

## A Study on Role of Sebi in Indian Capital Market

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### Abstract

The history of the capital market in India dates back to the 18th century when East India company securities were traded in the country. It has been a long journey for the Indian capital market. Now the capital market is organised, fairly integrated, mature, more global and modernised. The Indian equity market is one of the best in the world in terms of technology as well as value- cum-volume of business. On 31st August, 2010 our Indian equity stocks total market capitalisation value was around Rs.70, 00,000 crores. In recent period drastic changes has been taken place by SEBI, as a regulator. These are Retail equity investor limit increased to Rs.2 lakhs from 1 lakh, reduction issue-listing period to 12 days, opening of pre-market auction sessions, increase of stock exchanges trading time,, improvement price-discovery mechanism, introduction of ASBA in IPOs, application of smart-technology to trading and allowing of Anchor-investors in IPOs.etc., Moreover, the fundamental infrastructure for regulation, disclosure, surveillance and trading are all in place. Hence, the SEBI should stop being pre-occupied with day-to-day regulations and become more of a visionary. The SEBI can ensure a free and fair market and take India into league of major global capital markets in the next round of reforms. To enable this, it has to thoroughly review its structure and functioning. The SEBI has to balance between the costs of regulation and market development. There should be cross-border cooperation between various regulators and between regulators and industry.

**Key Words:**Capital market, india, SEBI, regulations, FIIs, mutual funds.

## 1. Introduction

The capital market is a market for long –term funds both equity and debt- and funds raised within and outside of the country. The primary market refers to the long –term flow of funds from the surplus sector to the government and corporate sector (through primary issues) and to banks and non-banks financial intermediaries (through secondary issues). A primary issue of the corporate sector leads to capital information (creation of net fixed assets and incremental change in inventories).

The secondary market is a market for outstanding securities. Unlike primary issues in the primary market which result in capital information, the secondary market facilitates only liquidity and marketability of outstanding debt and equity instruments. The history of the capital market in India dates back to the 18th century when East India company securities were traded in the country. It has been a long journey for the Indian capital market. Now the capital market is organized, fairly integrated, mature, more global and modernised. The Indian equity market is one of the best in the world in terms of technology as well as value- cum-volume of business. On 31st August, 2010 our Indian equity stocks total market capitalization value was over Rs.70 lakh crores.

## 2. Regulation of the Capital Market

The securities market is regulated by various agencies, such as the Department of Economics Affairs (DEA), the Department of Company Affairs (DCA), the Reserve Bank of India (RBI) and the SEBI. The Activities of these agencies are coordinated by a high level committee on capital and financial markets. THE SECURITIES AND EXCHANGE BOARD OF INDIA (S.E.B.I) With the announcement of the reforms package in 1991, the volume of business in both the primary and secondary segment of the capital market has been increased enormously till now. A multicore securities scam rocked the Indian financial system in 1992(Harshad Mehta scam). The then existing regulatory framework was found to be fragmented and inadequate and hence, a need for an autonomous, statutory, and integrated organization to ensure the smooth functioning of capital market was felt. To fulfill this need, the Securities and Exchange Board of India (S.E.B.I), which was already in existence since April 1988, was conferred statutory powers to regulate the capital market. The SEBI got legal teeth through an ordinance issued on 30 January 1992. The ordinance conferred wide- ranging powers on the SEBI, including the authority to prohibit ‘insider trading’ and ‘regulate substantial acquisition of shares’ and ‘takeover of business’. The function of market development includes containing risk, board basing, maintaining market integrity and promoting long-term investment. The SEBI Act, 1992 which establishes the SEBI with four-fold objectives of protection of the interests of investors in securities, development of the securities market, regulation of the securities market and matters connected therewith and incidental thereto. The capital market, i.e., the market

for equity and debt securities is regulated by the Securities and Exchange Board of India (SEBI). The SEBI has full autonomy and authority to regulate and develop the capital market. The government has framed rules under the securities contracts (regulation) Act (SCRA), the SEBI Act and the Depositories Act. The SEBI has framed regulations under the SEBI Act and the Depositories Act for registration and regulation of all market intermediaries, for prevention of unfair trade practices, and insider trading. As everyone could know that these i.e. the Government and the SEBI issue notifications, guidelines and circulars which need to be complied with by market participants. All the rules and regulations are administered by the SEBI.

