# DOWNLOAD PDF INVESTOR PROTECTION, INSIDER TRADING, AND CORPORATE GOVERNANCE

## Chapter 1 : Investor Protection and Corporate Fraud Center | George Mason University

*Insider trading" is a term that most investors have heard and usually associate with illegal conduct. But the term actually includes both legal and illegal conduct. The legal version is when corporate insidersâ€"officers, directors, and employeesâ€"buy and sell stock in their own companies.*

Corporate Governance In this article, Arpit Srivastava discusses Regulatory framework on corporate governance in India. Ever since this scam the concern for good corporate governance has increased phenomenally. In general words Corporate Governance means set of rules and regulations by which an organization is governed, controlled and directed. In order to ensure good corporate governance in India many Regulatory frameworks are introduced. All such provisions of new Company Law are instrumental in providing a good Corporate Governance structure. Section , which requires Board of Directors of every listed company or any other class of committee to constitute an Audit Committee. It also provide the manner to constitute the committee. Section , which mandates the Director disclose his interest in any company or companies, body corporate, firms, or other association of Individuals. The director is required to disclose any such interest at the first meeting of the board and if there is any change in the interest then the first meeting held after such change. SEBI was established with the main purpose of curbing the malpractices and protecting the interest of its investors. Its main objective is to regulate the activities of Stock Exchange and at the same time ensuring the healthy development in the financial market. As per the new rules the companies are required to get shareholders approval for RPT Related Party Transactions , it established whistle blower mechanism, clear mandate to have at least one woman director in the Board and moreover it elaborated disclosures on pay packages. Clause 35B of the Listing Agreement is being amended by the regulatory authority. Now as per the amended clause, Listed companies are required to provide the option of e-voting to its shareholders on all proposed or passed at general meetings. Those who do not have access to e-voting facility, they should be provided to cast their votes in writing on Postal Ballot. There was the need to amend the provision so that the provisions of the listing agreement can be aligned with the provisions of Companies Act,  By doing so an additional requirement can be provided to strengthen the Corporate Governance norms in India with respect to Listed companies. The revised clause forbids the independent directors from being eligible for any kind of stock option. Whistle blower policy is also added in the revised clause whereby the directors and employees can report any unethical behavior, any fraud or if there is violation of Code of Conduct of the company. By the amendment Audit Committee is also enhanced, now it will include evaluation of risk management system and internal financial control, will keep a check on inter-corporate loans and investments. This Regulation contains provisions for public issue wherein the issuer shall satisfy the conditions mentioned under the regulation, it also contains provisions regarding restriction on right issue. It also contains provisions regarding listing of Securities on stock exchange wherein in-principle is to be obtained by the issuer from recognised stock exchange. Part A of schedule XI of this regulations talks about disclosure in Red Herring prospectus, Shelf prospectus, and Prospectus wherein it is the duty of issuer to ensure that all material information and reports were submitted prior to the issue. It also makes it very clear that underwriting obligations would not be restricted to any kind of minimum subscription level but it would be applicable to the whole issue. All such rules are instrumental in ensuring good corporate governance. The LODR Regulations were notified with the aim of simplifying the existing provisions of listing agreements for different segment of capital markets like convertible and non-convertible debt securities, equity shares etc. Listed entities shall ensure that directors, KMP or any other person related to the company shall adhere to the responsibilities assigned to them under this regulation. The intent here is to ensure that once the shares of a company is listed on a Stock Exchange they are easily accessible to the normal public. Insider trading per se is not a violation of Law but what is prohibited is trading by an insider on the basis of Non-public information. To prevent such trading SEBI came up with this regulation. Under this, the restriction is corporate insiders

