



The Indian Journal for Research in Law and Management

Open Access Law Journal – Copyright © 2024

Editor-in-Chief – Prof. (Dr.) Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

This is an Open Access article distributed under the terms of the Creative Commons Attribution-Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

SEBI-Mandated Risk and Risk Management-Related Corporate Governance Disclosures in India

Abstract

This research report examines SEBI-mandated Risk and Risk Management-Related Corporate Governance Disclosures in India. Providing a comprehensive overview, it traces the historical evolution of corporate governance regulations, emphasizing SEBI's influential role in shaping the regulatory landscape. The analysis of the current status focuses on compliance and specific requirements for listed companies, while a global comparison offers insights into international benchmarks. Issues such as practical challenges faced by companies in adhering to these mandates are explored. In conclusion, the report underscores the significance of risk-related disclosures for corporate governance, offering recommendations for refinement and addressing practical challenges. This research contributes valuable insights to the ongoing discourse on corporate governance in India, benefiting regulators, companies, and investors alike.

Keywords: SEBI-mandated risk, Risk management related corporate governance discourse,

Introduction

It is mandatory for listed firms in India to reveal their corporate governance policies linked to risk and risk management, as mandated by the Securities and Exchange Board of India (SEBI). The creation of a Risk Management Committee (RMC) is mandated for the top 1000 listed businesses by the SEBI (Listing Obligations and Disclosure Requirements) (Second Amendment) Regulations, 2021, which went into force on May 5, 2021. The RMC is in charge of locating, evaluating, keeping track of, and reducing the risks that the company faces. In order to comply with the updated SEBI (LODR) 2021 standards, listed businesses must certify whether they have complied with the RMC criteria in their quarterly Compliance Report on Corporate Governance filings.

Furthermore, starting with Financial Year (FY) 2021–2022 and going forward to Financial Year (FY) 2022–2023 on a mandatory basis, SEBI has mandated Business Responsibility and Sustainability

Reporting (BRSR) to make ESG disclosures for the top 1,000 listed businesses (based on market capitalization).¹

Historical Background

Under the administrative purview of the Ministry of Finance in the Government of India, the Securities and Exchange Board of India (SEBI) is the regulating authority for the securities and commodities market in India. It was founded as an executive body on April 12, 1988, and on January 30, 1992, the SEBI Act, 1992, granted it legislative authority. The Capital Issues (Control) Act, 1947 gave the Controller of Capital Issues, who governed the market until SEBI was established, its regulatory powers. With its headquarters located in Mumbai's Bandra Kurla Complex commercial sector, SEBI attained autonomy on January 30, 1992.

The following individuals make up the board of members of the regulatory body, which is led by them: The Union Government of India nominates the Chairman, two representatives from the Union Finance Ministry, one representative from the Reserve Bank of India, and the remaining five members, at least three of whom should be full-time members.²

In 1988, SEBI was first founded as a non-statutory organization to oversee the securities industry. The Capital Issues (Control) Act, 1947 gave the Controller of Capital Issues, which predated it in existence, regulatory responsibility over the market. On January 30, 1992, SEBI became an independent organization. The Indian Parliament then passed the SEBI Act, 1992, giving SEBI legislative authority. The National Stock Exchange (NSE), computerized trading, and share dematerialization are just a few of the notable developments in the Indian securities industry that have been made possible thanks in large part to the regulating body.³

The Indian securities markets have seen considerable improvements in standards since 1995. India's markets, which were formerly seen to be dangerous and ineffective, are now among the best in the world because to cutting-edge technology for trading and settlement. But SEBI can only take partial credit for this progress. The National Stock Exchange of India (NSE) and the National Securities Depository Limited are the two key organizations that have greatly improved the caliber and security of the Indian securities markets. Additionally, SEBI's track record of stopping market manipulation is

¹ Obhan, Ashima. "SEBI's ESG Disclosure Requirements: Business Responsibility And Sustainability Reporting," May 25, 2022. <https://www.mondaq.com/india/securities/1196024/sebi39s-esg-disclosure-requirements-business-responsibility-and-sustainability-reporting>.

