

## **SECURITIES AND EXCHANGE BOARD OF INDIA (SEBI)**

### **Consultation paper on draft SEBI (Prohibition of Unexplained Suspicious Trading Activities in the Securities Market) Regulations, 2023**

#### **1. Objective:**

- 1.1. The objective of this Consultation Paper is to solicit comments from the public on the draft SEBI (Prohibition of Unexplained Suspicious Trading Activities in the Securities Market) Regulations, 2023.

#### **2. Background:**

- 2.1. Contravention of the provisions of the securities laws, particularly resulting in manipulative, fraudulent, and unfair trade practices, insider trading, front running, pump and dump, etc. severely undermine the integrity of the securities market. Insider trading, as the name itself suggests, provides an unfair advantage to a select few to the detriment of the vast majority and is considered to be one of the most serious acts of misconduct in the securities markets globally. Similarly, front-running activities based on material non-public information about certain trades and market manipulation through pump and dump activities are no less serious.
- 2.2. Proceedings under civil law progresses on preponderance of probability and circumstantial evidence. Accordingly, SEBI has also, always, followed the “preponderance of probability” principle to hold persons liable for violating the relevant provisions of the law. As the term

suggests, any evidence which indicates a high probability of a violation, would suffice for SEBI to take appropriate action.

- 2.3.** One of the key functions of SEBI includes protection of interest of investors by effective enforcement of the securities laws, so as to curb manipulative, fraudulent, unfair trade practices, insider trading, etc., in the securities market. With the advent of technology, novel methods are being adopted by the market participants to carry out fraudulent/ violative activities in the securities market while concealing the identities, connections and relationships between the entities engaged in such activities. These activities often involve evasive/ camouflaging tactics like using mule accounts, layering funds through complex web of entities and communicating through encrypted electronic media such as FaceTime, WhatsApp, BOTIM, etc. consequently rendering traditional sources of evidence collection like Call Data Records and Bank records ineffective, in establishing the preponderance of probability.
- 2.4.** For example, in a case of Insider Trading, where the Tipper conveys the Unpublished Price Sensitive Information (“UPSI”) to the Tippee by way of encrypted and vanishing messages, it becomes impossible to establish communication between the two.
- 2.5.** In another example of Front Running, Mule accounts (with their own source of funds) are used to earn “White Profits”, while their “Black

Profits” are sent to the person providing the information for Front Running in foreign jurisdictions via Hawala route. In such a case, establishing a funding connection between the two becomes extremely difficult or impossible.

**2.6.** Thus, despite SEBI's surveillance systems repeatedly detecting such instances of Insider Trading and Front Running, the use of innovative, vanishing, and encrypted methods of private communication, as well as complex and untraceable funding arrangements, makes it impossible to establish the preponderance of probability. These methods pose significant challenges in gathering conclusive evidence and proving the occurrence of such fraudulent activities.

**2.7.** To illustrate the problem, a few such cases, which were identified through SEBI surveillance systems are listed below. In these cases, the trading pattern of entities under question exhibited very strong suspicious behavior. However, serious challenges were faced in collecting evidences in respect of communication of information between the tipper and the tippee, parties involved and therefore, in bringing the case to a logical conclusion by establishing violation of existing regulatory framework that could stand legal scrutiny.

**2.7.1. Case 1:**

2.7.1.1. A listed company “ABC” (name changed) made a corporate announcement regarding an Offer For Sale (OFS)

by promoter entities at the floor price of Rs. XXX per share, on June 21, 2019 (date changed).

2.7.1.2. Pursuant to the corporate announcement, the price of the scrip decreased by around 10%.

2.7.1.3. It was observed that a week prior to the said announcement, there was an unprecedented surge in demand for the shares of ABC in the Securities Lending and Borrowing (SLB) segment.

2.7.1.4. Analysis of the trading behavior of a few entities, who overwhelmingly participated in the SLB, revealed the following modus-operandi:

- i. Substantial shares of ABC were borrowed in the SLB segment,
- ii. The borrowed shares were subsequently sold in cash market,
- iii. These entities then participated in the OFS and subscribed to receive shares of ABC.
- iv. They squared off their SLB positions by transferring the shares acquired through the OFS route.