who arrive at trading decisions by using the price sensitive information directly or indirectly. Under this the disclosure mandated at two different levels, one is the immediate disclosure of material facts while the other is regarding disclosure of transactions undertaken. While the former prevents insider trading, the latter reveals the insider trading. Under this Insiders may be restricted from dealing in securities for a specific time period in order to prevent them taking advantage of any material information before the shareholders or public. A condition can be imposed upon the insiders to obtain a prior approval before dealing in securities of a company. The main aim behind coming up with such Regulation, rules etc is to ensure good corporate governance in a company. All companies are required to file the listing agreement of the Stock exchange where its shares are listed. It issues accounting standards for disclosure of financial information. Section of the Companies Act, states that financial statements of a company shall comply with the accounting standards notified under section of the Act. Section states that Central government may prescribe the accounting standards as recommended by ICAI. Some accounting standards issued by ICAI are: It is a body to regulate and develop the profession of Company Secretaries in India. It issues secretarial standards as per the provision of the Companies Act, Section 10 of the Companies Act states that every company shall observe secretarial standards specified by Institute of Company Secretaries of India with respect to General and Board meetings. Secretarial standard-1 on Meeting of the Board seeks to prescribe a set of principles for conducting meetings of Board of Directors. These principles are equally applicable to the meetings of committees as well. SS-1 principles are applicable to the Meeting of Board of Directors of all companies except one person company. Secretarial standard-2 prescribes a set of principles for conducting and convening general meetings. This standard also deals with the procedure for conducting e-voting and postal ballot. SS-2 is applicable to all types of General meetings of all companies except one person company incorporated under the act. The principles in SS-2 are applicable mutatis-mutandis to meetings of creditors and debenture holders moreover it also prescribes that any meeting of members or creditors or debenture-holders of a company under the direction of CLB Company Law Board , NCLT National Company Law Tribunal or any other authority shall be governed by the provisions of this standard. Apart from some initiatives for Corporate Governance as discussed above, few other initiatives were also taken like- Setting up IEPF Investor Education and protection Fund for protection of the interest of the investors and promoting investors awareness. Launching websites like www. As per the SEBI committee the objective of Corporate Governance is maximization of shareholders wealth and at the same time protecting the interest of other shareholders. Development of rules and norms is an important step but only the first step to ensure good corporate governance. Journey is long but serious efforts from Indian government and SEBI will always remain instrumental in dealing with the problem of Corporate Governance. Amendment brought in the Companies Act, various initiatives taken up by the government, standards issued by ICAI and ICSI provides a regulatory framework for curbing the malpractices and ensuring the rights of the investors.

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## Chapter 2 : calendrierdelascience.com | What We Do

*Ch. Investor Protection, Insider trading, and corporate governance study guide by erin_jeffery includes 12 questions covering vocabulary, terms and more. Quizlet flashcards, activities and games help you improve your grades.*

Securities and Exchange Commission is to protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation. As more and more first-time investors turn to the markets to help secure their futures, pay for homes, and send children to college, our investor protection mission is more compelling than ever. The world of investing is fascinating and complex, and it can be very fruitful. But unlike the banking world, where deposits are guaranteed by the federal government, stocks, bonds and other securities can lose value. There are no guarantees. By far the best way for investors to protect the money they put into the securities markets is to do research and ask questions. The laws and rules that govern the securities industry in the United States derive from a simple and straightforward concept: To achieve this, the SEC requires public companies to disclose meaningful financial and other information to the public. This provides a common pool of knowledge for all investors to use to judge for themselves whether to buy, sell, or hold a particular security. Only through the steady flow of timely, comprehensive, and accurate information can people make sound investment decisions. To insure that this objective is always being met, the SEC continually works with all major market participants, including especially the investors in our securities markets, to listen to their concerns and to learn from their experience. The SEC oversees the key participants in the securities world, including securities exchanges, securities brokers and dealers, investment advisors, and mutual funds. Here the SEC is concerned primarily with promoting the disclosure of important market-related information, maintaining fair dealing, and protecting against fraud. Each year the SEC brings hundreds of civil enforcement actions against individuals and companies for violation of the securities laws. Typical infractions include insider trading, accounting fraud, and providing false or misleading information about securities and the companies that issue them. One of the major sources of information on which the SEC relies to bring enforcement action is investors themselves â€" another reason that educated and careful investors are so critical to the functioning of efficient markets. To help support investor education, the SEC offers the public a wealth of educational information on this Internet website , which also includes the EDGAR database of disclosure documents that public companies are required to file with the Commission. Though it is the primary overseer and regulator of the U. More detailed information about many of these topics is available throughout this website. Before the Great Crash of , there was little support for federal regulation of the securities markets. This was particularly true during the post-World War I surge of securities activity. Proposals that the federal government require financial disclosure and prevent the fraudulent sale of stock were never seriously pursued. Tempted by promises of "rags to riches" transformations and easy credit, most investors gave little thought to the systemic risk that arose from widespread abuse of margin financing and unreliable information about the securities in which they were investing. During the s, approximately 20 million large and small shareholders took advantage of post-war prosperity and set out to make their fortunes in the stock market. Roosevelt Joseph Kennedy When the stock market crashed in October , public confidence in the markets plummeted. Investors large and small, as well as the banks who had loaned to them, lost great sums of money in the ensuing Great Depression. Congress held hearings to identify the problems and search for solutions. Based on the findings in these hearings, Congress â€" during the peak year of the Depression â€" passed the Securities Act of  This law, together with the Securities Exchange Act of , which created the SEC, was designed to restore investor confidence in our capital markets by providing investors and the markets with more reliable information and clear rules of honest dealing. The main purposes of these laws can be reduced to two common-sense notions: Companies publicly offering securities for investment dollars must tell the public the truth about their businesses, the securities they are selling, and the risks involved in investing. Monitoring the securities industry requires a highly coordinated effort. Congress established the Securities and Exchange

