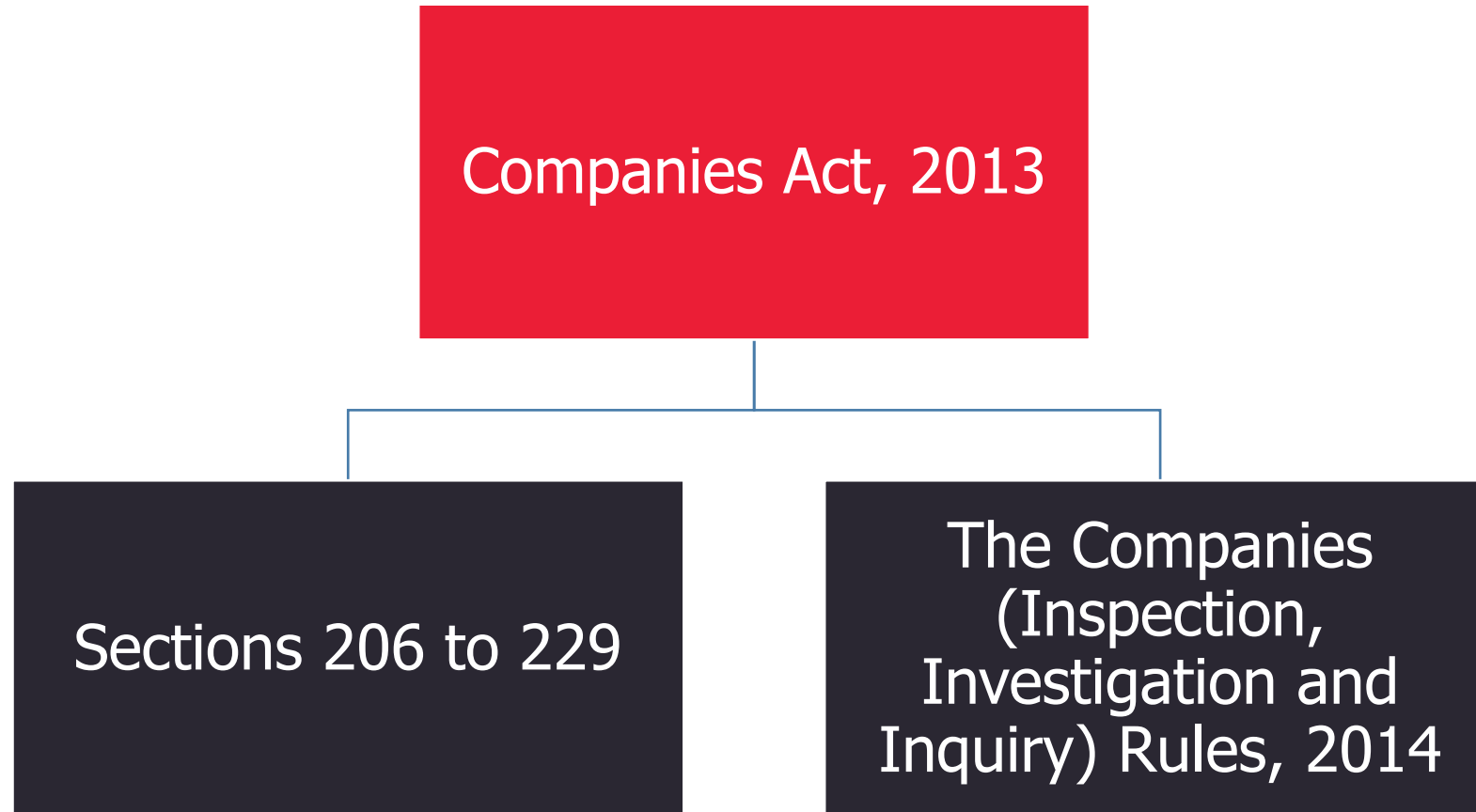


# **Inspection, Inquiry and Investigation under the Companies Act**



# Regulatory Framework



# Powers allotted under the Companies Act

Authorities	Sections	Powers
<b>Registrar of Companies</b>	206, 207, 208 & 209	<ul style="list-style-type: none"><li>• Call for Information, Inspect Books and Conduct Inquiries;</li><li>• Conduct of Inspection and inquiry;</li><li>• Report on Inspection Made; and</li><li>• Search and Seizure.</li></ul>
<b>Inspector</b>	206, 207, 208 & 209, 216 and 219	<ul style="list-style-type: none"><li>• Call for Information, Inspect Books and Conduct Inquiries;</li><li>• Conduct of Inspection and inquiry;</li><li>• Report on Inspection Made;</li><li>• Search and Seizure;</li><li>• To investigate on matters relating to the company, and its membership for determining ownership of the company; and</li><li>• Power of Inspector to Conduct Investigation into Affairs of Related Companies.</li></ul>



# Powers allotted under the Companies Act

Authorities	Sections	Powers
<b>Central Government</b>	206, 210, 211, 212, 216 and 224	<ul style="list-style-type: none"><li>• Authorise any statutory authority to carry out the inspection of books of account of a company or class of companies;</li><li>• Direct any statutory authority appointed by it for the purpose to carry out the inquiry;</li><li>• Investigate into Affairs of the Company;</li><li>• Establishment of SFIO;</li><li>• Assign the investigation into the affairs of the company to the SFIO;</li><li>• Appointment of the inspector, to investigate matters relating to the company, and its membership for determining ownership of the company; and</li><li>• Actions to be taken in Pursuance of the Inspector's Report.</li></ul>