² Limited, Aditya Birla Sun Life Amc. "Securities and Exchange Board of India - SEBI," November 22, 2023. <https://mutualfund.adityabirlacapital.com/blog/sebi-securities-and-exchange-board-of-india>.

³ Admin. "Securities And Exchange Board Of India - SEBI Full Form, SEBI Functions & Powers." BYJUS, April 14, 2023. <https://byjus.com/free-ias-prep/securities-and-exchange-board-of-india/>.

not very impressive. The Indian government was the sole one to push for the transition to rolling settlement in the middle of 2001 in order to prevent market participants from manipulating the system by taking advantage of varying settlement times at various exchanges.

Only the NSE and the Bombay Stock Exchange remain operationally viable among the twenty-three stock exchanges; the rest have all but vanished. However, listed businesses are still able to use the non-functioning exchanges. In response to exchange rivalry for firms to list, SEBI announced the establishment of a Central Listing Authority to address the competitive devaluation of listing requirements that previously occurred. However, the Central Listing Authority has not yet established its own policies or business standards. The recent decision by SEBI to assign unique identification numbers to all market intermediaries was misguided (the ensuing complexity were seen as invasions of privacy); the goal might have been accomplished by using an investor database that depositories had access to. Consequently, even while SEBI has succeeded in establishing itself as the market regulator, it has not yet shown solid evidence of its efficacy, efficiency, or reactivity.⁴

Current Scenario

Important changes to the SEBI (LODR) regulations were announced on May 5, 2021, with notice No. SEBI/LAD-NRO/GN/2021/22, which highlighted the necessity for comprehensive risk management to raise the corporate governance standards of listed businesses in India. The following elements of the risk management committee (RMC) under Regulation 21 and the SEBI LODR Amendment (2021) have been the regulator's primary emphasis.⁵

- Application for RMC Formation
- RMC Constitution
- The quantity and quorum of meetings
- Functions and obligations of RMC
- RMC's Power
- Disclosure of RMC in the annual report⁶

⁴ "Securities Exchange Board of India (SEBI) | Encyclopedia.Com," n.d.

<https://www.encyclopedia.com/international/encyclopedias-almanacs-transcripts-and-maps/securities-exchange-board-india-sebi>.

⁵ https://www.sebi.gov.in/media/press-releases/may-2022/sebi-constitutes-advisory-committee-on-environmentalsocial-and-governance-esg-matters_58794.htm

⁶ "SEBI | Securities and Exchange Board of India (Delisting of Equity Shares) Regulations, 2021 [Last Amended on August 3, 2021]," n.d. https://www.sebi.gov.in/legal/regulations/aug-2021/securities-and-exchange-board-of-india-delisting-of-equity-shares-regulations-2021-last-amended-on-august-3-2021-_50517.html.

Regulation 21's rules will be applied to the top 1000 listed companies, as measured by market capitalization at the conclusion of the most recent financial year. Top 1000 listed companies must attest to their compliance with the risk management committee standards in their quarterly Compliance Report on Corporate Governance filings, which take the place of SEBI LODR-Regulation 27.⁷

There is a constant and disruptive volatility in corporate operations due to the variety and interconnection of hazards. Organizations confront interconnected hazards regardless of their origin or location since activities are interwoven in this globalized era. Recent developments, particularly the COVID-19 pandemic, have increased uncertainty and increased the amount of risk that organizations are exposed to. In response to this problem, governments and regulatory agencies worldwide have strengthened risk management as a crucial corporate governance paradigm.

Significant developments in the Indian securities market, such as the National Stock Exchange (NSE) and the advent of computerized trading and share dematerialization, have been made possible in large part by SEBI.

The purpose of SEBI's rules is to guarantee a systematic functioning of the Indian capital market and to offer investors a transparent investment environment. To safeguard the interests of investors, the regulator has developed guidelines, rules, and regulations. To guarantee that disclosure requirements, trading laws, and listing duties are fulfilled, SEBI has created regulations.⁸

Analysis: Indian Market vs. Global Market

Until 2020, the Indian legal system allowed Indian firms' securities to be listed on foreign markets solely through the use of Depository Receipts. "Masala bonds" are debt instruments that can be listed on foreign marketplaces. Direct listing of Indian firms' equity shares on overseas markets is now feasible according to the recently passed firms (Amendment) Bill, 2020. The relevant provisions, such as those pertaining to company eligibility, acceptable jurisdiction, tax structure, etc., have not yet been announced. The essential adjustments to the current regulations must be coordinated by RBI, SEBI, MCA, and CBDT in order to smoothly permit direct listing at foreign exchanges. Economic growth and the development of the capital market are positively correlated. Well-crafted and relaxed capital market rules are what drive the strength and efficiency of an economy. The Indian economy is likely to be significantly impacted by overseas listing, which is anticipated to improve value, expand the pool of potential investors, and raise competitiveness for domestic enterprises.

