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# NSE SCAM: ADMONITION FOR CORPORATE GOVERNANCE

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## 1. INTRODUCTION

*“Just as it is impossible to know when a swimming fish will drink water, so it is impossible to find out when a corporate steward is stealing money”<sup>1</sup>*

In India, corporate governance has changed dramatically since the late 1990s. India's expanding economy has prompted a plethora of corporate governance laws, including access to foreign direct investment, the increased presence of institutional investors (both domestic and foreign), and Indian companies' growing desire to access global capital markets. Corporate India spearheaded India's corporate governance reforms, which quickly became an important part of the work of the country's primary capital markets regulator, the Securities Exchange Board of India (SEBI), as well as the Ministry of Corporate Affairs (MCA) and stock exchanges.

The Indian government started overhauling its corporate governance system in the late 1990s. SEBI introduced unprecedented corporate governance reforms in 2000 through Clause 49 of the stock exchange listing agreement (Listing Agreement) in response to lobbying by large corporations and industry groups (Clause 49). Clause 49 established a number of governance requirements for listed companies, with a focus on the role and structure of corporate boards, internal controls, and shareholder disclosure. It was a watershed moment in Indian corporate governance. Clause 49 did not put an end to India's corporate governance reform efforts. In fact, the adoption of Clause 49 marked the start of sweeping changes in Indian corporate governance.

In India, corporate governance reforms were enacted in response to scandals, just as they had been in other jurisdictions. Satyam Computer Services Ltd. (Satyam), one of India's largest information technology companies, was involved in a massive accounting scandal that rocked the Indian corporate community in January 2009. The Indian government reacted quickly to the Satyam scandal, arresting several Satyam insiders and auditors, launching investigations

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<sup>1</sup> From Kautilya's Arthashastra (300 B.C).

with the MCA and SEBI, and appointing government nominees to the company's board of directors. Following the scandal, Indian regulators and industry groups pushed for a slew of corporate governance reforms to address some of the issues raised by the Satyam debacle. Some of these responses gained traction, primarily through the adoption of voluntary guidelines by public and private institutions. In the new decade, even more significant changes in corporate governance occurred.

Scams in the financial sector are not uncommon in India. Haridas Mundhra, Harshad Mehta, Abdul Karim Telgi, Ketan Parekh, Ramalinga Raju, and others have shocked the country's collective consciousness and rocked India's banking system and stock markets time and time again with their financial shenanigans. But it's rare that people in charge of institutions that are supposed to be models of financial integrity get sucked into a monetary quagmire. The scandal at the National Stock Exchange has now been added to the list of biggest scams. It's all about the money in scams. However, no one knows the true extent of the alleged financial fraud in the NSE case, which began in 2015. A major stock exchange, such as the NSE, is a systemically important institution because it performs economic functions and serves as a symbol of the free market. And any disruption in the NSE has ramifications for the economy and the country, it cannot be compared to a disruption in a private company. Even six years after the shocking revelations, it's unclear if investigators are any closer to cracking the case's crux, which is the amount of illegal gains traders made and who are the foreign institutional and foreign portfolio investors who accessed the exchange's order book hours before market opening for over five years in a row. Regulator SEBI has imposed penalties on various parties, including the NSE, its top management, and brokers, that range from Rs 1 crore to Rs 15.6 crore, excluding interest. Worse, investigators have yet to determine whether the world's largest derivatives exchange and its former management engaged in any deliberate wrongdoing. The key allegations, stripped of technicalities, were that NSE staff grants a select group of trader's preferential access to critical data, which was then allegedly shared with a select group of traders in offshore locations such as Singapore, according to a whistleblower letter from 2015. Surprisingly, the NSE's forensic investigations focused primarily on brokers' preferential access to exchange servers, rather than data sharing or foreign investors who profited from the data. Here's something else to consider. The NSE's first crime was starting the tick-by-tick (TBT) High Frequency or Algo trading (HFT) and co-location service in January 2010, rather than giving preferential access to select brokers. Because NSE did not notify SEBI or seek necessary

approvals before launching the service, all of these trades were illegal to begin with, but SEBI handled the situation with kid gloves, as if NSE had made a schoolboy error.