2.7.1.5. The sequence of above events, indicated a high probability of trading on the basis of the UPSI.

2.7.1.6. The following trading pattern of one of the suspected entities, further strengthened the suspicion.

*One of the entities XYZ (name changed) borrowed 15,000 shares of ABC on June 17, 2019 in SLB segment. This amounted to around INR 9 crore in exposure. These shares were sold on June 18, 2019 in the cash segment. XYZ applied for 15,000 shares of ABC in the OFS and was allotted same quantity on June 24, 2019. Thereafter, XYZ repaid its liability of 15,000 shares in the SLB segment and through this transaction made a profit of around INR 2.5 crore.*

2.7.1.7. However, no connection between the entities having suspicious trading pattern and the insiders of ABC could be established, resulting in closure of the matter.

2.7.2. **Case 2:**

2.7.2.1. A listed company “ABC” (name changed) declared financial results on August 02, 2021, for the quarter ended June 30, 2021 (date changed).

2.7.2.2. Pursuant to the declaration of the financial results, the price of the scrip increased by around 20%.

2.7.2.3. Prior to the said corporate announcement, a suspected entity purchased 38,500 shares and squared off the entire position on August 03 and 04, 2021, making a profit of around INR 40 lakh.

2.7.2.4. It was also observed that the suspected entity had telephone calls with the promoter group entities. However, the said telephone calls were not in proximity to the UPSI period.

2.7.2.5. Although the trading pattern was suspicious and the insider and the suspected entity were, prima facie, related, the case could not be proceeded with due to lack of evidence to prove any communication of UPSI between the promoters or their associates and the suspected entity as telephone calls were not observed around the UPSI period. The entities might have used other modes of communication using encrypted technologies, such as, WhatsApp, FaceTime etc. to communicate around the UPSI period. This made it challenging to detect and gather evidence of communication during the UPSI period.

2.7.3. **Case 3:**

2.7.3.1. A listed company “ABC” (name changed) declared its financial results on October 15, 2020 (date changed) for the quarter ended on September 30, 2020. Pursuant to the

declaration of the financial results, the price of the scrip increased by more than 10%.

2.7.3.2. Prior to the release of the aforesaid financial results, a group of suspected entities was observed to have built long positions in the scrip, both in the cash as well as in the derivative segment. Out of the aforesaid group, 2 suspected entities, not only took the correct directional positions in the scrip of ABC for the financial results for the quarter ended September 30, 2020, but also exhibited similar trading pattern in and around 2 other UPSIs of the same company. Interestingly, 2 UPSIs were negative in nature while 1 USPI was positive in nature. The suspected entities built short position before the negative UPSIs and long position before the positive USPI. Further, such positions built just before the UPSIs were squared off by the suspected entities subsequent to the UPSIs becoming public. The aforesaid trading activity resulted in significant profits cumulatively to the extent of around INR 24 crore to the group of suspected entities. Thus, such trading pattern, leads to an inference that the entities would have traded on the basis of prior knowledge of the UPSIs.

2.7.3.3. Example of the trading pattern in case of 1 USPI is explained below:

*XYZ started building long position in the scrip from October 09, 2020, i.e., just prior to the release of the financial results on October 15, 2020, for the quarter ended September 30, 2020.*

*XYZ bought 6,50,000 shares of ABC, in the cash segment, on October 09, 2020, at an average price of INR 150 and also took long positions in futures contract of 6,00,000 shares on October 15, 2020, at an average price of INR 160.*

*Subsequently, XYZ squared off its long positions in both cash and derivative segment on October 26, 2020, at an average price of INR 210. The aforesaid trades of XYZ resulted in net profits of around INR 5 crore in the cash segment and INR 3 crore in the derivative segment.*

*Further, there was no substantial trading done by XYZ in the scrip of ABC in terms of traded value prior to October 2020. Also, there was around 50% concentration of XYZ in the scrip of ABC in terms of traded value as compared to all other scrips during October 2020.*

2.7.3.4. Further, from the group of suspected entities, the aforesaid 2 entities, having trading around multiple UPSIs, were observed to have close and long-term relationship with an insider at ABC and exchanged telephone calls around the period of the UPSIs.

