative to establish regulations pertaining to illicit commerce arises from the imperative of upholding the fundamental tenet of equitable resource allocation for the entirety of the populace[14]. In order to safeguard the integrity of the capital market, it is imperative to address potential encroachments on the fair competition model

[12] Supra at 8

[13] Anil Kumar Manchikatla &Rajesh H Acharya, *Insider trading in India-Regulatory Enforcement*, 24 J. Financ. Crime 48,49 (2017)

[14] Siladitya Dasgupta & Deepsikha Bhowal, *Insider trading laws in India – Status before and after the enactment of Indian Companies Act, 2013*, 2(5)

and ensure the preservation of concentrated ownership, thereby fostering market growth and mitigating liquidity concerns.[15] It is apparent, based on numerous surveys conducted by various nations and exhibitions, that countries that enforce regulations on insider trading experience significantly reduced equity costs compared to those lacking such legislation.[16]

III. Legal regime

(A) India

The chronicles of the stock exchange in India span a remarkable period of approximately 144 years, while the annals pertaining to the regulation of insider trading in the same domain are comparatively nascent, with a mere 27 years of existence.[17] The genesis of evolution in India can be traced back to the auspicious year of 1948. In the Indian context, it is noteworthy to mention that in the year 1948, a significant stride was taken towards the establishment of regulatory measures.[18] This endeavor was initiated through the constitution of the esteemed Thomas Committee, which played a pivotal role in shaping the subsequent course of action. As a result of the committee's insightful recommendations, Sections 307[19] and 308[20] were subsequently incorporated into the Companies Act of 1956, thereby solidifying the regulatory framework. Section 307 elucidates the vital importance of upholding a register by corporate entities, wherein the director's holdings within the said entity are meticulously documented. Furthermore, section 308 expounds upon the duty bestowed upon directors and individuals deemed to possess directorial status, to diligently disclose their respective shareholdings within the aforementioned company. Numerous committees were instituted, such as the Sachar Committee, Patel Committee, and the Abid Hussain Committee on Capital Markets, with the purpose of confronting and mitigating the dissemination of privileged information[21]. The legislative framework pertaining to undisclosed price-sensitive information in India is governed by the Securities Exchange Board of India Act of 1992.

Within this specific Act, the proposal put forth by diverse committees and the imperative for a swiftly progressing securities market paved the way for the development of the SEBI (Insider

[15] *Id*
[16] Utpal Bhattacharya and Hazem Daouk, *The World Price of Insider Trading*, 57(1) JLFIAN (2002)
[17] Pranav Saraswat, *Elements of Insider Trading Regulations; A Comparative Analysis of India and U.S.A*, NUJL 10(1) 82, 84 (2020)
[18] Nishith Desai, *Insider Trading Regulations - A Primer,* Nishith Desai Associates, (July 2013) https://www.nishithdesai.com/fileadmin/user_upload/pdfs/Research%20Papers/Insider_Trading_Regulations_-_A_Primer.pdf
[19] The Companies Act No.1 of 1956.Ind.
[20] *Id*
[21] Nishith Desai, *Insider Trading Regulations - A Primer,* Nishith Desai Associates, (July 2013) https://www.nishithdesai.com/fileadmin/user_upload/pdfs/Research%20Papers/Insider_Trading_Regulations_-_A_Primer.pdf

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Trading) Regulation, 1992, which effectively proscribed deceitful conduct. In the latter part of the year 2015, the Securities and Exchange Board of India (SEBI) duly promulgated additional regulations, namely the SEBI (Prohibition of Insider Trading) Regulations, 2015.[22] The recently implemented regulation has effectively broadened and elucidated various concepts pertaining to illicit trading. While examining the scope and applicability of the regulation many new terms were included e.g., the Connected person in Reg 2(d), which defines "C**onnected Person** includes any person who is or has during the six months prior to the concerned act, been associated with the company, directly or indirectly, in any capacity including by reason of frequent communication with its officers or by being in any contractual, fiduciary or employment relationship or by being a director, officer or an employee of the company or holds any position including a professional or business relationship between himself and the company whether temporary or permanent, that allows such person, directly or indirectly, access to unpublished price sensitive information or is reasonably expected to allow such access." "The persons enumerated below shall also be deemed connected persons if such persons have access to UPSI or are reasonably expected to have access to UPSI.