However, the money exchange made via co-location facility (excluding rack charges) was a whopping Rs 811.54 crore from FY11 to FY14, so the regulator asked NSE to deposit Rs 1,000 crore in an investor protection fund (disgorge Rs 625 crore with interest of 12% per annum from April 2014) to the Investor Protection and Education Fund. NSE, as expected, appealed the order, and for administrative lapses, Chitra Ramkrishna was fined Rs 3 crore, while NSE, Ravi Narain, and Anand Subramanian were each fined Rs 2 crore. In the co-location case, both Narain and Ramkrishna must disgorge 25% of their three-year (FY11-FY13) and one-year (FY14) salaries, respectively, which is estimated to be around Rs 4-5 crore. Since April 2014, OPG Securities has been ordered to repay Rs 15.6 crore plus interest at 12% per annum. They all filed separate complaints with the Securities Appellate Tribunal against the SEBI orders, and the case is currently being heard.

SEBI, as a regulator, has to examine millions of transactions in the stock market almost every minute, which is a herculean task in and of itself. The problem is exacerbated by the need to act quickly, and it is understandable that there are limits to how far it can investigate a case and how much resources it can devote to a particular scam or controversy. Overallocation in one case may result in the neglect of problems elsewhere. However, the SEBI's decision to take action against the NSE is a bold admission and it is true that if the sectoral watchdogs' functions honestly and independently, more NSE-type surprises cannot be ruled out.

## **2. DECODED NSE SCAM**

The National Stock Exchange of India Limited is the country's leading financial exchange, with headquarter in Mumbai. It was incorporated in 1992 and since then, has evolved into an advanced, automated, electronic system offering trading facilities to investors across the country. In 2015, this exchange system ranked in fourth place in the world according to the metric of its trading volume.

This stock exchange began its operations in 1994 at the behest of the Indian government to bring a level of transparency to the country's capital market. Set up by an assembly of leading financial institutions at the recommendations formulated by the Pherwani Committee, this Stock Exchange comprised of diverse shareholding assets from global and domestic investors.

It was also the first Stock Exchange in the country to introduce electronic trading facilities, thus facilitating the integration of investors throughout the country into a single base.

As of 2018, NSE had a total market capitalization exceeding the US \$ 2.25 Trillion, putting it in 17th place in the list of the largest stock exchanges in the world. However, unlike the USA, where trading from the corporate sector accounts for about 70% of the Country's GDP, this sector in India accounts for only 12-14% of its total GDP. Out of this entire corporate sector, around 7800 companies are listed with about 4000 among those trading at Indian stock exchanges. Thus, the stock exchange trading accounts for the meagre 4% of the country's total GDP.

The National Stock Exchange of India Limited offers a platform to companies for raising capital. The investor can access equities, currencies, debt, and mutual fund units on the platform. In India, foreign companies can raise capital using the NSE platform through Initial Public Offerings (IPO), Indian Depository Receipt (IDRS), and debt issuances. The NSE also offers clearing and settlement services.

NSE India has to its credit, numerous pioneering efforts directed towards modernising India's financial system and capital markets. The 'NSE Model' of market structure originated from the electronic Limit Order Book (LOB) feature for the trading of securities first implemented by the National Stock Exchange India. Online trading in India commenced in February 2000 under the efforts of this bourse. NSE India also happens to be the first and only exchange in the country for the trading of gold ETF (Exchange Trade Funds). The other few firsts associated with the National Stock Exchange are the launch of the NSE-CNBC-TV18 media centre in association with CNBC-TV18, setting up the first clearing corporation 'National Securities Clearing Corporation Ltd.' in India, co-promoting and setting up of the first depository in India (National Securities Depository Limited), and more. Today, the NSE India is counted amongst the topmost bourses in the world.

However, a stock exchange that was created to make stock trading more transparent is now embroiled in controversy. It was a complete fluke. The Securities and Exchange Board of India, India's market regulator, started an investigation in 2015 into a whistleblower's complaint that a few traders were given preferential access to the National Stock Exchange's servers and co-location facilities. In a co-location facility, brokers can operate closer to their servers by paying extra fees for co-location. Because data transmission takes less time, it allows brokers to gain

an advantage over their competitors due to their proximity of exchange servers. Orders that have taken advantage of service reach exchange servers faster than those who have not. In time-sensitive trading, this access gave them a significant advantage over other brokers and traders. However, SEBI Uncovered a far significantly bigger conspiracy in the country's largest stock exchange during the course of the investigation.