2.7.3.5. However, the other entities belonging to the group of suspected entities were having telephone calls with one of the entities mentioned above, but did not have any direct connection, either through telephone calls or otherwise, with the insiders of the company.

2.7.3.6. Further, the telephone calls made by the other suspected entities to the person directly linked with the insider of the company were not observed to occur around the UPSI period.

2.7.3.7. In view of the above, though the trading pattern of the entities indirectly connected to the insider of the company was suspicious, in the absence of concrete evidence to establish communication of UPSI by the entity connected to the insider of the company to the other suspected entities, around the UPSI period, it was difficult to establish that the trading of the other suspected entities was in violation of the existing regulatory framework.

2.7.4. **Case 4:**

2.7.4.1. A listed company “ABC” (name changed) declared its financial results on July 15, 2020, (date changed), for the quarter ended on June 30, 2020. Pursuant to the declaration

of the financial results, the price of the scrip increased by around 10%.

2.7.4.2. Prior to the release of the aforesaid financial results, 2 suspected entities were observed to have built significant long positions in the scrip in the derivative segment. The aforesaid long positions in the scrip were squared off subsequent to the release of the financial results resulting in significant profits. The aforesaid 2 entities were also observed to have built correct directional positions multiple times in the said scrip prior to the release of financial results for earlier quarters. The aforesaid trading pattern of the suspected entities around the release of several financial results coupled with the right directional view of the entities, leads to an inference that the suspected entities would have traded on the basis of the prior knowledge of the UPSIs.

2.7.4.3. Example explaining the above assertion through the trading pattern of one of the aforesaid suspected entities is given below:

*XYZ took long position in the scrip by buying around 2,00,000 shares in futures contract and selling 50,000 shares in put contract of the said scrip on July 14, 2020, i.e., prior to the release of the*

*financial results on July 15, 2020, for the quarter ended on June 30, 2020.*

*Subsequently, XYZ squared off its long positions in both future and put contracts of the said scrip between July 16 and July 26, 2020 resulting in net profits of around INR 10 crore.*

2.7.4.4. Further, it was observed that DEF, an insider at ABC but not a Designated Person for the purpose of the financial results, was having telephone calls with GHI, another insider at ABC and a Designated Person for the purpose of the financial results around the UPSI period. Further, DEF was also having telephone calls with one of the suspected entities. It was also observed that DEF was connected to the other set of suspected entities through fund transfers.

2.7.4.5. However, in spite of the trading pattern of the entities being suspicious and also repetitive, it was difficult to establish that the 2 insiders, as mentioned above, had conversation with respect to the financial results of the company over telephone calls and thereafter, the insider connected to the suspected entities communicated the UPSI to them based on which the suspicious transactions were undertaken. Further, it was also challenging to attribute the bank transfers to the alleged scheme of insider trading. Thus, in the absence of concrete evidence to establish communication of UPSI by the insider to

the suspected entities, it may not be possible to allege that the trading activity of the aforesaid suspected entities was in violation of the existing regulatory framework.

2.7.5. **Case 5:**

2.7.5.1. In one of the recent front running matter where trading pattern of certain entities was observed to be suspicious and repetitive in nature, a search and seizure operation was undertaken to collect evidences to establish the violation. During the process of analysis of the seized devices, it was observed that the suspected entities had adopted novel methods using technology to destroy evidences, to conceal their identities, avoid detection of connections among themselves, etc.

2.7.5.2. These entities were using encrypted messaging apps, such as, WhatsApp, BOTIM, Telegram, etc, which provides features, such as, disappearing messages. This feature enabled them to erase any evidence of their wrongdoing. Further, calls made through such mediums were also not captured in the traditional CDR, therefore, making it extremely difficult to establish connections amongst suspected entities. Moreover, it was also observed that in order to mask the identity of the actual person behind order placement,

innovative methods, such as, remote access software, Virtual Private Network, etc., have been adopted by the suspects.