1) An immediate relative or connected person. 2). A holding company or associate company or subsidiary company.3). An intermediary as specified in Section 12 of SEBI Act or an employee or director thereof.4). An investment company, trustee company, assets management company, or an employee or director thereof.5). An official of a stock exchange or a clearinghouse or corporation.6). A member of the board of trustees of a mutual fund or a member of the board thereof. 7). A member of the board of directors or an employee of a public financial institution as defined in Section 2(72) of the Companies Act, 2013. 8). An official or an employee of a self-regulatory organization recognised or authorised by the SEBI.9). A concern, firm, Hindu undivided family, company, or an association of persons wherein a director of the company or his immediate relative or banker of the company, has more than ten percent of the holding of interest." Similarly, the Immediate relative[23] which means "spouse, parent, sibling, and child of the person or spouse, any of who is financially dependent on such person or consults such person in taking decisions relating to trading in securities." And Reg explain Insider[24] as "any person who is (i) a connected person; or (ii) in possession of or having access to unpublished price sensitive information". Yet another definition which elaborates UPSI[25] " as any

[22] Securities Exchange Board of India, sebi.gov.in/legal/regulations/nov-2022/securities-and-exchange-board-of-india-prohibition-of-insider-trading-regulations-2015-last-amended-on-november-24-2022_65864.html

[23] Reg.2(1)(f)) Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015

[24] Reg. 2(1)(g), Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015

[25] Reg. 2(1)(n). Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015

information, relating to a company or its securities, directly or indirectly, that is not generally available which upon becoming generally available, is likely to materially affect the price of the securities and shall, ordinarily including but not restricted to, information relating to the following: (i)financial results;(ii) dividends;(iii) change in capital structure; (iv)mergers, de-mergers, acquisitions, delistings, disposals, and expansion of business and such other transactions; (v)changes in key managerial personnel." Trading plans, codes, and policies under the regulation, Disclosure requirements, and all were incorporated in the new act and has tried its level best to address the issue comprehensively. Subsequently, the regulations have been further amended in the year 2018, 2019, 2020, 2021, and 2022 respectively.

(B) The U.S.

The United States was the pioneering nation to establish regulatory measures aimed at ensuring equitable trade practices within the framework of a capitalist system. In the year 1929, the United States bore witness to a significant market crash, an event that ultimately precipitated the implementation of the Securities Exchange Act in the years 1933 and 1934[26]. The Act of 1934 pertains to the matter of Insider Trading, addressing it directly via Section 16(b) and indirectly through Section 10(b). Section 16(b) effectively grants the authority to issuers of securities to reclaim any gains derived from short-term trading activities by insiders. It imposed restrictions on the utilization thereof, thereby forbidding the accrual of financial gains by individuals possessing privileged access to insider information in relation to the trading of securities within their respective organizations. It effectively restricts the acquisition, particularly of remuneration obtained within a span of less than half a year.

The initial instance of criminalization within the United States occurred with the landmark legal case of Strong v. Repide[27]. In this particular instance, the United States Supreme Court has rendered a decision affirming the legal obligation of a corporate executive to divulge both their personal identity and any confidential information within their possession to a counterparty during the course of engaging in stock trading activities pertaining to their respective company. This particular case has brought to light the crucial obligation that directors of corporation's bear towards their shareholders. It has been established that these directors are entrusted with a fiduciary duty, which necessitates the disclosure of any pertinent information they may possess concerning the valuation of the company's shares. This disclosure is particularly crucial prior to engaging in the purchase of shares from a shareholder. Rule 14e-3 of the Securities Exchange

[26] Badar Ahmad & Shally Victor, *Insider Trading and the Law: An Analysis*, ALJ 29,26,33 (2022)
[27] 1909 SCC OnLine US SC 116

Act delineates the proscription of insider trading during tender offers. This regulation prohibits any individual possessing significant undisclosed information pertaining to the initiation of a tender offer, whether it be regarding the bidding entity or the entity being bid upon, from engaging in the trading of securities associated with the target company, whether done directly or indirectly.[28] Rule 10b-5, a regulatory provision, effectively bars corporate officers, directors, and other individuals who possess privileged access to internal information from exploiting such knowledge for personal financial gain or to evade potential losses through the trading of their company's stock. Furthermore, this regulation explicitly forbids the divulgence of confidential proprietary knowledge to external entities.[29]

Rule 10b5-2, as established by the Securities and Exchange Commission (SEC), pertains to the Misappropriation Theory. This theory serves to prohibit the act of engaging in securities trading activities that involve the exchange of confidential, non-public information by an individual who is not affiliated with the corporation in question, yet has obtained and utilized said information, which is of a nature that could significantly impact the market value of the securities being traded. The primary objective of this theory is to safeguard the integrity of the securities market, ensuring its equitable and optimal functioning. The legal case of United States v. O'Hagan[30] considered the mentioned objective.