Chitra Ramakrishnan, the former Managing Director (MD) and Chief Executive Officer (CEO) of the National Stock Exchange (NSE), is accused of abusing her position by making inappropriate appointments, failing to conceal confidential information about the exchange's operations, and making inaccurate and misleading submissions to the Securities and Exchange Board of India (SEBI). Her unknown spiritual guru influenced decision-making according to the regulator.

On April 1, 2013, Ms Ramakrishnan has appointed the exchange's MD and CEO. Despite Mr Subramanian's inadequate experience in capital markets, she appointed him as the exchange's Chief Strategic Officer (CSO). He worked at Transafe Services Pvt. Ltd., a wholly-owned subsidiary of Balmer and Lawrie, as Vice President of Leasing and Repair Services. Mr Subramanian's previous work experience was not relevant to his new consulting positions at NSE according to SEBI. His previous annual salary was 15 Lakh, but it increased significantly to 1.68 crores at NSE. He was also expected to work four days per week. With regular appraisal and performance ratings, his pay rose to 4.21 crores in less than two years. He was re-designated as the GOO and MD's adviser and asked to work five days a week. The exchange had not advertised any vacancy for the position of CSO, according to SEBI. The former NSE Chief was found guilty of disclosing confidential information to her unknown spiritual guru about the NSE's organisational appointments, financial results and projections, dividend pay-out ratio, and both consultations. The NSE board was found guilty of failing to notify the market regulator and instead of opting to keep information hidden. It requested that Ms Ramakrishna in December 2016 and Mr Subramanian resigned in October 2016.

As a response to the Harshad Mehta Scam at the Bombay Stock Exchange in 1992, the NSE was founded in 1992 and began operations in 1994. Mehta, a stock broker, manipulated the prices of several stocks by obtaining money illegally through the use of forged bank receipts. Markets eventually crashed, causing the investor to lose crores of rupees. Stocks were brought and sold on a trading floor where about brokers used hand signals and shouted across the room to trade.

The government felt the need to take make trading more transparent in aftermath of the scandal. A satellite data and screen-based trading system were introduced by NSE. The exchange was set up by R.H. Patil, Executive director of IDBI at the time, and Ramakrishna was a member of his core team, along with Ravi Narain and Ashish Kumar Chauhan. In 2009, Ramakrishna was promoted to deputy CEO. and in 2013 succeeded Narain as MD and CEO. She was the first woman to lead an Indian Stock Exchange and is credited with a number of improvements, including screen-based Trading.

The former NSE CEO is being investigated for allegedly abusing the exchange's trading software according to a case filed in May 2018. The accused in the case was filed in May 2018. The accused in the case are stock broker OPG securities and its owner Sanjay Gupta, as well as unidentified SEBI and NSE officials. Mr Gupta is believed to have gained access to the NSE's backup server with the help of NSE data centre employees. This aided the early flow of information to the brokers, resulting in unjustified profits. The brokers allegedly had unfair access between December 2012 and May 2014, according to the Hindu Businessline. The Bombay High Court in its verdict on the MCX Stock Exchange vs SEBI (March 2012) dispute had stated that exchanges provide the "first layer of oversight". "As self-regulatory organisations, stock exchanges have a front-line responsibility for regulation of their markets and for controlling compliance by members of rules to which they are subject," the order read.

The order added that market surveillance carried out by stock exchanges in certain jurisdiction regulate issuers. They ensure that stocks are reliably traded and that issuers meet standards of corporate governance. "Stock exchanges as institutional mechanisms have an important role to play in ensuring the stability of the financial and economic system," the Bombay HC order had said. In that light, Ms Ramkrishna as the then-NSE chief is accused of financial misleading, concealing of information and improper conduct.