### **3. Scope of the Study**

This study was mainly planned to evaluate the performance SEBI, relating to supervision of securities market of various intermediaries registered with SEBI, and to know what kind of Investor Protection measures taken by SEBI for the benefit/to safeguard the interest of investors in India since 1992.

### **4. Objectives of the Study**

The objectives of the study are: To know the investor protection measures taken by SEBI since its inception; To know whether the SEBI has been acting as independent organization to regulate the securities markets properly or not; To know the powers and functions implementing properly or not by SEBI; Finally to give findings and suggestions towards SEBI relating to its role in Indian Capital Markets.

### **5. Tools of Data Collection**

1. PRIMARY DATA: Primary data is collected from Text Books, Websites, Brochure and financial press reports.

### **6. Limitations of the Study**

1. The study is limited to theoretical – cum – little bit interviewing oriented regarding nature and movement of capital market, because it is a vast market.
2. The findings and suggestions are only recommendatory in nature and subject to market imperfections also. ANALYSIS AND INTERPRETATION Following is the exercise done by observers on so many areas relating Capital Market relating to SEBI since inception. These are
  - investigations taken up by SEBI
  - Nature of investigations taken up and completed by SEBI on issues like Market manipulation and price rigging, etc,
  - Types actions taken by SEBI on various entities
  - No of Prosecutions launched by SEBI
  - Nature of Prosecutions launched by SEBI (vi) Actions taken on Mutual Funds by SEBI

- Details of Appeals before Securities Appellate Tribunal (SAT) (viii)  
Details of Appeals under Section 15Z of the SEBI Act against the Orders of Securities Appellate Tribunal
- Investor's Grievances received and redress by SEBI.

From the observation of Table No.1, it is clearly indicating that, though the cases taken for investigations probe into possible or suspected or alleged infringements of security market regulations such as price manipulation, artificial volume creation, insider trading, violation of takeover code or any other regulations, public issue related irregularities or any fraudulent or unfair trade practices. Investigations are initiated based on evidence available from various resources including SEBI's own surveillance activities, stock exchanges, other intermediaries, complaints from various sources including press reports. The SEBI then calls for information, compels production of documents, summons person interrogation, examines witnesses and where necessary, with the magistrate's approval carries out even search and TABLE 1: Investigations by the SEBI YEAR Cases taken up for Investigation Cases completed Success Rate On completion of investigation, the SEBI takes actions such as warning, suspension of activities, cancellation of registration, and denial of access to the capital market for a specified period, imposition of monetary penalties and initiation of prosecution proceedings. From the following table reveals that, in the beginning period it had took up actions for investigation vary slow. But, from 2002-3 year onwards SEBI shifted to speedy completion of the investigations in the subsequent years. This success percentage was abnormal during 2007-09.

TABLE 2: NATURE OF INVESTIGATIONS TAKEN UP AND COMPLETED BY SEBI Source: SEBI Annual Report 2009-10 Table No.2 reveals that Nature of investigations taken up and investigations completed by SEBI during 2004-05 to 2009-10 is very good on the aspects of market manipulation and price rigging and other issues like manipulation, takeovers, insider trading and other Nature of Investigations taken up Investigations Completed miscellaneous offences or frauds done by entities/promoters/brokers etc.,. Now-a-days the SEBI has responding very attentively to curb such type corporate frauds or mistakes and is taking necessary actions immediately. TABLE 3: TYPES OF ACTIONS TAKEN BY SEBI Particulars No of entities Source: SEBI Annual Report 2009-10 Table 3 indicates that the actions taken by SEBI on so many entities regarding cancellation, suspension, warning issued, prohibitive directions issued under 11B of SEBI of Act, on investigations probe into possible or suspected or alleged infringements of security market regulations such as price manipulation, artificial volume creation, insider trading, violation of takeover code or any other regulations, public issue related irregularities. From the above observation it reveals that total actions taken by SEBI has been increasing, it shows that it is well sound and regulating authority on behalf of Government of India for the development of capital markets in India.