⁷ KPMG. "SEBI Consultation Paper on ESG Disclosures, Ratings and Investing," March 23, 2023.

<https://kpmg.com/in/en/home/insights/2023/03/firstnotes-esg-sebi-supply-chain-disclosure.html>.

⁸ Brains, Trade. "What Is SEBI? SEBI's Role in Financial Market Explained!" Trade Brains, April 5, 2023.

<https://tradebrains.in/what-is-sebi/>.

The corporations Act revisions also propose exempting corporations that list their securities on overseas markets from the Indian listing restrictions. This implies that Indian firms without a listing do not have to list in India in order to list their securities on overseas markets. Multiple adjustments to our capital market's regulatory structure were addressed by SEBI in August. The two most significant changes were authorizing the change from the term "promoter" to "person in control" and lowering the minimum lock-in time that a promoter must adhere to after an IPO from three years to eighteen months.

This is consistent with worldwide standards because the idea of a promoter is exclusive to India; most regulators of the global capital markets concentrate on control rather than having a system of promoters. The Special Purpose Acquisition Company, which makes it easier for start-ups to list when they normally can't meet the profitability requirements for a standard public listing through an IPO, is another topic of discussion. In the US market, an alternative to a standard IPO is the SPAC IPO approach. Other nations have appropriated the idea of SPAC, which is still in its infancy in our country. Following its surge in popularity in the United States, the SPAC craze expanded to Asia. Regulators in several Asian nations are currently thinking about permitting SPAC listing due to the region's sizable and developed IPO market. Given that the Indian market has shown receptiveness to novel concepts and goods, SPACs may be in line to benefit. Regulators in India must, however, create special rules for SPAC initial public offerings (IPOs) because SPACs are now unable to comply with the country's strict eligibility standards and other regulatory obligations. Early in 2021, SEBI loosened the requirements for qualifying and listing on the so-called Innovators Growth Platform (IGP), a distinct platform for exchange designed specifically for modern start-ups. Nonetheless, international laws concerning main board listing are less complicated than Indian ones, particularly for startups.⁹

These days, environmental, social, and governance (ESG) concerns are so significant that the management of a corporation is required to disclose its performance in these areas to the public. As the globe quickly moves toward sustainability, a growing number of organizations are being open about how they manage ESG risks. Notably, while assessing a company's sustainable position, investors consider ESG aspects. In keeping with the worldwide trend, India does quite well when compared to the world's top economies in terms of ESG disclosures. In FY 2022–2023 approximately 50% of the top listed firms in India disclosed. This is similar to disclosures made in the US and the EU. India's disclosures are improving quickly thanks to the market regulator SEBI's firm guidance. India has the potential to lead the way in the global ESG scene, according to Decimal Point Analytics CEO Shailesh Dhuri.

⁹ BusinessLine. "Capital Markets: India vs Global Perspective," September 19, 2021. <https://www.thehindubusinessline.com/business-laws/capital-markets-india-vs-global-perspective/article36555386.ece>.

Dhuri sheds information on SEBI's "aggressive stance" towards ESG reporting, shedding light on India's regulatory framework for ESG reporting. The Business Responsibility and Sustainability Report (BRSR), a more comprehensive framework, was adopted by the market regulator in 2021, while the Business Responsibility Report (BRR) structure was first launched in 2012 as a voluntary reporting system. For the top 1,000 listed businesses in FY 2021–2022, BRSR was optional; but, in FY 2023, it became required for those same companies. By all measures, the BRSR format is the world's most comprehensive reporting standard. According to Dhuri, SEBI's meticulous creation of the BRSR is unlike any other regulatory framework globally.