Commission in to enforce the newly-passed securities laws, to promote stability in the markets and, most importantly, to protect investors. Kennedy, President John F. By law, no more than three of the Commissioners may belong to the same political party, ensuring non-partisanship. It is the responsibility of the Commission to: The Commission convenes regularly at meetings that are open to the public and the news media unless the discussion pertains to confidential subjects, such as whether to bring an enforcement action. Divisions Division of Corporation Finance The Division of Corporation Finance assists the Commission in executing its responsibility to oversee corporate disclosure of important information to the investing public. Corporations are required to comply with regulations pertaining to disclosure that must be made when stock is initially sold and then on a continuing and periodic basis. The Division of Corporation Finance reviews documents that publicly-held companies are required to file with the Commission. Corporation Finance provides administrative interpretations of the Securities Act of , the Securities Exchange Act of , and the Trust Indenture Act of , and recommends regulations to implement these statutes. Increasingly, the Division also monitors the use by U. For example, a company might ask whether the offering of a particular security requires registration with the SEC. Corporation Finance would share its interpretation of the relevant securities regulations with the company and give it advice on compliance with the appropriate disclosure requirement. The Division uses no-action letters to issue guidance in a more formal manner. A company seeks a no-action letter from the staff of the SEC when it plans to enter uncharted legal territory in the securities industry. For example, if a company wants to try a new marketing or financial technique, it can ask the staff to write a letter indicating whether it would or would not recommend that the Commission take action against the company for engaging in its new practice. These statutes generally are broadly drafted, establishing basic principles and objectives. To ensure that the intent of Congress is carried out in specific circumstances â€" and as the securities markets evolve technologically, expand in size, and offer new products and services â€" the SEC engages in rulemaking. Rulemaking can involve several steps: The Commission publishes a detailed formal rule proposal for public comment. Unlike a concept release, a rule proposal advances specific objectives and methods for achieving them. Typically the Commission provides between 30 and 90 days for review and comment. Just as with a concept release, the public comment is considered vital to the formulation of a final rule. Finally, the Commissioners consider what they have learned from the public exposure of the proposed rule, and seek to agree on the specifics of a final rule. If a final measure is then adopted by the Commission, it becomes part of the official rules that govern the securities industry. Division of Trading and Markets The Division of Trading and Markets assists the Commission in executing its responsibility for maintaining fair, orderly, and efficient markets. The staff of the Division provide day-to-day oversight of the major securities market participants: The Division also oversees the Securities Investor Protection Corporation SIPC , which is a private, non-profit corporation that insures the securities and cash in the customer accounts of member brokerage firms against the failure of those firms. It is important to remember that SIPC insurance does not cover investor losses arising from market declines or fraud. This important part of the U. Division of Enforcement The Division of Enforcement assists the Commission in executing its law enforcement function by recommending the commencement of investigations of securities law violations, by recommending that the Commission bring civil actions in federal court or as administrative proceedings before an administrative law judge, and by prosecuting these cases on behalf of the Commission. The Division obtains evidence of possible violations of the securities laws from many sources, including market surveillance activities, investor tips and complaints, other Divisions and Offices of the SEC, the self-regulatory organizations and other securities industry sources, and media reports. All SEC investigations are conducted privately. Facts are developed to the fullest extent possible through informal inquiry, interviewing witnesses, examining brokerage records, reviewing trading data, and other methods. Following an investigation, SEC staff present their findings to the Commission for its review. The Commission can authorize the staff to file a case in federal court or bring an administrative action. In many cases, the Commission and the party charged decide to settle a matter without trial. Common conduct that may lead to SEC investigations include: Whether the Commission decides to bring