TABLE 4: NUMBER OF PROSECUTIONS LAUNCHED BY SEBI YEAR  
 Number of Prosecutions Launched Number of entities/persons against whom prosecution launched Source: SEBI Annual Report 2009-10 Table No. 4 discloses that total number of prosecutions launched till 31 March,2010 was 1121 and the total number of persons or entities against whom prosecution was launched was 5358. From the above it is clearly revealed that as regulator of capital markets, SEBI has done a tremendous role for control of various manipulations occurred in our Indian securities markets from the last 18 years.

TABLE 5: NATURE OF PROSECUTIONS LAUNCHED Section 63,68 of Companies Act,1956 Section 73,77 and 113 of Companies Act,1956 Indian Penal Code 05 05 5 8 Securities and Exchange Board of India Act,1992 DepositoriesAct,1996SecuritiesContract(Regulation)Act,1956 1 Total Source: SEBI Annual Report 2009-10 Table No 5 shows that, these prosecutions were launched by SEBI under the Companies Act, The SEBI Act, The Depository Act, The Securities Contract Regulation Act and India Penal Code. Maximum number of prosecutions relating to Violation of the SEBI (Substantial Acquisition of Shares and Take-overs) Regulation, 1997, Unregistered entities, Violation of SEBI(Insider Trading), 1992, Violation of SEBI(Portfolio Managers)Rules, 1993, Non-payment of Penalty Amount Imposed by the Adjudicating Officer and others were launched under the SEBI Act. Under various sections of several Acts SEBI has taken stringent actions against so many entities or persons to curb various fraudulent acts done by corporates or others. In October 2002, the Union Cabinet approved the ordinance that will be the first big attempt at strengthen market regulations a decade since the SEBI Act came into being. The SEBI will now have more teeth for investigation, including powers of search and seizure, only constrained by the requirement to obtain an order from a magistrate. The SEBI will have the power to impose deterrent fines, which can be as much as Rs.25 crore or three times the ‘undue profit’ derived through market offences, whichever is higher. The quantum of fines goes up from the present range of Rs.5, 000 to Rs.5 lakh to a minimum of one lakh going upto Rs.25 crore or even more. The ordinance will also amend the SEBI Act, to better clarify and define offences such as ‘insider trading’, ‘fraudulent and manipulative trade practices, and ‘market manipulation’.

TABLE 6 : ACTIONS TAKEN ON MUTUAL FUNDS BY SEBI Description  
 No of Mutual Funds 2000-01 2005-06 Adjudication ordered 4 - Penalties imposed 3 - Warning/deficiency letters 22 4 Payment of Interest 22 17 Compensation to unit -holders 2 - Compensation to scheme 1 - Exit option to Investors 2 - Source: SEBI Annual Report 2005-06 Table No.6 reveals that observed that, the Indian mutual fund industry(both in public and private sector) has grown tremendously in the last decade. At present there are around 40 Asset Management Companies are operating more than 500 various schemes in Asset Allocation of in Equity, Debt, Money Market and Government securities. Net Assets up to 31st march, 2001 net assets were in this industry Rs. 90,587 crores, whereas in the year2010 these assets amount crossed to 800,000 crores.

It is expected to cross by 2012 more than Rs. 12, 00,000 crores. Hence, as a regulator on Mutual funds SEBI has issued so may guidelines during 1996, 2002 and 2010 on unit holders, Trustees, Sponsors, AMCs, Custodians(DP). From the above table it is depicted that SEBI had taken actions on various parties to develop the Indian mutual fund industry on professional, health, and ethical lines and enhance and maintain standards in all areas with a view to protecting and promoting the interests of mutual funds and their unit holders. During 2005-06, SEBI issued warning letters to four mutual funds for violating the investments and advertisement code. SEBI has made it mandatory for mutual funds to pay interest @ 15% p.a. for delays in the dispatch of repurchase/redemption proceeds to the unit holders. During 2004-05 and 2005-06, 17 mutual funds paid Rs.22 lakhs and Rs.2.57 lakh respectively to investors. Because of such action, the interest amount paid by mutual funds declined significantly during 2005-06.

