

## Public Enforcement of Securities Laws Violations in Bangladesh: A Case Study of Listed Non-Financial Companies

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**Abstract:** For an orderly capital market, the Bangladesh Securities and Exchange Commission (BSEC) has issued a number of rules, regulations, ordinance, directives, and notifications. The Dhaka Stock Exchange (DSE) also monitors the regulatory affairs of the listed companies following its listing regulations. How far these authorities are carrying out their enforcement duties remains an empirical question. Therefore, this paper reviews and analyses the public enforcement actions (PEAs) of securities laws violations by the BSEC and the DSE and provides summary information about the types of violations made, and the sanctions required by the regulatory bodies over a 19-year period from 1995 to 2013. Using publicly available data, a list of 830 PEAs is prepared and evaluated. Descriptive statistics show with the exception of 1998, security law violations leading to PEAs take place in all the years from 1995 to 2003 and it was maximum (175) in 2006. Among the different types of security law violations, annual accounts related irregularity tops the list and is followed by interim report related irregularities and AGM (annual general meeting) related irregularities. Focusing on the regulators, the DSE is found only to impose penalties while the BSEC used both warning letters and financial penalty when dealing with the wrongdoers. Irrespective of these enforcement actions, Bangladesh capital market could not avoid the stock market crash during 2010-2011, suggesting that a more efficient and impartial implementation of securities regulation is needed to avoid such situation in future.

**Keywords:** Enforcement, Penalty, Directive, Warning, BSEC.

### Introduction

Investor protection, a widely held view in academic literature, is vital for a capital market to develop. Identifying the channels for investor protection is, therefore, important to protect investors' interests. Public enforcement is one such channel whereby the

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responsibility to gather information and pursue the offense is rested with the regulators (World Bank, 2006).<sup>1</sup> In fact, good public enforcement, through (i) conducting market surveillance, for example, by addressing common systemic issues and problems that need rule-making fixes; (ii) investigating individual firms for wrongdoing; (iii) enforcing securities laws (including those that result in large monetary penalties and/or criminal imprisonment); and (iv) continuously updating regulatory provisions to match current level of capital market development, can greatly contribute to the efficacy of private enforcement (Jackson and Roe, 2009). While most prior studies in the advanced countries (La Porta et al., 2006, Djankov et al., 2008) take the view that private enforcement mechanisms are more strongly correlated with capital market development than the public enforcement mechanisms, such finding might not well be suited to emerging markets like Bangladesh since the developed and emerging countries often differ significantly in terms of political, cultural, economic, institutional and social factors. While this paper does not examine the relative importance of different channels for investor protection, it reviews the enforcement actions and provides summary information about the listed company, the types of violations made, and the sanctions required by the regulators in Bangladesh. For this, a novel data set consisting of 19 years from 1995 to 2013 is constructed and used. This is the first of its kind to use a long hand-collected dataset in Bangladesh. This study contributes to the body of literature that focuses on enforcement of securities law in the emerging countries. Besides, the study helps to focus on the common types of securities law violations by the listed non-financial companies in Bangladesh.

The remainder of the paper is organized as follows. In the following section, a summary of prior literature is presented and is followed by the section on enforcement mechanisms of securities laws in Bangladesh. Thereafter follow sections on research design, and findings and analysis. Finally, a summary of this paper is presented.

### **Literature Review**

The relative importance of public and private enforcement of securities laws for the stock market development has been a source of major debate in the finance literature. Jackson and Roe (2009, p. 208) note that no particular enforcement mechanism is a priori winner since none is without its advantages and defects:

*On the defect side: A public enforcement system is degraded because public actors have mixed and often weak incentives to do their jobs well and because they often*

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<sup>1</sup> Private enforcement is another channel whereby the law gives the private parties the responsibility and the means to sue and recoup loss in a court of law (World Bank, 2006).

*suffer from poor information of both general market and specific firm conditions. But a private enforcement system is subject to collective action and free rider effects among dispersed investors, to slow and inept judiciaries, to lawyers' rent-seeking, and to the potential inability of private enforcement to visit severe monetary penalties on wrongdoers. On the positive side, public enforcement could be run by public-regarding policymakers and invoke sharp criminal, financial, and reputational penalties that deter egregious wrongdoing, while private enforcement actions could be brought by well-informed actors with well-aligned incentives.*

The literature evidence on this issue is also somewhat mixed. While most academic literature (La Porta et al., 2006, Djankov et al., 2008) reports that private enforcement of investor protection via both disclosure and private liability rules is more effective than public enforcement in developed financial market, Jackson and Roe (2009) find that both public enforcement and disclosure are important in explaining financial market and more important than private liability rules.

A number of works have been conducted in the area of public enforcement actions (PEAs). In their pioneering study, Pincus, Holder, and Mock (1985) describe the SEC (Securities and Exchange Commission) process and provide summary statistics on SEC activity in 1983 and 1984. In another study, Bremser et al. (1991) analyse 242 accounting and auditing enforcement releases (AAERs) by SEC and find that, among the large registered firms, those receiving sanctions were significantly larger and had a higher proportion of opinion qualifications than their industry counterparts while their auditors received SEC sanctions only a small proportion of the time.

