

Insider Trading: An Overview in Indian and Global Markets

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Abstract:

Insider trading undermines investor confidence globally and compromises the integrity of the financial system by trading securities using material information that is not publicly available. With an emphasis on discovery and effective prosecution, the paper examines legislative frameworks and the continuous challenges in combating insider trading in India and other global markets. While highlighting the need for more robust enforcement mechanisms that adhere to global best practices, the paper examines India's insider trading laws from SEBI's initial regulations in 1992 through the 2002 and 2015 modifications. Based on their shared dedication to preserving just and equitable markets, the paper assesses the regulatory strategies of the US (SEC), EU (MAR), and Australia (ASIC). Despite strict laws and harsh punishments, the battle against insider trading is challenging due to sophisticated market intricacies and a lack of international cooperation. Stronger oversight procedures, international cooperation, improved whistleblower protection, and vigorous enforcement of current laws are all necessary to advance open financial markets and investor confidence.

Keywords: Insider Trading, Securities, Global Markets, Regulation, SEBI, SEC, MAR, ASIC, Enforcement.

Insider trading, the unlawful use of private information for financial advantage, hurts international markets. By giving an unfair advantage, this behaviour erodes investor trust, distorts prices, and compromises market integrity. Its intricacies are examined in this analysis, including issues with prevention, regulation, and repercussions both domestically and abroad.

Insider trading is the practice of making profitable trades utilizing unreported material information (UPSI), which would have a substantial impact on a company's stock price if it were made public. This UPSI includes executive changes, mergers, and unpublished financial data, among other things. The term "insiders" refers to both "tippees" who receive knowledge from insiders and "insiders" who have access to it, such as auditors, key shareholders, and employees of the company. In essence, insider trading is possible for anyone, regardless of position, who has access to significant, confidential information. This includes employing sophisticated instruments to conceal the activity as well as straight trading. Recognizing the negative consequences, India created the Securities and Exchange Board of India (SEBI) to control securities trading and preserve market integrity. It did this by implementing global best practices while taking into consideration its own situation.

Origin of Insider Trading:

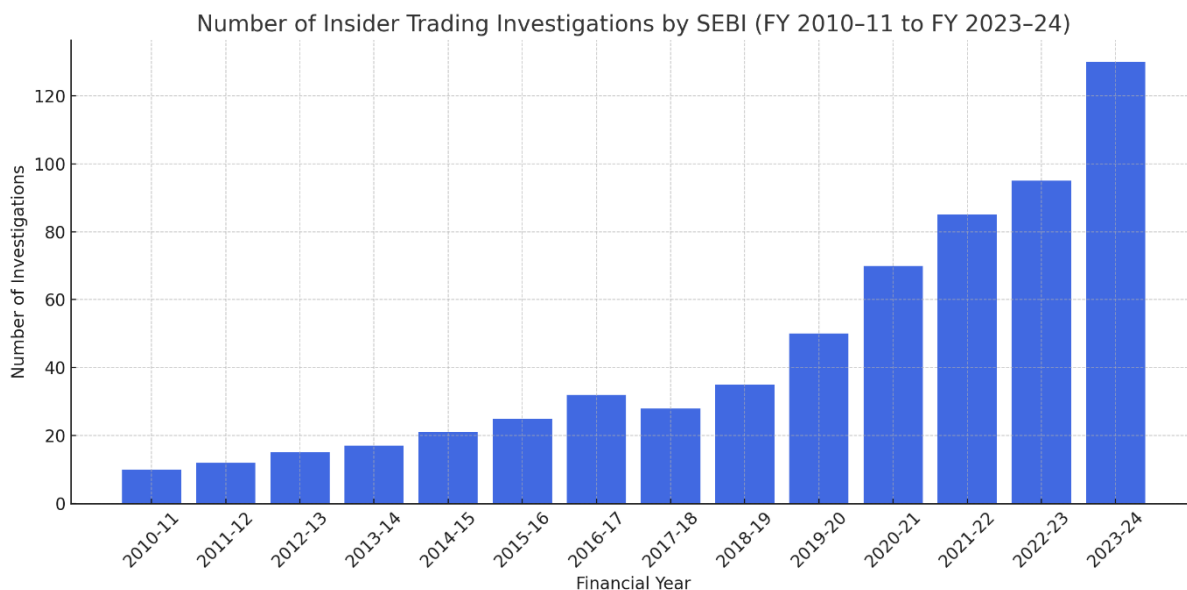
Insider trading, the activity of trading securities based on substantial, non-public knowledge, has been around for as long as stock markets. Examples of this type of activity were visible in the United States as early as the late 1700s. At first, this behaviour was frequently viewed as merely taking advantage of favourable connections or insider knowledge, with little legal significance or repercussion.

