

FD-ABU-851

REPORT OF THE SECURITIES AND EXCHANGE COMMISSION TO THE U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT CONCERNING TECHNICAL ASSISTANCE TO INDIA UNDER THE FINANCIAL INSTITUTIONS REFORMS AND EXPANSION PROJECT, PHASE II

**PASA NUMBER 386-P-00-01-00087-00
PROJECT NUMBER 386-0531**

FOR THE QUARTER ENDED SEPTEMBER 30, 2001

The Securities and Exchange Commission (SEC) provides technical assistance to India pursuant to a Participating Agency Service Agreement (PASA) with the U.S. Agency for International Development (USAID) dated May 4, 2001. This report describes the SEC's activities under the PASA for the quarter ending September 30, 2001.

ACTIVITES DURING THE QUARTER

In July 2001, the SEC submitted a draft Work Plan to USAID India and USAID Washington in connection with the USAID/India and SEC PASA. Subsequently, during a technical assistance trip to India, Ester Saverson, Jr. (Assistant Director, Office of International Affairs, USSEC) met with USAID officials and representatives of PriceWaterhouseCoopers ("PWC"), the USAID private sector contractor, to discuss the draft work plan. The SEC submitted a final Work Plan to USAID India in September 2001. Copies of the Work Plan and the Budget for the Work Plan are attached.

Mr. Saverson also traveled to Mumbai and met with the Chairman and senior officials of the Securities Board of India, the two major Indian exchanges (Bombay Stock Exchange and the National Stock Exchange of India), the National Securities Depository, the Reserve Bank of India, and the Association of Mutual Funds to discuss the technical assistance and training needs of these organizations. Mr. Saverson also met with the private USAID contractors for the project, PWC, and officials at the American Consulate in Mumbai.

While in New Delhi, Mr. Saverson met with officials from the Ministry of Finance, the Ministry of Law and the two largest chamber of commerce groups in India. He also met with USAID officials and the Economic Counsel at the U.S. Embassy in New Delhi. Mr. Saverson's report, assessing the technical assistance and training needs of the key securities market participants in India based upon the above-mentioned meetings and his own observations on the Indian securities market is attached to the SEC's Report for the period ended December 31, 2001. completed.

REIMBURSABLE SEC STAFF TIME AND EXPENSES

The following SEC staff members rendered reimbursable assistance during the quarter:

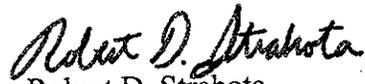
| | |
|--|-----------------|
| Ester Saverson, Office of International Affairs | 126 hours |
| Robert Strahota, Office of International Affairs | <u>13 hours</u> |
| TOTAL | 139 hours |

Based upon the composite hourly rate of \$62.76 per hour, as established under the PASA, the

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SEC's reimbursable time charges incurred during the quarter were \$8,724. Direct, overseas travel, consultant, and G&A expenditures during the quarter were \$11,106.¹ Inclusive of the 15% G&A factor, the SEC will submit a claim for reimbursement of \$22,805 for the fourth quarter of FY2001.

Respectfully submitted,



Robert D. Strahota

Assistant Director

Office of International Affairs

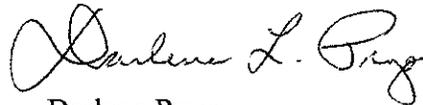
Financial Report

¹ This travel expense is for Mr. Arthur Laby's trip to India in June 2001.

**FINANCIAL REPORT FOR THE QUARTER ENDING
SEPTEMBER 30, 2001**

Attached please find Tables 1-4, which report cumulative expenditures, unexpended obligations, current quarter obligations and current quarter expenditures under the SEC's agreement with USAID concerning technical assistance to India.

Respectfully submitted,



Darlene Pryor
Management Analyst

Appendix A

**ANNUAL WORK PLAN UNDER THE PASA BETWEEN USAID/INDIA
AND SEC (JULY 1, 2001-JUNE 30, 2002)**

Prepared by

SEC's Office of International Affairs

Submitted to

**USAID/New Delhi India
PASA Number 386-P-00-01-00087-00**

General Information

This Work Plan is based on the PASA between the USAID and the SEC. The Work Plan is for 12 months (July 1, 2001-June 30, 2002). All work is contingent upon counterpart good faith co-operation and availability for participation in the technical assistance and training programs. The "Status/Comments" section under each task deliverable will be updated as part of the semi-annual reports to USAID.

