



ENFORCEMENT ACTIONS BY SEBI

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ENFORCEMENT ACTIONS BY SEBI

- Criminal Prosecution
- Enquiry
 - Suspending or canceling the certificate of registration of intermediaries
- Adjudication
 - Imposition of monetary penalties by the adjudicating officer
- Directions under Section 11, 11B, 11D of SEBI Act

CRIMINAL PROSECUTION

Any contravention of any provision of the Act, rule or regulation or non compliance of Summons

Offence is punishable with:

- Imprisonment up to ten years; or
- Fine of up to Rs. 25 crores; or
- Both

Failure to comply with Adjudication Officer's orders attracts penalty of:

- Imprisonment of at least one month, and upto ten years; or
- Fine of up to Rs. 25 crores; or
- Both

Non compliance with Summons of IA- imprisonment up to 1 year or fine up to 1 crore or both

Sessions Court alone may try

IMMUNITY POWER

- GOI may provide immunity from any penalty or prosecution
- Immunity may be issued only on recommendation by SEBI
- If proceedings have commenced, no immunity
- Immunity may be withdrawn if the person has not complied with conditions or given false evidence

SECTION 11 11B AND 11D DIRECTIONS

- Not to buy sell or deal in securities
- Cease and desist from conduct/ violation
- Suspend trading in securities
- Disgorgement of ill-gotten gains
- Restrain persons from accessing securities market
- Suspend any office bearer of stock exchange or self regulatory organization
- Not to dispose or alienate any asset under investigation
- Impound and retain proceeds or securities

ADJUDICATION PROCEEDINGS

- Minimum penalty provided
- Maximum penalty of Rs. 1 lakh per day /Three times the value gained or Rs.25 crore
- Section 15J- following factors to be considered
 - Amount of disproportionate gain or unfair advantage
 - Amount of loss caused to investors due to default
 - Repetitive nature of default

SOURCE OF DETECTION OF VIOLATIONS

- Complaints received from investors and market participants
- Media reports
- Inspection- routine or surprise/ special
- Surveillance, both exchange and SEBI
- Investigation/ inquiry

AREAS OF ENFORCEMENT

- Public Issue related manipulations like mis-statement in prospectus, gray market operations and irregularities in issue process
- Post listing market manipulations like price rigging, circular trading
- Fraudulent and Unfair Trade Practices
- Breach of Code of Conduct by registered intermediaries
- Insider trading in listed companies
- Takeovers and acquisitions beyond threshold
- Violation of investment norms by Registered Funds
- Violation of Disclosure norms

PROCESS OF ENFORCEMENT

- Examination of Investigation/ Inspection Reports
- Prima facie case
- Approval by Competent Authority
- File transferred to Enforcement
- Issue and service of show cause notice
- Inspection of documents

PROCESS OF ENFORCEMENT (CONTD.)

- Examination of reply of noticee
- Hearing before Competent Authority
- Speaking order
- If aggrieved, appeal before SAT
- Final appeal to Supreme Court on issues of law

EX-PARTE PROCEEDINGS

- Section 11(4)/ 11B
- Ex-parte order
- Post decisional hearing
- Speaking Order (Confirming or revoking)
- Completion of investigation/ inquiry
- Issuance of show cause notice

SETTLEMENT ORDERS

- Settlement not allowed in serious cases
- Formula for consent terms
- Repeated settlement not allowed
- Application in prescribed form with waivers and undertakings
- Examination by Internal Committee
- Placing before High Powered Advisory Committee, headed by a retired HC Judge
- Recommendation by High Powered Advisory Committee
- Appropriate order by a panel of Whole Time Members/ Adjudicating Officers

SETTLEMENT ORDERS (CONTD..)

- Filing of consent terms before Court/ SAT if proceedings are pending before them
- Orders by Court/ SAT
- Payment of money
- Consent bars
- Compliance undertakings

COMPOUNDING OF OFFENCES

- Application before court
- Application examined by SEBI
- Approval by Competent Authority
- Reply filed by SEBI before Court
- consent/ opposing

DATA ON ENFORCEMENT ACTIONS (2014-15)

Surveillance Actions	
Scripts shifted to trade for trade	2158
Price band imposed	5356
Preliminary investigation taken up	1378
Rumors verified	378
No of interim orders-	12 (465 entities/ persons)
Investigations-	Taken up- 70 Completed- 122
Warnings issued	274
Deficiency letters	233

DATA ON ENFORCEMENT ACTIONS (2014-15)

Enforcement Action	Initiated	Disposed
Section 11 / 11 B-	1808	670
Enquiry	23	11
Adjudication	1951	1211
Prosecution	67	11

DATA ON ENFORCEMENT ACTIONS (2014-15)

- No of orders in CIS & DPI-
 - CIS- 51
 - DPI- 118
- Consent & Compounding-
 - No of cases settled- 41 Rejected- 59 (cumulative- 1338 / 1807)
 - Compounding-1 Rejected- 14 (cumulative- 56 /36)
 - Settlement charges- 358 lakhs (cumulative- 229 crores / 1.43 crores)
- Recovery-
 - No of cases completed-121(cumulative- 127)
 - Amount recovered- 19 crores (cumulative- 27 crores)
 - Recovery certificates issued- 540 (cumulative- 604)
 - No of attachments- 1680 (cumulative- 1927)
 - Amount covered- 481 crores (cumulative- 2056 crores)

DATA ON LITIGATION (2014-15)

- No of court cases pending- 1041
 - Supreme Court- filed 53, disposed- 54, pending -224
 - High courts- filed- 163, disposed- 84, pending -559 (including 13 statutory appeals)
 - Other forums- filed-49, disposed-31, pending- 258
- Securities Appellate Tribunal-
 - No of appeals filed- 520
 - Appeals disposed- 205
 - Appeals pending- 381
- Success rate in litigation- 90%

MANUALS OF INTERNAL INSTRUCTIONS

- Enquiry Manual
- Inspection Procedure
- Guidelines for cross examination
- Guidelines on quantum of penalty
- Procedure for review of AO orders
- Time lines for investigations/ passing orders

INTERNATIONAL REGULATORY CO-OPERATION

- Active membership of IOSCO
- MoUs with other jurisdictions for-
 - information sharing
 - technical assistance



THANK YOU