However, public opinion was drastically changed by the pervasive abuse and deceptive insider trading that occurred prior to the catastrophic 1929 stock market crash. The first significant regulatory framework was created as a result of the public outcry that followed, which called for

action. A turning point was reached with the Securities Act of 1933 and the Securities Exchange Act of 1934, which established rules intended to increase openness and specifically address securities market fraud.

This historic legislation served as the cornerstone for modern insider trading regulations. In addition to laying the foundation for stricter enforcement and sanctions, they established the premise that undue advantages obtained from access to non-public information were undesirable. Regulations designed to preserve just and moral behaviour in international financial markets are still being shaped by the 1929 crisis.

Bar Chart showing the number of insider trading investigations completed by SEBI from FY 2010–11 to FY 2023–24:



The bar chart "Number of Insider Trading Investigations by SEBI (FY 2010–11 to FY 2023 - 24)" shows the sharp rise in insider trading investigations that the Securities and Exchange Board of India (SEBI) experienced between FY 2010 -11 and FY 2023 - 24. After FY 2018 - 19, the number of investigations - which had previously ranged from 10 to 15 - showed steady annual growth. Between FY 2020 - 21 and FY 2023–24, there was the biggest growth, with over 130 probes in the last year. Improved monitoring, a greater focus on market integrity, and maybe more market complexity and trade volumes are all factors in this trend, which raises the risk and detection rate of insider trading.

Notable Companies Involved in Insider Trading Cases:

A number of well-known businesses have been linked to insider trading instances, including ABC Bearings Ltd., Infosys, and Reliance Home Finance Ltd. A major fund diversion case against Reliance Home Finance Ltd. resulted in heavy fines and prohibitions (Reuters). The Securities and Exchange Board of India (SEBI) settled with Infosys after the company was accused of having insufficient safeguards to stop insider trading (Reuters). Additionally, ABC Bearings Ltd. was penalized by SEBI for violating insider trading laws during a merger.

Sectors Most Affected by Insider Trading:

Insider trading, though prevalent across various sectors, disproportionately affects some industries. The financial services sector, exemplified by cases like the Reliance Home Finance scandal

involving Anil Ambani (Reuters), demonstrates significant vulnerabilities. Similarly, the information technology sector, as evidenced by incidents at Infosys and Wipro, reveals susceptibility to insider trading. Further, the manufacturing industry's risks are highlighted by the ABC Bearings case (Business News India).

Penalties Imposed by SEBI for Insider Trading:

The Securities and Exchange Board of India (SEBI) has actively penalized individuals and entities for insider trading; for instance, in August 2024, Anil Ambani and 24 others received a ₹250 million fine and a five-year market ban for fund diversion from Reliance Home Finance Ltd. (Reuters). In June 2024, Infosys and its CEO, Salil Parekh, settled insider trading charges by paying ₹2.5 million for insufficient preventative controls (Reuters). Furthermore, in September 2023, SEBI imposed a total of ₹6.5 million in fines on five individuals involved in insider trading related to the ABC Bearings Ltd. and Timken India Ltd. merger (Business News India).