a case in federal court or within the SEC before an administrative law judge may depend upon the type of sanction or relief that is being sought. For example, the Commission may bar someone from the brokerage industry in an administrative proceeding , but an order barring someone from acting as a corporate officer or director must be obtained in federal court. Often, when the misconduct warrants it, the Commission will bring both proceedings. The Commission files a complaint with a U. District Court and asks the court for a sanction or remedy. Often the Commission asks for a court order, called an injunction, that prohibits any further acts or practices that violate the law or Commission rules. An injunction can also require audits, accounting for frauds, or special supervisory arrangements. In addition, the SEC can seek civil monetary penalties, or the return of illegal profits called disgorgement. The court may also bar or suspend an individual from serving as a corporate officer or director. The Commission can seek a variety of sanctions through the administrative proceeding process. Administrative proceedings differ from civil court actions in that they are heard by an administrative law judge ALJ , who is independent of the Commission. The administrative law judge presides over a hearing and considers the evidence presented by the Division staff, as well as any evidence submitted by the subject of the proceeding. Following the hearing the ALJ issues an initial decision that includes findings of fact and legal conclusions. The initial decision also contains a recommended sanction. Both the Division staff and the defendant may appeal all or any portion of the initial decision to the Commission. The Commission may affirm the decision of the ALJ, reverse the decision, or remand it for additional hearings. Administrative sanctions include cease and desist orders, suspension or revocation of broker-dealer and investment advisor registrations, censures, bars from association with the securities industry, civil monetary penalties, and disgorgement. Division of Economic and Risk Analysis The Division of Economic and Risk Analysis assists the Commission in executing its mission to protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation by integrating robust economic analysis and rigorous data analytics into the work of the SEC. There are two main functions for the Division. First, DERA staff provide vital support in the form of economic analyses in support of Commission rulemaking and policy development. Among the functions performed by the Division are: Analyzing the potential economic effects of Commission rulemakings or other Commission actions. In this role, offices within DERA works closely with the other Divisions and Offices to help examine the need for regulatory action, analyze the potential economic effects of rules and other Commission actions, develop data-driven analyses of market activity, and assist in evaluating public comments and studies. Providing quantitative and qualitative research and support related to risk assessment. DERA staff help the Commission to anticipate, identify, and manage risks, focusing on early identification of potential fraud and illegal or questionable activities. Staff collects, analyzes, and disseminates information to the Commission and its Staff about regulated entities and market activity. Assisting the Division of Enforcement by, for example, providing economic and quantitative analysis and support in enforcement proceedings and settlement negotiations. Offices Office of the General Counsel The General Counsel is appointed by the Chairman as the chief legal officer of the Commission, with overall responsibility for the establishment of agency policy on legal matters. The General Counsel serves as the chief legal advisor to the Chairman regarding all legal matters and services performed within, or involving, the agency, and provides legal advice to the Commissioners, the Divisions, the Offices, and other SEC components as appropriate. The General Counsel represents the SEC in civil, private, or appellate proceedings as appropriate, including appeals from the decisions of the federal district courts or the Commission in enforcement matters, and appeals from the denial of requests under the Freedom of Information Act.

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## Chapter 3 : calendrierdelascience.com | The Laws That Govern the Securities Industry

*Chapter 30 Investor Protection Insider Trading and Corporate Governance TRUEFALSE 1. The sale and transfer of securities are heavily regulated by federal and state statutes and by government agencies.*

Insider Trading Policy Background: Arconic and its directors, officers and employees worldwide must act in a manner that does not misuse material financial or other information that has not been publicly disclosed. Failure to do so breaches our integrity value. Maintaining the confidence of shareholders and the public markets is important. The principle underlying this Policy is fairness in dealings with other persons. In addition, in the United States and other countries, illegal insider trading violates laws that impose strict penalties upon both companies and individuals. It is important that you understand the breadth of activities that constitute illegal insider trading and the consequences. Attorneys and state enforcement authorities investigate and pursue insider trading violations vigorously. Cases have been successfully prosecuted against straightforward violations as well as violations for trading by employees through foreign accounts, trading by family members and friends, and trading involving only a small number of shares. In addition, violation of this Policy could result in company-imposed disciplinary action up to and including termination of employment. No Trading on the Basis of, or Tipping of, Material Nonpublic Information No Covered Person may trade defined below , directly or indirectly through family members or other persons or entities, in Arconic securities defined below unless the director, officer or employee is sure that he or she does not possess material nonpublic information defined below. No Covered Person may disclose such information to others who might use it for trading or might pass it along to others who might trade. Covered Persons may not trade, directly or indirectly through family members or other persons or entities, in securities of any other entity including, without limitation, a current or prospective Company customer, supplier, joint venture participant, partner, or party to a potential corporate development transaction unless they are sure that they do not possess any material nonpublic information about that entity which they obtained in the course of their employment with the Company, such as information about a major contract or merger being negotiated. Information that is not material to the Company may nevertheless be material to the other entity. Covered Persons may not trade, directly or indirectly through family members or other persons or entities, in aluminum financial derivatives instruments including forwards, futures. Short sales of Arconic securities a sale of securities which are not then owned and derivative or speculative transactions in Arconic securities are prohibited. No Covered Person is permitted to purchase or use, directly or indirectly through family members or other persons or entities, financial instruments including prepaid variable forward contracts, equity swaps, collars, and exchange funds that are designed to hedge or offset any decrease in the market value of Arconic securities. Directors and Section 16 Officers defined below are prohibited from holding Arconic securities in margin accounts, pledging Arconic securities as collateral, or maintaining an automatic rebalance feature in savings plans, deferred compensation or deferred fee plans. Who is subject to the Quarterly Blackout Periods? The Quarterly Blackout Periods apply, whether or not a reminder notice of the blackout is sent. You are responsible for compliance with this Policy. In addition to the Quarterly Blackout Periods, the Company may, from time to time, impose other blackout periods upon notice to those persons who are affected. In addition to complying with the prohibition on trading during blackout periods, the following individuals must first obtain pre-clearance before engaging in any transaction in Arconic securities: In addition, other employees are encouraged to discuss any transaction involving Arconic securities to make sure there is no pending material event that could create an appearance of improper trading. Who authorizes the pre-clearance? A request for pre-clearance to trade in Arconic securities should be submitted to the Chief Legal Officer and Secretary or other designated attorneys at least one business day in advance of the proposed transaction. When a request for pre-clearance is made, the requestor should confirm in the request that he or she i has reviewed this Policy and ii is not aware of any material nonpublic information about the Company. If a proposed transaction receives pre-clearance, the