<b>Regional Director</b>	206	Central government delegates power to appoint an inspector for the inspection of books and papers of a company.
<b>NCLT</b>	213, 221 and 222	<ul style="list-style-type: none"><li>• Freezing of Assets of the Company on Inquiry and Investigation; and</li><li>• Imposition of Restrictions upon Securities.</li></ul>

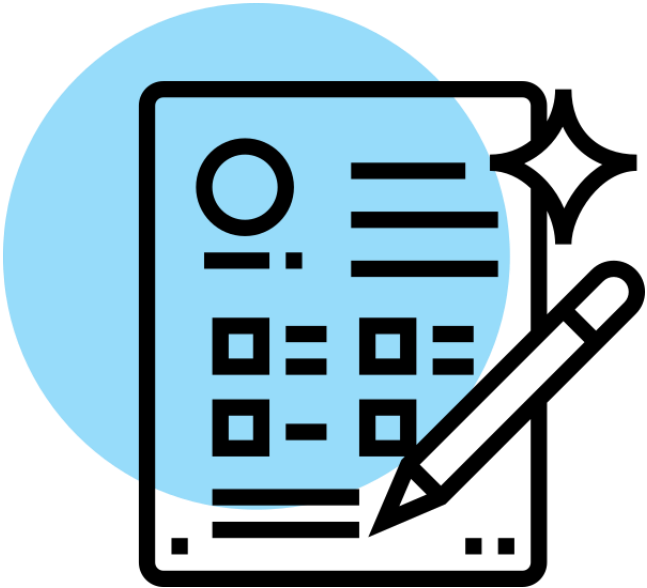




# Inspection



# Inspection



## As per Black Law dictionary:

The word '**inspection**' is defined as "A careful examination of something such as goods (to determine their fitness for purchase) or items produced in response to a discovery request to determine their relevance to a lawsuit."



# Circumstances for conducting inspection

**Under section  
206(3)**

**By Registrar**

**Under section  
206(5)**

**By Regional  
Director (Power  
delegated by the  
Central  
Government)**

**Under section  
206(6)**

**By Central  
Government**



# Circumstances for conducting inspection by Registrar [206(3)]



- If no **information or explanation is furnished** to the Registrar within the time specified u/s 206(1);
- If the Registrar on an examination of the documents furnished is of the **opinion** that the **information or explanation furnished is inadequate**; or
- If the Registrar is **satisfied** on a scrutiny of the documents furnished that an **unsatisfactory state of affairs exists** in the company and does not disclose a full and fair statement of the information required.