Another prevailing theory is the Classical theory, which focuses on the violation of the fiduciary duty that corporate insiders owe to the shareholders they serve. The Insider Trading Sanctions Act of 1984 enforces a comprehensive array of both civil and criminal sanctions. In the realm of legal consequences, individuals who are proven guilty of possessing undisclosed price-sensitive information may face a civil penalty that is threefold the magnitude of their accrued profits or losses. Furthermore, a criminal penalty of a substantial sum of $10,000 is also imposed upon them. In the month of August in the year 2000, the Securities and Exchange Commission (SEC) officially implemented the Fair Disclosure Regulation. In accordance with this regulation, when the issuer divulges significant information that has not yet been made public to specific individuals or entities, they are obligated to subsequently disclose that sensitive information to the public. This obligation inherently promotes fairness and transparency in the disclosure process.

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[28] The Scope of the Disclosure Duty under SEC Rule 14e-3, Wash. Lee Law Rev.38, 1055 (1981) available at https://scholarlycommons.law.wlu.edu/cgi/viewcontent.cgi?article=2446&context=wlulr accessed on 25 Jan 2023.

[29]https://www.sec.gov/Archives/edgar/data/1164964/000101968715004168/globalfuture_8k-ex9904.htm accessed on 27 Jan 2023

[30]1997 SCC OnLine US SC 78

The STOCK Act of 2012, also known as the Stop Trading on Congressional Knowledge Act, was successfully enacted in April 2012 with robust bipartisan backing. This legislation notably augmented the obligation for members of Congress to disclose their securities transactions, necessitating the submission of monthly reports. The Insider Trading Prohibition Act of 2021 confers legal jurisdiction over the prohibition of engaging in securities trading, as well as the dissemination of pertinent information to third parties, by an individual possessing knowledge of significant, undisclosed data. It stipulates, with regards to establishing a transgression of this prohibition, that it is not imperative for said individual to possess precise knowledge pertaining to the means by which said information was acquired or whether any form of personal gain was offered or guaranteed. [31]

(C) UK

Following the culmination of World War II, the prevalent practice of engaging in the exchange and transaction of stocks and shares within a company, predicated upon exclusive knowledge possessed solely by the company itself, its directors, officers, and advisors, was widely prevalent and deemed to be morally and legally permissible. [32]The phenomenon of asymmetric information within the United Kingdom came under scrutiny for its ethical implications, prompting the initiation of measures to address this issue.[33] The Companies Act of 1948 marked a significant milestone in this regard, as it introduced disclosure requirements as a means to combat this imbalance of information. The classification of insider transactions as a distinct criminal offense was established in the United Kingdom during the year 1980. These transactions were subsequently integrated into the Company Securities Insider Dealing Act of 1985, which underwent further elucidation in 1993. Consequently, these regulations are encompassed within Part V of the Criminal Justice Act of 1993. The Criminal Justice Act (CJA) establishes the illegality of engaging in transactions involving price-affected securities while possessing privileged information, as well as the act of inducing another individual to partake in such transactions. Furthermore, it mandates the obligation to divulge any confidential information to a third party. Engaging in illicit practices such as insider trading and market manipulation can potentially lead to severe legal repercussions, including custodial sentences of up to seven years and the imposition of unrestricted financial penalties.

In the United Kingdom, the regulatory framework pertaining to financial services and markets

[31]https://www.congress.gov/bill/117thcongress/housebill/2655?q=%7B%22search%22%3A%5B%22insider+trading+prohibition+act%22%5D%7D&r=1&s=1
[32] Goodwin V Agassiz, 283 Mass 358: 186 NE 659(1933)
[33] [33] Jack Davies, From Gentlemanly Expectations to Regulatory Principles: A History of Insider Dealing in the UK 36(5) Comp Law132,133, (2015)

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is governed by the esteemed Financial Services and Markets Act of 2000 (FSMA) and the venerable Criminal Justice Act of 1993 (CJA). These legislative instruments serve as the bedrock for the regulatory mechanism in this domain. The FSMA, or Financial Services and Markets Act, institutes a comprehensive structure aimed at discouraging the occurrence of market abuse. It confers upon the esteemed UK Financial Services Authority (FSA) the power to impose penalties on individuals found to engage in activities that are misleading and deceitful in nature.