pre-cleared trade must be effected within five business days of receipt of pre-clearance unless an exception is granted or the person becomes aware of material nonpublic information before the trade is executed, in which case the preclearance is void and the trade must not be completed. Transactions not effected within the time limit would be subject to pre-clearance again. If a person seeks pre-clearance and permission to engage in the transaction is denied, then he or she should refrain from initiating any transaction in Arconic securities, and should not inform any other person of the restriction. Persons subject to this Policy have ethical and legal obligations to maintain the confidentiality of information about the Company and to not trade in Arconic securities or the securities of another entity while in possession of material nonpublic information. In all cases, the ultimate responsibility for adhering to this Policy and avoiding improper trading rests with the individual, and any action on the part of the Company, the Chief Legal Officer and Secretary or any other employee or director pursuant to this Policy or otherwise does not in any way constitute legal advice or insulate an individual from liability under applicable securities laws. If you violate this Policy, the Company may take disciplinary action, including dismissal for cause. You may also be subject to severe legal penalties under applicable securities laws. Trading includes purchases and sales of stock, preferred stock, derivative securities such as put and call options, convertible debentures and debt securities debentures, bonds and notes. Examples of transactions prohibited during a blackout period or when in possession of material nonpublic information include: Exercise of stock options where no Arconic stock is sold in the market to fund the option exercise Regular contributions to the Arconic stock fund in a benefit plan pursuant to your payroll deduction election Regular reinvestment in the dividend reinvestment plan Gifts of Arconic stock unless there is reason to believe that the recipient intends to sell the shares during the blackout period then in effect or while the donor is aware of material nonpublic information Transfers of Arconic stock to or from a trust Transactions that comply with SEC Rule 10b pre-arranged written plans, subject to the conditions described below Transactions by family members, controlled entities and others. This Policy also applies to any entities that you influence or control, including any corporations, partnerships or trusts. You are responsible for the transactions of these other persons and therefore should make them aware of the need to confer with you before they trade in Arconic securities, and you should treat all such transactions for the purposes of this Policy and applicable securities laws as if the transactions were for your own account. This Policy does not, however, apply to securities transactions of Family Members or entities where the purchase or sale decision is made by a third party not controlled by, influenced by or related to you or your Family Members. Standing and limit orders. Standing and limit orders except standing and limit orders under approved Rule 10b plans, as described below create heightened risks for insider trading violations as there is no control over the timing of the purchases or sales that result from standing instructions to a broker. As a result, the transaction could be executed when an individual is in possession of material nonpublic information. The Company therefore discourages placing standing or limit orders on Arconic securities. If an individual must use a standing order or limit order, the order should be limited to a short duration and should otherwise comply with this Policy. Any information that could reasonably be expected to affect the price of the securities is likely to be considered material. Examples of material information include but is not limited to: The information may be positive or negative. The public, the media, and the courts may use hindsight in judging what is material. Nonpublic information means information that has not yet become publicly available. Release of information to the media does not immediately free insiders to trade â€" it may be necessary to demonstrate that the information has been widely disseminated. In addition, insiders should refrain from trading until the market has had an opportunity to absorb and evaluate the information. If the information has been widely disseminated, it is usually sufficient to wait at least 24 hours after publication. Who is obligated to file Section 16 reports? Arconic directors Section 16 Officers. Form Reports Arconic directors and certain Arconic officers designated by the Board of Directors are required to file Form before making an open market sale of Arconic securities. Form notifies the SEC of your intent to sell Arconic securities. In general, a 10b plan must be entered into at a time when the person entering into the plan is not aware of material nonpublic information including during a blackout period. Once

the plan is adopted, the person must not exercise any influence over the amount of securities to be traded, the price at which they are to be traded or the date of the trade. The plan must either specify the amount, pricing and timing of transactions in advance or delegate discretion on these matters to an independent third party. You may enter into a 10b plan only if the plan meets the requirements of Rule 10b and the plan is approved by the Chief Legal Officer and Secretary. Any contemplated 10b plan must be submitted for approval at least five business days prior to the entry into the plan. Post-Termination Transactions This Policy continues to apply to transactions in Arconic securities even after termination of service to the Company. If an individual is in possession of material nonpublic information when his or her service terminates, that individual may not trade in Arconic securities until that information has become public or is no longer material. The Chief Legal Officer and Secretary is responsible for interpreting and updating this Policy as appropriate. In addition, the Chief Legal Officer and Secretary shall have the authority to adopt, approve and implement any immaterial or administrative amendments or modifications to this Policy. Any material amendment to this Policy must be approved by the Board of Directors of the Company. It is your obligation to understand and comply with this Policy.

