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A STUDY ON ROLE OF SEBI AS A REGULATORY AUTHORITY IN INDIAN CAPITAL MARKET

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Introduction

The capital market is a market where borrowing and lending of long term funds takes place. Capital market deals in both, debt and equity. 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). 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. It is very difficult task for the regulators to prevent the scams, regulating and monitoring each and every segment of the financial market. It has been discovered that SEBI has played a great role in order to put good surveillance system in a systematic manner.

The Securities Exchange of India (S.E.B.I)

The Securities and Exchange Board of India (SEBI) was established by the Government of India in 12 April 1988 to ensure the smooth functioning of capital market. The SEBI got legal teeth through an ordinance issued on 30th January 1992 to protect the interest, money and confidence of investors. The ordinance have wide ranging powers on the SEBI, including the authority to prohibit ‘insider trading’ and regulate substantial acquisition of shares and takeover of business.

The SEBI Act (1992) as amended on March 25, 1995 by the Securities Laws Act 1995 has empowered SEBI to register and regulate new intermediaries in the capital market such as custodians, depositories, venture capital funds, credit rating agencies and foreign institutional investors. Additional powers were given to SEBI to prescribe regulations related to issue of capital and transfer of securities. SEBI’s independence was strengthened by allowing it to issue regulations and file suits without the prior approval of the Central Government. SEBI has also been empowered to impose monetary penalties for a wide range of violations, and accordingly the SEBI Act provides for adjudication and empowers SEBI to appoint adjudicating officers.

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.

Review of Literature

Jain (1999) in his study on restructuring capital market observed that the agenda for further reforms of capital market in India broadly comprise the developments in the debt market, revival of equity markets and improved disclosures and corporate governance standards, reforms in insurance and pension funds to enable flow of funds to infrastructure and the emergence of financial derivatives and risk management products.

Neelamegam R. and Srinivasan R (1996) studied the competency of different protective measures in purview of existing Securities Contracts Act 1956, Securities and Exchange Board of India Act 1992. They also examined the trading activities of primary and secondary market in India. They figured out that though preventive measures were taken by regulators through legislative systems, investors lost their confidence even after the setup of SEBI.

Gupta and Biswas (2006) examines the development and efficiency of Indian capital market during the post liberalization period and conducted that the process of reforms has led to a pace of growth of Indian stock market a most unparalleled in the history of any country. Ironically, this market suffers from the menace of over speculation and excessive price fluctuations, which are in fact fiercer than many of its counterparts. These vices are sufficient to defeat at basic purpose of financial liberalization where the society in effect authorizes the financial systems to mobilize and allocate resources.

Juhi Ahuja (2012) presents a review of Indian Capital Market & its structure. In last decade or so, it has been observed that there has been a paradigm shift in Indian capital market. The application of many reforms & developments in Indian capital market has made the Indian capital market comparable with the international capital markets. However, the market has witnessed its worst time with the recent global financial crisis that originated from the US sub-prime mortgage market spread over to the entire world as a contagion. The capital market of India delivered as sluggish performance.

Dr. KVSN JawaharBabu and S. Damodar Naidu (2012) in their research paper 'Investor protection measures by SEBI' found that investor education programmes conducted by SEBI got positive results to some extent. But still lot more efforts needs to be put in practice. Indian investors have steadily vanished from the market which calls for prompt action of the apex body to frame and efficiently implement the measures to protect small investors' interest and restore their confidence in the stock market.

Objective of the study

- To study the roles and responsibilities of Securities and Exchange Board of India in the Indian Capital Markets.
- To know the investor protection measures taken by SEBI.
- To outline the key functions and powers of SEBI.
- To investigate and find out the facts whether SEBI has taken legal action against fraud.
- To conclude and suggest a suitable course of action for SEBI relating to its role in Indian capital market.

Functions of SEBI

The SEBI performs functions to meet its objectives. To meet three objectives SEBI has three important functions. These are:

1. Protective Function: These functions are performed by SEBI to protect the interest of investor and provide safety of investment.

