**Case Example:** Enron, a Houston-based energy company founded by a brilliant entrepreneur, Kenneth Lay.

The company was created in 1985 by a merger of two American gas pipeline companies in Nabraska and Texas. Lay assumed the role of chairperson and CEO, a position he held through most of the next 16 years, until the company's downfall in 2001. In a period of 16 years the company was transformed from a relatively

small concern, involved in gas pipelines, oil and gas exploration, to the world's largest energy trading company. In 2001 Enron became a household name-and probably in most households in most countries around the world. On 2 December, 2001 Enron, one of the 10 largest companies in the US, filed for bankruptcy.

During the boom years of the late 1990s the company positioned itself as a trader of virtually any type of asset: pulp and paper, weather derivatives, commodities, credits, and so on. It also expanded into areas that it thought would benefit from rapid growth, including water (following deregulation measures), fiber optic

capacity/ Internet bandwidth, and so on. At the end of 1999, Enron launched its Internet based trading platform—Enron online. In February 2001, the company's stock market value was USD 4.60 billion.

In early 2001, as Lay handed the CEO role to Skilling, Enron reached an apex: the company reported revenues of US $ 100 billion and ranked seventh on the *Fortune* 500 list of largest global companies.

In early 2001, however, the company's problems started mounting: the expensive expansion into the broadband sector became questionable. Enron's stock prices started falling. In August 2001 the chief executive Jeffery Skilling, left the company following concerns about the company's management. Former

CEO Lay returned to his old role (retaining the board chair as well).

*Whistleblowers within the firm —aware of widespread financial improprieties—were attempting to convey information to the board of directors; one employee, Sherron Watkins, Enron's vice president of corporate development, was finally successful in alerting certain board members that all was not well.* In November

2001, it became clear that Enron was facing serious financial problems.

**Meaning and Definition**

The term “whistle-blowing” originates from the practice of British policemen who blew their whistles whenever they observed commission of a crime. The term ‘whistle-blowing’ is a relatively recent entry into the vocabulary of public and corporate affairs although the phenomenon itself is not new.

The concept of a Whistleblower was in existence even in Ancient India, Kautilya had proposed- “Any informant (súchaka) who supplies information about embezzlement just under perpetration shall, if he

succeeds in proving it, get as reward one-sixth of the amount in question; if he happens to be a government servant (bhritaka), he shall get for the same act one-twelfth of the amount.”

The term whistle blowing probably arises by analogy with the referee or umpire who draws public attention to a foul in a game by blowing of the whistle which would alert both the law enforcement officers and the general public of danger.

Whistle blowers are individuals who expose corruption and fraud in organizations by filing a law suit or a complaint with Government authorities that prompts a criminal investigation in to the organizations alleged behavior.

Whistle blowing means calling the attention of the top management to some wrongdoing occurring within an organization. A whistleblower may be an employee, former employee or member of an organisation, a government agency, who have willingness to take corrective action on the misconduct.

A whistleblower is a person who publicly complains concealed misconduct on the part of an organization or a body of people, usually from within that same organisation. This misconduct may be classified in many ways:

for example, a violation of a law, rule, regulation and/or a direct threat to the public interest, such as fraud, health/safety violations, and corruption. Whistleblowers frequently the face retaliation - sometimes at the

hands of the organisation or the group which they have accused, unless a system is in place that would ensure confidentiality. In addition, people are more likely to take action with respect to unacceptable behavior within an organization, if there are complaint systems that ensure confidentiality and indemnity.

US civic activist Ralph Nader coined the phrase in the early 1970s to avoid the negative connotations found in other words such as "informers" and "snitches".

*Some important Definitions of whistle blowing are:*

• R.M Green (1994) defines a whistleblower as an Employee who, perceiving an organizational practice that he believes to be illegal or unethical, seeks to stop this practice by alerting top management or failing that by notifying authorities outside the organization.

• Sekhar (2002) defines whistle blowing as an attempt by an employee or a former employee of an organization to disclose what he proclaims to be wrong doing in or by that organization.

• Koehn (2003) whistle blowing occurs when an employee informs the public of inappropriate activities going on inside the organization.

• Boatright (2003) whistle blowing is the release of information by a member or former member of an organization this is evidence of illegal and/or immoral conduct in the organization that is not in the

public interest.