2.7.5.3. Thus, despite seizing digital devices including mobile phones, laptops, etc., through exercise of search and seizure powers, it was still challenging for SEBI to gather adequate evidences to establish front-running by such alleged perpetrators.

**2.8.** In the aforesaid few examples, although the trading pattern of the entities was suspicious, it is challenging for SEBI to establish that the trading was in violation of the existing regulatory framework. This difficulty arises mainly due to the lack of evidence regarding communication of material non-public information or the failure in establishing the connection between the suspected entities that would withstand legal scrutiny.

**2.9.** Pursuant to the new alert generation models deployed by SEBI in the recent past, during the year 2022, around 5,000 alerts were generated against 3,588 unique entities. Out of this, 97 entities appeared repetitively for 5 or more times, in the alerts. However, no action could be taken against most of the entities which appeared in the aforesaid alerts although their trading pattern was repetitive and suspicious, reason being that connections/communications could not be established. Further, even in those cases which were taken up for

detailed investigation, around 60% of the cases could not be proceeded with due to non-availability of adequate evidence in respect of communication of information. Even in the remaining 40% of the cases, establishing the communication of UPSI could be difficult, as there are different case laws requiring different levels of evidence to demonstrate preponderance of probability. Therefore, even in these cases it could be difficult for SEBI to establish the violation under the existing regulatory framework.

- 2.10.** Additionally, the probability of execution of fraudulent trades, which are repetitive in nature, is very miniscule. The same can be understood through an example of a front running scheme. Currently, substantially large number of trades i.e., approximately 1.5 - 2 crore, are executed on a daily basis in the equity segment of the securities market. Out of such large number of trades executed daily in the equity market, the probability that a particular entity front runs the big order of a particular Big Client i.e., enters the first leg of his trade prior to the order of the Big Client and squares off his position subsequent to the order of the Big Client on the same day, is very low. Further, the probability that a particular entity is able to execute trades with similar trading pattern i.e., taking the first leg of the trade prior to and squaring off its position subsequent to the order of the same Big Client, on several instances over many days is even lower. Such cases where trading pattern of entities appears to be suspicious and which has very miniscule

probability of occurrence, are often closed or are not pursued due to lack of evidences or challenges in gathering it. Thus, even though these cases appear to be clearly fraudulent on account of the extremely low probability of their being a coincidence, such cases could not be pursued due to lack of evidence or challenges faced in gathering evidence.

### **3. Legal provisions – Domestic and International:**

- 3.1.** Under the Indian law, deeming provisions and presumptions are common attributes of legislative enactments. For instance, section 68 of the Income Tax Act, 1961, provides a presumption as to the income of an assessee, if the assessee offers no explanation about the source and nature of the cash credits found in the books of the assessee or the explanation offered by the assessee, in the opinion of the Assessing Officer, is not found satisfactory. In such cases, the unexplained cash credits may be charged to the income of the assessee for that year.
  
- 3.2.** Further, under the Securities Act 1933 of the United States of America, section 11 imposes liability upon the parties involved in securities offering if the registration statement contains a materially false statement or there is material omission. While the aforereferred section 11 provides the defendants (other than the issuer) a due diligence defense, the defendants are required to demonstrate that they had, after reasonable investigation, reasonable grounds to believe and did

believe that the statements therein were true and that there was no omission in stating a material fact.

**3.3.** These legal provisions indicate that the law allows to bring about charges on people, based on a certain amount of presumption; which may however be refuted by those people through a satisfactory explanation.

**3.4.** It is a settled principle that law making bodies may create a rule of evidence containing a presumption and presuming certain facts, if they are so commanded by law. This has been recognised by the legal system to be one of the accepted processes for those bodies charged with the duty of collecting evidence. Presumptions are of two kinds, rebuttable and irrebuttable and normally any presumption is rebuttable unless the legislature creates an irrebuttable presumption. Through subordinate legislation, the law may allow certain rebuttable presumptions through deeming provisions or otherwise.