TABLE 7: DETAILS OF APPEALS FILED BEFORE SECURITIES APPELLATE TRIBUNAL(SAT) Status of Appeals No. of Appeals 2003-04 2004-05 2005-06 2006-07 2009-10 Appeals filed 175 440 244 123 361 Appeals dismissed/remanded/allowed etc 49 151 281 293 155 Appeals pending\* 126 438 401 139 80 Source: SEBI Annual Report 2009-10 Table No. 7 shows that, if any dissatisfied entity or persons can make a file before Securities Appellate Tribunal (SAT) against the decisions taken by SEBI against them. The above table shows during 2003-04 to 2009-10. The appeals pending has been decreased in 2009-10 comparatively previous period. It disclosed that SEBI has been taken actions or decisions accurately in one side. On the other side, this SAT also encouragement to SEBI as well as SRO or Ombudsman. TABLE 8: DETAILS OF APPEALS UNDER SECTION 15Z OF THE SEBI ACT AGAINST THE ORDERS OF SECURITIES APPELLATE TRIBUNAL YEARS Appeals filed by SEBI Appeals filed by other parties against SEBI Total Cases Filed 2003-04 7 5 12 2005-06 10 2 12 2006-07 14 31 45 2009-10 29 75 104 Cases Pending 2003-04 18 6 24 2005-06 7 1 8 2006-07 28 34 62 2009-10 81 82 163 Cases dismissed/allowed 2003-04 1 - 1 2005-06 3 1 4 2006-07 1 2 3 2009-10 8 99 107 Source: SEBI Annual Report 2009-10 Table No.8 indicating that, Details of Appeals under Section 15Z of the SEBI Act against the Orders of Securities Appellate Tribunal, has also been disseminating or solving as early as possible. Recently, most of the orders of the SEBI were overturned by the SAT. The Tribunal had quashed SEBI's order BPL, Videocon, and Sterlite for lack of evidence. In L&T's case, SAT struck down the order against Reliance for violation of takeover code. In the case of HCL, definition of insider was found to be vague and confusing. Nevertheless, the number might be less during 2003-04 and the number may be more in 2009-10, the SAT has dismissed so many cases. TABLE 9: INVESTOR'S GRIEVANCES - CUMULATIVE Year (end March) Grievances Received Grievances Resolved (Redressed) Grievances Redressal rate (in per cent)

Source: SEBI Annual Report 2009-10 From the Table No .9 discloses that how

the SEBI has been received Grievance received from various people and redressed these grievances by it. For this purpose only SEBI has established a comprehensive investor grievances redressal mechanism. The investor Grievances Redressal and Guidance Division of the SEBI helps investors who prefer to make complaints to the SEBI against listed companies. A standard complaint format is available at all SEBI offices and on the SEBI website for the convenience of investors. Each complaint is taken up with the company and if the complaint is not resolved within a reasonable time, a periodical follow up is also made with the company. Errant companies are warned of stern action for their failure to redress grievances. Recalcitrant companies are referred for prosecution. From the above table it reveals that the grievances redressal rate (success percentage) has been increasing due to stringent actions taken by SEBI for the benefit of innocent investors.

## **7. Findings: Role of SEBI on Indian Capital Market**

Throughout its eighteen-year existence as a statutory body, SEBI has sought to balance the two objectives by constantly reviewing and reappraising its existing policies and programmes, formulating new policies and crafting new regulations in areas hitherto unregulated, and implementing them to ensure growth of the market. From the above analysis and interpretation as well as other keen observation details, the researchers find out the following facts about SEBI, and its role also explained in our Indian capital market. The SEBI has introduced an array of reforms in the primary and secondary markets and catalysed modernization of the market infrastructure to prepare the market for the twenty-first century. India probably the only country in the world where all the exchanges have screen-based trading. Computerised trading has led to reduction in the scope for price-rigging and manipulation, since a paper trail can easily lead the regulators now to the doorsteps of the guilty. It is observed that , in recent times, SEBI has, retails investors limit increased to Rs. 2,00,000 from Rs. 1,00,000 in Initial Public Offerings(IPOs). Dematerialisation has pushed the process further. SEBI has taken several steps for the smooth-cum-speedy development of both primary and secondary markets from time to time for the development of all areas. Application of computerisation has also given a boost to surveillance. The basic surveillance is carried out by the stock exchanges, while the SEBI monitors the process. Introduction of price caps, price bands, circuit filters, margins and stock watch are some ways of keeping a strict are some ways of keeping a strict vigil on the market. Improvements have been made in the clearance and settlement settlement system. A major step in this direction has been the establishment of depositories- NSDL and CDSL—and a clearing corporation—NSCCL. For reviving primary markets, the SEBI further streamlined and simplified the issue procedure, imparted greater flexibility to the issue process and strengthened the criteria for accessing the securities market. In recent times SEBI has taken a drastic decision for reduction of IPOs‘