Objective

During the next twelve months, the SEC plans to assist the SEBI in the following areas:

- I. Legal and Regulatory Framework for Investor Protection and Investor Education;
- II. Capacity for Regulatory Oversight and Inspection of self-regulatory organizations (SROs) (which include stock exchanges, clearing agencies and depositories) and market participants (which include broker-dealers, registrars and transfer agents, and securities information processors);
- III. Capacity for Investigation and Enforcement of securities law violations; and
- IV. Disclosure and Reporting Standards, which include accounting and auditing standards.

Tasks

Task 1: Strengthening the legal and institutional framework for investor protection.

Strengthening legal framework for investor protection. The SEC plans to conduct a comprehensive review of the securities law and regulations. This review will cover the legal and regulatory framework regarding disclosure and reporting standards; regulatory oversight of the securities market, SROs and market participants; and enforcement of securities law violations (including unlicensed activities, financial fraud, market manipulation, insider trading and violations of securities laws and regulations by SROs and market participants). The review and any recommendations will focus on how to improve investor protection in India.

The SEC plans to provide training to SEBI officials regarding the legal structure needed for capital market development. A significant portion of the Capital Market Training Program in India will be devoted to the proper legal structure needed for capital market development. The SEC's Annual International Institute for Securities Market Development also offers such training.

Investor education and assistance. Although SEBI has a program in place, it appears fragmented. SEBI staff refers complaints to appropriate officers, but they do not follow up on all complaints from a central location. Although SEBI has prepared a detailed pamphlet for investors, the information is dense and difficult to understand. In a single document, SEBI has provided a glossary of

key terms, a list of offices investors should contact with grievances, information about the risks, rights and responsibilities of owning securities, and a discussion of trading and transfer of shares, depository functions, and dematerialization.

The SEC will provide technical assistance to improve the investor education and assistance program at SEBI. The SEC plans to provide investor education training in its Capital Market Training Program in India. The SEC official providing the training also will be available for follow up conversations with SEBI officials regarding the establishment of a comprehensive program. The SEC's Annual International Institute for Securities Market Development also offers such training.

Task 2: Assisting the SEBI to improve its capacity for regulatory oversight and inspections.

Regulatory oversight. Although SEBI operates under the SEBI Act and has issued approximately 18 regulations, it has not defined certain key terms and concepts in the regulation of Indian securities markets. These concepts include manipulation, insider dealing, misappropriation, fiduciary, suitability, and "best price prevailing." SEBI officials have expressed concern that because Indian law is not well developed, they have relied on US law to determine whether they should prohibit particular conduct.

As part of its legal and regulatory review, the SEC will review the SEBI's regulatory oversight program. The review will assess the effectiveness of the SEBI's regulatory oversight program for the securities market, SROs and market participants and make recommendations to strengthen the SEBI's regulatory oversight authority. The SEC also plans to provide training to SEBI officials regarding the regulatory oversight of the securities market, SROs and market participants. The Capital Market Training Program in India will cover regulatory oversight issues. The SEC's Annual International Institute for Securities Market Development also offers such training.

Capacity for rulemaking. SEBI's procedures generally include internal consultation only. Although SEBI has on occasion sought selective input from industry through committees, this input appears arbitrary. Market participants have expressed concern that committees call meetings on short notice and do not make available appropriate material in advance of meetings. Moreover, this process does not include input from all firms or other market participants who may wish to have a voice.

As part of its legal and regulatory review, the SEC will review the rulemaking process and recommendations to enhance transparency in the rulemaking process. The SEC also will provide training to SEBI officials regarding the rulemaking process in the U.S. The SEC's Annual International

Institute for Securities Market Development also offers such training. The SEC also will include such training in its Capital Market Training Program in India.

Inspection of SROs and market participants. It is unclear whether India has a coordinated plan to conduct periodic inspections of SROs and market participants. The roles and duties of the various SROs in the inspection of market participants also are unclear.

The SEC plans to assess the SEBI's inspection procedures for SROs and market participants. As part of that review, the SEC will review how SROs and market participants are currently inspected and provide recommendations regarding the SEBI's inspection procedures, including how the SEBI determines to inspect an SRO or a market participant. The SEC also plans to work with the contractor and the U.S. private sector securities industry to develop a training program for senior officials of the SEBI and relevant SROs in India in charge of inspections. The program would cover areas such as the inspection of SROs and market participants, market surveillance, broker-dealer compliance programs and the SEC's oversight of SRO inspection and surveillance programs. The Annual International Institute for Securities Market Development and the General Capital Market Training Program in India also will conduct training in this area.