This endeavor seeks to enhance the exercise of self-discipline among individuals who may possess valuable knowledge that could be leveraged for personal financial gain. The FSMA, in addition, bestows a punitive measure upon those individuals who solicit or initiate the promotion of actions that embody market abuse. Section 118(2) of the Financial Services and Markets Act (FSMA) delves into the analysis of conduct that constitutes market abuse. This encompasses instances wherein individuals engage in insider trading or endeavor to engage in such activities, involving a qualifying investment or a related investment while being privy to confidential information pertaining to said investment.[34] It is explained as follows; "an insider is any person who has inside information– (a) as a result of his membership in an administrative, management, or supervisory body of an issuer of qualifying investments, (b) as a result of his holding in the capital of an issuer of qualifying investments,(c) as a result of having access to the information through the exercise of his employment, profession, or duties, (d) as a result of his criminal activities, or (e) which he has obtained by other means and which he knows, or could reasonably be expected to know, is inside information."

In the year 2016, the announcement of the Market Abuse Regulation was made, with the primary aim of safeguarding investors through the implementation of enhanced transparency measures within the realm of financial markets, while simultaneously curbing instances of market abuse. The text essentially provides a concise overview of three primary manifestations of market misconduct. Firstly, we have insider dealing, which involves the illicit utilization of privileged information. Secondly, there is the unlawful dissemination of confidential inside information. Lastly, we encounter market manipulation, an encompassing term that encompasses a range of actions aimed at influencing market performance. It is worth noting that MAR Article 30(2) confers upon National Competent Authorities the authority to impose a diverse array of penalties for violations of the market abuse regulation. This may manifest as a public admonition delineating the culprits, a directive to desist, restitution of gains acquired

[34] Noam Noked, Differences Between US and UK Market Abuse Regimes, http://blogs.law.harvard.edu/corpgov/2012/04/07/differences-between-us-and-uk-market-abuse-regimes/

through illicit endeavors, a prohibition or temporary suspension on an investment establishment or overseer, and substantial monetary sanctions.[35]

IV. Comparative analysis

Given the preceding deliberations, it is possible to derive certain inferences pertaining to the comparative analysis of India, the United States, and the United Kingdom with regards to the phenomenon of Insider Trading. The author concludes that the responsibility for undisclosed price-sensitive information cannot be evaded through the exchange of information in a reciprocal arrangement, provided that the recipient of said information possessed or reasonably should have possessed knowledge of its significance. In the Indian context, it is pertinent to note that SEBI Regulation 3[36] mandates certain limitations on individuals possessing insider information. These individuals are required to exercise the utmost caution in handling such sensitive information and are only permitted to engage in transactions when it is absolutely necessary and in accordance with the principles of need-to-know. In the United States, the prohibition primarily revolves around the encroachment upon fiduciary duty, albeit with certain residual allowances.

In the United Kingdom, great importance is attributed to the principle of ensuring equitable access to information. The utilization of breaches of fiduciary duties by the United States is a strategic measure aimed at curtailing the potentially extensive scope of the equal access to information approach. The aforementioned distinct methodology is likewise reflected in the interconnected realm of disclosure responsibilities pertaining to reporting entities. In the United States, it is important to note that there exists no overarching obligation to divulge all pertinent information, a distinction that sets it apart from the United Kingdom.[37] An additional aspect worthy of consideration is the consistency between the legal frameworks of India and the United Kingdom with respect to of their respective delineations of 'price sensitive information' and 'insider' entities. In the Indian legal framework, a unified statute exists that encompasses both criminal and civil liability, a notable distinction from the legal systems of the United States and the United Kingdom. In these jurisdictions, the two forms of liability are addressed separately, each falling under distinct statutes. In the Indian context, it is worth noting that the SEBI Act