Today, the NSE is India's largest financial market as well as the world's largest derivatives exchange. However, the exchange, which was established to make stock trading more transparent, is now mired in controversy. SEBI ordered NSE to pay ₹ 6224.89 crores to SEBI's Investor protection and education fund, along with the 12 per cent annual interest rate, in the co-location scam case in 2019. Narain and Ramkrishna were asked to deposit 25 per cent of the salary drawn for specific years to the fund. And Ms Ramakrishna was barred from dealing in stocks, depositories intermediaries or clearing corporations for three years and was penalized ₹ 3 crores for the next three years, Mr Subramanian is not allowed to associate with any market

infrastructure or intermediary. He also would have to pay a penalty of ₹ 2 crores. For the next six months, NSE has been ordered not to introduce a new product and also ordered to forfeit the 1.54 crore excess leave encashment and the 2.33 cores deferred bonus owed to Ms Ramkrishna but retained by the exchange. The exchange was ordered to deposit the amount in its Investor Protection Fund Trust. The other entities were accused of violating Section 15 HB of the SEBI Act (1992) and Section 23 A and 23 H of the Securities Contract (Regulation) Act, 1956, along with Mr Narain, then the President and Company Secretary J. Ravichandran, the erstwhile Regulatory officer J. Ravichandran. A penalty of Rs. 1 crore has been imposed on both NSE and Mr Narain.

### **3. SEBI: A WATCHFUL OR REMISS REGULATOR?**

The Securities Exchange Board of India regulates the capital market and is mindful of managing the reasonable working of the capital markets. SEBI was not created overnight. It began as a non-statutory body and gradually grew into a powerful regulator by spreading its wings across the market and enacting various rules and regulations. It became a statutory body in 1992. SEBI is attempting to protect investors' interests by plugging various loopholes in the previous law. The Cabinet Committee on Economic Affairs (CCEA) initiated the process for the establishment of SEBI by approving some features in 1987. On 12th April 1988, SEBI was set up as a non -statutory body by getting administrative power from the Government for dealing with matters of the securities market.<sup>2</sup>

On 12th April 1988, SEBI was set up as a non-statutory body through an administrative resolution of the Government for dealing with all matters relating to the development and regulation of the securities market.<sup>3</sup> The corporate sector has been paralysed as a result of various capital market scams that have shattered investor confidence. As SEBI was a non-statutory body in 1988, it was the need that SEBI should be given more power to become a vigilant regulatory body.<sup>4</sup> In 1992, a major initiative of liberalization was evolved in the capital market by repealing the Capital Issues (Control) Act, 1947, and establishing SEBI as a statutory body. The Narasimham Committee and Parliamentary committee recommended that SEBI should make rules, regulations and examine the trading practices for the stock exchange. This urgency of giving SEBI more power like sufficient legal and administrative powers was

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<sup>2</sup> SEBI Annual Report, 1988-89, pg.- 1.

<sup>3</sup> [https://www.sebi.gov.in/sebi\\_data/attachdocs/1293096997650.pdf](https://www.sebi.gov.in/sebi_data/attachdocs/1293096997650.pdf), accessed on 21 March 2022.

<sup>4</sup> SEBI Guidelines on capital issues and merchant banking, 1994, Mumbai, Securities Exchange

because of Harshad Mehta Scam.<sup>5</sup> The Supreme court of India in *Swedish Match AB v. SEBI*<sup>6</sup> explained the objective of SEBI. SEBI has the Doctrine of separation of powers, as it performs all the powers in the capital market like Legislative, Administrative and Judicial powers.

However, The Securities and Exchange Board of India (SEBI) issued a significant order regarding India's largest stock exchange, the National Stock Exchange (NSE), earlier this month. SEBI's 190-page order, as the markets regulator, raises more questions than it answers. It highlights the regulator's inaction in dealing with a sensitive matter involving the manner in which a top-level NSE official was appointed, as well as possible regulatory violations by the then-CEO and MD Chitra Ramkrishna in sharing confidential internal information with an unidentified person. The first complaint alleging governance issues in the NSE's April 2013 appointment of Anand Subramanian as Chief Strategic Adviser was received in December 2015, according to SEBI's admission. Following an e-mail exchange between the regulator and the NSE on the subject in 2016, SEBI tasked the exchange's board with determining whether any norms had been violated. In November 2017, the NSE received a report from the board's Nomination and Remuneration Committee, which pointed out several irregularities in his appointment, including his lack of relevant experience and the fact that Ms. Ramkrishna had conducted the interview alone. Separately, but intrinsically linked, SEBI discovered documentary evidence pointing to Ms. Ramkrishna having been in e-mail communication and sharing sensitive information with an unidentified person in the course of its investigation into another matter at the NSE in 2018. The NSE's conclusion that this unidentified person was none other than Mr. Subramanian was sent to SEBI in October 2018 based on findings in a forensic audit by Ernst & Young. Despite this, it took the regulator another 40 months to conclude that the unidentified person ostensibly guiding Ms. Ramkrishna was unlikely to be Mr. Subramanian, who benefited the most from the guidance by being promoted to Group Operating Officer and receiving annual pay increases that boosted his annual compensation to \$4.21 crore by April 2016 from \$1.68 crore in April 2013. To be certain that, SEBI acknowledges that the NSE's tardiness in responding to its missives hampered its efforts. Apart from the fact that the board of a Market Infrastructure Institution, charged with safeguarding the trust of millions of investors, failed miserably to exercise crucial oversight over its CEO's conduct, SEBI is hardly an exemplar. Even as it concludes that it is unable to establish any

