

## Credibility of SEBI

### Why in news?

The Hindenburg Research has levelled allegations of conflict of interest against the chairperson Securities and Exchange Board of India (SEBI).

### What is SEBI?

- **SEBI** - The Securities and Exchange Board of India (SEBI) is the regulatory body for securities and commodity market in India.
- **Establishment** - It was *established in 1988* as an executive body and was given *statutory powers in 1992* through the SEBI Act, 1992.
- **Objective**- It aims to protect the *interests of investors in securities* and to promote the development of, and to *regulate the securities market* and for matters connected therewith or incidental thereto.
- **Management** - It is managed by its board of members called as SEBI Board
  - **Chairman** - Nominated by the Union Government of India
  - **Two members** - From the Union Finance Ministry
  - **One member** - From the Reserve Bank of India
  - **Remaining five members** - They are nominated by the Union Government of India, and out of them *at least three should be whole-time members*

### What is credibility issue in SEBI management?

- There is an allegations of *conflict of interest against the chairperson* of SEBI.
- **Conflict of interests in SEBI** - It is any personal interest or association of a board member, which is likely to influence the decision of the Board in a matter, as viewed by an independent third party.
- *Accepting gifts* by Board members.
- *Holding or having held any post*, other employment or fiduciary position in the past five years.
- *Dealing in shares* based on unpublished price sensitive information.

### How SEBI regulates conflict of interest of it board members?

- SEBI has introduced a separate code ***for 'Code on Conflict of Interests for Members of Board.***
- It has been *adopted by the Board in 2008.*
- It aims to ensure that it conducts in a manner that does *not compromise its ability* to accomplish its mandate or undermine the public confidence in the ability of Member(s) to discharge his responsibilities.
- **Code** - It requires extensive disclosures and even provides a procedure for the public

to raise conflict of interests.

- It provides that SEBI member shall take all steps necessary to ensure that any conflict of interest does not affect any decision of the Board.
- *Disclosure of shares* of the board member and their family holdings within 15 days of the assumption of Office.
- *Disclosure of substantial transactions* within 15 days of such a transaction.
- Members are *not allowed to deal in shares based on unpublished price* sensitive information.
- Members are *not allowed to hold any other office of profit* or professional activity.
- They are *not allowed to accept any gift* from a regulated entity and If received, it must be hand it over to the General Services Department of the SEBI.
- *Disclose any post*, other employment or fiduciary position” which they hold or have held in the past five years, in connection with any regulated entity.

### What are challenges in ensuring credibility of SEBI?

- **Lack of Transparency** - As per the ‘Code on Conflict of Interests for Members of Board’ the disclosures shall be kept confidential, except in certain circumstances.
- This can lead to potential misconduct and cover-up by bad actors.
- **Circularity of the scrutiny** - SEBI chairperson determines if a member of the board has a conflict of interest and the board determines if the chair does.
- This process gives rise to the possibility of quid pro quo arrangements.
- **Regressive Lokpal amendment** - Statutory requirement under Lokpal and Lokayuktas Act, for *public disclosure was removed* in 2016.
- It was replaced with a clause empowering the Union government to make rules to determine the form and manner of disclosures.

*Lokpal and Lokayuktas Act, enacted in 2014, was the statutory requirement for public disclosure of the assets and liabilities of public servants, including those of their spouses and dependent children.*

- **Privacy issues** - Digital Personal Data Protection (DPDP) Act has amended the RTI Act to exempt all personal information from disclosure.

### What lies ahead?

- Reform relevant codes and laws to *ensure public disclosure* of assets, liabilities and conflict of interest.
  - Include family members, close relatives and other known persons in the disclosures.
  - It shall include past associations of the person and family members with any listed companies.
- Ensure transparency in the functioning for SEBI management board.
- Institute impartial judicial or parliamentary enquiry to ensure fairness in the investigation.

*Supreme Court has ruled that disclosure of information related to asset, liabilities and performance evaluations of public servants, all come within the scope of the privacy exemption.*

## **References**

1. [The Hindu | SEBI's credibility](#)
2. [Indian Express | SEBI Conflict of Interest](#)
3. [SEBI| Code on Conflict of Interests For SEBI Board](#)