period from 21 days to 12 days (IPOs issue-opening and listing-period). The SEBI introduced the option of making an issue through book-building and recently it introduced ASBA scheme (in IPOs) for investment by investors through bankers. The development of mutual funds was given a major impetus, with the revision of mutual funds regulations which now provide greater operational flexibility to the fund managers and increase their accountability and supervision. Recently, it has introduced KYC norms and not charging on any entry-load on investments made by investors on NFOs or on any existing schemes. SEBI is trying its level best for availability of ULIPs at very normal and cheaper rates. Far reaching changes have been made in the SEBI regulations for substantial acquisition of shares and takeovers. The regulations for Foreign Institutional Investors (FIIs) were liberalised to provide greater flexibility and for widening the scope of their investments in the Indian securities market. Some merchant bankers were found to be unscrupulous. They had not performed their duties diligently in scrutinising the prospectus and had taken advantage of the loopholes by concealing some facts in their prospects. The SEBI reduced the categories of merchant bankers from four to one. Moreover, it has prohibited merchant bankers from undertaking activities such as leasing, bills and discounting. To empower investors make informed decisions and facilitate fair dealing, the SEBI introduced online filing and dissemination of time sensitive price information, benchmarking or mutual fund schemes, valuation norms for unlisted scrips in mutual fund portfolios, rationalization of depository participants' charges and new regulation for portfolio managers. The SEBI revolutionised the settlement system by introducing T+2 rolling settlement system scrips across exchanges. It has issued guidelines for demutualisation and corporatisation of stock exchanges. To create an effective regulatory regime in which all stakeholders have confidence, the SEBI has posted the Securities Appellate Tribunal (SAT) orders on the SEBI website, initiated consultative process for framing regulations, and shortened the inquiry process. SAT provides a grievance redressal platform against the SEBI's orders. Public dissemination of such appellate orders is vital as these act as a precedent of other similar cases and on the decision-making process of the SEBI. The SEBI is trying to bring down various forms of risk (structural, systematic and operational) that are there in the securities market.

(a) From the structural point, at present our Indian capital market is having well infra facilities compare with the rest of the world. For instance, Pre-Market Auction session are opened, and improvement of Price-discovery mechanism.

(b) From the systematic risk point-wise, these are re-classified in to three ways. i.e. disclosure standards (at present these are best in the world), accounting standards (these are by and large aligned completely with the international accounting standards) and corporate governance (now many companies have adopting world best corporate governance practices).



(c) Operational view point, our Indian capital market is the best comparable to the rest of the world. At present our Indian stock exchanges are follows T+2 settlement cycles.