Key Developments in Indian Insider Trading Regulations:

India's fight against insider trading began with the SEBI (Prohibition of Insider Trading) Regulations of 1992, following the recommendations of the Abid Hussain Committee. These initial regulations defined key terms like "insider," "price-sensitive information," and "connected persons," aiming to prevent individuals with non-public, market-moving information from profiting unfairly. The goal was to foster investor confidence by upholding fiduciary duty. However, these early rules had limitations.

Subsequent amendments in 2002 strengthened regulations by broadening the definition of "insider," increasing penalties for trading violations, and clarifying "price-sensitive information." Further regulations prohibited companies from trading securities while possessing Unpublished Price Sensitive Information (UPSI), offering a defense for companies if trading decisions were made by individuals without UPSI access and reasonable preventative measures were in place.

Recognizing evolving market complexities and global best practices, SEBI introduced the 2015 SEBI (Prohibition of Insider Trading) Regulations. These regulations provided a more precise definition of UPSI, expanded the definition of "insider," introduced "trading plans," increased disclosure requirements, and strengthened enforcement. The definition of "connected person" was broadened, and "immediate relative" was clearly defined. Companies were mandated to maintain digital records of individuals with UPSI access, and trading plans provided a legitimate mechanism for insiders to trade with prior SEBI approval.

Subsequent amendments in 2018 and 2019 focused on UPSI handling within organizations, whistleblower protection, and enhancing accountability in preventing insider trading. These amendments emphasized maintaining digital records of individuals with access to UPSI and introduced the concept of "legitimate purposes" for sharing such information. The definition of "relative" was expanded, whistleblower protection was strengthened, restrictions on trading windows were clarified, and disclosure requirements were refined.

More recent amendments in 2024 and 2025 have further broadened the definitions of "connected person" and "relative," and expanded the scope of UPSI to include a wider range of events that could materially affect share prices, such as contract awards or terminations, changes in credit ratings, fund-raising proposals, fraud or default occurrences, arrests of key managerial personnel, and litigation outcomes. These amendments also introduced greater flexibility regarding the entry of information into the structured digital database for information originating from outside the company and have adjusted the requirements for trading window closures.

Key Aspects of India's Current Insider Trading Regulations:

Indian law strictly forbids insider trading. Anyone possessing Unpublished Price Sensitive Information (UPSI) is explicitly banned from trading on it. The distribution of UPSI is severely

restricted, permitted only for justifiable business reasons, job responsibilities, or legal obligations. Companies must meticulously define and implement this "legitimate purpose" exception to avoid misuse.



Mandatory disclosures are central to India's regulatory framework. Insiders and connected persons must report their trading activities to both the company and SEBI. Companies must also implement internal codes of conduct to manage UPSI and prevent insider trading. This timely and accurate disclosure is essential for effective monitoring, placing compliance responsibilities on individuals and their associated companies.

Companies commonly use trading window restrictions, closing them before major announcements like financial results, to prevent informed trading. Recent amendments suggest a move toward more flexible rules for specific types of UPSI.

India imposes strict penalties for insider trading. Fines can amount to ₹25 crore or three times the illicit profits, whichever is greater. Furthermore, convictions result in a possible ten-year prison sentence under the SEBI Act and the Companies Act, 2013, along with forfeiture of all illegally obtained gains. The severity of these financial and penal consequences demonstrates India's strong opposition to insider trading, serving as a significant deterrent.

Insider Trading Regulations and Consequences:

Several key pieces of legislation aim to prevent insider trading, with significant penalties to deter such activities.

Under the SEBI Act of 1992, violations result in penalties ranging from a minimum of ₹10 lakh to a maximum of ₹25 crore, or three times the illegal profit (whichever is greater), along with potential imprisonment of up to 10 years. Further sanctions may include criminal prosecution, transaction nullification, and trading bans.