He continues, saying that the US does not even have a required disclosure law. However, in March 2022, the US SEC proposed rule amendments that would make it necessary for businesses to provide some ESG disclosures starting in 2023.

It was anticipated that this will become operative in October 2022. "This deadline has long since passed, and it's unclear when the proposed rules will be finalized," says Dhuri. "The EU has a very aggressive deployment strategy and required transparency requirements. We find that EU leads in its aim for coverage, whereas SEBI leads in detail.

According to Titas Bhowmick, Senior Consultant-Growth Advisory, Aranca, India's ESG reporting regulations are focused on concepts rather than rules. This proposes a paradigm that gives businesses freedom in fulfilling their ESG disclosure duties. In an effort to encourage green finance and lower the possibility of greenwashing, SEBI has mandated ESG disclosures for Indian corporations and mutual funds, says Bhowmick.¹⁰

Analyzing Comparatively INTERNATIONAL TRADING REGIME IN THE US AND INDIA¹¹

Civil Liability and Criminal Liability

In terms of the applicability of statutes, India and the US have similar laws that apply to both criminal and civil culpability; however, the position in the UK is somewhat different. The Indian Insider Regulation only addresses listed firms, although the other two nations do not adhere to this sort of standard. According to Indian law, a person is considered a "connected person" if they had any kind of

¹⁰ Pandey, Ashish. "India Has an Envious Place in Global ESG Disclosure List." The Economic Times, November 22, 2023. <https://economictimes.indiatimes.com/small-biz/sustainability/india-has-an-enviable-place-in-global-esg-disclosure-list/articleshow/105405591.cms>.

¹¹ SARASWAT, PRANAV, Elements of Effective Insider Trading Regulations: A Comparative Analysis of India and U.S.A (December 2020). Nirma University Law Journal: Volume-10, Issue-1, December 2020, Available at SSRN: <https://ssrn.com/abstract=3870326>

connection to the corporation six months before the occurrence, although this is not the case under UK law.¹²

MENS REA

Mens rea is not significant in the UK when it comes to accusations of insider trading since motivation and mens rea must be shown in the Indian legal system. According to the 1934 Act, a person must have violated the act willfully in order to be prosecuted under Section 10(b) of the act and Section 32(a) of the act for securities offenses.

CONTROL

A person is considered to have control under US law if they own more than 10% of the voting shares of a firm; this is not the case under Indian law.¹³

SYSTEM OF SURVEILLANCE

Modern technology has to progress, and surveillance systems need to get better in order to apprehend anyone found guilty of insider trading. In contrast to what is available in India, the Securities Exchange and SEC in the United States have extremely strong monitoring systems. In this regard, SEBI lacks considerable technological experience. While both the SEC and SEBI have automated surveillance systems, the SEC has a more superior system, giving them an advantage over the other.¹⁴

EVIDING THE CRIME

To establish any crime, the right proof must be gathered, and in order to gather evidence of this kind, one must invade the offender's personal space and have access to their mail IDs and phone conversations.

Without the SEC's ability to tap phone conversations, Rajat Gupta's crime would not have been able to be shown; instead, the crime was established by 18,000 wiretapped emails and phone records. As of the present, SEBI is unable to intercept people's phone calls. The government cited the possibility of abuse as justification for not granting this authority.¹⁵

¹² 4 Kirthana Singh, Insider Trading: Position in India vis a vis the UK and the US, ISSN 2394-5044, <http://jurip.org/wp-content/uploads/2018/05/Kirthana-Singh.pdf>.

¹³ Ibid.

¹⁴ Roopanshi Sachar & Dr. M. Afzal Wani, Regulation Of Insider Trading In India: Dissecting The Difficulties And Solutions Ahead 4 (<http://jciil.syndicate.com/wp-content/uploads/2017/01/Roopanshi-Dr.-Afzal.pdf>).

¹⁵ Ibid.

