

FINAL REPORT OF
UGC SPONSORED MAJOR RESEARCH PROJECT
ON
FRAUDULENT FINANCIAL PRACTICES
AND INVESTOR PROTECTION
IN THE INDIAN CAPITAL MARKET – ROLE OF SEBI

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PREFACE

The Indian securities markets have come a long way in the last three decades in terms of both quantitative as well as qualitative transformations. They have also witnessed quite a few ups and downs including a global financial crisis. The relationship between the rate of economic growth and growth in the securities market is two-fold and symbiotic. Strong economic growth helps securities market to develop and developed securities market mobilizes capital to fuel economic growth.

In this ever changing global financial landscape, financial markets too are evolving, growing and getting more complex. To effectively regulate these markets, the regulators and policymakers need to be proactive, keep themselves updated and upgraded. Over a period of time, SEBI has strengthened both its regulatory purview and internal capacity to ensure that the interests of the investors are well protected. Efforts are under way to deepen the corporate bonds market, widen the penetration of mutual funds across the country and strengthening the commodities market. The efforts of the government and of policymakers, the Indian financial market will ascend to newer heights.

Corporate sectors, stock markets, and the profession of accounting are increasingly gaining importance which calls for a more efficient and transparent working of corporate sectors. To achieve these ends, financial frauds are an impediment. The cases of Harshad Mehta (1991), Ketan Parekh (2001), IPO Demat Scam (2005), Satyam (2008), Sahara India Pariwar Investor Fraud (2010), Saradha Group Financial Scandal (2013), NSEL Scam (2013), and PACL Ponzi Scheme Scam (2014) are a few examples of these financial frauds in India. The increasing number of fraudulent financial practices in Indian capital market has engendered lots of issues and concerns.

Fraud is a major source of risk which can have disastrous effects on the finances of a company. It can cause irreversible and often irreparable damage to the image and reputation of a company. In recent times, with increase in awareness, companies have started focusing on pro-active risk management strategies. However, a lot remains to be done, especially having regard to the complexity of instruments and the speed of transactions. Now a days the scope of business became wider with the increase in

business transactions, scope and the establishment of companies, where the people who run the business is separate from the owner and so many other reasons which increase the greed of people and leads to emerge the fraudulent financial practices.

India has had its share of frauds and their incidence which has often significantly impacted investor confidence. In an atmosphere of doubt and disbelief financial statements are often viewed with skepticism. This has also led to erosion of confidence and reduced trust among participants in the financial system. The weakness of criminal law and criminal jurisprudence is very significant in the administration of justice in India. The common law pressure of the justice delivery system on account of 'proof beyond doubt' is very heavy especially in the offences relating to finance. It may result offenders going scot free. As a consequence, the investors are likely to lose their confidence on the capital market regulator and thereby in the long-run capital markets get affected.

The present study on “Fraudulent Financial Practices and Investor Protection in the Indian Capital Market – Role of SEBI is an attempt to dwell into the above-mentioned theme with a thrust on fraud detection, investigation and prevention practices of SEBI. With the help of perceptions collected from the sample respondents and appropriate statistical tools, it is found that the total variance explained by these three factors is 65.929%. Out of which 31.237% contributed by fraud detection practices, 19.636% by fraud investigation practices and 15.056% by fraud prevention practices. The author places on record his gratefulness to UGC for funding to the successful completion of this three years major research project.

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LIST OF ABBREVIATIONS

ADB	: Asian Development Bank
AMCs	: Asset Management Companies
AMFI	: Association of Mutual Funds of India
ATR	: Action Taken Report
BSE	: Bombay Stock Exchange Limited
CAQ	: The Centre for Audit Quality
CBI	: Central Bureau of Investigation
CCI	: Controller of Capital Issues
CDS	: Credit Default Swap
CDSL	: Central Depository Services (India) Limited
CFO	: Chief Financial Officer
CIS	: Collective Investment Schemes
CLB	: Company Law Board
DCA	: Department of Company Affairs
DEA	: Department of Economic Affairs
DFC	: Deloitte Forensic Center
DPs	: Depository Participants
EIC	: Economic Intelligence Council
FAFD	: Financial Accounting Fraud Detection
FD	: Fraud Detection
FI	: Fraud Investigation

FIIIs	: Foreign Institutional Investors
FIs	: Financial Institutions
FP	: Fraud Prevention
FPO	: Further Public Offer
FUTP	: Fraudulent and Unfair Trade Practices
GIC	: General Insurance Corporation of India
IAD	: Investor Awareness Division
ICAI	: Institute of Chartered Accountants of India
ICICI	: Industrial Credit and Investment Corporation of India
ICSI	: Institute of Company Secretaries of India
ICWAI	: Institute of Cost and Works Accountants of India
IMSS	: Integrated Market Surveillance System
IPC	: Indian Penal Code
IPO	: Initial Public Offer
IRDA	: Insurance Regulatory and Development Authority
LIC	: Life Insurance Corporation of India
MCA	: Ministry of Corporate Affairs
MCX	: Multi-Commodity Exchange
MoF	: Ministry of Finance
NASSCOM	: The National Association of Software and Services Companies
NBFCs	: Non-banking Finance Companies
NIC	: National Informatics Centre

NSDL	: National Securities Depositories Limited
NSE	: National Stock Exchange Limited
NSEL	: National Spot Exchange Limited
OCBs	: Overseas Commercial Borrowings
OFCD	: Optional Fully Convertible Debentures
OIAE	: Office of Investor Assistance and Education
PACL	: Pearl Agrotech Corporation Limited
PFRDA	: Pension Fund Regulatory and Development Authority
QIBs	: Qualified Institutional Buyers
RBI	: Reserve Bank of India
RoC	Registrar of Companies
SAT	: Securities Appellate Tribunal
SCORES	: SEBI Complaints Redressal System
SCRA	: Securities Contracts Regulation Act
SEBI	: Securities and Exchange Board of India
SEC	: Securities and Exchange Commission
SENSEX	: Sensitivity Index
SFIO	: Serious Fraud Investigation Office
SROs	: Self Regulatory Organisations
UTI	: Unit Trust of India
UTP	: Unfair Trade Practices

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CHAPTER-1
INTRODUCTION

1.1. INTRODUCTION:

The Indian securities markets have come a long way in the last two and a half decades in terms of both quantitative as well as qualitative transformations. They have also witnessed quite a few ups and downs including a global financial crisis. The relationship between the rate of economic growth and growth in the securities market is two-fold and symbiotic. Strong economic growth helps securities market to develop and developed securities market mobilizes capital to fuel economic growth. Since SEBI was established in 1992, we have witnessed this virtuous cycle¹.

Since the establishment of SEBI, the securities market in India has developed significantly. Establishing SEBI led to successful transition from a highly controlled merit based regulatory regime to a market oriented disclosures based regulatory regime. Over the last two and a half decades, SEBI has at all times ensured that Indian securities market develops in terms of products, technology, participants, surveillance and enforcement in tandem with international standards. SEBI has incessantly strived for a well regulated modern securities market in India by adopting various global standards and international best practices. With the implementation of different regulations prescribed by SEBI, access to information has increased, risk of defaults has gone down and the overall governance has become conducive for the protection of investors' interests and overall development of the securities market in India.

In this ever changing global financial landscape, financial markets too are evolving, growing and getting more complex. To effectively regulate this market regulators and policymakers also need to be proactive, keep themselves updated and upgraded. Over a period of time, SEBI has strengthened both its regulatory purview and internal capacity to ensure that the interests of the investors are well protected. Efforts are under way to deepen the corporate bonds market, widen the penetration of mutual funds across the country and strengthening the commodities market. The efforts of the government and of policymakers, the Indian financial market will ascend to newer heights.

U. K. Sinha (2016). SEBI Chairman's Statement, Annual Report-2015-16.¹

Corporate sectors, stock markets, and the profession of accounting are increasingly gaining importance which calls for a more efficient and transparent working of corporate sectors. To achieve these ends, financial frauds are an impediment. The cases of Harshad Mehta (1991), Ketan Parekh (2001), IPO Demat Scam (2005), Satyam (2008), Sahara India Pariwar Investor Fraud (2010), Saradha Group Financial Scandal (2013), NSEL Scam (2013), PACL Fonzi Scheme Scam (2014) are but a few examples of these frauds in India. The increasing number of fraudulent financial practices in Indian capital market has engendered lots of issues and concerns.

Fraud is a major source of risk which can have disastrous effects on the finances of a company. It can cause irreversible and often irreparable damage to the image and reputation of a company. In recent times, with increase in awareness, companies have started focusing on pro-active risk management strategies. However, a lot remains to be done, especially having regard to the complexity of instruments and the speed of transactions. Now a days the scope of business is became wider with increase in the business transactions scope and the establishment of companies where the people running business is different from the owner and so many other reasons like increase the greed of people and other reasons leads to emerging of fraudulent financial practices.

India has had its share of frauds and their incidence has often significantly impacted investor confidence. In an atmosphere of doubt and disbelief financial statements are often viewed with skepticism. This has also led to erosion of confidence and reduced trust among participants in the financial system. The weakness of criminal law and criminal jurisprudence is very significant in the administration of justice in India. The common law pressure of the justice delivery system on account of 'proof beyond doubt' is very heavy especially in the offences relating to finance. It may result offenders going scot free. As a consequence, the investors are likely to lose their confidence on the capital market regulator thereby in the long-run capital markets get affected.

Hence, this is the high time to take up the present study to examine the role of SEBI in detection, investigation and prevention of fraudulent financial transactions and protection of investors in the Indian capital market.

1.2. ORIGIN OF THE RESEARCH PROBLEM:

The weakness of criminal law and criminal jurisprudence is very significant in the administration of justice in India. The common law pressure of the justice delivery system on account of ‘proof beyond doubt’ is very heavy especially in the offences relating to finance. The nation is suffering from a serious ‘crisis of confidence’. No one can repose faith in others including entities and institutions. In such a situation, the companies can hardly grow and there is no faith on the system.² The investors have lost their confidence on the money and capital market regulators. Hence, this study is aimed at building and developing the confidence of investors by strengthening role of capital market regulator. So far no study has highlighted the role of SEBI in preventing fraudulent financial practices in the Indian capital market. This study is organized around four main research questions:

- 1) What is the nature and causes of financial frauds in the Indian Capital Market?
- 2) What is the role of SEBI in preventing fraudulent financial practices?
- 3) What is the role of SEBI in the protection of interest of investors?
- 4) What is the perception of investors/stock brokers and other professionals on the existing fraud detection, investigation and prevention practices of SEBI?

1.3. INTERDISCIPLINARY RELEVANCE:

This study is relevant to the various disciplines like commerce, management, economics, law and statistics. For the purpose of formulation of policies, procedures, and guidelines to prevent the fraudulent financial practices by the SEBI the above said departments are involved directly as well as indirectly. Hence, this study is very much required to strengthen the working of SEBI and protecting the investors in the Indian capital market from time to time.

² . **Mitra, N. L. (2001)**. The report of the expert committee on legal aspects of bank frauds. Jodhpur: National Law University.

1.4. REVIEW OF RESEARCH:

In search of some preventive actions to avoid or at least reduce frauds, many researchers have investigated the related factors (Albrecht *et al.*, 2007; Bar-Gill & Bebchuck, 2003; Hemray, 2004; Lev, 2003; Rezaee, 2002). A large part of literature has focused specifically on the reasons of financial frauds and its impact on the investors. Shah (1999) has documented many of the institutional improvements in the Indian securities markets. Other paper by Shah and Thomas (2000) investigates the design of the securities market, the practice of risk management, and market microstructure. Sabarinathan (2010) assesses the efficiency and structure of the statutory levels operated by SEBI. This assessment concludes that SEBI is an efficiently authorized and autonomous competent regulator³.

Various studies have analyzed many mechanisms and their relationship with financial statement frauds during the past years, but no empirical study has evaluated the role of SEBI in preventing fraudulent financial practices. The relevant studies reviewed are presented as follows:

The Cadbury Committee (1992): The Tread way Commission (1987)⁴: The Cadbury Committee identifies the annual audit and the way spotting financial frauds as “one of the cornerstones of corporate governance” maintains an external check on the honesty and reliability of various reports in their management process. The Tread way Commission has also attested the essential role of the external auditors play in the corporate governance structure.

Pandya (1992)⁵: He observes that as a regulatory and development body, SEBI's efforts in the direction of investor protection are varied and unlimited. The measures brought in by SEBI broadly cover measures for allocative efficiency in the primary market with fair degree of transparency, reforms in the secondary market for visible

³. <http://www.vikalpa.com/pdf/articles/2010/Vik354-02-ResGSabarinathan.pdf>

⁴. The Cadbury committee on the financial aspects of corporate governance and Gee and Co. Ltd. (1992). A Report: London

Pandya V H (1992). "Securities and Exchange Board of India: Its Role, Powers, Functions⁵ and Activities", Chartered Secretary, Vol. 22, No. 9 (Sept), p. 7

and mutual funds, regulation of various market intermediaries and above all for the protection of the investing public.

Samir K. Barua & Jayanth R. Varma (1993)⁶: This study suggests that the policy responses of the government in the direction of further regulation and controls, typified by the ban on ready forward deals appears to be quite misguided. Notwithstanding the repeated statements by the Prime Minister and the Finance Minister to the contrary, there are signs that the pace of liberalization has slowed down. This would be most unfortunate as the surest way of preventing scams of this type in the future would be to quickly bring the liberalization process to its logical conclusion by integrating the various financial markets. In this connection, the recommendations of the Nadkarni Committee set up in the wake of the scam, to examine the functioning of the money market, that ready forward deals be permitted and that the entire settlement and clearing system be streamlined and computerized are to be welcomed.

Guhan & Paul (1997)⁷: This study considers the ranking of the 32 Asian-Pacific countries in the Transparency International's Corruption Perceptions Index of 1997; they argue that a serious issue corruption is in the Asia-Pacific. Although, the governments in these countries have been taking many anti-corruption measures since 1950s, they have not had significant achievements in restraining corruption. In 1968, Gunnar Myrdal claims that there is a significant relationship between the shortages of research on corruption in South Asian countries and the research tab of corruption.

Varma (1997)⁸: He concluded that the newly developing argument on corporate governance and financial frauds in India is mainly based on its counterpart Anglo-American literature while the corporate governance issues in India are of different nature. The governance problems in the US or the UK are mainly related to disciplining the managements who are no more appropriately responsive to the

Samir K. Barua & Jayanth R. Varma (1993). Securities Scam: Genesis, Mechanics and Impact, ⁶ The Journal of Indian Institute of Management, Ahmadabad, January-March, 1993, 18(1), 3-12.

⁷ **Guhan, S., & Paul, S. (1997).** Corruption in India: Agenda for action. New Delhi: Vision Books.

⁸ **Varma, R. J. (1997).** Corporate governance in India: Disciplining the dominant shareholder, Reproduced with the permission of IIMB Management Review. The Journal of the Indian Institute of Management, 9(4), 5-18.

owners while the issues in the Indian corporate sectors is disciplining the dominant shareholders and safeguarding the minority shareholders; only forces from outside the company can solve the issue of the dominant shareholders' misusing corporate governance.

Singh (1999)⁹: He argues that any study of fraud detection in India would be first in the context of detecting by the government and public sector companies. India's hybrid economy has a vigorous private sector and there were few reports of the cases of fraud's detection from private business and industry. The agencies of law enforcement and investigation have been mainly focusing on safeguarding government funds. Government departments and public sector companies are the primary purchasers in India; their purchases range from "ordinary office stationery to the most sophisticated technical equipment required in railways, telecoms, power and defense sectors, etc."

Dooley (2002)¹⁰: According to him, even a few number of financial scams – if remarkable in size, and damage caused– considering the total number of companies with shares traded on U.S. and foreign exchange, can bring irreparably shocking loss to investors' confidence, financial analysts, accounting professionals, regulators, and the reliability of financial statements of Securities and Exchange Commission (SEC) registrants. He concludes that additional measures must be urgently taken to deter, or detect these financial frauds to bring back the lost confidence in the system of financial reporting and audit assurance on which U.S. capital markets are based.

Rezaee, Sharbatoghlie, Elam, & McMickle (2002)¹¹: This article argues that achievements of information technology and web-based applications have made it more feasible to monitor and control operations by continuous auditing. This paper aims at preparing a framework for categorizing what different literatures have contributed to the area of continuous audit. The scope of these researches can be

⁹ Singh, B. (1999). India: Procurement frauds. *Journal of Financial Crime*, 7(2),183 – 185.

¹⁰ Dooley, V. D. (2002). Financial fraud: Accounting theory and practice. Second Annual Albert A. De Stefano Lecture on Corporate Securities & Financial Law, Fordham University School of Law.

¹¹ Rezaee, Z., Sharbatoghlie, A., Elam, R., & McMickle, L. (2002). Continuous auditing: Building automated auditing capability. *Auditing: A Journal of Theory and Practice*, 21(1).

classified into five major topics: demand factors, theory and guidance, enabling technologies, applications, and impacts.

Hulbert (2003)¹²: The surging liberalization of various forms of trade, as those related to the financial services sector, is invigorating the internationalization of the European insurance industry, hence turning it more prone to fraud. Explaining the most common problems with fraud in the sector, the study assesses the implications of moving into new markets. Moreover, future fraud prevention methods such as screening of applicants are examined and the dire need to reviewing the current situation is emphasized.

Goyal (2004)¹³: He claims that SEBI has successfully defined strict norms and contributed to establishing a steady capital market which has energized growth and activated markets more efficiently. This paper elaborates on the pluses and minuses of regulations regarding the development of capital markets, its accomplishments and future potential improvements in India which provided SEBI the flexibility to adjust as required.

Supreena Narayanan (2004)¹⁴: This study concluded that the occurrence and reoccurrence of such security scams and financial scandals at some point in time be attributed to a failure of corporate governance in finance and that of financial regulation. Corporate Governance vs Financial Regulation are more a personal thing which involves the adherence to rules regulations and ethics by officials. It is more self enforced as a ethical behavior or a matter of pursuing codes of conduct without an outside agent monitoring, but financial market regulation is exercised more by an external organization either a regulatory body authorized to monitor and impose a surveillance mechanism to ensure frauds or misdemeanors are not perpetuated and so

¹² **Hulbert, J. (2003).** Carrefour of fraud in Europe, *Journal of Financial Crime*, 1(2), 122 – 127.

¹³ **Goyal. A. (2004).** Regulation and de-regulation of the securities market in India, Presented at the Regulation Conference, of the Public Policy Programme, National University of Singapore.

Supreena Narayanan (2004). Financial Market Regulation – Security Scams in India with ¹⁴ Historical Evidence and the Role of Corporate Governance, Munich Personal REpec Archive, April 2004.

that the market functions efficiently to oversee the functions of the market participants and impose fines and other penalty for non-compliance.

Bose (2005)¹⁵: This study enumerates some of the regulations that have been defined for dealing with market fraudulent practices. It also attempts to study the process of implementing regulatory actions to protect investors in India in a comparison with the US, perceived as the world's most safe and liquid capital market. The study also analyses the roles of the stock exchanges and electronic databases in assisting the regulator to prevent, detect and convict securities frauds. One may tend to conclude that Indian securities laws are now well pervasive and the problem is mostly with exercising them for crimes such as price manipulation and illegal insider trading; however, the study proposes that still before empowering SEBI to conduct its functions as the principal regulator, it must be ensured that the laws and regulations are rationalized.

Somaya (2005)¹⁶: This study estimate 50,000 crore of savings of retired people, pensioners, salaried persons were either looted or locked up in these scams but no concrete action has been taken to recover this huge amount of money from the perpetrators of these scams, besides the retail investors continuously lose due to these malpractices. The retail investors have a lot of grievances against the market regulator and other various intermediaries. The grievances of the investors can be against Securities & Exchange Board of India, Stock Exchanges, Depositories and Depository Participants, Stock Brokers and sub-brokers, Merchant Bankers, Registrars and Transfer Agents, Listed Companies, and Other Stock Market Intermediaries.

International Organization of Securities Commissions (2005)¹⁷: This Commission identifies seven separate areas that have figured prominently in many recent high-profile financial scandals. They are: (i) corporate governance, including the role of

¹⁵ **Bose, S. (2005)**. Security market regulations lessons from US and Indian experience. ICRA Bulletin, Money and Finance, pp.83 -124.

Somaya Krit (2005). Scientific Management of Small Investors: Protection in the Millennium with Reference to India: Challenges and Opportunities, Presented to Department of Commerce, University of Mumbai, Mumbai.

IOSCO (2005). Strengthening Capital Markets against Financial Fraud, February, 2005.¹⁷

independent directors on an issuer's corporate board, the protection of minority shareholders, the importance of independent auditor oversight committees, and mechanisms to protect against conflicts of interest presented by related-party transactions; (ii) auditors and audit standards, including auditor independence, the effectiveness of audit standards and auditor oversight, and issues related to mandatory auditor rotation; (iii) issuer disclosure requirements, including management's discussion and analysis of material events and factors likely to have an impact on the issuer; (iv) bond market regulation and transparency, including the types of financial disclosures required of bond issuers and the transparency of bond market price-setting mechanisms; (v) the role and obligations of market intermediaries, whether they contributed to recent financial scandals, and how these entities can mitigate reputational, legal and operational risk through adequate controls and procedures, and ensure that material non-public information they acquire about an issuer is not misused; (vi) the use of complex corporate structures and special purpose entities, and the circumstances where they may pose particular regulatory issues; and, (vii) the role of private-sector information analysts, and the ways in which such individuals and entities can protect their analytical integrity and independence.

Panigrahi (2006)¹⁸: This research paper refers to the growing significance of forensic accounting in detecting fraudulent financial practices. The article discusses different tools and techniques applied in forensic accounting and the challenges it may have to deal with. It also proposes a new technique called "Data mining" to facilitate the forensic auditors' detecting and deterring fraudulent practices.

S.M. Solaiman (2006)¹⁹: This study is explained that the disclosure philosophy itself is not a panacea, an effective disclosure regime requires a certain level of structural and infrastructural development of the market, and that a particular securities market should follow a paternalistic merit regulation until the attainment of that progress.

¹⁸ **Panigrahi, P. K. (2006).** Discovering fraud in forensic accounting using data mining techniques. *Chartered Accountant*, 54(10), Pp.1426-1431.

S.M. Solaiman, (2006). Investor protection and criminal liabilities for defective prospectuses ¹⁹ Bangladeshi laws compared with their equivalents in India and Malaysia, *Journal of Financial Crime*, Volume-13, Issue-4, Pp.467–492.

A Review of SEC Enforcement Releases 2000-2006 (2007) ²⁰: According to this study the Deloitte Forensic Center (DFC) is a think tank found to investigate new approaches to reduce the costs, risks and damages of fraud, corruption, and other issues threatening the global business community mostly from the perspective of forensic accounting, corporate managers, and other experts involved in forensic issues. The DFC focuses on providing multidisciplinary analyses which are practical and useful for companies and official organizations. It emphasizes on utilizing technology as a tool to deter, detect, or reduce fraud and corruption.

Chakrabarti, Megginson, & Yadav (2007) ²¹: The authors elaborate on the Indian corporate governance system and the way this system has been supporting as well as hindering India's reaching to the top positions in the world's economies. The paper argues that although India's legal system has provided some of the best investor protection of the world, still its enforcement is a main issue in India's "slow, overburdened courts" and great number of significant corruptions. Among the impediments are the monopolized ownerships; dominant family group business model; and the pyramiding and tunneling practices among Indian business groups; these are all not considering the various fraudulent reporting examples, and evidences of earnings management.

K. Balanaga Gurunathan (2007)²²: This study highlights that the securities market operations promote the economic growth of the country. More efficient is the securities market, the greater is the promotion effect on economic growth. The investors need protection from the various malpractices and unfair practices made by the corporates and intermediaries. As the individual investors' community and the investment avenues are on the rise, it is interesting to know how the investors shall be protected through various legislations. Securities market in general are to be regulated to improve the market operations in fair dealings and easy to access the market by

²⁰ **Deloitte Forensic Center. (2007).** A review of SEC enforcement releases 2000-2006, Ten things about financial statement fraud. USA

²¹ **Chakrabarti, R., Megginson, W., Yadav, L., & Pradeep, K. (2007).** Corporate governance in India. Journal of Applied Corporate Finance, CFR working paper, No. 08-02.

K. Balanaga Gurunathan (2007). An Investors' Requirements in Indian Securities Market, Delhi ²² Business Review, Volume-8, No.1, January-June, 2007, Pp.31-40.

corporates and investors. The present positive attitude of investors is heartening though investor sentiments have been shaken by the various scandals. Even though, there are various opportunities available for investment, investors are scared of investing in corporates. In this situation, the individual investors' protection becomes necessary to sustain the economic development of all countries. To achieve the desired level of economic growth is dependent upon investors' protection availability of the concerned country.

A. K. Sharma Ashutosh Vashishtha (2007)²³: This study highlights the regulatory perspective; the recent developments in the financial sector have led to an appreciation of the limitations of the present segmental approach to financial regulation and favors adopting a consolidated supervisory approach to financial regulation and supervision, irrespective of its structural design.

Bejarano (2008)²⁴: He emphasizes that “corporate financial fraud in the U.S. is about 556 times more costly (\$258 million) than employee fraud (\$464 thousand).” Financial fraud is still occurring in spite of all anti-fraud measures and legislations. It needs planning and represents a deliberate trickery manipulated financial account. Findings of the study indicate that decreasing corporate financial fraud entails improvements of (a) education, (b) training, (c) detection, (d) prevention, and (e) internal controls.

Ragan, Hadley, & Raymond (2008)²⁵: They note the continuous increase of demand for forensic accounting in the corporate world. Forensic accounting facilitates detecting and deterring frauds in companies. This paper studies a case of forensic accounting which benefits from fraud methodology and its detection techniques via a simulation engagement. Those completed it will go on through a set of procedures leading to the formulation of probable fraudulent practices within the specified

A.K. Sharma Ashutosh Vashishtha (2007). Dynamics and regulatory system of Indian financial markets - A dialectic view, *Journal of Financial Regulation and Compliance*, Volume-15, Issue-3, Pp.275–302.

²⁴ **Bejarano, R. J. (2008).** Mitigating corporate financial fraud. University of Phoenix School of Advanced Studies.

²⁵ **Ragan, J. M., Hadley, J. A., & Raymond, P. A. (2008).** Star electronics, Inc.: An excel based case using financial statement analysis to detect fraud. *Journal of Business Case Studies*, 4(3).

company; These procedures are: understanding the business; detecting the areas prone to manipulation; utilizing analytical procedures to spot the fraud; and providing the board of detectors with a report as a record of any susceptible red flag detected during the course of testing.

Matiur Rahman, Daryl V. Burckel and Muhammad Mustafa (2009)²⁶: This study concludes that the effects of earnings restatements on the individual companies are asymmetric because of the heterogeneities in their products and services including the demand for their products. The effects are also conditional upon the customers' perception about the company whether it was engaged in fraud or striding to come clean after undoing the past misdeeds. Accordingly, the companies are either rewarded or punished by their distinct markets.

Associated Chambers of Commerce and Industry in India (2010)²⁷: This Report highlights issues on financial statements such as the increasing concerns for the start of disturbing corporate scams and the continuously increasing risk of corporate frauds. It warns that it is essential to modify the traditional approach and establish a well-organized system, which is both transparent and honest. Several requirements must be taken into account as companies are growing bigger and more complex; "internal monitoring controls, corporate governance, and external reporting activities" must be all in a synergistic operation. The rise in stakeholder base will raise the expectation level both from regulators and the whole society.

Capital Via (2010)²⁸: This paper states that the worst thing about frauds is that it is never known until it's too late. Even keeping in prison those charged with fraud may in turn costs investors or taxpayers more loss without being repaid. Though the security bodies have taken measure to deter such frauds from happening, it is almost impossible to guarantee that it never strikes again with such a great number of companies in the World. Finally it warns to "invest with care and diversify".

Matiur Rahman, Daryl V. Burckel and Muhammad Mustafa (2009). Accounting Scandals and ²⁶ Stock Performance: Life After Enron, Journal of Business & Economics Research, March, 2009, Volume-7, Number-3, Pp.11-39.

²⁷ www.kpmg.com/IN/en/services/.../Enhancing%20transparencyt.pdf

²⁸ www.capitalvia.com

Ghosh (2010)²⁹: His study states that through streamlining the accounting and auditing system and more effective corporate governance, the influence of creative and fraudulent accounting can be decreased. This decrease can be implemented efficiently by (i) utilizing forensic accounting in detecting and preventing white collar frauds; (ii) decreasing the other choices of accounting treatment in accounting standards; (iii) improving the quality of corporate governance; (iv) modifying companies Act; (v) exercising binding regulation; and (vi) enhancing the effectiveness of audit.

Gornall (2010)³⁰: In this study, a rational model of crime and regulation is implemented to prove the inefficiency of the SEC's current incentive structure in deterring fraudulent practices. Based on this model, perpetrators consider the monetary rewards of larger frauds compared with the increased possibility of being arrested; and also regulators develop such regulations to minimize the loss engendered either by fraud or some other metric. It is shown that under this model, the SEC's focus on states "and quick hits" brings large frauds and a social damages. The research warns that regulators need to both focus on having an efficient prosecutions and preventing and decreasing losses.

Hooper & Fornelli (2010)³¹: The Centre for Audit Quality (CAQ) roundtable discussions and interviews emphasized that there is no magic solution to preventing and detecting fraud. All groups involved in supplying the financial reporting, from senior management to boards, audit committees, internal auditors, and external auditors, have key role. The Sarbanes-Oxley Act has significantly improved financial reporting processes and overall corporate governance; all supply chain participants must be watchful for the elements of the fraud triangle. The findings of this report indicates the launch of a focused and coordinated long-term effort to improve the prevention and detection of financial reporting fraud, to finally benefit investors, various users of financial reports, and participants of the capital markets.

²⁹ **Ghosh S. (2010).** Creative accounting: A fraudulent practice leading to corporate collapses. *Research and Practice in Social Sciences*, 6(1), 1-15.

³⁰ **Gornall, W. (2010).** Financial fraud: A game of cat and mouse. University of Waterloo, Ontario, Canada.

³¹ **Hooper, J. M. (2010).** Deterring and detecting financial reporting fraud – A platform for action. Centre for Audit Quality. Washing D.C. pp.1-55.

Rathinaraj (2010) ³²: His study indicates how information and telecommunication technologies have been integrated with a rise in fraudulent activities. Anonymous servers, hijacked emails and fake websites have been abused as a tool for fraudulent practices in cyberspace. Indi's cyber-scams on the Internet, increased by the global revolution, are a manifest form of cybercrime. These crimes are not limited to swindling large amount of money in significant business proposals, but also include romance, lottery and charity frauds at different ranges of estimated total losses.

Sabarinathan (2010) ³³: In this research study he explains that SEBI has been empowered through an Act of Parliament in 1992; since then, SEBI has been taking different initiative measures to regulate and discipline the Indian securities market and enhance its safety and efficiency. These measures have influenced and transformed generally all aspects of the market and particularly market capitalization; number of listed firms; and trading and turnover sizes both in the spot and future markets.

Katika (2011) ³⁴: This paper stresses on the significance of the process of market monitoring to the stock market. It aids to confirm that all trades abide by the existing rules and also to discover any act of manipulation. Recently, High Frequency Trading, a newly emerged kind of trading, provides the traders the possibility of placing and tracing orders within milliseconds through a computer-program. Investigating the field of stock markets and High Frequency Trading is a seminal part of this study. It is a question whether the available market systems can manage to monitor and detect the inconsistencies at such a fast speed.

Panigrahi (2011) ³⁵: Introduces a framework for Detecting Internal Financial Fraud Using Analytics. He stresses that financial frauds are very common in our knowledge based society. Detection of internal financial fraud has become a hot area for

³² **Rathinaraj, D. (2010).** Financial fraud, cyber scams and India – A small survey of popular recent cases. Anna University of Technology, Chennai.

³³ **Sabarinathan , G. (2010).** SEBI's regulation of the Indian securities market: A critical review of the major developments, VIKALPA.com , 35(4) .

³⁴ **Katika, A. (2011).** Investigating financial fraud in HFT. A dissertation submitted to the University of Manchester.

³⁵ **Panigrahi, P. K. (2011).** A framework for discovering internal financial fraud using analytics. IEEE Conference Publications.

researchers as the knowledge discovery in databases and fraud audit has been developed. Auditors also indicate that most of the techniques in the process of fraud auditing are almost impossible to be applied.

Sabale (2011)³⁶: It is claimed in this research that by most estimates, 300 million people of India are likely below the poverty line. As the state and the ex-chequer lost Rs. 1.76 lakh Crore and probably more, time is perhaps ripe enough for the rest of the nation to wake up. India has experienced the biggest corruption instances. He digs deep to detect which scams were the biggest and caused the most losses to the country. According to his findings an average Indian people are hardworking but the problem is with the people in charge of the system.

Shashidharan, K. P. (2011)³⁷: He argues that the managers' zero-tolerance to frauds and their strict observation of the integrity and honesty is a main factor in deterring frauds. A fraud at a value of Rs. 316 crore or more in the Citibank's Gurgaon branch, a bank awarded for being excellent in almost every aspects of banking activity such as best Internet banking and brand equity, may provide useful lessons for the regulators. It was reported that "the relations manager had got a forged circular in the name of the Securities and Exchange Board of India (SEBI) which claimed that the high return scheme was available only at Citibank's Gurgaon branch".

Srinivasan & Srinivasan (2011)³⁸: This paper reviews the position of the researches on corporate governance and financial fraudulent statement in India in both Indian and International journals between 2000- 2010. It is an attempt to realize the nature of researches on corporate governance and financial fraudulent statement in high-ranked international journals. It indicates the growing interest in India and discusses whether the researches published in the high ranked journals in India shows the differences compared with the global discourse on corporate governance. The study of the international and Indian journals' research reveals a continuous rising interest in

³⁶ **Sabale, R. J. (2011).** Frauds in India – Harmful Matter. Indian Streams Research Journal, 1(1), 128-130.

³⁷ <http://www.thehindubusinessline.com/opinion/auditing-antifraud-controls/article1087395.ece>

³⁸ **Srinivasan, P., & Srinivasan, V. (2011).** Status of corporate governance research and financial fraudulent practices on India. Bangalore: Institute of Management.

corporate governance and the significance of auditing process in disclosing financial fraudulent practices in India.

Zhou & Kapoor (2011)³⁹: The study highlights that Financial Stability Forum (FSF) might involve “manipulation of financial records, intentional omission of events, transactions, accounts, or other significant information from which financial statements are prepared, or misapplication of accounting principles, policies, and procedures used to measure, recognize, report, and disclose business transactions”.

Tak ISA (2011)⁴⁰: This study tried to show the impacts of the financial statement fraud on real economy. Financial losses are significant big and should be prevented as soon as possible. But preventing frauds in financial statements is costly. Companies avoid investing to set up detection system especially in small companies. Companies which manipulate their financial information benefit materially in short-term but in long-term companies are suffering also. Human interests are playing very important role in this case. A very negative or positive action is connected to human beings. Of course detecting or preventing all frauds in financial statements is rather difficult. At least control mechanism may reduce the number of fraud cases.

Dr. R. J. Sabale (2011)⁴¹: This study concludes that India has a developing country. India is a democratic country in the world. They have taken a part in an open economy. The development of capital market, bank, industrial production, increase per capital income, but lack of ethical restraints or profit making universal phenomenon corruption is the major hindrance to the development of India as a democratic country.

³⁹ **Zhou, W., & Kapoor, G., (2011).** Detecting evolutionary financial statement fraud. *Decision Support Systems*, 50(3), 570-575.

Tak ISA (2011). Impacts and Losses Caused by the Fraudulent and Manipulated Financial ⁴⁰ Information on Economic Decisions, *Review of International Comparative Management*, Volume-12, Issue-5, December 2011, Pp.929-939.

Dr. R. J. Sabale (2011). Frauds in India- Harmful Matter, *Indian Streams Research Journal*, ⁴¹ Volume-1, Issue-1, February 2011, Pp.128-130.

Basu (2012)⁴²: His study emphasizes on the need of today's marketplace to responsive auditors in fraud detection. This need is invigorated by such legislations as the Sarbanes-Oxley Act and the Auditing Standard, which verify this increasing need mostly in detecting financial statement frauds. A fraud audit consists of a thorough analysis of financial documents to spot where the numbers and/or financial statements do not match. A fraud auditor's task may include reviewing receipts of companies and customers, interviewing employees, customers and even clients to figure out if a fraudulent act has taken place.

Kini (2012)⁴³: He warns that the ICAI is still equivocating on its precise reporting requirements in the companies' bills; therefore, the union ministries of finance, law and corporate affairs, the regulators SEBI and RBI must take effective measures to urge the ICAI to arrange an organized well-defined qualitative reporting. Apparently, not many of the members of ICAI's central committee are equipped with active practical experience and comprehensive knowledge on India's audit principles, practices, and procedures. It is urgent, for the exact observation of audit reporting process, to start utilizing senior audit expertise and chartered accountants as well as veterans from corporate India.

Richhariya & Singh (2012)⁴⁴: They claim that because of the rapid rise of E-Commerce, incidents of financial fraud associated with it are also increasing and leading to losing billions of dollars every year. Fraud detection entails investigating the users' behaviors to "ballpark figure, detects, or steers clear of objectionable behavior: Undesirable behavior is an extensive term including delinquency: swindle, infringement, and account evasion. Factually, swindle transactions are speckled with genuine transactions and simple pattern matching techniques are not often sufficient to detect those frauds accurately".

⁴² **Basu, S. (2012).** Fraud auditing. Department of Commerce, St. Xavier's College. Kolkata, India.

⁴³ <http://www.moneylife.in/article/indian-auditors-toothless-watchdogs/24186.html>

⁴⁴ **Richhariya, P., & Singh, K. P. (2012).** A survey on financial fraud detection methodologies. International Journal of Computer Applications, 45(22), 15-22. Foundation of Computer Science, New York, USA: BibTeX

Sharma & Panigrahi (2012)⁴⁵: This study considered the rising instances of financial accounting scams in the current economic scenario, highlights the importance of financial accounting fraud detection (FAFD) for academic, research and industries. Forensic accounting has come to scene as internal auditing systems of the organizations experienced significant failures in detecting the accounting frauds. This study provides a framework for detecting frauds based on data mining techniques.

Singh (2012)⁴⁶: He states that as the public demand of honesty, fairness, and transparency in financial reporting has recently increased, the need for forensic accountants can no more be taken for granted. Forensic accountants must have a comprehensive knowledge in finance, law, investigative and research skills to detect, interpret, communicate and deter fraud. The increasing number of companies seeking forensic accountants and professional organizations' offering certificate in forensic accounting reveal how forensic accountant entails a set of skills that makes it distinct from an auditor or a financial accountant. In India, as white collar-crimes have increased fast and it is also mostly believed that India's law enforcement agencies do not enjoy enough efficient experts as well as the time needed to detect fraudulent practices, forensic accounting have been increasingly coming to scene.

Shaik Abdul Majeeb Pasha, R.Vamsi Krishna, V. Hemantha Gopi Kiran (2012)⁴⁷: This study concludes that the SEBI should supervise this capital market system in such a manner that all sub-systems become self-regulatory organizations (SROs) gradually. The SEBI should lay down the boundaries within which these sub-systems should operate. Moreover, the fundamental infrastructure for regulation, disclosure, surveillance and trading are all in place. Hence, the SEBI should stop being pre-occupied with day-to-day regulations and become more of a visionary. The

⁴⁵ **Sharma, A., & Panigrahi, K., P. (2012).** A review of financial accounting fraud detection based on data mining techniques. *International Journal of Computer Applications*, 39(1).