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<sup>5</sup> Observations/conclusions/recommendations of 10th Lok Sabha -Joint Committee to enquire into irregularities in securities and banking transactions (Joint Parliamentary committee report 1992 -Harshad Mehta).

<sup>6</sup> (2004) 11 SCC 641, Paras 46 and 51.



"specific loss caused to investors" by the NSE and Ms. Ramkrishna, the regulator spills far too much ink in almost voyeuristically sharing the contents of the e-mail exchanges between Ms. Ramkrishna and her "unknown guide." The onus now falls on SEBI to reaffirm that its regulatory regime contains no "holy cows" and that it remains laser-focused on protecting small investors.

#### **4. NSE LESSONS FOR CORPORATE GOVERNANCE**

In India, corporate governance means accountability and transparency. In India, entrepreneurs have always used corporate personalities to 'maximize profits.' Corporations have played an equally important role in providing high-quality goods and services to Indian citizens as well as achieving social, economic, and political justice. Corporate entities have served as both means and ends in the pursuit of economic justice. Corporate entities grew in size as a result of public capital investment following liberalisation, privatisation, and globalisation. Regulators such as the Reserve Bank of India (RBI) and the Securities and Exchange Board of India (SEBI) aided Indian companies' economic growth by creating a favourable environment. The market valuation has jumped 25.68 per cent in comparison to February 2021, when it stood at Rs 2,00,81,095.73 crore. It demonstrates the sturdiness of Indian businesses. However, the scams and crisis like Satyam, Sahara, PNB, IL&FS, PMC have also shown the dark side of corporate entities whereby the rogues robbed Indian people of their legitimate money and Indian corporate structure limped under the mammoth NPA which amounted to Rs. 7,17,850 crores in 2019-20.<sup>7</sup> People chastised the government for writing off NPAs of large PSBs like Punjab National Bank. This vicious cycle of India's scam-infested corporate regime is a blot on the country's otherwise gleaming face. The never-ending quest to improve the normative structure of corporate governance has yielded great results, but it has turned entrepreneurship into a hydra-headed task in the process. Stringent norms imposed by SEBI, RBI, and the Ministry of Corporate Affairs have hampered industrial growth, start-ups, and entrepreneurship. Independent directors, periodic disclosures, compliances, and vetting to regulators, prohibition of insider trading, fraudulent & unfair trading, abuse of trust, promoter's shareholding, related party transactions, and whistle-blower protection are just a few of the instruments that ensure transparency and accountability. The Department of Company Affairs was renamed Ministry of Corporate Affairs in 2004 after the new sleek Companies Act was

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<sup>7</sup> RES. BANK IND., GOV 'T OF IND., REPORT ON TREND AND PROGRESS OF BANKING IN INDIA (2019-20), [https://rbidocs.rbi.org.in/rdocs/Publications/PDFs/0RTP2020\\_F3D078985540A4179.](https://rbidocs.rbi.org.in/rdocs/Publications/PDFs/0RTP2020_F3D078985540A4179.), accessed on 15 March, 2022.