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[35] *Id*

[36] “Communication or procurement of unpublished price-sensitive information. 3. (1) No insider shall communicate, provide, or allow access to any unpublished price-sensitive information, relating to a company or securities listed or proposed to be listed, to any person including other insiders except where such communication is in furtherance of legitimate purposes, the performance of duties or discharge of legal obligations”

[37] Marco Ventoruzzo, Comparing Insider Trading in the United States and in the European Union: History and Recent Developments, (European Corporate Governance Institute (ECGI) - Law Working Paper No. 257,2014) http://ssrn.com/abstract=2442049

delineates a stipulated monetary value of 250 million rupees or thrice the quantum of profits derived from engaging in insider trading, whichever figure happens to be greater. Moreover, it is imperative to acknowledge that he may potentially face legal consequences in the form of incarceration for a duration of up to a decade, or alternatively, a monetary penalty, or even a combination of both.[38] In the United States, when an individual is apprehended engaging in illicit activity, they may be subjected to a range of punitive measures, including but not limited to incarceration, monetary penalties, or a combination thereof. Corporations and entities are susceptible to substantial financial penalties amounting to a staggering $25,000,000 for their involvement in the perpetration of securities fraud. [39]Conversely, individuals, too, are subject to significant monetary sanctions reaching as high as $5,000,000 for their complicity in such illicit activities.[40] In the United Kingdom, an individual found guilty of engaging in insider trading, as stipulated by the Criminal Justice Act of 1993, may face the consequences of a summary conviction, which entails the imposition of a monetary penalty or a period of incarceration lasting no longer than six months, or potentially both penalties concurrently. An individual found guilty of engaging in insider trading shall be subject to legal consequences, including but not limited to the imposition of a monetary penalty or a period of incarceration for a maximum duration of seven years, or potentially both penalties concurrently.[41] Section 31 of the Financial Services Act 2021 introduces a notable amendment to the prevailing legal framework by elevating the upper limit of the custodial sentence from a previous maximum of seven years to a more stringent maximum of ten years.

V. Conclusions and Recommendations

In essence, insider trading refers to the act of engaging in the acquisition, disposition, or transactional activities involving securities of a publicly traded corporation by individuals holding positions of authority within the organization, including directors, managerial personnel, and employees. Additionally, this practice extends to other individuals possessing privileged knowledge, such as internal auditors, advisors, consultants, analysts, and the like, who possess non-public material information. The presence of asymmetric information can exert a profound impact on gains, manifesting itself through a multitude of mechanisms that insiders exploit to swiftly amass wealth. The intricate dynamics of the securities market and its

[38] Securities Exchange Board of India Act 1992 - 15 G Penalty for Insider Trading
[39] https://complianceconcourse.willkie.com/resources/insider-trading-enforcement-fines-penalties-and-sanctions
[40] Criminal Justice Act 1993 (CJA), c. 36, § 61(a) (UK).
[41]Nishith M. Desai & Krishna A. Allavaru Insider Trading: A Comparative Study, https://www.nishithdesai.com/Content/document/pdf/Associates_Insider_Trading_-_A_Comparative_Study.pdf

robust advancement rely significantly upon the caliber and integrity of the market.[42]Corporate governance refers to the systematic framework through which a corporate entity establishes and enforces its policies and regulations.[43] The author posits that the pursuit of sound corporate governance endeavors to enhance the level of accountability within a business enterprise while simultaneously mitigating the likelihood of unforeseen and substantial calamities. The author additionally advocates for the augmentation of SEBI's authority, such as the facilitation of search and seizure operations, acquisition of call records, and the implementation of wiretapping measures on suspects. These propositions have already been deliberated upon in the SEBI, Report of the committee on fair market conduct, led by the esteemed Dr. T.K. Viswanathan. The author posits that the paramount importance lies in the realm of surveillance and enforcement when considering the matter of insider trading. It is imperative to establish distinct legislation pertaining to insider trading, accompanied by the implementation of an internal regulatory body tasked with vigilant oversight of stock transactions within a given corporate entity.

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[42] Alan Strudler, The Moral Problem in Insider Trading (2009) https://repository.upenn.edu/cgi/viewcontent.cgi?article=1056&context=lgst_papers

[43] Press Release, SEBI-Committee on Fair Market Conduct (Aug 01, 2017) https://www.sebi.gov.in/media/press-releases/aug-2017/sebi-constitutes-committee-on-fair-market-conduct-_35497.html