⁴⁶ **Singh, P. (2012).** Forensic accounting concept in India. *International Journal of Trade and Commerce-IIARTC*, 1(1), 100-105. New Delhi.

Shaik Abdul Majeeb Pasha, R.Vamsi Krishna, V. Hemantha Gopi Kiran (2012). A Study on ⁴⁷ Role of SEBI in Indian Capital Market: An Empirical Analysis, *International Journal of Multi-disciplinary Research*, Vol.2, Issue-3, March, 2012, Pp.396-413.

SEBI can ensure a free and fair market and take India into league of major global capital markets in the next round of reforms. To enable this, it has to thoroughly review its structure and functioning. The SEBI has to balance between the costs of regulation and market development. There should be cross-border cooperation between various regulators and between regulators and industry.

Dr. KVSJN Jawahar Babu and S. Damodahr Naidu (2012)⁴⁸: This study was concluded that SEBI surmounted several obstacles on the way to development of capital market with due care for investors' interests and greater transparency in the affairs of organizations and stock exchanges, though not to the extent of hundred percent. As this study observed that via different guidelines it had made it sure that no stone remains unturned in the path of the mission of protecting the investors. Investor education campaigns have been yielding positive results to some extent, still lot more needs to be done. Indian investors have been steadily fleeing the market, despite the apparent spread of 'equity cult', which calls for immediate attention of the apex body to frame and effectively implement the measures to protect the interests of investors, and restore their confidence in the stock market.

The Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) Report (2012)⁴⁹: This report analyzes the concept of Unfair Trade Practices (UTP) in India by comparing the concept in other countries also. The report examining the institutional set-up established in India to deal with such UTPs highlights the various institutional challenges and finally suggests efficient approaches to tackle the same. The term Unfair Trade Practice broadly refers to any fraudulent, deceptive or dishonest trade practice or business misrepresentation of the products or services that are being sold which is prohibited by a statute or has been recognized as actionable under law by a judgment of the court. However, the term does not have a universal standard definition. This report is suggested to establish an independent and

Dr. KVSJN Jawahar Babu and S. Damodahr Naidu (2012). Investor Protection Measures by ⁴⁸ SEBI, Arth Prabandh, A Journal of Economics and Management, Volume-1, Issue-8, November 2012, Pp.72-80.

GIZ Report (2012). Unfair Trade Practices and Institutional Challenges in India – An Analysis, ⁴⁹ Cuts International.

specialized consumer protection agency, and strengthening the institutions under consumer protection act.

Tracy Yue Wang and Andrew WintonOur (2012)⁵⁰: This paper examines the effect of industry competition on firms' incentives to misreport financial information. The theoretical foundation for our empirical analysis lies in the economic literature on how the nature of product market competition shapes the information environment of an industry and individual firms' incentives to disclose information to investors. They examine three specific channels and they found that lack of strategic concerns in the product market tend to encourage fraud, as does the use of relative performance evaluation. By contrast, lack of firm-specific information collection tends to decrease the probability of fraud detection, and there is weak evidence that this in turn increases the probability of fraud commission. All three aspects are more likely to be present in industries that are more competitive, implying that fraud propensity should be higher in those industries.

Fincy Palliserry (2012)⁵¹: This study suggests that the law governing financial transparency envisaged under the Companies Act in India makes it obligatory on the part of the companies to disclose the material information relevant to the investors. However, the directors of the company often show an unreal picture of the financial position of the company, so as to retain the existing shareholders and to attract more investors. This can be avoided if the composition of audit committees in the companies includes a few representatives of shareholders who are competent to assess the true and fair view of the company accounts prepared by the auditors.

Mr. Gaurav Dawar and Ms. Swati Goyal (2013)⁵²: The major finding is that there is no impact of the financial scams on the share prices of the company. This study

Tracy Yue Wang and Andrew WintonOur (2012). Competition and Corporate Fraud Waves, ⁵⁰ Seminar Paper, Carlson School of Management, University of Minnesota, October 2012.

Fincy Palliserry, (2012). True and Fair Financial Reporting: A Tool for Better Corporate ⁵¹ Governance, Journal of Financial Crime, Volume-19, Issue-4, Pp.332 – 342.

Mr. Gaurav Dawar and Ms. Swati Goyal (2013). Impact of Corporate Scams on Share Prices: A ⁵² Study of Indian Stock Market, International Journal of Management Excellence, Volume-1, Number-2, June 2013, Pp.32-37.

examines the impact of financial scams on the share price of the company who has undergone the scam, for this the study of 8 companies was made who has undergone the scam in the past 6 years. The study adopted event study methodology to examine the impact of financial scams and announcements by SEBI on stock returns and INDEX. The Average Abnormal Returns (AABRs) and Cumulative Average Abnormal Returns (CAARRs) of overall sample are insignificant at 5% level of significance. The study evaluates that the market is very efficient they absorb all the information regarding the event. The analysis shows that there is no impact on the value of the share price of the company and on the value of the index in regard to the financial scams and announcements. The questionnaire shows that most of the investors are aware of the financial scams but they do not think that these scams effect their investments a great deal.

Anindita Jaiswal (2013)⁵³: This study concludes that conflicts of interests involving intermediaries are inevitable and cannot be eliminated. However, efforts have been made to curtail it and mitigate the risks and consequent losses. Since the reliance on principle-based compliance demands a more mature capital market and since the Indian capital market has still not matured, a rule-based avoidance regime of conflicts of interest is predominant in India, which is evidenced in various SEBI Regulations and the Code of Conduct, the SEBI enforcement actions, and the RBI Guidelines. While a shift from a rule-based towards a principle-based compliance regime should not be hasty, and must be aligned with India's market conditions, regulations and rules alone cannot remedy such situations of conflict, which need to be supplemented with enduring principles and an ethical business culture. **Daniela Petrașcua and Alexandra Ticanub (2014)⁵⁴:** This article aims to not just briefly describe the role of the internal audit in the detection of possible frauds, but also to highlight its importance in preventing the commission of frauds in any economic entity. Moreover, the analysis intends to especially point out the advantages that an internal audit can

Anindita Jaiswal (2013). Conflict of Interest, Fair Play, and Fixing Accountability of Market ⁵³
Intermediaries: An Indian Legal Perspective, Student Research Project, National Stock Exchange of India, RPS/08/2013.

Daniela Petrașcua and Alexandra Ticanub (2014). The Role of Internal Audit in Fraud Prevention ⁵⁴
and Detection, 21st International Economic Conference 2014, IECS 2014, 16-17 May 2014, Sibiu, Romania, Pp.489-497.

offer to the management of an economic entity and its partners and to the society as a whole as well. Starting from the premise that auditors are not the adversaries of an entity, one should remember that: the internal audit is a function of assistance offered to the leadership of that entity in order for them to better manage their activities; it expresses judgments on all decisions taken by the leadership that ensure the normal and efficient functioning of its activities; and its objective is to create added value.

Karamjit Kaur and Rajneesh (2014)⁵⁵: The paper focused on the Capital market reforms in India. The paper discussed about the regulatory framework of capital market in India. Any country growth rate depends on capital market. It shows the performance of the primary and secondary market. The paper also discusses the emerging issues of capital market in India. Capital Market plays a dominant role in Indian economy and securities Market. The paper discussed the major stock exchanges like Bombay Stock Exchange, National Stock Exchange. The paper also focuses on the SEBI regulators as a body working in India .Capital Market where securities are selling and buying. Capital Market is dividend two parts such as primary market and secondary market. Bond and Equity market is the main Capital Market.

Ahmed Aliyu (2014)⁵⁶: The findings of the study reveal among other things that, although the Nigeria's capital market is relatively young, it is characterized by different forms of corporate crimes. From the majority of the data gathered from the respondents, it is evident that the impact of corporate crime on Nigeria's capital market is enormous. Apart from the general socio-economic effects arising from corporate crime within the market in the country, many respondents identified lack of investment in the capital market, huge financial losses, decline public trust and confidence and the collapse of the market in 2008 as few negative impacts of the crime on the market.

Karamjit Kaur and Rajneesh (2014). Capital Market Reforms in India, International Journal of Commerce, Business and Management, Volume-3, Number-3, June 2014, Pp.422-439. ⁵⁵

Ahmed Aliyu (2014). Impact of Corporate Crime on Developing Capital Markets: Case Study of Nigeria, Journal of Studies in Social Sciences, Volume-8, Number-2, 2014, Pp.181.196. ⁵⁶

Pawan Jain, Mark A. Sunderman (2014)⁵⁷: Their study explained that the stock price movements for existence of informed trading prior to a merger announcement for the companies listed on the emerging markets of India for the period from 1996 to 2010. The results show that the information held only by insiders' works its way into prices. This study finds strong evidence of insider trading in the case of industry mergers and mergers during recessions.

PV Durga Rao, G V Chalam and Dr. T N Murty (2014):⁵⁸ This study concludes that the Indian capital market suffered bruises in the last part of the nineties owing to the manipulative trade practices of unscrupulous brokers and other participants; it has been witnessing fine times in the recent past, thanks to many favorable conditions contributing to it. With the kind and the quality of human skills possessed by India's financial Industry, it is quite imperative that there is need to provide sound capital foundation for the stock market. However, the stock trading is not a panacea for all that ails the Indian stock market if the recent experience of some of corporate and banks abroad is of any indication. It is to be noted with happiness that Government of India has successfully introduced the derivative trading in the stock exchanges. In spite of the fact that the Indian Capital Market has made a marvelous dent both in primary as well as secondary markets, there are very many issues, which require immediate and urgent attention of the planners concerned.

Prof. Sreekumar Ray (2014)⁵⁹: This study infers that the scams and India are two sides of a coin. Since independence India has been attacked by few Indians having unholy nexus with Government machineries. The study has been observed that always the high profile Government officials are involved hand in hand with the corrupt people who are engaged in scams. These include financial, political, or corporate

Pawan Jain , Mark A. Sunderman (2014). Stock Price Movement Around the Merger ⁵⁷
Announcements: Insider Trading or Market Anticipation, Managerial Finance, Volume-40, Issue-8,
Pp.821–843.

PV Durga Rao, G V Chalam and Dr. T N Murty (2014). Role of Capital Market in Indian ⁵⁸
Financial System – Past, Present and Future, Abhinav, National Monthly Referred Journal of Research
in Commerce & Management, Volume-III, February 2014, Pp.85-95.

Prof. Sreekumar Ray (2014). Corporate Scams and Its Impact on Indian Economy: A Case on ⁵⁹
Saradha Chit Fund, Global Journal for Research Analysis, Volume-3, Issue-11, November 2014,
Pp.33-35.

scams. Few scams are 2G scam in 2008, Satyam scam in 2009, and Coal scam in 2012, Saradha Chit Fund scam in 2013. If the total amount of the scam would have been channelized in to the capital market, India would have been the permanent member of trillion dollar club long before 2007 and would have been the leader in the world capital market. In 2013 the Ministry of Corporate Affairs, Government of India, has published a list of bogus chit funds operating all over India. It is found that more than 80% (72 out of 86) are operating actively in West Bengal. So the state West Bengal has got the disgusting title of 'Ponzi capital of India'.

Parray Firdous Ahmad and Tiwari Anshuja (2015)⁶⁰: The researchers have arrived that there is generally a constructive assessment of the economic reforms on Indian Capital Market, but also points out some areas of concern: the lack of a fixed term appointment for the regulators; the persistence of non-competitive conditions in the market; and the excessive entry of new scripts into the market, although in recent days, some steps have been taken to address this problem as well.

P. K. Gupta, Sanjeev Gupta (2015)⁶¹: This study was found that the regulatory system is weak, and there is dire need to redefine the role of auditors. Coordination among different regulatory authorities is poor, and after every scam, there is a blame game. Reporting of fraud and publication of fraud prevention policy are missing. Banks and financial institutions are ineffective on due diligence, and there is a lack of professionalism on the board and other executive levels in companies.

Dr. Madan Lal Bhasin (2016)⁶²: Fraudulent reporting practices can have significant consequences for organizations and all stakeholders, as well as, for public confidence in the capital and security markets. In fact, comprehensive, accurate and reliable financial reporting is the bedrock upon which our markets are based. Keen to project a

. **Parray Firdous Ahmad and Tiwari Anshuja (2015).** Indian Capital Market: A Review, ⁶⁰ *International Journal of Research in Economics and Social Sciences*, Vol.5, Issue-4, April, 2015, Pp.100-109.

P. K. Gupta, Sanjeev Gupta (2015). Corporate Frauds in India – Perceptions and Emerging Issues, ⁶¹ *Journal of Financial Crime*, Volume-22, Issue-1, Pp.79–103.

Dr. Madan Lal Bhasin (2016). Fraudulent Reporting Practices: The Inside Story of India's Enron, ⁶² *International Journal of Management Sciences and Business Research*, October-2016, Volume-5, Issue-10, Pp.33-46.

rosy picture of the Satyam to investors, employees and analysts, Mr. Raju (CEO and Chairman) fudged the account books so that it appeared to be a far bigger enterprise, with high profits and fast growth rate, than it actually was. The Satyam fraud, India's Enron, has shattered the dreams of different categories of investors, shocked the government and regulators alike, and led to questioning of the accounting practices of statutory auditors and corporate governance norms in India. This study made an attempt to provide an explanation for various intriguing questions about Satyam scam. After thorough investigations by the CBI and SEBI, they have unveiled the methodology by which Satyam fraud was engineered. Finally, this study recommended that the "fraudulent reporting practices should be considered as a serious crime, and accounting bodies, courts and other regulatory authorities in India need to adopt very strict punitive measures to stop such unethical practices."

Richard G. Brody and Frank S. Perri (2016)⁶³: This study explored the issue of suicide, a violent act against one's self, as it relates to white- and red-collar crimes. White-collar crime can be described as nonviolent crime committed for financial gain. Red-collar crime describes a situation where a white-collar criminal commits an act of violence, often murder, to silence someone who is in a position to report a fraud they have perpetrated. Previous research has not addressed the issue of suicide, as it relates to white- and red-collar crime. A suicide may be linked, directly or indirectly, to a financial crime. Law enforcement must be careful not to jump to conclusions, as there is a possibility that a staged suicide has occurred.

Wei Shi ,Brian L. Connelly ,Robert E. Hoskisson (2016) ⁶⁴ This is in reference to the cognitive evaluation theory insights on agency theory prescriptions with respect to external corporate governance and financial fraud agency theory has been extended to examining external mechanisms of corporate governance in view of managerial cognitions. External governance can dampen managers' intrinsic motivation to act in the interest of shareholders, increasing their likelihood of financial fraud. Each of the

Richard G. Brody, Frank S. Perri (2016). Fraud detection suicide: the dark side of white-collar ⁶³ crime, *Journal of Financial Crime*, Volume-23, Issue-4, Pp.786-797.

⁶⁴ **Wei Shi, Brian L. Connelly, Robert E. Hoskisson**, "Strategic Management Journal" 15 July 2016, <https://doi.org/10.1002/smj.2560> .

three external governance mechanisms under investigation—activist shareholders, the market for corporate control, and rating agencies—provides unique explanatory value in the context of financial fraud, and each runs counter to traditional agency predictions. Policymakers may face a paradox in regulating corporate governance. Imposing strict external monitoring and control can decrease top managers' intrinsic motivation and reduce their focus on internal values, potentially leading them to commit financial fraud. However, granting top managers too much freedom from external performance pressure could result in some managers extracting personal gains at the expense of shareholders.

Securities and Exchange Board of India(2017)⁶⁵: This is in respect of an investigation by SEBI under sections 11, 11(4) and 11B with regard to the AKG securities and consultancy limited in the matter of trading in shares of Rushil Décor Limited SEBI has investigated that considering the order placing pattern and other circumstances SEBI observed that AKG securities and consultancy has involved in self trade eight number of people as its authorized representatives which impacted the volume and volatility during the order placing dates. Out of the evidences it would be difficult to conclude that the impugned self-trades are done intentionally. But circumstantial evidences however, SEBI hasten to add that in a scenario where the accidental self-trades are huge in number and has considerable impact on the price and volume of the scrip which is subjected to self-trades, the price and volume impact may indicate that the trades were so designed to appear accidental but were in fact motivated by the manipulative intention of creation of false volume or false price ascension or dissension. Given these facts, it would be difficult to believe that the impugned self-trades have been entered with manipulative intention of creation of false volume or false price ascension or dissension while contriving to make it appear accidental.

D. Ajit, Sarat Malik and Sneha Nautiyal (2017)⁶⁶: This study explored into the Effectiveness of SEBI's Complaints Redress System (SCORES) in India, where it

Securities and exchange board of India wtm/mpb/efd-1-dra-3/ 102 /2017⁶⁵

⁶⁶ **D. Ajit , Sarat Malik, Sneha Nautiyal**, Effectiveness of SEBI's Complaints Redress System (SCORES) in India , Sebi.gov.in

was identified the basic question regarding securities dispute is why direct negotiation between parties is not feasible. And there is a way for dispute resolution by a third party i.e., the regulator which is neutral. And under SEBI's SCORES depend on themselves to resolve the issues which are monitored by SEBI. Later they have barred companies not responding to investor complaints from accessing capital market; recently it has barred five firms from accessing capital market further for failing to attend to investor grievances. SEBI might consider bringing a mediation and arbitration system as it is present the broker category also to the company level.

Securities and Exchange Board of India (2018)⁶⁷: Under section 15-i of securities and exchange board of India Act, 1992 read with rule 5 of SEBI (procedure for holding inquiry and imposing penalties by adjudicating officer) rules, 1995 in respect of Ms.Kothari SEBI examined the trading in the matter of Rajlaxmi Industries Ltd., (“RJIL”/ “Company”/”Scrip”) during the period from January 15, 2014 to July 1, 2014, (relevant period) where the price of the scrip opened on January 15, 2014 at Rs.20.25 and reached a high of Rs.193.20 on July 1, 2014 and closed at that price. Ms. Rashmi Kothari contributed 58.42% to market positive LTP through her 26 LTP positive trades. It has been observed that in each of her 26 LTP positive trades she had placed buy order first at prices higher than last traded price before any sell orders were placed and observed that any trader has violated regulation of SEBI, (Prohibition of Fraudulent and Unfair Trade Practices Relating to the Securities Market) Regulations, 2003 after hearing explanation where it was said that trades were booked at a higher price more than the LTP during the opening hours based on the news from the journals and papers and market the instant adjudication proceedings against the Noticee - Ms. Rashmi Kothari initiated under on July 29, 2017 is disposed of accordingly.

S. Mohana Murali (2018)⁶⁸: This research paper highlights the investor protection and regulation of financial intermediaries and it was observed that age plays an

Securities and Exchange Board of India adjudication order No. ead-8/js/ns/99/2018. ⁶⁷

S Mohana Murali (2018) “The role of SEBI in Protecting the Interests of Investors and Regulation ⁶⁸ of Financial Intermediaries : A Case Study of Rayalaseema Region, Andhra Pradesh – India”, *International Journal of Research in Management & Social Science*, Volume 5, Issue 3 (I): July - September, 2017, ISSN 2322 – 0899.

important factor for investment and risk taking and Investors risk, knowledge and control over the investment point of view only few investors. Investors are rational and prefer less risky investments and all investors are not aware of SEBI rules and guidelines. And it was suggested through the study SEBI has to look into the matter of Sub and Main Intermediaries as they are increasing and recommended public debate is to be initiated for accountability, transparency and coordination.

1.5. INTERNATIONAL STATUS:

This study covers the causes for fraudulent financial practices at national and international level, detection, investigation and prevention practices of SEBI in the protection of interests of investors in India. This is not only the problem of Indian capital market it is also faced by the capital markets of countries all over the world. In the recent past India, America and other countries are experienced with financial frauds and the huge amount of damage is recorded in the history. For example, financial fraud of Enron and Satyam is not only influenced the Indian investors. The investor community all over the world is suffered with these scams. Hence, this study is having the international importance in the present scenario.

1.6. NATIONAL STATUS:

This study is very much useful to the Indian investors, corporates and other capital market participants. Different types of industries and investors in the Indian capital market are facing the problem of financial frauds. These frauds are creating huge damage to the investing community in particular and other participants in general. In the competitive environment players in the capital market must promote ethical practices to protect each other. In this juncture, the Securities and Exchange Board of India (SEBI), Department of Economic Affairs (DEA), Department of Company Affairs (DCA), Reserve Bank of India (RBI) and Ministry of Finance (MoF) has to play a greater role to reduce the financial frauds in India over a period of time. Therefore, this study is much needed to suggest the remedial measures to overcome this problem in India and all over the world.

1.7. SIGNIFICANCE OF THE STUDY:

The Federal Bureau of Investigation states that there have been forty-three corporate fraud cases, consisting manipulation of the financial statements, accounting fraud, and insider trading, which are directly connected to the financial crisis. At a House Financial Services Committee hearing, The Securities and Exchange Commission (SEC) told lawmakers that it has “several investigations into subprime lenders raising issues regarding possible insider trading”⁶⁹. The following two studies highlight how scams are becoming a part of business life:

The Pune - based India Forensic Consultancy Services has conducted a study entitled *Early Warning Signals of Corporate Frauds* (2009). Some of its shocking findings on accounting frauds in India are as follows:

- 1) About 1,200 companies listed on the Bombay Stock Exchange and 1,288 ones listed on the National Stock Exchange in the year 2007 manipulated their financial statements.
- 2) The manufacturing sector has experienced the maximum incidents of fraudulent practices, and the real estate and public sector experienced the second highest number of frauds.

The *KPMG India Fraud Survey Report* (2008) presents the following findings:

- 1) Over 80% of respondents expressed that fraud is a serious problem.
- 2) Procurement, sales and distribution are mostly prone to frauds.
- 3) 38% of respondents articulated that bribery is an integral part of business in India.
- 4) 3% of respondents said that the computer-related scams will be a main concern in near future.

Despite all the modified strict rules and regulations, financial frauds have not yet ceased. Analysis of various fraudulent practices discloses a common script – “greed,

⁶⁹ http://usatoday30.usatoday.com/money/economy/2009-03-20-fraud-crackdown_N.htm

corruption, unscrupulous brokers, colluding bankers, irresponsible authorities and hapless investors, who refuse to learn their lessons”.⁷⁰ Therefore, there is a need to take up the present study to address:

- 1) The nature and causes of financial frauds in the Indian Capital Market.
- 2) The role of SEBI in preventing fraudulent financial practices.
- 3) Investor protection measures taken by SEBI since its inception.
- 4) The opinion of select investors, stock brokers, regulators and auditors and members of NSE and SEBI on the detection, investigation and prevention practices of SEBI in the Indian capital market.

1.8. CONTRIBUTION TO KNOWLEDGE:

Many investors may not have the knowledge of SEBI and its protective measures in the Indian capital market. Therefore, with this research study, investors and general public also knows about the SEBI and its role in the prevention of fraudulent financial practices.

1.9. OBJECTIVES OF THE STUDY:

To cover the research gap and to address the above statement of problems, following objectives are identified and aimed:

- 1) To identify and classify the nature and causes of financial frauds in the Indian Capital Market.
- 2) To examine the role of SEBI in preventing fraudulent and unfair trade practices.
- 3) To evaluate the investor protection measures taken by SEBI.
- 4) To collect and analyze the perception of select investors, stock brokers, officials from stock exchanges and SEBI and auditors on the role of SEBI in fraud detection, investigation and prevention practices.

⁷⁰ wordpress.com/about/scams-massacres-in-india/S.O.S e - Voice For Justice - e-news weekly

1.10. HYPOTHESES OF THE STUDY:

The important hypotheses framed for this study is as follows:

- 1) **H₀₁:** There is no significant difference in the perception of five different categories of respondents on the role of SEBI in fraud detection practices.
- 2) **H₀₂:** There is no significant difference in the perception of five different categories of respondents on the role of SEBI in fraud investigation practices.
- 3) **H₀₃:** There is no significant difference in the perception of five different categories of respondents on the role of SEBI in fraud prevention practices.

1.11. METHODOLOGY:

The research methodology applied in this study is as follows:

Sources of Data: This study is based on primary and secondary data. The primary data was collected through structured questionnaire. The secondary data is collected from the SEBI's Handbook of Statistics, Press Releases, Annual Reports, Public Notices, Public Interest Disclosure, News Clarifications, Speeches, Working Papers, Research Bulletin and Reports. The other source of secondary data is the published data from newspapers, journals, magazines, reports, and internet.

Type of Sample: The sample selection for this study is done by using purposive sampling. Sample participants are investors, stock brokers, market regulators such as officials from BSE, NSE and SEBI and auditors. The purpose of the study is to judge the role of SEBI in detection, investigation and prevention of fraudulent and unfair trade practices in the Indian capital market. For this purpose there is a need to select the sample respondents that those who have the knowledge of securities market and those who are actively participating and playing their respective roles in the day to day functioning of securities market. Hence, this purposive sampling method is selected for the present study.

Sample Size: On the whole three hundred and seventy responses received from investors, stock brokers & sub-brokers, stock exchange officials & SEBI officials, and auditors. Out of 370 respondents 250, 50, 20 and 50 are retail investors, stock brokers & sub-brokers, stock exchange & SEBI officials and auditors respectively. The

detailed segmentation of respondents was presented in table-1.1. The perception of respondents was collected on the detection, investigation and prevention practices of SEBI.

Table-1.1: Segmentation of Respondents				
Sl. No.	Type of Respondents	No. of Respondents		
		Mumbai	Hyderabad	Total
01	Retail Investors	150	100	250
02	Stock Brokers and Sub-brokers	30	20	50
03	Stock Exchange Officials	11	4	15
04	SEBI Officials	04	01	05
05	Auditors	30	20	50
	Total	225	145	370

Selection of Area: On the whole Three hundred and seventy responses were received from Hyderabad and Mumbai cities. These two cities jointly contributing more than 60 percent of total turnover in the cash market segment of NSE and BSE during 2013-14 and even today. The NSE is the market leader in the Indian stock market in cash and derivative market segment in all respects and BSE is the oldest stock exchange in Asia. Area is the basis of selection of investors, stock brokers & sub-brokers, officials of stock exchanges & SEBI and auditors.

Justification of Area: The top five cities accounted for 83.9% of the turnover at NSE during 2013-14. At BSE, 78.2% of the turnover is contributed by the similar top five cities during the same period. The city-wise turnover witnessed on the NSE and BSE is presented in table-1.2.

Table-1.2: City-wise Turnover of Top 5 Cities in Cash Segment during 2013-14			
Sl. No.	City	Turnover (%) on	
		BSE	NSE
1	Mumbai	56.90	59.5
2	Delhi	6.80	9.0
3	Kolkata	5.50	7.4
4	Ahmadabad	4.60	3.8
5	Hyderabad	4.40	4.2
	Total	78.20	83.9
Source: Annual Reports of BSE and NSE.			

Based on the above data, the turnover is more in Mumbai, Delhi, Kolkata, Ahmadabad and Hyderabad. And these five cities were contributing major share during the year 2013-14. Hence, out of top five cities Mumbai and Hyderabad were selected for the study.

Details of Statistical Tools: The data collected was tabulated, presented, analyzed, and interpreted with the help of simple percentages, measures of central tendencies, measures of dispersion and other statistical tools. The hypotheses were tested with the Kruskal-wallis test and chi-square test.

Period of the Study: The period of study spans between 1992-93 to 2016-17 for the purpose of secondary data and review of literature.

1.12. STRUCTURE OF THE STUDY:

The set objectives and hypotheses are addressed by dividing the present study into six chapters. They are presented as follows:

Chapter-1: Introduction

Chapter-2: Nature and Causes of Financial Frauds

Chapter-3: Role of SEBI in Preventing Fraudulent and Unfair Trade Practices.

Chapter-4: Role of SEBI in the Protection of Investors.

Chapter-5: Perception of Respondents on the Role of SEBI in Fraud Detection, Investigation and Prevention Practices.

Chapter-6: Summary of Findings, Conclusions, and Suggestions.

1.13. PILOT STUDY:

The pilot study was conducted as a part of Major Research Project granted by the University Grants Commission, New Delhi. The step by step procedure adopted in this study was presented in the following paragraphs.

1.13.1. Introduction:

This pilot study is a small scale preliminary study conducted in order to evaluate feasibility, time, cost, adverse events, and affect size in an attempt to predict an appropriate sample size and improve upon the study design prior to performance of a full-scale research project. This report details the pilot study that was conducted as the part of the major research project approved by the UGC titled “Fraudulent Financial Practices and Investor Protection in the Indian Capital Market – Role of SEBI”.

1.13.2. Objective:

The main objective of the pilot study is to know the perception of investors, stock brokers & sub-brokers, SEBI officials & Stock Exchange officials, and auditors of Hyderabad region about the role of SEBI in financial fraud detection, investigation and prevention.

1.13.3. Data Collection Team:

Principal investigator, research assistant and other two research scholars were participated in the data collection.

1.13.4. Questionnaire:

A structured questionnaire was developed for the purpose of this major research project. This questionnaire is divided into two parts. Part-I consists of Demographic Profile of sample respondents and Part-II involves role of SEBI in financial fraud detection, investigation and prevention. Part-II is divided into three sections i.e., Section-A: Role of SEBI in Financial Fraud Detection, Section-B: Role of SEBI in Financial Fraud Investigation and Section-C: Role of SEBI in Financial Fraud Prevention. And each section consists of 20 questions and a total of 60 questions were

included in the questionnaire and these 60 questions are closed ended questions with scaled responses (Strongly Disagree, Disagree, Neutral, Agree and Strongly Agree) to know the opinion of the respondents regarding the role of SEBI in financial fraud detection, investigation and prevention. And two open ended questions one for the expected further reforms and the other for suggestions were included in this questionnaire.

1.13.5. Respondents:

Data was collected from 100 investors, 20 auditors, 20 stock brokers & sub-brokers, 1 SEBI official and 4 stock exchange officials (1 from BSE and 3 from NSE). All respondents are drawn from Hyderabad only as a part of pilot study. The respondents were spread over the twin cities of Hyderabad and Secunderabad.

1.13.6. Duration:

The questionnaire is finalized in the month of December 2016 and in that month only data collection is started it was taken up to January 25th, 2017.

1.13.7. Limitations:

The important limitations of the pilot study are: (i) Data was collected from Hyderabad region only, and (ii) the number of investors, stock brokers & sub-brokers and auditors are limited to 100, 20 and 20 respectively.

1.13.8. Feasibilities:

We have planned to collect data from twenty SEBI officials from Hyderabad region but the availability of staff is only four. Similarly we have decided to collect data from 20 stock exchange officials from Hyderabad region but the availability of stock exchange officials is only three in National Stock Exchange and one in Bombay Stock Exchange.

1.13.9. Profile of Sample Respondents:

The demographic profile of sample respondents drawn for this pilot study is presented in table-1.3.

Table-1.3: Demographic Profile of Sample Respondents				
Sl. No.	Profile	Number	Percent	Cumulative Percent
01	Gender: Male Female Total	101 44 145	69.6 30.4 100.00	69.6 100.0 -
02	Age: 20-40 Years 40-60 Years Above 60 Years Total	85 51 09 145	58.6 35.2 06.2 100.0	58.6 93.8 100.0 -
03	Educational Background: School Education College Education Professional Others Total	- 72 73 - 145	- 49.7 50.3 - 100.0	- 49.7 100.0 - -
04	Occupation: Salaried Professional Business Others Total	45 25 60 15 145	31.0 17.3 41.4 10.3 100.0	31.0 48.3 89.7 100.0 -
05	Relation with Stock Market: Investors Stock Brokers & Sub-brokers SEBI Officials Stock Exchange Officials Auditors Total	100 20 01 04 20 145	68.9 13.8 0.7 2.8 13.8 100.0	68.9 82.7 83.4 86.2 100. -
06	Experience: Up to 5 Years 5-10 Years 10-15 Years 15-20 Years More than 20 Years Total	55 15 31 12 32 145	37.9 10.3 21.4 8.3 22.1 100.0	37.9 48.2 69.6 77.9 100.0 -
Source: Compiled from primary data.				

1.13.10. Validity:

Validity is a measure of the degree of validity or the validity of research instrument. An instrument is said to be valid if it is able to measure what is to be measured or

desired. An instrument is said to be valid if it can be reveal the data of the variables studied. The validity of the pilot study is presented in table-1.4

Table-1.4: Case Processing Summary		
	N	%
Valid	145	100.00
Cases excluded ^(a)	0	0
Total	145	100.00
a. List wise deletion based on all variables in the procedure. Source: Compiled primary data and processed with the help of SPSS package.		

1.13.11. Reliability:

Reliability test is conducted to know the reliability of the research instrument. Instruments used in the social sciences are generally considered reliable if they produce similar results regardless of whom administers them and regardless of which forms are used.

Cronbach's alpha is the most common measure of internal consistency ("reliability"). It is most commonly used when we have multiple Likert questions in a questionnaire that form a scale and we wish to determine if the scale is reliable. The results of the overall reliability statistics are presented in table-1.5.

Table-1.5: Overall Reliability Statistics		
Cronbach's Alpha	Cronbach's Alpha Based on Standardized Items	N of Items
.948	.947	60
Source: Compiled primary data and processed with the help of SPSS package.		

The Cronbach's Alpha value is greater than 0.80 hence the study is valid. The factor wise reliability statistics was also calculated and presented in table 1.6, 1.7 and 1.8.

Table-1.6: Reliability Statistics for Fraud Detection		
Cronbach's Alpha	Cronbach's Alpha Based on Standardized Items	N of Items
0.884	0.880	20
Source: Compiled primary data and processed with the help of SPSS package.		

Table-1.7: Reliability Statistics for Fraud Investigation		
Cronbach's Alpha	Cronbach's Alpha Based on Standardized Items	N of Items
0.903	0.900	20
Source: Compiled primary data and processed with the help of SPSS package.		

Table-1.8: Reliability Statistics for Fraud Prevention		
Cronbach's Alpha	Cronbach's Alpha Based on Standardized Items	N of Items
0.886	0.887	20
Source: Compiled primary data and processed with the help of SPSS package.		

The above three factors Cronbach's alpha is greater than 0.80. Hence, the results stand valid. The cronbach's alpha is also calculated by combining three factors and the results are presented in table-1.9.

Table-1.9: Factors Reliability Statistics		
Cronbach's Alpha	Cronbach's Alpha Based on Standardized Items	Number of Items
.831	.832	3

From the table 1.9, it is evident that the Cronbach's alpha value is greater than 0.80.

Hence, the study is valid.

CHAPTER-2

NATURE AND CAUSES OF FINANCIAL FRAUDS

2.1. INTRODUCTION:

Fraud is as an intentional and deliberate act to deprive another person or institution of property or money by deception or other unfair means. Most of the financial frauds in the capital market related to primary market, secondary market, unethical acts of intermediaries, and corporates asset misappropriation, and submission of fraudulent statements such as concealment of liabilities, improper asset valuation, fictitious revenues, improper disclosures, etc. These practices cause severe damage to the Indian capital market in general and investors in particular. Similarly, with the help of leakages in systems of cyber and technology, fraudsters commit financial crimes. These damage the personal finance of individuals and the entire economy.

The growing capital infusion and increasing pace of business diversifications have a significant impact on the interest of all stakeholders in the Indian capital market. These associated interests are affected by the financial and corporate fraudulent practices. Despite the serious risk that fraud presents to capital market, many players still do not have formal systems and procedures in place to prevent, detect and respond to frauds. No system is complete fraud proof, but capital market can take further steps to deter fraud and make it much less attractive to commit by the rouge traders, fraudulent brokers and other players. Securities market professionals such as brokers, broker dealers, market makers, investment managers, clearing members, depositories, accountants, auditors, risk controllers, finance heads etc., whose responsibility in the Indian capital market calls for effective and efficient information and systems analysis have a significant role to play in developing and implementing anti-fraud measures.

Financial frauds have emerged as an inevitable unwanted byproduct of capital market growth. Taking advantage of the basic human attributes of aspiration and greed, fraudsters have duped millions across the world stock markets. They have also taken advantage of the lack of financial literacy amongst the masses. Global financial world is replete with such examples and Indian stock market too has had its share of such scams. Investors had little idea about a complex financial product such as Credit Default Swap (CDS) which triggered the global financial crisis in 2008 and lead to crash in the global stock markets. In India, people had very little idea about ponzi

schemes; yet time and again people have lost their hard earned savings in a bid to make quick profits through such schemes. If the Enron episode resulted in huge value destruction, India had its own Satyam saga. Thus, financial frauds have emerged in all shapes and sizes throughout history.

In fact, things are becoming more challenging now. Devious ingenuity of the human brain is now leveraging technology to indulge in more sophisticated methods of capital market frauds which are very much capable of creating systemic instability. Technology has overcome the barrier of distance and infiltrated almost every sphere of the networked life that we live today. A security threat today can be orchestrated by the click of a mouse. Phrases such as phishing, vishing, SMSishing, identity theft, data theft, online surveillance, digital espionage, ransomware, Dark Web, etc., which were beyond our imagination few years back, are now part and parcel of our lexicon. Technology has been a facilitator, but it can also be a disruptor if it is used by people with ulterior motives.

Indian stock markets positioning as the world's fastest growing securities market and the market getting digitally connected both within and with the outside market, instances of financial fraud are bound to rise. It is therefore imperative to prepare our securities market for coping with the emerging challenges. Our regulator and exchanges should earmark budgets to make securities trading fool-proof and train the participants accordingly. Our market regulator should aware of what is happening on this front around the world securities trading and shape regulations accordingly. Financial literacy for the masses must figure on SEBI's priority agenda.

The scandals raise the questions that how these frauds happened and to what level the future fraudulent practices can be prevented? As these questions can be answered in many different ways, and also each executed financial fraud has different particularities, this chapter is dedicated to explaining the nature of fraud, different types of financial statement frauds, background of scam frauds in India and how these frauds are committed. Besides presenting a comprehensive definition of fraud, this study purports to analyze different reasons of frauds, and their particularities in India.

2.2. MEANING OF CORRUPTION AND FRAUD:

The meaning of corruption and fraud is explained as follows:

2.2.1. Corruption: According to The Asian Development Bank (2000), corruption refers to a large range of illicit or illegal practices. It also defines corruption as “the abuse of public or private office for personal gain.” A more comprehensive definition would be “corruption involves behavior on the part of officials in the public and private sectors, in which they improperly and unlawfully enrich themselves and / or those close to them, or induce others to do so, by misusing the position in which they are placed”.⁷¹

The border line between corruption and fraud does not vary distinct as many definitions of corruption has overlap with that of fraud, but still there are cases of fraud with no corruption or corruption with no fraud, but where there is fraud there is often corruption.⁷²

2.2.2. Fraud: Kumar (2003) defines fraud legally as some act of intentional deceit, trickery, concealment, or breaking of confidence by one party through misrepresentation to gain some unjust advantage.⁷³ There are different types of fraud which are elaborated as follows:

2.2.2.1. Internal, External and Collusive Fraud: An internal fraud occurs when the fraud is done by the employee of an organization. An external fraud occurs if a third party, such as individuals or groups, commits fraud by stealing money from an organization either by receiving an illegal payment or keeping monies that must be refunded to the organization. It is called Collusive fraud when an insider facilitates committing fraud for a third party.⁷⁴

2.2.2.2. White Collar Crime and Economic Offense: White collar crime is defined as “a crime committed in the course of one’s occupation by a member of the upper class of society”; for example, a cashier’s counterfeiting cheques or embezzling cash

<http://www.oecdobserver.org/news/fullstory.php/aid/233/April2000/Paris> ⁷¹
. ryk.cgg.gov.in/ Centre for Good Governance/ India/ Dr. MCR Kumar /2003⁷²

. ibid⁷³

. A guide to good practice in tackling external fraud. (2006). National Audit Office: U.K.⁷⁴

is among white collar crimes. Whereas, trafficking dutiable items are just an economic crime and not a white collar offense as there is no relationship between the person's occupation and what he committed.⁷⁵ Although there are some significant differences between the terms fraud, social offenses, economic crimes, white collar crimes, and financial frauds, by and large they are sometimes used interchangeably. Table-2.1 is aimed to categorize different criminal activities.

