

Draft Talking Points

1. Preserving investor **privacy** only requires masking of the investor ID. It does not require changing of the masks, which can be kept stable over time.
2. SEBI suggests that keeping the mask stable would cause **serious economic harm to the FII**. But note the widespread dissemination for over 15 years of data like the NSE Detailed Data described in Appendix 1 of the Second Addendum. This data has more detail, timestamps to the second or micro-second, is much fresher (about 6 weeks lag as opposed to more than 6 months' lag for the FII data), and the masks are stable. And no one thinks disclosure of this data creates an advantage or disadvantage for anyone. Every other regulator and exchange that masks data does so with a stable mask. For example, SEC has public-domain Data on Order Execution (link given in our Second Addendum).
3. SEBI's argument would have merit if we were asking for **real-time data feeds for which commercial entities invest crores of rupees**. We are not asking for that but only for stale masked data. The NSE co-location scandal in which firms were fighting for a nano-second time advantage tells us that market data ceases to have any economic impact after a very short time interval, maybe a few minutes. And market participants for sure see each others' trades and orders very quickly. So data that is more than 6 months old is very, very stale, too old to be of any use other than for academic research.
4. SEBI has referred to Supreme Court judgments selectively. **The latest and most relevant Supreme Court judgment, dated 16th Dec 2015, is the law of the land, and SEBI has completely ignored that in its submission.** It states in plain language that this kind of invocation of exemption clauses from section 8(1) of the RTI Act is inappropriate. In particular SEBI cannot pretend to have fiduciary responsibility when the data has been acquired simply with a legal mandate. Reading the extracts from that Supreme Court judgment (cited in detail in our submission and addendums, especially the Second Addendum) is very important.
5. When masks are changed, and the fact of change is never disclosed, the data is misleading. **To provide misleading data is a violation of the RTI Act.**
6. SEBI does not understand the **role of academic research in advancing the public interest**. Evidence in academic papers may not rise to the level of evidence in a court, but they can highlight inappropriate market behavior, which SEBI can then seek to establish by investigating using its own forensic resources. (An example is give in the Second Addendum.)
7. **Bottom line – data with more detail, and stable masks for investor IDs have been disclosed with no problems even in India for over 15 years by NSE.** SEBI cannot now say this hurts investors, when it most patently has not. SEBI's role as the regulator is to **serve the public interest by increasing transparency, and not by hurting transparency with changing masks.** To provide deliberately **misleading data violates RTI, hurts academic research and so the public interest, and violates SEBI's promise to parliament** when it agreed to make this stale data public in response to a question in the Rajya Sabha by Shri Shyam Benegal, MP.