In another line of research, a number of studies have provided evidence that PEAs are costly to the auditors or client firms. The effect of the SEC sanction on audit firms' reputation are studied by Wilson and Grimlund (1990) and Davis and Simon (1992) investigated. Wilson and Grimlund (1990) find that SEC sanction affects the audit firm's reputation so badly that they are less able to retain clients in the year after the sanction than their counterparts. Davis and Simon (1992) examined the impact of SEC sanctions on audit fees and found that firms that were sanctioned gave larger fee discounts to new audit clients than those not facing disciplinary actions. Their findings imply that the impairment of reputation resulting from PEA leads to a reduction in audit fees. With respect to the client firms, Feroz, Park, and Pastena (1991) find that the stock price of companies receiving SEC sanctions substantially underperform the market prior to (-6 percent) and at the announcement (-13 percent) of the sanction. Similarly, Dechow, Sloan, and Sweeney (1996) report that while earnings manipulation initially allows a firm

to enjoy lower cost of capital, but once such manipulation is revealed, the firms experience significant increase in their cost of capital resulting from decline in market price and increase in bid-ask spread.

In a more recent study, Lennox and Li (2014) examine whether litigation experience of the audit firm affects subsequent financial reporting quality of a firm. Using 10 years' data on lawsuits against audit firms and restatement announcement of financial statement information, they find that litigation experience changes audit firm's behaviour and such changes positively affect subsequent financial reporting quality. In another study, Stafford (2014) empirically analyses the effectiveness of regulatory enforcement in improving the environmental and safety performance of pipeline operators in the US. Using six years' data for the 344 major operators in the sector, Stafford (2014) finds that the number of federal cases significantly affect many forms of performance, although not for incidents in general.

In the context of emerging countries, a number of works has focused on China. For example, Tondkar, Peng, and Hodgdon (2003) critically examine the Chinese Securities Regulatory Commission's (CSRC) effectiveness in regulating its capital markets. Firth, Rui, and Wu (2009), on the other hand, document how differences in the dissemination (of sanction and enforcement information (SEI) approach between two regulatory agencies affect timely disclosure and stock prices in China. Using SEI data from 1999 to 2005, they show that dissemination of SEI information has significantly negative effect on stock price, suggesting that PEA has deleterious effect on firm's stock price.

In sum, extant research shows that PEA has a number of negative consequences on the firm. However, no prior literature looks into this issue in the context of Bangladesh. Therefore, it would be interesting to examine the nature and extent of PEA and type of violations made in the context of Bangladesh.

### **Enforcement Mechanisms of Securities Laws in Bangladesh**

In Bangladesh, enforcement of corporate and securities laws rests with the Bangladesh Securities and Exchange Commission Bangladesh (BSEC), two exchanges—the Dhaka Stock Exchange (DSE) and the Chittagong Stock Exchange (CSE), the Registrar of Joint Stock Companies (RJSC), professional accounting bodies and the judiciary. Bangladesh has reshaped and strengthened its enforcement structures over the past 40 years. Most of the reforms have taken place in the area of its supervisory authority's power to supervise the securities markets. The BSEC regulates the securities market through the Securities and Exchange Ordinance of 1969 and the Securities and Exchange Rules of 1987, and

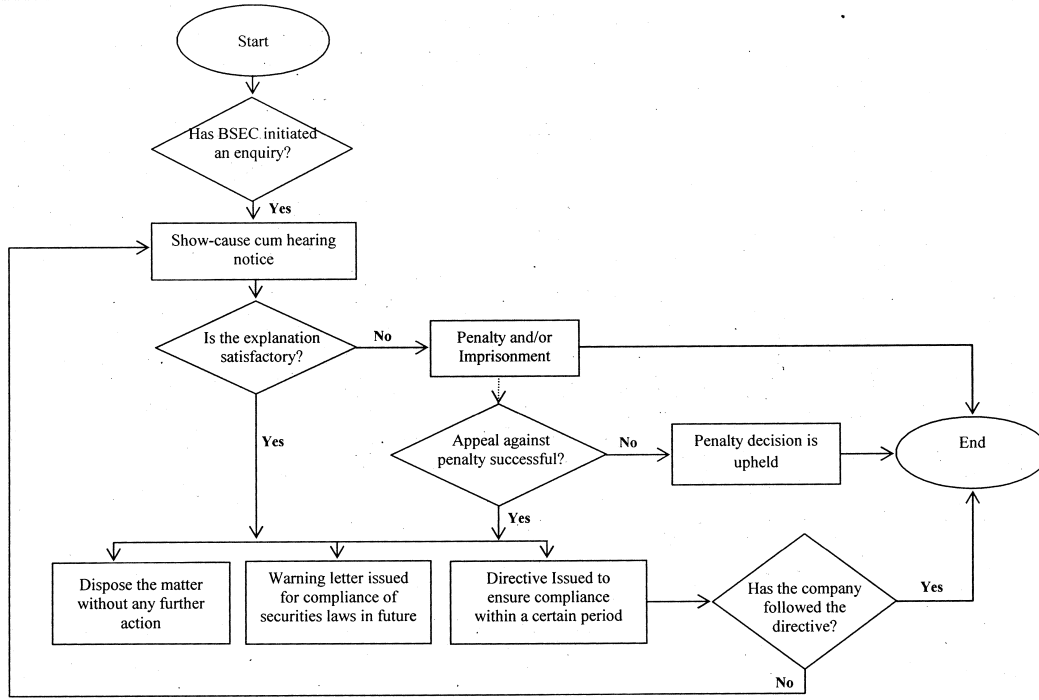
various orders and notifications issued under the Securities and Exchange Ordinance of 1969. The DSE and CSE mainly regulate companies through their respective Listing Regulations. The RJSC is entrusted to administer and enforce the relevant statutory provisions of the Companies Act 1994. The Institute of Chartered Accountants of Bangladesh (ICAB), on the other hand, is responsible for ensuring that its members maintain the highest professional standards in conducting their professional duties.