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## Chapter 4 : Corporate Governance - AerCap

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Rules and Regulations Securities Act of Often referred to as the "truth in securities" law, the Securities Act of has two basic objectives: See the full text of the Securities Act of  Purpose of Registration A primary means of accomplishing these goals is the disclosure of important financial information through the registration of securities. While the SEC requires that the information provided be accurate, it does not guarantee it. Investors who purchase securities and suffer losses have important recovery rights if they can prove that there was incomplete or inaccurate disclosure of important information. The Registration Process In general, securities sold in the U. The registration forms companies file provide essential facts while minimizing the burden and expense of complying with the law. In general, registration forms call for: Registration statements and prospectuses become public shortly after filing with the SEC. If filed by U. Registration statements are subject to examination for compliance with disclosure requirements. Not all offerings of securities must be registered with the Commission. Some exemptions from the registration requirement include: By exempting many small offerings from the registration process, the SEC seeks to foster capital formation by lowering the cost of offering securities to the public. The Act empowers the SEC with broad authority over all aspects of the securities industry. The Act also identifies and prohibits certain types of conduct in the markets and provides the Commission with disciplinary powers over regulated entities and persons associated with them. The Act also empowers the SEC to require periodic reporting of information by companies with publicly traded securities. See the full text of the Securities Exchange Act of  This information, contained in proxy materials, must be filed with the Commission in advance of any solicitation to ensure compliance with the disclosure rules. Solicitations, whether by management or shareholder groups, must disclose all important facts concerning the issues on which holders are asked to vote. Such an offer often is extended in an effort to gain control of the company. As with the proxy rules, this allows shareholders to make informed decisions on these critical corporate events. Insider Trading The securities laws broadly prohibit fraudulent activities of any kind in connection with the offer, purchase, or sale of securities. These provisions are the basis for many types of disciplinary actions, including actions against fraudulent insider trading. Insider trading is illegal when a person trades a security while in possession of material nonpublic information in violation of a duty to withhold the information or refrain from trading. Registration of Exchanges, Associations, and Others The Act requires a variety of market participants to register with the Commission, including exchanges, brokers and dealers, transfer agents, and clearing agencies. Registration for these organizations involves filing disclosure documents that are updated on a regular basis. SROs must create rules that allow for disciplining members for improper conduct and for establishing measures to ensure market integrity and investor protection. While many SRO proposed rules are effective upon filing, some are subject to SEC approval before they can go into effect. Trust Indenture Act of This Act applies to debt securities such as bonds, debentures, and notes that are offered for public sale. Even though such securities may be registered under the Securities Act, they may not be offered for sale to the public unless a formal agreement between the issuer of bonds and the bondholder, known as the trust indenture, conforms to the standards of this Act. See the full text of the Trust Indenture Act of  Investment Company Act of This Act regulates the organization of companies, including mutual funds, that engage primarily in investing, reinvesting, and trading in securities, and whose own securities are offered to the investing public. The regulation is designed to minimize conflicts of interest that arise in these complex operations. The Act requires these companies to disclose their financial condition and investment policies to investors when stock is initially sold and, subsequently, on a regular basis. The focus of this Act is on disclosure to the investing public of information about the fund and its investment objectives, as well as on investment company structure and operations. It is important to remember that the Act does not permit the

SEC to directly supervise the investment decisions or activities of these companies or judge the merits of their investments. See the full text of the Investment Company Act of  Investment Advisers Act of This law regulates investment advisers. With certain exceptions, this Act requires that firms or sole practitioners compensated for advising others about securities investments must register with the SEC and conform to regulations designed to protect investors. See the full text of the Investment Advisers Act of  Sarbanes-Oxley Act of On July 30, , President Bush signed into law the Sarbanes-Oxley Act of , which he characterized as "the most far reaching reforms of American business practices since the time of Franklin Delano Roosevelt. You can find links to all Commission rulemaking and reports issued under the Sarbanes-Oxley Act at: See the full text of the Sarbanes-Oxley Act of  The legislation set out to reshape the U. You can find links to all Commission rulemaking and reports issued under the Dodd Frank Act at: The JOBS Act aims to help businesses raise funds in public capital markets by minimizing regulatory requirements. The full text of the Act is available at:

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## Chapter 5 : Investor Protection, Insider Trading, & Corporate Governance by Kanteh Kamanda on Prezi