Similarly, the Companies Act of 2013 mandates fines from ₹5 lakh to ₹25 crore, or three times the profit (whichever is greater), plus up to 5 years imprisonment for insider trading (Section 195).

Globally, preventing insider trading is paramount for maintaining market integrity and investor confidence; while enforcement specifics differ, major financial centres employ strong systems to detect and prosecute this offence.

Key Regulatory Approaches around the World:

The United States Securities and Exchange Commission (SEC) serves as the primary watchdog against insider trading, wielding authority granted by the Securities Exchange Act of 1934 and

subsequent legislation. These laws meticulously define both "insider" and "material non-public information" (MNPI), providing a robust legal framework for aggressive prosecution, resulting in substantial fines and imprisonment for violators. The SEC's enforcement is further amplified by whistleblower programs that incentivize the reporting of illegal activity.

Central to the SEC's efforts is the "tipper-tippee" doctrine, which holds both those who leak confidential information and those who profit from it equally accountable. This principle extends liability beyond the initial source of the inside information, creating a wider net for prosecution and deterring insider trading across various levels of involvement. Rule 10b-5, a cornerstone of securities law, prohibits securities fraud, requiring prosecutors to demonstrate material misrepresentation, intent to deceive, reliance on the misrepresentation by investors, and a resulting financial loss.

The legislative landscape surrounding insider trading in the US has evolved to strengthen penalties and enforcement mechanisms. The Insider Trading Sanctions Act of 1984 and the Insider Trading and Securities Fraud Enforcement Act of 1988 significantly increased potential fines and introduced bounty programs, further incentivizing both detection and prosecution of offenders. This multi-pronged approach of strengthened legislation, aggressive prosecution, and whistleblower incentives has shaped a powerful deterrent against insider trading within the US financial markets.

Across the Atlantic, the European Union's Market Abuse Regulation (MAR), effective since 2016, harmonizes anti-market abuse rules across all member states. This unified approach addresses insider dealing and market manipulation consistently, bolstering market integrity and investor protection. The clear definitions, strict prohibitions, and substantial penalties under MAR ensure a level playing field for all market participants, regardless of their location or the specific financial instruments involved. Its comprehensive scope covers a broad range of financial instruments and trading venues.

In Australia, the Corporations Act 2001 similarly prohibits insider trading, explicitly defining inside information and prohibiting its exploitation for personal gain. The Australian Securities and Investments Commission (ASIC) actively enforces these regulations, imposing substantial fines and potential imprisonment for offenders. ASIC's 2025 enforcement priorities highlight a commitment to heightened prosecution of insider trading, signalling a continued focus on maintaining market fairness and investor confidence.

Beyond these specific jurisdictions, numerous other countries, including Canada, the United Kingdom, Hong Kong, and Singapore, maintain robust legal frameworks and dedicated regulatory bodies to combat insider trading. These frameworks broadly align with international principles emphasizing market fairness and integrity, creating a global network of enforcement that aims to curtail this illicit activity wherever it occurs. The international cooperation in this area underscores the global recognition of the importance of protecting market integrity and investor confidence.

Global Principles and Objectives:

The global fight against insider trading, while manifesting differently across jurisdictions in terms of legal language and enforcement mechanisms, rests upon a bedrock of shared principles. At its core is the universal prohibition of trading based on undisclosed, non-public information (UPSI). This fundamental rule forms the cornerstone of market fairness and investor protection worldwide. Definitions of who constitutes an "insider" are consistently broad, encompassing not only company executives and employees with access to confidential information, but also a wider circle of individuals who may obtain and exploit UPSI. This broad scope aims to prevent the exploitation of information asymmetries and ensure a level playing field for all market participants.

To maintain market integrity and deter such illicit activities, most jurisdictions enforce stringent penalties for insider trading. These typically include substantial financial fines and the possibility of imprisonment. Alongside punitive measures, regulatory bodies actively monitor trading activity, employing sophisticated surveillance techniques to identify suspicious patterns and initiate

investigations against suspected offenders. This proactive approach aims to detect and prosecute insider trading effectively, thereby safeguarding the fairness and transparency of global markets.