Task 3: Strengthening SEBI's capacity for investigations and enforcement actions for violations of the securities laws.

Investigation and enforcement procedures. SEBI employs a complex multi-step process in bringing enforcement actions. Procedures include conducting a preliminary investigation, obtaining an order for a formal investigation issued by the Chairman, a report to the Chairman by SEBI staff, a decision to appoint an Inquiry Officer, a decision by the Inquiry Officer to issue a show-cause notice, a hearing before the Inquiry Officer, and a hearing before the Chairman, who makes a final determination as to sanctions.

The process, however, is not transparent. Certain key documents -- such as the final order issued by the Chairman -- are not publicly available. This causes uncertainty in the law with respect to conduct that SEBI believes violates the securities laws. Although SEBI often publishes a press release about an enforcement matter on its website, reasoning on why SEBI found a particular violation is generally skeletal.

The SEC plans to assess the SEBI's investigation and enforcement procedures. As part of that assessment, the SEC will assist SEBI in making its investigation and enforcement procedures more transparent and more open to the public. The SEC also will recommend procedures to inform the public about SEBI's decisions regarding specific enforcement cases.

Enforcement training. The SEBI has expressed concern that many SEBI staff who conduct investigations have not had sufficient training in areas such as (i) identifying when to commence an investigation; (ii) determining what key documents to request; (iii) interpreting key documents, which might suggest a violation; (iv) identifying appropriate persons from whom to obtain statements; (v) determining appropriate lines of inquiry in taking statements; and (vi) determining what evidence to seek in follow-up to previous inquiries.

In respond to this need, the SEC plans to conduct a two to three day training program in India on conducting investigations and preparing enforcement actions. The SEC also will provide slots for three SEBI officials to attend the Annual Institute for Securities Enforcement in fall 2001. The Annual International Institute for Securities Market Development and the General Capital Market Training Program in India also will include training in the enforcement area.

Task 4: Improvement in disclosure and reporting standards.

Disclosure and reporting standards. As stated in the discussion under Tasks 1 and 2, the laws and regulations are not well developed, this includes the law and regulations regarding disclosure and reporting standards. As part of the SEC's review of the securities law and regulations in India, the SEC will review the disclosure and reporting standards and make recommendations to strengthen those standards.

Training of disclosure and reporting standards. The SEC includes a review of the U.S. disclosure and reporting standards in its Annual International Institute for Securities Market Development. The SEC also will include such training in its Capital Market Training Program in India. The SEC plans to work with the contractor and the U.S. private sector securities industry to conduct appropriate technical assistance and training in this area.

Planned Training and Technical Assistance Projects

- Review of Issuer Disclosure Documents

Task: This training program will cover disclosure and financial reporting standards in Task 4.

Deliverable: A one-week training program on review of issuer disclosure documents. This program is primarily for Newly Independent States of the former Soviet Union and Central and Eastern European countries. This program will be held in Budapest, Hungary the week of October 8, 2001. The SEC plans to invite 4 senior regulators from the SEBI and the exchanges to the training program.

Counterpart: SEBI and the exchanges

Target Date: The week of October 8, 2001.

Status/Comments: Invitations for the program will be sent out in August 2001.

- International Institute for Securities Enforcement and Market Oversight

Task: This institute focuses on practical techniques for conducting investigations, market surveillance and inspections of broker-dealers, mutual funds and investment advisers. This training program will cover topics in Tasks 2 & 3.

Deliverable: A one-week program offered each fall at the SEC for regulatory officials from emerging and developed markets. The SEC plans to invite 4 senior regulators from the SEBI and the exchanges to the 2001 Institute.

Counterpart: SEBI and the exchanges

Target Date: The week of October 15, 2001.

Status/Comments: Invitations for the program will be sent out in August 2001.

- **Capital Market Training Program in India**

Task: A one-week training program that will cover topics in each of the four tasks, including disclosure, rulemaking, regulatory oversight, inspections of SROs and market participants, enforcement and investor education.

Deliverable: A one-week capital training program in India for approximately 60 Indian securities regulators and market professionals.

Counterpart: SEBI, SROs (exchanges, depositories, member associations) and market professionals.