Table-2.1: Different Criminal Activities against Different Categories of Offenses				
Crime	White Collar Crime	Economic Offense	Fraud	Corruption
Tax evasion	Yes	Yes	Yes	Yes
Money Laundering	No	Yes	Yes	No
Bank / Insurance / Chit Fund Fraud	No	Yes	Yes	No
Credit Card Fraud	No	No	Yes	No
Bribery of Public Servants	No	No	No	Yes
Theft of Cultural Object	No	Yes	No	No
Smuggling / Illegal Foreign Trade	No	Yes	No	Yes
Stock Market Manipulation	No	Yes	Yes	No
Racketeering Travel Documents	Yes	No	Yes	Yes
Computer Crime	Yes	No	Yes	No
Computer Software Piracy	No	Yes	Yes	No
Theft of Intellectual Property	No	Yes	Yes	No
Embezzlement/ defalcation / misappropriation of money	Yes	No	Yes	No
Forgery	Yes	No	Yes	No
Drug Trafficking	No	Yes	No	No
Counterfeiting	No	Yes	Yes	No
False Identity	No	No	Yes	Yes
Abuse of Office	No	No	No	Yes
Theft of stores and stationery	Yes	No	No	Yes
Source: Management of Risk of Fraud in Government – A Good Practices Guide, (2006), prepared by Dr. Rajiv Sharma, IAS, Director General, Centre for Good Governance.				

Business Dictionary defines fraud as intentional deletion, change or concealment of a truth in order to (i) gain an illegal advantage, (ii) prompt others to part with a valuable item or give up a legal right, or (iii) cause injury in any manner. Fraud must be done

ryk.cgg.gov.in/ Centre for Good Governance/ India/ Dr. MCR Kumar /2003 ⁷⁵

willfully, and negligence and incompetency in managing a business which may even lead to the loss of a company's asset do not normally constitute fraud.

Financial scams, cons, and swindles are deceptive and fully fraudulent schemes in which fraudsters, often assuming a false identity or exhibiting a misplaced aura of trustworthiness, convince, mislead, or induce people to voluntarily interact with the fraudster and, ultimately, to willingly hand over money or sensitive information related to their personal finances. Financial scams are different from financial statement frauds in that, unlike the latter, they are designed from the beginning as con games or larceny schemes. Financial scams are also different from fraudulent mis-selling practices in that they go beyond misleading and suggestive communications. Financial scams are built on blatant lies and completely fabricated facts.

Fraudulent financial practices in the Indian capital market may be related to accounting frauds, broker-operator-promoter nexus, dematerialization scams, GDR frauds, Insider trading, IPO frauds, market manipulation, misleading disclosures, mis-selling ULIPS, Ponzi schemes, Unfair buy-backs, violation of takeover guidelines, etc.

2.3. OBJECTIVES OF THE CHAPTER:

The important objectives of the chapter are presented as follows:

- 1) To know the meaning of fraud triangle and types of fraudsters.
- 2) To present the nature of financial frauds / scams in the Indian capital market.
- 3) To identify the causes of financial frauds / scams in the Indian capital market.
- 4) To suggest the ways to overcome financial frauds / scams in the Indian capital market.

2.4. FRAUD TRIANGLE:

The causal factors that should be removed to deter fraud are best described in the Fraud or Compromise Triangle. This idea was first put forward in an article by Donald R. Cressey and Edwin Sutherland. The term was later coined by Steve

Albrecht. The Fraud Triangle describes three factors that are present in every situation of fraud (see figure-2.1):

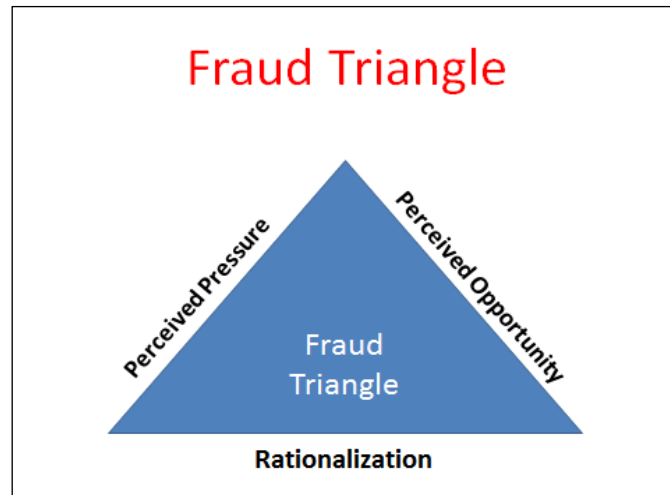


Figure-2.1: Fraud Triangle⁷⁶

2.4.1. Motive (or Pressure): The need for committing fraud (need for money, etc.). In simple terms, motivation is typically based on either greed or need. Stoy Hayward's (BDO) Fraud Track survey found that greed continues to be the main cause of fraud, resulting in 63% of cases in 2007 where a cause was cited. Other causes cited included problems from debts and gambling. Many people are faced with the opportunity to commit fraud, and only a minority of the greedy and needy do so. Personality and temperament, including how frightened people are about the consequences of taking risks, play a role. Some people with good objective principles can fall into bad company and develop tastes for the fast life, which tempts them to fraud. Others are tempted only when faced with ruin anyway.

2.4.2. Opportunity: The situation that enables fraud to occur (often when internal controls are weak or nonexistent). In terms of opportunity, fraud is more likely in companies where there is a weak internal control system, poor security over company property, little fear of exposure and likelihood of detection, or unclear policies with

⁷⁶ Source: <http://www.internalauditor.me/article/the-fraud-triangle/>

regard to acceptable behavior. Research has shown that some employees are totally honest, some are totally dishonest, but that many are swayed by opportunity.

2.4.3. Rationalization: The mindset of the fraudster that justifies them to commit fraud. Many people obey the law because they believe in it and / or they are afraid of being shamed or rejected by people they care about if they are caught. However, some people may be able to rationalize fraudulent actions as: necessary – especially when done for the business; harmless – because the victim is large enough to absorb the impact; justified – because ‘the victim deserved it’ or ‘because I was mistreated.’

2.5. TYPES OF FRAUDSTERS:

Fraudsters usually fall into one of three categories:

2.5.1. Pre-Planned Fraudsters: Who start out from the beginning intending to commit fraud. These can be short-term players, like many who use stolen credit cards or false social security numbers; or can be longer-term, like bankruptcy fraudsters and those who execute complex money laundering schemes.

2.5.2. Intermediate Fraudsters: Who start off honest but turn to fraud when times get hard or when life events, such as irritation at being passed over for promotion or the need to pay for care for a family member, change the normal mode.

2.5.3. Slippery-slope Fraudsters: Who simply carry on trading even when, objectively, they are not in a position to pay their debts. This can apply to ordinary traders or to major business people.

2.6. NATURE OF FINANCIAL FRAUDS IN THE INDIAN CAPITAL MARKET:

The increasing numbers of financial frauds in India has become a serious concern of the government. Among different types of financial frauds, accounting financial fraud is very much common in business world. In this type of fraud the auditors, executives or directors of companies modify and manipulate the financial statement of the company intentionally to deceive some party as stock market analysts or to earn a credit. A study of nature of financial frauds essentially involves a study / observations

regarding scams which have taken place since the establishment of capital markets. This is not only applicable to Indian markets, but even globally these scams have influenced the market sentiments.

In the earlier days, especially in India, there was no independent body to regulate the capital market. This was, to a large extent, one of the reasons why there were number of scams in the history of stock exchange. Due to insignificant or poor regulatory mechanism, there was automatically, a scope for manipulation in the prices of stocks. But as the time progressed, in India, SEBI shouldered responsibility as an efficient regulator in the financial markets in India. Though initially SEBI was reactive i.e., it was responding after occurrence of frauds, later on, it has become proactive i.e., in order to avoid the manipulations, number of guidelines or regulations have been prepared. But still one cannot ignore the scams which have happened during these developments. This part of the chapter analyses the background of some of the major frauds / scams in the Indian stock markets. The volume of the scams or relative impact of these scams may be fluctuating or sometimes it may be limited, but one cannot ignore these evils in the market as they have huge negative impact on the genuine investors in the market. Sometimes, promoters/ directors of the company may get involved in such scams or the brokers may also be involved in the some of the scams, but in any case, sufferer is the genuine investor who is an important element in the capital market. The big financial frauds / scams were presented as follows:

2.6.1. Harshad Mehta Scam (1992): This scam occurred due to use of illegal bank money for share transactions. The initial public offers (IPOs) were weapons used by public sector companies to generate the capital from the market. The amount raised, was required to be deposited separately by the bankers and to be given to the companies. But in some cases, the money was not immediately deposited with the companies. Instead, the same money was temporarily used for investment in shares for a short period of time. This money was used to have additional capital gain of short term nature. Artificially, liquidity and demand for stocks was created with the use of this money. This resulted in sudden and artificial Bull Run in the stock exchange during 1991-92. From April 1991 to June 1991, the SENSEX rose to 1361 from 1193 (more than 16% in 2 1/2 months.)

By December 1991, it reached 1915 points and further to 2302 in January 1992 to 4467 on April 1992. This was an unprecedented growth in SENSEX. An amount of Rs.3650 Crore was pumped in into the market by this illegal way. After April '92, when the amount was to be taken back by these brokers, the market crashed and within a week SENSEX came down by more than 10%. Some of the notified brokers and companies involved in this scams apart from Harshad Mehta, were- Fairgrowth Financial Services Ltd., Hiten Dalal, Bank of Karad, Bhupen Dalal, T.D. Ruia, A D Narottam etc. In all, this scam was a deliberate misuse of public money through securities transactions with an intention to get speculative return. The lacunas which allowed this scam were non transparency and non- accountability of the banking system, absence of governance in capital market, lack of awareness of investors, information inefficiency etc. Extensive use of bank receipts was made by the intermediaries involved in the scam for forward transactions.

2.6.2. Vanishing Companies Scam (1992): Vanishing Companies Scam came to be known in 1990's, but even in 1978-79 and 1984-85, there were IPO Booms in the Indian markets. Primary markets were flooded with public issues. About 700 companies entered in the market during 1984 to 1986. The amount of public issue ranged between Rs.60 lakhs to Rs.100 lakhs. But unfortunately, some of the promoters and brokers saw in it, an opportunity to raise funds. Then a phase came when 80% of the newly registered companies disappeared after generating capital. These companies are normally known as 'Vanishing Companies which generate capital and then disappear.

During 1993 to 1997, a total of 4797 companies collected Rs.43,339 Crore from the market by way of IPO. But the vanishing companies scam was so disastrous that after 1997, in the next six years only 263 companies entered the market and could generate only Rs.9,209 Crore of capital. This drastic slump in the primary market was mostly due to price rigging. This scam particularly came out just when the economy started to move from 'controlled' to 'open' regime. The abolition of Controller of Capital Issues, created a gap. Without proper education, fair pricing policy for IPOs was brought in. All these shocks came in a short period of time. The dubious promoters, speculative brokers and manipulative management were responsible for collection of crores of rupees from public and then simply vanished.

2.6.3. NBFC Ghotala: Non Banking Financial Corporations evolved in a financial system which required diversified instruments in 1990's. About 40,000 NBFCs applied to RBI in 1997 for license. More than Rs.40,000 Crore were raised by these NBFCs such as CRB Finance, JVG Group, Prudential Finance, Kirloskar etc. These NBFCs collected the funds from investors and then passed on these funds to their sister concerns that misused the funds and defaulted. Though directly the money was not coming into or going out of stock markets in this scam, investors who had invested their amount with NBFCs, had some investment in stock markets also. The small investors investing in NBFCs had to suffer from this misuse of funds. Most of these NBFCs had to liquidate their business and shut down their business and this left the large number of small depositors in to huge losses.

2.6.4. C R Bhansali Scam (1996): The flagship company, CRB Capital Markets, went public in 1992 and raised a record Rs.176 crore in three years. In 1994 CRB Mutual Funds, through its Arihant Mangal Growth Scheme, raised Rs.230 crore. Another Rs.180 crore came through fixed deposits. CRB Corporation Ltd raised Rs.84 crore through three public issues between May 1993 and December 1995. CRB Share Custodial Services raised a further Rs.100 crore in January 1995 to set up operations. Between 1992 and 1995, when the market was in the post-Harshad Mehta bear phase, Bhansali managed to raise close to Rs.900 crore. Post-1995, he got a beating on the stock markets. His investments in the property market did not pay off because of the slump. Caught in a financial trap, Bhansali tried borrowing more money from the market. "To repay the interest rate on amounts he borrowed later, Bhansali was forced to borrow once again. This went on and on, and he got stuck in a financial quicksand." Bhansali made a determined effort to get out of the trap by investing in some high-risk ventures. He is believed to have even made a Hindi commercial film. Again, the gamble failed. In the end, Bhansali was borrowing funds from banks through questionable means. All was well till December 1996. Then the RBI refused banking status to CRB and contemplated action for various irregularities.

2.6.5. Ketan Parekh Scam (2001): In Spite of the recommendations made by the Janakiraman Committee Report in 1992 to prevent security scams from happening in the future another security market scam took place in 2001. This involved the actions of one major player by the name of Ketan Parekh. He manipulated a large amount of

funds in the capital market through a number of his own companies which is probably why the scam remained a mystery for quite some time the RBI, SEBI and DCA (Department of Company Affairs) had gone slack in their regulatory operations. During 1999 and 2000 the SENSEX reached a high and after than the stock market crashed in 2001. Some of the major companies he invested in were Nirma, Adani Group, Essel Group, DSQ and Zee Cadila. Ketan Parekh manipulated the stock market through FII's (Foreign Institutional Investors), OCB's (Overseas Commercial Borrowings), Banks and Mutual Funds (Unit Trust of India). In fact an important extension of this scam remains the Unit Trust of India Scam.

2.6.6. UTI Scam (2001): According to Joint Parliamentary Committee Report (2001), “of all the recent encounters of the Indian public with the much-celebrated forces of the market, the Unit Trust’s US-64 debacle is the worst”. Its effects exceed the mid-1990’s downswing of the stock market, causing a loss of Rs.20,000 crore in savings. This debacle led to the loss of one million jobs and suicides of some investors. The crisis was all due to mismanagement as its managers instead of investing in low-risk government bonds with fixed-income, they were continuously investing in high- risk stocks and shares with no-fixed income.

UTI started to invest in certain favored scrips after being “politicized” with some other financial institutions (FIs) as LIC and GIC. To endorse the controversial economic policies, these financial institutions were boosting the market artificially. In few past years, in spite of enough indications of the coming to the end of “technology boom”, UTI made heavy investments in stocks of Ketan Parekh’s favorite K-10 portfolio, such as Himachal Futuristic, Global Tele and DSQ and lost almost half of its Rs.30,000 crore portfolio value within a year. Us-64’s net asset value descended below par (Rs.10), while it was repurchasing US-64 above Rs.14. Some insiders declared that behind all these fateful decisions was the influence of the Finance Ministry. In short, it was not only the UTI scam but also the government scam caused by mismanagement by a government defeated by its wrong “macroeconomic calculations”.

2.6.7. Dinesh Dalmia Scam (2001): He was the managing director of DSQ Software Limited when the Central Bureau of Investigation arrested him for his involvement in

a stocks scam of Rs.595 crore (Rs.5.95 billion). Dalmia's group included DSQ Holdings Ltd, Hulda Properties and Trades Ltd, and Powerflow Holding and Trading Pvt. Ltd. Dalmia resorted to illegal ways to make money through the partly paid shares of DSQ Software Ltd, in the name of New Vision Investment Ltd, UK, and unallotted shares in the name of Dinesh Dalmia Technology Trust. Investigation showed that 1.30 crore (13 million) shares of DSQ Software Ltd. had not been listed on any stock exchange.

2.6.8. Enron Scam (2001): Enron, one of the top energy companies and Arthur Andersen, one of the top five public accounting firms, were caught in a corporate fraud scandal that led to the bankruptcy of Enron and dissolution of Arthur Andersen.

Enron hid billions of dollars of debt from its shareholders in failed deals and projects. Further, it pressured its auditors, Arthur Andersen, to ignore the issues. Shareholders lost more than \$60 billion.

This led to the passage of the Sarbanes-Oxley Act of 2002 which expanded penalties for accounting fraud and instructed accounting firms to remain independent of their clients. Other firms such as Tyco and WorldCom experienced similar scandals. These scandals shook the securities markets and investor's confidence

2.6.9. IPO Scam (2005): The IPO Scam in the year 2005-2006 made us aware of the abuse and misuse of the IPO allotment process. The buying and sharing process in the shares allotted through IPOs to nearly 21 companies in the year 2003, 2004 and 2005. It involved manipulation of the initial public offers by financiers and market players by using fictitious or benaami DEMAT Accounts. In the year 2005, the IPO scam came to light when the private 'Yes Bank' launched its initial public offering. Roopalben Panchal, a resident of Ahmadabad, had allegedly opened several fake DEMAT accounts and subsequently she raised finances on the shares allotted to her through Bharat Overseas Bank branches. After detecting the irregularities in the buying of shares of YES BANK's IPO, the SEBI started a broad investigation. SEBI decided to release the orders of a sub-committee looking into NSDLs role in the IPO scam and case of irregularities in dematerialization of the shares of a company. Thus the case comes up as NSDL v. SEBI case appealed to Securities Appellate Tribunal.

The market analysts believe that retail allotments were not only fixed to the Yes Bank and IDFC cases but it was more than that. This obviously has brought the role of Depository System mainly NSDL in question. Many provisions which were required to be followed by the depository were not followed according to the SEBI guidelines. Fake DEMAT accounts in such a huge number have put us to a need of revisiting the applicable laws governing the depositories and the depository participants. Even if clean chit has been given by the SEBI to the NSDL in terms of its involvement in the scam, the Supreme Court has still asked the SEBI to keep a stand on either of the side of NSDL. The need of the hour is to have a check and balance on the scheme of both NSDL and SEBI. The need of the hour is to impose a criminal penalty against the scamsters.

2.6.10. Satyam Scam (2009): On January 7, 2009, B. Ramalinga Raju — the then chairman and also the founder of Satyam Computer Services — wrote a letter to the company's board, wherein he admitted of fudging the accounts of the firm to the tune of over Rs.7,800 crore. The letter, which was also marked to the SEBI chairman and stock exchanges, stated that apart from inflating the profits, Raju had understated the liability, accrued non-existent interest, overstated debtors and inflated cash and bank balances. According to his admission, "The Company had to carry additional resources and assets to justify a higher level of operations thereby significantly increasing the costs. Every attempt made to eliminate the gap failed. It was like riding a tiger, not knowing how to get off without being eaten." Apart from B. Ramalinga Raju and his brothers B Rama Raju and Suryanarayana Raju, the scam involved seven other players – former CFO Vadamani Srinivas, former PW auditors S Gopalakrishnan and T Srinivas, former employees G Ramakrishna, D Venkatpathi Raju and Ch Srisailam and former internal chief auditor VS Prabhakar Gupta. Earlier, Raju lured by the boom in real estate had encouraged his sons to get into the sector and launched two firms — Maytas Infrastructure and Maytas Properties. His admission on January 7 was a result of an aborted Maytas acquisition deal by Satyam through which he was trying to fill in the fictitious assets with real ones. Events leading to Raju's conviction are:

- December 16th, 2008 - Satyam's board announced acquisition of Maytas firms for a consideration of \$1.6 billion. Met with resistance from investors, and the bid was aborted.
- January 7th, 2009 – Raju stepped down as Satyam Chairman after confessing that the firm's accounts had been doctored for several years.
- January 9th 2009 – Raju and his brother, Rama Raju, arrested by Andhra Pradesh Police and the Central Government announce taking over of the Satyam board.
- January 11th 2009 – Government appointed a three member board comprising – Deepak Parekh, Chairman, HDFC; Kiran Karnik, former NASSCOM president and C Achuthan, former SEBI member.
- January 13th 2009 – Government ordered Serious Fraud Investigation Office probe.
- January 16th, 2009 – Three members appointed.
- February 17th, 2009: Satyam case handed over to CBI.
- March 6th, 2009 – SEBI gives nod for global competitive bidding for strategic investor. Board announces process for sale of 51 percent stake.
- April 13th 2009 – TechMahindra subsidiary venture pay emerged as winner.
- June 22nd, 2009 – The entity is named Mahindra Satyam effective July.
- April 9th, 2015 – Raju and nine other found guilty by a special court.

2.6.11. Sahara India Pariwar Investor Fraud (2010) SEBI alleged that Sahara India Real Estate Corp. Ltd. (SIRECL) and Sahara Housing Investment Corp. Ltd. (SHICL), which issued Optional Fully Convertible Debentures (OFCD), illegally collected investor money. Meanwhile, Sahara denied SEBI had any jurisdiction in the matter. SEBI went on to order Sahara to issue a full refund to its investors, which was challenged by Sahara before the Securities Appellate Tribunal. When the SAT upheld SEBI's order, Sahara moved to the Supreme Court in August 2012, which ordered

Sahara to refund investors' money by depositing it with SEBI. Sahara then declared that most of the US \$3.9 billion had already been repaid to investors, saves for a partly US \$840 million, which it handed over to SEBI. This was disputed by SEBI, which claimed that the details of the investors who were refunded had not been provided. When Sahara failed to deposit the remaining money with SEBI and Subrata Roy skipped his hearing, the Supreme Court of India issued an arrest warrant for the Sahara chief in February 2014. Amid rumors of black money laundering and the misuse of political connections, Sahara vehemently denied all charges and continued to defy SEBI. The regulator persevered through what the Supreme Court referred to as the "ridiculous game of cat and mouse" and finally managed to pin down Sahara chief Subrata Roy in 2014. In this rare victory, SEBI not only brought Sahara to justice, but also made an excellent case for why the regulator, and others like it, require greater autonomy and penalizing powers.

2.6.12. Saradha 'Chit Fund' Ponzi scheme (2013): The Ponzi scheme run by Saradha Group collected money from investors by issuing redeemable bonds and secured debentures and promising incredulously high profits from reasonable investments. Local agents were hired throughout the state of West Bengal and given huge cash payouts from investor deposits to expand quickly, eventually forming a conglomerate of more than 200 companies. This syndicate was used to launder money and confuse regulators like SEBI. In April 2013, the scheme collapsed completely causing a loss of approximately US \$5 billion and bankrupting many of its low-income investors. SEBI first detected something suspicious in the group's activities in 2009. It challenged Saradha because the company had not complied with the Indian Companies Act, which requires any company raising money from more than 50 investors to have a formal prospectus, and categorical permission from SEBI, the market regulator.

The Saradha Group sought to evade prosecution by expanding the number of companies, thus creating a convoluted web of interconnected players. This created innumerable complications for SEBI, which labored to investigate Saradha in spite of them. In 2012, Saradha decided to switch it up by resorting to different fundraising activities, such as collective investment schemes (CIS) that were disguised as tourism packages, real estate projects, and the like. Many investors were duped into investing

in what they thought was a chit fund. This, too, was an attempt to get SEBI off its back, as chit funds fall under the jurisdiction of the state government, not SEBI. However, SEBI managed to identify the group was not, in fact, raising capital through a chit fund scheme and ordered Saradha to immediately stop its activities until cleared by SEBI. SEBI had previously warned the state government of West Bengal about Saradha Group's hoax chit fund activities in 2011 but to no avail. Both the government as well as Saradha generally ignored SEBI until the company finally went bust in 2013.

2.6.13. NSEL Scam (2013): NSEL, a company that provided an electronic platform to farmers and traders for spot trading in farm products and bullion among others, was embroiled in a major scam that came to light after the government in July 2013 refrained the exchange from trading in some of the commodities. This precipitated a payment crisis at the exchange. The commodities that were traded were not found in the warehouses. In other words, it seemed like the trades were being done in futures or forwards contracts. The exchange defaulted payments to about 13,000 investors and had to be eventually shut down. After resigning as vice-chairman of MCX on 31 October 2013, Shah said in a statement, "The NSEL crisis has destroyed everything that I have worked hard to build over past two decades. My loss is not just financial but what has hurt me and my family most is the concerted effort to destroy my credibility and trust for which I have lived by all my life."

2.6.14. PACL Scam (2014): Nirmal Singh Bhangoo was a milk seller near the India-Pakistan border in Punjab's Attari. In 1996, he founded PACL Ltd—then known as Gurwant Agrotech—selling magnetic pillows, among other things. Soon, PACL diversified into real estate and hospitality, according to the company's website. Today it owns more than 1,83,000 acres of land across India—equivalent to around 1,700 Central Parks in New York. But Bhangoo's business empire is in trouble. On Jan. 2008, India's federal investigative agency, the Central Bureau of Investigation (CBI), arrested Bhangoo and three others in connection with an alleged Rs.45,000 crore Ponzi scam. Some 55 million investors who joined the massive scheme are said to have been duped—making it perhaps the biggest financial scam in Asia's third largest economy.

In August 2014, the Securities and Exchange Board of India (SEBI), the country's capital markets regulator, ordered PACL Ltd to return the money it had pooled in from investors in the allegedly illegal scheme. This was primarily because PACL was not registered with the market regulator as a collective investment scheme, as mandated by the SEBI Act. SEBI's probe into PACL dates back to 1997, when the company argued that it wasn't operating any scheme but only selling land to investors. But, in February 2014, the CBI registered a case, following a Supreme Court direction. "The enquiry revealed prima facie evidence of the said private company having raised investments by issuing bogus land allotment letters to induce investors," the investigative agency said in a statement on Jan 08. The Bird's Eye View of Financial Frauds in India is presented in table-2.2.

Table-2.2: Bird's Eye View of Financial Frauds in India							
Sl. No.	Name of Scams	Nature of Industry	Year	Fraud Perpetrators	How Fraud Committed?	Fraud Quantum (in Crore)	Whether SEBI Existed
01	Harshad Mehta	Capital Market and Asset Management	1992	Managing Director	Harshad Mehta led to rise in Stock Market by Trading in Shares at Premium.	4,000	Yes
02	C. R. Bhansali	Capital Market	1996	Managing Director	Established Finance company and collected money from public and transfer money to company that never existed.	1200	Yes
03	Ketan Parekh	Capital Market	2001	Managing Director	Took loan of Rs.250 crore from the bank whereas maximum limit was 1.5 crore.	1500	Yes
04	UTI	Mutual Fund	2001	Chairman, Executive Director, Stock Broker	UTI issued 40,000 shares which were purchased for about Rs.3.33 crores.	32	Yes
05	Dinesh Dalmia	Information Technology	2001	Managing Director	Rs.1.30 crore shares are unlisted in Stock Exchange. Dalmia resorted illegal ways to make money through partly paid up shares.	595	Yes
06	IPO Demat Scam	Capital Market	2005	Proprietor	Opened several fake demat accounts and subsequently raised finances on the shares allotted through Bharat Overseas Bank branches.	41.34	Yes

07	Satyam	Information Technology	2009	Auditor, Director, Manager	Accounting entries has been hugely inflated involving about Rs.100 crore.	8,000	Yes
08	Sahara India Pariwar Investor Fraud, Scam	NBFC	2010	Chairman	Sahara India Real Estate Corp. Ltd (SIRECL) and Sahara Housing Investment Corp Ltd (SHICL), which issued Optional Fully Convertible Debentures (OFCD), illegally collected investor money.	25,000	Yes
09	Saradha Group Scam	Ponzi Scheme	2013	Chairman & MD	The Ponzi scheme run by Saradha Group collected money from investors by issuing redeemable bonds and secured debentures and promising incredulously high profits from reasonable investments.	30,000	Yes
10	NSEL Scam	Commodity Market	2013	CEO	The commodities that were traded were not found in the warehouses.	5,500	Yes
11	PACL Fonzi Scheme Scam	Ponzi Scheme	2014	MD & Promoter Director	The investors 'sold' the agricultural land and issued allotment letters containing details of the same within a period of 90-270 days. The company would then tell its investors that the same land would be further sold and the profit would be returned back to the customer after subtracting a commission. The fact is that neither PGF nor PACL-owned lands.	45,000	Yes
Source: Compiled from various news papers and websites.							

2.7. CAUSES OF FINANCIAL FRAUDS IN THE INDIAN CAPITAL MARKET:

The Indian securities markets have come a long way in the last two and a half decades in terms of both quantitative as well as qualitative transformations. They have also witnessed quite a few ups and downs including a global financial crisis. The relationship between the rate of economic growth and growth in the securities market is two-fold and symbiotic. Strong economic growth helps securities market to develop and developed securities market mobilizes capital to fuel economic growth. Since SEBI was established in 1992, we have witnessed this virtuous cycle.

Since the establishment of SEBI, the securities market in India has developed significantly. Establishing SEBI led to successful transition from a highly controlled merit based regulatory regime to a market oriented disclosures based regulatory regime. Over the last two and a half decades, SEBI has at all times ensured that Indian securities market develops in terms of products, technology, participants, surveillance and enforcement in tandem with international standards. SEBI has incessantly strived for a well regulated modern securities market in India by adopting various global standards and international best practices. With the implementation of different regulations prescribed by SEBI, access to information has increased, risk of defaults has gone down and the overall governance has become conducive for the protection of investors' interests and overall development of the securities market in India.

In this ever changing global financial landscape, financial markets too are evolving, growing and getting more complex. To effectively regulate these markets regulators and policymakers also need to be proactive, keep themselves updated and upgraded. Over a period of time, SEBI has strengthened both its regulatory purview and internal capacity to ensure that the interests of the investors are well protected. Efforts are under way to deepen the corporate bonds market, widen the penetration of mutual funds across the country and strengthening the commodities market. The efforts of the government and of policymakers, the Indian financial market will ascend to newer heights.

Corporate sectors, stock markets, and the profession of accounting are increasingly gaining importance which calls for a more efficient and transparent working of

corporate sectors. To achieve these ends, financial frauds are an impediment. The cases of Harshad Mehta, Ketan Parekh, IPO Demat Scam, Satyam, Sahara India Pariwar Investor Fraud, Saradha Group Financial Scandal, NSEL Scam, PACL Fonzi Scheme Scam are but a few examples of these frauds in India. These scams in the Indian capital markets have hurt the sentiments of investors in the past. In spite of many scams which emerged throughout last one and half century, still the market has overcome and with emergence of regulators as well as legal actions from time to time. But some factors which have made such scams possible are briefly elaborated below:

2.7.1. Lack of Operational Efficiency: Efficiency in case of capital market is understood with reference to the availability of information to different sectors / players in the market. Indian capital market is not fully developed or competitive in nature as the flow of information is not always smooth. Insider trading has also resulted in adding operational inefficiency. Sensitive information relating to the financial and operational performance of the company may get leaked from the insiders / decision making authorities of the company. The people who have access to such information are in a position to take undue advantage of having access of sensitive information. The same information reaches out to the ultimate investors after some time gap and by that time, the persons having access to the information earlier, already get benefited, thus leaving small and genuine investors at distance. Due to this particular problem the genuine investors try to keep themselves away from the market as they may not be in a position to make the 'timely decisions'.

2.7.2. Structural and Organizational Imbalance: Pherwani Committee has given a suggestion to have a two-tier system in organizational structure of stock exchanges. It recommended four premium stock exchanges in metropolitan cities and then, for semi-urban areas, more stock exchanges in emerging cities / towns. But unfortunately, till today both the premier stock exchanges in India are located in Mumbai viz. BSE and NSE. These two stock exchanges account for almost 90% of the total turnover of turnover in all the stock exchanges in India. Those investors who do not have access to these stock exchanges are not much benefited or find it difficult to keep themselves in the market. It is true that due to online and screen based trading, the geographical barriers are no more, but still, the regional stock exchanges see a very dark future. The players associated with these stock exchanges also do not have a bright future. Now a

day's demutualization of stock exchanges is also a good move. Earlier most of the stock exchanges were 'not for profit' organizations. Hence, there were some problems in regulating these stock exchanges. But now due to demutualization, all the stock exchanges are expected to be corporates. This would certainly help in regulating operations in the stock exchanges. But in the past, due to the non-corporate nature of stock exchanges, there was scope for malpractices as there was no legislative and specific action against such type of organization.

2.7.3. Dominance of Few Corporates and FIs: Indian capital markets, since the last several years have been dominated by big corporate houses and by the domestic and foreign institutional investors. To a common man the stock exchange seems to be a place for only elite group or big corporates. To some extent, this is true also as the movements of stocks of few companies direct the way of the entire market. While calculating the values of popular indices (like Sensex or Nifty), also the more weightage is given to the big industrial houses like Reliance, ICICI, Tata etc. This is scientific way to calculate the index as it is based on free-float methodology, but still if few corporates are in a position to drive the markets; it may result into fraudulent actions by market players while making investments in such stocks.

Another feature of Indian capital markets is that domestic and especially foreign institutional investors have been dominant in bringing the market down or taking it upwards. The small and genuine investors may be huge in number. But the funds which they pump into the market are too small as compared to the funds poured by FIs and FIIs. The foreign institutional investors are always in search of a better market and hence the money invested by them may quickly be withdrawn by them also if they find a better environment. This particular phenomenon may create emergence of speculative broker / intermediary (domestic or international) which may get into the market whenever the FIIs are positive about a country. They can benefit from their investments and when there is negative or downward trend, such intermediaries may immediately get out of the market. As these players have access to international agency's research report about a country, they can enter into the market with fraudulent intention.

2.7.4. Speculation: To some extent, speculation is required to provide liquidity in the market. Without speculation, the turnover in the markets may come down which creates a problem of liquidity. But excessive speculation is dangerous for the health of the markets. In Indian capital markets, speculation has become a well established phenomenon. Often, prices of stocks in the stock exchanges are determined or driven by future expectations than the fundamentals or track record of the respective company. The brokers or insiders try to speculate the prices of shares. Sometimes, even they are involved in spreading rumors in the market about a particular company or a specific sector. They try to convince the other brokers or small investors and force them to go for shares of a particular company. This does not have any relation with company's financial or operating performance. This, in future, would not provide positive returns as such decisions are purely based on speculative motives. A genuine investor who makes analysis about company's performance and makes his decision is on one hand and a large section of investors who are influenced by brokers and speculative operators is on the other hand. Naturally, as a common man is not in a position to analyze the company's performance, he intends to go with broker's tips/anticipation. In such situation, brokers may get into a fraudulent position as investors rely on them for their decisions. Hence, the company which has no prospect or future may wrongly become attractive only due to recommendation of brokers. Today, day-trading has become more popular than long term investment. This is purely speculative trading and the increasing significance of day-trading highlights more and more inclination of investors towards speculation. The brokers, in this situation, may utilize their knowledge to promote speculation and excessive speculation may lead to scams. In India Harshad Mehta and Ketan Parekh were able to involve themselves in such fraudulent activities because of speculation only.

2.7.5. Volatility: Another factor which ultimately causes the scams in Indian capital market is volatility. The two important factors which are described earlier viz. presence of FIIs and speculation have made markets more volatile. A genuine investor normally goes for delivery based trading which is a long term investment. On the other hand, day-trader who is a speculator does not go for delivery based trading. Instead, he goes for quick returns and even he is ready to bear the risk of loss in such trade. As the number of such trades is high, it results into volatility. Normally,

volatility is the standard deviation of daily returns. More the volatility more is the instability in the markets.

Though the volatility is a phenomenon which is experienced in the markets throughout the world, in India also, this feature has been experienced since past few decades. If we compare the volatility in major stock markets in India, this shows an increasing trend. In 1997-98, BSE recorded volatility of 2.30 % while in 2008-09, the same was 2.80 %. Similarly, NSE recorded a volatility of 2.02 % in 1997-98 while the same was 2.66 % in 2008-09. Due to volatility, genuine investors try to remain away from the markets. This is the time when the speculators grab this opportunity and force the investors to trade in a particular company's shares. This provides the speculators a platform to be involved in a scam to get a benefit in short run.

2.7.6. Vanishing Companies: Any listed company, which raised money through IPO but, stopped operations, did not file returns either with the RoC or SEBI and did not exist on the registered premises is termed as vanishing. The root of this menace can perhaps be traced to 1992 when, in the name of 'liberalization', the government abolished the office of the Controller of Capital Issues (CCI) and asked the SEBI to monitor the capital market. Many promoters took advantage of the prevailing situation, which allowed them to raise money from the public at fancy premiums, with the role of SEBI reduced to merely vetting Initial Public Offers prospectuses. Over 7,000 plantation companies were vanished in the era of 90s. Most of them were located at Maharashtra and West Bengal.

Two years is a long time and considering that listed companies are required to submit quarterly unaudited and other particulars to the stock exchanges they are listed on, any default in filing or furnishing information to the stock exchanges for more than two successive quarters should set off the alarm bells. The need of the hour is a co-ordinated action plan involving regulatory bodies such as SEBI, the DCA and the stock exchanges to ensure that the small investor's confidence in the market, to some extent, is restored. While it may be too late for India's regulatory authorities to pin down thousands of companies and their promoters who raised money from the public and have since vanished, it would definitely make sense to go after the big fish.

2.7.7. Political Support / Interference: Sahara is not unique in this sense. Many commentators proclaim that Subrata Roy would not have had the nerve to ignore Supreme Court orders so blatantly if there were no political reassurances given to him. In June 2011, former SEBI member KM Abraham wrote a whistle-blowing letter to Dr. Manmohan Singh, Prime Minister of India, blaming the Finance Ministry for interference. He claimed that then-Finance Minister Pranab Mukherjee and his advisor, Omita Paul, were trying to force SEBI Chairman U K Sinha to “manage” high profile cases, including Sahara, though this account was denied by the Finance Ministry as well as Sinha.

The political interference in the Saradha Group case is more apparent. Several members of the West Bengal ruling party, the Trinamool Congress (TMC), personally benefitted from the scheme. For instance, there are many reports that suggest Sudipto Sen, Chairman of the Saradha Group, bought paintings by Mamata Banerjee, the Chief Minister of West Bengal, whose government later issued circulars to public libraries to display newspapers published by Saradha. Several Members of Parliament, such as Srinjoy Bose and Kunal Ghosh, were connected to Saradha. Kunal Ghosh reportedly received a salary of over 1.5 million rupees per month from the Saradha Group. In an eighteen page confessional to the Central Bureau of Investigation, Sudipto Sen admitted to illicitly paying huge sums of investor money to many politicians. Among the few he named were Manoranjana Singh, wife of former Congress Member of Parliament Matang Singh, and Kunal Ghosh, whom he accused of blackmail. Many high profile personalities, including Transport Minister Madan Mitra and actor and TMC member Satabdi Roy, publicly endorsed the Saradha Group. Even though, this political involvement is curtailed by the market regulator that we have an example of successful settlement of Sahara and other scams.