Detrimental Effects of Insider Trading:

Insider trading severely harms financial markets by undermining their integrity, efficiency, and fairness. This illicit activity erodes investor trust because it creates an uneven playing field where those with privileged, non-public information gain an unfair advantage. Consequently, market participation decreases, liquidity diminishes, and capital is misallocated due to artificially inflated or deflated prices. These manipulated prices, resulting from trading on undisclosed information, distort the natural forces of supply and demand, preventing the accurate reflection of a security's true value and misleading other investors.

The practice directly contradicts the principle of efficient markets, where prices accurately reflect all available information. Insider trading prevents fair price discovery by allowing insiders to profit from non-public knowledge, thus hindering efficient capital allocation. Suspicious trading patterns preceding major announcements further exacerbate market volatility and uncertainty, increasing risk for all participants.

Beyond market-wide consequences, insider trading significantly damages corporate reputations. Companies implicated suffer diminished investor confidence, impacting their leadership's credibility and corporate governance. The inherent information asymmetry created by insider trading exacerbates inequality in the market, disadvantaging ordinary investors and fostering an unfair environment. In short, insider trading creates a system where privileged information translates directly into unfair profits, fundamentally undermining the integrity of the market.

Challenges in Combating Insider Trading:

The persistent challenge of combating insider trading stems from several interconnected factors, despite robust regulatory frameworks. One primary obstacle lies in definitively proving the possession and use of material non-public information (UPSI) by a trader. Individuals frequently claim their trading decisions were solely based on publicly available data or independent research, making it difficult to establish guilt.

Circumstantial evidence, such as unusual trading patterns preceding significant announcements or suspicious communication logs, often forms the backbone of insider trading prosecutions. However, directly connecting UPSI to a specific trade remains a complex and frequently insurmountable hurdle.

The sophisticated nature of modern financial markets and trading technologies further complicates the detection of insider trading. The sheer complexity of these systems can obscure suspicious activity, making it difficult for regulators to identify and investigate potential violations.

Insider traders often employ advanced concealment techniques to mask their illicit activities. These techniques range from the use of nominee accounts and offshore entities to coded communication, making it challenging to trace the flow of information and the origins of suspicious transactions.

Globalization has created a complex international landscape, demanding strong collaboration among regulatory bodies worldwide. Gathering evidence and enforcing judgements across multiple jurisdictions is a time-consuming and often frustrating process, hampered by differing legal systems and enforcement capabilities.

Resource constraints frequently hinder the effectiveness of regulatory agencies in combating insider trading. Limited staffing, inadequate technology, and insufficient legal expertise restrict their ability to thoroughly monitor markets and conduct in-depth investigations into complex schemes.

The legal definition of "material" and "non-public" information remains a source of ambiguity, leading to inconsistent interpretations across different courts. This lack of clarity adds another layer of difficulty to successful prosecution of insider trading cases.

Fear of retaliation acts as a significant impediment to reporting potential insider trading activities,

even with increased whistleblower protection programs. This reluctance to come forward creates an environment where illicit activities can thrive undetected.

Technological advancements, while improving detection capabilities, simultaneously provide sophisticated tools for insider traders to conceal their transactions. This ongoing technological arms race necessitates continuous adaptation and innovation by regulators to maintain effective surveillance.

In conclusion, the fight against insider trading is an ongoing battle against sophisticated individuals and complex systems. Addressing the challenges requires a multi-pronged approach encompassing stronger international cooperation, increased regulatory resources, clearer legal definitions, and a continuous refinement of detection and investigative techniques.

Verification of User's Provided Information:

1. Insider Trading Definition (SEBI): The Securities and Exchange Board of India (SEBI) defines insider trading as using confidential, non-public information (Unpublished Price Sensitive Information or UPSI) to profit unfairly in the stock market. This applies to company insiders (employees, directors, etc.) and anyone else with access to such information who buys or sells securities based on UPSI.