passed in 2013. Between 2009 and 2020, thousands of crores of rupees were syphoned off, making scams and crises very ugly. The Fugitive Economic Offenders Act of 2018 was passed in response to scammers and fraudsters fleeing the country. Various commissions and committees were established to improve corporate governance standards and make recommendations on a variety of topics. In 1978, the Sachar Committee submitted a report on various issues of corporate governance; in 1992, the Cadbury Committee (United Kingdom) submitted a report on various aspects of corporate governance; in 1998, the Rahul Bajaj Committee under the auspices of the CII submitted Desirable Code of Corporate Governance; in 1999, the Kumar Mangalam Birla Committee submitted its report on various issues of corporate governance; and in 2003, the Naresh Chandra Committee Report and the Narayan Murthy. The Corporate Governance Code of 2018, which was enacted in the United Kingdom, is now in effect. On June 16, 2020, the High-Level Committee in chairmanship of Justice (Retd.) Anil R. Dave<sup>8</sup> submitted a report on ‘The Measures for Strengthening Enforce Mechanism of The Board and Incidental Issues ‘. In 2009, the Ministry of Corporate Affairs released the National Corporate Governance Voluntary Guidelines, which were updated in 2011 and replaced by the National Voluntary Guidelines of Responsible Business Conduct, 2018. For better regulation, the SFIO, NFRA, and NCLT were established in the new corporate regime.

Corporate Governance stands for accountability and transparency of corporate entities. Many jurists and institutions have given many definitions of corporate governance and certain are worth mentioning as Milton Friedman has defined the Corporate Governance as, “Corporate Governance is to conduct the business in accordance with the owner’s or shareholder’s desires which generally will be to make as much money as possible while conforming the basic rules of the society embodied in law and local customs.”<sup>9</sup> Palmer defines it as, “Corporate Governance rules are concerned with the manner in which a company conducts its internal business mainly focusing at this level on the inter-action of the various organs of the complex corporate entities which issue securities on such regulated markets and their debt and equity investors.”<sup>10</sup> Shardul S. Shroff explains that, “The central feature of corporate governance is

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<sup>8</sup> SEC. & EXCH. BD. IND., MEASURES FOR STRENGTHENING THE ENFORCING MECHANISM OF BOARD & INCIDENTAL ISSUES (2020-2021),

[https://www.sebi.gov.in/reports-and-statistics/reports/jun-2020/report-of-high-level-committee-under-the-chairmanship-of-justice-ret-d-anil-r-dave-on-the-measures-for-strengthening-the-enforcement-mechanism-of-the-board-and-incident-issues\\_46863.html](https://www.sebi.gov.in/reports-and-statistics/reports/jun-2020/report-of-high-level-committee-under-the-chairmanship-of-justice-ret-d-anil-r-dave-on-the-measures-for-strengthening-the-enforcement-mechanism-of-the-board-and-incident-issues_46863.html), accessed on 14 March, 2022.

<sup>9</sup> INDIAN INSTITUTE OF CORPORATE AFFAIRS, CORPORATE GOVERNANCE (1st ed.2015).

<sup>10</sup> PALMER ‘S COMPANY LAW 5155 (Prof. Geoffrey Moss ed., 2013).

recognition of the fact that the shareholders are true owners of the company and hence while the board of directors/managers should have freedom to take operational decisions, they remain accountable at all times and are in fact trustees of shareholders.” OECD says that, “Corporate Governance involves a set of relationships between a company’s management and its board, its shareholders and other stakeholders. Corporate Governance also provides the structure through which the objectives of the company are set and the means of attaining those objectives and monitoring performance are determined.”<sup>11</sup> With these definitions, one can deduce that corporate governance stands for shareholder democracy, ethical business, trusteeship rather than ownership in corporations, and, above all, transparency and accountability.

From the Satyam computer scam a decade ago to the recent ABG shipyard case, India has seen a slew of cases involving corporate governance issues. Now, in NSE Scam case, the regulatory body, Securities and Exchange Board (SEBI) issuing its final order on the co-location scam at the National Stock Exchange (NSE) last month, it's time to take a step back and rethink both corporate structures and measures to prevent corporate governance failures. While the company's top executives, including MD and CEO Chitra Ramakrishna, have been charged and fined for breaking the rules, the board of the country's largest stock exchange appears to have gotten off lightly. Since the whistle was blown in 2015, nothing has been heard from the board. However, according to SEBI's order, the board was aware that confidential information was being shared with an unidentified person but chose to remain silent rather than alert the regulator. The regulator has imposed some restrictions on the board for failing to report the matter. However, this is a serious offence that requires a thorough investigation. It is simply unforgivable that the board members were aware of the rule violation but took no action to notify the regulator. Even before the violation of the regulations, the board should have asked pertinent questions about such a high-level appointment as Anand Subramanian's to ensure that the candidate possessed the necessary qualifications. For example, according to the SEBI order, the Chief Operating Officer, to whom the co-location scam is attributed, had no prior financial experience but was compensated to the tune of over Rs 4 crore per annum. The NSE's serious governance lapses demonstrate how malfeasance can occur even in so-called professionally run organisations that are not promoter-driven. NSE had established itself as a virtually blameless national public institution. So, in order to rebalance the responsibilities between the

