TK Viswanathan Committee on Fair Market Conduct

What is the issue?

\n\n

\n
- The SEBI-appointed TK Viswanathan committee on fair market conduct recently released its report.
\n
- Granting more powers to Securities and Exchange Board of India (SEBI) has given way to many concerns.
\n

\n\n

What was the committee on?

\n\n

\n
- The regulation of securities markets has evolved, since the setting up of the SEBI.
\n
- However it is still a work in progress as mischievous practices continue to exist.
\n
- The committee was aimed at addressing the illegal practices and ensuring fair conduct among investors.
\n

\n\n

What are the key recommendations?

\n\n

\n
- **Malpractices** - The committee said Benami trading should also be deemed fraudulent if it leads to manipulation.
\n

- Also, SEBI may consider any trading by players beyond their known 'financial resources' as fraud.
  \n
- The committee has suggested changes to existing regulations to better prosecute malpractices as these.
  \n
- It said the scope of regulations on fraud should not just cover intermediaries.
  \n
- It should also cover employees and agents of these intermediaries who often escape after indulging in fraudulent activity.
  \n
- It is also suggested that SEBI be given the power to grant immunity to whistle-blowers who help uncover illegal activities.
  \n

\n\n

\n
- **Insider trading** - It is a practice wherein investment decisions are made by having access to otherwise non public information.
  \n
- Among a number of recommendations on insider trading, is the creation of two separate codes of conduct.
  \n
- One would set minimum standards on dealing with insider information by listed companies.
  \n
- The other would set standards for market intermediaries and others who are handling price-sensitive information.
  \n
- **Information** - Companies should maintain details of
  \n

\n\n

\n
i. immediate relatives of designated persons who might deal with sensitive information
   \n
ii. people with whom the designated person might share a material financial relationship or who share the same address for a year
   \n

\n\n

\n
- Such information may be maintained by the company in a searchable electronic format.

\n

- It may also be shared with the SEBI when sought on a case-to-case basis.

  \n

- **Calls** - Currently, SEBI has the power to only ask for call records including numbers and durations.

  \n

- The committee has recommended direct power for SEBI to tap telephones and other electronic communication devices.

  \n

- This is to check insider trading and other frauds.

  \n

- However, proper checks and balances over this power are to be ensured by necessary amendment in the relevant laws.

  \n

- **Front entities** - Front entities are that which lent their names or trading accounts to others.

  \n

- The committee has recommended the inclusion of a new sub-section within the SEBI Act, 1992 in this regard.

  \n

- This would specifically prohibit devices, schemes or artifices employed for manipulating the books of accounts or financial statements of a listed company.

  \n

\n\n

What are the benefits?

\n\n

\n

- A strong regulator serves as a good deterrent to fraudulent practices in the market.

  \n

- Greater executive powers can help the regulator take swifter action against offenders.

  \n

- They do not, instead, have to rely on government bodies such as the Ministry of Corporate Affairs.

  \n

- This could also free SEBI from various manifestations of political influence.

  \n

- As SEBI can better understand the complex nuances that financial market fraud entails, it may be better placed to enforce the law.

  \n

\n\n

What are the contentions?

\n\n

\n

- **Calls** - Powers such as tapping phone calls are already vested in the police and investigating agencies. E.g. CBI
\n
- So it might be extreme and tyrannical if extended to financial regulators as well.
\n
- This gains significance in the backdrop of the increasing importance for privacy in recent times.
\n
- **Frauds** - SEBI is set to be granted the power to act directly against "perpetrators of financial statements fraud".
\n
- In essence, this means SEBI can act not only against listed entities under its extant powers.
\n
- Rather, it could also act against those who aid or abet financial fraud, including the accountants and auditors.
\n
- Too much of deterrence could possibly discourage and drive away the genuine investors.
\n

\n\n

\n\n

Source: Business Standard, The Hindu

\n