Under the Securities and Exchange Commission Ordinance, 1969, the BSEC is empowered to impose administrative sanctions as well as penalties for non-compliance with securities laws. Such efforts often aim at preventing, detecting, and disciplining case of fraudulent financial reporting. The penalties for violating these laws provide a motivation for presenting non-fraudulent financial reports. Additional motivation stems from avoiding any adverse publicity resulting from PEAs and investigations. In spite of these, if a party is found guilty after investigation, a show cause notice is sent. Where the explanation is not satisfactory, the accused party is provided with an opportunity to be heard under the Code of Civil Procedures, 1908, and, finally, depending on the severity of violation, the Commission may either impose administrative sanctions or a penalty or both (Siddiqi, 2007). The minimum penalty is set at Tk. 100,000 where the party fails to furnish any document, paper or information required under the Ordinance [Section 22]. In case of continuing default, a further penalty of Tk. 10,000 per day is imposed. The penalty for market manipulation of security prices has been increased from three years to five years' imprisonment and the penalty from 10,000 Taka to minimum 500,000 Taka [Section 23]. A flowchart of the BSEC's disciplinary action is shown in Figure-1.

Under the Securities and Exchange Commission Rules of 1987, the Commission (the BSEC) has made provision to discipline statutory auditors in case of their failure to discharge their professional responsibilities [sub-rule 3(B) of Rule 12]. Under this sub-rule, the Commission can declare a Chartered Accounting firm ineligible to conduct an audit in a listed security for a period of a maximum 5 years if the Commission finds the audit firm to be seriously liable for not conducting an audit in the legally prescribed manner.

According to its Listing Regulations, the Dhaka Stock Exchange is empowered to take different penal actions when the listed companies default in complying with the listing regulations. Table 1 provides a summary of the penal provisions. Besides, the DSE can de-list or suspend a security after giving the alleged company an adequate opportunity of being heard [Listing Regulation 31].

**Figure 1: Flowchart of the BSEC’s Enforcement Actions**



**Table 1: Penalty under the Listing Regulation of the Dhaka Stock Exchange**

| Nature of Violation  | Relevant Regulation(s)    | Penalty   |
|--|---------------------------|---|
| Delay in <ul style="list-style-type: none"> <li>• Submission of the half yearly report</li> <li>• Submissions of the annual provisional accounts</li> <li>• Dispatching audited accounts</li> <li>• Payments of annual listing fees</li> <li>• The registering of share transfers</li> </ul> | Listing Regulation 41 (2) | Tk. 500 per day during which the default continues  |
| Default in relation to prospectus, allotment, issue and transfer of shares   | Listing Regulation 7      | Tk. 1000 for every day during which the default continues. This penalty shall be without prejudice to the action or steps taken by any other person or authority. |

|  |                       |   |
|--|-----------------------|---|
| Failure to hold AGM within 9 months of the financial year-end date, except when permission is sought from the DSE and is granted   | Listing Regulation 19 | <ul style="list-style-type: none"> <li>• Tk. 10000 for delay of 1 month or part thereof</li> <li>• Tk. 20000 for delay of 2 months or part thereof</li> <li>• Tk. 30000 for delay of 3 months or part thereof</li> <li>• Tk. 1000 per day after delay exceeding 3 months</li> </ul> |
| Failure to submit a summarized list of shareholding by sponsors, foreigners, institutions, and general public as at 30th June and 31st December within 30 days of the said date                            | Listing Regulation 20 | Tk. 1000 per day for each day until the default continues.  |
| Failure to issue entitlement letters or right offers to all the shareholders within 45 days of re-opening of share transfer register of the company closed for this purpose without the consent of the DSE | Listing Regulation 22 | Tk. 2000 per day for the first 15 days, Tk. 4000 per day for the next 15 days, and Tk. 5000 per day thereafter.   |
| Failure to issue bonus share certificates to all the shareholders within 45 days of re-opening of share transfer register of the company closed for this purpose without the consent of the DSE            | Listing Regulation 23 | Tk. 2000 per day for the first 15 days, Tk. 4000 per day for the next 15 days, and Tk. 5000 per day thereafter.   |
| Failure to pay annual listing fee  | Listing Regulation 33 | A surcharge of 1.5 percent per month or part thereof, until payment.  |

The above discussion suggests there are some monitoring and enforcement mechanisms in place in Bangladesh for an orderly capital market. Whether they are effective in carrying out the intended functions is an open question. As a first step in answering this question, this paper examines the PEA initiated by two security regulators, namely the BSEC and the DSE.

