

# Rules for rule-makers

The Hindenburg allegations have put the spotlight on probity of regulators

BY NACHIKET KELKAR

**THE BJP SAYS IT** is a conspiracy to destabilise India's financial markets. The Congress wants a joint parliament committee probe. Irrespective of which side you are on, the latest report by Hindenburg Research has put the market regulator Securities and Exchange Board of India and its chairperson Madhabi Puri Buch in a spot over conflict of interest. It also raises broader compliance issues the very regulator has looked to address over the years.

Founded by Nathan Anderson, the New-York-based Hindenburg specialises in forensic financial research. In particular, it looks for situations where companies might have accounting irregularities, bad actors in management, undisclosed transactions, unethical business practices, undisclosed regulatory issues and the like. And it also aims to profit from its research through short-selling, a trading strategy where stock traders take a position that a particular stock price will fall. Often its report itself drives the stock price lower, like it did in January 2023, when its report on Adani Group alleging accounting fraud, stock price manipulation and

money laundering wiped off around \$150 billion in the group's market cap. Hindenburg made \$4.1 million revenue by shorting Adani securities on behalf of its client.

In its latest report, Hindenburg alleged that despite enough evidence, SEBI did not act against Adani. It alleges that Buch and her husband, Dhaval, had investments in the same obscure offshore funds used by Adani Group chairman Gautam Adani's brother Vinod. It also alleged that while Dhaval was a senior adviser at American investment management company Blackstone and Buch was a SEBI official, two Blackstone-sponsored real estate

investment trusts (REITs) received the approval to go public in India, and after she became chair, SEBI implemented several REITs regulations that benefited Blackstone.

Another allegation was that Buch had set up two advisory firms, one in Singapore and the other in India, and held 99 per cent stake in the Indian firm and that firm had generated \$261,000 revenue from consulting in financial year 2022, which was 4.4 times her disclosed salary as a whole-time member of SEBI.

The Buchs responded with point-by-point answers to the allegation. For instance, they said they invested in the fund (IPE Plus Fund 1) when

they were working in Singapore and they did so because the CIO Anil Ahuja was Dhaval's childhood friend. The investments were made in 2015 and redeemed in 2018 when Ahuja left. She said that the consulting firms she had set up had become dormant on her appointment at SEBI and once the shareholding of the Singapore entity was transferred to her husband, it was disclosed to SEBI as well as Singapore authorities.

J.N. Gupta, former executive director of SEBI, said there was no way that the Buchs would have known who the other investors were in a fund. "Would you ask for details of all investors in a mutual fund before

investing? These expectations are irrational," he said.

According to Shriram Subramanian, founder of the proxy advisory firm InGovern, the Hindenburg allegations against Buch were "amateurish" and seemed "vindictive without any depth of analysis". "She has not gained anything from being an investor in the IPE Plus Fund, her shareholdings in the Indian and Singapore consultancy firms are fairly straightforward and on an ongoing basis, SEBI officials, including the whole-time members and chairperson have to internally disclose their personal investments and commercial interests," he said.

SEBI, too, clarified that she had made all relevant disclosures of securities holdings and recused herself when necessary. According to Gupta, the current disclosure norms for SEBI officials are robust, with them having to declare all assets and investments. And they can't invest in shares of listed companies.

Nonetheless, the whole episode has raised many concerns.

"This can be viewed as a wake-up call for SEBI and other regulators," said Subramanian. "The chairs and top officials should disclose and put their wealth and investments into blind trusts." Blind trusts are typically set up where an individual needs to avoid a conflict of interest between her work and personal investments. In countries like Canada and the US, it predominantly applies to government officials. In a blind trust, the individual assigns all her assets to a trustee, who is then in charge of all the decision making related to the assets.

Columnist and author Debashis Basu said it was not a corporate governance issue. "It is about the probity of the regulator, which has been pushing enormous burden of disclosure and compliance on market participants," he said. "SEBI already has board members from the finance

ministry and the RBI who can start by asking some questions if needed," he said.

An independent inquiry seems to be the best way to protect the reputation of SEBI and its leadership. "If the claims are substantiated, it might call for a review of oversight mechanisms and personal accountability within SEBI. If they are found baseless, it is crucial to understand the motives behind such allegations and the potential impacts on the market. Either way, it underscores the need for robust systems to prevent and address conflicts of interest and ensure that the market operates transparently and fairly," said Akshat Khetan, founder of AU Corporate Advisory and Legal Services.

While the new Hindenburg report has put the spotlight on the regulator and its chief, what is the status of the Adani investigation?

The Supreme Court had in January noted that SEBI had completed 22 of 24 investigations related to Adani Group. According to SEBI, another one has been completed in March and the last remaining investigation is close to completion. Apparently, it examined some 300 documents, issued more than 100 summonses and sent around 1,100 emails seeking information.

SEBI had issued a show-cause notice to Hindenburg in June over violations of securities laws. The regulator said that the proceedings are going on.

The episode has resulted in a political slugfest as well. The government has so far shown no inclination to give in to the opposition's demand for a JPC probe. The opposition is likely to keep up the pressure. The equity markets' response to the new Hindenburg report was significantly muted than the first one, perhaps because of the diminished shock value. But surely, we have not heard the last of the Hindenburg versus Adani and SEBI saga. ●



**UNDER PRESSURE**  
SEBI chairperson  
Madhabi Puri Buch

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