**Whistle Blowing under Sarbanes-Oxley Act, 2002 (SOX):**

Section 302 of Sarbanes Oxley Act of 2002, an Act enacted by U.S. congress to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws, and for other **Types of Whistleblowers**

1. Internal: When the whistleblower reports the wrong doings to the officials at higher position in the organization. The usual subjects of internal whistleblowing are disloyalty, improper conduct, indiscipline, insubordination, disobedience etc.

2. External: Where the wrongdoings are reported to the people outside the organization like media, public interest groups or enforcement agencies it is called external whistleblowing.

3. Alumni: When the whistleblowing is done by the former employee of the organization it is called alumni whistle blowing.

4. Open: When the identity of the whistleblower is revealed, it is called Open Whistle Blowing.

5. Personal: Where the organizational wrongdoings are to harm one person only, disclosing such wrong doings it is called personal whistle blowing.

6. Impersonal: When the wrong doing is to harm others, it is called impersonal whistle blowing.

7. Government: When a disclosure is made about wrong doings or unethical practices adopted by the officials of the Government.

8. Corporate: When a disclosure is made about the wrongdoings in a business corporation, it is called corporate whistle blowing.

purposes contains following provisions for whistle-blowers:

• Make it illegal to “discharge, demote, suspend, threaten, harass or in any manner discriminate against” whistleblowers

• Establish criminal penalties of up to 10 years for executives who retaliate against whistleblowers

• Require board audit committees to establish procedures for hearing whistleblower complaints

• Allow the secretary of labour to order a company to rehire a terminated employee with no court hearing.

• Give a whistleblower the right to a jury trial, bypassing months or years of administrative hearings

**Whistle Blowing mechanism suggested under Corporate Governance Voluntary Guidelines, 2009**

• The companies should ensure the institution of a mechanism for employees to report concerns about

unethical behaviour, actual or suspected fraud, or violation of the company's code of conduct or ethics policy.

• The companies should also provide for adequate safeguards against victimization of employees who avail of the mechanism, and also allow direct access to the Chairperson of the Audit Committee in exceptional cases.

**Vigil Mechanism under Companies Act, 2013**

1. Every listed company and the companies belonging to the following class or classes shall establish a vigil mechanism for their directors and employees to report their genuine concerns or grievances-

(a) the Companies which accept deposits from the public;

(b) the Companies which have borrowed money from banks and public financial institutions in excess of fifty crore rupees.

(Section 177(9) and Rule 7(1) of Companies (Meetings of Board and its Powers) Rules, 2014)

2. The vigil mechanism under sub-section (9) shall provide for adequate safeguards against victimization of persons who use such mechanism and make provision for direct access to the Chairperson of the Audit Committee in appropriate or exceptional cases. [Section 177(10)]

3. The details of establishment of such mechanism shall be disclosed by the company on its website, if any, and in the Board’s report. [proviso to Section 177(10)]

4. The companies which are required to constitute an audit committee shall oversee the vigil mechanism through the committee and if any of the members of the committee have a conflict of interest in a given case, they should recuse themselves and the others on the committee would deal with the matter on hand. [Rule 7(2) of Companies (Meetings of Board and its Powers) Rules, 2014)]

5. In case of other companies, the Board of directors shall nominate a director to play the role of audit committee for the purpose of vigil mechanism to whom other directors and employees may report their concerns. [Rule 7(3) of Companies (Meetings of Board and its Powers) Rules, 2014)]

6. The vigil mechanism shall provide for adequate safeguards against victimisation of employees and directors who avail of the vigil mechanism and also provide for direct access to the Chairperson of the Audit Committee or the director nominated to play the role of Audit Committee, as the case may be, in exceptional cases. [Rule 7(4) of Companies (Meetings of Board and its Powers) Rules, 2014)]

7. In case of repeated frivolous complaints being filed by a director or an employee, the audit committee or the director nominated to play the role of audit committee may take suitable action against the concerned director or employee including reprimand. [Rule 7(5) of Companies (Meetings of Board and its Powers) Rules, 2014)]

**Vigil mechanism under SEBI Listing Obligations and Disclosure Requirements, 2015**

1. The listed entity shall formulate a vigil mechanism for directors and employees to report genuine concerns.

2. The vigil mechanism shall provide for adequate safeguards against victimization of director(s) or employee(s) or any other person who avail the mechanism and also provide for direct access to the chairperson of the audit committee in appropriate or exceptional cases.

3. The listed entity shall disseminate the details of establishment of vigil mechanism/ Whistle Blower policy.

4. The disclosure regarding the details of establishment of vigil mechanism, whistle blower policy, and affirmation that no personnel has been denied access to the audit committee shall be made in the section on the corporate governance of the annual report.