2.7.8. Failure of Depositories and Involvement of Financial Institutions: IPO Scam is the classical example for the failure of depositories and involvement of bankers. Two of the most common factors of the major IPO scams in India were the tacit consent of the banks and the poor surveillance techniques. The Depository Participants must be provided the proof of identity and proof of address as a routine check for the opening demat accounts. This was not followed. Numerous dematerialized accounts and bank accounts had been opened under false names and

the IPO applications were made in non existing names. Now there is a numerous change in the working of depositories and financial institutions in the Indian capital market because of strict guidelines issued by the SEBI from the time to time.

2.7.9. Violation of Corporate Ethics: If there is any truth to the accusations of Sahara laundering black money, this is a clear breach of corporate ethics on their part. Not only is this a blatant misuse of other people's money, it also raises serious questions about government resources that were wasted on this unnecessarily long investigation. On the other hand, the corporate ethical violations committed by the Saradha Group were more obvious and possibly more damaging. The schemes run by Saradha were primarily aimed at low-income people who did not have access to formal banking. Unsurprisingly, these low income investors were hit hardest by the scam. When the Ponzi scheme collapsed, it caused severe financial loss to its 1.7 million investors, but the poorer population of West Bengal bore the worst brunt. Many were bankrupted, and a great number resorted to suicide.

The Saradha case undoubtedly represents the worst kind of damage corporate unethical practices in business can beget. The ramifications of the actions of a few conniving businessmen and politicians can still be felt throughout rural West Bengal. There is no doubt that conning poor people into investing in a hoax scheme, only to abandon them when it collapses, falls in the far dark end of the ethical spectrum. Therefore, corporate scams of this nature not only symbolize the ethical and moral standards of a company but on a larger scale represent those of the country and her people. This sort of generalization can cause foreign companies to lose interest in investing in a country and could cost India dearly. SEBI is organizing many workshops / programs to educate the investors and other participants even though some persons are not changing their mindset.

2.7.10. Insider Trading: Insider trading has become an inevitable practice in Indian capital market. In the organizational structure, there are some persons who have access to price sensitive information by virtue of their position in the company. If these people use this sensitive information for their own advantage, it results in insider trading. The classic example for insider trading is the Satyam Computers. According to Crime Investigation Department of the State Police and Central agencies

promoters Ramalinga Raju indulged in nastiest kind of insider trading of the company's shares to raise money for building a large land bank. The funds collected by the former chairman B. Ramalinga Raju, his brother Rama Raju and their relatives were used to purchase lands in the names of 330 companies and about 30 individuals. According to the SFIO findings, promoters of Satyam and their family members during April 2000 to January 7, 2009 sold almost 3.9 crore shares collecting in Rs 3029.67 crore. The promoters on the basis of the inflated books posed a healthy financial state of the company in the market. As the brand built strong amongst the peers, the share price started shooting up. During this course of time, the promoters kept their objective straight of offloading their shares at frequent intervals. Thus, the promoters not only manipulated share prices to make personal gains but also cheated the other shareholders and investors. SEBI has introduced and timely revising regulations against insider trading but still it is difficult to entirely eliminate this drawback. In the market operators, it is commonly argued that preventing insider trading is as difficult as controlling black money.

2.7.11. Weak Corporate Governance: Corporate governance is the acceptance by management of the inalienable rights of shareholders as the true owners of the corporation and of their own role as trustees on behalf of the shareholders. It is about commitment to values, about ethical business conduct and about making a distinction between personal and corporate funds in the management of a company. The key mandatory recommendations of SEBI appointed N. R. Narayana Murthy Committee (2003) focus on strengthening the responsibilities of audit committees; improving the quality of financial disclosures, including those related to related party transactions and proceeds from initial public offerings; requiring corporate executive boards to assess and disclose business risks in the annual reports of companies; introducing responsibilities on boards to adopt formal codes of conduct; the position of nominee directors; and stock holder approval and improved disclosures relating to compensation paid to non-executive directors. Even though weak corporate governance is not the main culprit in the Satyam fiasco, the scandal is highlighting the poor state of India's corporate governance, and provides a political opening to institute some reforms. Industry associations like the Confederation of Indian Industry should be proactive in this process, and work with the government in this reform

process. Failing to strengthen corporate governance will hurt the entire economy. In particular, the structure and functioning of auditing committees is a central issue of concern.

2.7.12. Role of Auditors: ICAI is the authority for making new auditors of companies. SEBI creates good relationship with ICAI for bringing more transparency in the auditing work of company accounts because audited financial statements are mirror to see the real face of company and after these investors can decide to invest or not to invest. Moreover, investors of India can easily trust on audited financial reports. After Satyam Scam, SEBI is investigating with ICAI, whether CAs are doing their duty by ethical way or not. The Institute of Chartered Accountants of India has imposed a life-time ban on four auditors - S Gopalakrishna, Talluri Srinivas, V. Srinivasa and V S Prabhakara Rao - involved in the Satyam Computers accounting fraud.

2.7.13. False Books and Bogus Accounting: False accounting fraud happens when company assets are overstated or liabilities are understated in order to make a business appear financially stronger than it really is. False accounting fraud involves an employee or an organization altering, destroying or defacing any account; or presenting accounts from an individual or an organization so they don't reflect their true value or the financial activities of that company. According to the findings of SFIO, Satyam's balance sheet as on September 7, 2008 carried an accrued interest of Rs.376 crore, which was non-existent. These figures of accrued interest were shown in balance sheets in order to suppress the detection of such non-existent fixed deposits on account of inflated profits. The investigations also detailed that the company had deliberately paid taxes of about Rs.1,86.91 crore on account of the non-existent accrued interests of Rs.376 crore, which was a considerable loss for the company.

2.7.14. Lax Board: A board of directors is a group of individuals that are elected as, or elected to act as, representatives of the stockholders to establish corporate management related policies and to make decisions on major company issues. Every public company must have a board of directors. Some private and nonprofit companies have a board of directors as well. The Satyam Board was composed of 'chairman-friendly' directors who failed to question management's strategy and use of

leverage in recasting the company; they were also extremely slow to act when it was already clear that the company was in financial distress. The Board ignored, or failed to act on, critical information related to financial wrong doings before the company ultimately collapsed.

Satyam board's investment decision to invest 1.6 billion dollars to acquire a 100 percent stake in Maytas Properties and in 51 percent stake in Maytas Infrastructure, the two real estate firms promoted by Raju's sons, was in gross violation of the Companies Act 1956, under which no company is allowed without shareholder's approval to acquire directly or indirectly any other corporate entity that is valued at over 60 percent of its paid-up capital. Yet, Satyam's directors went along with the decision, raising only technical and procedural questions about SEBI's guidelines and the valuation of the Maytas companies. They did not even refer to the conflict of interest in buying companies in a completely unrelated business, floated by the chairman's relatives.

2.7.15. Dubious Role of Rating Agencies: Credit rating agencies have been consistently accused of their lax attitude in assessing issuers and giving misleading ratings without thorough analysis, as has been the case of Enron and now in Satyam, they failed to warn market participants about the deteriorating condition of company. The rating agencies were allowed to look into company's books for making assessments but they never investigated the financial condition of Satyam. The rating agencies displayed lack of due diligence in their coverage and assessment of Satyam. They based their analysis on fraudulently prepared and audited financial statements and thereby failed to warn investors about Satyam's deteriorating condition.

2.7.16. Flawed Ownership Model: Satyam ownership model was flawed from the perspective of good corporate governance. There may be three factors responsible for this. The factors are not the causes of global and colossal fraud, but they provide an enabling environment for abuse and delusion. First, being a publicly owned company, Satyam could raise capital inexpensively if its existing shareholders assigned it a high value. Hence, in order to attract capital from public, it was under pressure to overstate profits to keep the company's bonds and equities in high esteem. Second, the promoter of the company, Mr. B. Ramalinga Raju, owned a very small fraction of the

ownership stock. He diluted his holding from 25.6 % in 2001 to 3.6 % in 2009. He could overstate profits with the objective of influencing other shareholders. Third important factor for flawed ownership model may be, Satyam could preserve its fictitious profits without having to pay big taxes because its profits were protected significantly from the normal tax laws. They do not pay taxes on fictitious revenues and profits.

2.7.17. Greed: It is often connected with money, a desire to acquire as much of it as possible, but it can refer to that kind of urge toward anything, like food or material possessions. When you see greed, it's an ugly thing, whether you're observing a greedy person or the greed of a huge company that treats its workers badly in order to make more money. The good old fashioned human nature intervenes when an individual, or group of individuals, sees a chance to make 'a fast buck'. A good example being those cases where people 'adjust' their expense claims upwards. Those who think the perpetrators of fraud are inherently bad are refusing to confront the issue that good people can turn bad. We trust people who seem trustworthy. But we have to accept that they can change. The best example comes under greed is the Satyam scam that the promoter want multiply more money in different means.

2.7.18. Regulatory Gap / Overlap: The responsibility for supervision and development of the securities market is shared by Department of Economic Affairs (DEA), Department of Company Affairs (DCA), Reserve Bank of India (RBI) and SEBI. In view of involvement of a number of agencies, there is scope for confusion among the regulators and the regulated, regulatory gaps and overlaps, and duplicate and inconsistent regulations. For example, no regulator was explicitly assigned the responsibility of regulating collective investment scheme till it caused concern when it was assigned to SEBI. Investor interest would probably be better served if there is only one regulator for the securities market, with clearly defined regulatory jurisdiction and accountability.

2.7.19. Penny Stocks: These stocks are a perfect vehicle for any number of traders, scam artists, or promoters to profit by artificially moving the price of shares. The majority of victims of these activities are ill-informed investors who don't understand what is really going on with their penny stocks, and who may do a little too trust. At

the time of demonetization of currency an income tax department investigation into transactions used to launder black money by trading in penny stocks has revealed how brokers became complicit by willing to compromise on know your client norms. The tax department's report uncovered a trail of Rs.38,000 crore involving manipulation in 84 BSE-listed penny stocks and through 5,000 listed and unlisted firms, many of them shell companies. It said at least 64,811 entities evaded taxes through such fraudulent methods. The report also covered 22 brokers, who were part of trades totaling Rs.15,970 crore, mostly based in Kolkata, or Kolkata offices of firms based elsewhere.

2.7.20. Lack of Love for Country: Due to rapid modernization and globalization, people are becoming more and more selfish. They are only concerned with self enrichment and wealth accumulation. The only objective of many Indian is to become rich as soon as possible. They consider themselves as patriotic just by celebrating independence and republic day. They do not know the actual meaning of patriotism. They are not concerned with development of stock market and rights of others. Due to this attitude, they easily get involved in fraudulent financial practices and immoral activities. These are the days of online dating romance scams.

2.7.21. Lack of Good Control and Vigilance: In the capital market SEBI, Stock Exchanges, Ministry of Corporate Affairs, Reserve Bank of India, Ministry of Finance, Broking Houses and other agencies are working day and night to stop fraudulent financial practices. But some officials of these agencies get tempted towards illegal commissions and leave corrupt people without any penalty and punishment. Fraudulent financial practices breeds' capital market scams. To keep a check on lacks of traders, more honest officials are required. Hence, there is a tremendous need of these officials in the Indian capital market to promote efficient and effective securities trading. This results in lack of control and fraudulent and unfair activities.

2.7.22. Other Causes: There are other causes prevailing in the Indian markets like inflating project costs and fixing unreasonable premium in the primary market, preferential and reserved allotment of substantial part of capital, benami traders, rackets and tampering with public issue application forms, badla finance etc. Some of

these causes have been sorted out, but in general, this results into loss of confidence among small and retail investors. If the secondary markets are healthy, primary markets are attractive. Hence, primary markets, most of the times do not go along the fundamentals of company, industry in particular and economy in general. Lack of protection to the small and genuine investors is also one of the drawbacks of the Indian markets. During this phase itself, there has been emergence of SEBI as a regulator in the Indian capital markets. Initially, SEBI looked just like a 'Tiger without teeth'. But as the time progressed, SEBI became more and more strict and slowly, it became a strong regulator. But still, SEBI has not been successful in all respects. Especially, speculation, insider trading and inefficiency of information are the drawbacks which are still affecting the health of market.

2.8. RECOMMENDATIONS TO OVERCOME SCAMS:

On September 28, 2015, the historic merger of the erstwhile commodities futures regulator, Forward Markets Commission with SEBI took place in Mumbai. The merger was effected to bring about convergence in regulations and to harness the economies of scope and scale for the Government, exchanges, financial firms, and other stakeholders at large. For SEBI, it is recognition of its tireless efforts towards ensuring an efficient securities market. There is no way of going over every single financial fraud that exists. Even though this is the high time to continue the stringent regulations and implement many more new initiatives to operate the securities market in an efficient and effective way. The following measures are needed to overcome the fraudulent financial practices in the Indian capital market in the near future:

2.8.1. Discover and Punish the Guilty: For many years the criminal justice system has come under severe scrutiny and widespread debate particularly from the media and the public, the extreme lack of confidence within the system, often being the pick of the bunch. Despite the above statement made by the Criminal Justice System many doubts are raised over whether or not the criminal justice system helps defend the innocent or punish the guilty. The majority of the public often hear, read and in many cases see dangerous, violent or other serious financial other offences being carried out yet we still have no answer who these offenders are or why they are still on the streets and have not been punished. This public uncertainty often raises the question whether

the justice system is distant, unaccountable and unanswerable. This task was entrusted to the Central Bureau of Investigation (CBI) and to the Joint Parliamentary Committee (JPC). A special court was also been set up to facilitate speedy trial.

2.8.2. Recover the Money: Securities fraud, also known as stock fraud and investment fraud, is a deceptive practice in the stock or commodities markets that induces investors to make purchase or sale decisions on the basis of false information, frequently resulting in losses, in violation of securities laws. An offer of risky investment opportunities to unsophisticated investors who are unable to evaluate risk adequately and cannot afford loss of capital is a central problem. Securities fraud can also include outright theft from investors (embezzlement by stockbrokers), stock manipulation, misstatements on a public company's financial reports, and lying to corporate auditors. The term encompasses a wide range of other actions, including insider trading, front running and other illegal acts on the trading floor of a stock or commodity exchange. The draconian provisions of the Ordinance for attachment of property and voiding of transactions with the consequent creation of "tainted" shares were attempts in this direction.

2.8.3. Reform the System: The government's response so far has consisted of measures like banning of Ready Forward (RF) deals and going slow on liberalization. The Securities and Exchange Board of India, in its capacity as overseer of the Indian Capital Market has witnessed eleven major scams. The scams bring lawlessness in the investment environment. Proper monitoring of the market should be given a priority by the regulators through constant reforms and surveillance.

2.8.4. Publicity about the Capital Market: The three most pressing problems were the excessive use of credit for speculation, the unfair practices employed in speculation, and "the secrecy surrounding the financial condition of corporations which invite the public to purchase their securities." The provisions of the SEBI Act which attempt solutions for the first and second of these problems are now in full force and effect. There is also the need for publicity about the activities of the capital market. This will help the public understand operations or market intricacies, such as how and from who stocks should be purchased. This will help in reducing the cases of fraud related to investors patronizing unregistered or fake stock brokers.

2.8.5. Co-operation: Financial markets have an important relationship with economic development. Regulation has been acknowledged to enable the orderly functioning of the securities market. The Securities and Exchange Board of India is the regulator charged with the orderly functioning of the securities market in India, protect the interests of investors and ensure development of the securities market. Since the establishment of SEBI in 1992, the Indian securities market has grown enormously in terms of volumes, new products and financial services. It is also recommended that the regulatory agencies of the capital market should cooperate with one another to ensure that those who are indicted for fraud in a particular sector are not allowed to operate in another sub- sector.

2.8.6. Standardization of Records: Section 11(2) of Securities and Exchange Board of India Act, 1992 provides that the SEBI would register and regulate the working of stock brokers and sub brokers. In fulfillment of the above, the SEBI carries out inspections of the books and records of stock brokers to verify whether: Books of accounts, records and other documents are being maintained in the manner specified by the Securities Contracts (Regulation) Rules, 1957 and SEBI (Stock Brokers and Sub Brokers) Regulations, 1992. The provisions of the SEBI Act, the Securities Contracts (Regulation) Act and the provisions made there under are being complied with by the broker. Common irregularities noticed during inspection were: (i) Non maintenance of proper books of accounts; (ii) Non issuance of contract notes in proper format and non-fixing of brokers note stamp on contract notes; (iii) Non reporting of 'off the floor transactions' to the exchange; (iv) Misuse of the Exchange Settlement Mechanism to secure certain loan transactions which do not have any relationship to securities business; (v) Dealing with unregistered sub-brokers and Non segregation of clients and proprietary funds. Hence, the standardization of records of transactions by market operators must be given a serious priority by regulatory agencies.

2.8.7. Algorithmic Trading: The advent of algorithmic trading has rewritten the rules of traditional broking. With significant volumes on the exchanges now being traded with the help of sophisticated algorithms, it is imperative that traders should be fully aware of the trading platforms that would enable them to enable their strategies and remain competitive. Retail investors in India have long yearned for a crack at

algorithm trading - which involves use of pre-set computer programs to execute trades - but their experience has been like teenagers who are too young to drive cars. "Allowing small retail investors to trade using algorithms would be like giving a gun to someone who can't shoot". Hence, the stock exchanges and the market regulator must first educate the retail investors in this regard.

2.8.8. Educate Retail Investors: Retail investors are not in a position to identify and / or appreciate the risk factors associated with certain scrips or schemes. With the result they are not able to make informed investment decisions. SEBI has strongly requested small investors to take adequate precaution before investing in any forthcoming IPO issues. It is observed that 8 out of 37 companies have dubious promoters and merchant bankers. Investors also cautioned not to invest in certain B2 & Z category listed companies who are declaring excellent quarterly results as its authenticity is doubtful. Hence, the market regulators must educate the retail investors by organizing various programs directly or indirectly.

2.8.9. Establish Prevention Strategies: These strategies should be supported from both the internal and external environments. The prevention from the internal environment is gained from the prevention strategies designed by the stock exchanges and the prevention from the external environment is achieved from the regulators and the relevant departments and divisions. The important prevention strategies are: (i) value of honesty and integrity; (ii) specific internal control over the market; (iii) assessment of internal control over market; (iv) participation of regulators in the internal control; (v) greater role intermediaries; (vi) fraud risk management and (vii) effective corporate governance.

2.8.10. Establish Detection Strategies: The research findings indicate that conventional detection methods are commonly found from whistle blowing and hotlines. In addition to these detection procedures, the surveillance system is expected to detect fraud in securities market trading. In relation to this, the research suggests that the regulators should consider the detection tools and software, as initiated by previous research through data mining techniques. The research studies also enable the regulators to clearly describe what constitutes fraudulent financial fraud to assist the market players in reporting the misconduct. In addition, the informers should be

highly protected. The research also suggests the availability of whistle blowing and hotline channels to directly report to the Securities and Exchange Board of India. Therefore, any perpetration by the fraudsters would be controlled and mitigated through detection strategies.

2.8.11. Pump and Dump Schemes: They need a mention because they are not always illegal. There are many people that have the power to make a company appear more valuable than it is. Pump-and-dump schemes are often perpetrated by important and influential people that claim a company's shares are amazing, only to sell their shares in the company a few days later. Should you ignore other people's advice? No, you shouldn't, but you should also ask what you would do in their shoes. Would you keep your 2,50,000 shares in a company if it had just jumped up from Rs10 to Rs.10 per share?

2.8.12. Verify and Check Out Your Broker: If the broker has been in business for years, if he /she / they have a good online and offline reputation, then you may be able to trust him /her / them a little more. However, it is also a good idea to get a few references from other people; especially other people in positions of power or that are noted for their honesty and / or authority. The more money you wish to invest, then the more references you should get. Sure, your broker will only give you his / her / their most pleased clients, but even they are able to offer some insights into the type of person / people you are going to be dealing with.

2.8.13. Question the Likelihood of any Return: Scammers are going to spend a lot of time convincing you of the likelihood of a return. A less sophisticated scammer will spend a lot of time trying to convince you of this, and they are very good at it. You need to be rather more objective and ask yourself just how likely your return is. If it is that likely, then why are they trying so hard to convince you? Think of it this way, if you had a million dollar idea that was going to revolutionize the banana growing industry, would you try "that" hard to sell the idea? Or, would you make it more difficult for people to invest in your idea because you are holding out for the highest bidders? Would you be spending your time trying to convince struggling pensioners? Or, would you be approaching the Bill Gates and Donald Trump's of this world to look for investment?

2.8.14. Guard against Phishing Scams: Phishing attacks are one of the most common security challenges that both individuals and companies face in keeping their information secure. Whether it's getting access to passwords, credit cards, or other sensitive information, hackers are using email, social media, phone calls, and any form of communication they can to steal valuable data. Investors, of course, are a particularly worthwhile target. To help investors better understand how they can work to avoid falling victim to phishing attacks. The suggested steps against phishing scams are: Ensure that anti-virus, anti-spyware, and any anti-malware applications are maintained up-to-date; Ensure that applications and operating systems are up-to-date, and fully patched; Subscribing to cyber-intelligence services which may be used to identify on-line threats, misrepresentations, or online frauds; and Phishing attacks are predominantly targeting end-users, drive to the heart of the problem by investing in a security education and awareness program to raise the profile of risk.

2.8.15. Value Education: Parents and teachers should inculcate moral values in children. Practice is more persuasive than preaching. The best way to inculcate values in children is not only to preach but to set an example by actual doing. They should set themselves as models of good behavior. They should narrate stories based on moral values. Teacher should not only teach morals in value education period but they should inculcate values in pupils by correlating value education with various subjects and activities. They should not leave any stone unturned for achieving this great purpose. Hence, there is an improvement in the future generation and we may experience ethical and value financial system in the country.

2.8.16. Responsible Citizen: If an individual is fraudulent, he cannot expect those in power to be free from scams. Hence, it is essential for every citizen to perform his duties faithfully and to the best of their abilities. Every citizen should strive hard to eradicate frauds. People of India should report cases of frauds to vigilance or respective regulators or departments immediately without delay. They should follow up the cases of frauds. Since, merely reporting the evil practice is not sufficient for its complete eradication. Therefore, today's responsible citizen is an ethical investor / trader in the future.

2.8.17. Media: Media has wider coverage and impact. It plays an important role in changing the life of people. It should frequently expose the cases of corporate frauds. It should educate investors against frauds on regular basis. Journalists and editors should give complete information about the issues related to corporate frauds in their newspapers. Reporters should give more importance to the news and information on corporate scams; they should report fraud cases immediately. Nowadays print and electronic media is playing an important role in educating the people about the insights of the frauds and the main culprits involved in that case. At present there is a wide coverage with discussion and debate in one or another media about the Sahara and Saradha Ponzi Schemes and persons involved in these scams. Hence, the people may beware of the schemes and scams and they may take care of themselves in the future.

2.8.18. Social Organization: Non-government organizations should work in coordination with people and regulators / vigilance departments for prevention of illegal activities. They should devise and plan innovative strategies and methods against fraudulent activities.

2.8.19. Loyalty and Patriotism: Every citizen of India should become patriotic in true sense. He should give priority and preference to the development of his nation. He should always remain loyal to their beautiful culture, ethics and country. Social workers, political leaders, media and teachers should inculcate true patriotism in the citizens of India.

2.8.20. Dedicated and Diligent Leaders: There should be more dedicated, devoted and diligent leaders like Medha Patkar and Anna Hazare. These leaders dedicated their whole life for eradicating corruption and fraudulent activities. It is the responsibility of every citizen of India to support and cooperate with leaders who are sincerely striving against corruption and fraudulent practices.

In this ever changing global financial landscape, financial markets too are evolving, growing and getting more complex. To effectively regulate these markets regulators and policymakers also need to be proactive, keep themselves updated and upgraded. Over a period of time, SEBI has strengthened both its regulatory purview and internal capacity to ensure that the interests of the investors are well protected. With the

continuous efforts of the Government, policy makers and market regulators Indian capital market will ascend to newer heights.

2.9. CHAPTER SUMMARY:

The security scams and the financial scandals which have been discussed above involve thousands of crores of money which either belongs to small investors, the government or financial institutions. The offenders have comprehensive knowledge about the working of the system and know how to manipulate the system to benefit from it. But such benefits to some individuals come at the cost of loss of lakhs of rupees to millions of investors or the government. It is clearly evident from the aforesaid mentioned cases that the occurrence and reoccurrence of such scams can only be attributed to the weak financial regulations and a failure of corporate governance in finance. While the main aim of the corporate sector is to earn profit, it should not come at the cost of sacrificing ethics and professionalism. The corporates should have a concern about the welfare of the shareholders. In all the drama that unfolds after every scam that is uncovered, ultimately it's the honest man, who puts all his life savings into the share market who suffers the most. And what agonizes him more is that the perpetrators of his loss get away with a mere slap on their wrists. This chapter concludes that there must be a change in the behavior and mindset of the investors, stock brokers, corporates, regulators and other people those who involve in the market operations and then only we expect and experience the scam-free capital market in particular and the country in general.

CHAPTER-3

ROLE OF SEBI IN PREVENTING FRAUDULENT AND UNFAIR TRADE PRACTICES

3.1. INTRODUCTION:

The capital market in India is a market for securities, where companies and governments can raise long term funds. It is a market designed for the selling and buying of stocks and bonds. Stocks and bonds are the two major ways to generate capital and long term funds. Thus, the bond markets and stock markets are considered as capital markets. The capital markets consist of the primary market, where new issues are distributed to investors, and the secondary market, where existing securities are traded. In addition, the Indian Equity Markets and the Indian Debt markets do form part of the Indian Capital market. The Indian Equity Market depends mainly on monsoons, global funds flowing into equities and the performance of various companies. The Indian Equity Market is almost wholly dominated by two major stock exchanges - National Stock Exchange of India Ltd., (NSE) and The Bombay Stock Exchange (BSE). The benchmark indices of the two exchanges - Nifty of NSE and Sensex of BSE are closely monitored by the investors. The two exchanges also have Futures and Options segment for trading in equity derivatives including the indices. The major players in the Indian Equity Market are Mutual Funds, Financial Institutions and FIIs representing mainly Venture Capital Funds and Private Equity Funds. The Indian Equity Market at present is a lucrative field for investors. The Indian stocks are profitable not only for long and medium-term investors, but also for the position traders, short-term swing traders and also very short term intra-day traders and speculators.

The debt markets in India are amongst the largest in Asia. Their dealings included government securities, public sector undertakings, other government bodies, financial institutions, banks and companies. The debt markets play a role of increasing funds for implementation of government development plans. This means that government can raise funds at lower costs by issuing government securities. They are very conducive for the proper implementation of government's monetary policy. They provided a less risky investment environment compared to the equity markets, encouraging low-risk investments. This leads to foreign inflow of funds into the economy. They provide high liquidity and proper control over credit. They provided opportunity for investors to diversify their investment portfolio in a way to minimize risk. They promoted very stringent disclosure norms and auditing requirements, hence

there was improved transparency and better implementation of corporate governance principles.

In a journey that was embarked 28 years ago with the overarching objective of investor protection and the development and regulation of the securities markets in India, SEBI and the Indian capital markets have grown from strength to strength with each passing year. With the advent of SEBI, the Indian markets experienced a sweeping evolution from a highly controlled merit based regulatory regime to a market oriented disclosures based regulatory regime. Over the years, SEBI has been introducing various measures for the betterment and advancement of the Indian securities market.

In the course of this remarkable journey, SEBI has incessantly strived to incorporate and adopt various global standards and international best practices within its regulatory framework. It has also stood the test of time through various domestic as well as global crises and came out stronger every time. This has resulted in enhanced efficiency, integrity and transparency in the Indian securities market and has also catapulted it into the global league. In fact, in international circles today, the Indian securities market is often considered as one of the most developed and highly respected market across the globe.

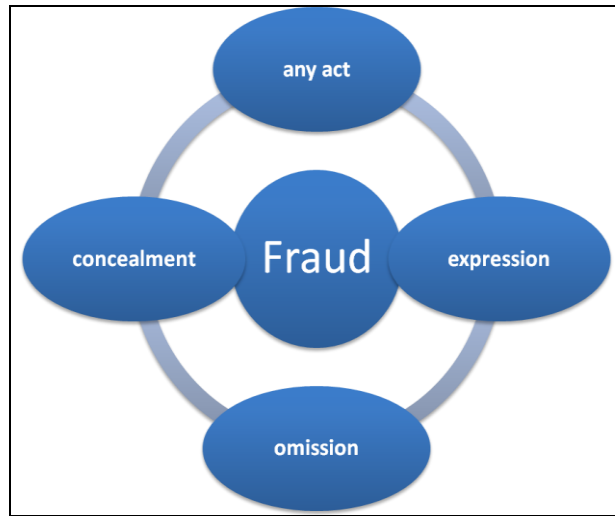
To protect the interests of investors and to promote a fair and orderly securities market, SEBI ensures the integrity of markets by detecting market frauds on a proactive basis, investigating abusive, manipulative or illegal trading practices in the securities market and taking punitive steps to punish the manipulators. Surveillance helps in ensuring the integrity of the markets by enabling a safe and sound environment where buyers and sellers are willing to participate confidently. This chapter is aimed to present the role of SEBI in prevent fraudulent and unfair trading practices in the Indian capital market.

3.2. FRAUDULENT AND UNFAIR TRADE PRACTICES:

The phrases “fraudulent trade practice” or “unfair trade practice” or “manipulative trade practice” have not been defined or distinguished. Section 11(2) (e) expressly enables SEBI to take measures to prohibit ‘fraudulent and unfair trade practices’.

Section 12A prohibits ‘manipulative and deceptive devices’ and Section 15HA provides penalty for ‘fraudulent and unfair trade practices’. Regulation-4 of Fraudulent and Unfair Trade Practice Regulations, 2003 prohibits ‘manipulative, fraudulent and unfair trade practices’. Regulations 3(b), 3(c) and 3(d) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003 mirror the provisions of Sub-sections (a), (b) and (c) of Section 12A of SEBI Act, 1992. Fraud according to securities law is presented as follows:

Figure-3.1: Fraud According to Securities Law



Committed whether in a deceitful manner or not by a person or by any other person with his connivance or by his agent while dealing in securities in order to induce another person or his agent to deal in securities, whether or not there is any wrongful gain or avoidance of loss, and shall also include:

As per Securities Law Fraud includes		
Misrepresentation	⇒	Concealment of material facts or truth
Suggestion	⇒	Of facts which are not true
Active concealment	⇒	By a person who knows the fact
Promise	⇒	Without intension of performing it
Representation	⇒	Made in reckless and careless manner
Omission	⇒	Which law specifically declares fraudulent
Deceptive behavior	⇒	Deprive people informed content, full participation
False statement	⇒	Without reasonable ground of being true
Misinformation	⇒	Affecting the market price of securities

Exceptions to Fraud: Regulation 2(1) (c) provides for certain exceptions to 'fraud' and states that nothing contained in the clause shall apply to any general comments made in good faith in regard to: the economic policy of the government; the economic situation of the country; trends in the securities market; any other matter of a like nature; whether such comments are made in public or in private; Exceptions important for freedom of speech; Market trends in securities market understood through press reports and media opinions.

Dealing in Securities: "Dealing in securities" includes an act of buying, selling or subscribing pursuant to any issue of any security or agreeing to buy, sell or subscribe to any issue of any security or otherwise transacting in any way in any security by any person as principal, agent or intermediary referred to in section 12 of the Act. The term "includes" makes the definition extensive 'accessing capital market' is different from 'dealing in securities' 'dealing in securities normally means transaction in securities" (Sterlite Industries (India) Limited Vs. SEBI) merely agreeing to transact in securities would also qualify such proposed transaction as 'dealing in securities'.

Regulation-4: Without prejudice to provisions of regulation-3 dealing in securities is deemed to be a fraudulent or an unfair trade practice if: it involves fraud and; includes - an act which creates false or misleading appearance of trading in the securities market; any act or omission amounting to manipulation of the price of a security; an intermediary predating or otherwise falsifying records such as contract notes, etc.

Regulation-3 does not, in any manner, constrict the ambit of Regulation-3. The scope of Regulation-4 would be merely illustrative of the mischief that Regulation-3 seeks to address. Regulation 4(2) commences with a deeming provision pursuant to which any transaction in securities which involves fraud shall be deemed to be fraudulent or an unfair trade practice.

3.3. OBJECTIVES OF THE CHAPTER:

The important objectives of the chapter are presented as follows:

- 1) To explain the types of unfair offences and fraudulent and unfair trade practices.

- 2) To know the SEBI guidelines on prohibition of fraudulent and unfair trade practices.
- 3) To study the fraudulent and unfair trade practices cases.
- 4) To suggest the measures to prevent fraudulent and unfair trade practices.

3.4. TYPES OF UNFAIR OFFENCES:

The type of unfair offences is presented as follows:

3.4.1. Scalping: It is a trading style specializing in taking profits on small price changes, generally soon after a trade has been entered and has become profitable. It requires a trader to have a strict exit strategy because one large loss could eliminate the many small gains that the trader has worked to obtain. Having the right tools, such as a live feed, a direct-access broker and the stamina to place many trades is required for this strategy to be successful. The main premises of scalping are: Lessened exposure limits risk - A brief exposure to the market diminishes the probability of running into an adverse event. Smaller moves are easier to obtain - A bigger imbalance of supply and demand is needed to warrant bigger price changes. Smaller moves are more frequent than larger ones - Even during relatively quiet markets there are many small movements that a scalper can exploit. The best example is the Harshad Mehta Case.

3.4.2. Puffing Advertisements / Rumour Fraud: A latest case of Surana Solar Limited which gave a breakout due to a common acting in the name of the Badshah of the market i.e., Rakesh Jhunjhunwala. It needs to be seen whether the namesake is a real one or a common who has tried to create this frenzy in the market. However the role of SEBI also needs to be seen that whether it is trying to save its some operators as the annulment of trade story cannot be an everyday affair as it is a free economy. The story has been scripted like a movie where an operator bought a chunk of shares of Surana Solar Limited a little micro-cap, in the name of “Rakesh Jhunjhunwals”, the Badshah of Dalal Street. As soon as the news was made public, there was frenzy amongst the punters to grab the stock. This sent the stock price surging to an all-time high of Rs.63. At this stage, the operator dumped his holding of stock, leading to

abnormally, and high volumes on the exchanges. Later, when news leaked that the “Rakesh Jhunjhunwals” who had bought the stock in the first place is not the Badshah of Dalal Street but a namesake, the stock price plunged to a low of Rs.32.

3.4.3. Front Running / Back Running: Front running is the unethical practice of a broker trading equity in his personal account based on advanced knowledge of pending orders from the brokerage firm or from clients, allowing him to profit from the knowledge. It can also occur when a broker buys shares in his personal account ahead of a strong buy recommendation that the brokerage firm is going to make to its clients. In the context of stock trading, front running is the practice of stepping in front of orders placed or about to be placed by others to gain a price advantage. For example, a broker receives an order from a client to buy 5,00,000 shares of XYZ Company. He holds it until he executes the purchase of a smaller order of the same stock in his own account. He then executes the client’s larger order, which drives up the share price. The broker can then sell his share, making a profit at the direct expense of the client. That form of front running is not only unethical, it is illegal.

3.4.4. Circular Trading: A fraudulent trading scheme where sell orders are entered by a broker who knows that offsetting buy orders, the same number of shares at the same time and at the same price, either have been or will be entered. These trades do not represent a real change in the beneficial ownership of the security. Ketan Parekh is alleged to have been involved in one of India’s biggest stock market scams dating back to 1999-2001. Currently he is debarred from trading in the Indian stock exchanges till 2017. He was accused of inflating share prices of the firms like Zee Telefilms, Ranbaxy, Global Telesystems, Himachal Futuristic Communication (HFCL), Silverline, Satyam Computers, among others, using circular trading. SEBI discovered another incidence of circular trading by two brokers over the stock of Videocon Industries Ltd. in 2004. The involved brokers were Mansukh Securities and Finance Ltd. (MSFL) and Intec Shares and Stock Brokers Ltd. (ISSL). Together, they deflated the share price from Rs.36.15 to Rs.28.19 i.e., a 20% fall. In 2012, SEBI imposed penalties of Rs.2 lakh each on the two brokerage firms. SEBI accused Angel Broking of working with the three other brokerages to create artificial volumes in shares of Sun Infoways Ltd from February 5 to March 2 in 2001. Shares of Sun traded in the range of Rs.342 to Rs.296 during that period, after which shares slumped to as

low as Rs.60.75 on April 30, 2001, while trading volumes reduced drastically. To prevent circular trading in the stock market SEBI has introduced price filters.

3.4.5. Making the Close: This is a technique of purchasing a security at the very end of the trading day often within minutes of the close of trading at a significantly higher price than the security's current traded price. The purpose is to raise the security's closing price, thus making it appear to be of higher value than it actually is. The manipulation of a transaction in order to give a false, misleading or artificial appearance of activity in a stock improperly influences the market price and is illegal. Yet, some traders continue to engage in such practice and pay the price.

3.4.6. Churning and Burning: An illegal practice used by certain brokers to increase their commissions, by performing a large number of trades using a client's account from which the broker is paid by trade volume. Also referred to as "twisting" or just "churning", this practice is a violation of SEBI's Fair Practice Rules.

3.4.7. Pump and Dump: It is a scheme that attempts to boost the price of a stock through recommendations based on false, misleading or greatly exaggerated statements. The perpetrators of this scheme, who already have an established position in the company's stock, sell their positions after the hype has led to a higher share price. This practice is illegal based on securities law and can lead to heavy fines.

3.4.8. Cornering Shares in Public Issue: Market regulator Securities and Exchange Board of India imposed a penalty of Rs.14 crore on Dushyant Natwarlal Dalal and Puloma Dushyant Dalal, the two financiers for unlawful gains made during the infamous IPO scam of 2003-05. The two had been accused of making unlawful gains of over Rs.49.4 million by cornering shares of various companies meant for retail individual investors and the penalty is three times of the amount.

3.4.9. Misselling of Mutual Funds: SEBI has made misselling a fraudulent practice by adding a clause into the "Prevention of Fraudulent and Unfair Trade Practices" Regulations, via a notification: mis-selling of units of a mutual fund scheme; Explanation.- For the purpose of this clause, "mis-selling" means sale of units of a mutual fund scheme by any person, directly or indirectly, by— (i) making a false or misleading statement, or (ii) concealing or omitting material facts of the scheme, or

(iii) concealing the associated risk factors of the scheme, or (iv) not taking reasonable care to ensure suitability of the scheme to the buyer.

3.4.10. Ponzi Schemes: SEBI currently has powers to regulate collective investment scheme activities, while entities such as chit funds and so-called Nidhi companies come under the jurisdiction of state governments or under different laws. The government and the market regulator fear that entities may be taking advantage of regulatory loopholes and pooling public money illegally. “Currently, many entities may be pooling money from the public like CIS (without a licence) but SEBI cannot catch them since they work in the name of chit fund or some other name that fall under the state government’s jurisdiction. Also, there have been several instances where due to multiplicity of regulators and overlap of provisions a clear action could not be decided and taken against illegal deposit-taking firms like Sahara and Saradha,”

3.4.11. Private Treaties: In July, 1999 the Securities and Exchange Board of India mandated under the Securities and Exchange Board of India Act, 1992 to protect the interest of investors expressed its concern that many media groups are entering into agreements, called “Private Treaties” with companies which are listed or coming out with a public offer for stake in the company and in return providing media coverage through advertisements, news reports, editorials etc. It noted that such private treaties help to promote and build “brand” of the company through print or electronic media, which the media group owns in exchange of shares of such company. It apprehended that such agreements not only give rise to conflict of interest but result in dilution of the independence of press vis-à-vis the nature and contents of the news / editorials reporting, to such companies. That such treaties may lead to commercialization of news reports as it would be based on the subscription and advertising agreement entered into between the Media group and the company.