Target Date: 2nd Quarter, 2002.

Status/Comments:

- **International Institute for Securities Market Development**

Task: This institute is designed for senior regulators and stock exchange officials and is intended to promote market development, capital formation, and the building of sound regulatory structures in emerging market countries. This training program will cover topics in each of the four tasks.

Deliverable: An intensive two-week program of lectures, panels and workshops held each spring at the SEC and an optional internship with various market entities the week following the institute. The SEC plans to invite 4 senior regulators from the SEBI and the stock exchanges from India to the 2002 Institute.

Counterpart: SEBI and stock exchanges

Target Date: 2nd Quarter 2002

Status/Comments:

- **Review of the Legal Structure for Securities Regulation**

Task: This technical assistance project will review the legal structure in India for securities regulation as covered in Task 1.

Deliverables:

- An appendix, drafted by Arthur Laby, to the World Bank mission report addressing governance issues at the SEBI, including issues related to SEBI's independence, authority, and use of discretion.
- A final Work Plan.
- A general report assessing the technical assistance and training needs to effectively regulate India's securities market.

Counterpart: SEBI

Target Dates:

- The target date for delivery of the draft appendix is October 2001.
- The target date for the Work Program is October 2001.
- The target date for the general report assessing the technical assistance and training needs to effectively regulate India's securities market is October 2001.

Status/Comments: This technical assistance project started in June 2001 with a visit to India by Arthur Laby, an Assistant General Counsel at the SEC, as part of a World Bank team to assess India's capital market and regulatory structure. Ester Saverson visited India from September 18-29, 2001 to review the technical assistance and training needs.

- **Assessment of Market Regulation**

Task: This technical assistant project covers the SEBI's rulemaking process, SRO oversight and broker-dealer regulations in Task 2.

Deliverable: A report assessing the SEBI's rulemaking process, SRO oversight and broker-dealer regulations.

Counterpart: SEBI

Target Date: December 2001

Status/Comments: We are gathering information on the laws and regulations governing securities, including the rulemaking process, SRO oversight and broker-dealer regulations in India. Ester Saverson will continue to gather information on his trip to India in September.

- **Workshop on Disclosure and Financial Reporting Standards**

Task: This workshop will cover disclosure and financial reporting standards (including initial public offerings and continuing disclosure obligations of public companies) in Task 4.

Deliverable: A workshop jointly conducted by the SEC and the contractor on disclosure and financial reporting standards.

Counterpart: SEBI

Target Date: The target date for the workshop on disclosure and financial reporting standards in India is November/December 2001.

Status/Comments: The workshop will cover existing disclosure and reporting standards in India and U.S. and International disclosure and reporting standards. The SEC will contribute one person to help conduct this workshop.

- **Workshop on Investigation and Enforcement Procedures**

Task: This workshop will train SEBI and SRO officials in investigation and enforcement procedures in Task 3.

Deliverable: A three-day program in India to train the investigation and enforcement staff at the SEBI in practical techniques for conducting investigations.

Counterpart: SEBI

Target Date: November/December 2001

Status/Comments: This SEC and the contractor will jointly conduct this workshop. The SEC will contribute one person to help conduct this workshop.

- **Assessment of Inspection Procedures for SROs and Broker-Dealers**

Task: This technical assistant project covers the SEBI's inspection procedures for SROs and broker-dealers in Task 2.

Deliverables:

- A report assessing the SEBI's inspection procedures for SROs and broker-dealers.
- A four-day program in India to train the inspection staff at the SEBI about inspecting SROs and the inspection staff at the SEBI and the SROs about inspecting broker-dealers.

Counterpart: SEBI

Target Date: First or Second Quarter 2002

Status/Comments: The SEC will work with the contractor to provide this training.

- Training on the Role of SROs in Regulating the Securities Market

Task: The contractor plans to bring a group of SEBI and SRO Officials to the U.S. for training on the proper regulatory structure and role of SROs in Task2.

Deliverables: Provide instruction on the regulatory structure needed to provide oversight by the government regulatory of SROs.

Counterpart: SEBI

Target Date: First Quarter 2002

Status/Comments: The SEC will work with the contractor to provide this training.

The SEC will work with the contractor and the U.S. private sector securities industry to provide appropriate technical assistance and training opportunities. As these opportunities are identified, the SEC will provide any necessary amendments to this Work Program.