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Securities and Financial Regulations , admitted to the New York bar. Insider Trading Trading by an insider of a company in the shares of a company is not per se a violation of law. In fact trading by insiders, including directors, officers and employees of the company in the shares of their own company is a positive feature which companies encourage because it aligns its interests with those of the insiders. What is prohibited is the trading by an insider in the stock of the company on the basis of non public information to the exclusion of others. Insider trading thus defined is one of the most violent crimes on the faith of fair dealing in the market. If insider trading is allowed unchecked in the capital markets, persons with insider information will have a consistent edge in trades executed with such information and those without the information will be consistent losers on the market. The latter category of people, which is of course the vast majority of investors, would slowly realize the loser game they are playing and would believe that all transactions are thus biased against them. Slowly the typical investor would desert the market, leaving important functions of the stock market like capital raising in the dust. Levels of prohibition in other countries There have been several argument in favour of allowing insider trading for purposes of efficiency and as a means to reward management and directors of a company. Certain countries, like the US, do not automatically prohibit trading on the basis of possession of inside information. There must be a fiduciary relationship of the insider with the company before the person can be sanctioned. Indian regulations contain more blanket provisions and cast a wider net against trading by any insider. Provided that nothing contained above shall be applicable to any communication required in the ordinary course of business or under any law. No company shall deal in the securities of another company or associate of that other company while in possession of any unpublished price sensitive information. Ingredients of violation For the violation, several requirements are made by the regulations. First, the necessity of being an insider which now specifically includes a company. Second, the possession of material unpublished price sensitive inside information. And lastly, the factum of dealing there is another prohibition against disclosing such information in securities. An Insider is any person who by virtue of a duty owed to the company is expected to have or has had access to unpublished price sensitive information. Thus a taxi driver, who has no connection with the company and overhears two directors discussing unpublished price sensitive information would not fall under the proscriptions of the Act. Every person who chances across inside information is not liable under the regulations. What is material is a question of fact and will be depend on a balancing of both the indicated probability that the event will occur and the anticipated magnitude of the event in light of the totality of the company activity. Inside unpublished price sensitive fact is inside information which only a select few persons know because of their closeness to the company and which has not been publicly circulated. When does an information enter the public domain? In United States v. The court of appeals held that the stockbroker had a duty not to trade on that information because Business Week communicated the need for confidentiality to its distributor, which in turn communicated it to the wholesaler, which accepted and enforced the confidence, and the stockbroker received the information with knowledge that he was getting it in breach of the confidentiality obligation. Other Sanctions The Board may without prejudice to its right to initiate criminal prosecution under section 24 or any action under Chapter VIA of the Act, to protect the interests of investors and in the interests of the securities market and for due compliance with the provisions of the Act, Regulations made thereunder issue any or all of the following order, namely: Means of controlling insider trading One way of dealing with insider trading is by passing regulations prohibiting such trades, making them penal and enforcing civil and criminal regulations against violators. However, experience has shown us that this method provides only a small amount of relief even in more heavily regulated countries. For instance the Securities and Exchange Commission of the United States

brought only 47 cases of insider trading in the year  The other way of attacking the problem is by encouraging the companies to practice self regulation and taking preventive action. This is inherently connected to the field of corporate governance. It is a means by which the company signals to the market that effective self regulation is in place and that investors are safe to invest in their securities. In addition to prohibiting inappropriate actions which might not necessarily be prohibited , self regulation is also considered an effective means of creating shareholder value. Are insider laws in India effective Insider trading has rightly been seen as amongst the most violent crimes on an efficient and integral capital market. It reduces the confidence of the investor in the market and hinders capital flow. The insider trading law of India is far better codified than many of the western countries laws, particularly the American law which has primarily been developed by case law and is quite unsettled in various respects in part because the American legislature refuses to define insider trading. The American case law, which nonetheless is highly developed, is based on the general antifraud provisions of the Securities and Exchange Act3 However where India misses out is specifying effective civil consequences of insider trading. Regulation 11 of the Insider trading regulations offer rescissionary rights to SEBI against insiders. SEBI can annul the trades entered into by an insider. However such rescission is more in terms of returning stolen property. There is no regulatory signaling to the market that insider trading is not economically efficient for the insider. Section 24 is an omnibus criminal provision relating to prosecution for violation of any part of the Act, or any rules and regulations under the Act. These penal monetary consequences are without reference to the degree of economic offense perpetrated. Thus a person who has gained a crore from an illegal insider transaction is liable to pay only Rs. Five lakhs as monetary penalty. The amount of penalty remains a constant even if the violation exceeds tens or even hundreds of crores. Civil sanctions There is need to add heavy civil consequences on the insider trader. According to SEBI, it does not have the power to impose civil penalties on the violator. Merely because specific powers have not been given to SEBI under the statute does not suggest that it does not have those powers. SEBI could seek civil powers over violators with assistance from civil courts. To quote "Subject to the provisions of this Act, it shall be the duty of the Board to protect the interests of investors in securities and to promote the development of, and to regulate the securities market, by such measures as it thinks fit". It also has the powers to issue to any person connected to the securities market such directions "as may be appropriate in the interests of the investors in securities". Criminal sanctions Of course there is the usual threat of a jail sentence for the offender under S. The section is more of a paper tiger. Though the jail sentence may look good on the statute, history bears out the difficulty in enforcing criminal prosecution against an economic offender. The burden of proof of proving a criminal charge is so onerous that a matter lies in the courts to unravel the complicated issues of facts of illegal transactions consummated over a period of time. For instance the only case of insider trading prosecuted by Dutch authorities in ten years failed on lack of proof. Similarly the US SEC referred fewer than 5 insider trading cases for criminal prosecution - many of which would end up with unsuccessful results. The not so recent action against the directors of Hindustan Lever Limited is a case in point. Two years after a weak case in their hands, the regulator is now getting the case to start criminally. It is still not clear how an officer of a company is criminally liable for the actions he took for the benefit of the company. However, that is the subject of another paper. Prophylactics and corporate good governance The amendments to the Regulations provide extensive suggestions and also extensive regulations couched in the language of corporate good governance. Most of the good governance provisions are provided for as mandatory provisions. Corporate good governance has been married to the penal provisions of the regulations to create a smothering framework of regulations, which for instance provide that certain meetings should be recorded and should be made only in the presence of two company officers4. Of course there is no denying that the regulations create a fair market and create a framework which more and more western countries are moving towards. Briefly, the good governance regulations provide for a Officer, director and substantial shareholder to disclose their holding on certain events or at certain intervals. Wide dissemination of information. The Sarbanes-Oxley Act of requires: Some possible additions to the regulations There are a few