PRECAUTIONS V. RESEARCH

According to the legislation on insider trading, SEBI has no authority to stop insider trading if an informant provides information about the likelihood of it occurring in the future. Only when the Insider Trading has been completed and the inquiry has begun can action be taken. However, this is completely against US law.¹⁶

STAFF AND THE RESOURCES

With just 643 workers overall tasked with finding offenses and taking action against them, SEBI lacks both manpower and resources compared to the USA, which has excellent infrastructure and human resources. In the event that a nation lacks human resources, it will be very challenging to identify all crimes and then take appropriate measures to combat them.¹⁷

REGULATORY AUTHORITY FUNCTIONS

Three roles make up SEBI: legislative (creating regulations and circulars); executive (identifying and looking into alleged wrongdoings and malpractices); and judicial (issuing rulings imposing penalties, restraints, etc.). As the only organization capable of carrying out all of these tasks, SEBI just discovers and looks into insider trading; the SEC then takes the matter to court and makes its case. Thus, the SEC has no further duties other than to identify crimes.¹⁸

Issues to Addressed Highlighting Adani-Hindenburg Incident

Related Party Transaction¹⁹

According to the Hindenburg Research investigation, Gautam Adani's elder brother Vinod Adani's businesses served as a "conduit for money laundering and share-price manipulation." The report contained 151 mentions to Vinod Adani.

Vinod Adani "does not hold any managerial position in Adani listed companies," according to a statement released by the Adani Group on January 29, 2023. It said on March 16, 2023, that Vinod Adani is a member of the "promoter group" for a number of listed companies.

Therefore, even while it's legally correct that Vinod Adani doesn't hold a managerial role at the company, it's reasonable to presume he has some influence given the Adani Group's assertion that "he

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ The Wire. "Four Issues SEBI Raised (Or It Couldn't) in the Adani-Hindenburg Matter," n.d. <https://thewire.in/business/sebi-adani-group-hindenburg-vinod-adani>.

and Adani should be seen as one." According to sources cited by Reuters in August 2023, SEBI discovered that the Adani Group had failed to disclose several related-party transactions.

In the Adani case, SEBI has looked at 13 related-party transactions. Penalties for infractions might reach Rs 1 crore for every infraction committed by any number of entities. Moreover, according to Reuters, the possible application of these fines may result in exclusion from the stock markets. Furthermore, there were major corporate governance concerns brought up by his final resignation from three firms, which occurred only days before the Supreme Court established the expert group. Keep in mind that SEBI has not raised any concerns about corporate governance inside the Adani Group. Concerns were also expressed over Cyril Shroff, managing partner of Cyril Amarchand Mangaldas, being on SEBI's corporate governance committee, which investigates crimes like as insider trading. The son of Gautam Adani is married to Shroff's daughter. In two charge sheets submitted by the Enforcement Directorate in the AgustaWestland fraud in February 2023, the Singapore-based business Gudami International Pte—which was identified in the Hindenburg Research study as a "related party" of the Adani group—was referenced. In 2014 and 2017, these charge sheets were submitted. After authorities in Singapore responded to the Letter Rogatory—which is a request letter from a court in one country to a court in another country for assistance in investigating or prosecuting a criminal matter—sent to them by the ED, the name was later removed from the third supplemental charge sheet that the ED filed in 2018.²⁰

Role of Auditor

For investors, stakeholders, and regulatory agencies, an auditor's job is critical in giving an unbiased evaluation of a company's financial statements and guaranteeing openness and dependability. Concerns were raised in the Adani Group case when the statutory auditor for Adani Total Gas and Adani Enterprises, Shah Dhandharia & Co., resigned less than a year after being reappointed. The company, dubbed "tiny" by Hindenburg Research, raised concerns about the audit partners' capacity to closely examine the financial records of large corporations because of their relative youth. The Morning Context has revealed in October 2022 that there are connections between Shah Dhandharia & Co. and Dharmesh Parikh & Co., the audit firms that handle the majority of the Adani organization enterprises, raising questions over the corporate governance of the organization.²¹

According to the report, Adani Group paid them little more than Rs 7 crore, while Reliance Industries, owned by Mukesh Ambani, and gave them Rs 84 crore. Separately, Adani Ports claimed that the three businesses with whom it had transacted were unrelated parties, however Deloitte expressed concerns about those transactions on May 31, 2023. The auditor stated that it was unable to verify that the parties

²⁰ Ibid.