### Research Design

For the purpose of this study, PEA encompasses all actions undertaken by the regulatory agencies resulting in either issuance of warning letter or imposition of financial penalty. This study is based on publicly available information on the enforcement actions of the BSEC and the DSE. Accordingly, a raw database is developed based on instances of

enforcement actions published in the quarterly annual reports of the BSEC, the enforcement action section of BSEC website ([www.sec.gov.bd](http://www.sec.gov.bd)), and the monthly publications (*Monthly Review*) of the DSE. In creating the database, those incidences where the defaulting company cannot be identified are excluded. After developing the raw database, a number of iterations are conducted to develop the final database. The iterations were necessary to ensure that a particular entity is included once for the same irregularity although a number of sequential regulatory actions (for example, show-cause cum hearing notice, directive) are taken against the company once a security violation takes place before issuing a warning letter or imposing financial penalty.

For the sake of brevity, the irregularities are classified into 7 groups: (i) *AGM and related irregularities*; (ii) *annual financial statements related irregularities*; (iii) *interim financial statements related irregularities*; (iv) *price-sensitive information related irregularities*; (v) *dividend and share ownership related irregularities*; (vi) *capital and shareholding position related irregularities*; and (vii) *miscellaneous irregularities*.

The Listing Regulations of the Dhaka Stock Exchange (DSE) Limited, require a listed company to hold its AGM and to have the audited accounts approved at that AGM within nine months of its financial year-end date, unless an extension (maximum of three months) is sought and approved by the Board of Councilors of the Exchange [Listing Regulation 19]. However, the BSEC requires a listed company to hold AGM within six months of its financial year-end date (BSEC, 2001c). According to one notification of the BSEC, once fixed, a listed company must not change its AGM date and related book closure date/record date prior to holding of the annual general meeting (BSEC, 2001a). To ensure effective functioning of the AGM, the BSEC has issued a notification and an order. According to the notification, no gift or benefit in cash or kind other than a cash and/or stock dividend shall be paid to equity holders for attending the AGM (BSEC, 2000a). The BSEC has also instructed companies to submit an audio visual recording of the AGM to the Commission (condition (c) in BSEC, 2002):

*The issuer shall make continuous and uninterrupted audio visual recording of the entire proceedings of its annual general meeting and shall furnish a copy of the same in unedited form within the shortest possible time but not later than three working days from the date of the said annual general meeting to the Commission and the Stock Exchange(s).*

*AGM and related irregularities* captures defaults in relation to any of the above mentioned regulatory provisions.

The listed companies in Bangladesh are required to prepare their annual accounts in accordance with the requirements laid down in the Schedule of the Securities and Exchange Rules of 1987 and the International Accounting Standards as adopted by the ICAB [Listing Regulation 12(2)]. The Companies Act of 1994 requires companies in



Bangladesh to have their annual accounts audited by a qualified chartered accountant [Section 183(3)], and to send copies of the accounts and reports to shareholders at least 14 days prior to the AGM date [Section 191]. Following the Securities and Exchange Rules (SER), 1987 (amended on 4 January 2000), a listed company in Bangladesh must also have its financial statements audited within 120 days of the financial year-end date and must submit a copy of its audited financial statements to the BSEC and the Stock Exchanges within 14 days of the date of the auditor's report, except when an application for extension is filled with and granted by the Commission [Rule 12(3A)].<sup>2</sup> Violations of these regulations, that is, IAS non-compliance, and irregularity with regards to the submission of financial statements, are covered under *annual financial statements related irregularities*.

In addition to the annual financial statements, under Rule 13 (amended on 4 January 2000) of SER of 1987, a listed company is required to prepare and send half-yearly accounts, within one month of the close of its first-half year, to the Stock Exchanges on which its securities are listed, to the security holders, and to the Commission. In a subsequent order dated 23 February 2000, the BSEC required listed companies to publish the news that they have despatched the half-yearly accounts together with the date of such despatch in two (one in Bangla and one in English) widely circulated national dailies (BSEC, 2000b). In September 2009, the SECB directed listed companies in Bangladesh to submit quarterly financial statements (audited or unaudited), within 45 days of the end of the first quarter (90 days for life insurance companies) and 30 days of the end of the third quarter, to the Commission and the Stock Exchange (BSEC, 2009). Under this notification, companies are also required to publish the quarterly financial statements in at least two widely circulated national dailies, one in Bangla and one in English. Moreover, the issuer company is required to provide reasons when a significant deviation arises from any one quarter to the next. Violations of these regulations in relation to the interim reports are included in *interim financial statements related irregularities*.