## Circumstances for conducting inspection by RD [206(5)]



The Regional Director may, on satisfaction that circumstance so warrant, direct inspection of books and papers of a company by an inspector appointed for the purpose.



## Circumstances for conducting inspection by CG [206(6)]



The Central Government may by **general or special order** authorize any statutory authority to carry out the inspection of books of account of a company or class of companies. While issuing such general or special order, the Central Government will give consider the circumstances.





**Inquiry**



# Inquiry



- It is a process questioning and interrogation by way of researching and probing in order to find a solution to the problem.
- This is the process to bring clarity or clear any doubt on any subject matter.
- This is basically searching for and acquiring knowledge and information about something.





## Inquiry

***The Bombay High Court in Narayanilal Bansilal vs. Maneck Phiroze Mistry & Anr. observed that:***

“it is fallacious to suggest that the only object of inquiry and the only purpose of the report was to launch a prosecution under section 242 of the Companies Act, 1956. It was left to the discretion of the Central Government under Section 242 to launch or not to launch a prosecution, and we shall point out in another context, the report of the inspector and the inquiry held by him serve under the Companies Act many more important purposes than mere prosecution of a defaulting managing agent or a defaulting director.”



## Inquiry [206(4)]

**If the Registrar is satisfied that the business of the company is being carried on –**

 For a fraudulent purpose; or 

 Unlawful purpose; or 

 Not in compliance with the provision of the Act; or 

 Investor grievances not being addressed 

**Then, the Registrar may initiate inquiry under section 206(4).**



## Inquiry [206(4)]

**The Registrar shall satisfy itself before order of such inquiry on the basis of –**

Information available with him; or

Information furnished to him; or

On representation made to him by any person

**The order shall be made by the Registrar to carry out such inquiry as he deemed fit after giving the company a reasonable opportunity of being heard.**



## Number of Scrutiny/ Inquiry report received in the Ministry during 2017-18 to 2021-22

Year	No. of Scrutiny/ Inquiry Reports
2021-2022	735
2020-2021	328
2019-2020	199
2018-2019	583
2017-2018	541

Source- Annual Report, 2022-2023  
Ministry of Corporate Affairs , Government of India