**3.5.** It is also important to note the observations of the Hon'ble Supreme Court on the concept of 'unfair trade practices':

**3.5.1. SEBI vs. Kanaiyalal Baldevbhai Patel [(2017) 15 SCC 1] – A trade practice is unfair if the conduct undermines the ethical standards and good faith dealings between the parties engaged in business transactions.**

**3.5.2. SEBI vs. Rakhi Trading Pvt. Ltd.** [(2018) 13 SCC 753] – *Having regard to the fact that the dealings in the stock exchange are governed by the principles of fair play and transparency, one does not have to labour much on the meaning of unfair trade practices in securities. Contextually and in simple words, it means a practice which does not conform to the fair and transparent principles of trades in the stock market.*

**3.6.** An examination of these observations clearly indicate that the Courts in India have accepted the stance that the meaning and scope of the words “unfair trade practice” is capable of being construed very widely. Thus, any dealing in securities would have to conform to the general principles of fairness and transparency.

**3.7.** SEBI, being the securities market regulator, is entrusted with the task of demonstrating what constitutes a fair playing field for all its market participants and taking actions against deviations, wherever required, through appropriate enforcement measures. However, it can happen that the law is not adequate to effect the enforcement through conventional means, since the modus operandi adopted in the market is often laced with new age technologies to mask the violations. Therefore, a just and proper regulatory intervention by SEBI is required to deal with malpractices by market participants who use new age technologies and modus operandi to evade the law.

**3.8.** Hence, in order to address such trading that at the very outset appear to impact the interest of the investors in the securities market, and where gathering direct evidence becomes challenging due to usage of sophisticated technology and modus operandi by such entities, it becomes necessary to have a suitable regulatory framework for dealing with such contravention.

#### **4. Issues for consideration**

##### **4.1. New regulatory framework to deal with Unexplained Suspicious Trading Pattern**

4.1.1. To address the challenges as detailed above and taking a cue from the referred legal provisions and practices, a new regulatory framework is required to be conceptualized wherein a person or group of connected persons exhibiting an Unexplained Suspicious Trading Pattern i.e. repetitive abnormal gainful dealings in a security or a set of securities, around the presence of Material Non-Public Information, would be deemed to be violating the securities laws, unless they are able to effectively rebut the said presumption.

##### **4.2. Outline of the proposed regulatory framework:**

4.2.1. **Unusual Trading Pattern (UTP)** – shall mean and include, such repetitive pattern of trading activity by a person or a group of connected persons:

4.2.1.1. which involves a substantial change in risk taken in one or more securities over short periods of time;

4.2.1.2. which consequently delivered abnormal profits or averted abnormal losses.

4.2.2. **Deemed UTP-** While the UTP would deal with the unusual trading pattern exhibited by a person or a group of connected persons, there have been instances where the trading pattern of a single person or a group of persons (mules<sup>1</sup>), which in isolation appear to be normal, when analysed holistically, exhibit the UTP. Such trading activity shall also be deemed to be UTP.

4.2.3. **Material Non-Public Information (MNPI)** - shall mean and include:

4.2.3.1. information about a company or security, which was generally not available, and upon becoming generally available had reasonable impact on the price of the securities of the company; or

4.2.3.2. information about any impending order in a security, which when executed reasonably impacted the price of that security;

or

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<sup>1</sup> Mule accounts are generally available in the form of accounts of family and friends', dormant accounts, accounts on rent, accounts operated for the benefit of/on the instructions of others, etc. where such accounts are used by entities as fronts, thus, lending them anonymity while enjoying the benefits from such trading activity.

4.2.3.3. information about an impending recommendation, advice by name, etc., in a security, by an influencer, to the public/ followers/ subscribers, etc., and which when became generally available to the public / followers / subscribers, reasonably impacted the price of that security.

*Explanation: Influencer, for the purposes of this paper, means and includes any person who is deemed to be in a position to influence the investment decision, in securities, of a reasonably large number of persons by virtue of his or her statements or representations.*

#### 4.2.4. **Suspicious Trading Activity (STA)**

A person or a group of connected persons, if found to be exhibiting UTP, in a security or a group of securities, where such UTP coincides with Material Non-Public Information in relation to that security or group of securities, such UTP will be deemed to be Suspicious Trading Activity (STA). For ease of understanding, the same is explained as follows:

**STA = UTP + Existence of MNPI**

Thus, STA would be a combination of UTP and existence of MNPI. Accordingly, once STA is established, the proceedings will be initiated against the person / group of connected persons involved in such STA calling upon them to explain the STA. They would be liable

for action under these Regulations unless they are able to rebut the presumption of violation.