Disclosure of all price sensitive information is mandatory in Bangladesh. Regulation 43 of the Listing Regulations (DSE, 1996) requires every listed company to follow six specific policies concerning disclosure to ensure that everyone investing in its securities has equal access to information for informed investing. The policies are: (1) immediate public disclosure of all material information; (2) public clarification or confirmation of rumours and reports; (3) response to unusual market action; (4) no promotional disclosure exceeding what is necessary for informed investment decisions; (5) no trading by a firm's insiders on the basis of material information unavailable to the public or within 5 market

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<sup>2</sup> Before the amendment on 4 January 2000, the requirement was to submit the financial statements to the Exchanges and to the Government at least fourteen days before the AGM date [Rule 12(4)].

days from the public dissemination of such information; and (6) at least four working days' notice must be given before any share transaction by a company's sponsors.<sup>3</sup> The BSEC also requires listed companies to make immediate full disclosure of all price sensitive information by ensuring simultaneous publication of such disclosure in two widely circulated national dailies, one in Bangla and one in English (BSEC, 2000b).<sup>4</sup> *Price-sensitive information related irregularities* include violations of these regulations.

Dividend and share issue related violations are included in the *dividend and share ownership related irregularities*. Listed companies in Bangladesh are required to pay off their declared dividend within 60 days of declaration and submit the compliance report in relation to the declaration and payment of dividend to the Commission within 7 days thereafter following the erstwhile Controller of Capital Issues' (CCI) Notification No. SRO 385-LAW/91 dated December 15, 1991, being the order made under Section 2G of the Securities and Exchange Ordinance, 1969. Besides, BSEC requires the listed companies to complete all the transfer formalities within 7 days in all cases other than Book Closure dates (15 days in case of Book Closure) (BSEC, 1999).

According to one BSEC notification (BSEC, 2001b), every sponsor or director of a company listed with any stock exchange shall simultaneously submit a written report to the BSEC and the stock exchange with which the company is listed about his intention to buy shares of that company or sell or otherwise dispose of the shares held by him in that company in the prescribed format. Besides, every listed company is required to furnish the capital and shareholding position to the Commission by the tenth day of every month (BSEC, 2004). *Capital and shareholding position related irregularities* include violations of these regulations.

All other irregularities are covered under *miscellaneous irregularities*. These include, but not limited to, violations in relation to the Rights Issue Rules of 1998, violation of CDBL laws, retention of auditor after 3 years' of consecutive service, non-payment of interest and principal on debenture.

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<sup>3</sup> In Bangladesh, 'sponsor' is a common term used to refer to the 'promoters' of the company. In Section 145(6) the Companies Act of 1994, a 'promoter' is defined as a party to the preparation of the prospectus of the company.

<sup>4</sup> The BSEC's definition of material (price-sensitive) information includes any information relating to: (a) a company's financial position; (b) dividend; (c) any decision to make a rights or bonus issue or similar benefits to shareholders; (d) any decision to transact in fixed assets; (e) the company's Balancing, Modernisation, Renovation and Expansion (BMRE) project or establishment of a new unit; (f) basic changes in company activities; and (g) other matters as determined by the commission through Gazette notification (BSEC, 1995).

### Findings of the Study

As stated earlier, security law violations are classified into seven types of irregularities. Table 2 presents the total number of enforcement actions by type of irregularities from 1995 and 2013. Totals are presented for each type of irregularity, for each sample year, as well as a grand total for all cases. As shown in Table 2, a total of 830 security violations are found during the 18-year period resulting in either issuance of warning letter or imposition of penalty. Among these, the most prevalent violations (31.33 percent) are in the category of annual accounts related irregularities, followed by interim report related irregularities (26.02 percent). AGM related irregularities are the third (13.01 percent) major type of irregularity. Taken together, these three types of irregularities constitute more than 70 percent of the total number of irregularities. Among the other type of irregularities, 67 and 65 incidences are found in respect of capital and shareholding related irregularity and price sensitive information related irregularity respectively, while dividend and share issue related irregularity is found 39 times during the 18-year period. In the miscellaneous category, 75 (9.04 percent) incidences are found.