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<sup>11</sup> ORG. FOR ECON. CO-OPERATION & DEV. [OECD], PRINCIPLES OF CORPORATE GOVERNANCE, G20/OECD (2015), <https://www.oecd.org/daf/ca/Corporate-Governance-Principles-ENG.pdf>, accessed on 17 March, 2022.

chairman and the CEO, it's time to consider appointing only executive chairmen to such organisations. A corporate structure that distributes power rather than concentrates it would act as a check on the kinds of appointments made at the NSE that resulted in such a key person gaining unbridled power. It's unfortunate that the regulator's order to separate the roles of chairman and managing director has been watered down.

According to the SEBI order, Ramakrishna had the board's trust and could run the organisation however she wanted. SEBI's 190-page order, which was aided by EY's findings, outlined the irregularities that occurred—basically, favours given to select brokers who were given access to co-location servers and thus had access to data ahead of others. Ramakrishna allegedly shared sensitive business information with "an unknown person" via an unofficial e-mail account, including financials, HR policies, and correspondence with regulators. There is no doubt that we require additional oversight. The goal of tightening the rules is not to stifle the organization's operations, but rather to ensure that key decisions on business and appointments are not made by a single person.

Furthermore, given the scope of the wrongdoing and the total breakdown of corporate governance, a second forensic investigation would be well worth the money. A new probe might pick up on something the previous ones didn't, allowing you to close any gaps. It may also be worthwhile to enlist the help of some investigative agencies, as they may be able to uncover previously unknown facts and the roles that various people played in this episode. We must take this blunder very seriously so that no CEO can get away with it in the future. Recent corporate frauds, as well as public demand for greater transparency and honesty in reporting, have resulted in two outcomes. First, forensic accounting skills have become very crucial in untangling the complicated accounting manoeuvres that have obfuscated financial statements. Second, public demand for change, followed by regulatory action, has changed the Corporate Governance landscape around the world. Furthermore, the Corporate Governance framework must be strengthened first, and then implemented "both in letter and spirit." Even if corporate governance mechanisms are unable to completely prevent unethical behaviour by top management of leading stock exchange, they can at least serve as a means of detecting such behaviour before it is too late. The Augean stables should be thoroughly cleaned, and new folks brought in to man sensitive positions if credibility is to be restored, which is a huge challenge. While some progress has been made in recent years, there is still much more to be done, and in real time. What we've seen, and what we're seeing now, is a major setback for the concept

and practise of corporate governance. The Exchange, as well as the regulator, must address a number of issues. Meanwhile, those who can't get enough of the wood for the trees can speculate whether the Yogi is real or a figment of someone's imagination.

## **5. CONCLUSION**

Trading of shares began in India in the 18th century, resulting in the establishment of the Indian capital market and stock exchanges for the trading of shares. Initially, there was no legislation or regulations in place in the market, and all transactions were conducted under the Contract Act. However, the government began forming various committees, legislation, and specific regulations to ensure that capital market transactions ran smoothly. Many laws were enacted to regulate the capital market, but the Securities Exchange Board of India Act 1992 remains the most powerful, while others have been repealed. The SEBI was established as an administrative body in the beginning, but due to a series of capital market scams, the SEBI was given statutory, judicial, and administrative powers. SEBI has been given powers to handle investor complaints and provide investor protection through new rules and regulations that have been implemented over time. Investor protection is visible not only under the SEBI Act and SEBI regulations, but also under other legislation that has attempted to protect investors' interests. SEBI and the Indian government have taken a number of steps to protect investors, but the attempt at separate legislation has failed. Furthermore, corporate governance needs to be stronger and NSE Scam is just another example supporting the need for stronger corporate governance.