2. SEBI Regulations (1992-Present): SEBI's Prohibition of Insider Trading Regulations, continuously updated since 1992 (including amendments in 2018, 2019, 2024, and 2025), have consistently broadened definitions, increased penalties, introduced trading plans, strengthened disclosure requirements, enhanced enforcement, improved UPSI management, protected whistleblowers, and mandated digital databases. Recent amendments expand the scope of UPSI and "connected persons," while offering some compliance flexibility.

3. Penalties for Insider Trading (India): India's SEBI Act of 1992 imposes a minimum ₹10 lakh fine for insider trading, increasing to a maximum of ₹25 crore or three times the profit gained, whichever is higher. Imprisonment for up to ten years is also possible. The Companies Act of 2013 (Sections 195 and 24) reinforces these prohibitions, imposing fines ranging from ₹5 lakh to ₹25 crore (or three times the profit), and/or imprisonment of up to five or ten years, respectively.

4. US SEC and Insider Trading: The U.S. Securities and Exchange Commission (SEC) enforces insider trading restrictions, primarily through Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5, which prohibit deceptive securities trading practices. The Insider Trading Sanctions Act of 1984 allows for civil penalties up to three times the profit gained or loss avoided. The Insider Trading and Securities Fraud Enforcement Act of 1988 further strengthened the SEC's powers, increased criminal penalties, and incentivized whistleblowers.

5. EU Market Abuse Regulation (MAR): Since 2016, the EU's Market Abuse Regulation (MAR) has worked to enhance transparency and integrity within the EU's financial markets. Its goals are to bolster market integrity, safeguard investors, attract capital, and combat insider trading, unlawful disclosure of inside information, and market manipulation through standardized rules.

6. Australia's Corporations Act and ASIC: Australia's Corporations Act 2001 (Section 1043A) bans insider trading, defining it as trading or communicating non-public information that could significantly impact a financial product's price. The Australian Securities and Investments Commission (ASIC) enforces this legislation, prioritizing stronger investigation and prosecution of insider trading in its 2025 strategic plan. Penalties can reach 10 years imprisonment and/or substantial fines.

7. Global Principles Against Insider Trading: Global financial markets largely agree on core

principles in regulating insider trading. Trading on unpublished price-sensitive information (UPSI) is universally forbidden. The definition of "insider" broadly encompasses anyone possessing and trading on UPSI. Maintaining market integrity and investor protection through fair and transparent markets is a primary objective. Significant fines and potential imprisonment act as deterrents, while regulatory bodies actively monitor trading activity and pursue legal action.

8. Challenges in Detecting and Prosecuting Insider Trading: Globally, detecting and prosecuting insider trading remains challenging. Difficulties include proving the use of UPSI, navigating the complexities of modern markets, uncovering sophisticated concealment methods, and fostering international cooperation. Furthermore, regulatory bodies often face resource constraints and legal ambiguities surrounding the definitions of "material" and "non-public" information.

Drawbacks of Anti-Insider Trading Laws:

Anti-insider trading laws, while aiming for market fairness, face significant challenges. Proving the misuse of non-public information is difficult due to the often subtle, indirect communication and complex financial transactions involved, making tracing these activities problematic. Limited resources, both technological and human, hinder effective monitoring and investigation by enforcement agencies. Furthermore, vague definitions of "insider" and "unpublished price-sensitive information" (UPSI) create legal uncertainty, potentially implicating legitimate transactions and chilling legitimate market activity. Finally, selective enforcement, potentially influenced by regulatory capture or a lack of political will, allows influential individuals and entities to evade scrutiny.