**Table 2: Number of Enforcement Actions by Security Regulators in Bangladesh from 1995 to 2013**

| Year         | Type of Irregularities |                |                |               |               |               |               | Total (%)          | Non-Financial Companies (%) |
|--------------|------------------------|----------------|----------------|---------------|---------------|---------------|---------------|--------------------|-----------------------------|
|              | (1)                    | (2)            | (3)            | (4)           | (5)           | (6)           | (7)           |                    |                             |
| 1995         | 2                      | 0              | 0              | 1             | 4             | 0             | 1             | <b>8 (0.96)</b>    | 8 (5.19)                    |
| 1996         | 2                      | 2              | 1              | 0             | 0             | 0             | 1             | <b>6 (0.72)</b>    | 5 (2.96)                    |
| 1997         | 0                      | 0              | 0              | 0             | 1             | 0             | 2             | <b>3 (0.36)</b>    | 3 (1.72)                    |
| 1999         | 0                      | 0              | 1              | 0             | 0             | 0             | 2             | <b>3 (0.36)</b>    | 3 (1.65)                    |
| 2000         | 0                      | 0              | 9              | 12            | 2             | 0             | 1             | <b>24 (2.89)</b>   | 22 (11.70)                  |
| 2001         | 1                      | 0              | 4              | 12            | 4             | 0             | 2             | <b>23 (2.77)</b>   | 21 (10.61)                  |
| 2002         | 1                      | 3              | 0              | 0             | 3             | 0             | 11            | <b>18 (2.17)</b>   | 15 (7.46)                   |
| 2003         | 1                      | 1              | 33             | 3             | 3             | 3             | 2             | <b>46 (5.54)</b>   | 41 (22.04)                  |
| 2004         | 5                      | 1              | 22             | 0             | 1             | 1             | 1             | <b>31 (3.73)</b>   | 30 (16.13)                  |
| 2005         | 31                     | 16             | 11             | 2             | 3             | 1             | 3             | <b>67 (8.07)</b>   | 44 (23.66)                  |
| 2006         | 46                     | 35             | 21             | 10            | 10            | 44            | 9             | <b>175 (21.08)</b> | 90 (48.39)                  |
| 2007         | 9                      | 41             | 20             | 4             | 8             | 10            | 2             | <b>94 (11.33)</b>  | 62 (33.33)                  |
| 2008         | 2                      | 41             | 14             | 2             | 0             | 0             | 1             | <b>60 (7.23)</b>   | 45 (23.68)                  |
| 2009         | 7                      | 50             | 7              | 9             | 0             | 4             | 15            | <b>92 (11.08)</b>  | 50 (40.65)                  |
| 2010         | 1                      | 31             | 14             | 2             | 0             | 3             | 18            | <b>69 (8.31)</b>   | 49 (33.56)                  |
| 2011         | 0                      | 13             | 33             | 1             | 0             | 1             | 1             | <b>49 (5.90)</b>   | 34 (24.82)                  |
| 2012         | 0                      | 20             | 12             | 6             | 0             | 0             | 0             | <b>38 (4.58)</b>   | 30 (20.69)                  |
| 2013         | 0                      | 6              | 14             | 1             | 0             | 0             | 3             | <b>24 (2.89)</b>   | 24 (15.29)                  |
| <b>Total</b> | <b>108</b>             | <b>260</b>     | <b>216</b>     | <b>65</b>     | <b>39</b>     | <b>67</b>     | <b>75</b>     | <b>830</b>         |                             |
| <b>(%)</b>   | <b>(13.01)</b>         | <b>(31.33)</b> | <b>(26.02)</b> | <b>(7.83)</b> | <b>(4.70)</b> | <b>(8.07)</b> | <b>(9.04)</b> | <b>(100)</b>       |                             |

This table presents total number of enforcement actions (either warning or penalty) by the securities regulators (BSEC and Dhaka Stock Exchange) in Bangladesh against 7

types of irregularities: (1) AGM related irregularities; (2) annual financial statements related irregularities; (3) interim financial statements related irregularities; (4) price-sensitive information related irregularities; (5) dividend and share ownership related irregularities; (6) capital and shareholding position related irregularities; and (7) miscellaneous irregularities. A description of each type of irregularity is provided in the Data and Methods section. The last column presents the number of non-financial companies (and as a percentage of total number of listed non-financial companies) against whom enforcement actions were taken.

Table 2 also documents trends in number of public enforcements (resulting in either warning or penalty) over the period 1995 to 2013. Except for 1998 when no public enforcement takes place, public enforcement is observed in each of the 19-year period, with the maximum in 2006 (175) followed by 2007 (94) and 2009 (92). With the exception of 2006, the number is found to be below 100, and in 13 out of the 19 years, the number is below 50. After 2006, there has been a sharp decline in the total number of public enforcement and it becomes 24 in 2013.

The last column of Table 2 shows the number of non-financial companies involved in security law violations and their proportion in relation to the total number of listed non-financial companies in each year. The results show that about a half of the listed non-financial companies are involved in security law violations in 2006, followed by 40.65 percent in 2009 and 33.56 percent in 2010. Comparing the last two columns, it is found that in 14 out of 19 years, at least one accused company violated security laws more than once in a single year.

Besides looking at the total number of enforcement actions by the securities regulators in Bangladesh, attempts are made to decompose the enforcement actions into warnings and penalty. The results appear in Table 3. As can be seen, monetary penalty was the only form of PEAs before 2000. Although the number of PEAs is the maximum in 2006 (175), the maximum number of penalties (56) is imposed in 2009, followed by 41 in 2010 and 32 in 2011. In 2003 and 2004, the DSE is found to impose penalty on the listed non-financial companies mostly due to their failure to submit interim reports on time.<sup>5</sup> Among all the years, the BSEC imposed the highest amount of penalty of Taka 100 million in 2001 on one engineering company for its non-cooperation with the auditor appointed by the Commission for audit of the financial statements for the year ended 30<sup>th</sup> June 2000. In

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<sup>5</sup> It is to be noted that in some cases where the DSE imposes penalty on the listed companies but they are not included in this study since the identity of the violating companies are not disclosed. For example, a news was published in the December issue of Monthly Review in 2004 stating that a daily fine of Tk. 500 is imposed by the DSE on 61 companies (without mentioning their names) for failing to submit audited statements by November 14 deadline.

another instance, the BSEC imposed penalty of Tk. 15 million in 2003 on the managing director of a company in the food& allied sector for failure to pay cash dividend to the general investors within 60 days of the declaration date. In other years, the maximum penalty fluctuates between Tk. 10,000 and Tk. 2.5 million. Beginning in 2000, the BSEC issued the maximum of 157 warning letters in 2006, followed by 74 and 38 letters in 2007 and 2008 respectively.

