

FRAUD TODAY

Exclusive Report

3rd Annual Fraud Management Conference

Speaker
R.K.Nair

Venue
Taj Lands End

VIOLATIONS OF SECURITIES LAW ARE NOT VICTIMLESS CRIMES.

“We are all victims of fraudulent practices”, said Mr. R K Nair, Executive Director Vigilance and Investment Management Department of SEBI. He was speaking about Securities Fraud and how to make systems investor friendly at the 3rd Annual Fraud Management Conference in Mumbai.

He initiated his speech by informing about the Preamble to the SEBI Act, 1992. He said that the preamble provides with the protection of interests of investors in securities and promotes the development and regulation of the securities market. This is one unique mandate given to any regulator. He added that SEBI has also notified regulations for intermediaries and each of these intermediaries contain eligibility criteria for registration, conditions for grant of registration, obligations, inspections and disciplinary action against intermediaries. The aim of these regulations is to create an effective regulatory environment for fostering investor confidence in the markets by ensuring transparency, fairness and integrity in the markets. It also ensures true and fair price discovery, level playing field for all participants and prompt detection of market manipulation and other market abuses. The regulations also aim to lead to a orderly and healthy development of the capital markets.

Informing about the laws in India, he said that a legal framework does exist in India but it is in a nascent stage. He said that the SEBI (FUTP) 2003 provides for a provision by which proving intention in white collar financial crimes becomes next to impossible. According to the new regulations, the definition of fraud has been changed in a way to do away with the element of intention.

Elaborating about the various types of unfair trade practices and frauds, he said that these practices exist in various forms such as issuer fraud, insider trading, front running, price manipulation, spoofing with balloon orders, circular trading, insider trading etc. Therefore the responsibilities on an investor are quite

significant. The investor must enquire about the credentials of the broker should registration with the broker with proper documentation. The investor should take stock of transactions regularly and also assess the risk profile of investments. The investor should abide by the rules and regulations of the SEs and insist on broker to perform contractual obligations and reciprocate. Similarly, the broker should also perform his duties which include maintaining separate account for his clients, giving payment and delivery to the client within 24 hours of payout being declared, issuing contract notes to client within 24 hrs, maintain confidentiality of client information and not to accept cash from clients.

He further listed down the various compensation schemes that are available for the investor. The schemes are as follows:-

- 1) Settlement/Trade Guarantee Fund (Maintained by the Stock Exchanges)
- 2) Brokers' Indemnity Insurance Scheme
- 3) Investor's or Customer's Protection Fund (Maintained by the Stock Exchanges)
- 4) Investor Education and Protection Fund (Maintained by Dept. of Company Affairs)
- 5) Investor Protection Fund (Maintained by SEBI)

He concluded by saying that technology has come to the rescue and that integrated surveillance system has actually helped in curbing down the cases of frauds. But a high level of alertness can go a long way in further curbing down these fraudulent practices.

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