**4.2.5. Rebuttal by the persons charged under the Regulations** – The persons, in the proceedings initiated against them, may rebut the allegations by demonstrating that the trading activities were not suspicious. Such rebuttal may include, but not be restricted to, any of the following:

4.2.5.1. Information doesn't meet the test of MNPI;

- i. Trades were not based on information that was material;
- ii. Trades were not based on information that was not available in the public domain prior to / in the vicinity of trading activity undertaken;

4.2.5.2. Trading pattern was not repetitive;

4.2.5.3. Trading pattern does not exhibit substantial change in risk taken;

4.2.5.4. Period for which trading was undertaken, cannot be categorized as a short period of time;

4.2.5.5. Trading activity did not deliver abnormal profits or avert abnormal losses;

Provided that the person or the group of connected persons shall submit detailed documentary evidence to substantiate any claim made by them in respect of the above.

#### 4.2.6. **Unexplained Suspicious Trading Activity (USTA)**

A person or group of connected persons, being called upon to explain the STA exhibited by them, are not able to effectively rebut or provide explanation, then such trading activity will be deemed to be an Unexplained Suspicious Trading Activity (USTA). The USTA will be prohibited under these Regulations and person/group of persons exhibiting the same would be liable for action under these Regulations.

**USTA = STA + (Absence of effective rebuttal / explanation)**

4.3. In the light of the aforesaid discussions, the draft Securities and Exchange Board of India (Prohibition of Unexplained Suspicious Trading Activities in the Securities Market) Regulations, 2023 is placed in the Annexure to this paper for public consultation.

## 5. **Public comments**

5.1. In order to take into consideration, the views of various stakeholders, comments are invited on the draft Regulations as mentioned before. These comments may be sent by email to [pusta@sebi.gov.in](mailto:pusta@sebi.gov.in), latest by June 02, 2023, in the following format.

S.No.	Regulation No.	Change proposed	Rationale

**5.2.** While sending the email, the sender is advised to mention the subject as **“Comments on draft Securities and Exchange Board of India (Prohibition of Unexplained Suspicious Trading Activities in the Securities Market) Regulations, 2023”**.

**5.3.** Any comments received after June 02, 2023 shall not be considered.

**Mumbai**

**May 18, 2023**

**SECURITIES AND EXCHANGE BOARD OF INDIA (PROHIBITION OF  
UNEXPLAINED SUSPICIOUS TRADING ACTIVITIES IN THE SECURITIES  
MARKET) REGULATIONS, 2023**

In exercise of the powers conferred by Section 30 read with Section 11 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Securities and Exchange Board of India hereby makes the following regulations, namely: -

**CHAPTER I**

**PRELIMINARY**

**Short title and commencement**

1. (1) These regulations may be called the Securities and Exchange Board of India (Prohibition of Unexplained Suspicious Trading Activities in the Securities Market) Regulations, 2023.
- (2) They shall come into force on the date of their publication in the Official Gazette.

**Definitions**

2. (1) In these regulations, unless the context otherwise requires, the following words, expressions and derivations therefrom shall have the meanings assigned to them as under:—
  - a) “Act” means the Securities and Exchange Board of India Act, 1992 (15 of 1992);
  - b) “Board” means the Securities and Exchange Board of India;

- c) “dealing in securities” shall have the meaning assigned to it under the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003;
- d) “generally available information” shall have the meaning assigned to it under the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015;
- e) “Influencer” means any person who is reasonably in a position to influence the investment decision, in securities, of a reasonably large number of persons;

*Explanation.* – For the purposes of these regulations, the term ‘reasonably’ shall mean as notified from time to time.