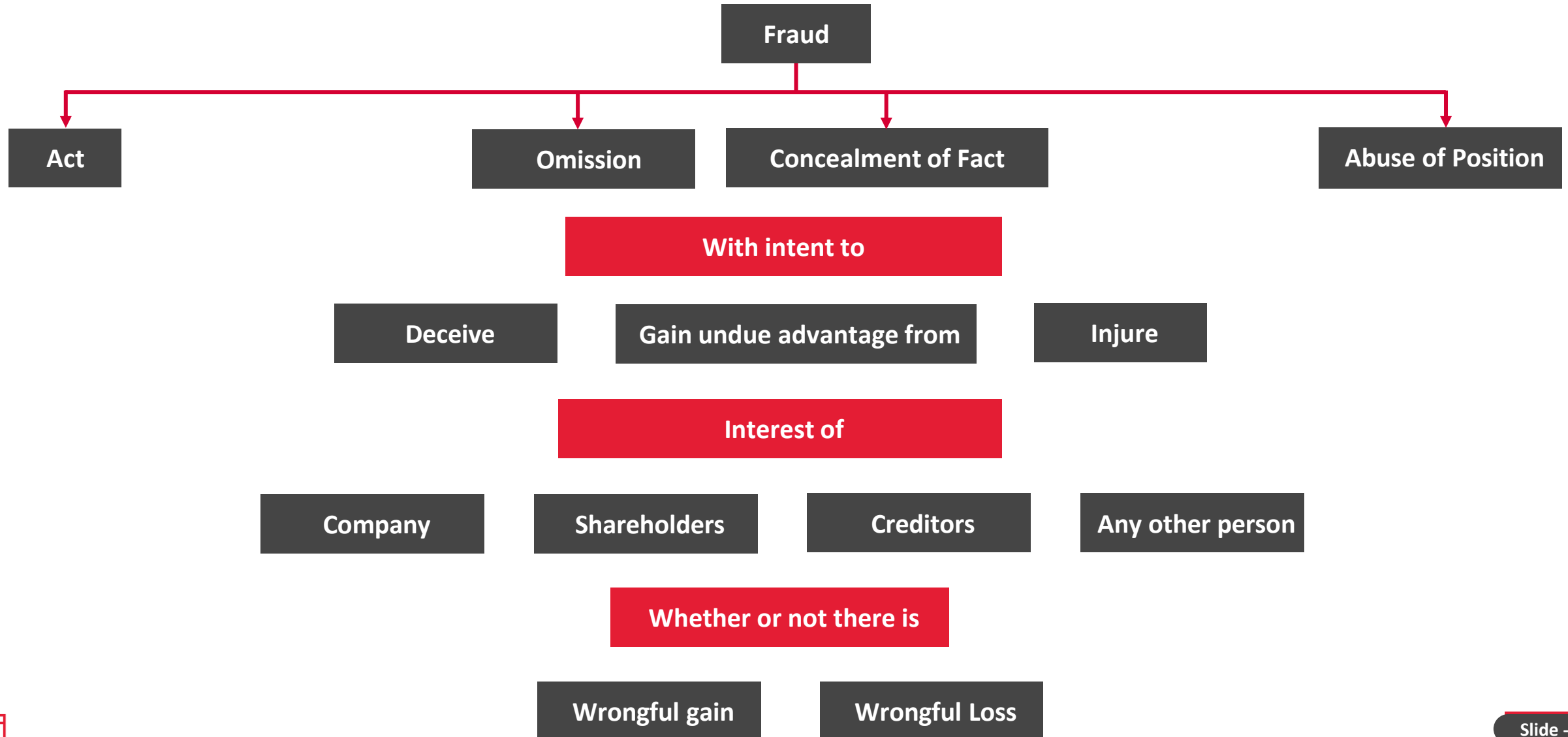
## Important pointers in Inquiry



- RoC shall order inquiry after informing the company of the allegation made against it by a **written order**.
- In this order, RoC will **call on the company** in writing any information or explanation within specified time.
- Further, the Central Government may, on satisfaction that circumstance so warrant, direct the Registrar or Inspector for the purpose to carry out the **inquiry under section 206(4)**.
- Where business of a company has been or is being carried on for a fraudulent or unlawful purpose, every officer of the company who is in default shall **be punishable for fraud under Section 447**.