3.4.12. Unauthorized Electronic Platforms: It has also come to the notice of SEBI that certain electronic platforms are facilitating fund raising on digital platforms like websites and other internet platforms, which are similar to the platforms of stock exchanges. These digital platforms are neither authorized nor recognized under any law governing the securities market. The electronic platforms are allegedly facilitating

investment in the form of private placement with companies, as the offer is open to all the investors registered with the platform amounting to a contravention of the provisions of Securities Contract (Regulation) Act, 1956 and the Companies Act, 2013. Only recognized stock exchanges provide a platform where equity and other securities issued by companies are listed and traded in accordance with the provisions of the SCRA.

3.5. TYPES OF FRAUDULENT AND UNFAIR TRADE PRACTICES:

The types of fraudulent and unfair trade practices are presented as follows:

3.5.1. A promoter and a major shareholder discussed the proposed delisting of the company without any active participation from retail shareholders before making announcement thereof. Such an act was committed by the promoter and the major shareholder with an intent to circumvent the normal price discovery of reverse book building process as the delisting price would be influenced by the major shareholder.

3.5.2. With relation to an IPO the issuer company, contrary to statements/ disclosures in the prospectus, used IPO proceeds to fund net buyers who supported the price on listing day and to fund group companies in the form of Inter Corporate Deposits (ICDs). Money from IPO proceeds was not utilized as per object of the issue. Some money was siphoned off and company also diverted the issue proceeds.

3.5.3. A company circulated text messages in the market regarding its dividend declaration. A group of certain company related entities were observed to be buying shares before the messages were circulated in the market regarding dividend declaration by the company and subsequently selling the shares in the market after the circulation of messages. These entities entered into manipulative and unfair trading practices such as synchronized trades / reversal of trades within the group and self-trades which resulted in an artificial volume being created.

3.5.4. A company and its related entities committed fraud by planting false / misleading news of a proposed buy-back and payment of dividend which influenced the price of the company's scrip.

3.5.5. Non-disclosure of loans taken by a company in the IPO prospectus.

3.5.6. A company and its directors reported false and misleading financial results by understating outstanding loans, interest and finance charges, resulting in overstatement of profits and reserves. The company carried out buyback of its own shares on the overstated profit / reserves. The actual reserves of the company were not sufficient to carry out the buy-back. Further, the buy-back price was announced at 234% of the prevailing market price which misled the investors / shareholders regarding the perceived valuation / strong financials of the company and induced them to take part in buy-back, particularly when the price of the scrip was declining over a period of time.

3.5.7. The directors of a company failed to make disclosures with respect to encumbered shares and also invocation of shares.

3.5.8. An equity dealer employed by an AMC which manages a mutual fund and also provides portfolio management services had the discretion to execute orders for the mutual fund and PMS clients at any time, depending on the traded volumes / prices etc. Investigations revealed that the equity dealer passed on information of impending orders (exchange, scrip name, and order price and order quantity) and instructions to his wife and another person. On the basis of such information and instructions received from the dealer, his wife and another person were observed to be front-running the trades of the mutual fund and PMS clients in their trading accounts and trading accounts of other entities connected to them, from which they made a substantial profit.

3.5.8. A company issued preferential allotments to certain entities without receiving the consideration amounts. These preferential allottees, after expiry of the lock-in period, sold the shares in the market and made profits.

3.5.9. Entering into synchronized trades / reversal of trades / circular trades within a group resulting in creating artificial volumes and also contributing to an increase in price of the scrip by contributing to a positive LTP.

3.5.10. A certain group of entities purchased shares in the market from a certain other group of entities and transferred them (off market) to the same set of entities, thereby creating an artificial trading volume in the scrip without change in ownership.

3.5.11. Certain connected entities entered into synchronized trades resulting in the creation of artificial volumes in the scrip. Further, the company and its directors aided certain entities entering into synchronized trades by providing funds.

3.5.12. An issuer, in collusion with a merchant banker, siphoned off IPO proceeds and also routed funds to certain allottees by creating fictitious obligations meant to siphon off IPO proceeds. Further, the issuer made mis-statements and non-disclosures in the prospectus. Also, there were mis-statements in the annual report with regard to utilization of IPO proceeds. The auditor abetted the issuer to cover-up siphoning off of IPO proceeds in the annual report.

3.6. REGULATORY AUTHORITIES AND THE LAW:

The Securities and Exchange Board of India (SEBI) was established on 12th April, 1992 under the Securities and Exchange Board of India Act, 1992 (SEBI Act). SEBI deals with securities fraud and aims to, among other things: protect the interests of investors in securities; promote the development of the securities market; regulate the securities market. SEBI regulates capital market intermediaries and players including broker, investment banks, rating agencies, mutual funds etc.

The Ministry of Corporate Affairs (MCA) is primarily concerned with administration of the Companies Act, 1956 / 2013, other allied Acts and rules & regulations to regulating the functioning of the corporate sector in accordance with law. The MCA is also responsible for administering the Competition Act, 2002. It exercises supervision over the three professional bodies, namely, Institute of Chartered Accountants of India (ICAI), Institute of Company Secretaries of India (ICSI) and Institute of Cost and Works Accountants of India (ICWAI) which are constituted under the three separate Acts of the Parliament. It will also supervise the soon to be constituted National Financial Regulatory Authority (NFRA). The Ministry is also responsible for the administration of Partnership Act, 1932, the Companies (Donations to National Funds) Act, 1951 and Societies Registration Act, 1980.

The Reserve Bank of India (RBI) is India's central banking institution, which directs the monetary policy. The institution is also the regulator and supervisor of the financial system and prescribes broad parameters of banking operations within which

the country's banking and financial system functions. Its objectives are to maintain public confidence in the financial system, protect depositors' interest and provide cost-effective banking services to the public. In addition the insurance sector has its regulator Insurance Regulatory and Development Authority (IRDA) and the pension funds are regulated by Pension Fund Regulatory and Development Authority (PFRDA). SEBI is a regulatory authority for commodity futures market in India.

The central government has established a central investigative agency called the Central Bureau of Investigation (CBI). The CBI investigates and prosecutes cases of serious fraud or cheating that may have ramifications in more than one state. Where needed, especially in economic or cross-border crimes investigation, the CBI can seek assistance by other specialized wings of the central government. The CBI has the seven divisions such as Anti-Corruption Division; Economic Offences Division; Special Crimes Division; Directorate of Prosecution; Administration Division; Policy & Co-ordination Division and Central Forensic Science Laboratory.

The Serious Fraud Investigation Office (SFIO) is a multi-disciplinary organization under the MCA, consisting of experts in the field of accountancy, forensic auditing, law, information technology, investigation, company law, capital markets and taxation. It detects, prosecutes or recommends for prosecution white-collar crimes / frauds.

In addition, the Central Government under the Department of Revenue has set up various agencies to fight economic crimes:

The Companies Act, 2013 confers on the Company Law Board (CLB) the power to investigate the affairs of a company suo moto or on petition by members of a company. The CLB is a quasi-judicial body, exercising equitable jurisdiction, which was earlier being exercised by the High Court or the Central Government.

Central Economic Intelligence Bureau – monitors economic offences and co-ordinates co-operation with international agencies in relation to economic offences. It ensures the implementation of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act (COFEPOSA).

Directorate of Enforcement (DOE) ensures enforcement of Foreign Exchange Management Act 1999 and the Prevention of Money Laundering Act, 2002. The organization falls under the Ministry of Finance and is headquartered in New Delhi.

The other regulators are: Central Bureau of Narcotics (for drug related offences); Directorate General of Anti-evasion (central excise related offences); Directorate General of Revenue Intelligence (customs, excise and service tax related offences); Central Vigilance Commission is a statutory body that supervises corruption cases in governmental departments. It has supervisory powers over the CBI but does not have authority to prosecute individuals. Economic Intelligence Council (EIC) is a governmental organization, established under the Ministry of Finance to facilitate co-ordination among the enforcement agencies dealing with economic offences. India has a unified (all India) legislation under the Indian Penal Code 1860 (Penal Code) and the Code of Criminal Procedure 1973 for substantive and procedural laws relating to crime.

Regulators and the Law:

SEBI and the Stock Exchanges are the main regulators of equity markets. The Reserve Bank of India (RBI) regulates all aspects of exchange controls. The trading of equity shares takes place on the Stock Exchanges (in specified platforms). Legislative framework - The primary legislative framework that applies is the Companies Act 1956 / Companies Act 2013; SEBI (Issue of Capital and Disclosure Requirements) Regulations 2009 (ICDR); Securities Contracts (Regulation) Act 1956 and Securities Contracts (Regulation) Rules 1957; Listing agreement between the Stock Exchanges and the listed companies (Equity Listing Agreement); The regulator's powers of investigation, enforcement and prosecution in cases of corporate or business fraud. The CBI derives its legal powers of investigation from the Delhi Special Police Establishment Act 1946 (DSPE). They enjoy the same investigation powers as the Police and also have the power to launch prosecutions under a separate wing.

Under the Companies Act, 2013 the Company Law Board can inspect the books of accounts of a company, direct special audits, order investigations and launch prosecutions for any offence. Statutory status has been conferred upon the Serious

Fraud Investigation Office (SFIO). SFIO is empowered to arrest in respect of certain offence involving fraud.

SEBI has the powers of a civil court, such as ordering discovery and production of books of accounts, summoning and enforcing the attendance of persons and examining the inspection of books, registers and other documents and issuing commissions for the examination of witnesses or documents.

The Potential Sanctions or Liabilities for Participating in Corporate or Business Fraud:

The prescribed sanctions are:

- Fraudulent and unfair trade practices relating to securities. The higher of either: a fine of INR250 million, three times the amount of profits made out of such practices.
- Forgery - Two years' imprisonment and / or a fine.
- Falsification of accounts - Seven years' imprisonment and / or fine.
- Dishonest misappropriation of property- Two years' imprisonment and / or fine.
- Criminal breach of trust - Three years' imprisonment and a fine.
- Cheating - Simple cases of cheating are punishable with one year's imprisonment and a fine. Cheating accompanied with delivery of property or destruction of any valuable security is punishable by seven years' imprisonment.
- Corporate fraud – Under the Companies Act 2013, a person found guilty of fraud will receive imprisonment for a term of 6 months to 10 years and a monetary fine of up to 3 times the amount involved in fraud will be imposed. In case where fraud involves public interest, the minimum imprisonment is 3 years. In cases where deposits are accepted with intent to defraud the depositors or for any fraudulent purpose, every officer responsible for acceptance of such deposit will be personally responsible without any limitation of liability, in addition to the penalties.

Regulatory provisions and Agencies for investigating insider dealing and market abuse:

SEBI prohibits insider trading. "Insiders" must not (directly or indirectly) deal in securities of a listed company when in possession of unpublished price-sensitive information. An "insider" is any person who is connected with the company and expected to have access to unpublished price-sensitive information in relation to the company's securities. An insider also cannot communicate, counsel or procure unpublished price sensitive information to or for any person.

Prosecutions for Insider Trading in Securities are launched by SEBI:

The SEBI (Prohibition of Insider Trading) Regulations 1992 (Insider Trading Regulations) have been framed under Section 30 of the SEBI Act and are intended to prevent and curb insider trading in securities.

The Share Dealing Code is a procedure adopted by companies in furtherance to the Insider Trading Regulations and aims to prevent insider trading activity. It restricts the directors of a company and other specified employees from dealing in securities of the company on the basis of any unpublished price-sensitive information that is available to them by virtue of their position in the company.

SEBI is responsible for dealing with insider trading and market abuse in accordance with the provisions of the SEBI Act. Regulation 3A prohibits any company from dealing in the securities of another company or associate of that other company while in possession of any unpublished price-sensitive information. Therefore, misuse of information, making misleading statements and encouraging market abuse all fall under the ambit of insider trading.

The Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations prohibit manipulative, fraudulent and unfair trade practices. SEBI has recently published the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations 2011 (Takeover code 2011).

The regulator's powers of investigation, enforcement and prosecution:

SEBI has the powers of a civil court for the examination of witnesses or documents. Pending passage of the Securities Laws (Amendment) Bill, 2013 in parliament, an ordinance giving more powers to the SEBI to protect the interests of investors has been passed. SEBI can also, either during or after completion of the investigation / inquiry, in the interest of the investors or securities market:

- Suspend the trading of any security in a recognized stock exchange.
- Restrain persons from accessing the securities market and prohibit any person associated with the securities market from buying, selling or dealing in securities.
- Suspend any office-bearer of any stock exchange or self-regulatory organization from holding such position.
- Impound and retain the proceeds of securities in respect of any transaction that is under investigation.
- Direct any intermediary or any person associated with the securities market in any manner not to dispose of or alienate an asset forming part of any transaction that is under investigation.
- Appoint one or more officers to inspect the books and records of insider(s) or any other persons.
- Appoint a qualified auditor to investigate into the books of account or the affairs of an insider.

The potential sanctions for insider dealing and market abuse:

Insiders who violate the SEBI Regulations or any person indulging in fraud and unfair trade practices are liable to a penalty of up to INR250 million or three times the amount of profits made out of insider trading, whichever is higher.

SEBI may, in addition to the above, pass directions to the defaulting insider not to deal in the concerned shares in any particular manner and / or prohibit him from

disposing of the concerned shares and / or declaring the concerned transactions as null and void, and so on.

The Whistleblowers Protection (Amendment) Bill, 2015:

The government introduced amendments to the Whistle Blower's Protection Act, 2014, and tabled the Whistle Blower's Protection (Amendment) Bill, 2015, in the Lok Sabha on 11-05-2015, which was passed on 13-05-2015. The Bill is presently pending in the Rajya Sabha. The highlights of the bill are presented as follows:

- The Bill amends the Whistleblowers Protection Act, 2014.
- The Act provides a mechanism for receiving and inquiring into public interest disclosures against acts of corruption, willful misuse of power or discretion, or criminal offences by public servants.
- The Bill prohibits the reporting of a corruption related disclosure if it falls under any 10 categories of information.
- These categories include information related to: (i) economic, scientific interests and the security of India; (ii) Cabinet proceedings, (iii) intellectual property; (iv) that received in a fiduciary capacity, etc.
- The Act permits disclosures that are prohibited under the Official Secrets Act (OSA), 1923. The Bill reverses this to disallow disclosures that are covered by the OSA.
- Any public interest disclosure received by a Competent Authority will be referred to a government authorized authority if it falls under any of the above 10 prohibited categories. This authority will take a decision on the matter, which will be binding.

Ponzi Schemes:

Cheating of investors by unscrupulous companies takes many forms, such as: 'vanishing' after raising money through public offers; illegal collection of deposits in violation of Section 58A of the Companies Act, 1956; floating sham 'Collective

Investment Schemes (CIS)’ in violation of SEBI Act; collecting money from public by posing as ‘Non-Banking Financial Companies (NBFCs) in violation of RBI Act; and resorting to ‘Ponzi’ or money circulation schemes under the Prize Chits and Money Circulation Schemes (Banning) Act, 1978. A major reason for the proliferation of chit funds and fraudulent collective investment schemes is the absence of adequate regulations and, in some cases, the lack of clarity in laws. Chit funds are monitored by state governments, collective investment schemes by SEBI, and nonbanking finance companies (NBFCs) by the Reserve Bank of India (RBI).

While the RBI has acknowledged the menace of companies operating collective investment schemes in the name of chit funds, the onus of regulating them is with state governments. Although every NBFC has to be registered with the RBI, some categories of NBFCs, such as chit funds and stock broking firms, which are regulated by authorities such as state governments or SEBI, are exempted, to avoid dual regulation. The Chit Funds Act, 1982, says no scheme can begin without obtaining approval from the state government within whose jurisdiction it is to be conducted, and unless the fund is registered in that state. In such deposits schemes, the regulatory mechanism falls between several stools. No one is sure who is to regulate these companies - the Reserve Bank of India (RBI), the Registrar of Companies (RoC), or SEBI.

The RBI regulates deposits / investments of the public with NBFCs that are registered with RBI. Complaints received against companies posing as NBFC’s and Unincorporated bodies indulging in cheating / fraud are forwarded by RBI to the Economic Offenses Wing of the State Police for investigation and further action. Pending passage of the Securities Laws (Amendment) Bill, 2013 in parliament, an ordinance giving more powers to the SEBI to protect the interests of investors has been passed:

- Power to attach and liquidate properties and bank accounts.
- Search and seizure powers.
- Power to get information and records on any person or entity in India or outside.

- Legal sanctity to consent orders.
- Power to direct disgorgement of wrongful gains.
- Special courts for special resolutions of cases.
- All kinds of schemes floated - Ponzi, multi-level marketing and time-share - would now fall under SEBI's purview.

It is proposed to revamp the existing Market Research & Analysis Unit (MRAU) in the Serious Fraud Investigation Office (SFIO) to enable it to function as an intelligence unit. In its new avatar, the SFIO will be a statutory body with the ability to initiate prosecution when directed by the Central government. The investigation report filed by the SFIO with the criminal court, for framing of charges, will be deemed to be a report filed by the police under the Code of Criminal Procedure.

3.7. SEBI GUIDELINES ON PROHIBITION OF FRAUDULENT AND UNFAIR TRADE PRACTICES:

These regulations may be called the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003:

3.7.1. Prohibition of Certain Dealings in Securities: No person shall directly or indirectly - (a) buy, sell or otherwise deal in securities in a fraudulent manner; (b) use or employ, in connection with issue, purchase or sale of any security listed or proposed to be listed in a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of the Act or the rules or the regulations made there under; (c) employ any device, scheme or artifice to defraud in connection with dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange; (d) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with any dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange in contravention of the provisions of the Act or the rules and the regulations made there under.

3.7.2. Prohibition of Manipulative, Fraudulent and Unfair Trade Practices:

3.7.2.1. Without prejudice to the provisions of regulation-3, no person shall indulge in a fraudulent or an unfair trade practice in securities.

3.7.2.2. Dealing in securities shall be deemed to be a fraudulent or an unfair trade practice if it involves fraud and may include all or any of the following, namely: (a) indulging in an act which creates false or misleading appearance of trading in the securities market; (b) dealing in a security not intended to effect transfer of beneficial ownership but intended to operate only as a device to inflate, depress or cause fluctuations in the price of such security for wrongful gain or avoidance of loss; (c) advancing or agreeing to advance any money to any person thereby inducing any other person to offer to buy any security in any issue only with the intention of securing the minimum subscription to such issue; (d) paying, offering or agreeing to pay or offer, directly or indirectly, to any person any money or money's worth for inducing such person for dealing in any security with the object of inflating, depressing, maintaining or causing fluctuation in the price of such security; (e) any act or omission amounting to manipulation of the price of a security; (f) publishing or causing to publish or reporting or causing to report by a person dealing in securities any information which is not true or which he does not believe to be true prior to or in the course of dealing in securities; (g) entering into a transaction in securities without intention of performing it or without intention of change of ownership of such security; (h) selling, dealing or pledging of stolen or counterfeit security whether in physical or dematerialized form; (i) an intermediary promising a certain price in respect of buying or selling of a security to a client and waiting till a discrepancy arises in the price of such security and retaining the difference in prices as profit for himself; (j) an intermediary providing his clients with such information relating to a security as cannot be verified by the clients before their dealing in such security; (k) an advertisement that is misleading or that contains information in a distorted manner and which may influence the decision of the investors; (l) an intermediary reporting trading transactions to his clients entered into on their behalf in an inflated manner in order to increase his commission and brokerage; (m) an intermediary not disclosing to his client transactions entered into on his behalf including taking an option position; (n) circular transactions in respect of a security entered into between intermediaries in

order to increase commission to provide a false appearance of trading in such security or to inflate, depress or cause fluctuations in the price of such security; (o) encouraging the clients by an intermediary to deal in securities solely with the object of enhancing his brokerage or commission; (p) an intermediary predating or otherwise falsifying records such as contract notes; (q) an intermediary buying or selling securities in advance of a substantial client order or whereby a futures or option position is taken about an impending transaction in the same or related futures or options contract; (r) planting false or misleading news which may induce sale or purchase of securities.

3.8. FRAUDULENT AND UNFAIR TRADE PRACTICES CASES:

Some of the important fraudulent and unfair trade practices cases are presented as follows:

3.8.1. Cases during 2015-16: Interim and Adjudication Orders issued during this period is presented as follows:

3.8.1.1. Interim Orders: Issued by SEBI during this period are: M/s Mishka Finance and Trading Limited; Pine Animation Limited; Eco Friendly Food Processing Parks Limited (Eco), Esteem Bio Organic Food Processing Limited (Esteem), HPC Bio Sciences limited (HPC) and Channel Nine Entertainment Limited (CNE); Corrigendum to the order dated June 29, 2015 in the matter of Eco Friendly Food Processing Parks Limited, Esteem Bio Organic Food Processing Limited, Channel Nine Entertainment Limited and HPC Bio Sciences Limited; Mr. B. P. Jhunjunwala in the matter of First Financial Services Limited; Radford Global Limited; Kailash Auto Finance Limited; Incap Financial Services Limited (IFSL); Polytex India Limited (PIL); Mr. Manish Chaturvedi and others and Sharekhan Limited and its dealers in the matter of front-running operations.

3.8.1.2. Adjudication Orders: Issued by SEBI during this period are: M/s Todi Securities Pvt. Ltd. (in the matter of United Stock Exchange of India Ltd.); R M Shares Trading Private Limited; and Bala Reddy Gopu and 13 others in the matter of ICSA (India) Ltd.

3.8.2. Cases during 2014-15: Interim and Adjudication Orders issued during this period is presented as follows:

3.8.2.1. Interim Orders: Issued by SEBI during this period are: Mr. Mansoor Rafiq Khanda (Proprietor of M/s Indian Trading Company, M/s Option & M.C.X. King, M/s A To Z Solution and M/s Fullon Corporation) and Mr. Firoz Rafiq Khanda (Proprietor of M/s Fullon Corporation) SEBI passed an interim order on June 5, 2014, in the matter of giving trading tips by Mr. Mansoor Rafiq Khanda proprietor of M/s Indian Trading Company, M/s Option & M.C.X King, M/s A to Z Solution and M/s Fullon Corporation and Mr. Firoz Rafiq Khanda (proprietor of M/s Fullon Corporation). The directions passed in the order included prohibiting Mr. Mansoor Rafiq Khanda and Mr. Firoz Rafiq Khanda; M/s Kelvin Fincap Ltd; M/s Rasoya Protein Ltd; M/s Transgene Biotek Ltd. (Transgene); M/s Moryo Industries Ltd; M/s Radford Global Ltd. (RGL); M/s First Financial Services Ltd. (FFSL); M/s Cals Refineries Ltd; M/s Kamalakshi Finance Corp. Ltd. (KFCL).

3.8.2.2. Adjudication Order: Issued by SEBI during this period are: Against 27 entities in the matter of M/s Spectacle Infotek Ltd; Taksheel Solutions Ltd. and 15 Others; Order in the matter of complaints of Mr. Kimsuk Krishna Sinha in respect of M/s DLF Ltd. and M/s Sudipti Estates Pvt. Ltd. against M/s DLF Ltd. and seven other entities; M/s Satyam Computer Services Ltd. against Mr. B. Ramalinga Raju, Mr. B.

Rama Raju, Mr. Vadlamani Srinivas, Mr. G. Ramakrishna and Mr. V. S. Prabhakara Gupta; Order in the matter of M/s Sky Industries Ltd. against seven entities and one stock broker; Mr. Purshottam Khandelwal in the matter of M/s Gangotri Textiles Ltd; M/s Yes Investments and M/s Blue Peacock Securities Pvt. Ltd; M/s Onelife Capital

Advisors Ltd. against M/s Onelife Capital Advisors Ltd. and two others; M/s DLF Ltd. and M/s Sudipti Estates Ltd. against M/s DLF Ltd. And seven other entities; M/s DLF Ltd. and M/s Sudipti Estates Pvt. Ltd. against M/s Sudipti Estates Pvt. Ltd. and 33 other entities; M/s Teakwood Management Services Ltd. in the matter of M/s Edserv Softsystems Ltd; M/s Brooks Laboratories Ltd. against M/s Brooks Laboratories Ltd. and five others.

3.8.3. Cases during 2013-14: Interim and Adjudication Orders issued during this period is presented as follows:

3.8.3.1. Interim Orders: M/s Brooks Laboratories Ltd against M/s. Konark Commerce & Industries Ltd & 24 other entities; M/s. Bharatiya Global Infomedia Limited (BGIL) against Mr. V. P. Patel & 20 other entities; M/s Sumeet industries Limited against M/s Sumeet industries Ltd., and 13 other entities; M/s. Nakoda Textiles India Ltd, M/s. Gayatri Projects Ltd., M/s. Nandan Exim Ltd. and M/s. Trimurthi Drugs and Pharmaceuticals Ltd. against Mr. Rameshbhai V Shah & 9 other entities; M/s. Sanwaria Agro Oils Limited against Mr. Anil Agrawal & 8 other entities; Order in the matter of IPO of M/s RDB Rasayans Ltd. against Mr. Dave Harihar Kiritbhai; Order in the matter of IPO of M/s RDB Rasayans Ltd. against M/s BMD Exports Pvt. Ltd. and its Directors; M/s. RDB Rasayans Ltd., against M/s. Shreyanshnath Shares and Financial Services Pvt. Limited & its Directors; M/s. GHCL Ltd against M/s. GHCL Ltd; Order in the matter of M/s. Golden Tobacco Ltd against M/s. Golden Tobacco Limited; Mrs. Vibha Sharma, Mr. Jitendra Kumar Sharma in the matter of Central Bank of India; M/s. PM Telelinks Ltd and M/s. 8K Miles Software Solutions Ltd; Jigar group of entities in the matter of M/s. Polytex India Ltd., M/s. KGN Enterprises Ltd., and M/s. Gemstone Investments Ltd; M/s. Zylog Systems Ltd (ZSL); M/s. SMS Techsoft (India) Ltd.

Over the years of its inception SEBI has issued many interim and adjudication orders against various companies, brokers and other market players. The important reasons drawn from the cases studied are trading tips, rosy picture of financial statements, manipulation of price and volume, irregularity in trading, irregularity in IPOs, misrepresentation of financial statements, insider trading, takeover manipulations, and other manipulations and unfair trade practices.

3.9. STEPS TAKEN TO PREVENT THE OCCURRENCE OF FRAUDULENT AND UNFAIR TRADE PRACTICES BY SEBI:

SEBI has taken the following steps to prevent the occurrence of fraudulent and unfair trade practices (FUTP):

SEBI (PFUTP) Regulations, 2003 are in place.

Action is taken in terms of provisions of SEBI Act, 1992 which also includes adjudication proceedings for levy of monetary penalty. This also acts as a deterrent. SEBI imposed a monetary penalty of Rs.7,273.13 crore on 103 entities during 2015-16 as compared to Rs.241.7 crore in 2014-15.

Actions are taken in terms of provisions of the SEBI Act, 1992 which also includes adjudication proceedings for levy of monetary penalty. This also acts as a deterrent.

The total penalty imposed by SEBI in adjudication proceedings for the violations of SEBI (PFUTP) Regulations, 2003, was `Rs.241.7 crore in 2014-15 compared to Rs.134.7 crore in 2013-14. The total penalty imposed for 2014-15 includes Rs.23.3 crore imposed under SEBI (PFUTP) Regulations, 2003, SEBI (ICDR) Regulations, 2009 and SEBI (Stock Brokers and Sub-brokers) Regulations, 1992 as common orders were passed in certain matters during 2014-15.

The total penalty imposed by SEBI in adjudication proceedings for the violations of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to the Securities

Market) Regulations, 2003 was `134.65 crore in 2013-14 compared to `39.98 crore in 2012-13 representing a rise of 236.8 percent. However, the total penalty imposed in

2012-13, includes `1.96 crore imposed under SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to the Securities Market) Regulations, 2003 and SEBI (Stock Brokers and Sub-brokers) Regulations, 1992 as common orders were passed in certain matters during 2012-13.

3.10. MEASURES TO PREVENT FRAUDULENT AND UNFAIR TRADE PRACTICES:

India's capital market in the recent times has witnessed tremendous growth, characterized particularly by increasing participation of public. Investors' confidence in the capital market is sustained largely by ensuring investors' protection. Disclosure and transparency are the two pillars on which market integrity rests. In a major move to curb illegal activities, securities market regulator SEBI is bringing so many new initiatives under the ambit of fraudulent and unfair trade practices regulations from the time to time. The regulator is also bringing Collective Investment Scheme activities under the fraudulent and unfair trade practices umbrella after investors cried foul over losing money to ponzi schemes. Even though, there is a further scope to strengthen the prevention of fraudulent and unfair trade practices in the capital market. Hence, the following measures are suggested to prevented fraudulent and unfair trade practices:

3.10.1. Improve Risk Assessment and Awareness: The rules that have been introduced during the last twenty eight years to contain market risks seem to have operated reasonably well. Strict enforcement of these rules is as important as the rules themselves to effectively manage risk. In this regard, SEBI should more closely inspect intermediaries and the Stock Exchanges and, if necessary, strengthen punitive measures. SEBI introduced a Risk Management System which has taken several measures to improve the integrity of the secondary market. Legislative and regulatory changes have facilitated the corporatization of stockbrokers. Capital adequacy norms have been prescribed and are being enforced. A mark-to-market margin and intra-day trading limit have also been imposed. Further, the stock exchanges have put in place circuit breakers, which are applied in times of excessive volatility. The disclosure of short sales and long purchases is now required at the end of the day to reduce price volatility and further enhance the integrity of the secondary market.

3.10.2. Discover and Punish the Guilty: SEBI deals with securities fraud and aims to, among other things: protect the interests of investors in securities; promote the development of the securities market; regulate the securities market. In addition SEBI the Central Bureau of Investigation (CBI) and to the Joint Parliamentary Committee

(JPC) also involve if necessary for discovering and punishing the guilty. A special court was also set up to facilitate speedy trial of the accused. We have also has the Serious Fraud Investigation Office is a multi-disciplinary organization under the Ministry of Corporate Affairs, consisting of experts in the field of accountancy, forensic auditing, law, information technology, investigation, company law, capital market and taxation. It detects, prosecutes or recommends for prosecution of white-collar crimes / frauds. With the co-operation and co-ordination among all the officers the investigative bodies' fraud / scam must discover and punish the guilty as soon as possible.

3.10.3. Recover the Money: Some of the regulatory actions SEBI undertook came under scathing criticism from some quarters who accused it of still being clueless about its supervisory duties. The regulator still continued believing that its only priority was to prevent a fall in stock prices. The draconian provisions of the Ordinance for attachment of property and voiding of all transactions with the consequent creation of "tainted" shares were attempts in this direction. So, it is suggested that the market regular should also work in this regard to recover the money as soon as possible and distribute among the investors who lost their money in the various fraudulent and unfair trade practices.

3.10.4. Reform the System: The government's response consisted of measures like banning of RF deals and going slow on liberalization. The market watchdog, Securities and Exchange Board of India, banned Harshad Mehta for life from stock market-related activities. There cannot be two opinions on the need for identifying and punishing the guilty. The principal objective behind punishing the offenders was more to deter future offenders and restore the confidence of the investors. However, the government ensured that not only the obviously guilty (the brokers), but also the not so obviously guilty (the bank executives, the bureaucrats and perhaps the politicians) were identified and brought to book. Investigations of this kind are necessarily time consuming and expensive, but they have to be gone through, so that the credibility of the system be restored. A rule of thumb which is often quoted throughout the world is that investigation of any fraud may cost as much as the magnitude of the fraud itself. One can, therefore, expect the real costs of the scam investigation to be of the order of a couple of thousand crore at least.

3.10.5. Integration of Money and Capital Market: The other lesson from the scam is that artificial insulation of closely related markets from each other is counterproductive in the long run. Just as water finds its own level, money also seeks out the highest levels of return after due adjustments for risk and liquidity. Even after twenty years of progressive liberalization of the Indian financial markets, artificial barriers still exist between the money market and the stock market, between the market for corporate securities and the market for government securities and between the formal money market and the informal one. It is necessary to allow for the integration of these markets to encourage the smooth flow of transactions and growth. This integration will allow a coherent yield curve to emerge covering the entire financial markets. With the integration of these markets it is very easy to identify the guilty and recover the money from scamsters.

3.10.6. Introduce Repurchase Agreement: In most of the capital market unfair and fraudulent trading activities the modus operandi used was the Ready Forward deal, which was not a loan at all. The borrowing bank actually sold the securities to the lending bank and bought them back at the end of the period of the deal at a slightly higher price. The price difference represented the profit on the deal. The Ready Forward is what in other countries is known as a repurchase agreement. It is a very safe and secure form of lending and is very common throughout the world. The US Repo Market, for example, is about a hundred times larger than the Indian Ready Forward market. However, in the Indian Capital Market, the brokers managed and got hold of the system and engineered it for their benefit.

3.10.7. Improve Transparency: SEBI has formed a number of committees of eminent experts and market practitioners to support it in the design of reforms for different aspects of Securities Markets. The regulator posts all its orders, including those delivered on appeals against its orders, on its website. On request, it provides informal guidance on payments of nominal fees and issues an Action letter so that the participants can seek clarification on any aspect and adopt an appropriate business strategy that conforms to the applicable regulations. SEBI has put timelines for performance of its various functions, such as registration and renewal, on the website. These measures work as a self-disciplining mechanism within SEBI and provide full transparency to its functioning.

3.10.8. Upgrade the Quality of Secondary Market: The quality of the secondary market of India has been tremendously upgraded. The deafening noise of an outcry trading system has been replaced with the silence of the electronic consolidated anonymous limit order book, with price-time priority matching accessible through more than 10,000 terminals spread over 400 cities and towns across the Indian subcontinent. It is not an over evaluation to say that it is something perhaps without a parallel in the world. Transaction costs are lower, compared with those of the most developed markets.

3.10.9. Create Positive Corporate Culture: Every organization has a culture. Some are more positive than others. Culture is the sum total of everything that has been and continues to be on going in an organization. Knowing the various aspects of securities market culture can clearly guide the participants to a better understanding of trading rules and procedures and approaches to increased transparency, perhaps with the use of valuable technology. Corporate culture influences the way participants think, what traders do, how market work, and what is acceptable in the securities market environment. Hence, the market regulator should cultivate the corporate culture among the various market players in turn this may help the transparency and ethical practices in the capital market.

3.10.10. SEBI to Revise Rules to Reinstate Discretionary Power on Penalties: India's capital market regulator may soon frame rules allowing it to levy monetary penalties for rule violations in proportion to the net worth of companies that, in the past, have been slapped with large fines they couldn't afford to pay. The Securities and Exchange Board of India will not revise the lower and upper limit prescribed for various misdemeanours, but will start to determine the penalty amount keeping a company's net worth in context. The penalty starts from Rs.1 lakh a day. It can go up to Rs.25 crore, or three times the gains made by the defaulter through rule violations, whichever is higher. The re-look comes after the Supreme Court in November upheld an Rs.1 crore penalties imposed on Roofit Industries Ltd by SEBI that had been revised lower by the Securities Appellate Tribunal. Upholding the original penalty imposed by SEBI, the court said the existing framework didn't allow the regulator any discretionary power in deciding on the amount of penalty levied within the prescribed band. Hence, SEBI has to revise rules to reinstate discretionary power on penalties.

3.11. CHAPTER SUMMARY:

SEBI's regulatory Act for the regulation of unfair trade practices in the securities market has widened the scope for the remedy of unfair and fraudulent trade practices. The Act initially defines the terms Fraud and Fraudulent and then in chapter II, it prohibits certain actions in securities market which amounts to unfair and fraudulent. The Act regulates such trade practices and by that widens the scope for the remedy of unfair / fraudulent trade practices. The SEBI is prohibiting the unfair offences such as scalping, rumour, front running, circular trading, making the close, pump and dump and ponzi schemes from the time to time.

In addition to SEBI, there are other regulatory authorities like Reserve Bank of India, Serious Fraud Investigation Office, Ministry of Corporate Affairs, National Financial Regulatory Authority, Central Bureau of Investigation, Company Law Board, Economic Intelligence Council, Indian Penal Code, etc., are also actively participating in the prevention of unfair and fraudulent trade practices in the Indian capital market. The important measures suggested in this chapter to prevent fraudulent and unfair trade practices are: to improve risk assessment and awareness; to discover and punish the guilty; to recover the money from fraudsters; to reform the existing stock trading rules, key norms governing stock exchanges, clearing corporations and market intermediaries such as brokers and depository participants; to integrate money and capital markets; to introduce repurchase agreement; to improve transparency; to upgrade the quality of secondary market; and to create positive corporate culture; to revise rules to reinstate discretionary power on penalties.

CHAPTER-4

ROLE OF SEBI IN THE PROTECTION OF INVESTORS

4.1. INTRODUCTION:

Investors are the backbone of the securities market. Protection of their interests is paramount important and duty of the market regulators. They are expected to be alert and active, at the time, after and even continue to make an investment. Technically, an investor is also a buyer, therefore, buyers beware or the caveat emptor applies to him. This principle suggests that a person who buys is responsible for finding any faults in the thing that he buys is also applicable to him. But the problem is that the financial products of investment in capital market never be in terms of physical assets like Land & Building. In fact, these products are Shares and Securities; either purchased from primary or secondary market. Therefore, a number of regulatory authorities in the financial market (i.e., capital and money market) such as Department of Company Affairs, Company Law Board, Ministry of Finance, Securities and Exchange Board of India, Reserve Bank of India, etc., are functioning together for investors' protection, developing a number of measures, specially giving focus upon disclosures under the powers given by the Companies Act, 2013, the Securities (Contracts) Regulation Act, 1956 the Securities and Exchange Board of India Act, 1992, the Reserve Bank of India Act, 1938, the Banking Regulation Act, 1949 etc.

The Securities and Exchange Board of India Act, 1992 (the SEBI Act) was amended in the years 1995, 1999 and 2002 to meet the requirements of changing needs of the securities market and responding to the development in the securities market. The Primary function of Securities and Exchange Board of India under the SEBI Act, 1992 is the protection of the investors' interest and the healthy development of Indian financial markets. No doubt, it is very difficult and herculean task for the regulators to prevent the scams in the markets considering the great difficulty in regulating and monitoring each and every segment of the financial markets and the same is true for the Indian regulator also. But what are the responsibilities of the regulators to set the system right once the scam has taken place, especially the responsibility of redressing the grievances of the investors so that their confidence is restored? The redressal of investors' grievances, after the scam, is the most challenging task before the regulators all over the world and the Indian regulator is not an exception. SEBI had issued guidelines for the protection of the investors through the Securities and Exchange Board of India (Disclosure and Investor Protection) Guidelines, 2000.

4.2. OBJECTIVES OF THE CHAPTER:

This chapter is aimed at analyzing powers and initiatives of SEBI to conduct investors' awareness/assistance/education programs, measures for the redressal of investor grievances, initiate punitive/preventive measures against the erring companies apart from covering various strategies for building up investors' confidence in the Indian capital market. The important objectives of this chapter are as follows:

- 1) To analyze the Powers of SEBI to take Punitive or Preventive Measures.
- 2) To study the Role of SEBI for the Redressal of Investor Grievances in the Indian Capital Market.
- 3) To explain the Investors' Awareness / Assistance / Education Programs of SEBI.
- 4) To suggest the measures for strengthening Investors' Confidence in the Indian Capital Market.