A Comparison of Insider Trading Laws: India vs. the USA:

Significant differences exist between Indian and US insider trading laws, encompassing enforcement, legal frameworks, and regulatory approaches. The US, under the 1934 Securities Exchange Act, boasts robust enforcement by the SEC, supported by extensive case law and high-profile prosecutions acting as powerful deterrents. Conversely, India's regulatory landscape, established by the 2015 SEBI (Prohibition of Insider Trading) Regulations, is comparatively recent and developing, facing challenges such as enforcement delays, resource constraints, and a lower rate of successful convictions. Furthermore, the US adopts a broader definition of insider trading, encompassing "misappropriation" and "tippee" theories, while India employs a stricter, rules-based approach that offers less regulatory flexibility.

Literature Review:

Insider trading, the practice of profiting from non-public company information, is a subject of extensive global research and strict regulation, including in India. This scrutiny stems from its potential to undermine market fairness and erode investor confidence. Early studies, such as *Lorie and Niederhoffer (1968)*, confirmed that insiders possess an informational advantage allowing them to outperform ordinary investors, raising fundamental questions about market efficiency.

The debate surrounding insider trading remains nuanced. Some, like *Carlton and Fischel (1983)*, posit that it accelerates price discovery by incorporating private information. Conversely, others, including *Fishman and Hagerty (1992)*, contend that it discourages investment and reduces market liquidity.

Legal and regulatory frameworks addressing insider trading vary internationally. Landmark U.S. cases and legislation, as documented by *Mangesh Patwardhan (2022)*, define prohibitions based on concepts such as fiduciary duty. Similarly, the Securities and Exchange Board of India (SEBI) actively regulates insider trading in India to safeguard market integrity and protect investors.

Empirical evidence, like *Seyhun's (1986)* findings, substantiates the ability of insiders to predict stock price movements, highlighting the value of their privileged information. Research also

investigates the motivations behind insider trades. *Lakonishok and Lee (2001)* demonstrated that insider buying is a more reliable signal than selling. While some trades are legitimate, driven by factors like diversification, others are motivated by illicit personal gain.

This research critically analyses the effectiveness of regulations designed to prevent insider trading and maintain market integrity. It assesses the impact of robust enforcement and market oversight on detecting and preventing insider trading by dedicated individuals. A comparative analysis of insider trading laws and their enforcement across various countries, particularly developing markets like India, highlights the challenges posed by weak transparency and regulatory capacity.

The study reveals a complex interplay of legal, economic, and ethical considerations in insider trading. Although the debate regarding the potential benefits and drawbacks of insider trading continues, a global consensus, including in India, supports the need for strong regulations and proactive enforcement to protect market integrity.

Strengthening Insider Trading Laws in India:

India can bolster its insider trading laws by improving surveillance using advanced data analytics, AI, and cross-market monitoring to more effectively identify suspicious trading activity. SEBI needs faster adjudication processes and more autonomy to pursue criminal cases, ensuring swift and effective enforcement. Broadening the legal definitions of insiders and unpublished price-sensitive information (UPSI) to include indirect beneficiaries and intermediaries will plug loopholes. Furthermore, promoting robust internal compliance programs within companies, along with mandatory whistleblower protection and incentives, will cultivate a culture of accountability. Finally, regular training for regulators and investigators, coupled with greater transparency in enforcement actions, will enhance the effectiveness of these laws.

Conclusion:

Insider trading globally erodes the fairness, efficiency, and integrity of financial markets, prompting countries and international organizations to develop robust regulatory frameworks. While legal definitions and prohibitions exist, detection and prosecution remain difficult. Addressing this requires enhanced monitoring, increased cooperation between international regulatory bodies, stronger whistleblower protections, and vigorous enforcement of existing laws. These actions are crucial for rebuilding investor trust and fostering transparent, healthy markets. Despite extensive regulations and evolving legal approaches, insider trading persists, posing a significant challenge to the fairness and efficiency of global securities markets. Combating this requires a multi-pronged approach focused on improved surveillance, international collaboration, whistleblower protection, and aggressive enforcement to ultimately safeguard investor confidence and promote fair, transparent financial markets worldwide.

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