It Checks Price Rigging: Price rigging refers to manipulating the prices of securities with the main objective of inflating or depressing the market price of securities. SEBI information by working inside the company and if they use this information to make profit, then it is known as insider trading.

(i) SEBI prohibits fraudulent and Unfair Trade Practices**:** SEBI does not allow the companies to make misleading statements which are likely to induce the sale or purchase of securities by any other person.

(ii) SEBI undertakes steps to educate investors so that they are able to evaluate the securities of various companies and select the most profitable securities.

2. **Developmental Functions:** These functions are performed by the SEBI to promote and develop activities in stock exchange and increase the business in stock exchange. Under developmental categories following functions are performed by SEBI:

(i) SEBI promotes training of intermediaries of the securities market.

(ii) SEBI tries to promote activities of stock exchange by adopting flexible and adoptable approach in following way:

(a) SEBI has permitted internet trading through registered stock brokers.

(b) SEBI has made underwriting optional to reduce the cost of issue.

(c) Even initial public offer of primary market is permitted through stock exchange.

3. **Regulatory Functions:** These functions are performed by SEBI to regulate the business in stock exchange. To regulate the activities of stock exchange following functions are performed:

(i) SEBI has framed rules and regulations and a code of conduct to regulate the intermediaries such as merchant bankers, brokers, underwriters, etc.

(ii) These intermediaries have been brought under the regulatory purview and private placement has been made more restrictive.

(iii) SEBI registers and regulates the working of stock brokers, sub-brokers, share transfer agents, trustees, merchant bankers and all those who are associated with stock exchange in any manner.

(iv) SEBI registers and regulates the working of mutual funds etc.

Power of SEBI

- Power to call periodical returns from recognized stock exchanges.
- Power to compel listing of securities by public companies.
- Power to levy fees or other charges for carrying out the purposes of regulation.
- Power to call information or explanation from recognized stock exchanges or their members.
- Power to grant approval to byelaws of recognized stock exchanges.
- Power to control and regulate stock exchanges.
- Power to direct enquiries to be made in relation to affairs of stock exchanges or their members.

(iii) prohibits such practice because this can defraud and cheat the investors.

(iv) It Prohibits Insider trading: Insider is any person connected with the company such as directors, promoters etc. These insiders have sensitive information which affects the prices of the securities. . This information is not available to people at large but the insiders get this privilege.

Roles and responsibilities of SEBI in Indian capital market

SEBI's efforts are to create effective surveillance mechanism for the securities market, and encourage responsible and accountable autonomy on the part of all players and observe the rules of the game. 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.

- 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.
- 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.

- 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.
- SEBI has many powers for stopping fraud in capital market. It can ban on the trading of those brokers who are involved in fraudulent and unfair trade practices relating to stock market. It imposes the penalties on capital market intermediaries if they involve in insider trading.
- 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.

- Share trading transaction carry forward cannot exceed 25 % of brokers' total transactions. 90 day limit for carry forward.
- SEBI uses his powers to audit the performance of different Indian stock exchange for bringing transparency in the working of stock exchanges.

Conclusion

The SEBI is a regulatory body which is twenty three years old and the capital market system is more than 103 years old. This matured capital market system requires monitoring rather than Over-regulation. There should be cross-border cooperation among all sorts' regulators and between regulators and profession. 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. Securities Exchange Board of India has enjoyed success as a regulator by pushing systematic reforms aggressively and respectively.

Security Exchange Board of India did out with corporeal example that were prone to postal delays, thievery and product, separate from making the solution action slow and carking by passing Depositories Act, 1996. Security Exchange Board of India has also been instrumental in taking fast and useful steps in light of the universal meltdown and the Satyam fiasco. 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. Security Exchange Board of India has increased the application limit for retail investors to Rs 2 lakh, from Rs 1 lakh at present. Thus, 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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