4.3. POWERS OF SEBI TO TAKE PUNITIVE / PREVENTIVE MEASURES:

The SEBI Act gives powers to take punitive / preventive action ranging from the power to issue directions under section 11B, power to issue cease and desist orders under section 11D, several powers under section 11(4), power to cancel or suspend registration under section 12(3), and power to levy penalties under Chapter VIA. The Act also gives power to SEBI to file prosecutions under section 24 for contravention of provisions of the Act or Regulations.

The powers to take action under these sections and the procedural safeguards provided in each type of action are presented below:

4.3.1. Directions under Section 11 B / 11 (4): Section 11 B provides that actions may be taken after making or causing an enquiry to be made. Although the Act here does not specifically mention that opportunity of hearing is to be given unlike in sections 11(4) and 12(3), in keeping with the principles of natural justice, orders under section 11B are passed mostly after giving a hearing. The hearing is held before Chairman/Member. The enquiry referred to in the section may be done through an investigation/inspection ordered by the Board for fact finding and gathering evidence.

Action under section 11B is taken against entities and registered intermediaries mentioned in section 11 B (iii). Section 11 (4) introduced in the 2002 amendment which gives additional powers to SEBI for issuing directions has a specific provision that hearing shall be given “before or after passing such orders”. The action can be taken pending investigation or enquiry or on completion of investigation or enquiry.

4.3.2.. Suspension / Cancellation of Registration: Section 12 (3) under the Chapter V on Registration Certificate states that “the Board may, by order, suspend or cancel a certificate of registration in such manner as may be determined by regulations and Provided that no order under this sub-section shall be made unless the person concerned has been given a reasonable opportunity of being heard”.

4.3.3. Monetary Penalties: Chapter VIA of the SEBI Act lays down the conditions and procedure for levy of monetary penalty on persons related to securities market or registered intermediaries. The Act states that “the Board shall appoint any of its officer not below the rank of a Division Chief to be an adjudicating officer for holding an inquiry in the prescribe manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty”.

4.3.4. Inquiry/Enquiry/Investigation: Investigations are undertaken with a view to examine alleged or suspected violations as well as to gather evidence and identify persons/entities behind irregularities and violations such as: (i) price manipulation; (ii) creation of artificial market; (iii) insider trading; and (iv) public issue related irregularities, takeover violations and other misconducts, etc. Investigation is conducted at three stages. They are: (i) Preliminary Investigation, (ii) Formal Investigations and (iii) Post Investigative Proceeding. The experience gained during investigation has contributed to evolve policies and procedures in the regulatory and enforcement environment. Investigations by SEBI over a period of study are presented in table-4.1.

Table-4.1: Investigations by SEBI			
Year	Cases Taken up for Investigation	Cases Completed	Cases Completed as a % of Cases Taken Up
1992-93	2	2	100
1993-94	3	3	100
1994-95	2	2	100
1995-96	60	18	30
1996-97	122	55	45.08
1997-98	53	46	86.79
1998-99	55	60	109.09
1999-00	56	57	101.79
2000-01	68	46	67.65
2001-02	111	29	26.13
2002-03	125	106	84.8
2003-04	121	152	125.62
2004-05	130	179	137.69
2005-06	159	81	50.94
2006-07	120	102	85
2007-08	25	169	676
2008-09	76	83	109.21
2009-10	71	74	104.23
2010-11	104	82	78.85
2011-12	154	74	48.05
2012-13	155	119	76.77
2013-14	107	120	112.15
2014-15	70	122	174.29
2015-16	133	123	92.48
2016-17	245	155	63.27
Total	2327	2059	2785.88
Average	93.08	82	111.44
Correlation	cases taken up for investigation and cases completed		0.58
t-Test (p-value)	No significant difference in cases taken up for investigation and cases completed		0.29
Source: Compiled from annual reports of SEBI.			

From the table-4.1, it is observed that during 2016-17, 245 new cases were taken up for investigation as against 2 in the initial year. Over the years, SEBI has undertaken 2327 total investigation cases of which 2059 cases have been completed. The highest numbers of new cases were taken up for investigation (245) during 2016-17 and

completed (179) during 2004-05. The average number of cases taken up for investigation and completed is 93 and 82 respectively. The cases completed as a percentage of cases taken up range between 26.13 percent and 676.00 percent. This is also proved with the help of Co-efficient of Correlation and it is at 0.58. The p value (0.29) is less than alpha value at 5 percent level of significance. Therefore, we reject the null hypothesis which states that there is no significant difference in the cases taken up for investigation and investigations completed.

The nature of investigation cases is divided into 5 elements, namely Market Manipulation and Price Rigging; Capital Issue related Manipulation; Insider Trading; Takeovers; and Miscellaneous. All the elements will be analyzed separately for investigation cases taken up and investigation cases completed. The nature of investigations taken up by SEBI during 1996-97 to 2016-17 is presented in table-4.2.

Table-4.2: Nature of Investigations Taken Up by SEBI						
Year	Market Manipulation and Price Rigging	Issue Related Manipulation	Insider Trading	Takeovers	Miscellaneous	Total
1996-97	67	35	4	3	13	122
1997-98	29	15	5	3	1	53
1998-99	40	4	4	6	1	55
1999-00	47	2	3	1	3	56
2000-01	47	5	6	1	9	68
2001-02	86	1	16	1	7	111
2002-03	95	2	13	9	6	125
2003-04	96	2	14	2	7	121
2004-05	110	2	7	1	10	130
2005-06	137	3	6	4	15	165
2006-07	95	0	18	2	5	120
2007-08	12	0	7	2	4	25
2008-09	52	2	14	3	5	76
2009-10	44	2	10	2	13	71
2010-11	56	6	28	4	10	104
2011-12	73	35	24	2	20	154
2012-13	86	43	11	3	12	155
2013-14	67	6	13	6	16	108
2014-15	41	3	10	3	13	70
2015-16	84	9	12	2	26	133
2015-16	60	20	20	2	21	123
2016-17	118	5	15	4	13	155
Total	1,542	202	260	66	230	2,300
Average	70.09	9.18	11.82	3.00	10.45	104.55
Source: Compiled from SEBI Annual Report.						

From the table-4.2, it is observed that, total number of investigations taken up by SEBI during 1996-97 to 2016-17 was 2,300. Of the total cases taken up, 70.09 percent, 9.18 percent, 11.82 percent, 3.00 percent, and 10.45 percent pertained to market manipulations and price rigging, issue related manipulation, insider trading, takeovers, and miscellaneous respectively. Many cases were taken up for investigation on the basis of multiple allegations of violations and hence, strict classification under specific category becomes difficult. Such cases have been classified on the basis of main charge / violations. Finally, it can be concluded that the percentage of market manipulations and price riggings was registered very high among the other reasons. Therefore, SEBI has to take necessary action for the control of market manipulations and price rigging.

The nature of investigation cases completed will be also investigated in terms of the five violations: Market Manipulation and Price Rigging; Capital Issue related Manipulation; Insider Trading; Takeovers; and Miscellaneous in a time span from 1996-97 to 2016-17. The details are presented in table-4.3.

Table-4.3 shows that the nature of investigations completed by SEBI. The nature of investigations completed by SEBI in the first two years i.e., 1996-97 and 1997-98 are nil. The total number of investigations completed by SEBI during 1998-99 and 2016-17 are 1,912 cases. Of the total number of investigations completed 1,276, 158, 233, 60, and 198 are related to market manipulations and price rigging, issue related manipulations, insider trading, takeovers and miscellaneous respectively. Of the total percentage of cases completed during the period were 67.16 percent, 8.32 percent, 12.26 percent, 3.16 percent, and 10.42 percent of cases pertaining to market manipulations and price rigging, issue related manipulations, insider trading, takeovers and miscellaneous respectively. It is found that there is a gap in nature of investigations taken up and completed by SEBI during the period. The higher the percentage of gap found in market manipulations and price rigging.

To safeguard the investors' interest in an effective market, the investigation cases must be concluded at the right time and suitable preventive actions must be taken in case of violations of established securities laws. It is also important to raise the

investors' confidence and trust in the market; hence SEBI is endeavoring to develop investigative skills through utilizing Information Technology.

Table-4.3: Nature of Investigations Completed by SEBI						
Year	Market Manipulation and Price Rigging	Issue Related Manipulation	Insider Trading	Takeovers	Miscellaneous	Total
1996-97	0	0	0	0	0	0
1997-98	0	0	0	0	0	0
1998-99	31	16	4	6	3	60
1999-00	37	8	5	0	7	57
2000-01	27	8	4	3	4	46
2001-02	11	0	6	1	3	21
2002-03	72	8	14	7	5	106
2003-04	122	3	9	3	15	152
2004-05	148	2	10	2	17	179
2005-06	62	1	8	3	7	81
2006-07	77	4	10	3	8	102
2007-08	115	3	28	2	21	169
2008-09	62	1	12	1	7	83
2009-10	46	7	10	5	6	74
2010-11	51	2	15	4	10	82
2011-12	37	4	21	2	10	74
2012-13	41	52	14	2	10	119
2013-14	73	12	13	6	16	120
2014-15	86	3	15	3	15	122
2015-16	60	20	20	2	21	123
2016-17	118	4	15	5	13	142
Total	1,276	158	233	60	198	1,912
Average	67.16	8.32	12.26	3.16	10.42	100.63
Source: Compiled from SEBI Annual Reports.						

The International Organization of Securities Commissions (IOSCO) underscored the significance of an organized investigation in its Principles for the Enforcement of Securities Regulation while SEBI has developed investigations to explore any possibility of violations of laws and regulations of securities market. These potential violations may involve price manipulation, creation of artificial market, insider trading, and capital issue related irregularities, takeover related violations, non-compliance of disclosure requirements and any other misconduct in the securities markets. To initiate an investigation there are many different sources to refer. To start, SEBI utilized references available from sources such as stock exchanges, internal

surveillance department, other government departments, information submitted by market participants and complainants, investigation may also start on its own initiatives where there are enough reasons for the investors' interests' being breached or the securities laws' being manipulated.

Penal measures are taken, after investigations are completed, based on what is recommended in investigation reports which have to be also affirmed by an authority. The recommended action should observe the principles of objectivity, consistency, materiality, as well as the reliability of the evidences available. The action included "issuing warning letters, initiating enquiry proceedings for registered intermediaries, initiating adjudication proceedings for levy of monetary penalties, passing directions under Section 11 of SEBI Act, 1992, and initiating prosecution and referring matter to other regulatory agencies." SEBI has laid more stress on issuance of prohibitive orders following Section 11 of the SEBI Act, 1992 which enjoy a profitable deterrence effect and work as an effective tool in circumstances calling for urgent reactions. The relevant information is presented in table-4.4.

Table-4.4 presents details of regulatory action initiated by SEBI against various companies on the basis of investigations. The total regulatory actions were taken 12,907 companies during 1996-97 to 2016-17. Of the total actions taken by SEBI pertain to cancellation, suspension, warning issued / warning letter issued / deficiency observations issued / advice letter issued, prohibitive directions issued under Section 11B of SEBI Act, issues refunded / options given / adjudication orders passed were 52, 600, 3,019, 7,806, and 2,144 respectively. This indicates an increased level of action against the enrolling companies by SEBI over a period of study. The highest average number of actions was taken by SEBI by issuing order under Section 11B, warnings and adjudication is 2,189 during the year 2015-16. 712 show cause notices were served to Non-Financial Intermediaries in 2004-05 which were found to have committed various violations, as against 438 in the previous year indicating an increase of 63 percent.

Warning issued had been fluctuating until it finally reached its peak in 2008-09 and then had a descending move. All the other four types, namely Prohibitive Directions Issued under Section 11B of the SEBI Act; Cancellation; Administrative Warning /

Warning Letter Issued and Deficiency Observations Issued; and Advice Letter Issued, reached their peak in 2011-2012 testifying to SEBI's laying the most stress on deterring and detecting violations. Hence, it is concluded that the SEBI is playing an active role in the protection of interests of investors by punishing wrong doing companies, institutions and intermediaries in the Indian capital market.

Table-4.4: Action Taken by SEBI						
Year	Cancellation	Suspension	Warning Issued / Warning Letter Issued / Deficiency Observations Issued / Advice Letter Issued	Prohibitive Directions Issued Under Section 11B of SEBI Act	Issues Refunded / Options Given / Adjudication Orders Passed	Total
1996-97	0	0	0	0	0	0
1997-98	2	39	9	10	3	63
1998-99	0	16	17	62	2	97
1999-00	4	30	28	58	1	121
2000-01	1	4	9	21	4	39
2001-02	1	8	36	98	0	143
2002-03	11	42	62	140	2	257
2003-04	3	43	22	106	0	174
2004-05	3	42	53	134	0	232
2005-06	2	36	71	632	0	741
2006-07	0	52	27	345	0	424
2007-08	0	44	48	537	0	629
2008-09	0	46	179	230	6	461
2009-10	0	48	37	691	156	932
2010-11	5	36	17	268	63	389
2011-12	0	16	951	487	32	1486
2012-13	6	61	43	392	522	1024
2013-14	1	9	537	270	619	1436
2014-15	5	19	274	310	685	1293
2015-16	8	2	496	2189	32	2727
2016-17	0	7	103	826	17	239
Total	52	600	3019	7806	2144	12907
Average	2.6	29.65	145.8	349	106.35	633.4
Source: Compiled from SEBI Annual Reports.						

4.3.5. Prosecution: Section 24(1) of the SEBI Act provides that “without prejudice to any award of penalty by the Adjudicating Officer under this Act, if any person contravenes or attempts to contravene or abets the contravention of the provisions of

this Act or of any rules or regulations made hereunder, he shall be punishable with imprisonment for a term which may extend to ten years, or with fine, which may extend to twenty-five crore rupees or with both”. The details regarding number of persecutions launched and number of persons / entities against whom prosecution has been launched is presented in table-4.5.

Table-4.5: Prosecutions Launched during 1995-96 to 2016-17				
Year	No. of cases in which Prosecution Has Been Launched	% to Total	No. of persons/ Entities against Whom Prosecution Has Been Launched	% to Total
1995-96	9	0.54	67	0.01
1996-97	6	0.36	46	0.01
1997-98	8	0.48	63	0.01
1998-99	11	0.66	92	0.02
1999-00	25	1.50	154	0.03
2000-01	28	1.68	128	0.03
2001-02	95	5.71	512	0.11
2002-03	229	13.75	864	0.18
2003-04	480	28.83	2,406	0.51
2004-05	86	5.17	432	0.09
2005-06	30	1.80	101	0.02
2006-07	23	1.38	152	0.03
2007-08	40	2.40	185	0.04
2008-09	29	1.74	114	0.02
2009-10	30	1.80	109	0.02
2010-11	17	1.02	67	0.01
2011-12	29	1.74	60	0.01
2012-13	75	4.50	150	0.03
2013-14	269	16.16	652	0.14
2014-15	67	4.02	157	0.03
2015-16	46	2.76	268	0.06
2016-17	33	1.98	237	0.05
Total	1,665	100.00	7,016	100.00
Average	76		319	
Source: Compiled from SEBI Annual Reports.				

Table-4.5 shows the data relating to prosecutions launched by SEBI. The number of prosecutions launched against companies, persons and entities have declined substantially in 2016-17 as compared to 2013-14. The more number of prosecutions

has been launched in 2002-03, 2003-04, and 2013-14. There is more number of persons / entities against whom prosecution has been launched in the year 2003-04. Total number of cases in which prosecution has been launched and number of persons / entities against whom prosecution has been launched during the period is 1,665 and 7,016 respectively. On average there was 76 and 319 number of cases in which prosecution has been launched and number of persons / entities against whom prosecution has been launched respectively. It is observed from the study that the number of cases and prosecution against persons and entities has been fluctuating over the study period.

An account of the number of prosecution cases launched in four different regions, namely Head Office / Western Region, Northern Region, Southern Region, and Eastern Region is provided in table-4.6.

Table-4.6 shows that 53 percent of the cases belonged to the western region while 27.6 percent cases related to the northern region. The percentage shares of southern and eastern regions were 9.7 percent and 9.11 percent, respectively. Western and Northern regions stood at first and second respectively in the case of number of cases prosecuted. This attitude in the Western and Northern region must be controlled by SEBI and initiate the necessary course of action.

The numbers of prosecutions launched under various sections of different Acts, namely Securities and Exchange Board of India Act, 1992; SEBI Act & Securities Contracts (Regulation) Act, 1956; SEBI Act, SCRA & Companies Act; SEBI Act & Companies Act; SEBI Act & Indian Penal Code; Companies Act, 1956; Securities Contracts (Regulation) Act, 1956; Depositories Act, 1996; and Indian Penal Code are provided for each year in the time span of March 31st, 2004 to March 31st, 2016 in table-4.7.

Table-4.6: Region-wise Data on Prosecution						
Year	Head Office / Western Region	Northern Region	Southern Region	Eastern Region	Total	Average
1996-97	360	221	187	114	882	221
1997-98	46	18	21	26	111	28
1998-99	29	10	9	10	58	15
1999-00	46	13	27	7	93	23
2000-01	43	10	89	9	151	38
2001-02	23	3	7	2	35	9
2002-03	13	1	9	3	26	7
2003-04	306	408	95	0	809	202
2004-05	465	322	105	77	969	242
2005-06	491	326	112	85	1,014	254
2006-07	502	326	112	86	1,026	257
2007-08	539	327	113	86	1,065	266
2008-09	556	337	114	86	1,093	273
2009-10	595	345	97	92	1,129	282
2010-11	612	345	96	93	1,146	287
2011-12	641	345	96	93	1,175	294
2012-13	709	346	96	99	1,250	313
2013-14	906	347	96	170	1,519	380
2014-15	970	347	98	171	1,586	397
2015-16	1,002	351	102	177	1,632	408
2016-17	1,004	358	109	194	1,665	416
Total	9,858	5,106	1,790	1,680	18,434	4,612
Average	469.43	243.14	85.24	80.00	877.81	219.63
Source: Compiled from SEBI Annual Reports.						

Table-4.7 depicts the nature of prosecutions launched under various sections of different Acts. The prosecutions have been launched under the Companies Act, SEBI Act, Depositories Act, Securities Control (Regulation) Act and the Indian Penal Code. Of the 1,645 cases, 1,415 have been taken up under the SEBI Act, 1992; 75 under Companies Act, 1956; and 29 under Depositories Act, 1996. Prosecutions are launched to communicate a tough approach for implementation of regulatory penalties. Different sections of SEBI Act, Securities Control (Regulation) Act and

relevant sections of Companies Act were also invoked to impose penalties on defaulting parties.

Table-4.7: Nature of Prosecutions Launched

Year (as on March 31)	SEBI Act, 1992	SEBI Act & SCRA, 1956	SEBI, SCRA & Comp anies Act	SEBI Act & Comp anies Act	SEBI Act & Indian Penal Code	Compa nies Act, 1956	SCRA, 1956	Deposit ories Act, 1996	Indian Penal Code	Total
2004	795	0	0	0	0	59	14	13	5	886
2005	875	0	0	0	0	60	16	13	5	969
2006	920	0	0	0	0	60	16	13	5	1,014
2007	930	0	0	0	0	62	16	13	5	1,026
2008	966	0	0	0	0	62	16	13	8	1,065
2009	992	0	0	0	0	64	16	13	8	1,093
2010	934	91	1	1	5	70	5	14	8	1,129
2011	951	91	1	1	5	70	5	14	8	1,146
2012	980	91	1	1	5	70	5	14	8	1,175
2013	1,053	91	1	3	5	70	5	14	8	1,250
2014	1,301	94	2	3	5	70	7	29	8	1,519
2015	1,366	94	2	3	5	72	7	29	8	1,586
2016	1,405	97	2	4	5	75	7	29	8	1,632
2017	1,415	97	4	5	5	75	7	29	8	1,645
Source: Compiled from Annual Reports of SEBI.										

4.4. ROLE OF SEBI FOR THE REDRESSAL OF INVESTOR GRIEVANCES IN THE INDIAN CAPITAL MARKET:

Investors may have grievance against different entities and bodies, namely Grievances against listed companies; Grievances against stock brokers and depository participants; Grievances against other intermediaries; grievances against Mutual Funds; Grievances relating to brokers and sub-brokers; grievances against DPs, Registrars, merchant bankers, debenture trustee, banker to the issue; grievances against stock exchanges, depositories and clearing and settlement organizations; grievances against derivative exchanges; and grievances pertaining to other public issues.

Various departments have been co-operating in following up the redressal of grievances in recent years. To speed up the redressal of investors, SEBI has taken different measures. SEBI has provided both an online and physical facilities for

redressal of the complaints. Since 2011, SEBI Complaints Redress System (SCORES) has been providing an online chance for lodging the investors' grievances which can be traced online till their closure. For those investors who have no familiarity or access to SCORES, the physical form of lodging the complaint is also available; these complaints will also be scanned and uploaded in SCORES for later process.

A list will be provided of the name of companies mentioned in the complaints of the investors. The specified companies will be monitored and required to answer the complaints in the form of Action Taken Report (ATR), based on which the grievances will be updated. In case the explanations provided by the companies are not sufficient, due actions will be launched. Grievances on stock brokers and depository participants are processed by concerned stock exchange and depository for redressal, and supervised by the related department through the reports submitted by them. Grievances on other intermediaries are received by them and are continuously supervised by concerned department of SEBI which will take the due actions.

Dedicated investor helpline telephone numbers (022-26449188 & 26449199) provide the investors with general information on securities markets and how to file a grievance and which authority to recourse to. In case the investors' grievance is not within the purview of SEBI, it will still guide the investors in approaching the appropriate authority. The status of investor grievances received and redressed during the period 1991-92 to 2016-17 is presented in table-4.8.

Table-4.8 shows the data relating to Redressal of Investors Grievances by SEBI. During the period 1991-92 to 2016-17, SEBI has received 30,03,454 cumulative grievances from investors. Of this, a total of 28,76,382 cumulative grievances were attended by respective entities. We found from the data of the table that the average redressal rate was at 98. The relationship between grievances received and redressed is positively correlated (0.87). This is also proved by the t-Test. The calculated value of t (0.71) is greater than the table value and hence the given correlation coefficient is highly significant. We suggest that the SEBI has to improve its performance to meet the international standards.

Table-4.8: Redressal of Investor Grievances by SEBI					
Year	Grievances Received		Grievances Redressed		Redressal Rate (%)
	During the Period	Cumulative	During	Cumulative	
			the Period		
1991-92	18,794	18,794	4,061	4,061	21.6
1992-93	1,10,317	1,29,111	22,946	27,007	20.8
1993-94	5,84,662	7,13,773	3,39,517	3,66,524	58.1
1994-95	5,16,080	12,29,853	3,51,842	7,18,366	68.2
1995-96	3,76,478	16,06,331	3,15,652	10,34,018	83.8
1996-97	2,17,394	18,23,725	4,31,865	14,65,883	198.7
1997-98	5,11,507	23,35,232	6,76,555	21,42,438	132.3
1998-99	99,132	24,34,364	1,27,227	22,69,665	128.3
1999-00	98,605	25,32,969	1,46,553	24,16,218	148.6
2000-01	96,913	26,29,882	85,583	25,01,801	88.3
2001-02	81,600	27,11,482	70,328	25,72,129	86.2
2002-03	37,434	27,48,916	38,972	26,11,101	104.1
2003-04	36,744	27,85,660	21,531	26,32,632	58.6
2004-05	53,409	24,95,089	53,282	23,40,929	99.8
2005-06	40,485	25,35,574	37,067	23,77,996	91.6
2006-07	26,473	25,62,047	17,899	23,95,895	67.6
2007-08	54,933	26,16,980	31,676	24,27,571	57.7
2008-09	57,580	26,74,560	75,989	25,03,560	132
2009-10	32,335	27,06,895	42,742	25,40,302	132.2
2010-11	56,670	27,63,565	66,552	26,12,854	117.4
2011-12	46,548	28,10,113	53,841	26,66,695	115.7
2012-13	42,411	28,52,524	54,852	27,21,547	129.3
2013-14	33,550	28,86,074	35,299	27,56,846	105.2
2014-15	38,442	29,24,516	35,090	27,91,936	91.3
2015-16	38,938	29,63,454	35,145	28,27,081	90.3
2016-17	40,000	30,03,454	49,301	28,76,382	123.25
Average	1,28,747		1,23,899		98
Correlation	(grievances received and redressed)				0.87
t-Test	(No significant difference in grievances received and redressed)				0.71
(p-value)					
Source: Compiled from SEBI Annual Reports.					

4.4.1. Shortages in the Existing Grievance Redressal System: By examining the existing grievance redressal mechanism system the following shortages are presented as follows:

No Centralized Database: Besides the database of the Office of Investor Assistance and Education (OIAE), there are various grievances' databases at difference divisions

and regional offices of SEBI. Lack of a centralized database is a burden in an efficient monitoring of the redressal status of grievances at various divisions of SEBI, and accordingly answering the investors' queries.

Delay in Redressal: The step by step process of receiving the investor's grievance, whether electronically or physically, recording it in SEBI's inward system, adding it to OIAE's database, forwarding it to the respective division of SEBI, the very division's adding it a new to its database, cause a considerable delay before putting the investor's received grievance into action. The redressal of grievances launched after such a considerable lapse of time in physical transfer of documents may sometimes result in irreparable losses.

Loss or Misplacement of Records: In the above mentioned process of transfer of documents to various divisions and offices of SEBI and then to intermediaries, there is a considerable chance of loss / misplacement of grievance files.

Storage: Since the foundation of SEBI, it has received more than 2.7 million grievances, storage and maintenance of which is an immense task and in need of large space.

4.4.2. Improvements Planned by SEBI: To improve the existing grievance redressal system, SEBI is utilizing a web-based centralized mechanism called SCORES (SEBI Complaints Redress System) to upgrade the investor grievance redressal mechanism. Some of the main features of this new system are as follows:

SCORES is a centralized grievances tracking system for the entire SEBI.

Through SCORES investors from everywhere can file grievances against any of the Regional Offices of SEBI.

Lodging the grievances as well as tracing it will be all executed in electronic mode.

Action Taken Reports can be updated online.

SCORES's working in online mode will save the time needed for processing the grievance as the previous time consuming physical movements of grievances are no more required; even the action taken report by the company / intermediary will be provided online.

The grievance records and documents will no more be lost or misplaced as they are always available in electronic mode. Introducing SCORES has also solved the problem of physical storage, maintenance and retrieval because the documents have been converted into electronic format.

Investors can trace the status of their grievances online which discharge them from continuous correspondences with SEBI. Finally, a grievance will be considered as resolved /closed only after SEBI is satisfied.

The software for SCORES was designed by the National Informatics Centre (NIC), Ministry of Information Technology, New Delhi. Various representatives of Stock Exchanges, Depositories, Stock Brokers, Registrars and Depository Participants cooperated in introducing SCORES and collect the feedbacks from the participants.

Information on how to lodge a grievance, as well as the appropriate format for the Action Taken Report was provided for the division chiefs and officers of different departments of SEBI; Stock Exchanges; Depositories; RTAs and companies forming part of NIFTY and SENSEX.

4.5. INVESTOR AWARENESS / ASSISTANCE / EDUCATION PROGRAMS ARRANGED BY SEBI:

Investors can enjoy investing if they know how to invest; they have comprehensive knowledge of the market; they deal with a safe market; and due measure are taken to redress the investors grievances. SEBI's investor protection scheme is also based on above four elements which will be elaborated below:

SEBI tries to educate the investors and make them aware of different issues of investments and the way they can use the earned information so that they can take an informed decision. To attain this goal, SEBI has held many educational program and also utilized media. In case the investors have any questions, they can make queries through telephone, e-mails, letters, or visit SEBI office personally.

SEBI has provided every detail needed for investment in public domain. It has also launched and monitored various disclosure programs to regulate the market and help

the investors to take right decision. Under this program, stock issuers and intermediaries reveal the due details about themselves, their products, and the market.

SEBI has taken different measures such as dematerialization of securities; screen based trading system, T+2 rolling settlement; and many others to safeguard safe transactions in the market. Among the benefits of dematerialization of securities was its saving many investors' grievances on the services of paper based securities such as bad delivery of shares, delay in receipt of shares, non-transfer of shares, etc. the transition from an account period settlement to T+2 rolling settlement also significantly decreased the settlement risk.

SEBI supports the troubled investors through facilitating the possibility of redressal of the grievances investors has against intermediaries and listed companies. SEBI will also send reminders to the respective companies and intermediaries if they do not redress investor's grievances. If the process of redressal is not sufficient, SEBI adopts enforcement actions in form of adjudication, prosecution proceedings, directions, etc.

Since the last decade, a transition has taken place in the emphasis on investor protection to investor empowerment as the experiences revealed that empowering the investor with proper education at the micro- and macro-levels will effectively create a safe market. Having the investor empowerment as the nucleus, both the regulator and stock exchanges have tried to engender the flow of more transparent information between members and investors about the prices, disclosures by companies, etc.

SEBI assists the investors through answering their queries by E-mails, personal visit to Head Offices, as well as letters. The investors' commonly asked questions were also answered in SEBI website under FAQs. SEBI has also taken some measures to improve investors' education and awareness through media. Section 11 of the SEBI Act demands SEBI to launch the measures it deems appropriate for this purpose, including measures to enhance investors' education as SEBI has strong belief in the maxim: "An educated investor is a protected investor".

SEBI Chairman, U. K. Sinha, expressed his regret at the CII annual session that low awareness and lack of confidence are distracting investors from equities. He highlighted the dire need for taking measures to attract investors and restore investors'

confidence. SEBI believes that education of investors is among the fundamentals of a safe investment. Investor education and awareness as well as financial education issues are vested in Investor Awareness Division (IAD) of SEBI. To qualify the investors to conduct transactions in securities market, SEBI Investor Protection and Education Fund has been funding many investor awareness programs and workshops. Based on SEBI Act in July 23, 2007, a fund entitled as the “Investor Protection and Education Fund” (IPEF) was created initially with Rs.10 crore from the SEBI General Fund for educating the investors and executing other related activities. According to the order, the following amounts would be credited to the IPEF:

- Grants and donations granted to IPEF by the Central Government, State Governments or other entities recognized by SEBI in line with the objectives of the IPEF.
- Any income or interest raised from the investments executed by the IPEF.
- Other such amounts that SEBI may determine in support of the investors.

The fund has been also used for educational programs such as seminars, training, research and publications, etc. Investors’ awareness programs via media - print, electronic, etc. To this ends, SEBI has been cooperating with Investor Associations (IA), exchanges, and different trading entities as The Association of Mutual Funds of India (AMFI). Table-4.9 gives an account of the number of awareness programs / workshops conducted by SEBI in different regions during 2007-16.

Table-4.9: Region-wise Awareness Programs / Workshops Conducted by SEBI						
Year	Region					Total
	HO	ERO	NRO	WRO	SRO	
2007-08	3	0	1	0	11	15
2008-09	4	0	0	8	14	26
2009-10	13	0	3	10	14	40
2010-11	25	18	31	28	47	149
2011-12	9	35	72	19	43	178
2012-13	10	41	83	22	50	206
2013-14	21	65	81	23	44	223
2014-15	22	67	61	30	44	224
2015-16	55	69	78	36	54	292
2016-17	88	129	162	61	34	474
Total	250	424	572	237	355	1827
Average	25	42.4	57.2	23.7	35.5	182.7
Source: Compiled from Annual Reports of SEBI.						

According to the above tables-4.9, the programs and workshops have started since 2007 and had a rising cumulative number till 2017. The rising trend indicates SEBI's attention to and concern for investors. SEBI's measure for educating and awareness of investors is itself a long term investment for SEBI. It is concluded from the table that the highest numbers of programs / workshops organized by the northern regional office compared to other regions. Besides the workshops and programs mentioned above, SEBI in cooperation with different exchanges; depositories and trade organizations, has been holding regional seminars throughout the country. The seminars aim at informing more people and focusing more on tier-2 and tier-3 cities.

In order to reach out to people, SEBI has embarked on a mass media campaign disseminating relevant messages to investors through popular media. So far campaigns have been carried in mass media (TV/Radio/Print/bulk SMSes) for spreading awareness about SEBI's grievance redress mechanism (highlighting SCORES and the toll free helpline) and cautioning investors against unregistered CIS / ponzi schemes by spreading key messages: 'not to rely on schemes offering unrealistic returns' and 'not to go by hearsay while investing and do proper due diligence'. The campaign was carried out in Hindi, English and 11 major regional languages. These messages were shown in all financial education and investor awareness programmes conducted by SEBI and also sent to AMFI, investor's associations, ICAI, ICSI, ICAI (cost accountants), etc. to be shown in their programmes. More than 50,000 TV commercials, 1,50,000 radio spots and over 3,100 insertions in various print editions were covered under the campaign. Further, around 28 crore bulk SMSes in various languages were sent cautioning investors against ponzi schemes / unregistered CIS.

OECD defines financial education as "the process by which financial consumers / investors improve their understandings of financial products, concepts and risks and, through information, instruction and / or objective advice, develop the skills and confidence to become more aware of financial risks and opportunities, to make informed choices, to know where to go for help, and to take other effective actions to improve their financial wellbeing." Emphasizing on the importance of the financial education of public, SEBI has held many programs to enhance the financial literacy throughout India. The various programs SEBI has conducted are discussed below:

School Programs: SEBI in cooperation with National Institute of Securities Market (NISM) launched a program, namely ‘Pocket Money’ in 2008-09 to increase the financial literacy of school students mainly at 8 and 9 level. The program involved the school principals, teachers and students at different levels. Examinations were conducted for the students and they were given the certificates. The schools wherein the programs were held are municipal schools of Mumbai, Navi Mumbai and Thane as well as some schools in Ahmadabad, Chennai, Jalgoan and Rajkot. The materials utilized in Pocket Money Programs are also translated into English, Hindi, Tamil, Marathi, and Gujarati. An account of the progress of the program is provided in table-4.10.

Table-4.10: School Programs Conducted by SEBI				
Year	No. of schools covered	No. of Teachers trained	No. of Students covered	No. of Training the Trainer Programs Conducted
2008-09	151	230	0	8
2009-10	10	161	3876	5
2010-11	31	110	4311	2
2011-12	360	631	5946	12
2012-13	214	934	8352	15
2013-14	170	949	9213	14
2014-15	167	938	5421	17
2015-16	273	987	11013	18
2016-17	300	1036	21808	5
Total	1676	5976	69940	96
Source: Compiled from Annual Reports of SEBI.				

From table-4.10, it is observed that the total number of schools, teachers, students and trainers covered was 1,676, 5976, 69,940 and 96 respectively. This trend witnessed that the school programs conducted by SEBI was gradually increased over the period of study. But there is a dearth in the cultivation of financial literacy among the various groups of people living in the country. In the words of Honorable President of India, Pranab Mukherjee “we can create confidence in market by spread of financial literacy and merit of investment could be widely spread, hence time is ripe to motivate our educated upper middle class to climb from saving mode to wealth generation mode.” Hence, financial inclusion is a great step to alleviate poverty in India. But to achieve this, the government should provide a less perspective environment in which SEBI is

free to pursue the innovations necessary to reach low income consumers and still make a profit. Financial service providers should learn more about the consumers and new business models to reach them. One of the biggest reasons for this lack of small investor interest is low levels of financial education. The focus on educating people in handling financial resources to achieve their goals has been relatively low. Recently the Finance Minister has said it was important to focus attention on financial literacy initiatives for the masses which will help for effective financial inclusion for investors. Through information and objective advice, they develop the skills and confidence to become more aware of financial risks and opportunities and make informed choices to improve their financial position. The following measures are suggested to create financial literacy among present and prospective investors in India:

- 1) The SEBI has to initiate more number of such types of programs by covering even rural places also.
- 2) Governments and all concerned stakeholders should promote unbiased and fair financial education.
- 3) Financial Literacy programs should be focused, coordinated and developed with efficiency especially in rural areas.
- 4) New innovative method and techniques to be used for the assessment of existing financial education programs.
- 5) Financial literacy programs should start at school and colleges for people to be educated as early as possible.
- 6) Financial literacy should be part of the good governance of financial institutions, whose accountability and responsibility should be encouraged.
- 7) Financial Literacy should be clearly distinguished from commercial advice.
- 8) Financial institutions should be encouraged to check the client's needs and understand information, especially when related to long-term commitments or financial investments.

9) Programs and delivery strategies should be oriented towards financial capacity building, and where appropriate targeted on specific groups and made as personalized as possible.

10) National campaigns, specific Web sites, free information services and warning systems for financial consumers should be promoted.

SEBI initiated a financial education program utilizing Resource Persons (RPs). It has addressed school children, young investors, middle income group, executives, home makers, retired people, and self-help groups. With the supervision of the Advisory Committee for the Indian Prairie Educational Foundation (IPEF), the program's materials are accessible in many regional languages on SEBI website, <http://investor.sebi.gov.in>. RPs consist senior secondary school or college teachers with post graduate qualification in commerce, economics or finance that are trained by SEBI. RPs should also have other qualifications such as having mastery in English and Hindi and any other required regional language; being enthusiastic for spreading financial education, communication skills, skill of holding the audience attention; ability to travel across appointed area and holding financial education programs. They should be independent in the sense that they should be associated with no intermediary.

There are also some investor education programs that are held by IAs which is recognized by SEBI. This RPs would also supplement the investor education programs that are conducted through investment advisors, recognized by SEBI. "Currently there are 297 RPs empanelled covering 134 districts in 21 states across the country". SEBI in its next round of empanelment is to focus more on North Eastern areas. The frequency of the financial programs held by RPs in different regions during 2010-11 to 2016-17 is provided in table-4.11.

SEBI has been reaching the masses through an innovative model of resource persons (RPs) to spread financial education across the country by targeting various groups such as school children, college students (young investors), middle income groups, executives, homemakers (housewives), retired people and self-help groups. SEBI certified resource persons organize workshops for these target segments on various

aspects like savings, investments, financial planning, banking, insurance and retirement planning.

Table-4.11: Financial Education Programs through Resource Persons						
Year	Regions					Total
	HO	ERO	NRO	WRO	SRO	
2010-11	68	0	0	106	2	176
2011-12	439	412	703	514	1,014	3,082
2012-13	485	793	1,353	989	2,314	5,934
2013-14	721	1,940	2,603	2,349	1,880	9,493
2014-15	585	1,574	2,112	1,906	1,525	7,702
2015-16	818	1,639	2,311	1,669	2,360	8,797
2016-17	1,412	2,183	7,275	2,329	2,500	15,699
Total	4,528	8,541	16,357	9,862	11,595	50,883
Average	646.86	1220.14	2336.71	1408.86	1656.43	7269.00
Source: Compiled from Annual Reports of SEBI.						

More than 1,400 resource persons are currently empanelled covering more than 494 districts in 28 states and six union territories across the country. This RPs conducts programmes in the local language of the particular area. Financial education booklets are distributed free of cost to participants attending the programmes. Since the beginning of this initiative, more than 50,000 programmes have been conducted. During 2016-17, over 15,699 programmes were conducted (Table-4.11). It is evident from the table-4.11 that the southern and northern regions was organized more number of programs by resource persons compared with other regions. SEBI started the initiative ‘Visit to SEBI’ where groups of students from schools, colleges and professional institutes who are interested in learning about SEBI and its role as a regulator of the securities market visit its head office, regional offices and local offices. Since beginning of this initiative, over 600 such programmes have been conducted. It is suggested that the SEBI has to motive resource persons from time to time to organize more number of programs by covering more participants.