²¹ Ibid.

were, in fact, unconnected. It withdrew from its position as Adani Ports and Special Economic Zone's statutory auditors in August of the same year (APSEZ). Deloitte quit, according to APSEZ, since it was not assigned a "wider audit role" encompassing other listed Adani portfolio firms, as reported by the Telegraph. According to Bloomberg, the Adani Group's connections to Howe Engineering Projects added to the worries about governance. The Union government said in 2014 that Howe Engineering-affiliated PMC Projects Pvt Ltd. acted as a middleman for Gautam Adani's company when it came to sending money abroad. Adani refuted the accusation, and the inquiry was closed. Court documents state that PMC's engineering operations were merged with Howe in April of 2016.²²

FPI Ownership

According to the Hindenburg research, several foreign public investors (FPIs) in Adani Group equities were controlled by closely associated shell entities based outside of India. The investigation claims that these investments assisted the Adani Group in inflating stock prices in a fraudulent manner. In order to provide transparency and prevent market manipulation, listed businesses must maintain a minimum of 25% public ownership, as per Rule 19(A) of the Securities Contracts (Regulation) Rules 1957. Also known as "free float," this 25% public ownership enables a business to obtain capital from the market. Freer float facilitates more precise price discovery. "Offshore shells and funds tied to the Adani Group comprise many of the largest "public" (i.e., non-promoter) holders of Adani stock," according to a claim made by Hindenburg Research. This indicates that the firm was purportedly connected to a number of offshore funds, the ultimate recipient of which is unclear because of its "offshore status." This is noteworthy since the majority of the free float in the Adani listed companies was held by these overseas funds, or FPIs. The Wire has previously reported on how certain FPIs continued to rise year despite their information not being accessible online. Columnist Andy Mukherjee of Bloomberg has previously written on these "silent soldiers," also referred to as "Adani's fortune drivers," and stated that "they deserve some scrutiny." The fact that in 2018, regulations mandating FPIs to reveal the "ultimate natural person" underlying the FPI platform were repealed presented a challenge for SEBI when looking into this specific element. The expert committee report headed by the Supreme Court made this clear when it was published on May 19, 2023. In August 2023, SEBI increased disclosure regulations for high-risk FPIs to remedy these vulnerabilities. Among these is the classification of high-risk foreign portfolio investors (FPIs), which mandates that companies holding more than 50% of a single business entity or having assets valued at more than Rs 25,000 crore reveal who the true beneficiaries are. All FPIs are classified as high-risk under the proposed classification, with the exception of government and

²² Ibid.

government-related enterprises such as sovereign wealth funds, central banks, pension funds, and public retail funds.²³

The OCCRP Report

The Emerging India Focus Fund (EIFF) and the EM Resurgent Fund (EMRF), two Mauritius-based funds, engaged in substantial share trading in four Adani firms between 2013 and 2018, according to an investigation conducted by the Organized Crime and Corruption Reporting Project (OCCRP). According to the report, major foreign investors Nasser Ali Shaban Ahli and Chang Chung-Ling used the Global Opportunities Fund (GOF) to route almost \$430 million.

The investigation found that between June 2012 and August 2014, these funds paid Vinod Adani's company, Excel Investment and consulting Services Limited, approximately \$1.4 million in consulting fees.²⁴

The Hindu said that the investigators had uncovered internal emails in addition to invoices and transaction records that seemed to indicate that EIFF, EMRF, and GOF were investing money in Adani group equities at Vinod Adani's Excel Investment and Advisory Services Limited's request.

Based on available data, it appears that these funds could have served as fronts for Vinod Adani's substantial equity investments in the Adani Group, perhaps exceeding regulatory limits. "The promoter group shareholding of Adani Enterprises and Adani Transmission stood at over 78% in January 2017, if one adds the shareholding of Vinod Adani in three Adani companies - through offshore individuals and entities like Nasser Ali and Chang Chung-Ling via EIFF, EMRF, and GOF, with the disclosed promoter group shareholding of those companies." The newspaper said.