**Table 3: Decomposition Of Peas In Bangladesh From 1995 To 2013**

| Year           | N          | BSEC       |            |                    |               | DSE Fine  |
|----------------|------------|------------|------------|--------------------|---------------|-----------|
|                |            | Warning    | Penalty    | Max (Taka)         | Min (Taka)    |           |
| 1995           | 8          | 0          | 8          | 50,000             | 10,000        | 0         |
| 1996           | 6          | 0          | 6          | 10,000             | 10,000        | 0         |
| 1997           | 3          | 0          | 3          | 10,000             | 100,000       | 0         |
| 1999           | 3          | 0          | 3          | 100,000            | 50,000        | 0         |
| 2000           | 24         | 20         | 4          | 100,000            | 25,000        | 0         |
| 2001           | 23         | 13         | 10         | 100,000,000        | 100,000       | 0         |
| 2002           | 18         | 7          | 11         | 1,500,000          | 100,000       | 0         |
| 2003           | 46         | 12         | 4          | 15,000,000         | 100,000       | 30        |
| 2004           | 31         | 5          | 7          | 100,000            | 100,000       | 19        |
| 2005           | 67         | 49         | 18         | 200,000            | 100,000       | 0         |
| 2006           | 175        | 157        | 18         | 200,000            | 100,000       | 0         |
| 2007           | 94         | 74         | 20         | 500,000            | 100,000       | 0         |
| 2008           | 60         | 38         | 22         | 200,000            | 100,000       | 0         |
| 2009           | 92         | 36         | 56         | 2,500,000          | 100,000       | 0         |
| 2010           | 69         | 28         | 41         | 500,000            | 100,000       | 0         |
| 2011           | 49         | 17         | 32         | 500,000            | 100,000       | 0         |
| 2012           | 38         | 14         | 24         | 5,000,000          | 100,000       | 0         |
| 2013           | 24         | 9          | 15         | 1,000,000          | 100,000       | 0         |
| <b>Overall</b> | <b>830</b> | <b>479</b> | <b>302</b> | <b>100,000,000</b> | <b>10,000</b> | <b>49</b> |

This table decomposes the PEAs by the securities regulators (BSEC and Dhaka Stock Exchange) in Bangladesh. N denotes the number of enforcement actions taken in each year. Warning and Penalty (fine) indicate the respective number of warnings issued and penalty (fine) imposed by the BSEC (the DSE). Max indicates the maximum amount of penalty imposed by the BSEC while Min denotes the minimum penalty amount. The frequency of DSE fine is shown in the last column of the table. No security law violations resulting in either warning letter or penalty is observed in 1998.

In order to examine the frequency of security law violations resulting in PEA by the same company, Table 4 is prepared. Panel A shows that, one company (in the jute industry) faces PEAs 26 times during the 19-year period. Further examination reveals that in all instances the company suffers monetary penalty. A total of 21 PEAs (13 warning letters and the remaining being administrative penalty) is taken against another company in the food & allied sector. The highest number of warning letters (14) is issued to yet another company in the fuel & power sector who faces a total of 17 PEAs. Overall, 175 companies face different types of PEAs. Among those, 151 companies are issued with warnings letters and 105 companies got penal orders.

Finally, in order to examine whether the enforcement actions and the type of irregularities are independent, Table 5 is prepared. Chi-square test statistic is found to be 78.62 and is statistically significant at the 1 percent level, suggesting that there is a significant association between enforcement action and irregularity.

**Table 4: Decomposition of Peas into Warnings and Penalty  
in Bangladesh from 1995 to 2013**

| Panel A   |                  | Panel B   |                  | Panel C   |                  |
|-----------|------------------|-----------|------------------|-----------|------------------|
| Overall   |                  | Warning   |                  | Penalty   |                  |
| Frequency | No. of Companies | Frequency | No. of Companies | Frequency | No. of Companies |
| 1         | 51               | 1         | 48               | 1         | 45               |
| 2         | 21               | 2         | 27               | 2         | 23               |
| 3         | 21               | 3         | 27               | 3         | 9                |
| 4         | 22               | 4         | 15               | 4         | 7                |
| 5         | 11               | 5         | 13               | 5         | 6                |
| 6         | 8                | 6         | 7                | 6         | 2                |
| 7         | 7                | 7         | 4                | 7         | 1                |
| 8         | 6                | 8         | 4                | 8         | 3                |
| 9         | 6                | 9         | 2                | 9         | 1                |
| 10        | 4                | 10        | 1                | 10        | 0                |
| 11        | 2                | 11        | 0                | 11        | 2                |
| 12        | 2                | 12        | 0                | 12        | 1                |
| 13        | 1                | 13        | 1                | 13        | 1                |
| 14        | 1                | 14        | 2                | 14        | 0                |
| 15        | 2                | 15        | 0                | 15        | 1                |
| 16        | 2                | 16        | 0                | 16        | 0                |
| 17        | 2                | 17        | 0                | 17        | 1                |
| 18        | 2                | 18        | 0                | 18        | 1                |
| 20        | 2                | 20        | 0                | 20        | 0                |
| 21        | 1                | 21        | 0                | 21        | 0                |
| 26        | 1                | 26        | 0                | 26        | 1                |

This table shows the frequency distribution of two types of PEAs, namely warnings and penalty, by the securities regulators (BSEC and Dhaka Stock Exchange) in Bangladesh.