4.6. SEBI POLICY INITIATIVES FOR PROTECTION OF INVESTORS:

SEBI initiated a host of policies during 2015-16 with the objective of protecting the interests of investors in securities market. The important initiatives are presented as follows:

- 1) Strengthening of continuous disclosure requirements for listed companies.
- 2) Introduction of system-driven disclosures.
- 3) Restrictions on willful defaulters from raising funds, taking over companies, and becoming market intermediaries.
- 4) Protection of the interests of investors in deemed public issues.
- 5) Notification of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015.
- 6) Exit opportunity to shareholders in case of change in objects by issuers.
- 7) Streamlining of the public issue process.
- 8) Effective utilization of the funds raised through public issues.
- 9) Extension of the applicability of business responsibility reporting requirements.
- 10) Streamlining the process of observations on offer documents.
- 11) Monitoring of compliance by listed companies.
- 12) Cyber security and cyber resilience frameworks of stock exchanges.
- 13) Clearing corporations required to file monthly reports with SEBI.
- 14) Facilities for basic services demat account.
- 15) Stress testing has been made mandatory for all liquid fund money market mutual funds.
- 16) Tightening exposure limits on investments by mutual funds.
- 17) Aadhaar based e-KYC.

18) Surveillance of stock exchanges.

4.7. MEASURES FOR STRENGTHENING INVESTOR'S CONFIDENCE:

Capital market is the backbone of any country's economy. It facilitates conversion of savings into investments. Globally, there are increased evidences to suggest that investor confidence has assumed an important role in the economic development of a country. The following are some of the important recommendations for strengthening investor confidence in the Indian capital market:

4.7.1. Information Related Measures: These include- the latest and easy availability of information, public information should be available, education of investors, transparency in the system, improve awareness of investors in the primary as well as secondary markets, sensitive information should be made available to everyone at the same time, action against issue managers, analysts and company for providing over optimistic and wrong information, information related to promoters background and project implementation experiences should be available, and advertisements on the improvements taking place in the market should be released regularly.

4.7.2. Scams and Irregularities: Regarding the irregularities and scams in the Indian financial market, the publication India Abroad has commented: "Since the beginning of reforms in 1991, there has been a spurt in financial crimes. The first major scandal that made newspaper headlines was the 1992 multi-billion dollar securities fraud that centered on Mumbai stock exchange broker Harshad Mehta. Other major white collar offences reported since 1991 are those concerning the Calcutta based blue chip company, ITC Ltd., the share switch charges against Reliance Industries, questionable transactions by the Shaw Wallace Company, The MS shoes scandal masterminded by Pawan Sachdeva, the Indian Bank fraud and the CRB Capital Market case... White collar crimes have become so common that the CBI started an economic offenses wing after the securities scandal, recently strengthened the division by recruiting specialists with background in banking and finance". India Abroad "How Liberalization Spawned a String of Scandals" June 27, 1997, page 28. So that the same story is not being continued, to take the initiation to regulate scandals, prevent corporate frauds, disallow bogus companies to raise funds from the market, tighter regulations, market price control, stability of market, transparency in operations, more

power to take action against frauds, post listing performance of company to be monitored, autonomy to regulatory authorities, better means of project appraisal, minimum standards for companies to enter market, improve quality of paper, and black list brokers, underwriters and merchant bankers.

4.7.3. Role of the Government: The central government has to take some of the following initiations for the protection of interests of investors. They have to improve infrastructure and economic conditions, promote and attract investors, corruption to be checked at various levels, appoint independent nominees with good character, introduce rating of equity, take steps to protect small investors, insurance of stock market investments should be developed, grievance redressal machinery should be strengthened and function more efficiently, reduce political interference in markets.

4.7.4. Financial Intermediaries: They are classified into primary market intermediaries and secondary market intermediaries. The intermediaries in the primary market are merchant bankers, underwriters' bankers to an issue, portfolio managers, debenture trustees and registrars to an issue and share transfer agents - they play an important role in the mobilization of capital and investment formation in the primary capital market. The secondary market intermediaries are stock brokers and sub-brokers - they play a significant economic role in the secondary securities market of the capital market. They bring investors, both buyers and sellers, together to make aggregate demand and supply at any point of time. For the increasing confidence in the brokers the following initiations have to be taken up. Honesty and fair dealing among the brokers should be encouraged, lower brokerage charges improve relationship with customers, broker activities are to be regulated, reduce number of brokers, take action against brokers who commit irregularities, brokers with good research facilities to be encouraged, banks and financial institutions will have to play a leading role.

4.7.5. Markets: The market related strategies are improving the confidence of small investors, transparency in transactions of markets, volatility to be checked, improving the market vigilance, proper audit and control of exchanges, improving liquidity, allow good issue managers to manage issues, delisting of companies should be avoided, proper information on post listing activities should be made available by

stock exchanges to investors, compulsory listing after completion of requirements, market making activity to be improved, renew faith in the long-term, ensure new investors' confidence in the market, small investors to get firm allotment, more margin to be taken from brokers, and liquidity should be improved.

4.7.6. Providing Insurance and Capital Market Products: Insurance and capital market products should be an integral component of any package on financial inclusion. The SEBI should take initiative to increase outreach of the Depository Participants and mutual funds in the region. Increasing access to the capital markets would also result gradually in the greater use of such markets to provide equity funding for projects in the region and thereby facilitate the emergence of an industrial / capitalist ethic. Insurance products may be tied up with capital market so that investors can get the benefits of capital market in terms of higher return.

4.7.7. Strict Action against Prompters: Strict action against promoters for unfair and fraudulent activities causing losses to household shareholders. Only experienced promoters should be allowed to enter into capital market. SEBI must initiate more transparency in activities of owners / friends and relatives of owner. Dishonest promoters should be banned for life. Promoters should disclose loans taken from various sources and mandatory disclosure regarding promoters other involvement.

4.7.8. Strengthen the Role of Regulators: The market regulator should implement tighter regulations for the benefit household investors and only stable companies should allow entering into market. Market price control mechanism should be developed. Companies with good image and disclosures norms should be allowed. Post listing performance of company should be monitored.

4.7.9. Improve Faith in Intermediaries: Market regulator should improve faith in brokers and sub-brokers. Honesty and fair dealing in brokers should be encouraged. Lower brokerage and more transparent in broking activities should be enhanced. Intermediaries should improve relationships with customers and win their faith in transactions. Brokers with good research facilities should be allowed and encouraged. Brokers and sub-brokers should strictly follow pay-in and pay-out; extra exposure to the small investors should be curtailed. Online share trading should be encouraged with proper knowledge about the market.

4.7.10. Strengthening of Cyber Security: A recent cyber-crime survey of the world's exchanges conducted by the IOSCO Research Department, jointly with the World Federation of Exchanges Office revealed that 53% of world exchanges had suffered a cyber-attack in the year 2012. These attacks tend to be “disruptive in nature, rather than motivated by financial gain” and are distinguished from traditional crimes in the financial sector, such as fraud and theft. It is observed that there exists an inherent threat from malicious cyber activities which are growing rapidly. Though these cyber-attacks / activities have not impacted core systems or market integrity and efficiency, they still have the potential to play havoc with the existing infrastructure. Hence, SEBI should understand the importance of cyber security in the Indian Securities Market and to create awareness and have a broader discussion on the issue.

4.7.11. Promote Good Corporate Governance Standards: Good corporate governance standards are essential for the integrity of corporations, financial institutions and markets and have a bearing on the growth and stability of the economy. Recent policy initiatives in the vein of periodic disclosures of pledged shares, voting rights and agreements with the media companies have come a long way in further strengthening the investor confidence in the market. Hence, SEBI should issue and promote good corporate governance standards in the Indian capital market.

4.8. STEPS NEEDED TO STRENGTHEN INVESTORS' CONFIDENCE:

The following are the important steps needed to strengthen investors' confidence in the Indian capital market:

- 1) To achieve genuine investor protection, we must empower the investors. The goal is to create a statutory framework under which violation of any SEBI regulation or listing requirement gives the investor the statutory right to sue the company and its management.
- 2) To strengthen the retail investors' confidence in stock market and mutual fund by organizing various camps at local level district-wise.
- 3) To establish one regional center of SEBI, NSDL, CDSL in any capital city of the regions.

- 4) To create conducive atmosphere for infrastructural development of capital market.
- 5) To encourage broker / sub-broker for establishing more and more trading terminals in nook and corner of the different regions.
- 6) To aware about the benefits of mutual fund scheme (mutual fund association can organize camp at district level).
- 7) Local media should play more responsible role in highlighting various pros and cons for investment in capital market.
- 8) Investors Association should be formed in all regions of the states through the funding of IEPF, they should play more dominant role for investors' protection of household investors of the regions.
- 9) To introduce 'financial literacy' as a subject from school level and continued up to undergraduate level for all courses such as Arts, Commerce and Science.

4.9. CHAPTER SUMMARY:

Chapter four entitled "Role of SEBI in the Protection of Investors" explained powers of SEBI to take punitive or preventive measures, redressal of investor grievances, investor awareness and education programs and this chapter also suggested certain measures for strengthening investors' confidence in the Indian capital market. Investigation, Enforcement and Surveillance are elaborated as the main measures taken by SEBI to safeguard the interest of investors. Present disclosure standards in India with special emphasis on investors' protection as a significant segment of a developed financial investment are described. After the disclosure, comes the argument on SEBI's power in taking due punitive measures and redressing the investors' grievances. An account of the shortages in the existing redressal of grievance system is provided and the improvements planned are also addressed. This chapter is also identified the recent transition from emphasis on investors' protection to investors' empowerment, based on which SEBI has dedicated a fund to various educational and awareness programs and measures which will eventually breed

educated investors who will decrease regulatory cost on SEBI and lead to a prosperous market.

The important observations drawn from this chapter are: Average number of cases completed as a percentage of cases taken up is 82.36. Over the period of study 2,327 investigations taken up by SEBI; of which market manipulations and price rigging, issue related manipulation, insider trading, takeover and miscellaneous are 1,542, 202, 260, 66 and 230 respectively. SEBI completed 2,059 investigations. Of which market manipulations and price rigging, issue related manipulations, insider trading, takeover, and miscellaneous are 1,276, 158, 223, 60 and 198 respectively. The total number of actions taken by SEBI during 1996-97 to 2016-17 is 12,907. Total number of cases in which prosecutions has been launched and an entity against whom prosecution has been launched is 1,665 and 7,016 respectively. Region-wise data on prosecutions explained that head office / western region accounts more than 50 percent. Nature of prosecutions launched is more under SEBI Act, 1992 compared with other legislations. The average redressal of investors grievances are 98 percent. Region-wise awareness programs / workshops conducted during 2007-08 to 2016-17 by head office, eastern region, northern region, western region and southern region was 250, 424, 572, 237 and 355 respectively. Financial education programs through resource persons organized during 2010-11 to 2016-17 is more than 50,000.

CHAPTER-5

PERCEPTION OF RESPONDENTS

**ON THE ROLE OF SEBI IN FRAUD DETECTION,
INVESTIGATION AND PREVENTION PRACTICES**

5.1. INTRODUCTION:

Fraudulent financial reporting practices can have significant consequences for organizations and all stakeholders, as well as, for public confidence in the capital and security markets. In fact, comprehensive, accurate and reliable financial reporting is the bedrock upon which our markets are based. Frauds occur with alarming periodicity and cannot be regulated. But can be tried to minimize its deleterious impact. Historically, scams have led to regulatory reforms, including forming institutions and strengthening the institutional framework. Increased co-ordination between the various regulators is imperative to ensure perpetrators do not fall between the cracks. Investors are equally susceptible fraud can be looked at in two different ways. One way of looking at fraud is to assume that those who commit fraud are genius or creative people who always find innovative ways to commit fraud. This chapter is aimed to identify the most influencing factors of SEBI in discharging its duties and the perception of five groups of respondents on the role of SEBI in fraud detection, investigation and prevention practices.

5.2. OBJECTIVES OF THE CHAPTER:

The important objectives of this chapter are presented as follows:

- 1) To identify the statements which are representing fraud detection, investigation and prevention practices of SEBI in a better way.
- 2) To know the perception of investors, stock brokers, stock exchange officials, SEBI officials and auditors on the role of SEBI in fraud detection practices.
- 3) To know the perception of investors, stock brokers, stock exchange officials, SEBI officials and auditors on the role of SEBI in fraud investigation practices.
- 4) To know the perception of investors, stock brokers, stock exchange officials, SEBI officials and auditors on the role of SEBI in fraud prevention practices.

5.3. HYPOTHESES OF THE CHAPTER:

The above objectives are tested with the help of following hypotheses:

- 1) H_01 : There is no significant difference in the perception of five different categories of respondents on the role of SEBI in fraud detection practices.

- 2) H_02 : There is no significant difference in the perception of five different categories of respondents on the role of SEBI in fraud investigation practices.
- 3) H_03 : There is no significant difference in the perception of five different categories of respondents on the role of SEBI in fraud prevention practices.

5.4. FACTOR ANALYSIS:

Factor Analysis is a method for modeling observed variables, and their covariance structure, in terms of a smaller number of underlying unobservable “factors”. The factors typically are viewed as broad concepts or ideas that may describe an observed phenomenon. Factor analysis is generally an exploratory / descriptive method that requires many subjective judgments.

Factor analysis attempts to identify underlying variables, or factors, that explain the pattern of correlations within a set of observed variables. Factor analysis is often used in data reduction to identify a small number of factors that explain most of the variance observed in a much larger number of manifest variables. Factor analysis can also be used to generate hypotheses regarding causal mechanisms or to screen variables for subsequent analysis.

Factor analysis is a technique that requires a large sample size. Factor analysis is based on the correlation matrix of the variables involved, and correlations usually need a large sample size before they stabilize. Tabachnick and Fidell (2001, page 588) cite Comrey and Lee’s (1992) advice regarding sample size: 50 cases is very poor, 100 is poor, 200 is fair, 300 is good, 500 is very good, and 1,000 or more is excellent. As a rule of thumb, a bare minimum of 10 observations per variable is necessary to avoid computational difficulties.

It is a widely used tool and often controversial because the models, methods, and subjectivity are so flexible that debates about interpretations can occur⁷⁷. The factor analysis is performed on the responses collected from the investors, stock brokers, market regulators, and auditors to know the important factors which are strengthening

. <https://onlinecourses.science.psu.edu/stat505/node/74/>, downloaded on 10th August, 2018.⁷⁷

the role of SEBI in the fraud detection, investigation and prevention. The descriptive statistics of the study are presented in the table-5.1.

Table-5.1: Descriptive Statistics of Three Factors			
	Mean	Std. Deviation	Analysis N
Q1	3.36	1.198	370
Q2	3.30	1.083	370
Q3	3.09	1.132	370
Q4	3.14	1.219	370
Q5	3.43	0.911	370
Q6	3.73	1.001	370
Q7	3.63	0.940	370
Q9	3.23	1.001	370
Q12	2.88	1.241	370
Q16	3.37	0.959	370
Q20	3.43	0.820	370
Q24	3.05	0.944	370
Q25	3.67	0.997	370
Q27	3.33	1.014	370
Q28	3.80	0.932	370
Q29	3.80	0.879	370
Q30	3.63	1.081	370
Q32	3.04	1.186	370
Q42	3.25	0.953	370
Q45	3.57	1.173	370
Q50	3.25	1.175	370
Q51	3.47	1.048	370
Q52	3.49	1.123	370
Q53	3.35	1.276	370
Q56	3.56	0.801	370
Source: Computed from primary data with the help of SPSS Package.			

From the table-5.1, it is observed that the mean and standard deviation is ranged between 2.88 – 3.80 and 0.801 – 1.276 respectively. The sample size is 370; it is a combination of investors, stock brokers, market regulators and auditors. The next output from the analysis is the correlation coefficient. The next output from the analysis is the correlation coefficient. A correlation matrix is simple a rectangular array of numbers which gives the correlation coefficients between a single variable and every other variables in the investigation. The correlation coefficient between a

variable and itself is always 1; hence the principal diagonal of the correlation matrix contains 1s. The correlation coefficients above and below the principal diagonal are the same. The determinant of the correlation matrix is not shown here but the correlation of the variable is less than 0.5 deleted from the analysis. The communalities on 60 factors are presented in the table-5.2.

Table-5.2: Communalities for Three Factors (including all 60 items)								
Q1	1.000	0.666	Q21	1.000	0.401	Q41	1.000	0.630
Q2	1.000	0.616	Q22	1.000	0.672	Q42	1.000	0.607
Q3	1.000	0.708	Q23	1.000	0.658	Q43	1.000	0.415
Q4	1.000	0.560	Q24	1.000	0.558	Q44	1.000	0.304
Q5	1.000	0.563	Q25	1.000	0.662	Q45	1.000	0.657
Q6	1.000	0.507	Q26	1.000	0.384	Q46	1.000	0.422
Q7	1.000	0.602	Q27	1.000	0.566	Q47	1.000	0.694
Q8	1.000	0.486	Q28	1.000	0.697	Q48	1.000	0.467
Q9	1.000	0.585	Q29	1.000	0.686	Q49	1.000	0.718
Q10	1.000	0.424	Q30	1.000	0.724	Q50	1.000	0.645
Q11	1.000	0.396	Q31	1.000	0.294	Q51	1.000	0.600
Q12	1.000	0.553	Q32	1.000	0.646	Q52	1.000	0.570
Q13	1.000	0.377	Q33	1.000	0.519	Q53	1.000	0.725
Q14	1.000	0.339	Q34	1.000	0.806	Q54	1.000	0.771
Q15	1.000	0.673	Q35	1.000	0.825	Q55	1.000	0.356
Q16	1.000	0.500	Q36	1.000	0.654	Q56	1.000	0.613
Q17	1.000	0.408	Q37	1.000	0.791	Q57	1.000	0.291
Q18	1.000	0.466	Q38	1.000	0.736	Q58	1.000	0.381
Q19	1.000	0.554	Q39	1.000	0.488	Q59	1.000	0.604
Q20	1.000	0.521	Q40	1.000	0.251	Q60	1.000	0.752
Source: Computed from primary data with the help of SPSS Package.								

One of the underlying assumptions of factor analysis in a given set of variables, one variable shares its variance with other variables. Higher the shared variance is greater the factorability of the set of variables. A commonly used measure of shared variance

is 'communality. Higher is the value of communality of the variable, greater its suitability for factor analysis. In the present case, when all the 60 items are included in the analysis, 19 items have shown the communality below 0.50, viz., Q8, Q10, Q11, Q13, Q14, Q17, Q18, Q21, Q26, Q31, Q39, Q40, Q43, Q44, Q46, Q48, Q55, Q57, Q58. Those items are excluded from the analysis, due to lower value of communality. When the factor analysis was re-conducted with the remaining items, the following items were causing inconsistency in deriving theoretically consistent factors. Hence, they are also removed from the analysis. The items removed are Q15, Q22, Q23, Q33, Q34, Q35, Q36, Q37, Q38, Q39, Q40, Q41, Q47, Q49, Q54, Q59, and Q60. Finally, the factor analysis was re-conducted with remaining 25 items. The results are presented in the table-5.3.

Kaiser Meyer Olkin (KMO) and Bartlett's Test: This test measures the strength of relationship among the variables. The resultant values are presented in the table-5.3.

Table-5.3: KMO and Bartlett's Test		
Kaiser-Meyer-Olkin Measure of Sampling Adequacy		0.682
Bartlett's Test of Sphericity	Approx. Chi-Square	10042.872
	df	300.000
	Sig.	0.000
Source: Computed from primary data with the help of SPSS Package.		

Table-5.3 shows the results of KMO and Bartlett's test of sphericity. The purpose of Bartlett's test of Sphericity is to compare the observed correlation matrix with identity matrix. If the observed correlation matrix is closer to identity matrix, it implies that each item is strongly correlates with it and has least correlation with other items in the matrix. For such pattern of correlation among the variables, factor analysis is not suitable. The null hypothesis of Bartlett's is the observed correlation matrix is identity matrix. In the present case, null hypothesis is rejected ($p < 0.05$), so, it can be inferred that the observed correlation matrix is not an identity matrix.

Bartlett's test of sphericity is based on correlation matrix. One inherent limitation of simple correlation is it does not factor in the partial correlation. Where the correlation between two variables is influenced by third variable, the simple correlation matrix may give misleading results. To overcome this limitation, KMO index is constructed. It is the ratio of squared value of simple correlation to sum of squared values of simple correlation and squared values of partial correlation. If the value of the index is closer to '1', it indicates that partial correlation is very low compared to simple correlation. In the present case, the KMO index is 0.682. It implies that the presence of moderate level of partial correlation. However, the KMO index above 0.50 is acceptable for employing factor analysis.

Total Variance Explained: Eigen value actually reflects the number of extracted factors whose sum should be equal to number of items which are subjected to factor analysis. The next item shows all the factors extractable from the analysis along with their Eigen values. The Eigen value table has been divided into three sub-sections, i.e. Initial Eigen Values, Extracted Sums of Squared Loadings and Rotation of Sums of Squared Loadings. For analysis and interpretation purpose it is only concerned with Extracted Sums of Squared Loadings. Here one should note that the first factor accounts for 31.237% of the variance, the second 19.636% and the third 15.056%. All the remaining factors are not significant (table-5.4).

In order to produce theoretical results, fixed number of components has been specified, instead of extracting the factors based on Eigen value criterion. Variance extraction table indicates that the three components together can explain 65.929% of the total variance. Eigen value corresponding to component three is 3.764. It indicates the possibility of extracting more than three factors. But, based on underlying theory, extraction is stopped at third component only.

Table-5.4: Total Variance Explained

Component	Initial Eigen Values			Extraction Sums of Squared Loadings			Rotation Sums of Squared Loadings		
	Total	% of Variance	Cumulative %	Total	% of Variance	Cumulative %	Total	% of Variance	Cumulative %
1. Fraud Detection	7.809	31.237	31.237	7.809	31.237	31.237	6.826	27.306	27.306
2. Fraud Investigation	4.909	19.636	50.873	4.909	19.636	50.873	4.830	19.322	46.627
3. Fraud Prevention	3.764	15.056	65.929	3.764	15.056	65.929	4.825	19.301	65.929
Source: Computed from primary data with the help of SPSS Package.									

Rotated Component Matrix: The rotated component matrix results of the study are presented in the table-5.5.

Table-5.5: Rotated Component Matrix ^a			
	Component		
	1. Fraud Detection	2. Fraud Investigation	3. Fraud Prevention
Q1	.796		
Q2	.794		
Q3	.786		
Q5	.730		
Q6	.743		
Q7	.764		
Q8	.726		
Q20	.691		
Q25		.730	
Q27		.695	
Q28		.807	
Q29		.834	
Q30		.862	
Q45			.863
Q51			.686
Q52			.676
Q53			.890
Q56			.619
Extraction Method: Principal Component Analysis. Rotation Method: Varimax with Kaiser Normalization.			
Source: Computed from primary data with the help of SPSS Package.			

The rotation of component matrix has been done by applying varimax rotation method with Kaiser Normalization and the results are presented in table 5.5. Component one is labeled as fraud detection and it is represented through eight items. They are Q1, Q2, Q3, Q5, Q6, Q7, Q8 and Q20. In this component all the items are having factor

loading above 0.70 except, Q20. It indicates better representatives of the fraud detection through these items. It can be inferred from the remaining seven items that the existing surveillance detecting market manipulations and price rigging, issue related manipulations, insider trading practices, forensic accounting cell detecting frauds, existing circuit filters, daily price bands and weekly price caps are curbing abnormal price behavior and volatility, interaction and co-ordination with stock exchanges detecting frauds, and exchanges stock watch system detecting abnormal price and volume movement. Hence, the SEBI is playing an important role in fraud detection from the time to time.

Component two is labeled as fraud investigation and it is represented through five items. They are Q25, Q27, Q28, Q29 and Q30. In this component all the items are having factor loading above 0.70 indicating better representatives of the fraud investigation through these items. It is identified and highlighted that the current investigation process is flexible and it takes market and static data for analysis, the percentage of cases taken up for investigation and cases completed is satisfactory, investigations contribute to policy changes with a view to further strengthening the regulatory and enforcement environment, current consent mechanism norms of SEBI are relevant and enquiry officers have sufficient power to identify and issue show cause notices to persons who might be involving in violations. Therefore, the SEBI is playing an important role in fraud investigation and its performance is satisfactory as per the opinions expressed by investors, stock brokers, market regulators and auditors.

Component three is labeled as fraud prevention and it is represented through five items such as Q45, Q51, Q52, Q53 and Q56. In this component all the items are having factor loading above 0.60 indicating better representatives of the fraud investigation through these items. It is recognized that existing corporate governance guidelines preventing frauds, preventing violations by entities, current crisis management helps to maintain financial stability, current system preventing money laundering activities and playing efficient role in registering and regulating stock brokers in order to prevent the fraudulent financial practices. Thus, the SEBI is playing an excellent role in the fraud prevention.

Finally, it can be concluded that the SEBI is playing an efficient and effective role in the fraud detection, fraud investigation and fraud prevention in the Indian capital market. From the last twenty five years it has been molding and improving itself to meet the future requirements at national and international level.

Scree Plot: The scree plot is a graph of the Eigen values against all the factors. The graph is useful for determining how many factors to retain. The point of interest is where the curve starts to flatten. It can be seen that the curve begins to flatten between factors 4 and 5. Note also that factor 5 onwards have an Eigen value of less than 1, so only 5 factors have been retained.

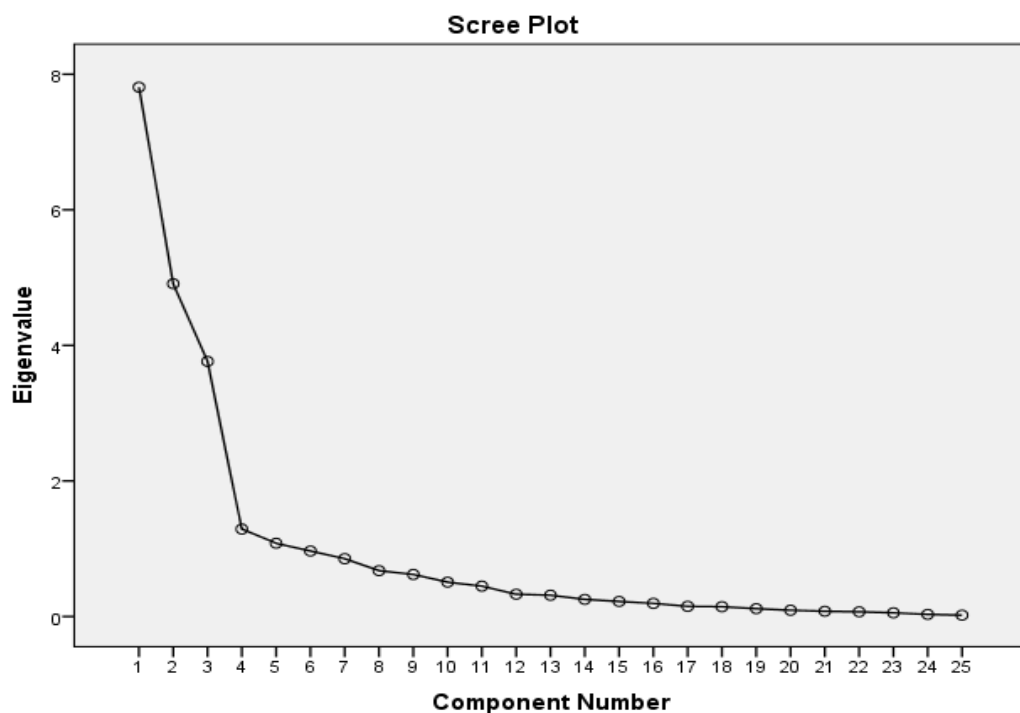


Figure-5.1: Scree Plot of Three Factors

5.5. THE KRUSKAL-WALLIS TEST FOR DIFFERENCE IN STATEMENTS:

The Kruskal-Wallis test is the non-parametric alternative to the One Way ANOVA. Non-parametric means that the test doesn't assume data comes from a particular distribution. The Kruskal-Wallis test is used when the assumptions for ANOVA aren't met. It is sometimes called the one-way ANOVA on ranks, as the ranks of the data values are used in the test rather than the actual data points.

To perform this test, Prism first ranks all the values from low to high, paying no attention to which group each value belongs. The smallest number gets a rank of 1. The largest number gets a rank of N, where N is the total number of values in all the groups. The discrepancies among the rank sums are combined to create a single value called the Kruskal-Wallis statistic. A large Kruskal-Wallis statistic corresponds to a large discrepancy among rank sums.

The Kruskal-Wallis test will tell that there is a significant difference in statements (questions) or not. However, it won't tell which groups are different. For that, it is required to run a Post Hoc test. The perception of respondents on each group of statements is tested separately. The test results are presented and analysed as follows:

5.5.1. Fraud Detection: Here this test is used to determine whether the medians of eight questions (i.e., 1, 2, 3, 5, 6, 7, 8 and 20) in the fraud detection are different or not. The hypothesis for the test is framed as follows:

H₀₁: There is no significant difference in the perception of respondents on eight different statements relating to the Role of SEBI in Fraud Detection.

The questions extracted for this study are existing surveillance detecting market manipulation and price rigging; existing surveillance detecting issue related manipulations; existing surveillance detecting insider trading practices; SEBI's Forensic Accounting Cell detecting frauds; existing circuit filters, daily price bands and weekly price caps curbing abnormal price behaviour and volatility; interaction and coordination with stock exchanges detecting frauds; exchanges stock watch system detecting abnormal price and volume movement and the system of internal audits of stock brokers by outside professionals and inspections by stock exchanges

and by SEBI has improved the compliance level of stock brokers. The mean ranks of fraud detection questions were presented in the table-5.6.

Table-5.6: Mean Ranks of Fraud Detection Questions			
	Question	N	Mean Rank
Response	1.0. Existing surveillance detecting market manipulation and price rigging.	370	1396.68
	2.0. Existing surveillance detecting issue related manipulations.	370	1408.68
	3.0. Existing surveillance detecting insider trading practices.	370	1237.55
	5.0. SEBI's Forensic Accounting Cell detecting frauds.	370	1429.42
	6.0. Existing circuit filters, daily price bands and weekly price caps curbing abnormal price behavior and volatility.	370	1696.17
	7.0. Interaction and coordination with stock exchanges detecting frauds.	370	1644.63
	8.0. Exchanges stock watch system detecting abnormal price and volume movement.	370	1625.42
	20.0. The system of internal audits of stock brokers by outside professionals and inspections by stock exchanges and by SEBI has improved the compliance level of stock brokers.	370	1426.98
	Total	2960	
Source: Computed from the primary data with the help of SPSS Package.			

It is evident from the table-5.6 that out of twenty questions in fraud detection practices of SEBI only eight questions are suitable to run the test. The eight questions extracted from the process are 1, 2, 3, 5, 6, 7, 8 and 20. The details of questions along

with its question number are presented in the table-5.1. The lowest and highest mean ranks were observed in the case of question number three (1237.55) and question number six (1696.17). Each question is answered by 370 sample respondents, of which 250 investors, 20 market regulators, 50 each stock brokers and auditors. The Kruskal-Wallis test statistics are presented as follows:

Test Statistics^{a,b}	
	Response
Chi-Square	99.254
df	7
Asymp. Sig.	0.000
a. Kruskal Wallis Test	
b. Grouping Variable: Question	
Source: Computed from the primary data with the help of SPSS Package.	

The chi-square test statistic value is 99.254 with degrees of freedom of 7. The 'p' value of the statistic (0.000) is less than 0.05. Hence, null hypothesis is rejected and alternative hypothesis is accepted inferring that there is a significant difference in the perception of the respondents on eight different statements relating to the Role of SEBI in Fraud Detection.

5.5.2. Fraud Investigation: Here this test is used to determine whether the medians of five questions (i.e., 25, 27, 28, 29 and 30) in the fraud investigation are different or not. The hypothesis for the test is framed and presented as follows:

H₀₂: There is no significant difference in the opinion of respondents on five different statements relating to the Role of SEBI in Fraud Investigation.

The questions extracted for this study are current investigation process is flexible and it takes market and static data for analysis; the percentage of cases taken up for investigation and cases completed is satisfactory; investigations contribute to policy changes with a view to further strengthening the regulatory and enforcement

environment; current consent mechanism norms of SEBI are relevant and enquiry officers have sufficient power to identify and issue show cause notices to persons who might be involving in violations. The mean ranks of fraud investigation questions were presented in the table-5.7.

Table-5.7: Mean Ranks of Fraud Investigation Questions			
	Question	N	Mean Rank
Response	25.0. Current investigation process is flexible and it takes market and static data for analysis.	370	920.86
	27.0. The percentage of cases taken up for investigation and cases completed is satisfactory	370	793.42
	28.0. Investigations contribute to policy changes with a view to further strengthening the regulatory and enforcement environment.	370	998.59
	29.0. Current consent mechanism norms of SEBI are relevant.	370	986.50
	30.0. Enquiry Officers have sufficient power to identify and issue show cause notices to persons who might be involving in violations.	370	924.56
	Total	1850	
Source: Computed from the primary data with the help of SPSS Package.			

It is observed from the table-5.7 that out of twenty questions in fraud investigation practices of SEBI only five questions are suitable to run the test. The five questions extracted from the process are 25, 27, 28, 29, and 30. The details of questions along with its question number are presented in the table-5.2. The lowest and highest mean ranks were observed in the case of question number twenty seven (793.42) and question number twenty eight (998.59). Each question is answered by 370 sample respondents, of which 250 investors, 20 market regulators, 50 each stock brokers and auditors. The Kruskal-Wallis test statistics are presented as follows:

Test Statistics ^{a,b}	
	Response
Chi-Square	39.569
df	4
Asymp. Sig.	0.000
a. Kruskal Wallis Test	
b. Grouping Variable: Question	
Source: Computed from the primary data with the help of SPSS Package.	

The chi-square test statistic value is 39.569 with degrees of freedom of 4. The 'p' value of the statistic (0.000) is less than 0.05. Hence, null hypothesis is rejected and alternative hypothesis is accepted inferring that there is a significant difference in the perception of the respondents on five different statements relating to the Role of SEBI in Fraud Investigation.

5.5.3. Fraud Prevention: Here this test is used to determine whether the medians of five questions (i.e., 45, 51, 52, 53 and 56) in the fraud prevention are different or not. The hypothesis to run the test is framed and presented as follows:

H₀₃: There is no significant difference in the perception of respondents on five different statements relating to the Role of SEBI in Fraud Prevention.

The questions extracted for this study are existing corporate governance guidelines preventing frauds; existing system preventing violations by entities; regulator's current crisis management helping to maintain financial stability; current system preventing money laundering activities and SEBI playing an efficient role in registering and regulating stock brokers in order to prevent the fraudulent financial practices. The mean ranks of fraud prevention questions were presented in the table-5.8.

Table-5.8: Mean Ranks of Fraud Prevention Questions			
	Question	N	Mean Rank
Response	45.0. Existing corporate governance guidelines preventing frauds.	370	969.82
	51.0. Existing system preventing violations by entities.	370	893.68
	52.0. Regulator's current crisis management helping to maintain financial stability.	370	950.60
	53.0. Current system preventing money laundering activities.	370	876.41
	56.0. SEBI is playing an efficient role in registering and regulating stock brokers in order to prevent the fraudulent financial practices.	370	941.72
	Total	1850	
Source: Computed from the primary data with the help of SPSS Package.			

It is observed from the table-5.8 that out of twenty questions in fraud prevention practices of SEBI only five questions are suitable to run the test. The five questions extracted from the process are 45, 51, 52, 53, and 56. The details of questions along with its question number are presented in the table-5.3. The lowest and highest mean ranks were observed in the case of question number fifty three (876.41) and question number forty five (969.82). Each question is answered by 370 sample respondents, of which 250 investors, 20 market regulators, 50 each stock brokers and auditors. The Kruskal-Wallis test statistics are presented as follows:

Test Statistics ^{a,b}	
	Response
Chi-Square	8.836
df	4
Asymp. Sig.	0.065
a. Kruskal Wallis Test	
b. Grouping Variable: Question	
Source: Computed from the primary data with the help of SPSS Package.	

The chi-square test statistic value is 8.836 with degrees of freedom of 4. The 'p' value of the statistic (0.065) is greater than 0.05. Hence, null hypothesis is accepted and alternative hypothesis is rejected inferring that there is no significant difference in the perception of the respondents on five different statements relating to the Role of SEBI in Fraud Prevention.

5.5.4. Fraud Detection, Investigation and Prevention: The Kruskal-Wallis H test is used to determine whether the medians of three groups i.e., fraud detection, fraud investigation and fraud prevention are different or not. The hypothesis for the test is framed and presented as follows:

H₀₄: There is no significant difference in the perception of respondents on the role of SEBI in fraud detection, investigation and prevention.

First group, fraud detection consists of eight questions. Second group, fraud investigation includes five questions and third group fraud prevention has five questions. The perception of 370 respondents was processed by using this test to know the perception of respondents on these three groups. The mean ranks of fraud detection, investigation and prevention were presented in the table-5.9

Table-5.9: Mean Ranks of Fraud Detection, Investigation and Prevention Questions			
	Dimension	N	Mean Rank
Response	1.0. Fraud Detection	2960	3210.35
	2.0. Fraud Investigation	1850	3578.29
	3.0. Fraud Prevention	1850	3286.26
	Total	6660	
Source: Computed from the primary data with the help of SPSS Package.			

It is known from the table-5.9 that the first group's number of relations is 2960; second and third group's number of relations is 1850 each. The mean rank of first, second and third group is 3210.35, 3578.29 and 3286.26 respectively. Each group of every question is answered by 370 sample respondents, of which 250 investors, 20 market regulators, 50 each stock brokers and auditors. The Kruskal-Wallis test statistics are presented as follows:

Test Statistics^{a,b}	
	Response
Chi-Square	48.646
df	2
Asymp. Sig.	0.000
a. Kruskal Wallis Test	
b. Grouping Variable: Dimension	
Source: Computed from the primary data with the help of SPSS Package.	

The chi-square test statistic value is 48.646 with degrees of freedom of 2. The 'p' value of the statistic (0.000) is less than 0.05. Hence, the null hypothesis is rejected and alternative hypothesis is accepted inferring that there is a significant difference in

the perception of the respondents on three groups relating to the Role of SEBI in Fraud Detection, Fraud Investigation and Fraud Prevention.

5.6. PERCEPTION OF FIVE GROUPS OF RESPONDENTS ON THE ROLE OF SEBI IN FRAUD DETECTION, INVESTIGATION AND PREVENTION PRACTICES:

SEBI is molding itself over the period of its inception for the purpose of protection of interests of investors and smooth running of capital market operations. There is a doubt that the SEBI is successfully detecting, investigating and preventing the fraudulent and unfair trade practices. Hence, this chapter is aimed to analyze the perception of investors, stock brokers, market regulators and auditors on role of SEBI in fraud detection, investigation and prevention practices. The perception of select respondents on these three important practices of SEBI is discussed and presented in the following paragraphs.

5.6.1. Perception of Five Groups of Respondents on the Role of SEBI in Fraud Detection Practices:

Fraud detection is known as identifying fraud as quickly as possible when it has been perpetrated. Once fraud prevention fails, Fraud detection comes into play. Fraud detection must be used continually, because one may be unaware that fraud prevention has failed. Fraud detection is a continuously evolving process. Whenever criminals come to know that one detection method is in place, they will change their strategies and try others.