- f) “Material Non-Public Information” shall mean and include:
  - i) information about a company/ security, which was not generally available, and upon becoming generally available had reasonable impact on the price of the securities of the company; or
  - ii) information about any impending order in a security on a recognised Stock Exchange, which when executed reasonably impacted the price of that security; or
  - iii) information about an impending recommendation, advice by name, in a security, by an influencer, to the public/ followers/ subscribers, and which when became generally available to the public/followers/subscribers, reasonably impacted the price of that security.
- g) “specified” means specified by the Board in writing from time to time;

- h) “trading” shall have the meaning assigned to it under the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015;
- i) “Suspicious Trading Activity” shall mean and include any trading activity of a person or a group of connected persons found to be exhibiting Unusual Trading Pattern in a security or a group of securities where such Unusual Trading Pattern coincides with Material Non-Public Information in relation to a security or a group of securities;
- j) “Unusual Trading Pattern” shall mean and include, such repetitive pattern of trading activity which;
  - i) involves a substantial change in risk taken in one or more securities over short period of time;
  - ii) consequently delivered abnormal profits or averted abnormal losses during the said period.

Provided that the trading pattern of a single person or a group of connected persons shall also be deemed as Unusual Trading Pattern if such a trading activity, despite appearing normal in isolation, when analysed together with other trades of that person or the group of connected persons; exhibits an Unusual Trading Pattern.

- k) “Unexplained Suspicious Trading Activity” shall mean and include suspicious trading activity by a person or a group of connected persons in a security or a group of securities and executed in circumstances for which no reasonable rebuttal or explanation is provided.

(2) The words and expressions used but not defined in these regulations, shall have the same meaning assigned to them in the Act, the Securities Contracts (Regulation) Act, 1956, (42 of 1956), the Depositories Act, 1996 (22 of 1996), the Companies Act, 2013 (18 of 2013), or any rules or regulations made thereunder or any statutory modification or re-enactment thereto, as the case may be.

## **CHAPTER II**

### **PROHIBITION OF UNEXPLAINED SUSPICIOUS TRADING ACTIVITIES (USTA)**

3. (1) No person shall engage in any Unexplained Suspicious Trading Activity.
- (2) Any person or a group of connected persons engaging in Unexplained Suspicious Trading Activity in the securities market, shall be liable for action by the Board under the Act and the rules and the regulations framed thereunder.

## **CHAPTER III**

### **SURVEILLANCE AND INVESTIGATION**

#### **Obligation of Stock Exchanges and Intermediaries**

4. It shall be the duty of every Stock Exchange recognised by the Board and every Intermediary registered with the Board to immediately inform the Board of any Suspicious Trading Activity that has been noticed by them or brought to their notice, in the course of their business.

## Investigation

5. (1) Where the Board has any reasonable ground to suspect that any person or group of connected persons have engaged in Suspicious Trading Activity, it may, at any time by an order in writing, direct investigation under the Act in respect of such activity.

(2) Any person or group of connected persons charged with having engaged in suspicious trading activity may rebut the same by demonstrating the circumstances, including but not limited to the following:

- a) Information doesn't meet the test of MNPI;
  - i. Trades were not based on information that was material;
  - ii. Trades were not based on information that was not available in the public domain prior to//in the vicinity of trading activity undertaken;
- b) Trading pattern was not repetitive;
- c) Trading pattern does not exhibit substantial change in risk taken;
- d) The period for which trading was undertaken, cannot be categorized as a short period of time;
- e) Trading activity did not deliver abnormal profits or avert abnormal losses;

Provided that such a person or group of connected persons shall present a detailed documentary evidence to substantiate any claim made by them in respect of the above.

(3) After considering the findings of the investigation, if the Board is satisfied that a person or a group of connected persons have failed to effectively rebut the allegations and thus have engaged in Unexplained Suspicious Trading Activity, the Board shall initiate action under the Act, as may be deemed appropriate.

**CHAPTER IV**  
**MISCELLANEOUS**

**Power to remove difficulties**

6. In order to remove any difficulty in the interpretation or to specify detailed application of the provisions of these regulations, the Board shall have the power to issue directions through guidance notes or circulars.