Law states that promoters of a listed business may own no more than 75% of the firm; the remaining portion must be available to the public. Every accusation has been refuted by the Adani Group. Remarkably, the OCCRP investigations yielded fresh records and proof demonstrating Vinod Adani's close collaboration with the two contentious foreign investors in the FPI; but, the OCCRP stated it could not conclusively demonstrate that the investors were, in fact, investing money given by Vinod Adani. More information is anticipated to be discovered by the SEBI investigation. SEBI may have written to OCCRP just for this purpose. A topic pertaining to an inquiry by the Directorate of Revenue Intelligence (DRI) was also brought up in the OCCRP report.

²³ Ibid.

²⁴ Ibid.

However, the Supreme Court decided in favor of the Adani Group, stating that an appellate body inside the finance ministry had already awarded them the clean sheet. Speaking on the news program "Graphiti," the chief justice said that there was no cause for concern over the appellate authority's conclusions. According to the Hindenburg analysis, funds extracted from purportedly increased import prices were reinvested in Adani equities through specialized foreign portfolio companies (FFPIs) controlled by a small number of persons. It was revealed during the OCCRP's inquiry that DRI had written a letter to SEBI. Najib Shah, the director general of DRI at the time, warned U.K. Sinha in a letter dated January 2014 about the Adani Group's stock market activities and hinted that siphoned-off funds could have been put in and taken out of Adani Group equities.

But SEBI remained silent about getting any such letter or supporting documentation from the DRI.

This disclosure sparked debate regarding whether SEBI withheld facts or gave misleading information. The issue garnered attention since U.K. Sinha, the former chairwoman of SEBI who held the position till February 2017 is now the "non-executive independent director-chairperson" of NDTV, which the Adani Group purchased in 2022. In February 2023, Sinha informed Karan Thapar in an interview with The Wire that he was not aware of any complaints regarding "round-tripping" involving Adani firms. He informed Thapar, "Unless there is some information available that some hanky-panky is happening, it is not SEBI's task at what price they are trading." But when questioned about the DRI letter in September of that year, Sinha told Scroll.in he couldn't remember the specifics.

He told the news site, "In all fairness, given that I retired from SEBI six years ago, you should not expect me to remember everything that happened nine years ago." "I don't remember the specifics." The Supreme Court rejected in January any attempt to overturn a comprehensive examination carried out by the regulator based only on media stories or information from "third-party organizations" (alluding to the OCCRP report). It decided that the Special Investigating Team did not need to look into the case any further since SEBI had not broken any regulations.²⁵

Conclusion

This research paper delves into the SEBI-mandated Risk and Risk Management-Related Corporate Governance Disclosures in India, offering a comprehensive analysis of the historical background, current scenario, and international comparisons. The regulatory landscape in India has evolved significantly, with SEBI playing a pivotal role in shaping corporate governance standards. The introduction of the Risk Management Committee (RMC) and Business Responsibility and

²⁵ Ibid.

Sustainability Reporting (BRSR) reflects SEBI's commitment to enhancing transparency and risk management practices among listed companies.

The analysis compares the Indian market with global counterparts, highlighting the country's progress in areas such as ESG disclosures. The detailed examination of the legal frameworks in India and the US reveals similarities and differences in terms of civil and criminal liability, mens rea, control definitions, surveillance systems, and evidencing crimes related to insider trading.

The paper addresses specific issues in the Adani-Hindenburg incident, emphasizing related party transactions, the role of auditors, FPI ownership, and the findings from the OCCRP report. The examination of these issues underscores the importance of corporate governance, transparency, and regulatory oversight in maintaining the integrity of financial markets.

In light of recent controversies and challenges, it is imperative for SEBI to continue refining and strengthening its regulatory framework. Addressing issues related to related party transactions, auditor independence, and FPI ownership will contribute to restoring investor confidence and upholding the principles of good corporate governance. The ongoing commitment of SEBI to ESG reporting and risk management is commendable, but continuous evaluation and adaptation to emerging challenges are necessary for sustaining a robust regulatory environment.

This research contributes valuable insights to the discourse on corporate governance in India, providing recommendations for refinement and addressing practical challenges. As India aims to position itself as a leader in the global ESG scene, the effectiveness of regulatory measures will be crucial. This research serves as a resource for regulators, companies, and investors, offering a foundation for further discussions and actions aimed at fostering a transparent and resilient corporate governance framework in India