**Table 5: Enforcement Actions and Types of Irregularities**

| <b>Type \ Action</b> | <b>Warning (%)</b> | <b>Penalty (%)</b> | <b>Row Total</b> |
|----------------------|--------------------|--------------------|------------------|
| 1                    | 71 (65.74)         | 37 (34.26)         | 108              |
| 2                    | 159 (61.15)        | 101 (38.85)        | 260              |
| 3                    | 90 (41.67)         | 126 (58.33)        | 216              |
| 4                    | 44 (67.69)         | 21 (32.31)         | 65               |
| 5                    | 26 (66.67)         | 13 (33.33)         | 39               |
| 6                    | 62 (92.54)         | 5 (7.46)           | 67               |
| 7                    | 27 (36.00)         | 48 (64.00)         | 75               |
| <b>Column Total</b>  | <b>479</b>         | <b>351</b>         | <b>830</b>       |

### **Concluding Remarks and Scope for Future Research**

This paper aims at providing insight into the enforcement actions of two security regulators in Bangladesh, namely the BSEC and the DSE. To achieve this objective, 830 PEAs of these regulators over a 19-year period from 1995 to 2013 are considered and evaluated, where the specific company can be identified. In this paper, the security violations are classified into seven major groups. Out of the 830 PEAs examined in this study, warnings are issued 479 times and administrative penalties are found to be imposed in the remaining cases.

The results indicate that except for 1998, security law violations resulting in PEAs take place in all the years from 1995 to 2013, with the maximum (175) being found in 2006. After 2006, there is a sharp decline in the PEAs and it becomes 24 in 2013. Among the seven groups, annual accounts related irregularity (31.33 percent) is found to be the most frequent followed by interim report related irregularity (26.02 percent) and AGM related irregularity (13.01 percent). In 14 out of 19 years, at least one accused company faced PEA more than once in a single year. Overall, 175 companies are involved in security law violations out of which 151 companies are issued with warning letters and 105 companies got penal orders. Among these companies, PEAs are taken 26 times against one company in the jute sector over the sample period.

Focusing on the regulators, the DSE is only found to impose penalties due to failure to submit interim reports on time while the BSEC used both warning letters and monetary penalty when dealing with the wrongdoers. With the exception of a few, the maximum penalty imposed by the BSEC fluctuates between Tk. 10,000 and Tk. 2.5 million. Among the exceptions, the BSEC imposed the highest amount of penalty of Taka 100 million in 2001 on one company in the engineering sector for its non-cooperation with the auditor appointed by the Commission for audit of the financial statements for the year ended 30<sup>th</sup> June 2000. Starting in 2000, the BSEC has issued so far 479 warning letters, with the maximum of 157 being issued in 2006. Finally, a significant association is found between the nature of irregularity and type of enforcement action.

The findings of this study should be interpreted with caution. For example, this study is limited to listed non-financial companies and hence, the findings may not be applicable to the companies in the financial sector. Second, this study examines the irregularities that caught attention of the security regulators. There might be other undetected irregularities. Therefore, the finding that the number of PEAs has reduced sharply since 2006 does not necessarily mean that the frequency of violation of securities laws has actually decreased nor it tells anything about whether the security regulators in Bangladesh are doing well in reducing security violations and thereby, in disciplining capital markets. This is because the capacity to enforce security regulations depend on a number of factors including the availability of qualified human, physical and financial resources to detect and enforce security regulations, quality of the judiciary system etc.

The above discussion suggests that this study can be extended in a number of ways. For example, future studies could compare actual number of security law violations with that of the enforcement actions in order to actually determine the effectiveness of the security regulators in Bangladesh. Another line of research could be to examine the firm-level determinants of PEAs. Yet another line of research could be to determine financial and audit characteristics of the firms facing sanctions and compare these to similar information for each firm's industry to determine (among other things) if firms targeted for PEAs are: (i) different in size than typical firms in their industry; (ii) are receiving audit opinions not typical in their industry; and (iii) are being audited by larger or smaller audit firms.

Irrespective of the enforcement actions taken by the security regulators, Bangladesh capital market suffered from stock market crash during 2010-2011. The enquiry committee formed by the Government held the BSEC officials responsible for such turmoil, suggesting that the nature and extent of the enforcement actions by the BSEC was by no means sufficient, and a more efficient and impartial implementation of securities regulation could be an important step towards achieving a more stable and vibrant capital market.



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