Further, every transaction on the trading platform is guaranteed for settlement by a third party. SEBI has introduced a number of measures to protect the interests of investors. To create awareness among issuers and intermediaries of the need to redress investor grievances' quickly, the SEBI issues fortnightly press releases, publishing the names of the companies against whom maximum number of complaints have been received. To ensure that no malpractice takes place in the allotment of shares, a representative of the SEBI supervises the allotment process. It has been issuing advertisements from time-to-time to guide and enlighten investors on various issues related to the securities market and of their rights and remedies. Investors trading times also increased. In order to protect the interest of investors, SEBI took several measures with a two-pronged approach to discipline and take action against erring entities and at the same time to educate the investors about the risks associated with investing in unregulated schemes. The actions taken by the SEBI included issuing show cause notices to defaulting entities, initiating court proceedings to obtain appropriate relief in the interest of investors, conducting a special audit of the books of accounts of the larger entities, making credit rating mandatory for existing schemes, disseminating information to investors through the issue of press releases/public notices. Recently, it has allowed Anchor-investors' for making investment in IPOs. The SEBI has introduced an automated complaints handling system to with investor complaints. These are classified under various classes like non-receipt of refund orders/stock invest, non-receipt of dividend, non-receipt of share certificate/bones shares/debentures/interest on debenture/redemption amount of debentures, non-receipt of annual reports and complaints related to plantation schemes. It is trying utmost to combat eliminations and reduction of price-rigging. In this connection it had taken action on Bank of Rajasthan towards price-rigging recently. SEBI has taken some steps for educating investors from 2000-01 onwards, it distributed the booklet titled A Quick Reference Guide for Investors to investors. It has published a book regarding Investor Grievances-Rights and Remedies'. This information has passed to various stock exchanges as well as advertised through various national news papers, broadcast messages through Vivid Bharati and Doordarshan also. The SEBI set up a new institution in 2003 called the Ombudsman' for the capital market. It has encouraged forming of investors' associations.

## **8. Limitations of SEBI**

Finally, in our observation as regulator SEBI has playing immense role for development of capital market from the last more than one and half decade as a genuine autonomous body. Though it has started as a watchdog in protecting investors' interests, regulating the working of Stock Exchanges and promoting capital market, still it faces a number of problems/ limitations. Some of the

these are as follows: The Central Govt. has authorised SEBI to frame its rules and regulations for actively monitoring capital markets. These rules and regulations will have to be approved by the government first. This will cause unnecessary delays and interference by the Ministry of Finance. The bureaucratic delays in clearing the rules will hamper the working of SEBI. The government should direct SEBI to frame or change the rules as per the demand of the situation so that it is able to achieve professional efficiency. Sometimes SEBI will have to get prior approval for filing criminal complaints for violations of the regulations. This will again cause delays at government level. The SEBI, as a regulator, proved to be ineffective in the series of scams that took place in the last decade. The SEBI has been accused of shutting the stable door after the horse had bolted. For instance, the SEBI had occasions to review the affairs of CRB capital markets but took a lenient view and as a result, huge investors lost crores of rupees. The SEBI has gone more than half away to help out potential defaulters to avoid a major payments crisis. Whenever the real racketeers get up to new tricks, surveillance takes a long time to catch up. The SEBI banned badla system in India in 1993, but it banned badla without providing an alternative mechanism. Of course, various committees like G.S.Patel Committee, Jayant Verma Committee had given alternative solution. But these trails were failed. The SEBI introduced rolling settlement after the ban of Automatic Lending and Borrowing Mechanism (ALBM) and borrowing and Lending of Securities Scheme (BLESS). The ban on deferral products killed liquidity in the markets which, in turn, dampened the market sentiments. The SEBI is perceived to be more corporate-friendly than investor-friendly. It not only failed penalize fraudulent companies, but remained a spectator when same companies re-entered the market with new issues. The SEBI does not have the requisite number and a competent staff to regulate and develop the capital market. There are very few officers who are involved in surveillance, investigation and prosecution, as compared to a large army of over 1000 in the Securities Exchange Commission (SEC) of the USA.

## **9. Conclusion**

The SEBI is a regulatory body which is eighteen years old and the capital market system is more than 100 years old. This matured capital market system requires monitoring rather than over-regulation. The SEBI should supervise this capital market system in such a manner that all sub-systems become self-regulatory organisations (SROs) gradually. The SEBI should lay down the boundaries within which these sub-systems should operate. Moreover, the fundamental infrastructure for regulation, disclosure, surveillance and trading are all in place. Hence, the SEBI should stop being pre-occupied with day-to-day regulations and become more of a visionary. The SEBI can ensure a free and fair market and take India into league of major global capital markets in the next round of reforms. To enable this, it has to thoroughly review its structure and functioning. The SEBI has to balance between the costs of regulation and market development. There should be cross-border cooperation between various

regulators and between regulators and industry.

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