SEBI is using various new tools and software to detect frauds and bring scamsters to book. SEBI's Integrated Market Surveillance System (IMSS), undertakes market surveillance functions and collects data for suspicious market activities through multiple sources, including its network systems at stock exchanges and other market infrastructure institutions. Data Warehousing and Business Intelligence System (DWBIS) is used for speedy analysis of data and identification of possible violations like insider trading. SEBI has got a sophisticated surveillance system, which generates at least 100 alerts of suspicious trading activities every day.

SEBI has also set up a Forensic Accounting Cell to tackle corporate frauds by listed firms and market entities. The cell also works towards improving the quality of financial information disclosed by the companies, besides assisting in detection of financial irregularities. To enhance the quality of financial reporting done by listed entities SEBI has set up a Qualified Audit Report Review (QARC) on which auditing regulator ICAI, stock exchanges and other stakeholders are also represented. With an aim to strengthen its surveillance functions to detect fraudulent and manipulative activities SEBI is also planning to study market intelligence infrastructure and techniques of regulators in the US, UK, Australia and Hong Kong.

Here the Kruskal-Wallis H Test is used to determine whether there is a significant difference in the perception of select respondents regarding role of SEBI in fraud detection practices. The hypothesis for the test is framed and presented as follows:

H₀₁: There is no significant difference in the perception of five different categories of respondents on the role of SEBI in fraud detection practices.

The mean ranks of respondent groups on fraud detection practices are presented in table-5.10.

Table-5.10: Mean Ranks of Response on Fraud Detection			
	Respondents	N	Mean Rank
Response	Investors	2000	1355.39
	Stock Brokers	400	1735.75
	Stock Exchange Officials	120	1930.70
	SEBI Officials	40	1935.83
	Auditors	400	1681.55
	Total	2960	
Source: Computed from the primary data with the help of SPSS Package.			

It is observed from the table-5.10 that the total number of relations processed is 2960. Out of which investors, stock brokers, stock exchange officials, SEBI Officials and auditors are 2000, 400, 120 40 and 400 respectively. The mean ranks of five groups

are 1355.39, 1735.75, 1930.70, 1935.83 and 1681.55. Only eight questions are processed for this test such as question number 1, 2, 3, 5, 6, 7, 8 and 20. The Kruskal-Wallis test statistics are presented as follows:

Test Statistics^{a,b}	
	Response
Chi-Square	168.555
df	4
Asymp. Sig.	0.000
a. Kruskal Wallis Test	
b. Grouping Variable: Respondents	
Source: Computed from the primary data with the help of SPSS Package.	

The chi-square test statistic value is 165.555 with degrees of freedom of 4. The ‘p’ value of the statistic is less than 0.05. Hence, null hypothesis is rejected and alternative hypothesis is accepted inferring that there is a significant difference in the perception of five different categories of respondents on the Role of SEBI in Fraud Detection.

As per Kruskal-Wallis Test there is significant difference in the perception of five groups of respondents but it does not tell which specific groups differed. Post hoc tests are run to confirm where the differences occurred between groups, they should only be run when we show an overall statistically significant difference in group means. Post hoc tests attempt to control the experiment-wise error rate (usually $\alpha = 0.05$) in the same manner that the one-way ANOVA is used instead of multiple t-tests. Post hoc tests are termed as posteriori tests; that is, performed after the study. There are a great number of different post hoc tests available in SPSS package but Tukey’s honestly significant difference (HSD) test is more appropriate to use for this data with the assumption of homogeneity of variance. The multiple comparisons of group mean differences and its significant levels are presented in the table-5.11.

Table-5.11: Multiple Comparisons of Group Means on Fraud Detection Practices of SEBI						
Dependent Variable: Response						
Tukey HSD						
(I) Respondents	(J) Respondents	Mean Difference (I-J)	Std. Error	Sig.	95% Confidence Interval	
					Lower Bound	Upper Bound
Investors	Stock Brokers	-.482*	.055	.000	-.63	-.33
	Stock Exchange Officials	-.747*	.094	.000	-1.00	-.49
	SEBI Officials	-.555*	.147	.002	-.96	-.15
	Auditors	-.389*	.055	.000	-.54	-.24
Stock Brokers	Investors	.482*	.055	.000	.33	.63
	Stock Exchange Officials	-.264	.105	.086	-.55	.02
	SEBI Officials	-.073	.154	.990	-.49	.35
	Auditors	.093	.071	.686	-.10	.29
Stock Exchange Officials	Investors	.747*	.094	.000	.49	1.00
	Stock Brokers	.264	.105	.086	-.02	.55
	SEBI Officials	.192	.172	.798	-.28	.66
	Auditors	.358*	.105	.006	.07	.64
SEBI Officials	Investors	.555*	.147	.002	.15	.96
	Stock Brokers	.073	.154	.990	-.35	.49
	Stock Exchange Officials	-.192	.172	.798	-.66	.28
	Auditors	.166	.154	.817	-.25	.58
Auditors	Investors	.389*	.055	.000	.24	.54
	Stock Brokers	-.093	.071	.686	-.29	.10
	Stock Exchange Officials	-.358*	.105	.006	-.64	-.07
	SEBI Officials	-.166	.154	.817	-.58	.25
*. The mean difference is significant at the 0.05 level.						
Source: Computed from the primary data with the help of SPSS Package.						

As per the table-5.11, there are five groups and each group mean is compared with other four groups mean to know that there is significant difference at 5% level in the perception of groups on the role of SEBI in fraud detection practices. The first group of respondents i.e., investors' perception is not matched with other four groups of respondents. The stock brokers and sub-brokers perception is similar with stock exchange officials, SEBI officials, and auditors but it is different with investors. Stock exchange officials are having similar perception with stock brokers, SEBI officials and auditors except investors. SEBI officials have same perception with that of stock

brokers, stock exchange officials and auditors except investors. The last group is auditors who have the same perception that of investors, stock brokers, stock exchange officials and SEBI officials. The means for groups in homogeneous subsets are displayed as follows.

Response on Fraud Detection Practices of SEBI				
Tukey HSD				
Respondents	N	Subset for alpha = 0.05		
		1	2	3
Investors	2000	3.28		
Auditors	400		3.67	
Stock Brokers	400		3.76	3.76
SEBI Officials	40		3.83	3.83
Stock Exchange Officials	120			4.03
Sig.		1.000	0.627	0.168
Means for groups in homogeneous subsets are displayed.				
a. Uses Harmonic Mean Sample Size = 144.152.				
b. The group sizes are unequal. The harmonic mean of the group sizes is used. Type I error levels are not guaranteed.				
Source: Computed from the primary data with the help of SPSS Package.				

Finally it is observed from the above table that there are three subsets. Out of which investors' perception is unique. Auditors, stock brokers and SEBI officials have the similar perception on the fraud detection practices of SEBI and the third subset is stock brokers, SEBI officials and stock exchange officials' perception is one and same on the issue.

5.6.2. Perception of Five Groups of Respondents on the Role of SEBI in Fraud Investigation Practices:

“No vibrant corporate growth can be expected if most investors have so little confidence in corporate managements and various agencies, which are supposed to protect investors”. This situation called for a strong official initiative from the regulators and government for introducing radical reforms in corporate governance in the stock market. Capital markets are rampant with fraud. Investigators are frustrated with their lack of success in protecting the integrity of the public market place. All

cases not closed as provided in Bye-law 9.10 shall be taken up for investigation requiring the concerned trading member(s) to provide various details relating to the relevant period of investigation, including complete trade or order details of client(s), updated details of client(s), as may be prescribed in the relevant client registration form along with all the enclosures as may be prescribed by the Relevant Authority from time to time, copies of member-client agreements, relevant documents, including memorandum of association, balance sheet, statements of trading members' bank or demat accounts and such other information, details and documents, as may be specified by the Relevant Authority and within such time as may be stipulated from time to time.

Conclusion of Scrutiny and Investigation Based on the information, details and documents obtained from the concerned trading members and after detailed analysis, an inference shall be drawn as to whether or not there appears to be any involvement of trading member(s), either by themselves or through their partner(s) or their director(s) or associate(s) or with other trading member(s) and / or through their partner(s) or their director(s) or associate(s), or clients either by themselves or through their partner(s) or their director(s) or associate(s) or with other trading member(s) and / or through their partner(s) or their Model Bye-Laws Chapter-9 Page 91 of 184 director(s) or associates and companies, by themselves or by their other directors and / or officials, whose security is being scrutinized and investigated, which suggest relationship or collusion, pattern in trading, nature of deals appearing to be cross deals or structured deals, or any other deals executed by a trading member or trading members with a design or an intent to rig or manipulate the price and / or activity in such security or conducting business in any manner in violation of the provisions contained in SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to securities market) Regulations, 1995 or leaving a suspicion of being privy to inside information and executing orders to the advantage of entities privy to inside information, whether knowingly or otherwise.

In case where the inference drawn is against any trading member(s), such cases shall be taken up for suitable disciplinary action, as may be provided in the relevant Regulations from time to time. Post Investigation Action Against Client or Company Director or Company Official in case where the inference drawn is against any

client(s), a director or an official of a company, such cases shall be forwarded to SEBI for such action as may be deemed fit by SEBI. Post Investigation Action in case where the inference drawn is against trading member(s) as well as client(s), or a director or an official of a company, action as stipulated above against the concerned trading member(s) shall be initiated by the Exchange without prejudice to the action that may be taken by SEBI against the concerned trading member for the same offence and for action against client(s), or a director or an official of a company, such cases shall be forwarded to SEBI for such action as may be deemed fit by SEBI.

If a case does not fall under any of the aforesaid categories requiring action, such case shall be treated as closed after proper recording, as may be provided in the relevant Regulations from time to time. If the Relevant Authority is satisfied that there are justifiable reasons to believe that the proceeds or pay-out against any transactions in any one security or set of securities or auction or close out should not be released, the Relevant Authority may, at its discretion, after recording the reasons in writing, decide and order to keep in abeyance such proceeds or payout otherwise due to be released to any trading member and / or any client, until a detailed investigation is carried out and the investigation report is submitted to the Relevant Authority. If the investigation report draws a conclusion that releasing of proceeds or pay-out to any trading member and / or any client will tantamount to benefiting such trading member and / or client involved in manipulation or in any other fraudulent transaction, the Relevant Authority may, at its discretion, after affording an opportunity of being heard to the affected trading members or clients, decide and order to impound such proceeds or pay-out and credit such amount to such fund, as may be decided by the Relevant Authority from time to time.

Here the Kruskal-Wallis H Test is used to determine whether there is a significant difference in the perception of select respondents regarding role of SEBI in fraud investigation. The hypothesis for the test is framed and presented as follows:

H₀₂: There is no significant difference in the perception of five different categories of respondents on the role of SEBI in fraud investigation practices.

The mean ranks of respondent groups on fraud investigation practices are presented in table-5.12.

Table-5.12: Mean Ranks of Response on Fraud Investigation			
	Respondents	N	Mean Rank
Response	Investors	1250	952.70
	Stock Brokers	250	718.58
	Stock Exchange Officials	75	1136.62
	SEBI Officials	25	1407.00
	Auditors	250	876.65
	Total	1850	
Source: Computed primary the primary data with the help of SPSS Package.			

It is evident from the table-5.12 that the total number of relations processed is 1850. Out of which investors, stock brokers, stock exchange officials, SEBI Officials and auditors are 1250, 250, 75, 25 and 250 respectively. The mean ranks of five groups are 952.70, 718.58, 1136.62, 1407.00 and 876.65. Only five questions are processed for this test such as question number 25, 27, 28, 29 and 30. The Kruskal-Wallis test statistics are presented as follows:

Test Statistics^{a,b}	
	Response
Chi-Square	89.955
df	4
Asymp. Sig.	0.000
a. Kruskal Wallis Test	
b. Grouping Variable: Respondents	
Source: Computed from the primary data with the help of SPSS Package.	

The chi-square test statistic value is 89.955 with degrees of freedom of 4. The 'p' value of the statistic (0.000) is less than 0.05. Hence, null hypothesis is rejected and alternative hypothesis is accepted inferring that there is a significant difference in the perception of five different categories of respondents on the Role of SEBI in Fraud Investigation Practices.

As per Kruskal-Wallis Test there is significant difference in the perception of five groups of respondents but it does not tell which specific groups differed. Post hoc tests are run to confirm where the differences occurred between groups, they should only be run we show an overall statistically significant difference in group means. Post hoc tests attempt to control the experiment-wise error rate. There are a great number of different post hoc tests available in SPSS package but Tukey's honestly significant difference (HSD) test is more appropriate to use for this data with the assumption of homogeneity of variance. The multiple comparisons of group mean differences and its significant levels are presented in the table-5.13.

Table-5.13: Multiple Comparisons of Group Means on Fraud Investigation Practices of SEBI						
Dependent Variable: Response						
Tukey HSD						
(I) Respondents	(J) Respondents	Mean Difference (I-J)	Std. Error	Sig.	95% Confidence Interval	
					Lower Bound	Upper Bound
Investors	Stock Brokers	.591*	.067	.000	.41	.77
	Stock Exchange Officials	-.348*	.119	.030	-.67	-.02
	SEBI Officials	-.794*	.179	.000	-1.28	-.31
	Auditors	.287*	.067	.000	.10	.47
Stock Brokers	Investors	-.591*	.067	.000	-.77	-.41
	Stock Exchange Officials	-.939*	.131	.000	-1.30	-.58
	SEBI Officials	-1.385*	.187	.000	-1.90	-.88
	Auditors	-.304*	.086	.004	-.54	-.07
Stock Exchange Officials	Investors	.348*	.119	.030	.02	.67
	Stock Brokers	.939*	.131	.000	.58	1.30
	SEBI Officials	-.446	.211	.215	-1.02	.13
	Auditors	.635*	.131	.000	.28	.99
SEBI Officials	Investors	.794*	.179	.000	.31	1.28
	Stock Brokers	1.385*	.187	.000	.88	1.90
	Stock Exchange Officials	.446	.211	.215	-.13	1.02
	Auditors	1.081*	.187	.000	.57	1.59
Auditors	Investors	-.287*	.067	.000	-.47	-.10
	Stock Brokers	.304*	.086	.004	.07	.54
	Stock Exchange Officials	-.635*	.131	.000	-.99	-.28
	SEBI Officials	-1.081*	.187	.000	-1.59	-.57
*. The mean difference is significant at the 0.05 level.						
Source: Computed from the primary data with the help of SPSS Package.						

It is observed from the table-5.4 that there are five groups and each group mean is compared with other four groups mean to know that there is significant difference at 5% level in the perception of groups on the role of SEBI in fraud investigation practices. The first group of respondents i.e., investor's perception is not matched with other four groups of respondents. The stock brokers and sub-brokers perception is unique compared with other four groups i.e., investors, stock exchange officials, SEBI officials and auditors. Stock exchange officials' perception is similar with SEBI officials but it is not matched with investors, stock brokers, and auditors group. SEBI official's perception is similar with stock exchange officials but it is not true in the case of investor, stock brokers, and auditors. The auditor's group perception is unique when it is compared with other four groups such as investors, stock brokers, stock exchange officials and SEBI officials. The means for groups in homogeneous subsets are displayed as follows.

Response on Fraud Investigation Practices of SEBI					
Tukey HSD					
Respondents	N	Subset for alpha = 0.05			
		1	2	3	4
Stock Brokers	250	3.15			
Auditors	250	3.45	3.45		
Investors	1250		3.74	3.74	
Stock Exchange Officials	75			4.09	
SEBI Officials	25				4.53
Sig.		0.224	0.279	0.118	1.000
Means for groups in homogeneous subsets are displayed.					
a. Uses Harmonic Mean Sample Size = 88.299.					
b. The group sizes are unequal. The harmonic mean of the group sizes is used. Type I error levels are not guaranteed.					
Source: Computed from the primary data with the help of SPSS Package.					

Finally it is observed from the above table that there are four subsets. Out of which stock brokers and auditors, auditors and investors, investors and stock exchange officials, and SEBI officials' groups responses are arranged in first, second, third and fourth subsets respectively. Finally it is found that the SEBI official's perceptions are unique and there is uniformity in the perception of stock brokers and auditors, auditors and investors, investors and stock exchange officials.

5.6.3. Perception of Five Groups of Respondents on Role of SEBI in Fraud Prevention Practices:

Prevention is always better than cure. The same is being followed up by SEBI. SEBI is playing a proactive role in prevention of fraudulent activities by taking some initiatives such as taking an action in a phased manner by framing the guidelines for the conduct of trades, for placing the orders and giving the code of conduct for the market intermediaries, brokers and regulators. SEBI has given out various methods and measures to ensure the investor protection from time to time. It has published various directives, driven many investor awareness programs, set up Investor Protection Fund (IPF) to compensate the investors, issuing orders for unintentional regulation of social media where no person shall be allowed to provide trading tips, stock specific recommendations to the general public through short message services (SMSs), email, telephonic calls, etc., unless such persons obtain registration as an Investment Adviser or are specifically exempted from obtaining registration.

No person shall be allowed to provide trading tips, stock specific recommendations to the general public through any other social networking media unless such persons obtain registration as an Investment Adviser. Alongside whistleblower programs, IT controls / Data Analytics have emerged as a key channel to detect fraud. Apart from measures such as restricted access to online resources and controls over use of external storage devices, organizations are increasingly using Data Leakage Prevention (DLP) software to monitor the movement of data to and from office systems.

Here the Kruskal-Wallis H Test is used to determine whether there is a significant difference in the perception of select respondents regarding role of SEBI in fraud prevention practices. The hypothesis for the test is framed and presented as follows:

H₀₃: There is no significant difference in the perception of five different categories of respondents on the role of SEBI in fraud prevention practices.

The mean ranks of respondent groups on fraud prevention practices are presented in table-5.14.

Table-5.14: Mean Ranks of Response on Fraud Prevention			
	Respondents	N	Mean Rank
Response	Investors	1250	867.53
	Stock Brokers	250	988.75
	Stock Exchange Officials	75	1160.80
	SEBI Officials	25	1156.00
	Auditors	250	1064.06
	Total	1850	
Source: Computed from the primary data with the help of SPSS Package.			

It is evident from the table-5.14 that the total number of relations processed is 1850. Out of which investors, stock brokers, stock exchange officials, SEBI Officials and auditors are 1250, 250, 75, 25 and 250 respectively. The mean ranks of five groups are 867.53, 988.75, 1160.80, 1156.00 and 1064.06. Only five questions are processed for this test i.e., question number 45, 51, 52, 53 and 56. The Kruskal-Wallis test statistics are presented as follows:

Test Statistics^{a,b}	
	Response
Chi-Square	59.210
df	4
Asymp. Sig.	.000
a. Kruskal Wallis Test	
b. Grouping Variable: Respondents	
Source: Computed from the primary data with the help of SPSS Package.	

The chi-square test statistic value is 59.210 with degrees of freedom of 4. The 'p' value of the statistic (0.000) is less than 0.05. Hence, null hypothesis is rejected and alternative hypothesis is accepted inferring that there is a significant difference in the perception of five different categories of respondents on the Role of SEBI in Fraud prevention Practices.

As per Kruskal-Wallis Test there is significant difference in the perception of five groups of respondents but it does not tell which specific groups differed. Post hoc

tests are run to confirm where the differences occurred between groups, they should only be run we show an overall statistically significant difference in group means. There are a great number of different post hoc tests available in SPSS package but Tukey's honestly significant difference (HSD) test is more appropriate to use for this data with the assumption of homogeneity of variance. The multiple comparisons of group mean differences and its significant levels are presented in the table-5.15.

Table-5.15: Multiple Comparisons of Group Means on Fraud Prevention Practices of SEBI						
Dependent Variable: Response						
Tukey HSD						
(I) Respondents	(J) Respondents	Mean Difference (I-J)	Std. Error	Sig.	95% Confidence Interval	
					Lower Bound	Upper Bound
Investors	Stock Brokers	-.242*	.075	.011	-.45	-.04
	Stock Exchange Officials	-.628*	.131	.000	-.98	-.27
	SEBI Officials	-.642*	.199	.011	-1.19	-.10
	Auditors	-.386*	.075	.000	-.59	-.18
Stock Brokers	Investors	.242*	.075	.011	.04	.45
	Stock Exchange Officials	-.386	.144	.058	-.78	.01
	SEBI Officials	-.400	.208	.308	-.97	.17
	Auditors	-.144	.097	.568	-.41	.12
Stock Exchange Officials	Investors	.628*	.131	.000	.27	.98
	Stock Brokers	.386	.144	.058	-.01	.78
	SEBI Officials	-.014	.234	1.000	-.65	.63
	Auditors	.242	.144	.448	-.15	.64
SEBI Officials	Investors	.642*	.199	.011	.10	1.19
	Stock Brokers	.400	.208	.308	-.17	.97
	Stock Exchange Officials	.014	.234	1.000	-.63	.65
	Auditors	.256	.208	.735	-.31	.83
Auditors	Investors	.386*	.075	.000	.18	.59
	Stock Brokers	.144	.097	.568	-.12	.41
	Stock Exchange Officials	-.242	.144	.448	-.64	.15
	SEBI Officials	-.256	.208	.735	-.83	.31
*. The mean difference is significant at the 0.05 level.						
Source: Computed from the primary data with the help of SPSS Package.						

It is observed from the table-5.15 that there are five groups and each group mean is compared with other four groups mean to know that there is significant difference at 5% level in the perception of groups on the role of SEBI in fraud prevention practices.

The first group of respondents i.e., investors' perception is not matched with other four groups of respondents. The stock brokers and sub-brokers perception is same with that of stock exchange officials, SEBI officials and auditors. Stock exchange official's perception is similar with that of stock brokers, SEBI officials, and auditors. SEBI official's perception is similar with that of stock brokers, stock exchange officials and auditors. The auditor's group perception is also matched with stock brokers, stock exchange officials and SEBI officials. The response on fraud prevention practices subset for alpha is presented as follows:

Response on Fraud Prevention Practices of SEBI			
Tukey HSD			
Respondents	N	Subset for alpha = 0.05	
		1	2
Investors	1250	3.36	
Stock Brokers	250	3.60	3.60
Auditors	250	3.74	3.74
Stock Exchange Officials	75		3.99
SEBI Officials	25		4.00
Sig.		0.119	0.096
Means for groups in homogeneous subsets are displayed.			
a. Uses Harmonic Mean Sample Size = 89.250.			
b. The group sizes are unequal. The harmonic mean of the group sizes is used. Type I error levels are not guaranteed.			
Source: Computed from the primary data with the help of SPSS Package.			

Finally it is observed from the above table that there are two subsets. Out of which investors, stock brokers and auditor's groups responses are arranged in first and except investors remaining groups are arranged in second sub-set. Finally it is found that the stock brokers and auditors perceptions are similar on the role of SEBI in fraud prevention practices.

5.7. CHAPTER SUMMARY:

Three factors were selected for the study to examine the role of SEBI in (1) fraud detection, (2) fraud investigation and (3) fraud prevention practices. The total variance explained by these three factors is 65.929%. Out of which 31.237% contributed by fraud detection practices, 19.636% by fraud investigation practices and 15.056% by fraud prevention practices. Hence, it is concluded that the SEBI is playing an important role in fraud detection compared to other two factors. The second part of the questionnaire consists of three factors and each factor is loaded with twenty statements. This study is also extended to identify the most influencing statements out of these three factors. With the help of rotated component matrix the most influencing statements from the first, second and third factors are 1, 2, 3, 5, 6, 7, 8 and 20; 25, 27, 28, 29 and 30; 45, 51, 52, 53, and 56. The sample respondents are classified into five groups such as (1) Retail Investors (2) Stock Brokers and Sub-brokers (3) Stock Exchange Officials (4) SEBI Officials and (5) Auditors. The perception of Investors' and SEBI officials is unique on the role of SEBI in fraud detection and fraud investigation practices. Auditors' and stock brokers' perceptions are similar on the role of SEBI in fraud prevention practices.

CHAPTER-6

SUMMARY OF FINDINGS, CONCLUSIONS AND SUGGESTIONS

6.1. INTRODUCTION:

Securities and Exchange Board of India has been completed its 30 years of existence and it has been an eventful journey for the capital markets regulator and it has created market infrastructures that are better than those in many other countries. As far as the past 30 years are concerned SEBI's journey has been quite challenging. At the same time this journey has also been something that the market entities and the entire country should be proud for its successful journey. It has been indeed an eventful journey despite all the challenges put across to SEBI and it has been able to tackle all those challenges in an effective manner and the evolution process has been great in all these years.

There have been massive changes in the way the market functions and the trading happens. From the use of latest technology to widening of the markets and market activities, a host of eventful changes have taken place. It has created market infrastructures which are world class and where trading today takes place in a much more transparent manner, which is much better than the way market functions in many other parts of the world. The markets were earlier concentrated in a few hands and to a few entities in terms of intermediaries as well as the investors. There has been a quantum jump on this front. A host of new investment avenues and market entities, starting from mutual funds to venture capital funds have come to the fore front and widening the markets in a big way.

SEBI has created a well-functioning capital market by initiating new developments in the primary and secondary markets in terms of different parameters such as operational and systematic risk management, settlement system, disclosure norms and accounting standards. Amid all this growth and widening of the markets, safeguarding the investors' interest has remained paramount and significant changes have been made on that front as well.

In an atmosphere of doubt and disbelief financial statements are often viewed with skepticism. This has also led to erosion of confidence and reduced trust among participants in the financial system. The weakness of criminal law and criminal jurisprudence is very significant in the administration of justice in India. The common law pressure of the justice delivery system on account of 'proof beyond doubt' is very

heavy especially in the offences relating to finance. It may result offenders going scot free. As a consequence, the investors are likely to lose their confidence on the capital market regulator thereby in the long-run capital markets get affected. Hence, this study is conducted to analyze the perception of five different groups of respondents on the role of SEBI in fraud detection, investigation and prevention practices. The findings, conclusions and suggestions drawn from the study are presented in this chapter.

6.2. FINDINGS OF THE STUDY:

The important findings of the study are presented as follows:

The nature or type of financial frauds occurred in the Indian capital market are Harshad Mehta Scam, Vanishing Companies Scam, C R Bhansali Scam, Ketan Parekh Scam, UTI Scam, Dinesh Dalmia Scam, IPO Scam, Satyam Scam, Sahara India Pariwar Investor Fraud, Saradha Chit Fund Scam, NSEL Scam, PACL Scam etc.

The causes of financial frauds in the Indian capital market are lack of operational efficiency, structural and organizational imbalance, dominance of few corporates and financial institutions, speculation, vanishing companies, political interference, failure of depositories and involvement of financial institutions, violation of corporate ethics, insider trading, weak corporate governance, role of auditors, false books and bogus accounting, lax board, dubious role of rating agencies, flawed ownership model, regulatory gap, penny stocks, and other reasons.

The types of unfair offences found from the study are scalping, puffing advertisements, front running / back running, circular trading, making the close, churning and burning, pump and dump, cornering shares in public issue, misselling of mutual funds, ponzi schemes, unauthorized electronic platforms and others.

The average number of cases completed as a percentage of cases taken up is 93.08. Over the period of study 2,327 investigations taken up by SEBI; of which market manipulations and price rigging, issue related manipulation, insider trading, takeover and miscellaneous are 1,542, 202, 260, 66 and 230 respectively.

SEBI completed 2,059 investigations. Of which market manipulations and price rigging, issue related manipulations, insider trading, takeover, and miscellaneous are 2,296, 158, 223, 60 and 198 respectively.

The total number of actions taken by SEBI during 1996-97 to 2016-17 is 12,907. Total number of cases in which prosecutions has been launched and an entity against whom prosecution has been launched is 1,665 and 7,016 respectively.

Region-wise data on prosecutions explained that head office / western region accounts more than 50 percent. Nature of prosecutions launched is more under SEBI Act, 1992 compared with other legislations.

The average redressal of investors grievances are 98 percent. Region-wise awareness programs / workshops conducted during 2007-08 to 2016-17 by head office, eastern region, northern region, western region and southern region was 250, 424, 572, 237 and 355 respectively.

Financial education programs through resource persons organized during 2010-11 to 2016-17 are more than 50,000.

It is found that the total variance explained by three factors is 65.929%. Out of which 31.237% contributed by fraud detection practices, 19.636% by fraud investigation practices and 15.056% by fraud prevention practices.

6.3. CONCLUSIONS OF THE STUDY:

The important conclusions drawn from the study are as follows:

It is clearly evident from the study that the most of the capital market scams are occurred only because of weak financial regulations and failure of corporate governance in finance.

It is observed from the study that the SEBI is successful up to a major extent in prohibiting the unfair offences such as scalping, rumour, front running, circular trading, making the close, pump and dump and ponzi schemes from the time to time .

In addition to SEBI, there are other regulatory authorities like Reserve Bank of India, Serious Fraud Investigation Office, Ministry of Corporate Affairs, National Financial Regulatory Authority, Central Bureau of Investigation, Company Law Board, Economic Intelligence Council, Indian Penal Code, etc., are also actively participating in the prevention of unfair and fraudulent trade practices in the Indian capital market.

It can be concluded that the percentage of market manipulations and price riggings was registered very high among the other reasons. Therefore, SEBI has to take necessary action for the control of market manipulations and price rigging.

It is concluded from the perception of five groups of respondents that the existing surveillance detecting market manipulations and price rigging, detecting issue related manipulations, insider trading practices, SEBI's forensic accounting cell detecting frauds, circuit filters, daily price bands and weekly price caps curbing abnormal price behavior and volatility, interaction and coordination with stock exchanges detecting frauds, exchanges stock watch system detecting abnormal price and volume movement, the system of internal audits of stock brokers by outside professionals and inspection by stock exchanges and by SEBI has improved the compliance level of stock brokers.

It is concluded from the perceptions of respondents that the current investigation process is flexible and it takes market and static data for analysis, the percentage of cases taken up for investigation and cases completed is satisfactory, investigations contribute to policy changes with a view to further strengthening the regulatory and enforcement environment, current consent mechanism norms of SEBI are relevant and enquiry officers have sufficient power to identify and issue show cause notices to persons who might be involving in violations.

It is also concluded from the perceptions of respondents that the existing corporate governance guidelines prevent frauds, existing system prevents violations by entities, regulator's current crisis management helps to maintain financial stability, current system prevents money laundering activities and SEBI is playing efficient role in registering and regulating stock brokers in order to prevent the fraudulent financial practices.

The perception of Investors' and SEBI officials is unique on the role of SEBI in fraud detection and fraud investigation practices. Auditors' and stock brokers' perceptions are similar on the role of SEBI in fraud prevention practices.

6.4. SUGGESTIONS FOR THE STUDY

The following are the important suggestions offered from the study:

The scams may be controlled by recovering and imposing huge amount of fines on the guilty, reforming the existing system, standardization of records, by educating retail investors effectively and efficiently, by strengthening prevention practices, by introducing value education, by sensitizing responsible citizens, media, and social organizations.

Measures to prevent fraudulent and unfair trade practices are possible through improved risk assessment and awareness, by discovering and punishing the guilty, recovering the money, integration money and capital markets, improved transparency, up-gradation of quality of secondary markets, creating positive corporate culture etc.

Some of the important recommendations for strengthening investor confidence in the Indian capital market are to provide latest and easy availability of information, action against issue managers, analysts and company for providing over optimistic and wrong information, improve faith in intermediaries, strengthen the cyber security, promoting good corporate governance standards.

6.5. LIMITATIONS OF THE STUDY:

The important limitations of the study are presented as follows:

- The period of study is selected for this study spans between years 1992-93 to 2016-17.
- The respondents selected for this study is only from Mumbai and Hyderabad cities and the sample size is limited to 370.

- To judge the role of SEBI in fraud detection, investigation and prevention practices only three factors are considered for this study and each factor consists of 20 statements.
- The statistical tools used in this study are also having its own limitations.

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QUESTIONNAIRE

QUESTIONNAIRE ON
FRAUDULENT FINANCIAL PRACTICES AND INVESTOR
PROTECTION IN THE INDIAN CAPITAL MARKET– ROLE OF SEBI

Dear Respondent,

This questionnaire is being executed as a part of Major Research Project approved by the University Grants Commission on 01-07-2015, titled “Fraudulent Financial Practices and Investor Protection in the Indian Capital Market – Role of Securities and Exchange Board of India” to the Department of Commerce, University College of Commerce & Business Management, Osmania University, Hyderabad, Telangana State, India.

Your inputs will go a long way in furthering the cause of academics and research in general and in improving the role of SEBI and other regulatory bodies in the Indian Financial Market. Your information will be kept highly confidential and will be used for academic purposes only.

Thanking you in anticipation of your kind cooperation.

Yours faithfully,

(GADDAM NARESH REDDY)
PRINCIPAL INVESTIGATOR

I. DEMOGRAPHIC PROFILE:

1. Gender: (1) Male [] (2) Female []
2. Age: (1) 20-40 Years [] (2) 40-60 Years [] (3) Above 60 Years []
3. Educational Background: (1) School Education [] (2) College Education []
(3) Professional [] (4) Others, Please Specify.....
4. Occupation: (1) Salaried [] (2) Professional []
(3) Business [] (4) Others, Please Specify.....

5. Relation with Stock Market: (1) Investor [] (2) Stock Broking []
- (3) Stock Exchange Official [] (4) SEBI Official [] (5) Auditor []
6. Designation (please specify):
7. Location: (1) Mumbai [] (2) Hyderabad []
8. Experience: (1) up to 5 Years [] (2) 5-10 Years [] (3) 10-15 Years
- (4) 15-20 Years [] (5) More than 20 Years []
9. Nature of investment (for investors only): (1) Active [] (2) Passive []
10. Are you expecting any further reforms in capital market? (1) Yes [] (2) No []
- If yes, what type of reforms are you expecting? (Please specify):
-
-
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II. ROLE OF SEBI IN FINANCIAL FRAUD DETECTION, INVESTIGATION AND PREVENTION:

This section consists of three factors namely, (A) **Role of SEBI in Financial Fraud Detection**, (B) **Role of SEBI in Financial Fraud Investigation**, and (C) **Role of SEBI in Financial Fraud Prevention**. I request you to rate the following statements on a **five point scale** where one indicate Strongly Disagree (**SDA**), two for Disagree (**DA**), three for Neutral (**N**), four indicates Agree (**A**) and five is meant for Strongly Agree (**SA**). Put tick [✓] mark for any one option.

A. ROLE OF SEBI IN FINANCIAL FRAUD DETECTION:

How accurately do the following statements describe SEBI's role in Financial Fraud Detection?

SL. NO.	STATEMENTS	SDA	DA	N	A	SA
1	Existing surveillance detecting market manipulations and price rigging.					
2	Existing surveillance detecting issue related manipulations.					

3	Existing surveillance detecting insider trading practices.					
4	Existing surveillance detecting takeover manipulations.					
5	SEBI's Forensic Accounting Cell detecting frauds.					
6	Existing circuit filters, daily price bands and weekly price caps to curb abnormal price behavior and volatility.					
7	Interaction and co-ordination with stock exchanges in detecting frauds.					
8	Exchanges stock watch system detecting abnormal price and volume movement.					
9	Exchanges surveillance cells are strong enough to detect frauds and proactive.					
10	Exchange self regulation capabilities helps in detecting malpractices.					
11	Investor awareness and education programs help in alerting them about fraudulent practices.					
12	Information available to everyone at the same time in the market.					
13	Regulator is strong enough to detect frauds.					
14	Existing detective mechanism checks volatility.					
15	Current system of auditing exchanges helps in detecting frauds.					
16	Current fraud detective mechanism helps in improving liquidity.					
17	Current market making activity detect frauds.					
18	Current cyber security and cyber resilience framework of stock exchanges, clearing corporations and depositories detect financial frauds.					

19	SEBI price manipulation monitoring division is successful in its function to identify price manipulations.					
20	The system of internal audits of stock brokers by outside professionals and inspections by stock exchanges and by SEBI has improved the compliance level of stock brokers.					

B. ROLE OF SEBI IN FINANCIAL FRAUD INVESTIGATION:

How accurately do the following statements describe SEBI's role in Financial Fraud Investigation?

SL. NO.	STATEMENTS	SDA	DA	N	A	SA
21	Actions against wrong doers are strong.					
22	Investigating authorities have sufficient powers to investigate frauds.					
23	Existing action against brokers with bad conduct is up to the mark.					
24	Market regulators are completing investigations on time.					
25	Current Investigation process is flexible and it takes market and static data for analysis.					
26	The outcome of investigations in the form of enforcement action is a clear signal to market players to comply with legal provisions.					
27	The percentage of cases taken up for investigation and cases completed is satisfactory.					
28	Investigations contribute to policy changes with a view to further strengthening the regulatory and enforcement environment.					
29	Current consent mechanism norms of SEBI are relevant.					
30	Enquiry Officers have sufficient power to identify					

	and issue show cause notices to persons who might be involving in violations.					
31	Present investigation department is strong enough for timely completion of investigations.					
32	Investigations carried out by SEBI are succeeded in finding out misstatements in the prospectus.					
33	Serious Fraud Investigation Office (SFIO) is a duplication of Securities Appellate Tribunal (SAT)					
34	SEBI has done sufficient investigation in order to know unusual price movements.					
35	SEBI has done sufficient investigation in order to know Ponzi schemes.					
36	SEBI played successfully its investigatory role to find out insider trading activities.					
37	By doing appropriate investigation SEBI set daily price bonds through stock exchanges to curb abnormal price behavior and volatility.					
38	Investigations carried out by SEBI during the last few years have produced helpful impact on the capital market.					
39	Investigations carried out by SEBI resulted in reduction in number of instances of alleged market manipulations and price rigging.					
40	Investigations carried out by SEBI succeeded in finding out noncompliance with takeover regulations.					

C. ROLE OF SEBI IN FINANCIAL FRAUD PREVENTION:

How accurately do the following statements describe SEBI's role in Financial Fraud Prevention?

SL. NO.	STATEMENTS	SDA	DA	N	A	SA
41	Existing whistle-blower mechanisms to company stakeholders prevent frauds.					
42	Existing uniform and transparent regulations / codes of conduct prevent frauds.					
43	Existing legislative, executive and judicial powers of SEBI prevent frauds.					
44	Existing SEBI guidelines prevent unethical practices.					
45	Existing corporate governance guidelines prevent frauds.					
46	Existing order-driven, fully automatic, anonymous screen-based trading prevent frauds.					
47	Existing comprehensive risk management systems prevent frauds.					
48	Existing depository systems prevent frauds.					
49	Existing SAS Business Analytics Platform preventing unfair trading.					
50	Preventive measures are not allowing bogus companies to raise funds.					
51	Existing system prevents violations by entities.					
52	Regulator's current crisis management helps to maintain financial stability.					
53	Current system prevents money laundering activities.					
54	Current model code of conduct prevents insider trading.					
55	Special or penal margin set by SEBI reduces the price manipulations.					

56	SEBI played efficient role in registering and regulating stock brokers in order to prevent the fraudulent financial practices.					
57	Current entry norms given by SEBI prevent the unauthorized access to the capital markets.					
58	Current guidelines of SEBI regarding promoters' contribution protect investors' interest.					
59	SEBI played successful role in educating investors to prevent investors from the loss that occurs due to lack of knowledge.					
60	Current electronic data information filling and retrieval system (EDIFAR) is useful for preventing fraudulent financial practices.					

Kindly provide your valuable suggestions and information that you would facilitate the role of SEBI in Financial Fraud Detection, Investigation and Prevention.

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Thanks for your valuable participation and time in providing responses to the questions.