# Fraud under Section 447 of Companies Act





# Investigation



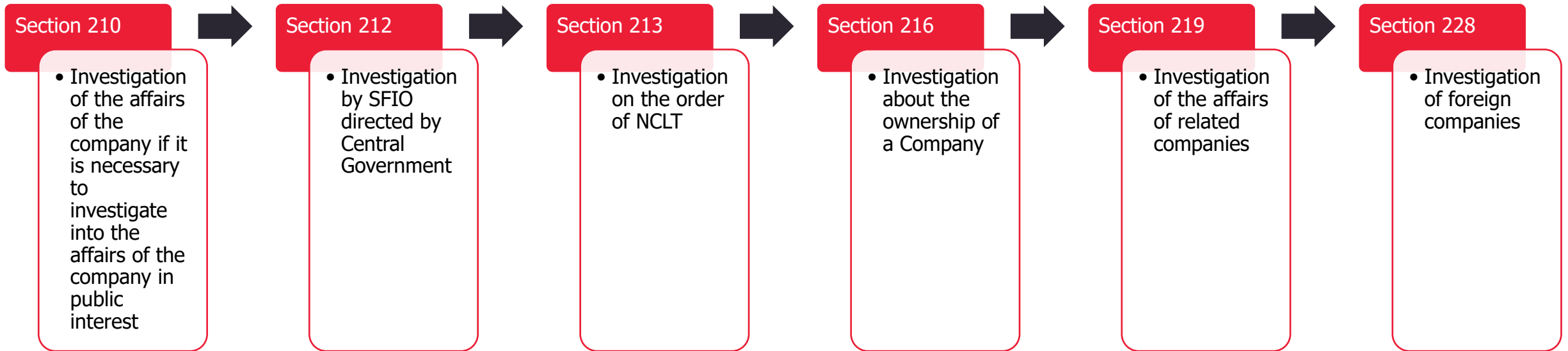
# Investigation



- Investigation within the meaning of Companies Act is a form of probe; a deeper probe; into the affairs of the company. It is a fact finding exercise.
- The main object of investigation is to collect evidence and to see if any illegal acts or offences are disclosed and then decide the action to be taken up.



# Kinds of Investigation





## Circumstances for Investigation under section 210

Report of the  
Registrar or Inspector  
under Section 208;

Special Resolution  
passed by a company  
that the affairs of the  
company ought to be  
investigated;

Public Interest





## Number of Inspection reports received in the Ministry during 2017-18 to 2021-22

Year	No. of Scrutiny/ Inquiry Reports
2021-2022	225
2020-2021	111
2019-2020	107
2018-2019	182
2017-2018	77

Source- Annual Report, 2022-2023  
Ministry of Corporate Affairs , Government of India



## **Investigation by SFIO**





## Number of Cases Ordered to SFIO

Financial Year	No. of Cases
2021-2022 (as on 17/03/2022)	33
2020-2021	20
2019-2020	26
2018-2019	33
2017-2018	22

## Number of Investigations Completed by SFIO

Financial Year	No. of Cases
2021-2022	12
2020-2021	07
2019-2020	12
2018-2019	12
2017-2018	5

## Some leading cases where SFIO arrested company officials



**BHUSHAN**



**Ex-chairman of IL&FS: Hari Sankaran**

**Promoter of Bhushan Steel: Neeraj Singal**

**Rotomac promoter: Rahul Kothari**

**Frost International directors: Sujay Desai and Uday Desai**

# Some recent cases where SFIO probed company matters



**Sahara Group Companies**



**Mr. Dortse- Jillian India Ltd.**



**SFIO vs. Rahul Modi**



## Investigation by SFIO

- On receipt of order from CG, SFIO may designate inspectors as he may consider necessary for the purpose of investigation.
- If investigation is pending with other agencies, such concerned agency shall transfer the relevant documents and records to SFIO.
- SFIO shall conduct the investigation in the manner and follow the procedure provided in Chapter XIV of the Act and submit its report to the CG within such period as specified in the order
- Company and its officers & past and present employees of the company shall be responsible to provide all information and assistance to the investigating officer as he may require for conduct of the investigation.





## Investigation by SFIO

- Offences covered under section 447 of the Act shall be cognizable and no person accused of any offence shall be released on bail.
- The concerned officer of SFIO shall immediately after arrest of such person forward a copy of the order, along with the material in his possession to the SFIO.
- Every person arrested shall within 24 hours, be taken to a Special Court or Judicial Magistrate or a Metropolitan Magistrate, as the case may be, having jurisdiction.
- Submission of Interim report and Investigation report to the CG.
- The CG may, after examination of the report direct the SFIO to initiate prosecution against the company and its officers or employees or any other person connected with the affairs of the company.



# THANK YOU

**Ravi Prakash**

Associate Partner, Securities Law &  
Corporate Litigation, Corporate  
Professionals  
ravi@indiacp.com

**Follow Us**