



## AN INSIGHT OF THE TRAC RECOMMENDATIONS AND DRAFT TAKEOVER REGULATIONS, 2010

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### Introduction

The trend of Mergers and Acquisitions (M&As) as an itinerary for the growth of corporate world can be traced back from twentieth century. However, with the liberalization and globalization of Indian economy, the importance of M&A for inorganic growth has become more relevant for systematic growth of the capital market. This new weapon in the armory of corporate though proved to be beneficial but soon the predators with huge disposable wealth started exploiting this opportunity to the prejudice of retail investor. This created a need for some regulation to protect the interest of investors so that the process of takeover and mergers, of widely held companies, is used to develop the capital market and not to sabotage it. In the year 1992, with the enactment of Securities and Exchange Board of India Act, 1992, the SEBI was established as regulatory body to promote and develop securities market and to protect the interest of investors in securities market. Thereafter, in the year 1994, SEBI formulated the SEBI (Substantial Acquisition of Shares and Takeover) Regulations, 1994 so that process of takeover is carried out in a fair and transparent manner. After a time gap, a need was felt to review the Regulations to make the regulatory framework more comprehensive and equitable. Thus, SEBI appointed a committee headed by Justice P. N. Bhagwati to analyze the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1994 and to suggest the appropriate changes.

In the year 1997, SEBI Takeover Code has been rechristened by enacting SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 substituting SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1994. These regulations also have been amended a number of times to address the changing circumstances and needs of corporate sector and various clarifications, orders and judgments have been given to simplify the complexities involved in these regulations. Thus, a need was felt to review the SEBI Takeover Regulations to remove the ambiguities involved in the Regulations which have been one of the major causes of defiance with the Regulations and to bring it at par with the global practices so as to create a level playing field.

Accordingly, in September 2009, market watchdog SEBI constituted a multi-disciplinary expert committee, Takeover Regulations Advisory Committee (TRAC) under the chairmanship of Sh. C. Achuthan, the former Chairman of Securities Appellate Tribunal, with a terms of reference to examine the existing Takeover Regulations and to suggest suitable amendments, as deemed fit. It also invited the suggestions from the Indian corporate, professional bodies and public at large. After a detailed analysis and considering the views of regulators, corporate bodies and public comments for about 9 months, the Committee on July 19, 2010 has released its much awaited report suggesting changes in