further provisions the Indian legislators should consider to reduce the occurrence of insider trading. Such a liability should be imposed without any necessity for guilt or wrongfulness. This would be a provision which would get automatically attracted as soon as two things are established. First, the fact of being a designated insider. And second, the fact that the same securities were bought and sold within six months of each other. Designated or qualified brokers. To facilitate compliance with the new reporting of transactions, issuers should either designate a single broker through whom all transactions in issuer stock by insiders must be completed or require insiders to use only brokers who will agree to the procedures set out by the company. If designating a single broker is not feasible, issuers should require insiders to obtain a certification from their broker that the broker will: For instance, one could, using derivatives, economically sell the shares without physically trading in those shares. By reclassifying shares into securities, one can eliminate the problem because securities are defined to include equity, quasi-equity, derivatives and any combination of the three. Pure debt instruments can be excluded specifically from the regulations. People trading in the market not just counterparties to the insider should also have specific powers to rescind trades and charge damages to the insiders during the period when they traded. A recent US case is illustrative of a typical civil penalty charged by the Securities and Exchange Commission. Steve Madden, the Commission filed a settled injunctive action against shoe designer Steve Madden alleging that he engaged in insider trading. The complaint alleged that after Madden learned from the criminal authorities that he was the target of a criminal investigation and would be indicted or otherwise charged for securities fraud, he sold , shares of common stock in his company, Steven Madden Ltd. Madden sold this stock without disclosing to the public the information he had learned regarding the criminal investigation. Proactive Stock Exchanges The stock exchanges should take up at least a substantial burden of filing action against persons violating the regulations. The exchanges should also better coordinate monitoring and surveillance of listed companies to track unusual activity in the stock of a company across markets for traces of insider dealings or manipulation. Recission One author has suggested that a contract of sale or purchase by an insider be declared void by the counterparty to a trade under the Indian Contract Act this is besides the powers SEBI has to annul the trade under Regulation  For instance if an investor had bought shares of the company during the period when the insider trading took place, it would be difficult to determine the counterparty to the insider. And in any case even if the counterparty to the trade is identified, the insider has not only hurt his trade counterparty but also the market as a whole. Tippee liability The regulations prohibit persons from tipping people about inside information by insiders i. However, there seems to be no liability for a person who improperly receives a tip i. However, it does not clearly prohibit a tippee from trading. Disgorgement Disgorgement orders could be obtained by SEBI from courts so that the ill gotten gains or the losses avoided can be taken away from the offender. A 5 times penalty or a ten times the gains made or loss avoided penalty besides disgorgement obtained from a civil court would be a more effective remedy than imprisonment under S. Disgorgement could be assessed even against non-violators if they knew of the violation and are currently in possession of the money would include family members. The SEBI should also seek asset freeze of bank accounts to catch insider trading funds from flying away and other ancillary reliefs like restitution, forfeiture of ill gotten gains when they cannot be returned to the rightful owner. The core of securities regulations is the implementation of the purpose that all investors should have equal access to the rewards of participation in securities transactions.

## Chapter 6 : Arconic | Investors | Corporate Governance | Governance and Policies | Insider Trading Policy

*The insider trading law of India is far better codified than many of the western countries laws, particularly the American law which has primarily been developed by case law and is quite unsettled in various respects (in part because the American legislature refuses to define insider trading).*

## Chapter 7 : Corporate Governance - Insider Trading - Finance and Banking - India

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